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Tuesday
January 28, 1997

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WASHINGTON, DC

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RESERVATIONS: 202–523–4538

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

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CFR PARTS AFFECTED IN THIS ISSUE

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

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Presidential Documents

Title 3—

The President

Presidential Determination No. 97–13 of December 27, 1996

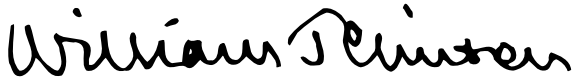
Determination Pursuant to Section 2(c)(1) of the Migration and Refugee Assistance Act of 1962, as Amended

Memorandum for the Secretary of State

Pursuant to sections 2(c)(1) of the Migration and Refugee Assistance Act of 1962, as amended, 22 U.S.C. 2601(c)(1), I hereby determine that it is important to the national interest that up to $38,000,000 be made available from the United States Emergency Refugee and Migration Assistance Fund to meet the urgent and unexpected needs of refugees and migrants.

These funds may be used to meet the urgent and unexpected needs of refugees, victims of conflict, and other persons at risk in the Great Lakes region of Africa. These funds may be used on a multilateral or bilateral basis as appropriate to provide contributions to international organizations, private voluntary organizations, governments, and other governmental and nongovernmental agencies, as appropriate.

You are authorized and directed to inform the appropriate committees of the Congress of this determination and the obligation of funds under this authority and to publish this memorandum in the Federal Register.



THE WHITE HOUSE,
Washington, December 27, 1996.

[FR Doc. 97–2188
Filed 1–27–97; 8:45 am]
Billing code 4710–10–M

Rules and Regulations

Federal Register
Vol. 62, No. 18
Tuesday, January 28, 1997

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1160

[DA–96–09]

Fluid Milk Promotion Order; Amendments to the Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule amends certain provisions of the Fluid Milk Promotion Order. The amendments, requested by the National Fluid Milk Processor Promotion Board, which administers the Order, modify the term limits and membership status of Board members. This rule also amends certain order language in conformance with the 1996 Federal Agriculture Improvement and Reform Act. In conformance with the President's Regulatory Reform Initiative, this rule revises or removes order language that has become obsolete.

EFFECTIVE DATE: January 29, 1997.

FOR FURTHER INFORMATION CONTACT: Eugene Krueger, Head, Promotion and Research Staff, USDA/AMS/Dairy Division, Room 2734, South Building, P.O. Box 96456, Washington, DC 20090–6456, (202) 720–6909.

SUPPLEMENTARY INFORMATION: The Regulatory Flexibility Act (5 U.S.C. 601–612) requires the Agency to examine the impact of a proposed rule on small entities. Small businesses in the fluid milk processing industry have been defined by the Small Business Administration as those employing less than 500 employees. There are approximately 250 fluid milk processors subject to the provisions of the Fluid Milk Promotion Order. Most of the parties subject to the Order are considered small entities.

This rule will modify the term of office and membership provisions of the Fluid Milk Promotion Order. The amendments will allow a National Fluid Milk Processor Promotion Board member who changes fluid milk processor affiliations during his or her term to be eligible to serve on the Board in another capacity during that same term. The amendments will also modify the term of Board members to allow any member appointed during the initial period to serve a term of one or two years to be eligible for reappointment for two additional three-year terms. The amendments also provide that a Board member's appointment to another seat or position on the Board will be considered a consecutive term. The amendments should clarify the Order with respect to membership status and term limits of Board members.

This rule will also amend order language in conformance with the 1996 Federal Agriculture Improvement and Reform Act. The definition of research will be changed to conform with the definition in the Act and the Order will be revised to reflect changes in the 1996 Act concerning the required volume of milk that must be represented by those fluid milk processors who may request a referendum to suspend or terminate the Order and who favor the referendum question to suspend or terminate the Order. The rule will also revise the Order to specify the duties of the referendum agent regarding a referendum to adjust the rate of assessment. Further, the rule will revise or remove obsolete or unnecessary order language in conformance with the President's Regulatory Reform Initiative.

Accordingly, pursuant to 5 U.S.C. 605(b), the Agricultural Marketing Service has certified that this rule will not have a significant economic impact on a substantial number of small entities.

Prior document in this proceeding: *Invitation to Submit Comments to Proposed Amendments to the Order:* Issued August 30, 1996; published September 6, 1996 (61 FR 47093).

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

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule is not intended to have a retroactive effect. This rule will not preempt any State or local laws, regulations, or policies unless they present an irreconcilable conflict with this rule.

The Fluid Milk Promotion Act of 1990, as amended, authorizes the Fluid Milk Promotion Order. The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 1999K of the Act, any person subject to a Fluid Milk Promotion Order may file with the Secretary a petition stating that the Order, any provision of the Order, or any obligation imposed in connection with the Order is not in accordance with the law and request a modification of the Order or to be exempted from the Order. A person subject to an order is afforded the opportunity for a hearing on the petition. After a hearing, the Secretary would rule on the petition. The Act provides that the district court of the United States in any district in which the person is an inhabitant, or has his principal place of business, has jurisdiction to review the Secretary's ruling on the petition, provided a complaint is filed not later than 20 days after the date of the entry of the ruling.

In accordance with the Paperwork Reduction Act (44 U.S.C. Chapter 35), the forms and reporting and recordkeeping requirements that are included in the Fluid Milk Promotion Order have been approved previously by the Office of Management and Budget (OMB) and were assigned OMB No. 0581–0093, except for Board members' nominee information sheets that were assigned OMB No. 0505–0001.

Statement of Consideration

This final rule amends certain provisions of the Fluid Milk Promotion Order. Certain amendments will modify the term limits and the membership status provisions of the Order. The amendments allow a National Fluid Milk Processor Promotion Board member who changes fluid milk processor affiliations during his or her term to be eligible to serve on the Board in another capacity during that same term. Under current order provisions, a Board member who changes fluid milk processor affiliations during his or her term is ineligible to serve on the Board in any capacity.

The amendments will also modify the term of Board members to allow any member appointed during the initial period to serve a term of one or two years to be eligible for reappointment

for two additional three-year terms. The amendments also provide that a Board member's appointment to another seat or position on the Board will be considered a consecutive term. Currently, the Order states that Board members shall serve no more than two consecutive terms. Therefore, a Board member appointed to serve an initial term of one or two years is eligible to be reappointed to serve only one additional three-year term. Under these order provisions, some Board members will serve an initial term of less than three years because of the staggering of terms. The Board contends that the amendments will clarify the Order with respect to membership status and term limits of its members.

This document also amends the Fluid Milk Promotion Order to conform with legislated changes made by the recently enacted 1996 Federal Agriculture Improvement and Reform Act (P.L. 104–127). Section 146 of the Act amends sections 1999C(6), 1999N(b)(2), 1999O(c), and 1999O(a) of the Fluid Milk Promotion Act of 1990, as amended, thereby necessitating changes to the Fluid Milk Promotion Order. The following sections of the Order are amended on this basis:

1. In § 1160.112, Research is redefined in conformance with the Act.

2. In § 1160.501, paragraphs (a) and (b)(2) are amended in conformance with the Act in order to specify the volume of milk that must be represented by those fluid milk processors who may request a referendum to suspend or terminate the Order and to specify the required volume of milk, necessary for suspension or termination, that must be represented by those fluid milk processors voting in the referendum.

3. In § 1160.604, paragraph (a) is amended to identify order language applicable only to the duties of the referendum agent concerning a referendum to adjust the rate of assessment.

4. Section 1160.605 is amended in conformance with the Act in order to specify the volume of milk that must be represented by those fluid milk processors who may request a referendum to suspend or terminate the Order.

The President's Regulatory Reform Initiative, among other things, directs agencies to remove obsolete and unnecessary language and to find less burdensome ways to achieve regulatory goals. Changes are in conformance with the initiative. These amendments to the Order and regulations will revise or remove order language that was needed to implement the order but is no longer needed. This language is obsolete and unnecessary because it relates to the initial fiscal period and the previously conducted initial continuation referendum. Provisions of the following sections of the Order are amended on this basis:

1. § 1160.108 Fluid milk processor.
2. § 1160.113 Fiscal period.
3. § 1160.116 Initial referendum.
4. § 1160.209 Duties of the Board.
5. § 1160.211 Assessments.
6. § 1160.501 Continuation referenda.
7. § 1160.605 Date of the referendum.

Notice of proposed rulemaking was given to interested parties and they were afforded an opportunity to file written data, views, or arguments concerning this proposed rule. One comment supporting, one opposing, and one of modified support to the proposed amendments were received. However, the notice of proposed rulemaking contained proposed amendments to section 605 (i.e., date of the referendum) of the Order that were not in conformance with the legislative changes of the 1996 Federal Agriculture Improvement and Reform Act.

The notice proposed to amend section 605 to specify the volume of milk that must be represented by those fluid milk processors who may request a referendum to suspend or terminate the Order, or adjust the assessment rate. However, the statutory changes concern suspending or terminating the Order and do not involve changing language regarding adjusting the rate of assessment. Therefore, the proposed language in section 605 is revised in this final rule in conformance with the Act to specify the volume of milk that must be represented by those fluid milk processors who may request a referendum to suspend or terminate the Order. The current order language in this section which pertains to adjusting the rate of assessment is unchanged. Further, a conforming change is made to section 604(a) (i.e., duties of the referendum agent) to identify the order language applicable only for a referendum to adjust the rate of assessment.

The National Fluid Milk Processor Promotion Board submitted comments reiterating its support for the amendments to modify order provisions regarding term limits and membership status of Board members. The Board also expressed support for the other amendments to amend the Order in conformance with the Act, and to revise or remove obsolete language. The Board urged the immediate implementation of the amendments because it relies on several provisions that the amendments will clarify.

Homestead Dairies, Inc. (Homestead), filed comments in opposition to proposed term limits for Board members. Homestead recommended that the Order be amended to allow Board members to hold seats for no more than three consecutive years, as opposed to the Board's proposal which would allow a Board member to serve an initial term of one or two years and two additional three-year terms. Homestead stated that its recommendation would provide other processors an opportunity to serve on the Board on a more regular basis.

Homestead's proposed amendment, which would modify the term limits of Board members, should not be adopted. The amended order will provide the Board more continuity because members will be eligible to serve at least two full three-year terms as opposed to three consecutive one-year terms. Additionally, the Order will still provide other processors an opportunity to be appointed to serve on the Board on a regular basis.

Peeler Jersey Farms, Inc. (Peeler), a regional proprietary processor, filed a comment letter in support of term limits for Board members but suggested modifications. Peeler recommended that Board members should be required to remain off of the Board for a period of time before being eligible for re-election. Peeler also suggested that restrictions regarding fluid milk processor affiliation should be placed on Board members to allow proprietary processors representation.

The recommendations by Peeler regarding modifying the term of office provisions and membership status provisions should not be adopted. The Order provides that the National Fluid Milk Processor Promotion Board shall consist of 15 members representing geographic regions and five at-large members. The Order states that to the extent possible members representing geographical regions shall represent fluid milk processing operations of differing sizes and that no fluid milk processors shall be represented by more than one member.

The Order does not provide that Board members remain off the Board a specified time period before being eligible to be reappointed to serve in the same capacity. However, the Order provides that the Secretary shall announce 180 days prior to the expiration date of Board member' terms that such terms are expiring and solicit nominations for such positions from individual fluid milk processors and other interested parties, including eligible organizations. Therefore, all fluid milk processors are provided

adequate notice of available seats on the Board and are eligible to be nominated for such positions. Moreover, as stated above, the amendments regarding term limits will provide the Board continuity between terms to more effectively administer the Order.

Homestead and Peeler proposed other changes to the Order. However, the proposed changes are not relevant to this proceeding and will be addressed through another process.

It is appropriate to make this final rule effective one day after the date of publication in the Federal Register. Issuance of this rule is necessary to clarify order provisions with respect to term limits and membership status of Board members, and provide the Board flexibility to more effectively administer the order. These proposed amendments must be effective before nominations can be submitted to the Secretary of the United States Department of Agriculture to fill vacant positions on the Board. These positions should be filled as soon as possible. The rule also amends certain order provisions in conformance with the 1996 Federal Agriculture Improvement and Reform Act, and revises or removes order language that has become obsolete in conformance with the President's Regulatory Reform Initiative. Thus, the rule will allow the Board to fill vacant seats in a timely manner and ensure that the order will function properly.

Therefore, good cause exists for making this rule effective less than 30 days from the date of publication in the Federal Register. The proposed amendments to the order are made final in this action.

List of Subjects in 7 CFR Part 1160

Fluid milk products, Milk, Promotion.

For the reasons set forth in the preamble, 7 CFR Part 1160 is amended as follows:

PART 1160—FLUID MILK PROMOTION PROGRAM

1. The authority citation for 7 CFR part 1160 continues to read as follows:

Authority: 7 U.S.C. 6401–6417.

2. In § 1160.108, paragraph (a) is revised to read as follows:

§ 1160.108 Fluid milk processor.

(a) *Fluid milk processor* means any person who processes and markets commercially fluid milk products in consumer-type packages in the United States, except that the term fluid milk processor shall not include in each of the respective fiscal periods those persons who process and market not more than 500,000 pounds of such fluid milk products during the representative month, which shall be the first month of the fiscal period; *Provided, however,* that for the fiscal period following the initial fiscal period, the representative month shall be September 1995.

* * * * *

3. Section 1160.112 is revised to read as follows:

§ 1160.112 Research.

Research means market research to support advertising and promotion efforts, including educational activities, research directed to product characteristics, and product development, including new products or improved technology in production, manufacturing or processing of milk and the products of milk.

4. Section 1160.113 is revised to read as follows:

§ 1160.113 Fiscal period.

Fiscal period means the initial period of up to 30 months that this subpart is effective. Thereafter, the fiscal period shall be such annual period as the Board may determine, except that the Board may provide for a lesser or greater period as it may find appropriate for the period immediately after the initial fiscal period to assure continuity of fiscal periods until the beginning of the first annual fiscal period.

§ 1160.116 [Removed and Reserved]

5. Section 1160.116 is removed and reserved.

§ 1160.200 [Amended]

6. In § 1160.200, the last sentence of paragraph (a) is amended by adding the words ''in the position previously held by such member'' after the words ''membership on the Board'.

7. In § 1160.201, paragraph (b) is revised to read as follows:

§ 1160.201 Term of office.

* * * * *

(b) No member shall serve more than two consecutive terms, except that any member who is appointed to serve for an initial term of one or two years shall be eligible to be reappointed for two three-year terms. Appointment to another position on the Board is considered a consecutive term.

§ 1160.209 Duties of the Board.

8. In § 1160.209, paragraph (b) is revised to read as follows:

* * * * *

(b) To prepare and submit to the Secretary for approval a budget for each fiscal period of the anticipated expenses and disbursements in the administration of this subpart, including a description of and the probable costs of consumer education, promotion and research projects;

* * * * *

9. In § 1160.211, paragraphs (a)(1) and (a)(2) are revised to read as follows:

§ 1160.211 Assessments.

(a) (1) Each fluid milk processor shall pay to the Board or its designated agent an assessment of $.20 per hundredweight of fluid milk products processed and marketed commercially in consumer-type packages in the United States by such fluid milk processor. Producer-handlers required to pay assessments under section 113(g) of the Dairy Production Stabilization Act of 1983 (7 U.S.C. 4504(g)), and not exempt under § 1160.108, shall also pay the assessment under this subpart. No assessments are required on fluid milk products exported from the United States. The Secretary shall have the authority to receive assessments on behalf of the Board.

(2) The Secretary shall announce the establishment of the assessment each month in the Class I price announcement in each milk marketing area by adding it to the Class I price for the following month. In the event the assessment is suspended for a given month, the Secretary shall inform all fluid milk processors of the suspension in the Class I price announcement for that month. The Secretary shall also inform fluid milk processors marketing fluid milk in areas not subject to milk marketing orders administered by the Secretary of the establishment or suspension of the assessment.

* * * * *

10. Section 1160.501 is amended by removing paragraph (a), redesignating paragraphs (b) through (d) as paragraphs (a) through (c), removing the cross reference ''1160.501(c)'' in newly designated paragraph (c) and adding in its place ''1160.501(b)'', and revising newly designated paragraphs (a) and (b)(2) to read as follows:

§ 1160.501 Continuation referenda.

(a) The Secretary at any time may conduct a referendum among those persons who the Secretary determines were fluid milk processors during a representative period, as determined by the Secretary, on whether to suspend or terminate the order. The Secretary shall hold such a referendum at the request of the Board or of any group of such processors that marketed during a representative period, as determined by the Secretary, 10 percent or more of the volume of fluid milk products marketed in the United States by fluid milk

processors voting in the preceding referendum.

(b) * * *

(1) * * *

(2) By fluid milk processors voting in the referendum that marketed during a representative period, as determined by the Secretary, 40 percent or more of the volume of fluid milk products marketed in the United States by fluid milk processors voting in the referendum.

11. In § 1160.604, paragraph (a) is amended by adding the phrase ''For the purpose of adjusting the rate of assessment,'' at the beginning to the sentence.

12. Section 1160.605 is revised to read as follows:

§ 1160.605 Scheduling of referendum.

A referendum shall be held:

(a) Whenever prescribed by the order;

(b) For the purpose of adjusting the rate of assessment:

(1) At the direction of the Secretary; or

(2) Upon request of the Board or upon request of any group of fluid milk processors that marketed during a representative period, as determined by the Secretary, 10 percent or more of the volume of fluid milk products marketed by all processors of fluid milk in the United States during that period; or

(c) For the purpose of suspending or terminating the order:

(1) At the direction of the Secretary; or

(2) Upon request of the Board or upon request of any group of fluid milk processors that marketed during a representative period, as determined by the Secretary, 10 percent or more of the volume of fluid milk products marketed by fluid milk processors voting in the preceding referendum.

Dated: January 21, 1997.

Michael V. Dunn,

Assistant Secretary, Marketing and Regulatory Programs.

[FR Doc. 97–2042 Filed 1–27–97; 8:45 am]

BILLING CODE 3410–02–P

NUCLEAR REGULATORY COMMISSION

10 CFR Part 9

RIN 3150–AF60

Duplication Fees

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is amending its regulations by revising the charges for copying records publicly available at the NRC Public Document Room in Washington, DC. The amendment is necessary to reflect the change in copying charge resulting from the Commission's award of a new contract for the copying of records.

EFFECTIVE DATE: January 28, 1997.

FOR FURTHER INFORMATION CONTACT: Thomas E. Smith, Public Document Room, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone 202–634–3366.

SUPPLEMENTARY INFORMATION: The NRC maintains a Public Document Room (PDR) at 2120 L Street, NW (Lower Level), Washington, DC. The PDR contains an extensive collection of publicly available technical and administrative records that the NRC receives or generates. Requests by the public for the duplication of records at the PDR have traditionally been accommodated by a duplicating service contractor selected by the NRC. The schedule of duplication charges to the public was established in the duplicating service contract. The revised fee schedule reflects the changes in copying charges to the public that have resulted from the awarding of the new contract for the duplication of records at the PDR.

Because this is an amendment dealing with agency practice and procedure, the notice provisions of the Administrative Procedure Act do not apply pursuant to 5 U.S.C. 553(b)(A). In addition, the PDR users were notified on November 14, 1996, that the new contract was being awarded and that the new prices would go into effect on November 14, 1996. The amendment is effective upon publication in the Federal Register. Good cause exists to dispense the usual 30-day delay in the effective date because the amendment is of a minor and administrative nature dealing with agency procedures.

Small Business Regulatory Enforcement Fairness Act

In accordance with the Small Business Regulatory Enforcement Fairness Act of 1996, the NRC has determined that this action is not a major rule and has verified this determination with the Office of Information and Regulatory Affairs of OMB.

Environmental Impact: Categorical Exclusion

The NRC has determined that this final rule is the type of action described in categorical exclusion 10 CFR 51.22(c)(1). Therefore, neither an environmental impact statement nor an environmental assessment has been prepared for this final rule.

Paperwork Reduction Act Statement

This final rule does not contain a new or amended information collection requirement subject to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). Existing requirements were approved by the Office of Management and Budget approval number 3150–0127.

Public Protection Notification

The NRC 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.

Regulatory Analysis

The Nuclear Regulatory Commission is amending its regulations governing the rates charged for copying records at the NRC Public Document Room due to the signing of a new contract for the copying of records. This rule has no significant impact on health, safety or the environment. There is no substantial cost to licensees, the NRC or other Federal agencies.

Backfit Analysis

The NRC has determined that the Backfit Rule, 10 CFR 50.109, does not apply to this final rule and that a backfit analysis is not required for this final rule, because these amendments of regulations do not involve any provisions which would impose backfits as defined in 10 CFR 50.109 (a)(1).

List of Subjects in 10 CFR Part 9

Criminal penalties, Freedom of information, Privacy, Reporting and recordkeeping requirements, Sunshine Act.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended, 5 U.S.C. 552 and 553, the NRC is adopting the following amendment to 10 CFR Part 9.

PART 9—PUBLIC RECORDS

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

Authority: Sec. 161, 68 Stat, 948, as amended (42 U.S.C. 2201); sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841).

Subpart A also issued under 5 U.S.C. 552; 31 U.S.C. 9701; Pub. L. 99–570. Subpart B also issued under 5 U.S.C. 552a. Subpart C also issued under 5 U.S.C. 552b.

2. In § 9.35, paragraphs (a)(1), (a)(2), and (a)(3) are revised to read as follows:

§ 9.35 Duplication fees.

(a)(1) Charges for the duplication of records made available under § 9.21 at the NRC Public Document Room (PDR), 2120 L Street, NW. (Lower Level), Washington DC, by the duplicating service contractor are as follows:

(i) Paper to paper reproduction is $0.08 per page up to and including 8.5x14 inches. Pages 11x17 inches are $0.15. Pages larger than 11x17 inches are $1.50 each.

Note: Pages greater than legal size, 8.5x14 inches and smaller than or equal to 11x17 inches shall be reduced to legal size and reproduced for $0.08 per page, unless the order specifically requests full size reproduction.

(ii) Microfiche to paper reproduction is $0.08 per page. Aperture card blowbacks are $3.00 (reduced size) or $5.00 (full size).

(iii) Microfiche duplication is $0.75 per card. Aperture card duplication is $1.00.

(iv) Diskette to diskette duplication is $2.92. Video cassette duplication is $15.00 per cassette. Audio tape duplication is $3.00 per tape. Slide/Negative duplication is $5.00 each; photographs up to 8x10 inches is $10.00 per print. Electronic full text/citation reproduction to diskette is available at $3.00 per diskette or $0.08 per page.

(v) Rush processing is offered for standard size paper to paper and blowbacks, excluding standing order documents and pages reproduced from bound volumes. The charge is $0.15 per page. The rush processing for microfiche duplication is $1.00. Diskette rush processing is $4.96.

(vi) Facsimile charges are: $0.30 per page-local calls; $0.50–U.S. long distance; and $1.50-foreign long distance.

(2) Self-service duplicating machines are available at the PDR for the use of the public. Paper to paper copying is $0.08. Microfiche to paper is $0.10 per page on the reader printers.

(3) A requester may submit mail-order requests for contractor duplication of NRC records by writing, faxing, calling or e-mailing the NRC Public Document Room. The charges for any of the requests are the same as those set out in paragraph (a)(1) of this section, plus mailing or shipping charges.

* * * * *

Dated at Rockville, Maryland, this 22nd day of January, 1997.

For the Nuclear Regulatory Commission.

John C. Hoyle,

Secretary of the Commission.

[FR Doc. 97–1992 Filed 1–27–97; 8:45 am]

BILLING CODE 7590–01–P

SMALL BUSINESS ADMINISTRATION

13 CFR Part 121

Small Business Size Standards; Waiver of the Nonmanufacturer Rule

AGENCY: Small Business Administration.

ACTION: Waiver of the Nonmanufacturer Rule for 8mm Tri-Deck Airborne Recorder (ruggedized).

SUMMARY: This document advises the public that the Small Business Administration (SBA) is establishing a waiver of the Nonmanufacturer Rule for 8mm Tri-Deck Airborne Recorder (ruggedized). The basis for a waiver is that no small business manufacturers are available to participate in the Federal market for these products. The effect of a waiver will allow otherwise qualified nonmanufacturers to supply the products of any domestic manufacturer on a Federal contract set-aside for small businesses or awarded through the SBA 8(a) Program.

EFFECTIVE DATE: January 28, 1997.

ADDRESSES: David Wm. Loines, Procurement Analyst, U.S. Small Business Administration, 409 3rd Street S.W., Washington, DC 20416, Tel: (202) 205–6475.

FOR FURTHER INFORMATION CONTACT: David Wm. Loines, Procurement Analyst, (202) 205–6475, FAX (202) 205–7324.

SUPPLEMENTARY INFORMATION: Public Law 100–656, enacted on November 15, 1988, incorporated into the Small Business Act the previously existing regulation that recipients of Federal contracts set-aside for small businesses or the SBA 8(a) Program procurement must provide the product of a small business manufacturer or processor if the recipient is other than the actual manufacturer or processor. This requirement is commonly referred to as the Nonmanufacturer Rule. The SBA regulations imposing this requirement are found at 13 CFR 121.406(b). Section 303(h) of the law provides for waiver of this requirement by SBA for any ''class of products'' for which there are no small business manufacturers or processors in the Federal market. To be considered available to participate in the Federal market on these classes of products, a small business manufacturer must have submitted a proposal for a contract solicitation or received a contract from the Federal Government within the last 24 months. The SBA defines ''class of products'' based on two coding systems. The first is the Office of Management and Budget *Standard Industrial Classification Manual*. The second is the *Product and Service Code* (PSC) established by the Federal Procurement Data System.

The SBA was asked to issue a waiver for 8mm Tri-Deck Airborne Recorder (ruggedized) because of an apparent lack of any small business manufacturers or processors for them within the Federal market. The SBA searched its Procurement Automated Source System (PASS) for small business participants and found none. We then published a document in the Federal Register on November 22, 1996 (vol.61, no.227, p.59382), of our intent to grant a waiver for these classes of products unless new information was found. The proposed waiver covered 8mm Tri-Deck Airborne Recorder (ruggedized). The document described the legal provisions for a waiver, how SBA defines the market, and asked for small business participants of these classes of products. After the 15-day comment period, no small businesses were identified for 8mm Tri-Deck Airborne Recorder (ruggedized). This waiver is being granted pursuant to statutory authority under section 303(h) of Public Law 100–656 for 8mm Tri-Deck Airborne Recorder (ruggedized). The waiver will last indefinitely but is subject to both an annual review and a review upon receipt of information that the conditions required for a waiver no longer exist. If such information is found, the waiver may be terminated.

Judith A. Roussel,

Associate Administrator for Government Contracting.

[FR Doc. 97–1959 Filed 1–27–97; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 96–NM–99–AD; Amendment 39–9893; AD 97–02–08]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Model DC–9, DC–9–80 and C–9 (Military) Series Airplanes, and Model MD–88 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to certain McDonnell Douglas Model DC–9, DC–9–80 and C–9 (military) series airplanes, and Model MD–88 airplanes It requires either the installation of external protective

doublers between the outboard flight spoiler actuators and the aft spar webs of the wings, or replacement of the pistons of the outboard flight spoiler actuators with improved pistons. This amendment is prompted by reports of failure of the piston of the outboard flight spoiler actuator due to fatigue at the clevis end of the upper lug mounting hole of the piston. The actions specified by this AD are intended to prevent such failure of the piston and the consequent puncturing of the aft spar web, which could result in fuel leakage and reduced structural integrity of the wings.

DATES: Effective March 4, 1997.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of March 4, 1997.

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

FOR FURTHER INFORMATION CONTACT: Brent Bandley, Aerospace Engineer, Airframe Branch, ANM–120L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712; telephone (310) 627–5237; fax (310) 627–5210.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain McDonnell Douglas Model DC–9, DC–9–80 and C–9 (military) series airplanes, and Model MD–88 airplanes was published in the Federal Register on September 17, 1996 (61 FR 48864). That action proposed to require either installation of external protective doublers between the aft spar webs and the pistons of the outboard flight spoiler actuators on the wings, or replacement of the pistons of the outboard flight spoiler actuators with improved pistons.

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

Support for the Proposal

Several commenters support the proposed rule.

Request to Permit Use of Previously Issued Service Documents

One commenter requests that the proposed rule be revised to give credit to those operators who previously have accomplished either of the proposed actions in accordance with earlier versions of McDonnell Douglas Service Bulletin 27–300. This commenter, a U.S. operator, points out that the proposal cites only Revision 2 of that service bulletin as the appropriate source of service information. However, the commenter has already accomplished the actions on its fleet in accordance with the initial release of that service bulletin, which was issued on April 14, 1992. The commenter wants assurance that it will not have to repeat the actions in accordance with Revision 2 of the service bulletin.

The FAA concurs that credit should be given as requested by this commenter. The final rule has been revised to indicate that the use of previous versions of the referenced service bulletin is acceptable for compliance with this AD.

Request to Extend Compliance Time for Replacement of Pistons

One commenter requests that the compliance time for replacement of the pistons of the outboard flight spoiler actuators, as specified in proposed paragraph (a)(2), be extended from the proposed 5,000 landings (after the effective date of the final rule) to 10,500 landings. The commenter requests this extension so that the replacement can be accomplished during a regularly scheduled heavy maintenance visit, where trained personnel and ample parts would be available.

The FAA does not concur with the commenter's request. In developing an appropriate compliance time for this action, the FAA considered not only the degree of urgency associated with addressing the subject unsafe condition, but the availability of necessary parts and the practical aspect of accomplishing the replacement within an interval of time that parallels normal scheduled maintenance for the majority of affected operators. The FAA also took into account the manufacturers' recommendation (specified in McDonnell Douglas Service Bulletin DC9–27–300) that the replacement be conducted ''at the earliest practical maintenance period.'' The FAA finds that, for the majority of affected operators, some scheduled maintenance will occur within the 5,000-landing compliance period; thus, special scheduling for the accomplishment of the replacement can be avoided. No technical data has been presented to the FAA to justify extending the compliance time any further. In consideration of these factors, the FAA has determined that the 5,000-landing compliance time for accomplishing the replacement of pistons (or the installation of doublers) is both appropriate and warranted.

Request to Allow Repetitive Inspections in Lieu of Replacement of Pistons

One commenter requests that, in lieu of the proposed installation or replacement actions, the proposed rule be revised to allow operators to conduct repetitive non-destructive test (NDT) inspections of the pistons and actuator assembly at intervals of 3,000 flight hours or 3,000 flight cycles. The commenter states that most of the subject actuators already are being ''driven off'' these airplanes by the requirements of AD 90–18–03 [amendment 39–6701, (50 FR 34704, August 24, 1990)], which mandated the inspections and modifications specified in ''DC–9/MD–80 Aging Aircraft Service Action Requirements Document,'' McDonnell Douglas Report No. MDC–K1572. Therefore, in the interim before replacement, the commenter suggests that operators should be allowed to perform repetitive NDT inspections. Further, by performing these inspections at the suggested interval, operators could accomplish them at the same time that they conduct the inspections of the spoiler links and fittings that currently are required by AD 85–01–03 [amendment 39–4977, (50 FR 2040, January 15, 1985).

The FAA does not concur. The commenter provided neither technical data to justify the appropriateness of such inspections, nor suitable inspection and repair procedures. Further, the FAA does not consider that NDT inspections of the old pistons will necessarily enhance the safety of these parts. The FAA maintains that long term continued operational safety will be better assured by design changes to remove the source of a problem altogether, rather than by repetitive inspections. An understanding of the effectiveness of long term repetitive inspections and the human factors associated with conducting them, has led the FAA generally to consider placing less emphasis on inspections and more emphasis on design improvements. The replacement and installation requirements of this AD are

in consonance with these considerations.

Request To Allow Modification in Lieu of Replacement of Pistons

Two commenters request that the proposed rule be revised to provide an option of modifying the actuator pistons instead of replacing them. These commenters point out that McDonnell Douglas Service Bulletin 27–183 was issued previously to address fatigue cracking in the inboard and outboard spoiler actuator pistons. Among other things, that service bulletin describes procedures for reworking the pistons by stress coining the holes of the piston attach lug and installing fatigue bushings in the holes. One of the commenters states that tests conducted on actuator pistons that had been modified in accordance with these procedures demonstrated an increase in the fatigue strength of the piston over the original design by a factor of 10.

The FAA does not concur with the commenters' request. The FAA acknowledges that testing did indicate that the stress coining procedure described in Service Bulletin 27–183 appeared to stop the cracking in the subject location. However, after this modification was implemented on actuator pistons in service, other parts failed in new locations; additional actions (such as dimensional changes) then had to be taken to address those failures. In light of this, the FAA does not find that the procedures described in Service Bulletin 27–183 are a viable option in and of themselves.

Request To Revise Cost Impact Information

One commenter requests that the FAA revise the information it provided concerning the estimated costs of replacing the pistons of the outboard flight spoiler actuators with improved pistons. This commenter contends that the FAA has underestimated the cost impact by a factor of four for some operators. This commenter points out that many operators will have to accomplish additional modifications of the actuator before the new improved pistons can be installed. This commenter refers to the modifications described in McDonnell Service Bulletin 27–240 (which would entail approximately $780 in parts and labor) and Service Bulletin 27–274 (which would entail approximately $110 in parts and labor). The commenter requests that the costs associated with performing the work specified in those service bulletins be included in the cost estimates for the proposed AD.

The FAA does not consider that any revision to the cost estimate is necessary. The FAA acknowledges that the actions specified in the two service bulletins cited by the commenter must be accomplished prior to (or in conjunction with) the installation of the improved pistons. However, this AD requires only that the replacement action specified in McDonnell Douglas Service Bulletin DC9–27–300 be accomplished. Naturally, operators who have not already accomplished the other modifications will encounter additional costs, but the FAA is not mandating the other two service bulletins cited by the commenter. Further, operators are not obligated to install the improved pistons; that action is but one of two different actions provided by this AD. Instead of that installation, operators can elect to install the external protective doublers, as specified in paragraph (a)(1) of this final rule, and may find that action to be more cost effective for their operations.

Conclusion

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

Cost Impact

There are approximately 1,571 Model DC–9, DC–9–80, and C–9 (military) series airplanes, and Model MD–88 airplanes of the affected design in the worldwide fleet. The FAA estimates that 1,047 airplanes of U.S. registry will be affected by this AD.

The required installation of external doublers will take approximately 14 work hours per airplane to accomplish, at an average labor rate of $60 per work hour. Required parts will cost approximately $1,500 per airplane. Based on these figures, the cost impact of the installation of external doublers required by this AD on U.S. operators is estimated to be $2,340 per airplane. If all U.S. operators were to elect to accomplish this installation, the cost impact of this AD would be $2,449,980.

The required replacement of the pistons of the outboard flight spoiler actuators will take approximately 12 work hours per airplane to accomplish, at an average labor rate of $60 per work hour. Required parts will cost approximately $5,180 per airplane. Based on these figures, the cost impact of the replaced of the pistons required by this AD on U.S. operators is estimated to be $5,900 per airplane. If all U.S. operators were to elect to accomplish this replacement, the cost impact of this AD would be $6,177,300.

The cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted. However, at least one affected U.S. operator has advised the FAA that it has already accomplished the actions required by this AD on the airplanes in its fleet. Therefore, the future cost impact of this AD is expected to be less than the figures indicated above.

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

97–02–08 McDonnell Douglas: Amendment 39–9893. Docket 96–NM–99–AD.

Applicability: Model DC–9, Model DC–9–80 and C–9 (military) series airplanes, and Model MD–88 airplanes; as listed in McDonnell Douglas Service Bulletin DC9–27–300, Revision 02, dated June 29, 1995; certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent fuel leakage and reduced structural integrity of the wings due to puncturing of the wings by a failed piston of the outboard flight spoiler actuator, accomplish the following:

(a) Prior to the accumulation of 5,000 landings after the effective date of this AD, accomplish the actions specified in either paragraph (a)(1) or (a)(2) of this AD, in accordance with McDonnell Douglas Service Bulletin DC9–27–300, Revision 02, dated June 29, 1995.

Note 2. Accomplishment of the actions specified in this paragraph prior to the effective date of this AD in accordance with the original issue or Revision 1 of McDonnell Douglas Service Bulletin 27–300 is considered acceptable for compliance with this paragraph.

Note 3: Installation of McDonnell Douglas flight spoiler actuator assembly, part number (P/N) 5915900–5525, on the right and left wings prior to the effective date of this AD is considered acceptable for compliance with the requirements of this paragraph.

(1) Install external protective doublers between the outboard flight spoiler actuators and the aft spar webs of the left and right wings; or

(2) Replace the pistons of the outboard flight spoiler actuators on the left and right wings with improved pistons.

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

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

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

(d) Except as specified in NOTE 2 of this AD, the actions shall be done in accordance with McDonnell Douglas Service Bulletin DC9–27–300, Revision 02, dated June 29, 1995. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Technical Publications Business Administration, Department C1–L51 (2–60). Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(e) This amendment becomes effective on March 4, 1997.

Issued in Renton, Washington, on January 14, 1997.

S.R. Miller,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 97–1437 Filed 1–27–97; 8:45 am]

BILLING CODE 4910–13–U

14 CFR Part 39

[Docket No. 95–NM–223–AD; Amendment 39–9894; AD 97–02–09]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 727 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes two existing airworthiness directives (AD), applicable to all Boeing Model 727 series airplanes, that currently require inspections to detect cracking of the actuator rib fitting of the inboard door of the main landing gear (MLG); and rework or replacement of any cracked fitting. This amendment requires inspections to detect cracking in an expanded area of the actuator rib fitting, and various follow-on actions. This amendment is prompted by a report of a fractured rib fitting that had been reworked in accordance with one of the existing AD's. The actions specified by this AD are intended to prevent damage to the airplane caused by a failure of the landing gear to extend due to a fractured rib fitting.

DATES: Effective March 4, 1997.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of March 4, 1997.

ADDRESSES: The service information referenced in this AD may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Walter Sippel, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington; telephone (206) 227–2774; fax (206) 227–1181.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) by superseding AD 90–02–19 [amendment 39–6433 (55 FR 601, January 8, 1990)] and AD 93–01–14 [amendment 39–8368, (58 FR 5574, January 22, 1993)], both of which are applicable to Boeing Model 727 series airplanes, was published in the Federal Register as a supplemental notice of proposed rulemaking on October 1, 1996,(61 FR 51250). The action proposed to continue to require the actions specified in the two previously issued AD's, but to expand the area of inspection and to require various follow-on actions.

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

Support for the Proposal

Two commenters support the proposed AD.

Request To Revise Compliance Threshold for Modified Fittings

One commenter, the airframe manufacturer, requests that paragraph (b)(1)(ii) of the proposal be revised to extend one of the compliance thresholds for the initial inspections of fittings that have been modified in accordance with Boeing Service bulletin 727–32–0383, Revision 1. This commenter points out that, in the supplemental NPRM, the FAA proposed to reduced the initial

inspection time for these fittings from 2,500 cycles to 1,500 cycles, based on an analysis of a recent incident of cracking found in the fittings. However, based on newer data, the commenter states that the proposed reduction may be too conservative. A recent striation analysis has shown that the crack on the fitting involved in the new incident was present for a significantly greater time than the 1,350 cycles since the last inspection (as originally thought). The exact interval between crack initiation and fitting fracture is indeterminate because of fracture surface deterioration. There was evidence of significant surface attack, which indicates prolonged exposure to a corrosive environment; however, the exact length of exposure is not known. The commenter further states that it was possible to perform some striation count analysis on a portion of the fracture; correlation of this analysis to the analysis performed on the earlier cracking incident (in 1994) showed a high degree of similarity. Additionally, the commenter states that the recent cracking incident occurred approximately 8,000 cycles after the modification was installed on the fitting. Consequently, the commenter considers that the reasoning for a 2,500-cycle initial inspection threshold is valid.

The FAA concurs. The FAA has reviewed the data presented by the commenter and agrees that the threshold for initiating the inspections of modified fittings can be extended. Paragraph (b)(1)(ii) of the final rule has been revised to indicate a threshold of 2,500 flight cycles after the immediately preceding inspection conducted in accordance with Boeing Service Bulletin 727–32A0399. Additionally, a new paragraph (b)(1)(iii) has been added to provide for a threshold of ''within 5,000 flight cycles after accomplishing the terminating action in accordance with AD 93–01–14.''

Request for Reference to Additional Service Information

This same commenter, requests that the proposal be revised to include Revision 1 of Boeing Service Bulletin 727–32A0399 as an additional source of service information. The commenter indicates that Boeing will be issuing Revision 1 of the service bulletin in the near future to reflect the requirements and reference the AD number of this final rule.

The FAA does not concur, since Revision 1 does not yet exist and has not been reviewed and approved by the FAA.

Request to Revise Cost Impact Information

One commenter requests that the cost impact information, iterated in the preamble to the supplemental NPRM, be revised to update the cost of required parts for the optional terminating action (installation of steel fittings). This commenter states that the necessary parts cost $3,489 per side and there are two sides; therefore, the total cost of parts is $6,978. Additionally, the commenter points out that the number of work hours required to accomplish the installation is 18, rather than 4 work hours, as was indicated in the proposal.

The FAA concurs that the figures provided by the commenter are more up-to-date than those obtained by the FAA at the time the supplemental NPRM was issued. The cost impact information, below, has been revised to include these new figures.

Conclusion

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

Cost Impact

There are approximately 1,631 Boeing Model 727 series airplanes of the affected design in the worldwide fleet. The FAA estimates that 1,166 airplanes of U.S. registry will be affected by this proposed AD.

The inspections required by this AD action will take approximately 10 work hours per airplane to accomplish, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the required inspections on U.S. operators is estimated to be $699,600, or $600 per airplane, per inspection.

The modification required by this AD action will take approximately 6 work hours per airplane to accomplish, at an average labor rate of $60 per work hour. The cost of required parts is expected to be negligible. Based on these figures, the cost impact of the required modification on U.S. operators is estimated to be $376,560, or $360 per airplane.

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

Should an operator elect to accomplish the optional terminating action (installation of steel fittings) provided by this AD, it would take approximately 18 work hours per airplane, at an average labor rate of $60 per work hour. Required parts would cost approximately $6,978 per airplane. Based on these figures, the cost impact of this optional terminating action on U.S. operators is estimated to be $8,058 per airplane.

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by removing amendment 39–6433 (55 FR 601, January 8, 1990); and by removing amendment 39–8368 (58 FR 5574, January 22, 1993); and by adding a new

airworthiness directive (AD), to read as follows:

97–02–09 Boeing: Amendment 39–9894, Docket 95–NM–223–AD. Supersedes AD 90–02–19, amendment 39–6433; and supersedes AD 93–01–14, amendment 39–8368.

Applicability: All Model 727 series airplanes, certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent failure of the main landing gear (MLG) to extend for landing and subsequent damage to the airplane, accomplish the following:

(a) For airplanes equipped with rib fittings that have been modified (reworked) in accordance with Boeing Service Bulletin 727–32–0364, dated December 15, 1988, or Revision 1, dated October 19, 1989; but *have not been modified* in accordance with Figure 2 of Boeing Service Bulletin 727–32–0383, Revision 1, dated January 30, 1992: Accomplish the following:

(1) Prior to the accumulation of 1,000 flight cycles after the effective date of this AD, accomplish the actions specified in both paragraphs (a)(1)(i) and (a)(1)(ii):

(i) Perform either a high frequency eddy current or dye penetrant inspection to detect cracking of the actuator rib fitting of the MLG, in accordance with Part I of the Accomplishment Instructions of Boeing Alert Service Bulletin 727–32A0399, dated July 13, 1995. And

(ii) Inspect the actuator rib fitting of the MLG to ensure that serrations are fully mated, and to detect loose bolts, in accordance with Figure 1 of Boeing Service Bulletin 727–32–0383, Revision 1, dated January 30, 1992.

(2) If the inspections required by paragraph (a)(1) of this AD reveal no cracking or loose bolts, and reveal that the serrations are fully mated, accomplish the actions specified in paragraphs (a)(2)(i), (a)(2)(ii), and (a)(2)(iii) of this AD:

(i) Prior to further flight, re-rig the door in accordance with the maintenance manual procedures referenced in Boeing Alert Service Bulletin 727–32A0399, dated July 13, 1995, to ensure proper door rigging. And

(ii) Thereafter, repeat the inspections required by paragraph (a)(1) of this AD at intervals not to exceed 1,000 flight cycles until the modification required by paragraph (a)(2)(iii) of this AD is accomplished; and

(iii) Prior to the accumulation of 3,000 flight cycles after the effective date of this AD, modify the actuator rib fitting in accordance with Part II of the Accomplishment Instructions of Boeing Alert Service Bulletin 727–32A0399, dated July 13, 1995. As an option to the action specified in Step 1 of Figure 3 of that alert service bulletin, operators may layout a .39-inch minimum radius.

(3) If the inspections required by paragraph (a)(1) of this AD reveal no cracking, but do reveal loose bolts or serrations that are not fully mated, prior to further flight accomplish either paragraph (a)(3)(i) or (a)(3)(ii) of this AD:

(i) Modify the actuator rib fitting in accordance with Part II of the Accomplishment Instructions of Boeing Alert Service Bulletin 727–32A0399, dated July 13, 1995. As an option to the action specified in Step 1 of Figure 3 of that alert service bulletin, operators may layout a .39-inch minimum radius; or

(ii) Replace the currently-installed aluminum rib fitting with a new steel rib fitting, in accordance with Part III of the Accomplishment Instructions of Boeing Alert Service Bulletin 727–32A0399, dated July 13, 1995. After this replacement, no further action is required by this AD for that rib fitting.

(b) For airplanes equipped with rib fittings that have been modified in accordance with Boeing Service Bulletin 727–32–0364, dated December 15, 1988, or Revision 1, dated October 19, 1989; and *have been modified* in accordance with Figure 2 of Boeing Service Bulletin 727–32–0383, Revision 1, dated January 30, 1992: Accomplish the following:

(1) Perform either a high frequency eddy current or dye penetrant inspection to detect cracking of the actuator rib fitting of the MLG, in accordance with Part I of the Accomplishment Instructions of Boeing Alert Service Bulletin 727–32A0399, dated July 13, 1995, at the later of the times specified in either paragraph (b)(1)(i), (b)(1)(ii), or (b)(1)(iii) of this AD.

(i) Prior to the accumulation of 1,000 flight cycles after the effective date of the AD; or

(ii) Within 2,500 flight cycles after the immediately preceding inspection performed in accordance with Boeing Service Bulletin 727–32A0399; or

(iii) Within 5,000 flight cycles after accomplishing the terminating action in accordance with AD 93–01–14.

(2) If no cracking is detected during the inspection required by paragraph (b)(1) of this AD, accomplish the actions specified in paragraphs (b)(2)(i), (b)(2)(ii), and (b)(2)(iii) of this AD:

(i) Prior to further flight, re-rig the door in accordance with the maintenance manual procedures referenced in Boeing Alert Service Bulletin 727–32A0399, dated July 13, 1995, to ensure proper door rigging; and

(ii) Thereafter, repeat the inspection required by paragraph (b)(1) at intervals not to exceed 2,500 flight cycles until the modification required by paragraph (b)(2)(iii) of this AD is accomplished; and

(iii) Prior to the accumulation of 6,000 flight cycles after the effective date of this AD, modify the actuator rib fitting in accordance with Part II of the Accomplishment Instructions of Boeing Alert Service Bulletin 727–32A0399, dated July 13, 1995. As an option to the action specified in Step 1 of Figure 3 of that alert service bulletin, operators may layout a .39-inch minimum radius.

(c) For airplanes equipped with rib fittings that *have not been modified* in accordance with Boeing Service Bulletin 727–32–0364, dated December 15, 1988, or Revision 1, dated October 19, 1989: Accomplish the following:

(1) Prior to the accumulation of 1,000 flight cycles after the effective date of this AD, accomplish the actions specified in both paragraphs (c)(1)(i) and (c)(1)(ii) of this AD:

(i) Perform either a high frequency eddy current or dye penetrant inspection to detect cracking of the actuator rib fitting of the MLG, in accordance with Part I of the Accomplishment Instructions of Boeing Alert Service Bulletin 727–32A0399, dated July 13, 1995. And

(ii) Inspect the actuator rib fitting of the MLG to ensure that serrations are fully mated, and to detect loose bolts, in accordance with Figure 1 of Boeing Service Bulletin 727–32–0383, Revision 1, dated January 30, 1992.

(2) If the inspections required by paragraph (c)(1) of this AD reveal no cracking or loose bolts, and reveal that the serrations are fully mated, prior to further flight, accomplish the actions specified in either paragraph (c)(2)(i), (c)(2)(ii), or (c)(2)(iii) of this AD:

(i) Modify the actuator rib fitting in accordance with Part II of the Accomplishment Instructions of Boeing Alert Service Bulletin 727–32A0399, dated July 13, 1995; and in accordance with Boeing Service Bulletin 727–32–0364, dated December 15, 1988, or Revision 1, dated October 19, 1989. As an option to the action specified in Step 1 of Figure 3 of Boeing Alert Service Bulletin 727–32A0399, operators may layout a .39-inch minimum radius; or

(ii) Replace the currently-installed aluminum rib fitting with a new steel rib fitting, in accordance with Part III of the Accomplishment Instructions of Boeing Alert Service Bulletin 727–32A0399, dated July 13, 1995. After this replacement, no further action is required by this AD for that fitting; or

(iii) Replace the fitting with a like fitting that has been inspected in accordance with Part I of the Accomplishment Instructions of Boeing Alert Service Bulletin 727–32A0399, dated July 13, 1995; and modified in accordance with Part II of the Accomplishment Instructions of that service bulletin and in accordance with Boeing Service Bulletin 727–32–0364, dated December 15, 1988, or Revision 1, dated October 19, 1989.

(d) If any cracking is detected during the inspections required by paragraphs (a)(1), (b)(1), or (c)(1) of this AD, prior to further flight, accomplish the actions specified in either paragraph (d)(1) or (d)(2) of this AD:

(1) Replace the cracked fitting with a like fitting that has been inspected in accordance with Part I of the Accomplishment Instructions of Boeing Alert Service Bulletin 727–32A0399, dated July 13, 1995; and modified in accordance with Part II of the Accomplishment Instructions of that service

bulletin and in accordance with Boeing Service Bulletin 727–32–0364, dated December 15, 1988, or Revision 1, dated October 19, 1989. As an option to the action specified in Step 1 of Figure 3 of Boeing Alert Service Bulletin 727–32A0399, operators may layout a .39-inch minimum radius; or

(2) Replace the cracked fitting with a new steel rib fitting in accordance with Part III of the Accomplishment Instructions of Boeing Alert Service Bulletin 727–32A0399, dated July 13, 1995. This replacement constitutes terminating action for the requirements of that AD for that fitting.

(e) For all airplanes on which modification of the actuator rib fitting has been accomplished in accordance with Part II of the Accomplishment Instructions of Boeing Alert Service Bulletin 727–32A0399, dated July 13, 1995; and Boeing Service Bulletin 727–32–0364, dated December 15, 1988, or Revision 1, dated October 19, 1989: Within 7,500 flight cycles after accomplishing the modification, accomplish the following:

(1) Perform either a high frequency eddy current or dye penetrant inspection to detect cracking of the modified actuator rib fitting, in accordance with the alert service bulletin.

(2) Repeat the inspection thereafter at intervals not to exceed 2,500 flight cycles until the fitting is replaced with a new steel rib fitting, in accordance with Part III of the Accomplishment Instructions of the alert service bulletin. This replacement constitutes terminating action for the requirements of this AD for that fitting.

(f) Replacement of aluminum actuator rib fittings with new steel actuator rib fittings in accordance with Part III of the Accomplishment Instructions of Boeing Alert Service Bulletin 727–32A0399, dated July 13, 1995, constitutes terminating action for the requirements of this AD.

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

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

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

(i) The actions shall be done in accordance with Boeing Alert Service Bulletin 727–32A0399, dated July 13, 1995. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51.

Copies may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(j) This amendment becomes effective on March 4, 1997.

Issued in Renton, Washington, on January 14, 1997.

S.R. Miller,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 97–1440 Filed 1–27–97; 8:45 am]

BILLING CODE 4910–13–U

14 CFR Part 39

[Docket No. 96–NM–46–AD; Amendment 39–9892; AD 97–02–07]

RIN 2120–AA64

Airworthiness Directives; Airbus Model A300–600 and Model A310 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to Airbus Model A300–600 and Model A310 series airplanes, that requires testing to verify if the smoke detection system can detect smoke within 60 seconds; and cleaning the installation and duct, if necessary. It also requires operators to submit a report of the test findings to the manufacturer. This amendment is prompted by a report that, during testing of the smoke detection system on in-service airplanes, the system failed to detect smoke within 60 seconds due to dust accumulation in the extraction ducts. The actions specified by this AD are intended to ensure that dust accumulation does not reduce the effectiveness of the smoke detection system and, consequently, lead to undetected smoke or fire in the lavatory of the airplane.

DATES: Effective March 4, 1997.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of March 4, 1997.

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

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

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to Airbus Model A300–600 and Model A310 series airplanes was published in the Federal Register on July 30, 1996 (61 FR 39604). That action proposed to require performing an operational and functional test to verify if the smoke detection system can detect smoke within 60 seconds, and cleaning the installation and duct, if necessary. That action also proposed to require submitting a report of the test results to Airbus.

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

Support for the Proposal

One commenter supports the proposed rule.

Request to Revise Reporting Deadline

One commenter requests that the proposal be revised to extend the compliance time for submitting test reports from 10 days after accomplishing the test, as proposed, to 30 days. The commenter considers the longer time necessary in order to prepare an adequate report of the required data.

The FAA concurs and has revised paragraph (b) of this final rule accordingly.

Request to Withdraw Reporting Requirement

One commenter requests that the FAA withdraw the proposed requirement to submit a report of test results to Airbus. This commenter previously completed the operational and functional tests on its fleet of airplanes, but did not submit a report, since such a provision was not part of the referenced Airbus All Operators Telex (AOT) 26–16, dated September 12, 1995. Consequently, this commenter does not want to be required to repeat the test simply in order to prepare a report in accordance with the reporting requirement of the proposed rule.

Another commenter considers that reporting requirements, in general, should be required by AD action only in cases where the AD is viewed as ''interim action'' and that, based upon reviewing further data, additional

rulemaking may be required. Since the referenced Airbus AOT was issued more than a year ago, the commenter considers that sufficient time has elapsed in which Airbus could collect the data needed to determine what further action, if any, is needed. The commenter asserts that the FAA should not impose a reporting requirement without first determining with Airbus whether the test data is actually necessary.

The FAA does not concur with the commenters' request to withdraw the reporting requirement. As was explained in the preamble to the notice, the intent of the reports is to enable Airbus to obtain enough information to enable it to develop an appropriate repetitive testing interval based on findings in the in-service fleet. The FAA has contacted Airbus in order to determine if test results from U.S. operators are still required; Airbus has responded by stating that the data from the U.S. operators are still needed to establish the proper testing intervals. In light of this, the FAA finds reason to retain the reporting requirement in this final rule.

However, in consideration of operators who already have accomplished the operational and functional test prior to the issuance of this AD, the FAA has revised paragraph (b) of the final rule to indicate that, for those operators, the report is to be submitted within 30 days after the effective date of the AD. As provided by the compliance provision of this AD, which states ''* * * Compliance required unless accomplished previously,'' those operators do not have to repeat the one-time operational and functional test, required by paragraph (a) of the AD, merely in order to submit the report.

Conclusion

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

Cost Impact

The FAA estimates that 67 Airbus Model A300–600 and Model A310 series airplanes of U.S. registry will be affected by this AD, that it will take approximately 1 work hour per airplane to accomplish the required actions, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be $4,020, or $60 per airplane.

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

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

97–02–07 Airbus Industrie: Amendment 39–9892. Docket 96–NM–46–AD.

Applicability: Model A300–600 and Model A310 series airplanes, on which Airbus Modification 10156 has not been installed; certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To ensure that dust accumulation in the ducts does not reduce the effectiveness of the smoke detection system to detect smoke and, consequently, lead to undetected smoke or fire in the lavatory of the airplane; accomplish the following:

(a) Within 500 flight hours after the effective date of this AD, perform an operational and functional test to verify if the smoke detection system can detect smoke within 60 seconds, in accordance with Airbus All Operators Telex (AOT) 26–16, dated September 12, 1995.

(1) If smoke is detected within 60 seconds, no further action is required by this AD.

(2) If smoke is not detected within 60 seconds, prior to further flight, clean the installation/duct in accordance with the AOT. Prior to further flight after accomplishment of the cleaning, repeat the operational and functional test required by paragraph (a) of this AD.

(b) At the applicable time specified in either paragraph (b)(1) or (b)(2) of this AD, submit a report of the test results (both positive and negative findings) to Airbus Industrie Customer Services, Attention Engineering Support, AI/SE–E23, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. Information collection requirements contained in this regulation have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*) and have been assigned OMB Control Number 2120–0056.

(1) For airplanes on which the test is accomplished after the effective date of this AD: Submit the report within 30 days after performing the test required by paragraph (a) of this AD.

(2) For airplanes on which the test has been accomplished prior to the effective date of this AD: Submit the report within 30 days after the effective date of this AD.

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

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

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

(e) The operational and functional test shall be done in accordance with Airbus All Operators Telex (AOT) 26–16, dated September 12, 1995. This incorporation by reference was approved by the Director of the Federal Register in accordance with 15 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(f) This amendment becomes effective on March 4, 1997.

Issued in Renton, Washington, on January 14, 1997.

S.R. Miller,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 97–1441 Filed 1–27–97; 8:45 am]

BILLING CODE 4910–13–U

14 CFR Part 39

[Docket No. 96–NM–156–AD; Amendment 39–9901; AD 97–02–16]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 737–300, –400, and –500 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Boeing Model 737–300, –400, and –500 series airplanes, that requires modification of the system that detects a loss of tension in the cable controlling the flaps by removing the shim from behind the proximity switch and by trimming the switch bracket. This amendment is prompted by reports that the switch bracket can impair the movement of a pulley arm mechanism, ultimately preventing the detection system from operating. The actions specified by this AD are intended to prevent such impairment, which could result in movement of the flaps without action by the pilot, and ultimately cause reduced controllability of the airplane.

DATES: Effective March 4, 1997.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of March 4, 1997.

ADDRESSES: The service information referenced in this AD may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. This information may be examined at the Federal Aviation Administration (FAA),Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Ken Frey, Aerospace Engineer, Systems and Equipment Branch, ANM–130S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington; telephone (206) 227–2673; fax (206) 227–1181.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain Boeing Model 737–300, –400, and –500 series airplanes was published in the Federal Register on September 13, 1996 (61 FR 48435). That action proposed to require removal of the shim behind the proximity switch, if installed; and trimming of the bracket for the proximity switch.

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

Request To Extend Compliance Time

One commenter requests that the compliance time for accomplishment of the modification be extended from the proposed ''3,200 flight hours or 18 months'' to ''4,600 flight hours or 24 months,'' whichever occurs first after the effective date of the AD. The commenter states that the modification is time-consuming to perform, and the requested extension of the compliance time would allow affected operators to accomplish it during regularly scheduled maintenance (''C'' check).

The FAA does not concur. In developing an appropriate compliance time for this action, the FAA considered not only the degree of urgency associated with addressing the subject unsafe condition, but the availability of required parts and the practical aspect of installing the required modification within an interval of time that parallels normal scheduled maintenance for the majority of affected operators. The FAA finds that the compliance time, as proposed, represents the average ''C'' check maintenance interval for the majority of affected operators. Additionally, the FAA does not consider the modification to be especially time-consuming, since it takes only 7 work hours per airplane to perform, and does not entail the need for special tools or parts. In light of these items, the FAA finds the proposed compliance time to be appropriate. However, under the provisions of paragraph (b) of the final rule, the FAA may approve requests for adjustments to the compliance time if data are submitted to substantiate that such an adjustment would provide an acceptable level of safety.

Request To Clarify Description of Required Actions

One commenter requests that the description of the requirement modification of the flap control cable failure detection system be clarified. The commenter points out that the shim to be removed is located behind the proximity switch, rather than behind the bracket for the proximity switch, as was stated in the proposal. Additionally, the commenter suggests that the required action would be clearer if stated as, ''trimming of the switch bracket,'' rather than ''trimming of the bracket of the proximity switch.''

The FAA concurs that the commenter's suggested changes to the description of the required actions would make the AD clearer. The FAA has made those changes throughout this final rule in the appropriate places.

Conclusion

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

Cost Impact

There are approximately 1,619 Model 737–300, –400, and –500 series airplanes of the affected design in the worldwide fleet. The FAA estimates that 685 airplanes of U.S. registry will be affected by this AD, that it will take approximately 7 work hours per airplane to accomplish the required actions, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be $287,700, or $420 per airplane.

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

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

97–02–16 Boeing: Amendment 39–9901. Docket 96–NM–156–AD.

Applicability: Model 737–300, –400 and –500 series airplanes having line production numbers 1001 through 2765, inclusive; certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent movement of the flaps from their last set position without action by the pilot, which could reduce controllability of the airplane, accomplish the following:

(a) Within 18 months or 3,200 hours time-in-service after the effective date of this AD, whichever occurs first, remove the shim, if installed, from behind the proximity switch in the system which detects a loss of tension in the cable controlling the flaps; and trim the switch bracket; in accordance with Boeing Alert Service Bulletin 737–27A1199, dated June 20, 1996.

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

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

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

(d) The actions shall be done in accordance with Boeing Alert Service Bulletin 737–27A1199, dated June 20, 1996. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(e) This amendment becomes effective on March 4, 1997.

Issued in Renton, Washington, on January 15, 1997.

S.R. Miller,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 97–1478 Filed 1–27–97; 8:45 am]

BILLING CODE 4910–13–U

14 CFR Part 39

[Docket No. 96–NM–76–AD; Amendment 39–9902; AD 97–02–17]

RIN 2120–AA64

Airworthiness Directives; Construcciones Aeronauticas, S.A. (CASA) Model CN–235 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to all CASA Model CN–235 series airplanes, that requires repetitive eddy current inspections to detect fatigue cracks in the nose landing gear (NLG) turning tube, and replacement of cracked tubes. This amendment is prompted by a report of the failure of an NLG turning tube during landing roll; the failure was attributed to fatigue cracking in the turning tube. The actions specified by this AD are intended to ensure that fatigue cracking in the NLG turning tube is detected and corrected before it could cause the failure of the tube and, consequently, degrade the structural integrity of the NLG.

DATES: Effective March 4, 1997.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of March 4, 1997.

ADDRESSES: The service information referenced in this AD may be obtained from Construcciones Aeronauticas, S.A., Getafe, Madrid, Spain. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Greg Dunn, Aerospace Engineer, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (206) 227–2799; fax (206) 227–1149.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to all CASA Model CN–235 series airplanes was published in the Federal Register on October 23, 1996 (61 FR 54958). That action proposed to require repetitive eddy current inspections to detect fatigue cracking in the nose landing gear (NLG)

turning tube. If any cracking is detected, the turning tube would be required to be replaced with a new unit prior to further flight.

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were submitted in response to the proposal or the FAA's determination of the cost to the public.

Conclusion

The FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

Interim Action

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

Cost Impact

The FAA estimates that 1 CASA Model CN–235 series airplane of U.S. registry will be affected by this AD, that it will take approximately 8 work hours per airplane to accomplish the required actions, and that the average labor rate is $60 per work hour. Required parts will be provided by the manufacturer at no cost to operators. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be $480.

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

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

97–02–17 CASA: Amendment 39–9902. Docket 96–NM–76–AD.

Applicability: All Model CN–235 series airplanes, certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent structural degradation of the nose landing gear (NLG) due to failure of the NLG turning tube, accomplish the following:

(a) At the applicable time specified in either paragraph (a)(1) or (a)(2) of this AD, conduct a high frequency eddy current (HFEC) inspection to detect fatigue cracking in the NLG turning tube, in accordance with the procedures specified in Annex 1 and Annex 2 of CASA Maintenance Instructions COM 235–092, Revision 02, dated May 5, 1995.

(1) For Model CN–235 airplanes [Basic model; Maximum Takeoff Weight (MTOW) = 31,746 lbs. (14,400 kgs.)]: Conduct the inspection prior to or upon the accumulation of 6,000 landings on the NLG turning tube, or within 50 landings after the effective date of this AD, whichever occurs later.

(2) For Model CN–235–100 series airplanes [MTOW = 33,290 lbs. (15,100 kgs.)] and Model CN–235–200 series airplanes [MTOW = 34,833 lbs. (15,800 kgs)]: Conduct the inspection prior to or upon the accumulation of 4,800 landings on the NLG turning tube, or within 50 landings after the effective date of this AD, whichever occurs later.

(b) If no cracking is detected during the inspection required by paragraph (a) of this AD, repeat the inspection thereafter at intervals not to exceed 200 landings.

(c) If any cracking is detected during any inspection required by paragraph (a) or (b) of this AD, prior to further flight, replace the NLG turning tube with a new unit in accordance with CASA Maintenance Instructions COM 235–092, Revision 02, dated May 5, 1995. After replacement, repeat the HFEC inspection prior to or upon the accumulation of 6,000 landings on the new NLG turning tube installed on Model CN–325 airplanes (basic model); or prior to or upon the accumulation of 4,800 landings on the new NLG turning tube installed on Model CN–325–100 and -200 series airplanes. Thereafter, repeat the inspection at intervals not to exceed 200 landings.

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

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

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

(f) The inspections and relacement shall be done in accordance with CASA Maintenance Instructions COM 235–092, Revision 02, dated May 5, 1995, which contains the specified list of effective pages:

Page number	Revision level shown on page	Date shown on page
1/2, 2/2	02	May 5, 1995.
Annex 1: 1–6	None	None.
Annex 2: 1–3	None	None.

This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Construcciones Aeronauticas, S.A., Getafe, Madrid, Spain. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(g) This amendment becomes effective on March 4, 1997.

Issued in Renton, Washington, on January 15, 1997.

S.R. Miller,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 97–1480 Filed 1–27–97; 8:45 am]

BILLING CODE 4910–13–U

14 CFR Part 39

[Docket No. 95–NM–160–AD; Amendment 39–9903; AD 97–02–18]

RIN 2120–AA64

Airworthiness Directives; Jetstream BAe Model ATP Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Jetstream BAe Model ATP airplanes, that requires repetitive inspections to detect damage of the antenna mounting reinforcing plates and surrounding fuselage skin. If any damage is detected, the AD requires replacement of the reinforcing plate with a new reinforcing plate and/or repair of the surrounding fuselage skin, which would terminate the repetitive inspection requirements. This amendment is prompted by reports of corrosion found at the antenna reinforcing plates, which was caused by the ingress of water at the plates. The actions specified by this AD are intended to prevent such corrosion, which could result in reduced structural integrity of the fuselage pressure vessel.

DATES: Effective March 4, 1997.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of March 4, 1997.

ADDRESSES: The service information referenced in this AD may be obtained from Jetstream Aircraft, Inc., P.O. Box 16029, Dulles International Airport, Washington, DC 20041–6029. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

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

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain Jetstream BAe Model ATP airplanes was published as a supplemental notice of proposed rulemaking (NPRM) in the Federal Register on November 8, 1996 (61 FR 57830). That action proposed to require repetitive detailed external visual inspections to detect damage (i.e., corrosion, cracks, pillowing, and rivet pulling) of the antenna mounting reinforcing plates and surrounding fuselage skin. For cases where any damage is detected during the inspection, that action also proposed to require replacement of the reinforcing plate with a new reinforcing plate and/or repair of the surrounding fuselage skin; this replacement/repair would constitute terminating action for the repetitive inspection requirements.

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

Support for the Proposal

One commenter supports the proposed rule.

Request for Extension of Repetitive Inspection Interval

One commenter requests that the proposal be revised to extend the repetitive inspection interval (when no corrosion is detected) from the proposed 1 year to 2 years. The commenter states that both the manufacturer and the Civil Aviation Authority (CAA) of the United Kingdom have determined that a 2-year repeat interval is a conservative figure, during which time any corrosion forming at the antenna reinforcing plates cannot progress to a state that would create a hazard. Additionally, the service bulletin referenced in the proposal recommends a 2-year repetitive inspection interval.

Based on the data presented, the FAA concurs. Paragraph (a)(1) of the final rule has been revised accordingly.

Conclusion

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

Cost Impact

The FAA estimates that 10 airplanes of U.S. registry will be affected by this AD, that it will take approximately 2 work hours per airplane to accomplish the required actions, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be $1,200, or $120 per airplane, per inspection cycle.

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

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

97–02–18 Jetstream Aircraft Limited (Formerly British Aerospace Commercial Aircraft Limited): Amendment 39–9903. Docket 95–NM–160–AD.

Applicability: BAe Model ATP airplanes having constructor's numbers 2002 through 2063, inclusive, certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent corrosion of the antenna mounting reinforcing plates and surrounding skin, which could result in reduced structural integrity of the fuselage pressure vessel, accomplish the following:

(a) Within 6 months after the effective date of this AD, perform a detailed external visual inspection to detect damage (i.e., corrosion, cracks, pillowing, and rivet pulling) of the antenna mounting reinforcing plates and surrounding fuselage skin in accordance with Part A of the Accomplishment Instructions of Jetstream Service Bulletin ATP–53–31, Revision 1, dated December 5, 1995.

Note 2: Inspections of the areas specified in Jetstream Service Bulletin ATP–53–31, dated July 1, 1995, that have been accomplished prior to the effective date of this AD and in accordance with that service bulletin, are considered acceptable for compliance with the inspections of those areas as required by paragraph (a) of this AD. (It should be noted, however, that Revision 1 of Service Bulletin ATP–53–31 specifies procedures for inspection of two additional ADF antenna locations.)

(1) If no damage is detected, repeat the inspection thereafter at intervals not to exceed 2 years.

(2) If any damage is detected, replace the reinforcing plate with a new reinforcing plate and/or repair the surrounding fuselage skin at the applicable times specified in Figure 4 of the service bulletin, and in accordance with Part B of the Accomplishment Instructions of the service bulletin. Accomplishment of this replacement/repair constitutes terminating action for the repetitive inspection requirements of paragraph (a)(1) of this AD.

(b) Accomplishment of the replacement/repair procedures specified in Part B of the Accomplishment Instructions of Jetstream Service Bulletin ATP–53–31, Revision 1, dated December 5, 1995, constitutes terminating action for the requirements of this AD.

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

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Standardization Branch, ANM–113.

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

(e) The inspections, replacement, and repair shall be done in accordance with Jetstream Service Bulletin ATP–53–31, Revision 1, dated December 5, 1995. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Jetstream Aircraft, Inc., P.O. Box 16029, Dulles International Airport, Washington, DC 20041–6029. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(f) This amendment becomes effective on March 4, 1997.

Issued in Renton, Washington, on January 16, 1997.

S.R. Miller,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 97–1616 Filed 1–27–97; 8:45 am]

BILLING CODE 4910–13–U

14 CFR Part 39

[Docket No. 96–NM–125–AD; Amendment 39–9904; AD 97–02–19]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 757 and 767 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Boeing Model 757 and 767 series airplanes, that requires replacement of the thrust management computer (TMC) with a new TMC. This amendment is prompted by reports indicating that an uncommanded advancement of the throttle levers occurred; this condition was apparently due to a high impedance connection to the excitation phase of the servo motor. The actions specified by this AD are intended to prevent an uncommanded runaway of the autothrottle during flight or ground operations as a result of problems associated with the TMC, which could distract the crew from normal operation of the airplane or lead to an unintended speed or altitude change.

DATES: Effective March 4, 1997.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of March 4, 1997.

ADDRESSES: The service information referenced in this AD may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Forrest Keller, Senior Aerospace Engineer, Systems and Equipment Branch, ANM–130S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington; telephone (206) 227–2790; fax (206) 227–1181.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain Boeing Model 757 and 767 series airplanes was published in the Federal Register on August 29, 1996 (61 FR 45373). That action proposed to require replacement of the thrust management computer (TMC) with a new TMC in the main equipment center.

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

Request To Clarify Description of Problem Addressed

One commenter requests that references in the proposal to the problems prompting the AD action be clarified. The commenter points out that the ''Discussion'' section of the preamble to the notice makes reference to a ''defective relay within the TMC'' as being the cause of the uncommanded advancement of the autothrottle lever.

However, the commenter considers that statement to be inaccurate. Instead, the commenter suggests that the statement be changed to indicate that the cause is due to ''high impedance connection to the excitation phase of the servo motor. The impedance can be internal to the TMC or the result of an external condition.''

The FAA concurs that the commenter's suggested wording is more accurate. The pertinent portions of this final rule have been revised to incorporate that wording.

Request to Extend Compliance Time

Several commenters request that the proposal be revised to extend the compliance time for the TMC replacement from the proposed 6 months to as much as 24 months. These commenters are concerned that there will be a problem with the availability of ample parts to retrofit the affected U.S. fleet within the proposed compliance time.

The FAA concurs that the compliance time can be extended somewhat. Input from the TMC vendor indicates that there are 1,800 units that will need to be modified and the turn-around time for doing that is 45 days for each unit; based on current production rates, it will be logistically impossible for the vendor to meet a 6-month schedule. In light of this information, the FAA has determined that the compliance time can be extended to 18 months without adversely compromising safety. Paragraph (a) of the final rule has been revised accordingly.

Request to Clarify References to E1–3 Shelf

One commenter, Boeing, points out that the references in the proposal to the TMC being located in the ''E1–3 shelf of the main equipment center'' are incorrect with regard to the Model 757. Further, this commenter states that the Boeing service bulletins referenced in the proposal adequately describe the correct replacement instructions for TMC's in both the Model 757 and 767, including the location of the TMC; therefore, any reference to the specific shelf number is not needed. The commenter suggests that those references be deleted from the final rule.

The FAA concurs. To avoid any confusion on the part of affected operators, the FAA has deleted all references to the ''E1–3 shelf'' from the final rule.

Request to Revise Cost Impact Information

Several commenters request that the cost impact information, which appeared in the preamble to the proposal, be revised. These commenters point out that the cost figures presented did not include the per-unit modification cost changed by the manufacturer or approved repair station for modification of the TMC. One commenter, Lockheed-Martin, indicates that some operators, if they have the tooling capability, can perform the modification themselves with a $104 kit obtained from the TMC manufacturer; Lockheed-Martin charges $1,000 per unit to modify the TMC. Other commenters present cost estimates per airplane that range from $1,780 to $2,400. Two commenters also factor in the cost of purchasing an additional new TMC unit as a ''seed unit'' for implementing the change in their fleets, resulting in cost estimates ranging from $45,530 to $60,000.

The FAA concurs that the cost impact information should be revised to reflect more up-to-date and accurate information. While any operator certainly has the option to purchase new TMC's to meet the intent of this AD, the FAA does not consider that to be economically feasible for the majority of the affected fleet. However, based on figures provided by the commenters, the FAA finds that an appropriate estimate of costs is $2,400 per airplane; this represents 3 work hours to replace the unit (at an average labor charge of $60 per work hour) and an average of $2,220 for the required (modified) replacement parts. The cost impact information, below, has been revised accordingly.

Conclusion

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

Cost Impact

There are approximately 1,339 Boeing Model 757 and 767 series airplanes of the affected design in the worldwide fleet; this number represents 716 Model 757 series airplanes and 623 Model 767 series airplanes. Of the total number, the FAA estimates that 558 airplanes of U.S. registry will be affected by this AD; this number represents 356 Model 757 series airplanes and 202 Model 767 series airplanes.

The required replacement will take approximately 3 work hours per airplane to accomplish, at an average labor rate of $60 per work hour. The cost of the required (modified) replacement units would differ depending upon whether the operator, airframe manufacturer, repair station, or TMC manufacturer performs the modification of the TMC; in any case, the FAA estimates that the average cost for these replacement units will be $2,220 per airplane. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be $1,339,200, or $2,400 per airplane.

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

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

97–02–19 Boeing: Amendment 39–9904. Docket 96–NM–125–AD.

Applicability: Model 757 series airplanes, having line positions 001 through 716, inclusive; and Model 767 series airplanes having line positions 001 through 556 inclusive, 558 through 587 inclusive, and 589 through 615 inclusive; certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent runaway of the autothrottle during flight or ground operations, which could distract the crew from normal operation of the airplane or lead to an unintended speed or altitude change, accomplish the following:

(a) Within 18 months after the effective date of this AD, replace the thrust management computer (TMC) with a new TMC in accordance with Boeing Alert Service Bulletin 757–22A0052, dated May 30, 1996 (for Model 757 series airplanes); or Boeing Alert Service Bulletin 767–22A0097, dated May 30, 1996 (for Model 767 series airplanes); as applicable.

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

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

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

(d) The replacement shall be done in accordance with Boeing Alert Service Bulletin 757–22A0052, dated May 30, 1996 (for Model 757 series airplanes); or Boeing Alert Service Bulletin 767–22A0097, dated May 30, 1996 (for Model 767 series airplanes); as applicable. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(e) This amendment becomes effective on March 4, 1997.

Issued in Renton, Washington, on January 16, 1997.

S.R. Miller,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 97–1617 Filed 1–27–97; 8:45 am]

BILLING CODE 4910–13–U

14 CFR Part 39

[Docket No. 96–NM–33–AD; Amendment 39–9905; AD 97–02–20]

RIN 2120–AA64

Airworthiness Directives; Airbus Model A300, A310, and A300–600 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to all Airbus Model A300, A310, and A300–600 series airplanes, that requires a one-time inspection of the autopilot actuators on the pitch and yaw controls to ensure correct rigging, and re-rigging, if necessary. This amendment is prompted by a report of sudden pitch up of an airplane during cruise following disengagement of the autopilot; this condition was the result of incorrect rigging of the autopilot pitch actuator. The actions specified by this AD are intended to prevent incorrect rigging of the autopilot actuators on the pitch and yaw controls, which could result in reduced controllability of the airplane.

DATES: Effective March 4, 1997.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of March 4, 1997.

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

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

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to all Airbus Model A300, A310, and A300–600 series airplanes was published in the Federal Register on July 30, 1996 (61 FR 39603). That action proposed to require a one-time inspection of the rigging of the autopilot actuators on the pitch and yaw controls to ensure correct rigging, and, if necessary, re-rigging using a new, longer rigging pin.

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

Support for the Proposal

One commenter supports the proposed rule.

Request To Withdraw the Proposal

One commenter, representing several affected U.S. operators, requests that the proposal be withdrawn. This commenter states that all U.S. operators have already accomplished the proposed rigging inspection on their fleets some time ago, and have revised their manuals to reflect the change in rigging pin part number. In light of their having completed all of the proposed actions, the commenter considers an AD to be unnecessary since the unsafe condition has been satisfactorily addressed. Issuance of the AD at this time will require these operators to revise their paperwork, which may be a burdensome task.

Additionally, this commenter states that Presidential Executive Order 12866 requests the various regulatory agencies to identify and assess available alternatives to direct regulation. Therefore, the commenter recommends that airworthiness concerns, such as the one addressed by the proposal, be handled by a less costly method other than rulemaking.

The FAA does not concur with the commenter's request to withdraw the proposed AD. The FAA has no evidence, as suggested by the

commenter, that all U.S. operators have already complied with the required actions. Until an AD is issued, there is no legal basis for requiring U.S. operators to comply with those actions. The AD is the only vehicle available for ensuring, by law, that all affected operators perform the necessary actions that will address the identified unsafe condition. It also will ensure that those actions are accomplished on any airplane that is imported and placed on the U.S. Register in the future. In light of this, the FAA has determined that this AD is both appropriate and warranted.

Further, the FAA is not convinced that issuance of the AD will add a significant economic or administrative burden on operators who have already accomplished the required actions, as the commenter suggests. First, the FAA points out that there are currently only 86 U.S.-registered airplanes that are affected by this AD. Second, the compliance provision of the AD clearly states that compliance is ''required as indicated, unless accomplished previously.'' Therefore, operators who have already accomplished the required actions need merely make a single entry in their maintenance logs to indicate compliance with the AD. The FAA considers that such a procedure could not possibly pose a serious burden on any operator.

Conclusion

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

Cost Impact

The FAA estimates that 86 Airbus Model A300, A310, and A300–600 series airplanes of U.S. registry will be affected by this AD, that it will take approximately 1 work hour per airplane to accomplish the required actions, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be $5,160, or $60 per airplane.

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

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

97–02–20 Airbus: Amendment 39–9905. Docket 96–NM–33–AD.

Applicability: All Model A300, A310, and A300–600 series airplanes, certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent uncommanded pitch up or down, or yaw upset of the airplane due to incorrect rigging of the autopilot actuators on the yaw and pitch controls, accomplish the following:

(a) Within 500 flight hours after the effective date of this AD, inspect the rigging of the autopilot actuators on both the pitch and the yaw controls to ensure that the rigging is correct, in accordance with Airbus All Operators Telex (AOT) 27–20, dated December 19, 1994. If the rigging is not correct, prior to further flight, re-rig in accordance with the AOT.

(b) As of the effective date of this AD, no person shall rig the autopilot actuator on the pitch or yaw control on any airplane using a rigging pin having part number (P/N) OU131388.

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

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

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

(e) The actions shall be done in accordance with Airbus All Operators Telex (AOT) 27–20, dated December 19, 1994. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(f) This amendment becomes effective on March 4, 1997.

Issued in Renton, Washington, on January 16, 1997.

S. R. Miller,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 97–1618 Filed 1–27–97; 8:45 am]

BILLING CODE 4910–13–U

14 CFR Part 39

[Docket No. 96–SW–14–AD; Amendment 39–9899; AD 97–02–14]

RIN 2120–AA64

Airworthiness Directives; Robinson Helicopter Company Model R22 Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD), applicable to Robinson Helicopter Company (Robinson) Model R22 helicopters, that currently requires installation of an improved throttle governor; an adjustment to the low RPM warning unit threshold to increase the revolutions-per-minute (RPM) at which the warning horn and caution light activate; and revisions to the R22 Rotorcraft Flight Manual that prohibit flight with the improved throttle governor selected off, except in certain situations. This amendment requires the same actions required by the existing AD, as well as requires an insertion of procedures for the improved throttle governor into the Normal and Emergency sections of the R22 Rotorcraft Flight Manual and corrects the applicability section of the existing AD. This amendment is prompted by the need to insert normal and emergency procedures for the improved throttle governor into the flight manual, and expand the applicability statement of this AD to include all Robinson Model R22 helicopters. The actions specified by the proposed AD are intended to minimize the possibility of pilot mismanagement of the main rotor (M/R) RPM, which could result in unrecoverable M/R blade stall and subsequent loss of control of the helicopter.

EFFECTIVE DATE: March 4, 1997.

FOR FURTHER INFORMATION CONTACT: Ms. Elizabeth Bumann, Aerospace Engineer, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Blvd., Lakewood, California 90712–4137, telephone (310) 627–5265; fax (310) 627–5210.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) by superseding AD 96–11–08, Amendment 39–9633 (61 FR 26429, May 28, 1996), which is applicable to Robinson Model R22 helicopters, was published in the Federal Register on August 30, 1996 (61 FR 45916). That action proposed to require installation of the improved throttle governor; an adjustment to the low RPM warning unit threshold; insertions of language into the R22 Rotorcraft Flight Manual in the Normal and Emergency sections to address procedures for the improved throttle governor, as well as an insertion in the Limitations section that prohibits flight with the improved throttle governor selected off, except in certain situations; and, proposed to expand the applicability section to additional Model R22 helicopters and revise the estimated cost impact of the existing AD.

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

The FAA estimates that 1,014 helicopters of U.S. registry will be affected by this AD, that it will take approximately 8 work hours to install the improved throttle governor, or 7 hours to upgrade the throttle/collective governor, 4 hours to upgrade the magnetos, if required, and approximately 0.2 work hour to accomplish the adjustment of the light/warning horn RPM, and that the average labor rate is $60 per work hour. Required parts will cost approximately $2,150 per helicopter to install the improved throttle governor, or approximately $500 for upgrading the throttle/collective governor per helicopter. Installation of upgraded magnetos, if required, will cost approximately $927 per helicopter. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $3,029,088. This cost estimate assumes that no helicopters are currently equipped with a governor and all will need the improved throttle governor installed. Additionally, the cost estimate assumes that 300 Model R22 helicopters will require installation of the upgraded magnetos.

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by removing Amendment 39–9633 (61 FR 26429, May 28, 1996), and by adding a new airworthiness directive (AD), Amendment 39–9899, to read as follows:

AD 97–02–14 Robinson Helicopter Company: Amendment 39–9899. Docket No. 96–SW–14–AD. Supersedes AD 96–11–08, Amendment 39–9633.

Applicability: Model R22 helicopters, certificated in any category.

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

Compliance: Required within 30 days after the effective date of this AD, unless accomplished previously.

To minimize the possibility of pilot mismanagement of the main rotor (M/R)

revolutions-per-minute (RPM), which could result in unrecoverable M/R blade stall and subsequent loss of control of the helicopter, accomplish the following:

(a) Adjust the A569–1 or –5 low-RPM warning unit so that the warning horn and caution light activate when the M/R RPM is between 96% and 97% rotor RPM in accordance with the procedures contained in the Model R22 maintenance manual.

(b) For Model R22 helicopters that do not have a governor currently installed, install a Robinson Helicopter Company KI–67–2 Governor Field Installation Kit in accordance with the kit instructions. Upon completion of the governor installation required by this paragraph, revise the FAA-approved Robinson Helicopter Company R22 Rotorcraft Flight Manual (RFM) in accordance with paragraph (d) of this AD.

(c) For Model R22 helicopters that have a throttle/collective governor currently installed, upgrade the governor with a Robinson Helicopter Company KI–67–3 Governor Upgrade Kit in accordance with the kit instructions. Upon completion of the upgrade required by this paragraph, revise the FAA-approved Robinson Helicopter Company R22 Rotorcraft Flight Manual (RFM) in accordance with paragraphs (d) of this AD.

(d) Revise the FAA-approved Robinson Helicopter Company R22 RFM as follows:

(1) Insert the FAA-approved Robinson Helicopter Company R22 RFM revision, dated July 6, 1995, or later FAA-approved revision addressing the governor normal and emergency procedures, into the Normal and Emergency sections of the RFM.

(2) Include the following statement in the Limitations section:

''Flight prohibited with governor selected off, with exceptions for inflight system malfunction or emergency procedures training.'' This may be accomplished by inserting a copy of this AD or the FAA-approved Robinson Helicopter Company R22 RFM revision dated July 23, 1996, into the RFM.

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

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

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

(g) This amendment becomes effective on March 4, 1997.

Issued in Fort Worth, Texas, on January 14, 1997.

Mark R. Schilling,

Acting Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 97–1702 Filed 1–27–97; 8:45 am]

BILLING CODE 4910–13–U

14 CFR Part 39

[Docket No. 96–SW–15–AD; Amendment 39–9900; AD 97–02–15]

RIN 2120–AA64

Airworthiness Directives; Robinson Helicopter Company Model R44 Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD), applicable to Robinson Helicopter Company (Robinson) Model R44 helicopters, that currently requires an adjustment to the low RPM warning unit threshold to increase the revolutions-per-minute (RPM) at which the warning horn and caution light activate, and revisions to the R44 Rotorcraft Flight Manual that prohibit flight with the throttle governor (governor) selected off, except in certain situations. This amendment requires the same compliance actions required by the existing AD, and corrects the applicability section of the existing AD. This amendment is prompted by the need to expand the applicability statement of this AD to include all Robinson Model R44 helicopters. The actions specified by the proposed AD are intended to minimize the possibility of pilot mismanagement of the main rotor (M/R) RPM, which could result in unrecoverable M/R stall and subsequent loss of control of the helicopter.

EFFECTIVE DATE: March 4, 1997.

FOR FURTHER INFORMATION CONTACT: Ms. Elizabeth Bumann, Aerospace Engineer, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Blvd., Lakewood, California 90712–4137, telephone (310) 627–5265; fax (310) 627–5210.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) by superseding AD 96–11–09, Amendment 39–9634 (61 FR 26427, May 28, 1996), which is applicable to Robinson Model R44 helicopters was published in the Federal Register on August 30, 1996 (61 FR 45918). That action proposed to require an adjustment to the low RPM warning unit threshold to increase the RPM at which the warning horn and caution light activate, and revisions to the R44 Rotorcraft Flight Manual that prohibit flight with the governor selected off, except in certain situations, for all Robinson Model R44 helicopters.

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

The FAA estimates that 20 helicopters of U.S. registry will be affected by this AD, that it will take approximately 0.2 work hour per helicopter to accomplish the actions, and that the average labor rate is $60 per work hour. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $240.

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by removing Amendment 39–9634 (61 FR 26427, May 28, 1996), and by adding a new airworthiness directive (AD), Amendment 39–9900, to read as follows:

AD 97–02–15 Robinson Helicopter Company: Amendment 39–9900. Docket No. 96–SW–15–AD. Supersedes AD 96–11–09, Amendment 39–9634.

Applicability: Model R44 helicopters, certificated in any category.

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

Compliance: Required within 30 days after the effective date of this AD, unless accomplished previously.

To minimize the possibility of pilot mismanagement of the main rotor (M/R) RPM, which could result in unrecoverable M/R stall and subsequent loss of control of the helicopter, accomplish the following:

(a) Adjust the A569–6 low RPM warning unit so that the warning horn and caution light activate when the M/R RPM is between 96% and 97% rotor RPM in accordance with the procedures contained in the Model R44 maintenance manual.

(b) Revise the FAA-approved Robinson Helicopter Company R44 Rotorcraft Flight Manual (RFM) to include the following statement in the Limitations Section:

''Flight prohibited with governor selected off, with exceptions for inflight system malfunction or emergency procedures training.''

This may be accomplished by inserting a copy of this AD or the FAA-approved Robinson Helicopter Company R44 RFM revision dated July 25, 1996 into the RFM.

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

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

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

(e) This amendment becomes effective on March 4, 1997.

Issued in Fort Worth, Texas, on January 14, 1997.

Mark R. Schilling,

Acting Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 97–1704 Filed 1–27–97; 8:45 am]

BILLING CODE 4910–13–U

14 CFR Part 39

[Docket No. 96–CE–43–AD; Amendment 39–9907; AD 97–03–01]

RIN 2120–AA64

Airworthiness Directives; Raytheon Aircraft Company (Formerly Beech Aircraft Corporation) Model 1900D Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that applies to certain Raytheon Aircraft Company (Raytheon) Model 1900D airplanes (formerly referred to as Beech Model 1900D airplanes). This action requires replacing the right-hand exhaust stack for both the left and right engines. This action results from reports of wing skin damage (with associated fuel seepage) and cabin window damage caused by the heat of the right-hand exhaust stacks on the affected airplanes. The actions specified by this AD are intended to prevent wing skin de-bonding or warping of the cabin windows because of the heat generated by the engines' right-hand exhaust stacks.

DATES: Effective March 14, 1997.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of March 14, 1997.

ADDRESSES: Service information that applies to this AD may be obtained from the Raytheon Aircraft Company, P.O. Box 85, Wichita, Kansas 67201–0085. This information may also be examined at the Federal Aviation Administration (FAA), Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 96–CE–43–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. Karl Schletzbaum, Aerospace Safety Engineer, FAA, Wichita Aircraft Certification Office, 1801 Airport Road, Mid-Continent Airport, Wichita, Kansas 67209; telephone (316) 946–4146; facsimile (316) 946–4407.

SUPPLEMENTARY INFORMATION:

Events Leading to This AD

A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an AD that would apply to certain Raytheon Model 1900D airplanes (formerly referred to as Beech Model 1900D airplanes) was published in the Federal Register on September 30, 1996 (61 FR 51060). The action proposed to require replacing the right-hand exhaust stack for both the left and right engines. Accomplishment of the proposed replacement as specified in the notice of proposed rulemaking (NPRM) would be in accordance with the INSTALLATION INSTRUCTIONS to Raytheon Kit No. 129–9013–1, as referenced in Raytheon Mandatory Service Bulletin No. 2686, dated June 1996.

The NPRM resulted from reports of wing skin damage (with associated fuel seepage) and cabin window damage on the affected airplanes, which was determined to be caused by the heat of the right-hand exhaust stacks.

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

The FAA's Determination

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

Cost Impact

The FAA estimates that 199 airplanes in the U.S. registry will be affected by this AD, that it will take approximately

10 workhours per airplane to accomplish the required action, and that the average labor rate is approximately $60 an hour. Parts will be provided at no cost to the owners/operators of the affected airplanes until June 1997 (after that the cost will be $6,452). Based on these figures and utilizing the assumption that all owners/operators of the affected airplanes will obtain parts prior to June 1997, the total cost impact of the AD on U.S. operators is estimated to be $119,400. This figure is based upon the assumption that no affected airplane owner/operator has already accomplished this action.

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

97–03–01 Raytheon Aircraft Company (formerly Beech Aircraft Corporation): Amendment 39–9907; Docket No. 96–CE–43–AD.

Applicability: Model 1900D airplanes (serial numbers UE–1 through UE–225), certificated in any category.

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

Compliance: Required within the next 1,000 hours time-in-service after the effective date of this AD, unless already accomplished.

To prevent wing skin de-bonding or warping of the cabin windows because of the heat generated by the engines' right-hand exhaust stacks, accomplish the following:

(a) Replace the right-hand exhaust stack for both the left and right engines in accordance with the INSTALLATION INSTRUCTIONS included in Raytheon Kit No. 129–9013–1, as referenced in Raytheon Mandatory Service Bulletin No. 2686, dated June 1996.

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

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

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

(d) The replacement required by this AD shall be done in accordance with the INSTALLATION INSTRUCTIONS to Raytheon Kit No. 129–9013–1, as referenced in Raytheon Mandatory Service Bulletin No. 2686, dated June 1996. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from the Raytheon Aircraft Company, P.O. Box 85, Wichita, Kansas 67201–0085. Copies may be inspected at the FAA, Central Region, Office of the Assistant Chief Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri, or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(e) This amendment (39–9907) becomes effective on March 14, 1997. Issued in Kansas City, Missouri, on January 16, 1997.

Michael Gallagher,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 97–1964 Filed 1–27–97; 8:45 am]

BILLING CODE 4910–13–U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[PA 091–4050; FRL–5679–9]

Approval and Promulgation of Air Quality Implementation Plans; Commonwealth of Pennsylvania; Enhanced Motor Vehicle Inspection and Maintenance Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Interim final rule.

SUMMARY: EPA is granting conditional interim approval of a State Implementation Plan (SIP) revision submitted by Pennsylvania. This revision establishes and requires the implementation of an enhanced inspection and maintenance (I/M) program in twenty-five Pennsylvania counties. The intended effect of this action is to conditionally approve the Commonwealth's proposed enhanced I/M program for an interim period to last 18 months, based upon the Commonwealth's good faith estimate of the program's performance. This action is being taken under section 110 of the Clean Air Act and section 348 of the National Highway Systems Designation Act.

EFFECTIVE DATE: This final rule is effective on February 27, 1997.

ADDRESSES: Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air, Radiation, and Toxics Division, U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107. They are also available for inspection at the Pennsylvania Department of Environmental Protection, Bureau of Air Quality, P.O. Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105.

FOR FURTHER INFORMATION CONTACT: Brian Rehn, by telephone at: (215) 566–2176, or via e-mail at: Rehn.Brian@epamail.epa.gov. The

mailing address is U.S. EPA Region III, 841 Chestnut Street, Philadelphia, PA, 19107.

SUPPLEMENTARY INFORMATION:

II. Background

On October 3, 1996 (61 FR 51638), EPA published a notice of proposed rulemaking (NPR) for the Commonwealth of Pennsylvania. The NPR proposed conditional interim approval of Pennsylvania's enhanced inspection and maintenance program, submitted to satisfy the applicable requirements of both the Clean Air Act (CAA) and the National Highway Safety Designation Act (NHDSA). The formal SIP revision was submitted by the Pennsylvania Department of Environmental Protection on March 22, 1996.

As described in that document, the NHSDA directs EPA to grant interim approval for a period of 18 months to approvable I/M submittals under this Act. The NHSDA also directs EPA and the states to review the interim program results at the end of that 18-month period, and to make a determination as to the effectiveness of the interim program. Following this demonstration, EPA will adjust any credit claims made by the state in its good faith effort, to reflect the emissions reductions actually measured by the state during the program evaluation period. The NHSDA is clear that the interim approval shall last for only 18 months, and that the program evaluation is due to EPA at the end of that period. Therefore, EPA believes Congress intended for these programs to start up as soon as possible, which EPA believes should be on or before November 15, 1997, so that at least six months of operational program data can be collected to evaluate the interim programs. EPA believes that in setting such a strict timetable for program evaluations under the NHSDA, Congress recognized and attempted to mitigate any further delay with the start-up of this program. If the Commonwealth fails to start its program according to this schedule, this conditional interim approval granted under the provisions of the NHSDA will convert to a disapproval after a finding letter is sent to the state.

The program evaluation to be used by the state during the 18-month interim period must be acceptable to EPA. The Environmental Council of States (ECOS) group has developed such a program evaluation process which includes both qualitative and quantitative measures, and this process has been deemed acceptable to EPA. The core requirement for the quantitative measure is that a mass emission transient test (METT) be performed on 0.1% of the subject fleet, as required by the I/M Rule at 40 CFR 51.353 and 366. As discussed in detail in the Response to Comments portion of today's rulemaking action, EPA believes METT evaluation testing is not precluded by the NHSDA, and therefore, is still required to be performed by states implementing I/M programs under the NHSDA and the CAA.

As per the NHSDA requirements, this conditional interim rulemaking will expire on July 27, 1998. A full approval of Pennsylvania's final I/M SIP revision (which will include the Commonwealth's program evaluation and final adopted state regulations) is still necessary under section 110 and under section 182, 184 or 187 of the CAA. After EPA reviews the Commonwealth's submitted program evaluation and regulations, final rulemaking on the Commonwealth's full SIP revision will occur.

Specific requirements of the Pennsylvania enhanced I/M SIP and the rationale for EPA's proposed action are explained in the NPR and will not be restated here.

At the same time EPA published its NPR for interim approval of the Commonwealth's I/M program, EPA issued an interim final rule to defer imposition of sanctions on the Commonwealth for failure to submit and receive federal SIP approval of its I/M program (61 FR 51598). That interim final rule served to toll the imposition of sanctions during EPA's rulemaking process related to the Commonwealth's I/M SIP. EPA solicited comments on that interim final determination, and received adverse comments during the public comment period. EPA intends, in the near future, to take rulemaking action upon that interim final determination separately from today's final action. EPA will address the comments received on that action in its separate rulemaking.

III. Public Comments/Response to Comments

This section discusses the content of the comments submitted to the docket during the Federal comment period for the notice of proposed rulemaking, published in the October 3, 1996 Federal Register, and provides EPA's responses to those comments. Submissions were received from approximately 50 commenters, including the Commonwealth, environmental organizations, industry groups, and from members of the general public. Copies of the original comment letters, along with EPA's summary and response to comments, are available at EPA's Region III office at the address listed in the **ADDRESSES** section of this document. EPA has first grouped similar comments and summarized them, followed by EPA's response to specific comments. For clarity, in some cases EPA has provided background information within a comment on its requirements or its proposed action relevant to Pennsylvania's SIP, prior to summarizing the comment itself.

Comment—Pennsylvania's ''Good Faith Estimate'' under the NHSDA

One commenter alleges that EPA does not have the statutory authority to grant interim approval to Pennsylvania's proposed I/M SIP. Specifically, the commenter asserts that the NHSDA provides states authority to craft decentralized I/M plans if the state satisfies certain requirements. The NHSDA requires such states to make a good faith estimate regarding the expected performance of their proposed program. The commenter argues that Pennsylvania has claimed 100% credit for its plans performance (compared to EPA's model centralized, enhanced I/M program), but offers no meaningful explanation to substantiate its emissions reductions claim.

In a related comment, the Commonwealth argues that they have made significant program enhancements to increase the effectiveness of Pennsylvania's current decentralized I/M program, which satisfy the good faith estimate requirements of section 348(c)(1) of the NHSDA. The Commonwealth also commented that the basis of its good faith estimate was eight program improvement measures listed in its SIP submittal, and that EPA had inappropriately only included five of these measures towards its good faith estimate in the proposed rulemaking. The items which the Commonwealth claims EPA excluded from its proposed rulemaking include: integrating the safety and emission inspection, increased effectiveness of test equipment, and enhanced training and certification for both repair technicians and inspectors.

Response to Comment: In its October 3, 1996 proposed rulemaking, EPA proposed conditional interim approval of the Commonwealth's I/M program under the authority of section 348 of the NHSDA and section 110 of the CAA. The NHSDA grants authority for EPA to approve a state's program based on the full amount of credits proposed by the state if the credits reflect a good faith estimate by the state and if the revision otherwise complies with such Act.

As stated in the Conference Report to the NHSDA, states were expected to have a difficult time quantifying the good faith estimate required under the NHSDA. Therefore, the Conference Report indicates that a state need only demonstrate that the proposed emission reduction credit claims for the program have a basis in fact. Some specific examples of means for states to generate a good faith estimate based on existing or easily obtained historical data were also outlined in the Conference Report. States could also include any other evidence that has relevance to the effectiveness of a program within the good faith estimate. The Conference Report states that ''EPA is to approve State programs based on the emissions reduction credits as estimated by a State, if the State's estimates reflect a good faith expectation of performance.'' EPA believes that the NHSDA grants authority to approve Pennsylvania's SIP, in the interim, on the basis of the good faith estimates contained in this portion of their SIP.

Pennsylvania supplemented its I/M SIP submittal on June 27, 1996 to include its formal ''good faith estimate'' required by the NHSDA. EPA's proposed rulemaking cites the five factors listed in that SIP revision as the Commonwealth's good faith estimate, which are: (1) increased oversight through auditing; (2) additional on-road testing using remote sensing; (3) use of State Police for visible enforcement; (4) instantaneous data collection for swift enforcement; and (5) automation of inspector data input to avoid errors or abuse.

Pennsylvania also committed (in the Good Faith Estimate portion of that SIP addendum) to ''fully integrate its emissions testing program with the long standing safety inspection program * * *''. EPA interprets this commitment to mean that the Commonwealth will require that emissions testing shall be performed prior to completion of a safety inspection. Since the Commonwealth's good faith estimate refers only to perceived respect commanded by the existing safety inspection program, and does not establish how this perceived respect would be transferred to the combined programs, EPA cannot ascertain whether this integration would contribute to improving network effectiveness. While integration of the safety and emissions programs may serve as a means to achieve the motorist compliance rate committed to in the SIP, EPA does not consider this argument, in and of itself, a means to improve program effectiveness or to achieve the Commonwealth's claims for additional emissions reductions for the emissions program.

The Commonwealth commented that increased effectiveness of test equipment was a basis of its good faith estimate. However, the June 27, 1996 SIP supplement, which detailed the Commonwealth's good faith estimate for the first time, did not include this argument as part of Pennsylvania's basis in fact. These test equipment improvements, including the use of dynamometers and advanced analyzers for testing, as well as the addition of evaporative system testing will greatly enhance the emissions inspection program, and these improved test methods are accounted for in the performance standard modeling demonstrating the emission reduction claims for the program. With the lack of specificity in Pennsylvania's comments, EPA presumes that Pennsylvania is not claiming that EPA models and guidance currently provide insufficient credit for these test improvements, nor does EPA believe that Pennsylvania is claiming that these test improvements serve to improve the effectiveness of the Commonwealth's decentralized program—beyond the levels attributed to this equipment in the Commonwealth's modeling demonstration. Pennsylvania's good faith estimate already claims improved network effectiveness for improvements brought about by instantaneous data collection equipment and automation of data entry by inspectors, both of which serve to improve network effectiveness. The Good Faith Estimate section of Pennsylvania's SIP does not presently contain the argument presented in Pennsylvania's comment, and EPA does not believe based on the comment that this argument would serve to improve the good faith estimate were it present in the SIP.

Finally, Pennsylvania commented that enhanced training and certification of repair technicians was part of its good faith estimate, and that EPA overlooked the contribution of this element of the program. The June 27, 1996 SIP addendum did not include this provision as a basis for the Commonwealth's estimate. EPA agrees that additional training and certification of repair technicians is crucial to achieving the emissions reductions associated with the emission testing program, as well as for maintaining public support for the program. EPA cited as a deficiency in its proposal that Pennsylvania's proposed regulations lack a requirement for mandatory technician training and certification (although Pennsylvania's performance standard demonstration claims full credit for this program). EPA proposed that this deficiency be remedied by adoption of final regulations which must include a mandatory technician training program, to mirror the Commonwealth's modeled performance standard demonstration. In the face of that SIP deficiency, and by the lack of inclusion of this element in the formal Good Faith Estimate portion of the Commonwealth's SIP, EPA did not consider this element when considering the Commonwealth's good faith estimate.

Nevertheless, the Commonwealth's arguments to include these three elements in their good faith estimate are moot, as these three elements were not critical to EPA's acceptance of the state's good faith estimate. EPA proposed to accept the good faith estimate under the NHSDA without the benefit of those elements, although these elements do benefit the SIP, serving to satisfy other statutory and regulatory I/M requirements.

Comment—EPA's Decision to Conditionally Approve the Commonwealth's SIP

One commenter asserted that Pennsylvania's SIP suffers from numerous major deficiencies that prevent approval of the SIP by EPA. The examples cited correspond to those elements EPA cited as major deficiencies in its proposed rulemaking. Furthermore, the commenter adds that there are numerous other serious deficiencies, which EPA deemed minor in its proposal, but which must eventually be corrected. The commenter asserts that in light of the many deficiencies, this SIP revision does not warrant conditional approval.

Response to Comment: In its proposal, EPA proposed five major conditions which must be satisfied prior to issuance of final full approval of the SIP, under the authority of section 110 of the CAA. Additionally, EPA cited fourteen minor conditions, which do not affect interim approval of the Commonwealth's SIP, but which must be corrected prior to final full approval of the SIP.

EPA's ability to issue conditional approvals for SIPs having correctable deficiencies was upheld in the case of NRDC v. EPA, 22 F.3d 1125, 1134–1135 (D.C. Circuit, 1994). In that case the court found that the language of section 110(k)(4) of the CAA authorizes use of conditional approval of a substantive SIP revision, which although not approvable, can be made so by adopting specific EPA-required changes within the prescribed conditional period. The court concluded that the conditional approval mechanism was intended by Congress to provide EPA with an alternative to disapproving substantive, but not entirely satisfactory, SIPs submitted by the statutory deadlines, but not as a means of circumventing those deadlines.

As indicated in the proposed rulemaking, EPA has reviewed Pennsylvania's I/M SIP, and determined that this SIP is substantive and the deficiencies are not insurmountable within the time frames of the conditional approval period. Therefore, EPA's choice of conditional approval is appropriate for this SIP. EPA also believes that the minor deficiencies cited as de minimus do not detract from EPA's ability to conditionally approve the Commonwealth's SIP, and need not be satisfied until the end of the interim approval period granted under the authority of the NHSDA. EPA believes that, due to the minor nature of these deficiencies, allowing states the full term of the 18-month interim approval period to correct these deficiencies will not cause an adverse environmental impact.

Comment—Requirement for I/M in Mercer County

Numerous commenters expressed concern over implementation of an inspection and maintenance (I/M) program in Mercer County, Pennsylvania. The thrust of the comments was that this area is not classified as a CAA nonattainment area, and the area is not violating EPA's health-based NAAQS. Most of the commenters asserted that Mercer is primarily a rural county, with only one small urban center having no large industry base, i.e., Sharon. Several commenters pointed out that none of the Pennsylvania counties surrounding Mercer is subject to emissions testing, nor are the neighboring counties in Ohio.

Several commenters also contend that much of the pollution is transported from across the Ohio border and/or from out-of-state vehicles traversing several large interstate highways that bisect Mercer County. Several commenters blamed large diesel trucks for the pollution problem, citing black smoke spewed from those vehicles.

Many commenters also cited economic hardship that implementation of this program would add to a county already suffering from the effects of a poor economy.

Finally, several commenters cite a request from Governor Ridge to remove Mercer County from the ''Northeast Ozone Transport Region'', requesting that EPA approve this request and eliminate the requirement for an I/M program for this area.

Response to Comment: Requirements for I/M programs are set forth in section 182 and section 184 of the Clean Air Act (the CAA), as well as in EPA's ''Regulation for I/M Program Requirements'', hereafter referred to as the I/M rule, codified in the Code of Federal Regulations (CFR) at 40 CFR Part 51, Subpart S. Section 182(c)(3) of the CAA requires states to enact enhanced I/M programs in certain metropolitan areas based upon the severity of those areas' ozone problem and their populations.

Section 184(a) of the CAA establishes a Northeast Ozone Transport Region (the OTR), to address ozone pollution caused by transport of both ozone precursors and ozone between closely spaced urbanized areas. The Commonwealth of Pennsylvania lies in the OTR. Section 184(b)(1)(A) of the CAA requires that states lying in the OTR implement an enhanced I/M program in any metropolitan areas having a population of over 100,000 persons—regardless of the severity of the ozone pollution problem in that area. Mercer County comprises an MSA which has a population over 100,000 persons, and therefore is subject to this I/M requirement. Since Ohio does not lie in the Northeast OTR, Ohio counties bordering Mercer are not subject to the same I/M requirements.

Section 51.350(b)(1) of EPA's I/M rule requires that the I/M program be implemented in the entire OTR portion of a subject MSA. Since MSAs are defined on a county-wide basis in Pennsylvania, the entire county is subject to the program. While EPA's I/M rule does allow for exceptions for extremely rural areas, the rule does not provide for exclusion of an entire MSA on this basis.

Several of the Pennsylvania counties surrounding Mercer were not defined as metropolitan statistical areas by the U.S. Office of Management and Budget (OMB) as of 1990 (i.e., the enactment date of the CAA and the date this I/M requirement was established). As a result, no contiguous county to Mercer is required to adopt an enhanced I/M program.

The Clean Air Act allows states to petition EPA to remove a state or portions of a state from an OTR. On October 11, 1995, Pennsylvania Governor Ridge submitted a petition to EPA to remove 37 western Pennsylvania counties from the ozone transportation region—including Mercer County. The Commonwealth contends that regional attainment ozone NAAQS efforts are not significantly dependent upon control measures from those counties. EPA has not yet acted upon the Governor's request. Since EPA is compelled to take final action upon the Commonwealth's I/M program, under a court settlement agreement filed October 1, 1996 pertaining to the case of Delaware Valley Citizens for Clean Air v. EPA, EPA cannot wait for final action upon the Commonwealth's OTR opt-out petition, before taking action upon the I/M program.

While many commenters believe that heavy-duty diesel trucks are primarily responsible for ozone pollution, EPA does not agree with that position. The pollutant stream emitted by a diesel engine differs greatly from that of a gasoline-powered engine. While both engine types emit nitrogen oxide emissions—a precursor to ozone, diesels typically emit very low levels of hydrocarbons, another ozone precursor. Diesels emit much greater levels of particulates, which are readily identifiable as black or gray smoke, but are not ozone precursors. While an individual heavy diesel truck typically emits a greater mass of emissions compared to a passenger car, as a whole these trucks comprise a much smaller portion of the vehicle fleet and as a whole fleet, travel fewer vehicle overall miles than passenger cars. EPA supports efforts to reduce emissions from diesels, such as emission testing. However, this type of testing is not presently required under any Federal statute. Adoption of such a program is currently the purview of the states, and is therefore not the subject of today's action.

For all the reasons set forth above, EPA cannot remove the requirement for Mercer County to implement an OTR enhanced I/M program, at this time. Should EPA accept Pennsylvania's petition to remove 32 counties, including Mercer, from the OTR, implementation of an I/M program would no longer be required under federal law in those counties.

Comment—EPA's I/M Program Evaluation Requirements

The Commonwealth commented that EPA has taken too narrow an

interpretation of authority provided by the NHSDA by focusing on its prohibition against EPA's requiring states to adopt test-only programs which utilized IM240 test equipment and methods; its abolition of EPA's presumed ''50% credit discount'' previously assumed for decentralized programs; and its ban of EPA's ability to disapprove such programs on the basis of any presumed discount. Specifically, Pennsylvania states that the NHSDA overrides I/M requirements which EPA established for use in a centralized approach to the I/M program. In particular, this includes the use of centralized mass-based emission, transient test (METT) equipment to conduct the ongoing program evaluation required by 40 CFR 51.353. While the Commonwealth indicated in its comments that it intends to perform an ongoing I/M evaluation program, per the CAA, the Commonwealth has requested that it be allowed to use its own I/M program test criteria and equipment to conduct such an evaluation in place of the METT equipment required by EPA's regulation.

The Commonwealth's rationale for use of non-METT testing for its evaluation equipment is set forth in its comment letter. Pennsylvania believes that EPA's position is inconsistent with Congressional intent, specifically in light of language from the Conference Report to the NHSDA which provides that ''testing technology called I/M240 * * * is not practical in the decentralized system of emissions testing * * *'' Furthermore, since EPA has proposed acceptance of Pennsylvania's decentralized network design, Pennsylvania believes its alternative test procedure should be found by EPA to be equivalent to meet the evaluation requirements of 40 CFR 51.353. Pennsylvania does not believe Congress intended for a centralized approach to evaluating the success of the I/M program, since the Commonwealth maintains it would be costly, inconvenient, and would not provide a clear evaluation of Pennsylvania's decentralized program and equipment.

Pennsylvania requests that EPA agree, in its final rulemaking, that the NHSDA authorizes states to use their control equipment to perform a program evaluation, specifically allowing use of ASM evaluation equipment in Philadelphia and two-speed idle testing equipment for use in the Pittsburgh area.

Even if EPA refuses the above request, the Commonwealth asks that EPA provide in the final rule that METT testing only be mandated in the five-county Philadelphia area. Pennsylvania believes that since the Pittsburgh area is not required to have as rigorous a program as required in the Philadelphia area, it should not be held to the same high standards for program evaluation. Further, Pennsylvania asserts that the METT evaluation requirement is to be used as a benchmark to ensure reductions equivalent to IM240 reductions, and this benchmark is not necessary in Pittsburgh, where an idle test is to be used for routine emissions inspection. The Commonwealth generally supports the use of routine inspection equipment and procedures for use in performing the ongoing program evaluation.

Response to Comment: EPA believes that the Commonwealth, in its comments with respect to METT testing requirements, has misinterpreted the CAA's rationale for requiring an ongoing program evaluation. While the NHSDA prohibits mandatory IM240 testing on a centralized basis as the inspection method used for passing and failing vehicles in I/M programs, it is silent on the issue of program evaluation testing and EPA believes that it clearly does not prohibit the Agency from requiring METT sampling on a small, random subset of vehicles in order to confirm the level of effectiveness of the program as authorized under section 182(c)(3)(C) of the CAA. While Pennsylvania argues that a test which is adequate for routine inspections should be good enough for the purpose of program evaluation, EPA disagrees. The reason is that the two tests are intended for two wholly different purposes, and therefore have completely independent criteria for acceptability.

The routine, non-METT I/M inspection used to pass and fail vehicles does not need to correlate very closely to the EPA Federal Test Procedure (FTP), which has been used by EPA and vehicle manufacturers for the last several decades for the purpose of determining actual vehicle emissions; it need only be precise enough to make broad pass/fail decisions, for the purpose of identifying grossly polluting vehicles, with respect to ozone precursor pollutants. The program evaluation test, on the other hand, is not used to make pass/fail decisions; instead, it is used to measure actual total mass of emissions (i.e., in tons), which requires a more precise measurement tool. Since the purpose of the program evaluation is to determine specifically the mass quantity of vehicle-related pollutants that are eliminated as a result of implementation of the I/M program, the broad pass/fail estimates provided by non-METT equipment are inadequate for this purpose. For vehicle testing, precision is a function of how closely the test correlates to the FTP—the best test method currently available. Since the FTP itself is a mass-emission, transient test, other METTs, of which there are several available in addition to the IM240, tend to correlate well with the FTP, with some correlating better than others. Non-METT tests, such as Pennsylvania's ASM and two-speed idle tests, tend to have very low correlations to the FTP.

Since program evaluation is a means to determine the overall emission reduction impact of an I/M program, and not a means of comparing test equipment or network design, EPA believes the decision to approve Pennsylvania's decentralized network design (including use of ASM and idle test types) is independent of EPA's decision to conditionally approve the program evaluation methodology portion of the Commonwealth's SIP.

METT evaluation testing need not be performed on a centralized basis. The I/M rule required such testing in all programs, whether centralized or decentralized, prior to passage of the NHSDA. In response to the Commonwealth's comments on costs, inconvenience, and inaccuracy of centralized evaluation systems, it may help to clarify that the I/M rule does not require the 0.1% program evaluation sample to be conducted on a centralized basis or at a centralized location. Furthermore, since evaluation testing need only be performed on a minute fraction of the vehicle population (i.e., 0.1% of all subject vehicles), few actual analyzers are needed to perform the evaluation, and thus purchase or leasing of METT evaluation equipment is not nearly as significant a financial burden as is implied by the Commonwealth's comment. The possible availability of transportable METT equipment provides states with a range of non-centralized options for undertaking evaluation testing, so a state can provide a consumer-friendly evaluation process.

The use of a METT evaluation on a 0.1% random sample will provide states and EPA with quantitative assessments of how well I/M programs are actually performing, with respect to overall emission reduction benefits that result from all program elements (i.e. test type, network design, enforcement mechanism, etc.) working together. The purpose of the 0.1% METT is not to segregate the effectiveness of any individual program element, such as test type. Specifically, it is not EPA's intention to use the results of the 0.1% METT requirement to force states to

switch to IM240 testing for their routine inspection process.

EPA believes Congress required an ongoing I/M program evaluation in the CAA in order to measure, for the first time the actual effectiveness of states' programs in achieving air pollution reductions. METT testing provides mass-based fleet-wide emission factors that are more reliable, reputable, and objective than any broad, concentration-based results that any non-METT test (e.g. idle or ASM testing) could provide. Section 182(c)(3)(C) of the CAA specifically authorizes EPA to establish the methods for evaluating I/M programs. EPA believes that nothing in the NHSDA prohibits EPA from continuing to require METT as the appropriate evaluation method.

EPA does not agree that the program evaluation applies only to high enhanced I/M areas. The CAA, which establishes the program evaluation requirement for enhanced I/M programs, does not distinguish between high or low enhanced I/M programs. Furthermore, the EPA I/M Flexibility Rule, which established the low enhanced performance standard (which the Commonwealth has chosen to use in Pittsburgh) did not change the program evaluation requirements for state programs. EPA disagrees with Pennsylvania's assertion that METT is only to be used as a benchmark to ensure that reductions equivalent to IM240 reductions are achieved in a program. Rather, as explained above, program evaluations whether in high or low enhanced areas are intended to gauge the overall effectiveness of how well a state's program is reducing emissions. EPA does not believe that the purpose of a program evaluation is to verify how well the state's inspectors are performing the test type as required by the design of the network—that is the function of inspector audit—rather, the program evaluation helps to determine the overall emission reduction impact of the program with all the program elements working together. For this reason, the requirement for METT testing still applies all enhanced I/M areas, including the Pittsburgh area.

Therefore, for the reasons set forth above, EPA does not agree with Pennsylvania's arguments for use of non-METT based program evaluation. In turn, the condition related to the Commonwealth's METT-based program evaluation methodology remains in EPA's final interim approval. Please refer to the **SUPPLEMENTARY INFORMATION** section of this document for more information on the actual condition. Since Pennsylvania has committed to comply with this requirement, EPA can conditionally approve this aspect of the I/M SIP.

Comment—EPA's Requirements for I/M Inspection Network Design

Pennsylvania commented that EPA's proposed rulemaking requires the state to demonstrate that its program meets the network evaluation criteria found in 40 CFR 51.353(b)(1). This provision includes a 50% discount for decentralized programs which is inconsistent with the NHSDA.

Response to Comment: EPA agrees with the Commonwealth's comment. EPA's October 3, 1996 proposed rulemaking mistakenly conditioned approval of the Commonwealth's SIP on compliance with program evaluation requirements of 40 CFR 51.353(b) (1) and (c). However, EPA believes the requirements of § 353(b)(1) have been superseded by the NHSDA. Therefore, the condition upon the Commonwealth's SIP is amended to require compliance with the program evaluation requirements found in 40 CFR 51.353(c).

Comment—Use of a Low-Enhanced I/M Program Without an Approved Reasonable Further Progress Plan

One commenter asserted that EPA cannot approve the plan because it does not comply with EPA's requirements in 40 CFR 51.351(g), which allows states, under certain conditions related to a separate CAA requirement, to utilize a less stringent ''low'' enhanced performance standard. This I/M program flexibility may be applied if a state has an approved plan to demonstrate reasonable further progress (RFP) towards attainment of the ozone air quality standard, and that plan does not rely upon additional reductions from enhanced I/M—beyond those projected from a ''low'' enhanced program. The commenter asserts that Pennsylvania currently does not have such an approved RFP plan for any nonattainment area, and therefore does not qualify to design a low enhanced I/M program.

In a separate but related comment, the Commonwealth also raised the inconsistency between the I/M program implementation schedule established by the NHSDA and EPA's requirements in 40 CFR 51.351(g) for approval of the RFP SIP revisions prior to approval of the low enhanced I/M programs. Additionally, Pennsylvania does not agree that proposed approval of the 15% RFP plan submission for Pittsburgh is necessary prior to final interim approval of the I/M program under the NHSDA. Since the NHSDA modified the schedule for submission and final approval of states' I/M programs, Pennsylvania believes that EPA cannot block interim approval of the I/M SIP submissions on the basis of the approval status of a 15% RFP submission.

Response to Comment: EPA amended its I/M program requirement regulation (i.e., the I/M Flexibility Rule) on September 18, 1995 (60 FR 48029) to allow states additional flexibility in designing I/M programs in cases where the full magnitude of reductions from implementation of a ''high'' enhanced performance standard I/M program are not necessary to make reasonable progress towards or to obtain the national ambient air quality standard (NAAQS) for ozone. The result was a less stringent performance standard called the ''low enhanced'' performance standard.

To ensure that a state wishing to use the low enhanced standard did not need the additional emissions reductions afforded by high enhanced I/M, EPA limited use of the low enhanced standard to areas that could meet the requirements of the CAA for reasonable further progress, and had not failed to meet CAA requirements for attaining the NAAQS. Specifically, 40 CFR 51.351(g) requires, among other things, that states have an approved SIP pursuant to CAA requirements related to 1996 RFP.

However, since the publication of EPA's I/M Flexibility Rule, Congress passed the NHSDA, which set forth new time frames and deadlines for adoption and implementation of I/M programs. Since the NHSDA provided qualifying states only 120 days to submit proposed I/M programs, and since the time frames for implementation and evaluation of NHSDA I/M programs are triggered by EPA interim approval of such I/M SIP revisions, EPA believes Congress intended for EPA to approve these programs, on an interim basis, as soon as possible. Since in many cases EPA has not yet been able to approve states' RFP SIPs for 1996, the administrative process of taking final approval action upon these SIPs could serve to delay approval of I/M SIPs submitted under the NHSDA. Therefore, EPA interprets Congressional intent under the NHSDA to supersede the requirement of 40 CFR 51.351(g) requiring full approval of 1996 RFP SIPs that demonstrate that use of low enhanced I/M will not jeopardize RFP requirements under the CAA prior to interim approval of I/M SIPs under the NHSDA. Such final approval will be necessary prior to full approval of I/M SIPs after the 18-month NHSDA evaluation period. However, to ensure that use of the low enhanced performance standard is appropriate, EPA believes that I/M plans for any area

relying upon the low enhanced standard cannot receive final interim approval until such time as EPA concludes that an RFP plan containing a low enhanced I/M program is appropriate and proposes approval of any required 1996 RFP plan for that area. With relation to Pennsylvania's I/M SIP revision, concurrent with issuance of this final interim rulemaking action, EPA is proposing, via a separate rulemaking action, conditional approval of the Pittsburgh 1996 RFP SIP, which demonstrates the suitability of the low enhanced performance standard to that area.

Comment—EPA's Mechanism for Converting its Conditional Approval Action to a Disapproval

One commenter asserts that EPA's conditional approval action should automatically convert to a disapproval, unless EPA sends a finding letter to the Commonwealth that all conditions have been fully satisfied in a timely manner (as established by the final conditional rulemaking). The commenter believes that EPA has a history of delay and equivocation related to enforcement of the CAA upon the states.

Response to Comment: Under section 110(k)(4) of the CAA, EPA agrees with the commenter that conditional approvals are automatically treated as disapprovals, by operation of law, if a state fails to comply with the commitments to correct SIP deficiencies. However, for purposes of notice to the public concerning the official status of a SIP as of any given date, EPA issued a policy memorandum on July 9, 1992 from John Calcagni, Director, Air Quality Management Division, Office of Air Quality Planning and Standards, entitled ''Processing of State Implementation Plan Submittals''. In this memorandum, EPA indicated that it would send a letter to the state indicating that the condition had not been met, and that the approval status of the SIP had automatically converted to a disapproval. It is important to note that the conversion occurs by operation of law; the letter serves only to notify the state and the public that the conversion has occurred.

EPA does not agree with the commenter's assertion that all conditional approvals should convert to disapprovals, unless EPA issues a letter indicating that all conditions of EPA's rulemaking action have been met. Under the CAA, a SIP can only convert to a disapproval if the conditions have not been met, in a timely fashion. Where a state has satisfied the conditions of a conditional approval, it would not be consistent with the CAA to have conditional approvals convert to disapprovals merely because EPA failed to timely issue a confirmatory letter. It should be noted that EPA intends to provide, in writing, notification to the Commonwealth as to whether or not a condition has been satisfied. EPA intends to do so within 30 days after the due date of a condition.

Comment—Pennsylvania's Ability to Ensure Participation by a Sufficient Number of Inspection Stations

One commenter was concerned about EPA's ability to ensure that Pennsylvania's program will have sufficient participation to smoothly operate the program. The commenter also questioned what contingency measures Pennsylvania would implement if an insufficient number of stations choose to participate in the program.

Response to Comment: While EPA recognizes the commenter's concern, in that the Commonwealth was unable to disclose the number of stations that it anticipates will participate in the program as of November 1997, EPA believes it remains appropriate to grant a conditional approval to Pennsylvania's program at this time under the authority of the NHSDA.

Furthermore, EPA believes the state has taken reasonable measures to ensure that adequate station participation will be available to accommodate the number of vehicles in the program. In addition to establishing support for the program through the formation of two stakeholders groups in the state to address the need for enhanced I/M testing and other air quality control measures; the state has also formed an I/M Working Group, comprised of repair shop owners, educators and state regulators to address, among other issues, adequate participation in the program by the repair station community.

While the Commonwealth has not submitted contingency measures in its submittal under the NHSDA, provisions do exist under this rulemaking that subject the state's program to further scrutiny at the end of the interim approval period. EPA, as directed by Congress under the NHSDA, will review Pennsylvania's program to ensure that the level of credit claimed in its SIP submittal is accurate. If the state's program fails this evaluation for any reason, the state will need to take corrective action before a final full approval of the enhanced I/M SIP revision will be granted.

Comment—Adequate Funding to State Police for Enforcement Activities Related to the Program

One commenter was concerned that the State Police, to which Pennsylvania has delegated primary enforcement responsibilities for the program (both against testing stations and against motorists) has not been given adequate additional resources to adequately enforce the program.

Response to Comment: In its proposed approval, EPA cited a failure on the Commonwealth's part to demonstrate adequate tools and resources for the program, as required by 40 CFR 51.354. Specifically, states are required to provide a detailed budget plan, and a plan describing the personnel resources dedicated to the enhanced program. EPA considers this a minor deficiency that must be corrected prior to full approval of the SIP revision at the end of the 18-month interim approval period provided under the NHSDA. In part, EPA's proposed rulemaking cited a failure to detail personnel and equipment dedicated to the enforcement portion of the program. Since the SIP revision calls for use of State Police in the primary enforcement role, EPA expects the Commonwealth to detail the State Police resources to be dedicated to this program prior to issuance of final full approval.

Comment—The Commonwealth's Funding of the Program

One commenter was concerned that without a dedicated source of funding the Commonwealth may not make sufficient expenditures to properly implement the program. This commenter alleges that the Commonwealth has a long history of not meeting its I/M commitments.

In a related comment, the Commonwealth asserted that it intends to provide a detailed I/M program budget and personnel plan identifying the personnel dedicated to quality assurance under the EPA I/M rule. Specifically, the Commonwealth indicated its intent to issue requests for proposal (RFPs) to contract with private vendors to provide some of these services, and to submit the contractor's proposal that is eventually accepted to perform this function.

Response to Comment: EPA's I/M requirements under 40 CFR 51.354 require states to demonstrate that adequate funding is available to ensure proper operation of the program. A dedicated fund is also to be created for use in oversight and operation of the program. However, EPA's I/M rule allows for alternative funding

mechanisms (including reliance upon a general fund) for those states which are constitutionally blocked from creating a dedicated fund, and which demonstrate that funding can otherwise be maintained.

As indicated in EPA's proposed rulemaking, Pennsylvania has established that it is constitutionally barred from creating a dedicated I/M fund, and must instead rely upon annual appropriations from the General Assembly. The Commonwealth must therefore submit an annual budget for the first year of program operation detailing its I/M program budget and personnel resources dedicated to the program.

However, EPA's proposal cited as a minor deficiency the lack of a detailed budget plan describing funding sources for: I/M oversight personnel, program administration, program enforcement, and purchase of equipment, as required by 40 CFR 51.354. Also, a detailed personnel plan describing human resources dedicated to: the quality assurance program, data analysis, program administration, enforcement, public education and assistance and other necessary functions.

The Commonwealth has not yet provided these detailed budget and human resources plans, but has expressed a willingness to submit this information in its final I/M SIP revision. If these functions are to be performed by the Commonwealth, EPA requires detailed plans containing that information. If these functions are contracted to private vendors, EPA expects the Commonwealth will provide either a detailed RFP, a binding proposal or bid from the contractor or contractors selected to perform these functions, or final legal contracts between the selected contractor or contractors and the Commonwealth that contain budget plans and personnel allocations for these responsibilities. Therefore, EPA is leaving the de minimus deficiency related to Pennsylvania's demonstration of adequate resources intact in today's action.

Comment—Implementation Dates

EPA proposed commencement of I/M testing in the Philadelphia and Pittsburgh areas by no later than November 15, 1997; and in all other subject I/M areas by no later than November 15, 1999. The Commonwealth commented that it supports EPA's proposed implementation dates for those areas.

Response to Comment: This comment supports EPA's proposed action, thus it does not change EPA's final decision or rulemaking action.

Comment—Performance Standard Modeling Issues

In its proposed interim conditional approval, EPA cited differences between the Commonwealth's I/M regulation and the program design parameters used in the modeling to demonstrate compliance with the performance standard, as required under 40 CFR 51.351. Specifically, the modeling assumed credit for features not found in the Commonwealth's proposed regulations.

Among other things, Pennsylvania's modeling, as of the time of proposal, included full credit for a mandatory repair technician training and certification program in all subject counties. However, at that time the proposed regulations did not provide for such a program. Pennsylvania agrees in its comment letter that the state regulations must be consistent with the modeling demonstration. Pennsylvania noted that it intends to adopt regulations to provide for, among other things, a mandatory technician training program, and provided draft regulatory language for a repair training program in its comments to EPA.

Pennsylvania states that its revised modeling, submitted November 1, 1996, demonstrates that the performance standard will be met as long as its regulation, as finally adopted, is consistent with the assumptions used in the performance standard modeling. Pennsylvania claims that it will ensure consistency between the performance standard modeling assumptions and its final regulation through the draft regulatory revisions provided within its comment letter.

Pennsylvania claims that the result of all of the draft regulatory amendments provided in its comment letter will ensure consistency between the final regulations and the revised performance standard modeling.

Response to Comment: EPA supports the Commonwealth's draft regulatory language, as it adequately addresses the conflict between the performance standard modeling assumptions and the Commonwealth's I/M regulation.

However, as Pennsylvania indicated in its comments, the Commonwealth intends to obtain input from the Pennsylvania I/M Working Group on all redrafted regulatory language prior to adopting these changes through the state's regulatory adoption process. These revisions are also subject to public participation at the state level, as well as changes through the rule adoption process, itself. Therefore, EPA considers the Commonwealth's revised regulatory language to be draft, until final regulations are adopted and submitted to EPA as a SIP revision, and therefore cannot remove the minor deficiency until the Commonwealth formally adopts and submits to EPA its final regulations.

Comment—Remodeling the Performance Standard Using Updated ASM Test Credits

Pennsylvania commented that it agrees with the EPA's proposal to conditionally approve the Commonwealth's I/M SIP upon a requirement that the Commonwealth remodel the performance standard to reflect the newest ASM credit estimates. On November 1, 1996, Pennsylvania supplemented its SIP with revised MOBILE modeling for the performance standard demonstration.

Pennsylvania also committed to modify its regulations to incorporate actual program startup dates and testing standards, or ''cutpoints'', to match those contained in its modeling demonstration. Specifically, Pennsylvania provided comments containing draft regulatory language to address a condition in EPA's proposed rulemaking regarding I/M test equipment specifications and test procedures (i.e., for the ASM, idle, and 2-speed idle tests), in addition to providing draft regulatory language to more clearly define the one-mode ASM test to be used in the Philadelphia area. Pennsylvania also included in a November 1, 1996 supplement to the SIP draft specifications for test equipment to be used in the I/M program.

Response to Comment: This commenter supports EPA's proposed action, and thus the comment does not alter EPA's final rulemaking action.

Pennsylvania indicated in its comments that it will obtain input from the Pennsylvania I/M Working Group on all draft regulatory amendments prior to adopting those changes through the state's regulatory adoption process. Regulatory revisions are also subject to public participation at the state level, as well as to changes at any stage of the rule adoption process. Therefore, EPA considers the Commonwealth's revised regulatory language to be draft, until final regulations are adopted and submitted to EPA as a SIP revision, and therefore cannot remove the minor deficiency until the Commonwealth formally adopts and submits its final regulations to EPA. Since the performance standard modeling must mirror the I/M program parameters described in the Commonwealth's

regulation, EPA believes it would not be prudent to remove the de minimus deficiency tied to modeling the I/M performance standard, until Pennsylvania finalizes its regulatory requirements supporting that modeling demonstration.

Therefore, EPA is maintaining the cited minor deficiency in its final interim rulemaking action. Upon submission of final regulations to remedy this deficiency, EPA will review the change and make a final decision in its full approval action to be taken upon expiration of the interim approval period afforded this SIP under the NHSDA.

Comment—Functional Evaporative System Testing

The Commonwealth commented that logistical problems exist with the current functional evaporative system pressure and purge testing procedures outlined in EPA's 1996 guidance. While Pennsylvania continues to take credit for both purge and full pressure tests, as currently allowed under EPA policy, the Commonwealth commented that it will not require tests that are impractical to implement or which may cause damage to evaporative system components. Pennsylvania further alleges that over half of the vehicles subject to evaporative system testing cannot be tested with EPA's current test method. Pennsylvania claims that these tests are exceedingly difficult to implement in real world testing environments because it is difficult to identify where to hook up the testing equipment on many of the vehicles being tested. Pennsylvania expects that EPA will work to develop an alternative test that achieves all the emission reductions originally projected by EPA for these tests. The Commonwealth adds in its comments that EPA technical staff have acknowledged problems with the pressure test and that there is currently no proven purge test procedure.

The Commonwealth further objected to EPA's conditioning of the interim approval upon adoption of procedures for the purge and pressure tests, as currently described in EPA guidance.

To address the lack of functional evaporative test procedures and test equipment specifications, which EPA cited as a condition in its proposed rulemaking, Pennsylvania provided draft regulatory language in its comments.

Finally, the Commonwealth adds that to date, no alternative test procedure has proven to be a viable substitute for EPA's test method.

Response to Comment: On November 5, 1996, EPA issued a policy memorandum from Margo Oge, Director of EPA's Office of Mobile Sources (OMS), entitled ''I/M Evaporative Emissions Tests''. This memo outlines the difficulties related to functional pressure and purge functional testing, in practice in I/M programs. The memo provides that EPA will accept states' credit claims for the benefits from implementing purge testing, although many states are not expected to begin using this test for 12–18 months. EPA hopes a suitable test will be available by the time states begin testing.

On December 20, 1996, EPA issued an addendum to the November 5 memo. This memorandum from Leila Cook, Regional and States Program Group Leader of EPA's OMS, serves to clarify the policy set forth in the November 5, 1996 memo. Specifically, this memo requires states to actually perform an available pressure test to receive credits claimed for such a program in their SIP revision. Full modeled credit (i.e., from the MOBILE model) for the performance of pressure testing is available only if a state performs an Arizona-like pressure test from the fillpipe *and* a separate gas cap check. States performing only a gas cap check will receive only 40% of the available MOBILE-modeled credits for pressure testing.

EPA has acknowledged problems with the current purge test. Therefore, states such as Pennsylvania that committed to perform a purge test may continue to take 100% of the credit for the purge test, without actually performing such testing, until such time as EPA develops a viable purge test procedure. EPA expects Pennsylvania will require some form of evaporative system pressure testing to receive credit for implementation of this program element, and is interpreting the Commonwealth's comments as a commitment to perform this testing. If the Commonwealth chooses to enact only a gas cap check, the performance standard demonstration must be amended to reflect the lower credit levels attributed to that type of testing, as described above and in the November 5, 1996 and December 20, 1996 memos. The final Pennsylvania I/M regulation must include test procedures and emissions standards for pressure testing, in addition to a requirement for purge testing when such testing is readily available and is viable.

Comment—Definition of Light Duty Trucks

In its proposed rulemaking, EPA cited as a minor deficiency that the Pennsylvania I/M regulation did not adequately define I/M program vehicle coverage, per the requirements of 40 CFR 51.356. Specifically, the regulatory definition of light-duty trucks differed from modeling parameters found in the Commonwealth's performance standard demonstration by not requiring vehicles up to 9,000 pounds gross vehicle weight rating (GVWR) to be subject to the program.

Pennsylvania provided draft regulatory language in its comments to address this problem, which would change the definition of light duty trucks to include trucks up to 9,000 pounds GVWR.

Response to Comment: EPA supports the Commonwealth's draft regulatory language. This correction will address the conflict between the performance standard modeling assumptions and the Commonwealth's regulatory requirements regarding vehicles subject to this program.

However, Pennsylvania also indicated in its comments that the Commonwealth intends to obtain input from the Pennsylvania I/M Working Group on all redrafted regulatory language prior to adopting these changes through the Commonwealth's regulatory adoption process. These revisions are also subject to public participation at the state level, as well as changes through the rule adoption process, itself. Therefore, EPA considers the Commonwealth's revised regulatory language to be draft, until final regulations are adopted and submitted to EPA as a SIP revision, and therefore cannot remove the minor deficiency until the Commonwealth formally adopts and formally submits its final regulations to EPA.

Comment—I/M Inspection Test Procedures

EPA cited as a condition of its proposed approval of Pennsylvania's SIP the lack of procedures for certain I/M tests, including two-speed idle, one-mode ASM, and functional evaporative system purge and pressure tests, and for a lack of testing standards or ''cutpoints'' associated with those tests, per 40 CFR 51.357. EPA's proposed interim approval was conditioned upon the Commonwealth submitting proposed ASM and two-speed idle test procedures within 30 days, and upon the Commonwealth's adoption of a final regulation incorporating those test procedures within one year of EPA's final interim approval rulemaking. EPA also cited the SIP's lack of phase-in test cutpoints for ASM and two-speed idle testing.

Pennsylvania commented that it would modify its regulations to include all test procedures, specifications, and standards to be used in the Commonwealth's I/M program.

Additionally, the Commonwealth provided draft regulatory language to incorporate idle and two-speed idle test procedures and standards. On November 1, 1996, Pennsylvania submitted a formal amendment to its SIP including draft specifications for ASM test procedures and ASM cutpoints.

Response to Comment: By submitting its proposed ASM test procedures in November of 1996, the Commonwealth has met the first of the requirements set forth in EPA's October 3, 1996 proposed interim conditional approval for a commitment needed to allow EPA to provide a conditional approval. Under the terms of EPA's proposal, if those requirements were not satisfied, EPA could not proceed with its final interim rulemaking action.

To satisfy the condition for interim approval, the Commonwealth must submit its final test equipment specifications and test procedures for the ASM and two-speed idle tests, as well as the regulations which require those tests as defined in the performance standard, within twelve months of today's action. The condition, amended to reflect the fact that the Commonwealth has provided a commitment to satisfy this condition by a date certain, is being maintained in today's action.

Comment—Requirement for Real-Time Data Link Between Inspection Stations and the Commonwealth

Pennsylvania commented that it will include a real-time computer data link between test stations and the Commonwealth, or its contractor. The Commonwealth also provided in its comments draft regulatory language to require this real-time connection.

Response to Comment: EPA supports the Commonwealth's draft regulatory language requiring a real-time data link between inspection stations and the state. This amendment would satisfy EPA's related de minimus deficiency cited in the October 3 proposal.

However, elsewhere in its comments the Commonwealth indicated that it intends to obtain input from the Pennsylvania I/M Working Group on all redrafted regulatory language prior to adopting these changes through the state's regulatory adoption process. These revisions are also subject to public participation at the state level, as well as changes through the rule adoption process. Therefore, EPA considers the Commonwealth's revised regulatory language to be draft, until final regulations are adopted and submitted to EPA as a SIP revision, and therefore cannot remove the minor deficiency until the Commonwealth formally adopts and submits its final regulations to EPA.

Comment—Use of One-Mode ASM Test Procedure

In its proposed rulemaking, EPA stated that the Commonwealth was considering use of a two-mode ASM test in the Philadelphia area, instead of the one-mode ASM test described in the Commonwealth's SIP revision. Pennsylvania commented that it is not proposing to implement the two-mode ASM procedure at this time, opting instead to perform the one-mode ASM test.

Response to Comment: EPA supports Pennsylvania's use of the one-mode ASM test, as long as the Commonwealth can demonstrate that it meets the performance standard requirements of 40 CFR 51.351. EPA will make that determination upon submission of finally adopted regulations which correspond to the Commonwealth's final performance standard modeling. This determination will be made in the final SIP approval action for Pennsylvania's I/M program, which EPA will promulgate after all requirements specified in the interim approval have been satisfied.

Comment—Lack of Quality Control Procedures for ASM Testing

EPA's proposed rulemaking cited as a de minimus deficiency a lack of quality control procedures for one-mode ASM testing, as required under 40 CFR 51.359. Pennsylvania commented that it contemporaneously submitted ASM quality control procedures with its ASM test procedures, specifications, and standards. The SIP was amended by Pennsylvania to include proposed ASM standards on November 1, 1996.

Pennsylvania stipulates that lack of quality control procedures is not a SIP approval issue, but is instead a SIP implementation, or compliance issue. Pennsylvania therefore argues that it has met the quality control requirement at 40 CFR 51.359.

Response to Comment: EPA's requirements for I/M program quality control are set forth in EPA's I/M regulation, at 40 CFR 51.359. Specifically, the SIP shall include the procedure manual, rule, ordinance, or law describing and establishing the quality control procedures and requirements. EPA believes that establishment of quality control procedures is a SIP approval issue, and is necessary to maintain an effective program. In practice, EPA believes that compliance oversight with these established procedures is critical to the program's success.

The Commonwealth's proposed ASM equipment specifications submitted in November of 1996 describe and establish quality control measures related to that emissions measurement equipment. Since these specifications are subject to change until the Commonwealth submits its final SIP approval, EPA will make a final determination regarding this de minimus deficiency when it takes final rulemaking action at the end of the interim approval period provided for under the NHSDA.

Comment—Issuance of Waivers by the State: Waivers may be granted to motorists whose vehicles fail to meet I/M testing standards after spending a reasonable amount of money to obtain repairs to that effect, after applying any available warranty coverage and excluding repairs needed for ''tampered'' vehicles. EPA's I/M regulation at 40 CFR 51.360(c)(1) requires that if waivers are allowed under a state's I/M program, then such waivers may be granted only by the state or by a single contractor to the state.

The Commonwealth's proposed regulation allows qualified emission inspection stations to issue waivers. In its proposed rulemaking on the Commonwealth's I/M program, EPA cited as a de minimus deficiency the Commonwealth's allowance of I/M test waivers.

Pennsylvania commented that it believes the NHSDA modified the requirement for waiver issuance, and thus overrides EPA's I/M rule requirement for centralized waiver issuance. The Commonwealth's basis for this argument is that the NHSDA authorizes states to develop decentralized I/M programs, and that centralized waiver issuance is not compatible with Congress's intent. Pennsylvania argues that stringent safeguards have been built-in to its I/M program (i.e., technician certification, real-time data links between test stations and the state, and strict enforcement requirements) which allow inspection station personnel to issue waivers. Therefore, while Pennsylvania commits to correct its regulations to provide for waiver issuance by a single entity, the Commonwealth expressly requests that EPA allow decentralized waiver issuance.

Response to Comment: To assure quality control of the issuance of waivers, EPA required either the state or a single contractor to issue waivers under 40 CFR 51.360(c). EPA believes this requirement was not altered by the NHSDA. While the NHSDA does allow

for states to implement decentralized test networks, EPA does not believe that Congress intended this to alter the requirements of the I/M rule for quality assurance of the program. Further, EPA believes that issuance of waivers by one authority would provide an effective deterrent against fraud in decentralized or centralized testing networks, as well as to ensure consumer protection through consistency in waiver issuance criteria. EPA believes it is important for quality assurance purposes that waiver control remains in the hands of one entity. It is important to note that even prior to the advent of ''enhanced'' I/M programs, EPA has always maintained this requirement for centralized waiver issuance for both centralized and decentralized I/M programs. This requirement could also bolster public confidence in the repair industry by providing an objective verification of the appropriateness of test results and repairs.

Third-party verification of waiver eligibility serves to reinforce both the inspection test results and the capabilities of repair technicians within the program through positive reinforcement of the professionalism of the repair industry and the emissions testing program. Moreover, maintaining one waiver issuance authority provides an extra incentive for the vehicle repair industry to maintain integrity, leading to increased repair revenues and air quality benefits from the I/M program, itself. Additionally, since a centralized waiver system is not a new requirement, there is little reason to expect an increase in frustration and/or delays for the public.

Prior to passage of the NHSDA, EPA's I/M rule required centralized waiver issuance for all programs, both centralized and decentralized. Although the NHSDA increases flexibility to use decentralized programs, it in no way indicates that requirements applicable to all programs, such as waiver issuance should be altered. Therefore, EPA rejects the Commonwealth's request to eliminate the requirement for waiver issuance by a single entity, and urges the Commonwealth to consider means to comply with the quality assurance requirement of 40 CFR 51.360(c).

Comment—Demonstration of the Effectiveness of the Commonwealth's Sticker-Based Enforcement Mechanism

The CAA requires that states ensure compliance through the denial of vehicle registration, with the exception of states having an existing enforcement alternative that demonstrates to the EPA Administrator that the alternative is more effective than registration denial in ensuring that non-complying vehicles are not operated on public roads.

Pennsylvania's SIP relies upon a sticker-based means of enforcement to ensure motorist compliance with the program. In its proposal, EPA conditioned interim approval of the SIP upon the Commonwealth's satisfaction of the requirements of 40 CFR 51.361(b) related to demonstration of compliance enforcement effectiveness.

The Commonwealth commented that its SIP contains a demonstration of the effectiveness of sticker enforcement. The basis of the demonstration is that the Commonwealth has statistical data from the existing program indicating a motorist compliance rate of 97% (i.e., 97% of all registered subject vehicles actually comply with I/M testing requirements). However, for the same period, only 90.8% of the vehicles subject to a separate state requirement to have a valid auto insurance liability policy prior to obtaining re-registration actually complied with this requirement. The Commonwealth therefore concludes that the I/M program enforcement mechanism is more effective than a registration-based mechanism used to enforce a separate insurance requirement. A report contained in the SIP, as well as additional comments provided by the Commonwealth on EPA's proposed rule, provide details of the Commonwealth's comparative analysis. Finally, Pennsylvania comments that its proposed I/M program contains enhancements over the existing program which will ensure that the Commonwealth can maintain a 96% motorist compliance rate, in accordance with the Commonwealth's performance standard demonstration and the commitment provided in the Commonwealth's SIP to maintain that level of compliance. Therefore, the Commonwealth requests that EPA remove the proposed condition.

Another commenter indicated that EPA should require the Commonwealth to use registration denial as its means for motorist compliance enforcement. The Commonwealth's sticker enforcement effectiveness demonstration is based, in part, upon the Commonwealth's proposed integration of safety and emissions inspections into one process (i.e., safety inspections cannot be completed prior to completion of emissions testing). The commenter contends that with the expense and other constraints of enhanced I/M testing, many inspection stations in the existing I/M program may not participate in the enhanced I/M program, particularly in the Philadelphia area where more expensive and space-consuming ASM equipment is required. Therefore, it would be unfair and unreasonable to penalize safety-only inspection stations by placing them in a position to lose income because they do not perform emissions testing. Furthermore, this commenter also contends that it is not the responsibility of testing stations to act as ''policemen'' and serve as the front line for enforcement of the program. Therefore, the commenter supports registration denial as the only palatable means of motorist enforcement.

Response to Comment: While section 182 of the CAA compels states to adopt registration denial enforcement, it does provide certain states the option to demonstrate alternatives to the satisfaction of the EPA Administrator. EPA's I/M regulation at 40 CFR 51.361 defines criteria for states' use in demonstrating the effectiveness of pre-existing alternatives to registration denial enforcement.

EPA reviewed the demonstration provided in the Commonwealth's I/M SIP, including a formal supplement to the SIP on June 27, 1996 to clarify the sticker enforcement demonstration. EPA concluded in its proposed rulemaking that the Commonwealth had not fully satisfied the specific requirements of 40 CFR 51.361(b) (1) and (2). EPA therefore proposed to condition its interim approval of the Commonwealth's I/M SIP revision on the condition that the Commonwealth demonstrate to the Administrator's satisfaction that the Commonwealth's sticker enforcement program is more effective at deterring noncompliance than denial of vehicle registration.

EPA believes the Commonwealth has made a compelling demonstration for an alternative to registration denial under the provisions of 40 CFR 51.361(b)(1)(iii), relating to general requirements for alternative enforcement mechanisms. However, the sticker enforcement / registration compliance study submitted in Pennsylvania's SIP and subsequent supplements provides only cursory information in relation to some of the specific requirements under 40 CFR 51.361 (b)(1) and (b)(2) necessary to demonstrate the effectiveness of a sticker-based enforcement alternative, and does not in and of itself fully satisfy EPA's requirements. Use of this type of generalized demonstration for its alternative enforcement mechanism does not remove the additional requirements specific to sticker-based enforcement alternatives set forth in 40 CFR 51.361(b)(2). Pennsylvania's SIP

does not yet comply with all of these requirements to EPA's satisfaction.

Therefore, EPA cannot remove the condition for approval related to the Commonwealth's choice of a sticker-based alternative to registration denial-based motorist compliance enforcement mechanism. However, Pennsylvania committed in its November 1, 1996 SIP supplement to submit any additional information needed to demonstrate the effectiveness of its sticker enforcement program. Since the CAA authorizes states to continue to use this type enforcement mechanism if a state can demonstrate the adequacy of that mechanism to EPA's satisfaction, EPA is compelled to allow the state to continue its use. Should a state pursue sticker enforcement, it is the state's, not EPA's, responsibility to consider equity and fairness issues for those affected by the state's choice for an I/M motorist enforcement mechanism. Therefore, EPA is today approving the Commonwealth's SIP, conditioned upon the Commonwealth remedying the deficiencies related to Pennsylvania's sticker enforcement mechanism, as described above.

Comment—Performance of Motorist Compliance Enforcement Program Oversight

In its proposed rulemaking, EPA indicated that if the Commonwealth chooses to contract out the responsibilities for motorist compliance enforcement program oversight, as allowed by 40 CFR 51.362, Pennsylvania must submit an RFP that adequately addresses how such a private vendor will comply.

Pennsylvania commented that it intends to issue an RFP which requires submission of a proposal to demonstrate how the selected contractor will satisfy the required oversight requirements. The Commonwealth also indicated that such an RFP will require bidding contractors to describe how they intend to comply with the applicable federal requirements. Pennsylvania's comments also indicated that it intends to submit a copy of the proposal of the contractor selected to conduct this oversight, and that this submission will satisfy EPA's requirements for a description of the enforcement program oversight and information management activities.

Response to Comment: EPA supports the Commonwealth's approach to remedying this minor deficiency, with regard to a description of the motorist compliance enforcement oversight program, as required by 40 CFR 51.362.

Until such time that the Commonwealth amends its SIP to describe the motorist compliance enforcement oversight program in detail, or to supplement the SIP with a legally binding contractual document that describes how a vendor will satisfy this federal requirement, EPA cannot consider the de minimus deficiency described in the October 3, 1996 proposed rulemaking to be remedied.

Comment—Performance of Quality Assurance Auditing

EPA's proposal cited as a *de minimus* deficiency the lack of a requirement by the Commonwealth to annually audit their quality assurance auditors, as required under 40 CFR 51.363. Pennsylvania commented that it will modify its regulations to add such a requirement. In addition, the Commonwealth provided draft regulatory language in its comments to provide a partial means of remedying this deficiency.

Pennsylvania commented that it intends to have auditing functions performed by a private contractor. Again, Pennsylvania plans to issue an RFP to any interested vendors which requires a private vendor to comply with applicable federal requirements. Pennsylvania will then submit to EPA the proposal for the selected vendor, which it believes will satisfy EPA's requirement for a description of this program.

Response to Comment: EPA supports the Commonwealth's approach to remedying this minor deficiency, with regard to the federal requirement for the state to audit its own quality assurance auditors.

Until such time that the Commonwealth amends its SIP to describe in detail its quality assurance auditing process, or to supplement the SIP with a legally binding contractual document that describes how a vendor will comply with this federal requirement, EPA cannot consider the *de minimus* deficiency described in the October 3, 1996 proposed rulemaking to be remedied. Therefore, EPA is retaining in its final interim approval the *de minimus* deficiency related to this requirement.

In regard to the proposed regulatory revision to require this auditing of the Commonwealth's auditors, EPA finds the language acceptable. However, the Commonwealth intends to obtain input from the Pennsylvania I/M Working Group on all amendments to its I/M regulation prior to adopting these changes through the the regulatory adoption process. These revisions are also subject to public participation at the state level, as well as changes through the rule adoption process. Therefore, EPA considers the Commonwealth's revised regulatory language to be draft, until final regulations are adopted and submitted to EPA as a SIP revision.

Therefore EPA cannot remove the minor deficiency until the Commonwealth formally adopts and submits to EPA its final regulations and the RFP or other legal document describing this I/M program function to the detail required under federal law.

Comment—Recordkeeping Requirements for Enforcement Actions

EPA's proposed rulemaking cited that the Commonwealth's SIP does not include provisions for Pennsylvania to maintain and submit to EPA records of enforcement actions taken by the Commonwealth against emission inspection stations. The Commonwealth comments assert that EPA's regulations at 40 CFR 51.364 require *only* that the state maintains such records, not that the state is required to submit such records to EPA. Pennsylvania contends that its regulations, as submitted in the March SIP submittal, currently require that these records be maintained by the Commonwealth, and that such records are available to EPA for inspection at any time.

Response to Comment: EPA agrees with this comment. EPA's proposal mistakenly cited the Commonwealth's failure to submit records of inspection station enforcement including warnings, fines, suspensions, revocations, etc., in addition to maintenance of such records. This is not a requirement of 40 CFR 51.364, and therefore EPA accepts the Commonwealth's comment. Recordkeeping may be limited to maintenance of such enforcement records, and inclusion of such related enforcement statistics in summary reports to EPA, per requirements of 40 CFR 51.366(b).

EPA is amending its *de minimus* requirement related to maintenance and submission of such records to require only maintenance of those records.

Comment—Data Collection and Data Analysis Reporting

EPA indicated in its proposed rulemaking that Pennsylvania must provide the RFP for how the data collection and data analysis and reporting requirements at 40 CFR 51.365 and 366. The Commonwealth commented that there is no federal requirement for how data is to be collected, only that the SIP must describe the type of data to be collected. The Commonwealth argues that since EPA raised no objections in its proposed rulemaking to the type of data to be

collected, Pennsylvania meets the SIP requirements of EPA's regulations.

Pennsylvania commented that it intends to issue an RFP which requires the vendor's proposal to demonstrate how the vendor will comply with federal data collection and data analysis and reporting requirements. Pennsylvania contends that analysis and submittal of reports is an implementation issue, and not a SIP approval requirement, and that submission of this information in the SIP is neither necessary nor a basis for approval.

Response to Comment: EPA's proposal cites a failure by the Commonwealth to address in its SIP how the state, or its contractor, will comply with the data collection requirements of 40 CFR 51.365 and 51.366, as well as how it will comply with the reporting requirements of § 51.366.

Until the Commonwealth either amends its SIP to describe the data elements that will be collected under 40 CFR 51.365, or to submit an RFP or other legally binding document to describe how a contractor to the Commonwealth will fulfill this function, EPA does not consider this requirement to be satisfied. Contrary to the Commonwealth's assertion, EPA noted in its proposal that the Commonwealth's SIP submittal does not adequately address how a private vendor will comply with the specific requirements of 40 CFR 51.365. Therefore, EPA refutes the Commonwealth's allegation that EPA raised no objections to the type of data to be collected by the Commonwealth.

At this time, the Commonwealth has not submitted either an RFP, or a legally binding document, which demonstrates that the contractor selected by the Commonwealth to perform data analysis and reporting to EPA will satisfy the requirements for those responsibilities described within 40 CFR 51.366. While the performance of data analysis and submission of such data summary reports to EPA are both implementation issues, the SIP must describe the type of data to be collected, including a detailed description of the specific elements to be included in the state's reports required to be compiled and submitted under 40 CFR 51.366. While data analysis and reporting are implementation functions, the specific description of what is to be reported must be included in the SIP, and is thus a SIP approvability issue.

Until such time that the Commonwealth amends its SIP to describe in detail the data collection, analysis, and reporting functions, or to supplement the SIP with an RFP or other legal contractual document that describes how a vendor will satisfy this federal requirement, EPA cannot consider the de minimus deficiency, as described in the October 3, 1996 proposed rulemaking, to be remedied.

Comment—Requirement for Inspector Training

EPA's proposal cites as de minimus the failure on the part of the Commonwealth in its SIP to require inspectors to complete refresher training or to pass a skills re-test prior to being recertified. The SIP also cites a lack of commitment on the Commonwealth's part to monitor and evaluate the delivery of the inspector training program. Pennsylvania provided draft regulatory language to remedy these deficiencies in its comments to EPA's proposal.

Response to Comment: EPA supports the Commonwealth's draft regulatory language. Once the regulatory language is finalized, this correction would remedy the minor deficiency set forth in EPA's October 3, 1996 proposed rulemaking.

However, Pennsylvania also indicated in its comments that the Commonwealth intends to obtain input from the Pennsylvania I/M Working Group on all redrafted regulatory language prior to adopting these changes through the state's regulatory adoption process. These revisions are also subject to public participation at the state level, as well as to changes through the rule adoption process, itself. Therefore, EPA considers the Commonwealth's revised regulatory language to be draft, until final regulations are adopted and submitted to EPA as a SIP revision, and therefore cannot remove the minor deficiency until the Commonwealth formally adopts and formally submits its final regulations to EPA.

Comment—Public Information and Consumer Protection Plan

In its October 3, 1996 rulemaking, EPA found the SIP's lack of a description of a public information plan and a consumer protection plan to be de minimus deficiency. Since the SIP indicates that these responsibilities are to be privatized through contract with a vendor, EPA proposed that the RFP describing how that vendor would comply with those requirements of 40 CFR 51.368 should be submitted to EPA as part of the SIP revision.

Pennsylvania commented that it intends to issue an RFP which will require vendors to adopt a plan to include the following public information: the air quality problem, requirements of federal and state law, role of motor vehicles in the air quality problem, the need for and benefits of an I/M program, how to maintain a vehicle in a low-emission condition, how to find a qualified repair technician, and the requirements of the I/M program.

The Commonwealth intends to provide alternative repair statistical information to motorists, as required by 40 CFR 51.368(a). The separate requirement to conduct performance monitoring of repair stations is found at 40 CFR 51.369(b)(1). Rather than providing detailed statistics on a repair facility's ability to repair specific vehicles, the Commonwealth intends to convey to the public similar information on the relative ability of a repair facility to perform repairs on specific emission systems components, in relation to average costs for those repairs across an entire county.

In a related comment, Pennsylvania indicated that it will amend its regulation to require inspection stations to provide software generated interpretive diagnostic information to vehicle owners failing a test, as a partial means of complying with the performance monitoring requirements for improving repair effectiveness found at 40 CFR 51.369.

Response to Comment: The Commonwealth has not yet provided an adequately detailed description of its public awareness plan in its SIP, as required by EPA's regulation at 40 CFR 51.368(a). While inclusion of the specific information described above (and in the Commonwealth's comments) would in an RFP or other legally binding contractual document would serve, in part, to satisfy the federal requirement, the Commonwealth has not yet provided either.

Further, Pennsylvania has not yet amended the SIP, or submitted an RFP to describe, in detail, its approach to satisfying the performance monitoring requirements of 40 CFR 51.369(b)(1). Pennsylvania must develop an approvable performance monitoring plan in order to satisfy the public information plan requirements of 40 CFR 51.368 which depend upon performance monitoring information.

Pennsylvania does assert in its comments that it believes this performance monitoring approach will satisfy the requirements of 40 CFR 51.369(b)(1). This does not remedy the minor deficiency cited in EPA's proposed rulemaking related to the requirements of 40 CFR 51.369(b)(1) for a performance monitoring plan.

EPA will not accept an alternative to the performance monitoring function required under 40 CFR 51.369(b)(1),

unless that alternative focuses not only upon the cost of repairs, but also upon the facility-specific effectiveness of those repairs in relation to the purpose of the I/M program (i.e., reducing emissions levels for the vehicle for the pollutant for which it failed an I/M test).

The Commonwealth must amend its SIP to describe in detail the performance monitoring function, and its application to consumer information and consumer protection; per the requirements of 40 CFR 51.368(a) and 40 CFR 51.369(b)(1). Until then, EPA must maintain the related *de minimus* deficiency, as described in the October 3, 1996 proposed rulemaking, in its final interim approval action.

Comment—Description of On-Road Testing Requirements

EPA's proposed rulemaking cited as a minor deficiency the SIP's lack of information regarding the Commonwealth's proposed on-road testing program. Specifically, EPA cited a lack of information on resource allocations, methods of analyzing and reporting the results of the testing, and information on staffing requirements for both the Commonwealth and any vendor to perform on-road testing.

Pennsylvania commented that its RFP will address the issue of compliance by a private vendor and will comply with federal on-road testing requirements. That RFP is to require vendors bidding on the contract to submit a proposal demonstrating compliance with federal on-road testing requirements. Pennsylvania commented that it would then submit to EPA the proposal for the selected vendor, which it believes will satisfy EPA's requirement for a detailed description of this program.

Pertaining to the requirement for demonstrating adequate resources to perform on-road testing functions, Pennsylvania commented that it will provide detailed staffing requirements for Commonwealth staff committed to this function.

Response to Comment: EPA supports the Commonwealth's approach to remedying this minor deficiency, with regard to the on-road testing program description and the resources to operate that program.

Until such time that the Commonwealth amends its SIP to describe the on-road testing program in detail, or to supplement the SIP with a legal contractual document that describes how a vendor will satisfy this federal requirement, EPA cannot consider the de minimus deficiency, as described in the October 3, 1996 proposed rulemaking, to be remedied. Additionally, the deficiency cannot be remedied until Pennsylvania amends the SIP to adequately describe the resources allocated to on-road testing.

IV. Final Rulemaking Action

EPA is conditionally approving the enhanced I/M program as a revision to the Pennsylvania SIP, based upon certain conditions. Should the Commonwealth fail to fulfill the conditions by the deadlines contained in each condition, the latest of which is no more than one year after the date of EPA's final interim approval action, this conditional, interim approval will convert to a disapproval pursuant to CAA section 110(k)(4). In that event, EPA would issue a letter to notify the Commonwealth that the conditions had not been met.

V. Conditional Interim Approval

Under the terms of EPA's October 3, 1996 proposed interim conditional approval rulemaking, the Commonwealth was required to make commitments (within 30 days) to remedy five major deficiencies with the I/M program SIP (as specified in the NPR), within twelve months of final interim approval. On November 1, 1996, Pennsylvania submitted a letter from James M. Seif, Secretary of the Pennsylvania Department of Environmental Protection, to EPA committing to satisfy the major deficiencies cited in the NPR, by dates certain specified in the letter. Since EPA is in receipt of the Commonwealth's commitments, EPA is today taking final conditional approval action upon the Pennsylvania I/M SIP, under section 110 of the CAA. As discussed in detail later in this notice, this approval is being granted on an interim basis, for an 18-month period under authority of the NHDSA.

The conditions for approvability of the SIP are as follows:

(1) By no later than September 15, 1997, a notice must be published in the *Pennsylvania Bulletin* by the Secretary of the Pennsylvania Department of Transportation which certifies that the enhanced I/M program is required in order to comply with federal law and also certifies the geographic areas which are subject to the enhanced I/M program (the geographic coverage must be identical to that listed in Appendix A–1 of the March 22, 1996 SIP submittal), and certifies the commencement date of the enhanced I/M program. The I/M program for the five-county Philadelphia area and for the four-county Pittsburgh area must commence by no later than November 15, 1997, and the I/M program for the remaining 16 counties must commence no later than November 15, 1999.

(2) The Commonwealth must submit to EPA as a SIP amendment, within twelve months of EPA's final interim rulemaking action, the final Pennsylvania I/M regulation which requires a METT-based evaluation be performed on 0.1% of the subject fleet each year as per 40 CFR 51.353(c)(3) and which meets all other program evaluation elements specified in 40 CFR 51.353(c). EPA is amending this condition from that of its proposed rulemaking to remove the portion of the condition which would require the Commonwealth to comply with the requirements of 40 CFR 51.353(b)(1).

(3) By no later than November 15, 1997, the Commonwealth must submit a demonstration to EPA as an amendment to the SIP that meets the requirements of 40 CFR 51.361 (b)(1) and (b)(2) and demonstrates that Pennsylvania's existing sticker enforcement system is more effective than registration denial enforcement.

(4) Within twelve months of EPA's final interim rulemaking action, Pennsylvania must adopt and submit a final Pennsylvania I/M regulation which requires and which specifies the following: exhaust test procedures, standards, and equipment specifications; and evaporative system functional test methods, standards and procedures; a visual inspection procedure for determining the presence of or tampering with of vehicle emission control devices; and a repair technician training and certification (TTC) program. The test methods and procedures established under the Commonwealth's I/M regulation must be acceptable to EPA, as well as to the Commonwealth. The test methods and standards provided for by the Commonwealth's final regulation must reflect the modeling assumptions found in the Commonwealth's final performance standard modeling demonstration (which must satisfy the requirements of 40 CFR 51.351).

Within the same time frame, detailed test equipment specifications and standards (which are acceptable to EPA, as well as to the Commonwealth) for all of the I/M evaporative and exhaust tests provided for by the Commonwealth's regulation (as described above) must be finalized and submitted as a SIP revision to EPA.

(5) The Commonwealth must perform and submit the final modeling demonstration that its program will meet the relevant enhanced performance standard, within twelve months of today's final interim rulemaking.

In addition to the above conditions, the Commonwealth must correct several

minor, or *de minimus*, deficiencies related to CAA requirements for enhanced I/M. Although satisfaction of these deficiencies does not affect the conditional interim approval status of the Commonwealth's rulemaking, these deficiencies must be corrected in the final I/M SIP revision, to be submitted at the end of the 18-month interim period:

(1) The final I/M SIP submittal must detail the number of personnel and equipment dedicated to the quality assurance program, data collection, data analysis, program administration, enforcement, public education and assistance, on-road testing and other necessary functions as per 40 CFR 51.354;

(2) The definition of light duty truck in the definitions section of the final Pennsylvania I/M regulation must provide for coverage up to 9,000 pounds GVWR;

(3) The final Pennsylvania I/M regulation must require implementation of the final full stringency emission standards at the beginning of the second test cycle so that the state can obtain the full emission reduction program credit prior to the first program evaluation date;

(4) The final Pennsylvania I/M regulation must require a real-time data link between the state or contractor and each emission inspection station as per 40 CFR 51.358(b)(2);

(5) The final I/M SIP submittal must provide quality control requirements for one-mode ASM (or two-mode ASM if the Commonwealth opts for it);

(6) The Pennsylvania I/M regulation must *only* allow the Commonwealth or a single contractor to issue waivers as per 40 CFR 51.360(c)(1);

(7) The final I/M SIP submittal must include the RFP, or other legally binding document, which adequately addresses how the private vendor selected to perform motorist compliance enforcement responsibilities for the Commonwealth's program will comply with the requirements as per 40 CFR 51.362;

(8) The final I/M SIP submittal must include the RFP that adequately addresses how the private vendor will comply with 40 CFR 51.363, a procedures manual which adequately addresses the quality assurance program and a requirement that annual auditing of the quality assurance auditors will occur as per 40 CFR 51.363(d)(2);

(9) The final I/M SIP submittal must include provisions to maintain records of all warnings, civil fines, suspensions, revocations, violations and penalties against inspectors and stations, per the requirements of 40 CFR 51.364;

(10) The final I/M SIP submittal must include a RFP, or other legally binding document, which adequately addresses how the private vendor selected by the Commonwealth to perform data collection and data analysis and reporting will comply with all the requirements of 40 CFR 51.365 and 51.366;

(11) The final Pennsylvania I/M regulation must require that emissions inspectors complete a refresher training course or pass a comprehensive skill examination prior to being recertified and the final SIP revision must include a commitment that the Commonwealth will monitor and evaluate the inspector training program delivery, per the requirements of 40 CFR 51.367;

(12) The final I/M SIP submittal must include a RFP, or other legally binding document, which adequately addresses how the Commonwealth's selected contractor will comply with the public information requirements of 40 CFR 51.368;

(13) The Pennsylvania I/M regulation must include provisions that meet the requirements of 40 CFR 51.368(a) and 51.369(b) for a repair facility performance monitoring program plan and for providing the motorist with diagnostic information based on the particular portions of the test that were failed; and

(14) The final I/M SIP submittal must contain sufficient information to adequately address the on-road test program resource allocations, methods of analyzing and reporting the results of the on-road testing, and information on staffing requirements for both the Commonwealth and the private vendor for the on-road testing program.

VI. Further Requirements for Permanent I/M SIP Approval

This approval is being granted on an interim basis for a period of 18 months, under the authority of section 348 of the National Highway Systems Designation Act of 1995. At the end of this period, the approval will lapse. At that time, EPA must take final rulemaking action upon the Commonwealth's SIP, under the authority of section 110 of the Clean Air Act. Final approval of the Commonwealth's plan will be granted based upon the following criteria:

(1) The Commonwealth has complied with all the conditions of its commitment to EPA;

(2) EPA's review of the Commonwealth's program evaluation confirms that the appropriate amount of program credit was claimed by the Commonwealth and achieved with the interim program;

(3) Final program regulations are submitted to EPA; and

(4) The Commonwealth's I/M program meets all of the requirements of EPA's I/M rule, including those de minimis deficiencies identified in the October 3, 1996 proposal (61 FR 51638) as minor for purposes of interim approval.

VII. Administrative Requirements

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any state implementation plan. Each request for revision to the state implementation plan shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

A. Executive Order 12866

This action has been classified as a Table 3 action for signature by the Regional Administrator under the procedures published in the Federal Register on January 19, 1989 (54 FR 2214–2225), as revised by a July 10, 1995 memorandum from Mary Nichols, Assistant Administrator for Air and Radiation. The Office of Management and Budget (OMB) has exempted this regulatory action from E.O. 12866 review.

B. Regulatory Flexibility Act

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

Conditional approvals of SIP submittals under section 110 and subchapter I, part D of the CAA do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not impose any new requirements, I certify that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-State relationship under the CAA, preparation of a flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S. EPA*,

427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2).

If the conditional approval is converted to a disapproval under section 110(k), based on the State's failure to meet the commitment, it will not affect any existing state requirements applicable to small entities. Federal disapproval of the state submittal does not affect its state-enforceability. Moreover, EPA's disapproval of the submittal does not impose a new Federal requirement. Therefore, EPA certifies that this disapproval action does not have a significant impact on a substantial number of small entities because it does not remove existing requirements nor does it substitute a new federal requirement.

C. Unfunded Mandates

Under Section 202 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), signed into law on March 22, 1995, EPA must prepare a 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 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 approval action proposed/promulgated does not include a Federal mandate that may result in estimated costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves pre-existing requirements under State or local law, and imposes no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

D. 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).

E. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by March 31, 1997.

Filing a petition for reconsideration by the Administrator of this final rule to conditionally approve the Pennsylvania I/M SIP, on an interim basis, does not affect the finality of this rule for the purposes of judicial review, nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2) of the Administrative Procedures Act).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Hydrocarbons, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements.

Dated: January 13, 1997.

W. Michael McCabe,

Regional Administrator, Region III.

Chapter I, title 40, of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

Subpart NN—Pennsylvania

2. Section 52.2026 is added to read as follows:

§ 52.2026 Conditional Approval.

The Commonwealth of Pennsylvania's March 27, 1996 submittal for an enhanced motor vehicle inspection and maintenance (I/M) program, as amended on June 27, 1996 and July 29, 1996, and November 1, 1996, is conditionally approved based on certain contingencies, for an interim period to last eighteen months.

(a) The conditions for approvability are as follows:

(1) By no later than September 15, 1997, a notice must be published in the *Pennsylvania Bulletin* by the Secretary of the Pennsylvania Department of Transportation which certifies that the enhanced I/M program is required in order to comply with federal law and also certifies the geographic areas which are subject to the enhanced I/M program (the geographic coverage must be identical to that listed in Appendix A–1 of the March 22, 1996 SIP submittal), and certifies the commencement date of the enhanced I/M program. The I/M program for the five-county Philadelphia area and for the four-county Pittsburgh area must commence by no later than November 15, 1997, and the I/M program for the remaining 16 counties must commence no later than November 15, 1999.

(2) The Commonwealth must submit to EPA as a SIP amendment, within twelve months of EPA's final interim rulemaking action, the final Pennsylvania I/M regulation which requires a mass-based emission, transient testing-based evaluation be performed on 0.1% of the subject fleet each year as per 40 CFR 51.353(c)(3) and which meets the program evaluation elements as specified in 40 CFR 51.353(c).

(3) By no later than November 15, 1997, the Commonwealth must submit a demonstration to EPA as an amendment to the SIP that meets the requirements of 40 CFR 51.361(b)(1) and (b)(2) and demonstrates that Pennsylvania's existing sticker enforcement system is more effective than registration denial enforcement.

(4) Within twelve months of EPA's final interim rulemaking action, Pennsylvania must adopt and submit a final Pennsylvania I/M regulation which requires and which specifies the following: exhaust test procedures, standards, and equipment specifications; and evaporative system functional test methods, standards and procedures; a visual inspection procedure for determining the presence of or tampering with of vehicle emission control devices; and a repair technician training and certification (TTC) program. The test methods and procedures established under the Commonwealth's I/M regulation must be acceptable to EPA, as well as to the Commonwealth. The test methods and standards provided for by the Commonwealth's final regulation must reflect the modeling assumptions found in the Commonwealth's final performance standard modeling demonstration (which must satisfy the requirements of 40 CFR 51.351). Within the same time frame, detailed test equipment specifications and standards (which are acceptable to EPA, as well as to the Commonwealth) for all of the I/M evaporative and exhaust tests provided for by the Commonwealth's regulation (as described above) must be finalized and submitted as a SIP revision to EPA.

(5) The Commonwealth must perform and submit the final modeling demonstration that its program will meet the relevant enhanced performance standard, within twelve months of EPA's final interim rulemaking.

(b) In addition to the above conditions for approval, the Commonwealth must correct several minor, or *de minimus* deficiencies related to CAA requirements for enhanced I/M. Although satisfaction of these deficiencies does not affect the conditional approval status of the Commonwealth's rulemaking granted under the authority of section 110 of the Clean Air Act, these deficiencies must be corrected in the final I/M SIP revision prior to the end of the 18-month interim period granted under the National Highway Safety Designation Act of 1995:

(1) The final I/M SIP submittal must detail the number of personnel and equipment dedicated to the quality assurance program, data collection, data analysis, program administration, enforcement, public education and assistance, on-road testing and other necessary functions as per 40 CFR 51.354;

(2) The definition of light duty truck in the definitions section of the final Pennsylvania I/M regulation must provide for coverage up to 9,000 pounds GVWR;

(3) The final Pennsylvania I/M regulation must require implementation of the final full stringency emission standards at the beginning of the second test cycle so that the state can obtain the full emission reduction program credit prior to the first program evaluation date;

(4) The final Pennsylvania I/M regulation must require a real-time data link between the state or contractor and each emission inspection station as per 40 CFR 51.358(b)(2);

(5) The final I/M SIP submittal must provide quality control requirements for one-mode ASM (or two-mode ASM if the Commonwealth opts for it);

(6) The Pennsylvania I/M regulation must *only* allow the Commonwealth or a single contractor to issue waivers as per 40 CFR 51.360(c)(1);

(7) The final I/M SIP submittal must include the RFP, or other legally binding document, which adequately addresses how the private vendor selected to perform motorist compliance enforcement responsibilities for the Commonwealth's program will comply with the requirements as per 40 CFR 51.362;

(8) The final I/M SIP submittal must include the RFP that adequately addresses how the private vendor will comply with 40 CFR 51.363, a procedures manual which adequately addresses the quality assurance program and a requirement that annual auditing of the quality assurance auditors will occur as per 40 CFR 51.363(d)(2);

(9) The final I/M SIP submittal must include provisions to maintain records of all warnings, civil fines, suspensions, revocations, violations and penalties against inspectors and stations, per the requirements of 40 CFR 51.364;

(10) The final I/M SIP submittal must include a RFP, or other legally binding document, which adequately addresses how the private vendor selected by the Commonwealth to perform data collection and data analysis and reporting will comply with all the requirements of 40 CFR 51.365 and 51.366;

(11) The final Pennsylvania I/M regulation must require that emissions inspectors complete a refresher training course or pass a comprehensive skill examination prior to being recertified and the final SIP revisions must include a commitment that the Commonwealth will monitor and evaluate the inspector training program delivery, per the requirements of 40 CFR 51.367;

(12) The final I/M SIP submittal must include a RFP, or other legally binding document, which adequately addresses how the Commonwealth's selected contractor will comply with the public information requirements of 40 CFR 51.368;

(13) The Pennsylvania I/M regulation must include provisions that meet the requirements of 40 CFR 51.368(a)and 51.369(b) for a repair facility performance monitoring program plan and for providing the motorist with diagnostic information based on the particular portions of the test that were failed; and

(14) The final I/M SIP submittal must contain sufficient information to adequately address the on-road test program resource allocations, methods of analyzing and reporting the results of the on-road testing and information on staffing requirements for both the Commonwealth and the private vendor for the on-road testing program.

[FR Doc. 97–1846 Filed 1–27–97; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 20, 22, 24, 80, and 90

[GEN Docket No. 93–252, FCC 96–473]

Implementation of Sections 3(n) and 332 of the Communications Act Regarding Regulatory Treatment of Mobile Services

AGENCY: Federal Communications Commission.

ACTION: Final rule, petitions for reconsideration.

SUMMARY: This *Order* on partial reconsideration of the *Second Report and Order* implementing Sections 3(n) and 332 of the Communications Act of 1934 denies two petitions for reconsideration concerning the right of cellular resellers to interconnect their switching facilities with those of facilities-based cellular carriers, the Commission's authority to defer decision on these matters to a separate proceeding, and interim relief with respect to the reseller switch issue. The action is taken to resolve these petitions.

EFFECTIVE DATE: January 28, 1997.

FOR FURTHER INFORMATION CONTACT: Jane Phillips, (202) 418–1310, Policy Division, Wireless Telecommunications Bureau.

SUPPLEMENTARY INFORMATION: This is a synopsis of the *Memorandum Opinion and Order on Partial Reconsideration of Second Report and Order* in GN Docket No. 93–252, FCC 96–473, adopted December 11, 1996, and released December 20, 1996. The complete text of this Memorandum Opinion and Order is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, N.W., Washington, D.C., and also may be purchased from the Commission's copy contractor, International Transcription Service, at (202) 857–3800, 2100 M Street, N.W., Suite 140, Washington, D.C. 20037.

Synopsis of the Memorandum Opinion and Order

1. In the *CMRS Second Report and Order* (59 FR 18493, April 19, 1994), the Commission determined that it did not have a sufficient record to consider adequately the circumstances in which CMRS providers may be required to provide interconnection to other carriers, including resellers. Recognizing the conflicting claims of affected parties, the complexity of the issues relating to interconnection, and the need to develop a more thorough record on those issues, the Commission

deferred consideration of such issues and committed to begin a new rulemaking proceeding to examine them in depth.

2. Petitioners challenge this decision. One argues that Section 6002(d)(3)(C) of the Budget Act requires the Commission to promulgate regulations governing CMRS-to-CMRS interconnection no later than August 10, 1994. Both request that questions concerning the right of cellular resellers to interconnect their own switches to the facilities of licensed cellular carriers and their right to obtain such interconnection under reasonable terms and conditions be resolved on reconsideration, rather than deferred for resolution in other proceedings. They argue that resellers' interconnection rights must be determined under Section 201 of the Act, and that cellular resellers satisfy criteria established under Section 201 to justify an order for interconnection, i.e., that the request be from a common carrier, and that the request be ''necessary or desirable to serve the public interest.''

3. The *Order* rejects the contention that the Budget Act requires the Commission to adopt rules mandating CMRS-to-CMRS interconnection by August 10, 1994. It states further that the express language of the statute undercuts the Petitioners' claim that CMRS providers have an unqualified right to interconnect with CMRS providers. Section 332(c)(1)(B) provides that the Commission act ''upon reasonable request'' and states further that nothing in that section ''shall be construed as a limitation or expansion of the Commission's authority to order interconnection pursuant to [Section 201 of] the Act.'' Under Section 201, the Commission is authorized to grant requests for interconnection where, ''after opportunity for hearing, [it finds] such action necessary or desirable in the public interest.'' The Order points out that nothing in this language gives anyone an absolute right to interconnection. It concludes therefrom that, even if the Commission were required to adopt rules to implement Section 332(c)(1)(B) with respect to CMRS-to-CMRS interconnection, those rules would not have to mandate such interconnection in all cases.

4. The *Order* also states that the Commission's decision in the *CMRS Second Report and Order* to review the public interest aspects of CMRS-to-CMRS interconnection in a separate proceeding is not only consistent with the language of Sections 332 and 201, but also is wholly in accord with its responsibility and authority to structure and conduct proceedings efficiently. The *Order* notes that the Commission initiated a comprehensive examination of interconnection less than four months after releasing the *CMRS Second Report and Order*, and that it later issued a *Second Notice of Proposed Rulemaking* (59 FR 37734, July 25, 1994) in the same docket, examining a broad range of issues concerning CMRS interconnection and CMRS resale, including the reseller switch issue. The *Order* denies the request for interim relief implementing the reseller switch proposal. The *Order* notes that, during the period in which the Commission is developing broad interconnection policies in these proceedings, it has explicitly provided resellers (and others) the opportunity to file fact-specific complaints concerning CMRS-to-CMRS interconnection disputes, should such disputes arise.

Ordering Clauses

5. Accordingly, it is ordered, that the Petition for Reconsideration of the *Second Report and Order*, Implementation of Sections 3(n) and 332 of the Communications Act, Regulatory Treatment of Mobile Services, GN Docket No. 93–252, filed jointly by Cellular Service, Inc., and ComTech, Inc., and that portion of the Petition for Reconsideration filed by the National Wireless Resellers Association that relates to the right of cellular resellers to interconnect with facilities-based cellular carriers, are denied. This action is taken pursuant to Sections 4(i), 4(j), 7(a), 201, 303(c), 303(f), 303(g), 303(r), 332(c) and 332(d) of the Communications Act of 1934, 47 U.S.C. §§ 154(i), 154(j), 157(a), 201, 303(c), 303(f), 303(g), 303(r), 332(c), 332(d).

List of Subjects

47 CFR Part 20

Commercial mobile radio services, Radio.

47 CFR Part 22

Public mobile services, Radio.

47 CFR Part 24

Personal communications services, Radio.

47 CFR Part 80

Maritime services, Radio.

47 CFR Part 90

Private land mobile services, Radio.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 97–2008 Filed 1–27–97; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 961114317–7008–02; I.D. 102596B]

RIN 0648–XX70

Atlantic Surf Clam and Ocean Quahog Fisheries; 1997 Fishing Quotas

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

ACTION: Final 1997 fishing quotas for surf clams and ocean quahogs.

SUMMARY: NMFS issues final quotas for the Atlantic surf clam and ocean quahog fisheries for 1997. These quotas are selected from a range defined as optimum yield (OY) for each fishery. The intent of this action is to establish allowable harvests of surf clams and ocean quahogs from the exclusive economic zone in 1997.

EFFECTIVE DATE: January 1, 1997, through December 31, 1997.

ADDRESSES: Copies of the Mid-Atlantic Fishery Management Council's analysis and recommendations and environmental assessment are available from David R. Keifer, Executive Director, Mid-Atlantic Fishery Management Council, Room 2115, Federal Building, 300 South New Street, Dover, DE 19901–6790.

FOR FURTHER INFORMATION CONTACT: Myles Raizin, Fishery Policy Analyst, 508–281–9104.

SUPPLEMENTARY INFORMATION: The Fishery Management Plan for the Atlantic Surf Clam and Ocean Quahog Fisheries (FMP) directs NMFS, acting on behalf of the Secretary of Commerce (Secretary) and in consultation with the Mid-Atlantic Fishery Management Council (Council), to specify quotas for surf clams and ocean quahogs on an annual basis from a range defined by the FMP as the OY for each fishery. For surf clams, the quota must fall within the OY range of 1.85 million bushels (mil. bu.) (652,000 hectoliters (hL)) to 3.4 mil. bu. (1.2 mil. hL). For ocean quahogs, the quota must fall within the OY range of 4 mil. bu. (1.4 mil. hL) to 6 mil. bu. (2.1 mil. hL). Further, the Council follows the policy that the quotas selected should allow fishing to continue at that level for at least 10 years for surf clams and 30 years for ocean quahogs. While staying within these constraints, the quotas are also to be set at a level that

would meet the estimated annual demand.

Amendment 9 to the FMP (61 FR 50807, September 27, 1996) revised overfishing definitions for surf clams and ocean quahogs. Overfishing was previously defined for both species in terms of actual yield levels. That is, overfishing was defined as harvests in excess of the quota levels specified. However, that definition did not incorporate biological considerations to protect against overfishing. The overfishing definitions contained in Amendment 9 are fishing mortality rates of $F_{20\%}$ (20 percent of maximum spawning potential (MSP)) for surf clams and $F_{20\%}$ (25 percent of MSP) for ocean quahogs. These levels equate to annual exploitation rates of 15.3 percent for surf clams and 4.3 percent for ocean quahogs.

This action establishes a surf clam quota of 2.565 mil. bu. (1.36 mil. hL) and an ocean quahog quota of 4.317 mil. bu. (2.292 mil. hL) for the 1997 fisheries. The 1997 surf clam quota is identical to the 1996 quota, and the 1997 ocean quahog quota represents a 3-percent reduction from the 1996 quota. These quotas established by NMFS on behalf of the Secretary are unchanged from the proposed quotas published in the Federal Register on November 26, 1996 (61 FR 60074). The proposed rule contains details concerning these quota recommendations that are not repeated here.

FINAL 1997 SURF CLAM/OCEAN QUAHOG QUOTAS

Fishery	1996 final quotas (mil. bu.)	1996 final quotas (mil. hL)
Surf clam	2,565,000	1,362,000
Ocean quahog ..	4,317,000	2,292,000

Comments

No comments were received during the public comment period.

Classification

This action is authorized by 50 CFR part 648 and is exempt from review under E.O. 12866.

The Assistant General Counsel for Legislation and Regulation, Department of Commerce, certified to the Chief Counsel for Advocacy of the Small Business Administration at the proposed rule stage that these fishing quotas would not have a significant economic impact on a substantial number of small entities. As a result, a regulatory flexibility analysis was not prepared. Details concerning this certification were provided in the proposed rule and are not repeated here.

Pursuant to 5 U.S.C. 553(d)(3), the Assistant Administrator for Fisheries, NOAA, finds for good cause that a delay in the effective date is unnecessary because this rule does not impose a burden on the fishery, as it only establishes year-long quotas to be used for the sole purpose of closing the fishery when the quotas are reached. Therefore, it is unnecessary to delay this rule's effectiveness for 30 days.

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

Dated: January 16, 1997.

Rolland A. Schmitten,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 97–2046 Filed 1–23–97; 3:37 pm]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 62, No. 18
Tuesday, January 28, 1997

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

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 882

[Docket No. 93N–0027]

Neurological Devices; Effective Date of Requirement for Premarket Approval of Cranial Electrotherapy Stimulators

AGENCY: Food and Drug Administration, HHS.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a proposed rule to revoke a regulation requiring that a premarket approval application (PMA) or a notice of completion of a product development protocol (PDP) be submitted for the cranial electrotherapy stimulator (CES), a medical device. This action is being taken in order that FDA may reconsider whether the CES device may be reclassified from class III (premarket approval) into class II (special controls) or class I (general controls).

DATES: Written comments by February 12, 1997. FDA intends that any final rule that may issue based on this proposal become effective on the date of its publication in the Federal Register.

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

FOR FURTHER INFORMATION CONTACT: Joseph M. Sheehan, Center for Devices and Radiological Health (HFZ–215), Food and Drug Administration, 1350 Piccard Dr., Rockville, MD 20850, 301–827–2974.

SUPPLEMENTARY INFORMATION:

I. Background

In the Federal Register of September 4, 1979 (44 FR 51770), FDA published a final rule classifying the CES device into class III (premarket approval). This regulation was codified in § 882.5800 (21 CFR 882.5800). Section 882.5800 applies to: (1) Any CES that was in commercial distribution before May 28, 1976, the date of enactment of the Medical Device Amendments of 1976 (the amendments) (Pub L. 94–295); and (2) any device that FDA has found to be substantially equivalent to the CES and that has been marketed on or after May 28, 1976.

In the Federal Register of August 31, 1993 (58 FR 45865), FDA published a proposed rule to require the filing of a PMA or notice of completion of a PDP for the CES, under section 515(b) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360e(b)). In accordance with section 515(b)(2)(A) of the act (21 U.S.C. 360c(b)(2)(A)), FDA included in the preamble to the proposal the agency's proposed findings with respect to the degree of risk of illness or injury designed to be eliminated or reduced by requiring the device to meet the premarket approval requirements of the act and the benefits to the public from the use of the device (58 FR 45865 at 45867). The primary concern expressed in the preamble to the proposed rule was the varying and contradictory results in investigations concerning the effectiveness of the CES device. FDA's conclusion at that time was that: ''FDA believes that CES' should undergo premarket approval to establish effectiveness for any intended use and to determine whether the benefits to the patient are sufficient to outweigh any risk'' (58 FR 45865 at 45868).

The August 31, 1993, proposed rule also provided an opportunity for interested persons to submit comments on the proposed rule and the agency's proposed findings. Under section 515(b)(2)(B) of the act, FDA also provided an opportunity for interested persons to request a change in the classification of the device based on new information relevant to its classification. Any petition requesting a change in the classification of the CES was required to be submitted by September 15, 1993. The comment period closed on November 1, 1993.

FDA received two petitions requesting a change in the classification of the device from class III to class II. FDA reviewed the petitions and found them to be deficient based on a lack of new information relevant to the device's classification. Each petitioner was sent a deficiency letter dated February 4, 1994, requesting a response to the reported deficiencies. Neither petitioner responded to the letter. Accordingly, the petitioners were notified on August 23, 1994, that the petitions were deemed closed.

In the Federal Register of August 24, 1995 (60 FR 43967), FDA issued a final rule to require the submission of a PMA or notice of completion of a PDP for the CES device. In that Federal Register document, FDA also published a final order denying the petitions to reclassify the device. One PMA was submitted and filed for the device. FDA has since become aware of additional information relevant to the possible reclassification of the CES device from class III to class II or class I. Accordingly, FDA is proposing to revoke the August 24, 1995, final rule. Revocation of the final rule is necessary if FDA is to pursue possible reclassification of the device without a break in commercial distribution. This is because, under the August 24, 1995, final rule, devices which are not subject to an approved PMA on or before January 28, 1997, are deemed adulterated.

FDA believes that it is more appropriate to invoke the procedures under section 515(i) of the act for this device. Under that section, FDA would issue an order requiring manufacturers of CES devices to submit to FDA information concerning the safety and effectiveness of the device. FDA would then review the information submitted in response to this order and any other information available to FDA and determine whether to reclassify the device into class II or class I. If FDA were to decide not to reclassify the device, it would publish a new proposed rule under section 515(b) of the act to require the submission of PMA's.

II. Comments

Comments on the proposed revocation must be submitted by February 12, 1997. In accordance with 10.40(b)(2) (21 CFR 10.40(b)(2)). FDA has decided that there is good cause to shorten the usual comment period for the proposed revocation of the August 24, 1995, final rule for several reasons.

First, a longer comment period on the revocation is impracticable. In accordance with section 515(d)(1)(B)(i) of the act, the agency's decision to either approve or deny premarket approval

applications for this device must be issued no later than January 28, 1997. As long as the August 24, 1995, final rule remains in effect, devices not subject to approved premarket approval applications on that date would be adulterated under section 501(f)(1) of the act (21 U.S.C. 351(f)(1)). It is not possible for the agency to propose revocation of the August 24, 1995, final rule, offer a lengthy opportunity for comment on the proposed revocation, and issue a final revocation by January 28, 1997. Therefore, the agency has concluded that it is impracticable to offer a comment period of longer than 15 days on the proposed revocation of the August 24, 1995, final rule. Even with a shortened comment period, the agency will not be able to issue a final revocation prior to that date. Accordingly, the agency intends to exercise its enforcement discretion not to take regulatory action against the device during the short time it expects it will take to complete this rulemaking.

Second, a longer comment period would be contrary to the public interest. For the reasons discussed above, the agency has concluded that it is more appropriate to invoke the procedures in section 515(i) of the act for this device. It is possible that, as a result of those procedures, the device may be reclassified and not subject to premarket approval at all. A lengthy comment period would prevent the revocation from becoming effective in time to ensure continuity of regulation. Moreover, removal of the device from the market prior to full consideration of the information that would be obtained under section 515(i) of the act would cause great disruption to both users and manufacturers of the device and would have financial consequences. Therefore, the agency has concluded that it is in the public interest to shorten the comment period on this proposed revocation to 15 days.

Finally, the issues presented by the proposed revocation are, essentially, the same issues presented by the proposed rule to require premarket approval applications for this device. The agency received no comments expressing urgency that the device be subjected to premarket approval requirements. Further, the original classification panel recommended that the CES be considered a low priority for requiring premarket approval (43 FR 55640: November 28, 1978). FDA believes, therefore, that the shorter comment period will not deprive interested persons of the opportunity to express their views on the proposed revocation.

For the reasons discussed above, a comment period of longer than 15 days would be impracticable and contrary to the public interest. Therefore, FDA concludes that there is good cause for shortening the comment period on the proposed revocation of the August 24, 1995, final rule to 15 days.

III. Environmental Impact

The agency has determined under 21 CFR 25.24(a)(8) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

IV. Analysis of Impacts

FDA has examined the impacts of the proposed rule under Executive Order 12866, and the Regulatory Flexibility Act (5 U.S.C. 601–612). Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity). The agency believes that this proposed rule is consistent with the regulatory philosophy and principles identified in the Executive Order. In addition, the proposed rule is not a significant regulatory action as defined by the Executive Order and so is not subject to review under the Executive Order.

The Regulatory Flexibility Act requires agencies to analyze regulatory options that would minimize any significant impact of a rule on small entities. Because this proposed rule, if finalized, will allow FDA to review information about these devices and determine the least burdensome degree of control needed to provide reasonable assurance of the safety and effectiveness of the CES device, the agency certifies that the proposed rule will not have a significant economic impact on a substantial number of small entities. Therefore, under the Regulatory Flexibility Act, no further analysis is required.

V. Request for Comments

Interested persons may, on or before February 12, 1997 submit to the Dockets Management Branch (address above) written comments regarding this proposal. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 882

Medical devices.

Therefore under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, it is proposed that 21 CFR part 882 be amended as follows:

PART 882—NEUROLOGICAL DEVICES

1. The authority citation for part 882 continues to read as follows:

Authority: Secs. 501, 510, 513, 515, 520, 701 of the Federal Food, Drug and Cosmetic Act (21 U.S.C. 351, 360, 360c, 360e, 360j, 371).

2. Section 882.5800 is amended by revising paragraph (c) to read as follows:

§ 882.5800 Cranial electrotherapy stimulator.

* * * * *

(c) *Date PMA or notice of completion of a PDP is required.* No effective date has been established of the requirement for premarket approval. See § 882.3.

Dated: January 22, 1997.

Joseph A. Levitt,

Deputy Director for Regulations Policy, Center for Devices and Radiological Health.

[FR Doc. 97–1929 Filed 1–27–97; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1 and 301

[REG–209803–95]

RIN 1545–AU08

Magnetic Media Filing Requirements for Information Returns; Hearing Cancellation

AGENCY: Internal Revenue Service, Treasury.

ACTION: Cancellation of notice of public hearing on proposed regulations.

SUMMARY: This document provides notice of cancellation of a public hearing on proposed Income Tax Regulations relating to the requirements for filing information returns on magnetic media or in other machine-readable form under section 6011(e) of the Internal Revenue Code.

DATES: The public hearing originally scheduled for Wednesday, February 5, 1997, beginning at 10:00 a.m. is cancelled.

FOR FURTHER INFORMATION CONTACT: Mike Slaughter of the Regulations Unit,

Assistant Chief Counsel (Corporate), (202) 622–7190, (not a toll-free number).

SUPPLEMENTARY INFORMATION: The subject of the public hearing is proposed regulations under section 6011(e) of the Internal Revenue Code. A notice of proposed rulemaking and notice of public hearing appearing in the Federal Register on Thursday, October 10, 1996 (61 FR 53161), announced that the public hearing on proposed regulations under section 6011 of the Internal Revenue Code would be held on Wednesday, February 5, 1997, beginning at 10:00 a.m., in the Commissioner's Conference Room, Room 3313, Internal Revenue Building, 1111 Constitution Avenue, NW. Washington, D.C.

The public hearing scheduled for Wednesday, February 5, 1997, is cancelled.

Cynthia E. Grigsby,

Chief, Regulations Unit Assistant Chief Counsel (Corporate).

[FR Doc. 97–2069 Filed 1–27–97; 8:45 am]

BILLING CODE 4830–01–U

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

29 CFR Part 2704

Implementation of Equal Access to Justice Act in Commission Proceedings

AGENCY: Federal Mine Safety and Health Review Commission.

ACTION: Notice of proposed rulemaking; extension of comment period.

SUMMARY: The Federal Mine Safety and Health Review Commission previously published, on December 19, 1996 (61 FR 66961), proposed revisions to its rules providing for the award of attorneys' fees and other expenses under the Equal Access to Justice Act, 5 U.S.C. 504. The period for comments to the proposed rules was set to end on January 21, 1997. A request was made that the comment period be extended and the Commission has agreed to do so.

DATES: Comments should be received by February 3, 1997.

ADDRESSES: Comments should be sent to Richard L. Baker, Executive Director, Federal Mine Safety and Health Review Commission, 1730 K Street, NW, 6th Floor, Washington, DC 20006. For the convenience of persons who will be reviewing the comments, it is requested that commenters provide an original and three copies of their comments.

FOR FURTHER INFORMATION CONTACT: Norman M. Gleichman, General Counsel, Office of the General Counsel, 1730 K Street, NW, 6th Floor, Washington, DC 20006, telephone: 202–653–5610 (202–566–2673 for TDD Relay). These are not toll-free numbers.

Issued this 22nd day of January, 1997 at Washington, D.C.

Mary Lu Jordan,

Chairman, Federal Mine Safety and Health Review Commission.

[FR Doc. 97–1945 Filed 1–27–97; 8:45 am]

BILLING CODE 6735–01–P–M

DEPARTMENT OF DEFENSE

Department of the Air Force

32 CFR Part 806b

[Air Force Reg. 12–35]

Air Force Privacy Act Program

AGENCY: Department of the Air Force, DOD.

ACTION: Proposed rule.

SUMMARY: The Department of the Air Force proposes to amend its Privacy Act regulations to add an exemption for a system of records identified as F111 AF JA B, Courts-Martial and Article 15 Records.

DATES: Comments must be received on or before March 31, 1997, to be considered by this agency.

ADDRESSES: Send comments to the Air Force Access Programs Manager, HQ USAF/SCMI, 1250 Air Force Pentagon, Washington, DC 20330–1250.

FOR FURTHER INFORMATION CONTACT: Ms. Anne Rollins at (703) 697–8674 or DSN 227–8674.

SUPPLEMENTARY INFORMATION: Executive Order 12866. It has been determined that this Privacy Act proposed rule for the Department of Defense does not constitute 'significant regulatory action'. Analysis of the rule indicates that it does not have an annual effect on the economy of $100 million or more; does not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; does not materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; does not raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in Executive Order 12866.

Regulatory Flexibility Act. It has been determined that this Privacy Act proposed rule for the Department of Defense does not have significant economic impact on a substantial number of small entities because it is concerned only with the administration of Privacy Act systems of records within the Department of Defense.

Paperwork Reduction Act. It has been determined that this Privacy Act proposed rule for the Department of Defense imposes no information requirements beyond the Department of Defense and that the information collected within the Department of Defense is necessary and consistent with 5 U.S.C. 552a, known as the Privacy Act, and 44 U.S.C. Chapter 35.

List of subjects in 32 CFR part 806b

Privacy.

Accordingly, 32 CFR part 806b is proposed to be amended as follows:

PART 806b – AIR FORCE PRIVACY ACT PROGRAM

1. The authority citation for 32 CFR Part 806b continues to read as follows:

Authority: Pub. L. 93–579, 88 Stat 1896 (5 U.S.C. 552a).

2. Appendix C to Part 806b is proposed to be amended by adding paragraph (b)(20) as follows:

Appendix C to Part 806b-General and specific exemptions.

* * * * *

b. *Specific exemptions.* * * *

(20) *System identifier and name:* F111 AF JA B, Courts-Martial and Article 15 Records.

(i) *Exemption.* Portions of this system of records may be exempt pursuant to 5 U.S.C. 552a(j)(2) from the following subsection of 5 U.S.C. 552a(c)(3), (c)(4), (d), (e)(1), (e)(2), (e)(3), (e)(4)(G), (H) and (I), (e)(5), (e)(8), (f), and (g).

(ii) *Exemption.* Portions of this system of records may be exempt pursuant to 5 U.S.C. 552a(k)(2) from the following subsection of 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H) and (I), and (f).

(iii) *Authority:* 5 U.S.C. 552a(j)(2) and (k)(2).

(iv) *Reason:* (1)From subsection (c)(3) because the release of the disclosure accounting, for disclosures pursuant to the routine uses published for this system, would permit the subject of a criminal investigation or matter under investigation to obtain valuable information concerning the nature of that investigation which will present a serious impediment to law enforcement.

(2) From subsection (c)(4) because an exemption is being claimed for subsection (d), this subsection will not be applicable.

(3) From subsection (d) because access to the records contained in this system would inform the subject of a criminal investigation of the existence of that investigation, provide the subject of the investigation with information that might enable him to avoid detection or apprehension, and would present a serious impediment to law enforcement.

(4) From subsection (e)(1) because in the course of criminal investigations information is often obtained concerning the violation of laws or civil obligations of others not relating to an active case or matter. In the interests of effective law enforcement, it is necessary that this information be retained since it can aid in establishing patterns of activity and provide valuable leads for other agencies and future cases that may be brought.

(5) From subsection (e)(2) because in a criminal investigation the requirement that information be collected to the greatest extent possible from the subject individual would present a serious impediment to law enforcement in that the subject of the investigation would be placed on notice of the existence of the investigation and would therefore be able to avoid detection.

(6) From subsection (e)(3) because the requirement that individuals supplying information be provided with a form stating the requirements of subsection (e)(3) would constitute a serious impediment to law enforcement in that it could compromise the existence of a confidential investigation, reveal the identity of confidential sources of information and endanger the life and physical safety of confidential informants.

(7) From subsections (e)(4)(G) and (H) because this system of records is exempt from individual access pursuant to subsections (j) and (k) of the Privacy Act of 1974.

(8) From subsection (e)(4)(I) because the identity of specific sources must be withheld in order to protect the confidentiality of the sources of criminal and other law enforcement information. This exemption is further necessary to protect the privacy and physical safety of witnesses and informants.

(9) From subsection (e)(5) because in the collection of information for law enforcement purposes it is impossible to determine in advance what information is accurate, relevant, timely, and complete. With the passage of time, seemingly irrelevant or untimely information may acquire new significance as further investigation brings new details to light and the accuracy of such information can only be determined in a court of law. The restrictions of subsection (e)(5) would restrict the ability of trained investigators and intelligence analysts to exercise their judgment in reporting on investigations and impede the development of intelligence necessary for effective law enforcement.

(10) From subsection (e)(8) because the individual notice requirements of subsection (e)(8) could present a serious impediment to law enforcement as this could interfere with the ability to issue search authorizations and could reveal investigative techniques and procedures.

(11) From subsection (f) because this system of records has been exempted from the access provisions of subsection (d).

(12) From subsection (g) because this system of records is compiled for law enforcement purposes and has been exempted from the access provisions of subsections (d) and (f).

(13) Consistent with the legislative purpose of the Privacy Act of 1974, the Department of the Air Force will grant access to nonexempt material in the records being maintained. Disclosure will be governed by the Department of the Air Force's Privacy Regulation, but will be limited to the extent that the identity of confidential sources will not be compromised; subjects of an investigation of an actual or potential criminal violation will not be alerted to the investigation; the physical safety of witnesses, informants and law enforcement personnel will not be endangered, the privacy of third parties will not be violated; and that the disclosure would not otherwise impede effective law enforcement. Whenever possible, information of the above nature will be deleted from the requested documents and the balance made available. The controlling principle behind this limited access is to allow disclosures except those indicated above. The decisions to release information from these systems will be made on a case-by-case basis.

* * * * *

Dated: January 21, 1997.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense

[FR Doc. 97–1803 Filed 1–27–97; 8:45 am]

BILLING CODE 5000–04–F

Notices

Federal Register
Vol. 62, No. 18
Tuesday, January 28, 1997

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. 96–100–1]

Notice of Request for Extension of a Currently Approved Information Collection

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Approved information collection extension; comment request.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Animal and Plant Health Inspection Service's intention to request an extension of a currently approved information collection in support of current review and revision of the standards for marine mammals in the Animal Welfare Act regulations.

DATES: Comments on this notice must be received by March 31, 1997 to be assured of consideration.

ADDRESSES: Send comments regarding the accuracy of burden estimate, ways to minimize the burden (such as the use of automated collection techniques or other forms of information technology), or any other aspect of this collection of information to: Docket No. 96–100–1, Regulatory Analysis and Development, PPD, APHIS, suite 3C03, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Please send an original and three copies, and state that your comments refer to Docket 96–100–1. Comments received may be inspected at USDA, room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Persons wishing to inspect comments are requested to call ahead on (202) 690–2817 to facilitate entry into the comment reading room.

FOR FURTHER INFORMATION: For information regarding the support of current review and revision of the Animal Welfare Act regulations and standards for marine mammals, contact Dr. Barbara Kohn, Senior Staff Veterinarian, Animal Care, APHIS, 4700 River Road, Unit 84, Riverdale, MD 20737–1234, (301) 734–7833. For copies of more detailed information on the information collection, contact Ms. Cheryl Jenkins, APHIS' Information Collection Coordinator, at (301) 734–5360.

SUPPLEMENTARY INFORMATION:

Title: Animal Welfare.

OMB Number: 0579–0115.

Expiration Date of Approval: March 31, 1998.

Type of Request: Extension of a currently approved information collection.

Abstract: The Animal Welfare Act (the Act) regulations and standards have been promulgated to promote and ensure the humane care and treatment of regulated animals under the Act. Title 9, part 3, subpart E, of the Code of Federal Regulations (CFR) addresses specific care and handling regulations for marine mammals. The Animal and Plant Health Inspection Service (APHIS) initiated review and revision of subpart E through use of negotiated rulemaking. Consensus language for §§ 3.104(b) through 3.104(f) was not agreed upon during the negotiated rulemaking process. In order to develop revised regulatory language concerning space requirements and supporting economic analysis, APHIS needs accurate, up-to-date information on the current space provided at all regulated marine mammal facilities. It is proposed that APHIS inspectors collect enclosure dimensions and inventory marine mammal facilities at that time to aid the Agency in developing a proposed rule for space requirements and the supporting economic analysis.

The above information collection does not mandate the use of any official government form or place any additional burden on the public.

The information collection of 9 CFR part 3, subpart E, is necessary to enforce regulations intended to ensure the humane care and treatment of marine mammals.

The purpose of this notice is to solicit comments from the public (as well as affected agencies) concerning our information collection. We need this outside input to help us:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of our estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, through use, as appropriate, of automated, electronic, mechanical, and other collection technologies, e.g., permitting electronic submission of responses.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 0.5 hours per response.

Respondents: USDA licensed/registered marine mammal facility representatives.

Estimated Number of Respondents: 135.

Estimated Numbers of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 68 hours.

All responses to this notice will be summarized and included in the request for OMB approval of the information collection.

Done in Washington, DC, this 22nd day of January 1997.

Donald W. Luchsinger,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 97–2039 Filed 1–27–97; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 867]

Expansion of Foreign-Trade Zone 105 Providence/Warwick, Rhode Island

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, an application from the State of Rhode Island Department of

Economic Development (now the Rhode Island Economic Development Corporation), grantee of Foreign-Trade Zone 105, for authority to expand Foreign-Trade Zone 105 to include a site at the Airport Business Center in Warwick, Rhode Island, was filed by the Board on November 2, 1995 (FTZ Docket 69–95, 60 FR 57216, 11/14/95); and,

Whereas, notice inviting public comment was given in Federal Register and the application has been processed pursuant to the FTZ Act and the Board's regulations; and,

Whereas, the Board adopts the findings and recommendations of the examiner's report, and finds that the requirements of the FTZ Act and Board's regulations are satisfied, and that the proposal is in the public interest;

Now, Therefore, the Board hereby orders:

The application to expand FTZ 105 is approved, subject to the Act and the Board's regulations, including Section 400.28.

Signed at Washington, DC, this 17th day of January 1997.

Robert S. LaRussa,

Acting Assistant Secretary of Commerce for Import Administration, Alternate Chairman Foreign-Trade Zones Board.

Attest:

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 97–2051 Filed 1–27–97; 8:45 am]

BILLING CODE 3510–DS–P

[Order No. 866]

Expansion of Foreign-Trade Zone 94, Laredo, Texas

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, an application from the City of Laredo, Texas, grantee of Foreign-Trade Zone 94, for authority to expand Foreign-Trade Zone 94 to include an additional site in the Laredo area, was filed by the Board on February 21, 1996 (FTZ Docket 14–96, 61 FR 8237, 3/4/96); and,

Whereas, notice inviting public comment was given in Federal Register and the application has been processed pursuant to the FTZ Act and the Board's regulations; and,

Whereas, the Board adopts the findings and recommendations of the examiner's report, and finds that the requirements of the FTZ Act and Board's regulations are satisfied, and that the proposal is in the public interest;

Now, Therefore, the Board hereby orders:

The application to expand FTZ 94 is approved, subject to the Act and the Board's regulations, including Section 400.28, and subject to the standard 2,000-acre activation limit.

Signed at Washington, DC, this 17th day of January 1997.

Robert S. LaRussa,

Acting Assistant Secretary of Commerce for Import Administration; Alternate Chairman, Foreign-Trade Zones Board.

Attest:

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 97–2050 Filed 1–27–97; 8:45 am]

BILLING CODE 3510–DS–P

International Trade Administration

[A–427–801, A–428–801, A–475–801, A–588–804, A–485–801, A–559–801, A–401–801, A–412–801]

Antifriction Bearings (Other Than Tapered Roller Bearings) From France, Germany, Italy, Japan, Romania, Singapore, Sweden, and the United Kingdom; Extension of Time Limit of Antidumping Duty Administrative Reviews

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of extension of time limit of antidumping duty administrative reviews.

SUMMARY: The Department of Commerce (the Department) is extending the time limit for the preliminary results in the administrative reviews of the antidumping duty orders on antifriction bearing (other than tapered roller bearings) from France, Germany, Italy, Japan, Romania, Singapore, Sweden, and the United Kingdom, covering the period May 1, 1995, through April 30, 1996. The Department has determined that it is not practicable to complete these reviews within the time limits mandated by Section 751(a)(3)(A) of the Tariff Act of 1930 (the Tariff Act), as amended.

EFFECTIVE DATE: January 28, 1997.

FOR FURTHER INFORMATION CONTACT: Kris Campbell or Richard Rimlinger, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C. 20230, telephone: (202) 482–4733.

SUPPLEMENTARY INFORMATION

The Applicable Statute

Unless otherwise indicated, all citations to the Tariff Act are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act by the Uruguay Round Agreements Act.

Background

On June 20, 1996, the Department initiated administrative reviews of the antidumping duty orders on antifriction bearings (other than tapered roller bearings) and parts thereof (AFBs) from France, Germany, Italy, Japan, Romania, Singapore, Sweden, and the United Kingdom, covering the period May 1, 1995, through April 30, 1996 (61 FR 31506). In our notice of initiation we stated that we intended to issue the preliminary results of these reviews not later than January 31, 1997.

Postponement of Preliminary Results of Review

Section 751(a)(3)(A) of the Tariff Act requires the Department to issue preliminary results within 245 days after the last day of the anniversary month of an order for which a review is requested. However, if it is not practicable to issue the preliminary results in 245 days, section 751(a)(3)(A) allows the Department to extend this time period to 365 days.

We determine that it is not practicable to issue the preliminary results of these reviews within 245 days because the reviews involve collecting and analyzing data for a large volume of U.S. sales. In addition, we must address complicated issues related to cost of production, level of trade, expense allocations and duty absorption. See Memorandum from Deputy Assistant Secretary for AD/CVD Enforcement to Acting Assistant Secretary for Import Administration, January 14, 1997, on file in Room B–099 at the Department.

Accordingly, we are extending the deadline for issuing the preliminary results of these reviews. We intend to issue the preliminary results of these reviews by March 31, 1997. We will issue the final results of reviews within 120 days after publication of the preliminary results. This extension is in accordance with section 751(a)(3)(A) of the Tariff Act.

Dated: January 20, 1997.

Barbara R. Stafford,

Deputy Assistant Secretary for AD/CVD Enforcement.

[FR Doc. 97–2052 Filed 1–27–97; 8:45 am]

BILLING CODE 3510–DS–P

A–533–810

Stainless Steel Bar From India: Final Results of New Shipper Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: January 28, 1997.

FOR FURTHER INFORMATION CONTACT: Vincent Kane or Todd Hansen, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone (202) 482–2815 or 482–1276, respectively.

SUPPLEMENTARY INFORMATION:

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (''the Act'') by the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all citations to the Department's regulations are to the current regulations, as amended by the interim regulations published in the Federal Register on May 11, 1995 (60 FR 25130).

Summary

On October 22, 1996, the Department of Commerce (the Department) published the preliminary results of the new shipper antidumping duty administrative review of the antidumping duty order on stainless steel bar from India (61 FR 54774). The review covers two manufacturers/exporters of the subject merchandise for the period February 1, 1995 through July 31, 1995. These manufacturers/exporters are Akai Asian Ltd. (''Akai'') and Viraj Impoexpo Ltd. (''Viraj''). The Department gave interested parties an opportunity to comment on our preliminary results. Based on our analysis of the comments received, we have found no basis to modify our preliminary results. therefore, we have adopted the preliminary results of this review to be the final results, as well.

Scope of the Review

For purposes of this administrative review, the term ''stainless steel bar'' means articles of stainless steel in straight lengths that have been either hot-rolled, forged, turned, cold-drawn, cold-rolled or otherwise cold-finished, or ground, having a uniform solid cross section along their whole length in the shape of circles, segments of circles, ovals, rectangles (including squares), triangles, hexagons, octagons, or other convex polygons. Stainless steel bar includes cold-finished stainless steel bars that are turned or ground in straight lengths, whether produced from hot-rolled bar or from straightened and cut rod or wire, and reinforcing bars that have indentations, ribs, grooves, or other deformations produced during the rolling process.

Except as specified above, the term does not include stainless steel semi-finished products, cut length flat-rolled products (*i.e.*, cut length rolled products which if less than 4.75 mm in thickness have a width measuring at least 10 times the thickness, or if 4.75 mm or more in thickness have a width which exceeds 150 mm and measures at least twice the thickness), wire (*i.e.*, cold-formed products in coils, of any uniform solid cross section along their whole length, which do not conform to the definition of flat-rolled products), and angles, shapes and sections.

The stainless steel bar subject to this administrative review is currently classifiable under subheadings 7222.11.0005, 7222.11.0050, 7222.19.0005, 7222.19.0050, 7222.20.0005, 7222.20,0045, 7222.20.0075, and 7222.30.0000 of the Harmonized Tariff Schedule of the United States (''HTSUS''). Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of this order is dispositive.

Interested Party Comments

In accordance with 19 CFR 353.38, we gave interested parties an opportunity to comment. We received written comments from petitioners and both responding companies.

Comment 1

Petitioners claim that Viraj had only one small shipment during the POR which, in petitioners' view, was intended to allow Viraj's U.S. customer to test or evaluate the merchandise. According to petitioners, the balance of the order was not to be shipped until the U.S. customer indicated its approval of the initial shipment. Petitioners claim that, in view of the circumstances surrounding this first shipment, it is clear that it was not a normal commercial shipment. Therefore, because Viraj made no other shipments during the POR, it does not qualify as a new shipper.

Viraj claims that, because it was a new producer, U.S. buyers were not familiar with its product. The first small shipment was made at the customer's request to enable it to market the goods in the United States. Viraj also states that during verification, no evidence was found to indicate that the balance of the order was in any way contingent on the U.S. customer's acceptance of the initial shipment.

DOC Position

While the purchase order did specify an initial shipment of limited quantity, neither the purchase order nor the confirmation contained any language indicating that the balance of the order was contingent on the acceptability of the first shipment. An examination of correspondence files during verification also revealed nothing that would indicate such a contingency. Therefore, we view this shipment as a normal shipment occurring during the POR pursuant to a sale made during the POR.

Comment 2

Petitioners claim that Viraj did not have a sale during the POR because a substantial quantity of the goods remained unshipped long after the delivery date specified in the confirmation order. Petitioners maintain that Viraj's failure to ship a substantial quantity by the date specified in the confirmation order resulted in a change in the delviery date and, consequently, in the date of sale. They claim that the delivery date was one of the substantive terms of sale as demonstrated by Viraj revising the delivery date at the time it issued the confirmation order to the customer. Petitioners conclude that, because a substantive term of sale was changed, the date of sale must be changed accordingly. Consequently, Viraj no longer has a sale within the POR and the Department has no basis for conducting a review.

Viraj claims that both the purchase of the goods and initial shipment of goods occurred during the POR. It contends that this purchase and initial shipment alone are sufficient for the Department to conduct a new shipper review. Further, a subsequent shipment pursuant to the purchase order was made at the prices specified in the purchase order and confirmation. Thus, the date of sale for that later shipment is also the date of the purchase order and confirmation.

Viraj also notes that it is the Department's long established practice to consider price and quantity as the essential terms of sale. Delivery terms, however, have not been typically viewed as an essential term of sale. Thus, changes in the delivery date should not affect the date of sale.

DOC Position

Viraj accepted and confirmed an order from its U.S. customer during the POR.

The order and confirmation clearly and definitively established the price and quantity of the sale, and we have determined in this case that the date of sale was the date of the order and confirmation. The fact that a change occurred in the delivery date specified in the order confirmation does not mean that the date of sale must also change. We have typically considered delivery terms to be nonessential terms of sale and have not regarded changes in delivery terms as affecting the date of sale. See, *e.g., Final Determination of Sales at Less Than Fair Value: Oil Country Tubular Goods from Argentina* (60 FR 33539, 33542, June 28, 1995). In the present review, nothing in the purchase order or confirmation indicated that special significance should be attached to the delivery terms of the sale. In fact, the purchase order allowed considerable flexibility with respect to the delivery date. Thus, the essential terms of this contract are clearly price and quantity and these remained unchanged from the original order and confirmation. Therefore, we consider the date of sale to be the original order and confirmation date.

We note that a portion of the goods subject to Viraj's sale remained unshipped as of August 30, 1996, the last day of verification. Consequently, this review was based on the goods actually shipped. For these goods, we found that shipments were made pursuant to the essential terms of the sales contract under review. In addition, in its responses to the antidumping questionnaire and three supplemental questionnaires, Viraj provided the Department with complete information on the sale and the shipments made to date pursuant to the sale. Further, the Department verified the responses during on site verification at Viraj's premises in Maharashtra, India. Therefore, although a part of the sales quantity has yet to be shipped, we nonetheless view the sale as a *bona fide* sale, which properly serves as the basis for a new shipper review: the shipments made to date pursuant to the sale support this finding. If, for some reason, the terms and conditions for the unshipped portion of this sale were to change, we would address these changes in a future administrative review, assuming that a review was requested.

Comment 3

Petitioners claim that the third country sale reported by Viraj did not occur during the POR because delivery of the goods pursuant to this sale did not take place until long after the date specified in the order confirmation. Petitioners claim that delivery date is a substantive term of sale and a change in the delivery date changes the date of sale. In this case, the change in delivery date results in a date of sale which falls outside the POR.

DOC Position

We disagree with petitioners. As explained in the *DOC Position* in response to *Comment 2,* we have typically considered delivery terms to be nonessential terms of sale and have not regarded changes in delivery terms as affecting the date of sale.

Comment 4

Section 773(a)(1)(C) of the Act provides that particular market situations in the home market or in third country markets may prevent the Department from using these markets as the basis for normal value. Petitioners cite page 150 of the Statement of Administrative Action (SAA), which describes a particular market situation that might prevent the Department from using a market for comparison purposes. The particular market situation referred to in the SAA concerns a home market where a single sale constitutes five percent of the sales to the United States. In the stated example, petitioners claim the Department is not able to determine whether the sale is in the ordinary course of trade or in normal commercial quantities. Petitioners claim that Viraj's sale for export to Canada falls into this category.

DOC Position

Neither the information supplied in Viraj's responses nor the information obtained during verification gives the Department reason to suspect that the Canadian sale was made outside the ordinary course of trade. Specifically, with regard to the quantity of the sale, we concluded that it did not appear to be either so extraordinarily large or small as to be outside normal commercial quantities, based on our examination of sales quantities sold for export to third countries. Verification exhibits revealed that the quantity of these third country sales was generally in line with the quantity of the Canadian sale.

Comment 5

Petitioners claim that although there is no equity relationship, the Department should determine that Akai's U.S. customer is an affiliated company based on the fact that Akai did not receive payment from this customer for a considerable period of time after shipment of the goods. Also, petitioners claim that certain information from verification leads to the conclusion that Akai is affiliated with this U.S. customer.

DOC Position

Late payment is not an uncommon business practice and, in and of itself, does not provide a sufficient basis for concluding that Akai is affiliated with its U.S. customer. In addition, the information petitioners refer to from verification is not grounds for supporting the conclusion that these two companies are affiliated. During verification, we checked the records establishing Akai's affiliations with other companies. We found no indication that an affiliation exists between Akai and its U.S. customer. Also, in reviewing the books and records of the company generally, we found no basis to conclude that the companies were affiliated.

Comment 6

Petitioners claim that the Department should determine that an affiliation exists between Akai and both its raw materials supplier and its processor. Their argument is based on the fact that Akai did not pay these companies for a considerable period of time after the goods and services were rendered.

DOC Position

We disagree with petitioners. As explained in the *DOC Position* to *Comment 5,* late payment of debts does not establish that the debtor and creditor are affiliated.

Comment 7

Petitioners argue that the cost of production data submitted by Viraj are irrelevant to this proceeding. Petitioners contend that Viraj has admitted that it did not produce commercial quantities of the subject merchandise during the POR. Thus, cost data submitted by Viraj relates to a period outside the POR. Petitioners point to instructions in the Department's questionnaire, which clearly require that cost data must be calculated over the POR.

Viraj counters that the Department's standard practice is to use costs outside the POR when little or no production has occurred during the POR. Viraj states that since production did not begin until the last month of the POR, it is reasonable, and consistent with past practice, to use cost data from after the POR.

DOC Position

We agree with respondent. The Department normally uses weighted average production data based on costs incurred during the POR. However, in

this case, most of the relevant production occurred outside the POR. Therefore, for purposes of gathering cost information, we have modified the cost reporting period to include the period when the bulk of the goods were actually produced. In view of the limited production by Viraj during the POR, we found it appropriate to include cost data from the two month period following the POR, as well. (*See, e.g., Antifriction Bearings (Other Thank Tapered Roller Bearings) and Parts Thereof from the Federal Republic of Germany: Final Results of Antidumping Duty Administrative Review* (56 FR 31692, July 11, 1991.)

Comment 8

Petitioners argue that costs of production are not reliable because the quantity sold does not correlate with Viraj's production during the cost reporting period.

DOC Position

At verification we saw that Viraj's production during the cost reporting period exceeded shipments of the subject merchandise. Part of the excess was accounted for by merchandise that had been packed and was awaiting shipment. The remaining part was accounted for by finished merchandise waiting to be packed. The amount of unshipped goods on hand did not appear to be unusual, especially in view of the fact that Viraj was a new producer bringing its productive capacity online for the first time. Therefore, we find no reason to question costs reported by Viraj, merely because a balance of production remained on hand at the end of the POR.

Comment 9

Petitioners claim that the Department has calculated a constructed value based on 1995 costs for products which had not yet been shipped as of September 1996 and which, presumably, had not yet been produced. Petitioners claim that the 1995 cost data is inappropriate for goods not yet shipped or produced as of September 1996.

DOC Position

We agree with petitioners. For the preliminary results, we included the unshipped portion of Viraj's sale in our margin calculations, using the constructed value data and movement charges that applied to goods already shipped. For the final results, we have limited margin calculations to those goods which have already been shipped and for which relevant cost and sales data were reported in Viraj's responses to our antidumping questionnaires.

Comment 10

Petitioners argue that the Department erred in its calculation of constructed value for Akai because the Department did not account for the value of scrap retained by a subcontractor hired by Akai. Petitioners assert that if Akai had not allowed the subcontractor to retain the scrap, the subcontractor would have demanded a higher payment, and Akai's costs would have increased. Petitioners urge the Department to include a cost for this scrap in Akai's constructed value calculations.

Department's Position

By allowing the subcontractor to retain any scrap generated in the subcontractor's conversion work, Akai has foregone a reduction in its cost of materials in manufacturing the subject merchandise. By including the gross weight of inputs into the production process in our calculation of constructed value, we have accounted for all material costs incurred by Akai. In other words, our calculations already include the value of the scrap retained by the subcontractor since Akai does not receive a reduction in its material costs associated with this scrap.

Comment 11

Petitioners claim that the Department should include as part of constructed value excise taxes paid in purchasing raw material, unless those excise taxes have actually been rebated upon exportation of the finished goods. Petitioners maintain that a portion of the merchandise sold for export to the United States remained unshipped as of verification. Therefore, the excise tax applicable to this portion of the merchandise should be included as part of the constructed value because it has not yet been rebated.

DOC Position

For these final results, we are doing antidumping calculations only for merchandise which has actually been exported. (See *Comment 9.*) During verification it was readily apparent that the excise tax on raw materials was routinely rebated upon export of the finished product. An examination of excise claim ledgers, excise duty credit registers, and bank statements made it abundantly clear that the excise tax was consistently rebated upon export. Therefore, in calculating constructed value for merchandise actually exported, we did not include the excise taxes paid in purchasing raw materials.

Final Results of Review

As a result of this review, we determine that the following weighted-average dumping margins exist for the period February 1, 1995 through July 31, 1995:

Manufacturer/exporter	Margin
Akai Asian	4.83
Viraj	0.00

The results of this review shall be the basis for the assessment of antidumping duties on entries of merchandise covered by the review and for future deposits of estimated duties for the manufacturers/exporters subject to this review. The posting of a bond or security in lieu of a cash deposit, pursuant to section 751(a)(2)(B)(iii) of the Act and section 353.22(h)(4) of the Department's regulations, will no longer be permitted. The Department will issue appraisement instructions directly to the Customs Service.

Furthermore, the following deposit requirements will be effective for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of these final results of this administrative review, as provided by section 751(a)(2)(C) of the Act: (1) the cash deposit rate for the reviewed companies will be that established in the final results of this new shipper administrative review; (2) for companies not covered in this review, but covered in previous review or the original less than fair value investigation, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the original investigation, but the manufacturer is, the cash deposit rate will be the most recent rate established for the manufacturer of the merchandise; and (4) if neither the exporter nor the manufacture is a firm covered in this or any previous review or the original investigation, the cash deposit rate will be the ''all others'' rate of 12.45 percent established in the final determination of sales at less than fair value. (59 FR 66915, December 28, 1994).

These deposit requirements will remain in effect until publication of the final results of the next administrative review.

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 353.26 to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of

antidumping duties occurred and the subsequent assessment of double antidumping duties.

This notice also serves as a reminder to parties subject to administrative protective orders (APOs) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 353.34(d)(1). Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This administrative review and notice are in accordance with section 751(a)(2)(B) of the Tariff Act (19 U.S.C. 1675(a)(2)(B)) and 19 CFR 353.22(h).

Dated: January 16, 1997.

Robert S. LaRussa,

Acting Assistant Secretary for Import Administration.

[FR Doc. 97–2053 Filed 1–27–97; 8:45 am]

BILLING CODE 3510–DS–M

Applications for Duty-Free Entry of Scientific Instruments

Pursuant to Section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89–651; 80 Stat. 897; 15 CFR part 301), we invite comments on the question of whether instruments of equivalent scientific value, for the purposes for which the instruments shown below are intended to be used, are being manufactured in the United States.

Comments must comply with 15 CFR 301.5(a) (3) and (4) of the regulations and be filed within 20 days with the Statutory Import Programs Staff, U.S. Department of Commerce, Washington, D.C. 20230. Applications may be examined between 8:30 A.M. and 5:00 P.M. in Room 4211, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C.

Docket Number: 96–129. *Applicant:* University of Arizona, Soil, Water and Environmental Science, Shantz 429, Building #38, Tucson, AZ 85721. *Instrument:* Surface Forces Apparatus, Model Mark 4. *Manufacturer:* Australian National University, Australia. *Intended Use:* The instrument will be used to measure the force and distance between two surfaces coated with the bacterial outer membranes and phase separation of nonmiscible mixtures in mica slit pores. In addition, the instrument will be used in the course, SWES 607 Surface Chemistry of Soils, to teach students about molecular level phenomena that influence the fate and transport of contaminants in the soil. *Application accepted by Commissioner of Customs:* December 4, 1996.

Docket Number: 96–131. *Applicant:* Oklahoma State University, Purchasing Department, 208G Whitehurst, Stillwater, OK 74078. *Instrument:* Ti:Sapphire Laser, Model MBR–110. *Manufacturer:* Microlase Optical Systems Ltd., United Kingdom. *Intended Use:* The instrument will be used to conduct the following: (1) investigation of nonlinear optical properties of semiconductor microresonators, (2) determination of the compositions of composite media that enhance various nonlinear optical properties and in particular the relative effects of absorptive and dispersive contributions, (3) study of optical multistability in a system consisting of atoms transmitting through the mode of an optical resonator, (4) exploration of the interaction of atoms with very precisely modulated monochromatic intracavity radiation and (5) investigation of the interrelationship of various measures of cavity loss and their effects on experiments that depend on precise knowledge of atom-cavity coupling. In addition, the instrument will be used for educational purposes in graduate and undergraduate level physics courses. *Application accepted by Commissioner of Customs:* December 5, 1996.

Docket Number: 96–132. *Applicant:* National Institutes of Health, National Institute of Diabetes and Digestive and Kidney Diseases, Building 5, Room 108, Bethesda, MD 20892. Instrument: Stopped-Flow Spectrometer, Model SX.18MV. *Manufacturer:* Applied Photophysics Ltd., United Kingdom. *Intended Use:* The instrument will be used for studying protein folding and unfolding kinetics. The instrument has been redesigned to provide facile and accurate measurements of stopped-flow kinetics using both fluorescence and absorbance detection. *Application accepted by Commissioner of Customs:* December 6, 1996.

Docket Number: 96–133. *Applicant:* National Institutes of Health, Building 8, Room 421, 8 Center Drive, MSC 0850, Bethesda, MD 20892. *Instrument:* Electron Microscope, Model CM120. *Manufacturer:* Philips, The Netherlands. *Intended Use:* The instrument will be used to study animal cells and tissues and macromolecular aggregates and organelles isolated from cells and tissue. These studies are designed to investigate the structure of cells and to correlate change in structure with functional variability leading to clinical disease. The objective of this research is to learn about transport of lipids, lipases and other molecules between and within normal cells and to identify translocation defects in mutant cells. *Application accepted by Commissioner of Customs:* December 9, 1996.

Docket Number: 96–134. *Applicant:* U. S. Department of the Interior, U. S. Geological Survey, 12201 Sunrise Valley Drive, MS 431, Reston, VA 20192. *Instrument: Mass Spectrometer, Model Deltaplus. Manufacturer:* Finnigan MAT, Germany. *Intended Use:* The instrument will be used to analyze the isotopic composition of natural materials in geologic and hydrologic systems. The studies will involve use of variations in the isotopic abundance of oxygen, carbon, sulfur and nitrogen to investigate problems in hydrology, geochemistry, microbiology and paleoclimatology. *Application accepted by Commissioner of Customs: December 10, 1996.*

Docket Number: 96–135. *Applicant:* Medical University of South Carolina, 171 Ashley Avenue, Charleston, SC 29425. *Instrument:* Electron Microscope, Model JEM–1210. *Manufacturer:* JEOL, Ltd., Japan. *Intended Use:* The instrument will be used for ultrastructural studies involving pediatric and adult cancer, retinal degenerative diseases, osteoporosis, endometriosis, teratogenic effect of prenatal alcohol exposure, cochlear changes associated with aging, cardiomyopathy and adrenoleukeodystrophy. The objective of these studies is to better understand the mechanisms involved in various disease processes. In addition, the instrument will be used for educational purposes in a graduate level course entitled ''Techniques in Biological Electron Microscopy.'' *Application accepted by Commissioner of Customs:* December 10, 1996.

Docket Number: 96–137. *Applicant:* Cornell University, Purchasing Department, 55 Judd Falls Road, Ithaca, NY 14850. *Instrument:* Mass Spectrometer, Model GEO 20–20. *Manufacturer:* Europa Scientific Ltd., United Kingdom. *Intended Use:* The instrument will be used for the high precision determination of stable isotopes of carbon, hydrogen, oxygen, nitrogen, and sulfur during studies of (1) water and CO_2 flux in environmental systems, (2) plant-water-atmosphere relationships and (3) artificially enriched carbon, trace gases, and isotopes in carbonates. In addition, the instrument will be used in the course BioES6xx: Methods in Biogeochemistry to train research students. *Application*

accepted by Commissioner of Customs: December 16, 1996.

Docket Number: 96–138. *Applicant:* University of California, Berkeley, Procurement and Business Contracts, Berkeley, CA 94720–5600. *Instrument:* (4 each) Broadband Seismometers, Model STS–2. *Manufacturer:* G. Streckeisen AG, Switzerland. *Intended Use:* The instruments will be used to study the high frequency components of regional earthquakes and the low frequency (long period) components of global teleseismic earthquakes. The instruments are typically deployed in site specific, specifically constructed observatories (vaults), and may be operated continuously for 20–30 years. Alternatively, they are used to augment data from permanent seismic observatories. *Application accepted by Commissioner of Customs:* December 18, 1996.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 97–2054 Filed 1–27–97; 8:45 am]

BILLING CODE 3510–DS–P

National Institute of Standards and Technology

Notice of a Jointly Owned Invention Available for Licensing

SUMMARY: The invention listed below is jointly owned by the U.S. Government, as represented by the Department of Commerce and the Department of Defense. The Department of Commerce's ownership interest in this invention is available for licensing in accordance with 35 U.S.C. 207 and 37 CFR part 404 to achieve expeditious commercialization of results of federally funded research and development.

FOR FURTHER INFORMATION CONTACT: Technical and licensing information on this inventions may be obtained by writing to: Marcia Salkeld, National Institute of Standards and Technology, Office of Industrial Partnerships Program, Building 820, Room 213, Gaithersburg, MD 20899; Fax 301–869–2751. Any request for information should include the NIST Docket No. and Title for the relevant invention as indicated below.

SUPPLEMENTARY INFORMATION: NIST may enter a Cooperative Research and Development Agreement (''CRADA'') with the licensee to perform further research on the invention for purposes of commercialization. The invention available for licensing is:

NIST Docket No. 96–031CIP

Title: Ultra-Low Temperature Neck Bonding Process.

Description: New types of ceramic structures and ceramic composites are formed by a low cost, moderate temperature sintering process using a pre-ceramic precursor which, upon mild heating, decomposes to form ''necks'' between individual ceramic particles. The properties of the resulting porous ceramic bodies can be further modified to form a new class of composite materials.

Dated: January 22, 1997.

Elaine Bunten-Mines,

Director, Program Office.

[FR Doc. 97–2057 Filed 1–27–97; 8:45 am]

BILLING CODE 3510–13–M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Cotton, Man-Made Fiber, Silk Blend and Other Vegetable Fiber Textile Products Produced or Manufactured in Bangladesh

January 22, 1997.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs reducing limits.

EFFECTIVE DATE: January 28, 1997.

FOR FURTHER INFORMATION CONTACT: Ross Arnold, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 927–5850. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Uruguay Round Agreements Act.

The current limits for certain categories are being reduced for carryforward applied in 1996.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see Federal Register notice 61 FR 66263, published on December 17, 1996). Also see 61 FR 68241, published on December 27, 1996.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the Uruguay Round Agreements Act and the Uruguay Round Agreement on Textiles and Clothing, but are designed to assist only in the implementation of certain of their provisions.

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

January 22, 1997.

Commissioner of Customs,

Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on December 20, 1996, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, man-made fiber, silk blend and other vegetable fiber textiles and textile products, produced or manufactured in Bangladesh and exported during the twelve-month period which began on January 1, 1997 and extends through December 31, 1997.

Effective on January 28, 1997, you are directed to reduce the limits for the following categories, as provided for under the Uruguay Round Agreements Act and the Uruguay Round Agreement on Textiles and Clothing:

Category	Adjusted twelve-month limit [1]
237	416,177 dozen.
331	1,054,366 dozen pairs.
334	126,966 dozen.
335	227,968 dozen.
336/636	407,955 dozen.
341	2,213,122 dozen.
342/642	382,905 dozen.
351/651	608,132 dozen.
352/652	9,072,698 dozen.
369–S [2]	1,519,427 kilograms.
634	444,196 dozen.
635	287,786 dozen.
641	926,697 dozen.
647/648	1,252,711 dozen.
847	665,143 dozen.

[1] The limits have not been adjusted to account for any imports exported after December 31, 1996.

[2] Category 369-S: only HTS number 6307.10.2005.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C.553(a)(1).

Sincerely,

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc.97–2049 Filed 1–27–97; 8:45 am]

BILLING CODE 3510–DR–F

Announcement of Import Restraint Limits for Certain Cotton, Wool, Man-Made Fiber, Silk Blend and Other Vegetable Fiber Textiles and Textile Products Produced or Manufactured in Romania

January 22, 1997.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs establishing limits.

EFFECTIVE DATE: January 30, 1997.

FOR FURTHER INFORMATION CONTACT: Naomi Freeman, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 927–5850. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Uruguay Round Agreements Act.

Pursuant to the Uruguay Round Agreements Act and the Uruguay Round Agreement on Textiles and Clothing (ATC), the Bilateral Textile and Apparel Agreement of December 20, 1994, as amended and extended by a Memorandum of Understanding (MOU) dated December 15, 1995, between the Governments of the United States and Romania, establishes limits for the period beginning on January 1, 1997 and extending through December 31, 1997.

In the letter published below, the Chairman of CITA directs the Commissioner of Customs to establish the 1997 limits. The limit for Categories 433/434 has been reduced for carryforward applied to the 1996 limit.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see Federal Register notice 61 FR 66263, published on December 17, 1996).

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the Uruguay Round Agreements Act, the Uruguay Round Agreement on Textiles and Clothing, bilateral agreement and the MOU, but are designed to assist only in the implementation of certain of their provisions.

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

January 22, 1997.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: Pursuant to section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); the Uruguay Round Agreements Act and the Uruguay Round Agreement on Textiles and Clothing (ATC), and the Bilateral Textile and Apparel Agreement of December 20, 1994, as amended and extended by a Memorandum of Understanding (MOU) dated December 15, 1995, between the Governments of the United States and Romania; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on January 30, 1997, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton, wool, man-made fiber, silk blend and other vegetable fiber textiles and textile products in the following categories, produced or manufactured in Romania and exported during the twelve-month period beginning on January 1, 1997 and extending through December 31, 1997, in excess of the following levels of restraint:

Category	Twelve-month limit
Cotton Group	
200, 201, 218–220, 222–227, 229, 237, 239, 300, 301, 313–315, 317, 326, 330–342, 345, 347–354, 359–363, 369, 800, 810, 831–836, 838–840, 842–847, 850–852, 858, 859, 863, 870, 871 and 899, as a group.	61,602,210 square meters equivalent.
Sublevels in Cotton Group	
237	65,575 dozen.
313	1,797,674 square meters.
314	1,348,255 square meters.
315	3,244,578 square meters.
333/833	128,503 dozen.
334	310,607 dozen.
335/835	162,772 dozen.
338/339	702,488 dozen.
340	306,631 dozen.
341/840	128,503 dozen.
347/348	548,284 dozen.
350	29,025 dozen.
352	195,454 dozen.
359	701,087 kilograms.
360	1,811,805 numbers.
361	1,207,870 numbers.
369	318,008 kilograms.
810	4,494,185 square meters.
836	60,394 dozen.
847	80,625 dozen.
Group III	
431–436, 438–440, 442–448, 459, 630–654 and 659, as a group.	70,245,156 square meters equivalent.
Sublevels in Group III	
433/434	8,822 dozen.
435	9,809 dozen.
442	11,361 dozen.
443	87,639 numbers.
444	41,314 numbers.
447/448	22,784 dozen.
459	34,444 kilograms.
633	48,066 dozen.
634	58,385 dozen.
638/639	634,351 dozen.
640	87,245 dozen.
641	37,818 dozen.
647	87,801 dozen.
648	62,799 dozen.
659	110,673 kilograms.
Levels not in a group	
410	169,315 square meters.
465	131,220 square meters.
604	1,616,275 kilograms.
618	1,818,577 square meters.
666	126,483 kilograms.

Imports charged to these category limits for the period January 1, 1996 through December 31, 1996 shall be charged against those levels of restraint to the extent of any unfilled balances. In the event the limits established for that period have been exhausted by previous entries, such goods shall be subject to the levels set forth in this directive.

The conversion factors for the following merged categories are listed below:

Category	Conversion factor (square meters equivalent/category unit)
341/840	12.1.
433/434	35.2.
638/639	12.96.

The limits set forth above are subject to adjustment in the future according to the provisions of the Uruguay Round Agreements Act, the ATC and any administrative arrangements notified to the Textiles Monitoring Body.

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 97–2048 Filed 1–27–97; 8:45 am]

BILLING CODE 3510–DR–F

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Learn and Serve America: Higher Education

AGENCY: Corporation for National and Community Service.

ACTION: Notice of availability of funds for new grants and notice of availability of fiscal year 1997 application guidelines.

SUMMARY: The Corporation for National and Community Service (Corporation) announces the availability of approximately $10.5 million to support new grants for Learn and Serve America: Higher Education Programs (CFDA # 94.005). Institutions of higher education, consortia of institutions of higher education, and higher education partnerships may apply for these grants. The application form and guidelines for completing an application for these funds are contained in the *Learn and Serve America: Higher Education Fiscal Year 1997 Application Guidelines.*

DATES: All applications must be received by 3:30 p.m. (E.S.T.), March 19, 1997.

ADDRESSES: Applications should be submitted to Box HE at the Corporation for National Service, 1201 New York Ave., NW, Washington, DC 20525. Facsimiles will not be accepted.

FOR FURTHER INFORMATION CONTACT: To obtain a copy of the *Learn and Serve America: Higher Education 1997 Application Guidelines,* call (202) 606–5000 ext. 260. Further inquiries may be directed to Hugh Bailey at ext. 117.

SUPPLEMENTARY INFORMATION: The Learn and Serve America: Higher Education Programs support efforts to make service an integral component of the pedagogical approach to teaching and learning in the nation's colleges and universities. The Corporation supports a wide variety of initiatives that include the implementation and design of service-learning curricula, professional development and training for faculty in the practice of service-learning, clinical programs using service-learning, student initiated and designed community projects, and community leadership that works in partnership with institutions of higher education. The Corporation invites applications that will engage students in meeting the educational, public safety, environmental, or other human needs of neighboring communities through the following types of projects:

1. *Strengthening and Building Foundations in Service-Learning Programs.* These projects might include such activities as (a) introducing and promoting service-learning in an established discipline; (b) encouraging professional disciplines (e.g., medical, legal) to adopt service-learning as an integral component of the academic curriculum; or (c) providing technical assistance to teacher education institutions to incorporate service-learning into the curriculum of future school teachers.

2. *Innovative Campus-Based Model Programs.* These projects might include activities that focus on (a) faculty development in service-learning; (b) promoting service-learning in professional programs; (c) student leadership; or (d) application of federal work-study funds to community service and service-learning programs.

3. *Service-Learning Corps Programs.* These projects engage AmeriCorps Members in building the service-learning capacity within communities and institutions of higher education, and in directly addressing community needs. The Corporation expects these programs to demonstrate how direct service and capacity-building can be mutually reinforcing.

I. Eligible Applicants

The following entities may apply for these funds: (1) an institution of higher education, (2) a consortium of institutions of higher education, and (3) a higher education partnership. A higher education partnership is one or more public or private nonprofit organizations (including educational associations) or public agencies, including States, and one or more institutions of higher education that have entered into a written agreement specifying the responsibilities of each partner.

II. Estimated Number of Awards

Although the actual number of awards is subject to the availability of funds, the Corporation estimates there will be sufficient funds to make up to seventy (70) grants.

III. Suggested Amount of Awards

The Corporation suggests that applicants limit their budget requests to no more than the following: (1) $350,000 for Strengthening and Building Foundations in Service-Learning Programs; (2) $150,000 for Innovative Campus-Based Model Programs; and (3) $150,000 for Service-Learning Corps Programs.

IV. Project Period

The project period for all grants is up to twelve (12) months with the possibility of renewal for two additional years contingent upon performance and availability of appropriations.

V. Applicable Regulations

Regulations governing the Learn and Serve America: Higher Education Programs of the Corporation for National and Community Service are located in 45 CFR Part 2519.

VI. Program Authority

Corporation authority to make these grants is codified in 42 U.S.C. § 12561.

Dated: January 23, 1997.

Barry W. Stevens,

Acting General Counsel, Corporation for National and Community Service.

[FR Doc. 97–2071 Filed 1–27–97; 8:45 am]

BILLING CODE 6050–28–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Public Information Collection Requirement Submitted to the Office of Management and Budget (OMB) for Review

ACTION: Notice.

The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Title and OMB Control Number: DoD Educational Loan Repayment Program (LRP), DD Form 2475, OMB Number 0704–0152.

Type of Request: Reinstatement, with change, of a previously approved collection for which approval has expired.

Number of Respondents: 40,000.

Responses per Respondent: One.

Annual Responses: 40,000.

Average Burden per Response: 10 minutes.

Annual Burden Hours: 6,667.

Needs and Uses: Military Services are authorized to repay Federal Student Loans for individuals who meet certain criteria and who enlist for active military service or enter the Selected Reserves for a specified obligation period. Legislation requires that the Services verify the status of the loan prior to payment. This form collects the

necessary verification data from the lending institutions.

Affected Public: Business or other for profit.

Frequency: Annually.

Respondent's Obligation: Required to obtain or retain benefits.

OMB Desk Officer: Mr. Edward C. Springer.

Written comments and recommendations on the proposed information collection should be sent to Mr. Springer at the Office of Management and Budget, Desk Officer for DoD, Room 10236, New Executive Office Building, Washington, DC 20503.

DOD Clearance Officer: Mr. William Pearce.

Written requests for copies of the information collection proposal should be sent to Mr. Pearce, WHS/DIOR, 1215 Jefferson Davis Highway, Suite 1204, Arlington, VA 22202–4302.

Dated: January 22, 1997.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 97–1947 Filed 1–27–97; 8:45 am]

BILLING CODE 5000–04–M

Defense Partnership Council Meeting

AGENCY: Department of Defense.

ACTION: Notice of Meeting Cancellation.

SUMMARY: On December 26, 1996, the Department of Defense published a notice to announce a meeting of the Defense Partnership Council to be held January 22, 1997. (61) FR 68013–68014) This notice is to announce that the meeting was cancelled due to conflicts in members' schedules.

FOR FURTHER INFORMATION CONTACT: Mr. Kenneth Oprisko, Chief, Labor Relations Branch, Field Advisory Services Division, Defense Civilian Personnel Management Service, 1400 Key Boulevard, Suite B–200, Arlington, VA, 22209–5144, (703) 696–6301, ext. 704.

Dated: January 23, 1997.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 97–1989 Filed 1–27–97; 8:45 am]

BILLING CODE 5000–04–M

Meeting of the Military Health Care Advisory Committee

AGENCY: Department of Defense, Military Health Care Advisory Committee.

ACTION: Notice.

SUMMARY: Notice is hereby given of the forthcoming meeting of the Military Health Care Advisory Committee. This is the sixth meeting of the Committee. The purpose of the meeting is to have discussions centering around medical personal for the Military Health Service System which will include recruitment, retention, and readiness; support of the healthcare benefit; and approaches to meeting medical personal requirements. A meeting session will be held and will be open to the public.

DATE: January 30, 1997.

ADDRESS: Walter Reed Army Medical Center, Room 2H24, 6825 16th Street, NW, Washington, DC, unless otherwise published.

FOR FURTHER INFORMATION CONTACT: Mr. Gary A. Christopherson, Senior Advisor, or Commander Sid Rodgers, Special Assistant to PDASD, Office of the Assistant Secretary of Defense (Health Affairs), 1200 Defense Pentagon, Room 3E346, Washington, DC 20301–1200; telephone (703) 697–2111.

SUPPLEMENTARY INFORMATION: This announcement was delayed awaiting confirmation of meeting location. Business sessions are scheduled between 9:30 am and 5:00 pm, on Thursday, January 30, 1997. Contact Elaine L. Powell, CMP in the MHCAC Conference Support Office at (703) 575–5024, at least 24 hours prior to the meeting to gain access to the base.

Dated: January 22, 1997.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 97–1948 Filed 1–27–97; 8:45 am]

BILLING CODE 5000–04–M

Department of the Air Force

Privacy Act of 1974; System of Records

AGENCY: Department of the Air Force, DOD.

ACTION: Notice to alter a system of records.

SUMMARY: The Department of the Air Force proposes to alter an existing system of records identified as F111 A JA B, Courts-Martial and Article 15 Records. The alteration adds a (j)(2) and (k)(2) exemption to the system.

DATES: This action will be effective without further notice on February 27, 1997, unless comments are received that would result in a contrary determination.

ADDRESSES: Send comments to the Air Force Access Programs Manager, HQ USAF/SCMI, 1250 Air Force Pentagon, Washington, DC 20330–1250.

FOR FURTHER INFORMATION CONTACT: Mrs. Anne Rollins at (703) 697–8674 or DSN 227–8674.

SUPPLEMENTARY INFORMATION: The complete inventory of Department of the Air Force record system notices subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the Federal Register and are available from the address above.

The proposed altered system report, as required by 5 U.S.C. 552a(r) of the Privacy Act was submitted on January 14, 1997, to the Committee on Government Reform and Oversight of the House of Representatives, the Committee on Governmental Affairs of the Senate, and the Office of Management and Budget (OMB) pursuant to paragraph 4c of Appendix I to OMB Circular No. A–130, 'Federal Agency Responsibilities for Maintaining Records About Individuals,' dated February 8, 1996, (61 FR 6427, February 20, 1996).

The alteration adds a (j)(2) and (k)(2) exemption to an existing system of records identified as F111 A JA B, Courts-Martial and Article 15 Records.

Dated: January 21, 1997.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

F111 A JA B

SYSTEM NAME:

Courts-Martial and Article 15 Records *(February 22, 1993, 58 FR 10432).*

CHANGES:

* * * * *

SYSTEM LOCATION:

Delete entry and replace with 'Judge Advocate General, Headquarters United States Air Force, 1420 Air Force Pentagon, Washington, DC 20330–1420;

Headquarters Air Force Military Personnel Center, 550 C Street W, Randolph Air Force Base, TX 78150–4703;

National Personnel Records Center, Military Personnel Records, 9700 Page Boulevard, St. Louis, MO 63132–5100;

Washington National Records Center, Washington, DC 20409–0002; and

Air Force major commands, major subordinate commands headquarters, and at all levels down to and including Air Force installations. Official mailing addresses are published as an appendix to the Air Force's compilation of systems of records notices.'

* * * * *

CATEGORIES OF RECORDS IN THE SYSTEM:

Add to entry 'and documents received or prepared in anticipation of judicial and non-judicial proceedings.'

* * * * *

PURPOSE(S):

Add to entry 'Documents received or prepared in anticipation of judicial and non-judicial Uniform Code of Military Justice proceedings are used by prosecuting attorneys for the government to analyze evidence; prepare for examination of witnesses; to prepare for argument before courts, magistrates, and investigating officers, and to advise commanders. Documents may be required after trial when appellate or reviewing authorities make post-trials inquiries or order new trials.'

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Delete entry and replace with *'In addition to those disclosures generally permitted under 5. U.S.C. 552a(b) of the Privacy Act, these records, or information contained therein, may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:*

Records from this system may be disclosed to the Department of Veterans Affairs, the Department of Justice, the Department of State, and federal courts for determination of rights and entitlements of individuals concerned or the government.

The records may also be disclosed to a governmental board or agency or health care professional society or organization if such record or document is needed to perform licensing or professional standards monitoring related to credentialed health care practitioners or licensed non-credentialed health care personnel who are or were members of the United States Air Force, and to medical institutions or organizations wherein such member has applied for or been granted authority or employment to provide health care services if such record or document is needed to assess the professional qualifications of such member.

The 'Blanket Routine Uses' set forth at the beginning of the Air Force's compilation of systems of records notices apply to this system.'

* * * * *

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Delete entry and replace with 'Portions of this system of records may be exempt pursuant to 5 U.S.C. 552a(j)(2) from the following subsections of 5 U.S.C. 552a(c)(3), (c)(4), (d), (e)(1), (e)(2), (e)(3), (e)(4)(G), (H) and (I), (e)(5), (e)(8), (f), and (g).

Portions of this system of records may be exempt pursuant to 5 U.S.C. 552a(k)(2) from the following subsections of 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H) and (I), and (f).

An exemption rule for this record system has been promulgated in accordance with the requirements of 5 U.S.C. 553(b)(1), (2), and (3), (c) and (e) and published in 32 CFR part 806b. For additional information contact the system manager.'

F111 A JA B

SYSTEM NAME:

Courts-Martial and Article 15 Records.

SYSTEM LOCATION:

Judge Advocate General, Headquarters United States Air Force, 1420 Air Force Pentagon, Washington, DC 20330–1420;

Headquarters Air Force Military Personnel Center, 550 C Street W, Randolph Air Force Base, TX 78150–4703;

National Personnel Records Center, Military Personnel Records, 9700 Page Boulevard, St. Louis, MO 63132–5100;

Washington National Records Center, Washington, DC 20409–0002; and

Air Force major commands, major subordinate commands headquarters, and at all levels down to and including Air Force installations. Official mailing addresses are published as an appendix to the Air Force's compilation of systems of records notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All persons subject to the Uniform Code of Military Justice (10 U.S.C. 802) who are tried by courts-martial or upon whom Article 15 punishment is imposed.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records of trial by courts-martial and records of Article 15 punishment and documents received or prepared in anticipation of judicial and non-judicial proceedings.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 815(g), Commanding officer's non-judicial punishment; 854, Record of Trial; 865, Disposition of records after review by the convening authority; and E.O. 9397.

PURPOSE(S):

Records of trial by courts-martial are used for review by the appellate and other authorities.

Portions of the record in every case are used in evaluating the individual's overall performance and inclusion in the military master personnel record; if conviction results, a record thereof can be introduced at a subsequent courts-martial trial involving the same individual; also used as source documents for collection of statistical information.

Article 15 records are used for review of legal sufficiency and action on appeals or applications for correction of military records filed before appropriate Air Force authorities; used to formulate responses to inquiries concerning individual cases made by the Congress, the President, the Department of Defense, the individual involved or other persons or agencies with a legitimate interest in the Article 15 action; used by Air Force personnel authorities in evaluating the individual's overall performance and inclusion in the individual's military master personnel record; may be used for introduction at a subsequent courts-martial trial involving the same individual; used as source documents for collection of statistical information by The Judge Advocate General.

Documents received or prepared in anticipation of judicial and non-judicial Uniform Code of Military Justice proceedings are used by prosecuting attorneys for the government to analyze evidence; to prepare for examination of witnesses; to prepare for argument before courts, magistrates, and investigating officers, and to advise commanders. Documents may be required after trial when appellate or reviewing authorities make post-trials inquiries or order new trials.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5. U.S.C. 552a(b) of the Privacy Act, these records, or information contained therein, may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

Records from this system may be disclosed to the Department of Veterans Affairs, the Department of Justice, the Department of State, and federal courts for determination of rights and entitlements of individuals concerned or the government.

The records may also be disclosed to a governmental board or agency or health care professional society or organization if such record or document is needed to perform licensing or professional standards monitoring related to credentialed health care practitioners or licensed non-

credentialed health care personnel who are or were members of the United States Air Force, and to medical institutions or organizations wherein such member has applied for or been granted authority or employment to provide health care services if such record or document is needed to assess the professional qualifications of such member.

The 'Blanket Routine Uses' set forth at the beginning of the Air Force's compilation of systems of records notices apply to this system.'

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders, and in computers and computer output products.

RETRIEVABILITY:

Retrieved by name, Social Security Number, Military Service Number, or by other searchable data fields.

SAFEGUARDS:

Records are accessed by custodian of the record system and person(s) who are properly screened and cleared for need-to-know. Records are stored in vaults and locked rooms or cabinets. Records are protected by guards, and controlled by personnel screening and by visitor registers. Those in computer storage devices are protected by computer system software.

RETENTION AND DISPOSAL:

Courts-martial records are retained in office files for 2 years following date of final action and then retired as permanent.

General and special courts-martial records are retired to the Washington National Records Center, Washington, DC 20409–0002.

Summary courts-martial and Article 15 records are retained in office files for 1 year or until no longer needed, whichever is sooner, and then retired as permanent.

Summary courts-martial and Article 15 records are forwarded to the Air Force Personnel Center for filing in the individual's permanent master personnel record.

Documents received or prepared in anticipation of judicial and non-judicial Uniform Code of Military Justice proceedings are maintained in office files until convictions are final or until no longer needed then destroyed. Records are destroyed by tearing into pieces, shredding, pulping, macerating or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Judge Advocate General, Headquarters United States Air Force, 1420 Air Force Pentagon, Washington, DC 20330–1420;

Chief, Military Personnel Records Division, Directorate of Personnel Data Systems, Headquarters Air Force Military Personnel Center, 550 C Street W, Randolph Air Force Base, TX 78150–4703; and

The Staff Judge Advocate at all levels of command and at Air Force installations. Official mailing addresses are published as an appendix to the Air Force's compilation of systems of records notices.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system of records should address written inquiries to the appropriate *System manger* above.

Individual should provide full name, Social Security Number, service number if different than Social Security Number, unit of assignment, date of trial and type of court, if known, or date punishment imposed in the case of Article 15 action.

RECORD ACCESS PROCEDURES:

Individuals seeking to access records about themselves contained in this system of records should address written inquiries to the appropriate *System manger* above.

Individual should provide full name, Social Security Number, service number if different than Social Security Number, unit of assignment, date of trial and type of court, if known, or date punishment imposed in the case of Article 15 action.

Requester may visit the office of the system manager. Requester must present valid identification card or driver's license.

CONTESTING RECORD PROCEDURES:

The Air Force rules for accessing records, and for contesting contents and appealing initial agency determinations are published in Air Force Instruction 37–132; 32 CFR part 806b; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Information from almost any source can be included if it is relevant and material to the Article 15 or courts-martial proceedings.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Portions of this system of records may be exempt pursuant to 5 U.S.C. 552a(j)(2) from the following subsections of 5 U.S.C. 552a(c)(3), (c)(4), (d), (e)(1), (e)(2), (e)(3), (e)(4)(G), (H) and (I), (e)(5), (e)(8), (f), and (g).

Portions of this system of records may be exempt pursuant to 5 U.S.C. 552a(k)(2) from the following subsections of 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H) and (I), and (f).

An exemption rule for this record system has been promulgated in accordance with the requirements of 5 U.S.C. 553(b)(1), (2), and (3), (c) and (e) and published in 32 CFR part 806b. For additional information contact the system manager.

[FR Doc. 97–1802 Filed 1–27–97; 8:45 am]

BILLING CODE 5000–04–F

DEPARTMENT OF EDUCATION

National Committee on Foreign Medical Education and Accreditation

Date and Time: Monday, March 3, 1997, 9:00 a.m. until 5:30 p.m.; Tuesday, March 4, 1997, 9:00 a.m. until 5:30 p.m.

Place: The Latham Hotel, 3000 M. Street, N.W., Washington, D.C. 20007

Status: Parts of this meeting will be open to the public. Parts of this meeting will be closed to the public.

Matters to be Considered: The Standards of accreditation applied to medical schools by a number of foreign countries and the comparability of those standards of accreditation applied to United States medical schools. Discussions of the standards of accreditation will be held in sessions open to the public. Discussions that focus on specific determinations of comparability are closed to the public in order that each country may be properly notified of the decision.

SUPPLEMENTARY INFORMATION: Pursuant to section 481 of the Higher Education Act of 1965, as amended in 1992 (20 U.S.C. § 1088), the Secretary established within the Department of Education the National Committee on Foreign Medical Education and Accreditation. The Committee's responsibilities are to (1) evaluate the standards of accreditation applied to applicant foreign medical schools; and (2) determine the comparability of those standards to standards for accreditation applied to United States medical schools.

FOR FURTHER INFORMATION CONTACT: Carol F. Sperry, Executive Director, National Committee on Foreign Medical Education and Accreditation, 600 Independence Avenue, S.W., Room 3905, ROB #3, Washington, D.C. 20202–7563. Telephone: (202) 260–3636. Beginning Monday, February 24, 1997, you may call to obtain the identity of the countries whose standards are to be evaluated during this meeting.

Dated: January 22, 1997.

David A. Longanecker,

Assistant Secretary for Postsecondary Education.

[FR Doc. 97–1985 Filed 1–27–97; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Bonneville Power Administration; Notice of Scoping Meeting for Development of Retail Wheeling Policy

AGENCY: Bonneville Power Administration, DOE.

ACTION: Notice of meeting.

SUMMARY: The Bonneville Power Administration will hold a meeting to begin scoping of issues related to the development of a policy proposal for retail wheeling over the Federal Columbia River Transmission System.

DATES: This meeting is scheduled for February 4, 1997, from 9:00 a.m. to 12:00 noon.

ADDRESSES: This meeting will be held at the Red Lion Columbia River Hotel, Klamath Room, 1401 N. Hayden Island Drive, Portland, Oregon.

FOR FURTHER INFORMATION CONTACT: David Mills, Bonneville Power Administration Transmission Business Line, (503) 230–7505; or Michael McFarland, Bonneville Power Administration Transmission Business Line, (503) 230–3688.

SUPPLEMENTARY INFORMATION: The Bonneville Power Administration will initiate a public process to develop a retail wheeling policy for the Federal Columbia River Transmission System. This process will start with a public meeting to begin scoping the issues to be addressed in such a policy development. These issues include (1) Impacts on system reliability; (2) potential for differing state approaches; (3) technical constraints related to scheduling and coordination; and (4) impacts on existing wholesale power contracts.

Issued in Portland, OR on January 21, 1997.

Paul S. Majkut,

Acting General Counsel.

[FR Doc. 97–2022 Filed 1–27–97; 8:45 am]

BILLING CODE 6450–01–P

Federal Energy Regulatory Commission

[Docket No. GT97–18–000]

Boundary Gas, Inc.; Notice of Refund Report

January 22, 1997.

Take notice that on January 16, 1997, Boundary Gas, Inc. (Boundary) submitted a refund report reflecting the flowthrough of the Gas Research Institute (GRI) refund received by Boundary on June 28, 1996.

Boundary states that pursuant to the 1993 GRI settlement, and in compliance with the Commission Order approving such settlement, it has credited such refund proportionally to its firm customers on non-discounted service based on the GRI surcharges those customers paid during the calendar year 1995. Boundary states that each customer's credit was reflected on its invoice for June 1996 services issued on or about July 15, 1996.

Boundary states that a copy of this filing is being mailed to each of Boundary's affected customers and the state commissions of New York, Connecticut, New Jersey, Massachusetts, New Hampshire and Rhode Island.

Any person desiring to be heard or protest the subject filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.211 and 385.214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions and protests should be filed on or before January 29, 1997. 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 available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 97–1967 Filed 1–27–97; 8:45 am]

BILLING CODE 6717–01–M

[Docket Nos. ER97–881–000, et al.]

CSW Operating Companies, et al.; Notice of Filing of Power Pool and Holding Company Agreements Made Pursuant to Order No. 888

January 22, 1997.

Take notice that the entities shown on the Attachment to this notice submitted filings in response to the Commission's Order No. 888.[1] These filings include: (1) Joint pool-wide compliance tariffs and proposed amendments to pool agreements; and (2) single-system holding company compliance tariffs and revisions to holding company equalization agreements. These filings were assigned the docket numbers shown on the Attachment.

Any person desiring to be heard or to protest any of the filings listed in the Attachment should file, in each particular proceeding and referencing the appropriate docket number, a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214).

All such motions or protests should be filed on or before February 20, 1997. (This uniform deadline supersedes any earlier deadlines provided in individual notices of filing issued for any of the filings listed on the Attachment). 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 the filings listed on the Attachment are on file with the Commission and are available for public inspection during normal business hours in the Public Reference Room at 888 First Street, NE., Washington, DC 20426.

Lois D. Cashell,

Secretary.

Attachment—List of Power Pool and Holding Company Submittals

I. Submittals From Power Pools

California Power Pool

ER97–905–000

Central Area Power Coordinating Group

(1) OA97–221–000
ER97–1165–000
(2) OA97–219–000
ER97–1167–000
(3) OA97–297–000
ER97–1169–000

Colorado Power Pool

(1) OA97–501–000
ER97–1062–000

[1] Promoting Wholesale Competition Through Open Access Non-Discriminatory Transmission Services by Public Utilities and Recovery of Stranded Costs by Public Utilities and Transmitting Utilities, 61 FR 21540 (May 10, 1996), FERC Stats. & Regs. ¶ 31,036 (Order No. 888), *reh'g pending. See also* Notice of Extension of Time and Clarifying Service and Docketing Procedures, 76 FERC ¶ 61,347 (1996).

Inland Power Pool

(1) OA97–497–000
ER97–978–000

Michigan Electric Coordinated Systems

(1) OA97–249–000
ER97–1166–000
(2) ER97–1168–000
(3) OA97–472–000
ER97–1023–000

MidContinent Area Power Pool

(1) OA97–163/000
ER97–1162–000

MOKAN Power Pool

(1) OA97–262–000
ER97–1083–000

New England Power Pool

(1) OA97–237–000
ER97–1079–000
(2) OA97–238–000
ER97–1080–000

New York Power Pool

(1) OA97–470–000
ER97–1162–000

Pacific Northwest Coordinating Agreement

OA97–21–000

Pennsylvania-New Jersey-Pennsylvania Interconnection

(1) OA97–261–000
ER97–1082–000

Western Systems Power Pool

(1) OA97–220–000
ER97–987–000

Wisconsin Power Pool

OA97–190–000

II. Submittals From Holding Companies

Allegheny Power System

OA97–500–000

American Electric Power

OA97–480–000

CSW Operating Companies

OA97–24–000
ER97–881–000

Duke Power Company

OA97–197–000
OA97–210–000

GPU Operating Companies

OA97–496–000
ER97–1055–000

Northeast Utilities

OA97–281–000

Southern Companies

OA97–489–000
ER97–976–000

Tampa Electric Company

OA97–296–000

[FR Doc. 97–2015 Filed 1–27–97; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP97–230–000]

Florida Gas Transmission Company; Notice of Compliance Filing

January 22, 1997.

Take notice that on January 16, 1997, Florida Gas Transmission Company (FGT) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1 the following tariff sheets to become effective April 1, 1997:

First Revised Sheet No. 115
Fourth Revised Sheet No. 116
Fourth Revised Sheet No. 117
Third Revised Sheet No. 117A
Third Revised Sheet No. 121

FGT states that on October 1, 1996, FGT filed pro forma tariff sheets in Docket No. RP97–21–000 (October 1 Filing) to implement standards adopted by the Gas Industry Standards Board (GISB) in compliance with Commission Order No. 587. On November 15, 1996, the Commission issued an Order on Compliance (November 15 order) in which the Commission found that FGT's pro forma tariff language generally complied with Order No. 587 with certain exceptions. The November 15 Order required FGT to file revised pro forma tariff sheets as needed to address the exceptions noted by the Commission. On December 16, 1996, FGT filed revised pro forma tariff sheets in Docket No. RP97–21–001 (December 16 Filing) in compliance with the November 15 Order.

FGT states that in the October 1 Filing, FGT requested waiver of the portion of Standard 1.3.2 establishing a deadline of 11:30 AM for nominations leaving the control of the nominating party (11:45 AM for receipt by Transporter) to the extent necessary to permit an earlier deadline for written nominations, which FGT currently accepts. The Commission in its November 15 Order denied FGT's requested waiver of the above deadlines for written nominations, citing the objective of uniformity in such rules and timelines for the gas industry, and required FGT to apply the GISB deadlines to written nominations to the extent that FGT continues to accept written nominations. The Commission then stated that any proposals to change service offerings should be made in a separate Section 4 filing.

FGT states that during the GISB process, it was clearly understood by all participants that the accelerated timeline for receiving and confirming nominations and communicating scheduled quantities was predicated on the electronic exchange of information. As explained in the transmittal letter of FGT's December 16 Filing, because of the additional time that is necessary to perform the manual entry and validation work associated with a written nomination, FGT states that it cannot meet the GISB confirmation and scheduling deadlines if it continues to accept written nominations and such nominations are not received until 11:45 AM.

FGT states that it currently receives all of its nominations in writing by 10:00 AM. It takes FGT approximately 7 hours to manually enter the nominations, perform iterative capacity allocations, and confirm quantities with the interconnecting parties. Currently, the scheduling process is completed by 5:00 PM. With the implementation of the GISB standards on April 1, 1997, the window for processing nominations must be shortened by 2 to 3 hours to complete the confirmation process by the 3:30 PM deadline.

Accordingly, FGT states that it is herein proposing to eliminate written nominations, except in emergency circumstances, to ensure that it is able to meet the timeline set out in Standard 1.3.2.

FGT states that on December 19, 1996, FGT advised its customers that in order to comply with the GISB timeline, it would be necessary for all customers to submit their nominations electronically beginning March 31, 1997 (for the gas day of April 1, 1997). In this letter, FGT informed its customers that they will have several options for the electronic transmission of nominations: (i) an ANSI X12 format from the customer's computer to FGT via the Internet, (ii) a standard flat file format via Internet, or (iii) use of a third party service provider using option (i) or (ii) above. FGT also included an electronic communications survey in order to facilitate the transition to electronic nominations.

FGT states that it is currently testing the standard GISB X12/ Internet process with its customers which have expressed an interest in this process. This testing has been conducted on the servers which will be used for production on April 1, 1997. In addition, FGT has participated in the related pilot testing of the standard GISB process which allows any customer to upload X12 files to its test server.

FGT states that it is also offering another capability for its customers to upload nominations electronically. This capability specifies a flat file format which can easily be created by a variety of inexpensive, widely available software products including spreadsheets. This eliminates the requirement that the customer maintain an X12 translator. FGT customers can

upload the flat file using a Web browser to access a Web page located on FGT's Web server. The uploaded file will be processed and a result returned interactively to the Web browser. FGT's customers can also use a part-time, dial-up connection to the Internet to implement this alternative. This capability is currently available for testing at http://x12.enron.com:5713/interhome.htm.

FGT states that the changes submitted in the instant filing provide for the elimination of written nominations effective for the gas day of April 1, 1997, in accordance with FGT's implementation of GISB Standard 1.3.2.1. The changes reflected in the attached tariff sheets are made in order to allow FGT to effectively implement Standard 1.3.2 (which provides for deadlines of 11:45 AM for the receipt of nominations by FGT, noon for a quick response, and 3:30 PM for receipt of completed confirmations by FGT from upstream and downstream connected parties, with the scheduling process being completed by 4:30 PM). Nominations for the April 1 gas day will be physically submitted on March 31, 1997. FGT has also included a provision providing for the submission of written nominations on an emergency basis in the event of a failure of electronic nomination communication equipment, such as phone lines, servers, or the Internet. The changes proposed herein also incorporate the changes previously proposed to the affected tariff sheets on a pro forma basis in FGT's October 1 and December 16 Filings. Upon acceptance of the changes proposed herein, it will not be necessary for FGT to refile these tariff sheets when it makes its filing to implement the proposed GISB changes following the completion of the Commission's review of FGT's pro forma filings in Docket Nos. RP97–21–000 and –001.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC, 20426, in accordance with Sections 385.211 and 385.214 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before February 12, 1997. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 97–1971 Filed 1–27–97; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP97–102–001]

Mississippi River Transmission Corporation; Notice of Filing

January 22, 1997.

Take notice that on January 15, 1997, Mississippi River Transmission Corporation (MRT) submitted for filing worksheets reflecting the calculation of Gas Supply Realignment Costs (GSRC) in compliance with the December 31, 1996 Order issued by the Federal Energy Regulatory Commission in this proceeding. As explained in its filing, MRT's worksheets set out explanations and support for the calculation of its GSRC.

MRT states that copies of the compliance filing have been mailed to all parties on the official service list.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC. 20426, in accordance with Section 385.211 of the Commission's Rules of Practice and Procedure (18 CFR 385.211). All such protests must be filed on or before January 29, 1997. 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. 97–1969 Filed 1–27–97; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TM97–3–25–001]

Mississippi River Transmission Corporation; Notice of Compliance Filing

January 22, 1997.

Take notice that on January 15, 1997, Mississippi River Transmission Corporation (MRT) submitted for filing worksheets reflecting the calculation of Miscellaneous Revenues in compliance with the December 31, 1996 Order issued by the Federal Energy Regulatory Commission in this proceeding. As explained in its filing, MRTs worksheets set out explanations and support for the calculation of its imbalance purchases and sales and for the cashout rate applied in each of MRTs cashout transactions.

MRT states that copies of the compliance filing have been mailed to all parties on the official service list.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, D.C. 20426, in accordance with Section 385.211 of the Commissions Rules of Practice and Procedure (18 CFR 385.211). All such protests should be filed on or before January 29, 1997. 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. 97–1973 Filed 1–27–97; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP97–195–000]

Missouri Gas Energy, A Division of Southern Union Company, Complainant, v. Williams Natural Gas Company, Respondent; Notice of Complaint

January 22, 1997.

Take notice that on January 13, 1997, Missouri Gas Energy, A Division of Southern Union Company (MGE), 504 Lavaca, Suite 800, Austin, Texas 78701, filed a complaint in Docket No. CP97–195–000, pursuant to Section 5 of the Natural Gas Act and Rules 206 and 212 of the Commission's Rules of Practice and Procedure. MGE requests that the Commission order Williams Natural Gas Company (Williams) to immediately cease construction of pipeline facilities for the purpose of providing service to the Hawthorn Power Plant located in Jackson County, Missouri, and charges that the proposed construction clearly violates Section 311 of the NGPA, all as more fully set forth in the complaint which is on file with the Commission and open to public inspection.

MGE believes that Williams' proposed pipeline project is an inappropriate circumvention of the Commission's jurisdiction under Section 7 of the NGA, because the service proposal does not satisfy the requirements of Section 284.102(d) of the Commission's Regulations. In addition, MGE charges that Williams has failed to comply with Section 284.11 of the Commission's Regulations which require that a pipeline give at least 30 days notice prior to the commencement of any

construction. According to MGE, Williams has stated that although it is beginning construction in January, it is not planning to file an advance notice with the Commission until February.

MGE asserts that if the Commission does not order Williams to immediately cease its violations of the NGPA and halt construction of the pipeline project, MGE, in the alternative, requests that the Commission place Williams fully at risk for the construction costs and order an immediate contract demand reduction in MGE's current agreement with Williams. MGE also states that if the relief it seeks cannot be granted on the basis of its complaint, it requests a full and immediate evidentiary hearing.

Any person desiring to be heard or to make a protest with reference to this complaint should on or before February 21, 1997, file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules. Answers to the complaint shall be due on or before February 21, 1997.

Lois D. Cashell,

Secretary,

[FR Doc. 97–1966 Filed 1–27–97; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP96–200–016]

NorAm Gas Transmission Company; Notice of Proposed Changes in FERC Gas Tariff

January 22, 1997.

Take notice that on January 15, 1997, NorAm Gas Transmission Company (NGT) tendered for filing as part of its FERC Gas Tariff, Fourth Revised Volume No. 1, the following revised tariff sheet to be effective January 16, 1997:

Original Sheet No. 7G.01

NGT states that this tariff sheet is filed herewith to reflect specific negotiated rate transactions to be effective for two days, January 16, 1997 and January 17, 1997.

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 as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestant 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. 97–1968 Filed 1–27–97; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. SA97–1–000]

PanEnergy Texas Intrastate Pipeline Company; Notice of Petition for Adjustment

Janaury 22, 1997.

Take notice that on December 23, 1996, PanEnergy Texas Intrastate Pipeline Company (PanEnergy) filed pursuant to Section 502(C) of the Natural Gas Policy Act of 1978 (NGPA), a petition for adjustment under Section 285.123(b)(1)(ii) of the Commission's Regulations to permit PanEnergy to use its tariff on file with the Railroad Commission of Texas (TRC), for suspendable interruptible transportation services performed pursuant to NGPA Section 311.

In support of its petition, PanEnergy states that it provides intrastate transportation service within the State of Texas, and is a gas utility subject to the jurisdiction of the TRC. PanEnergy states that it was formed in order to operate pipeline facilities spun down by Florida Gas Transmission Company, and later sold to PanEnergy Field Services. Those facilities are called the ''North Citrus System''. PanEnergy provides intrastate service to Onyx Pipeline Company, L.C. (Onyx).

Subsequently, PanEnergy also acquired an intrastate pipeline from Falfurrias Pipeline Company, successor-in-interest to Mobil Vanderbilt-Beaumont Pipeline Company (Mobil Vanderbilt). Mobil Vanderbilt, and subsequently, Falfurrias, offered Section 311 service pursuant to Commission order (73 FERC ¶ 61,256 (1995)). The Falfurrias line is now being operated as a small but integral part of PanEnergy's system. PanEnergy is now interested in offering interruptible Section 311 service which would use the integrated system. It requests that the intrastate service performed on behalf of Onyx should be viewed as ''comparable'' to that contemplated under Section 311.

The regulations applicable to this proceeding are found in Subpart K of the Commission's Rules of Practice and Procedure. Any person desiring to participate in this rate proceeding must file a motion to intervene in accordance with Sections 385.211 and 385.214 of the Commission's Rules of Practice and Procedures. All motions must be filed with the Secretary of the Commission within 15 days after publication of this notice in the Federal Register. The petition for adjustment is on file with the Commission and is available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 97–1972 Filed 1–27–97; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP97–138–001]

Shell Gas Pipeline Company; Notice of Proposed Changes in FERC Gas Tariff

January 22, 1997.

Take notice that on January 16, 1997, Shell Gas Pipeline Company (SGPC) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, the tariff sheets set forth on Appendix B to the filing, to become effective June 1, 1997.

SGPC states that the amended tariff sheets set forth revisions to SGPC's December 2, 1996 tariff filing, made to comply with Order No. 587, to better conform SGPC's tariff to Order No. 587.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington D.C. 20426, in accordance with 18 CFR 385.211 of the Commission's Rules and Regulations. All such protests must be filed on or before February 12, 1997. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 97–1970 Filed 1–27–97; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP97–186–000]

Texas Gas Transmission Corporation; Notice of Request Under Blanket Authorization

January 22, 1997.

Take notice that on January 16, 1997, Texas Gas Transmission Corporation (Texas Gas), 3800 Frederica Street, Owensboro, Kentucky 42301 filed in Docket No. CP97–186–000 a request pursuant to Sections 157.205, and 157.211 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205 and 157.211) for approval and permission to construct and operate a delivery point for Natural Gas of Kentucky, Inc. (NGKY) in Warren County, Kentucky, under the blanket certificate issued in Docket No. CP82–407–000, pursuant to Section 7(c) of the Natural Gas Act (NGA), all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Texas Gas states that it proposes to install, operate, maintain and own a side valve, three-inch skid-mounted meter station, electronic flow measurement, telemetry, flow control and related facilities on Texas Gas' Bowling Green-Munfordville eight-inc Line in Warren County, Kentucky. Texas Gas indicates that NGKY will install, operate, maintain and own, at its sole expense, 3,000 feet of four-inch pipeline connecting to Texas Gas at this point. It is indicated that NGKY will reimburse Texas Gas in full for the cost to construct the facilities, which is estimated to be $89,000. Texas Gas asserts that the volumes of natural gas to be transported through the new delivery point will be within the volumes certificated to be transported by Texas Gas under its blanket certificate.

Any person or the Commission's Staff may, within 45 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.214), a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205), a protest to the request. If no protest is filed within the time allowed therefor, the proposed activities 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 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. 97–1965 Filed 1–27–97; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER91–569–008, et al.]

Entergy Services Inc., et al.; Electric Rate and Corporate Regulation Filings

January 22, 1996.

Take notice that the following filings have been made with the Commission:

1. Entergy Services Inc.

[Docket No. ER91–569–008]

Take notice that on December 31, 1996, Entergy Services Inc. tendered for filing an updated market power analysis on behalf of the Entergy Operating Companies and their affiliates.

Comment date: February 5, 1997, in accordance with Standard Paragraph E at the end of this notice.

2. MidAmerican Energy Company

[Docket No. ER96–1501–000]

Take notice that on January 2, 1997, MidAmerican Energy Company (MidAmerican), 106 East Second Street, Davenport, Iowa 52801, tendered for filing an amendment to its initial filing in the above-referenced docket. The amendment consisted of an executed Service Agreement dated June 1, 1996, entered into by MidAmerican with the City of Independence, Missouri pursuant to MidAmerican's Rate Schedule for Power Sales, FERC Electric Tariff, Original Volume No. 5.

MidAmerican requests an effective date of June 1, 1997, for the Service Agreement and accordingly seeks a waiver of the Commission's notice requirement. MidAmerican has served a copy of the amended filing on all parties designated on the official service list, the Iowa Utilities Board, the Illinois Commerce Commission and the South Dakota Public Utilities Commission.

Comment date: February 5, 1997, in accordance with Standard Paragraph E at the end of this notice.

3. Public Service Company of New Hampshire

[Docket No. ER97–933–000]

Take notice that on December 27, 1996, Public Service Company of New Hampshire (PSNH) tendered for filing an information statement concerning PSNH's fuel and purchased power adjustment clause charges and credits under FERC Rate Schedule Nos. 133, 134, 135 and 142.

Comment date: February 4, 1997, in accordance with Standard Paragraph E at the end of this notice.

4. Northern States Power Company (Minnesota Company)

[Docket No. ER97–962–000]

Take notice that on December 27, 1996, Northern States Power Company (Minnesota) (NSP) tendered for filing a Non-Firm Point-to-Point Transmission Service Agreement between NSP and Western Resources.

NSP requests that the Commission accept the agreement effective December 18, 1996, and requests waiver of the Commission's notice requirements in order for the agreement to be accepted for filing on the date requested.

Comment date: February 4, 1997, in accordance with Standard Paragraph E at the end of this notice.

5. Cleveland Electric Illuminating Company and Toledo Edison Company

[Docket No. ER97–972–000 and Docket No. ER97–973–000]

Take notice that on December 30, 1996, Electric Power Service Agreements were filed between Cleveland Electric Company (CEI) as well as the Toledo Edison Company (TE) and Jersey Central Power & Light Company, Metropolitan Edison Company and Pennsylvania Electric Company, Morgan Stanley Capital Group,Inc., Illinova Power marketing,Inc, and for Toledo Edison only Duke/Louis Dreyfus L.L.C.

Comment date: February 5, 1997, in accordance with Standard Paragraph E at the end of this notice.

6. Southern Company Services, Inc.

[Docket No. ER97–1100–000]

Take notice that on January 3, 1997, Southern Company Services, Inc. (SCS), acting on behalf of Alabama Power Company, Georgia Power Company, Gulf Power Company, Mississippi Power Company, and Savannah Electric and Power Company (collectively referred to as Southern Companies) filed one (1) service agreement between SCS, as agent for Southern Companies, and Koch Power Services, Inc., and three (3) service agreements between SCS, as agent for Southern Companies, and Southern Wholesale Energy, a department of SCS, as agent for Southern Companies, for firm point-to-point transmission service under Part II of the Open Access Transmission Tariff of Southern Companies.

Comment date: February 5, 1997, in accordance with Standard Paragraph E at the end of this notice.

7. Central Illinois Public Service Company

[Docket No. ER97–1103–000]

Take notice that on January 3, 1997, Central Illinois Public Service Company (CIPS) submitted six service agreements, dated between December 12, 1996 and December 19, 1996, establishing the following as customers under the terms of CIPS' Open Access Transmission Tariff: CNG Power Services Corporation, Cleveland Electric Illuminating, Federal Energy Services, Inc., Heartland Energy Services, Inc., Toledo Edison Company and Valero Power Services Company.

CIPS requests an effective date of December 12, 1996 for these service agreements. Accordingly, CIPS requests waiver of the Commission's notice requirements. Copies of this filing were served upon the foregoing customers and the Illinois Commerce Commission.

Comment date: February 5, 1997, in accordance with Standard Paragraph E at the end of this notice.

8. Louisville Gas and Electric Company

[Docket No. ER97–1104–000]

Take notice that on January 3, 1997, Louisville Gas and Electric Company (LG&E), tendered for filing a Service Agreement between LG&E and Kentucky Utilities Company under LG&E's Rate Schedule GSS.

Comment date: February 5, 1997, in accordance with Standard Paragraph E at the end of this notice.

9. Louisville Gas and Electric Company

[Docket No. ER97–1105–000]

Take notice that on January 3, 1997, Louisville Gas and Electric Company (LG&E), tendered for filing a copy of a Non-Firm Point-to-Point Transmission Service Agreement between Louisville Gas and Electric Company and Cleveland Electric Illuminating Company under LG&E's Open Access Transmission Tariff.

Comment date: February 5, 1997, in accordance with Standard Paragraph E at the end of this notice.

10. Louisville Gas and Electric Company

[Docket No. ER97–1106–000]

Take notice that on January 3, 1997, Louisville Gas and Electric Company (LG&E), tendered for filing a copy of a Non-Firm Point-to-Point Transmission Service Agreement between Louisville Gas and Electric Company and Toledo Edison Company under LG&E's Open Access Transmission Tariff.

Comment date: February 5, 1997, in accordance with Standard Paragraph E at the end of this notice.

11. Louisville Gas and Electric Company

[Docket No. ER97–1107–000]

Take notice that on January 3, 1997, Louisville Gas and Electric Company (LG&E), tendered for filing a Service Agreement between LG&E and Tennessee Valley Authority under LG&E's Rate Schedule GSS.

Comment date: February 5, 1997, in accordance with Standard Paragraph E at the end of this notice.

12. Commonwealth Edison Company

[Docket No. ER97–1108–000]

Take notice that on January 3, 1997, Commonwealth Edison Company (Edison), submitted Amendment No. 3, dated December 16, 1996 to the Electric Coordination Agreement, dated December 31, 1988 (ECA), between Edison and the Village of Winnetka (Village). The ECA provides for the interchange of power and energy between Edison and Village. The Commission has previously designated the Interconnection Agreement as Edison's FERC Rate Schedule No. 37.

Edison requests an effective date of December 31, 1996 for Amendment No. 3, and accordingly seeks waiver of the Commission's requirements. Copies of this filing were served upon the Village and the Illinois Commerce Commission.

Comment date: February 5, 1997, in accordance with Standard Paragraph E at the end of this notice.

13. Minnesota Power and Light Company

[Docket No. ER97–1109–000]

Take notice that on January 2, 1997, Minnesota Power & Light Company, submitted for filing a Firm Power Transaction Agreement with Northern States Power Company.

Comment date: February 5, 1997, in accordance with Standard Paragraph E at the end of this notice.

14. Florida Power & Light Company

[Docket No. ER97–1110–000]

Take notice that on January 3, 1997, Florida Power & Light Company (FPL), tendered for filing a proposed notice of cancellation of an umbrella service agreement with Calpine Power Services Company 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 July 9, 1997.

FPL states that this filing is in accordance with Part 35 of the Commission's regulations.

Comment date: February 5, 1997, in accordance with Standard Paragraph E at the end of this notice.

15. Florida Power & Light Company

[Docket No. ER97–1111–000]

Take notice that on January 3, 1997, Florida Power & Light Company (FPL) tendered for filing a proposed notice of cancellation of an umbrella service agreement with Tampa Electric Company 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 December 31, 1996.

Comment date: February 5, 1997, in accordance with Standard Paragraph E at the end of this notice.

16. Duquesne Light Company

[Docket No. ER97–1113–000]

Take notice that on January 2, 1997, Duquesne Light Company (DLC) filed a Service Agreement dated December 27, 1996 with DLC under DLC's Open Access Transmission Tariff (Tariff). The Service Agreement adds DLC as a customer under the Tariff. DLC requests an effective date of December 27, 1996 for the Service Agreement.

Comment date: February 5, 1997, in accordance with Standard Paragraph E at the end of this notice.

17. Wisconsin Electric Power Company

[Docket No. ER97–1114–000]

Take notice that Wisconsin Electric Company (Wisconsin Electric) on January 2, 1997, tendered for filing an Electric Service Agreement and a Transmission Service Agreement between itself and Commonwealth Edison Company (ComEd). The Electric Service Agreement provides for service under Wisconsin Electric's Coordination Sales Tariff.

Wisconsin Electric requests an effective date of sixty days of filing. Copies of the filing have been served on ComEd, the Public Service Commission of Wisconsin and the Michigan Public Service Commission.

Comment date: February 5, 1997, in accordance with Standard Paragraph E at the end of this notice.

18. New England Power Company

[Docket No. ER97–1115–000]

Take notice that on January 6, 1997, New England Power Company tendered for filing Amendments to its Service Agreement with Granite State Electric Company, New Hampshire Electric Cooperative, and the Town of Littleton,New Hampshire (hereinafter Customers) under NEP's FERC Electric Tariff, Original Volume No. 1.

NEP states that the proposed Amendments provide a monthly credit to its New Hampshire Customers based on a portion of the savings received by NEP through the issuance of tax-exempt financing authorized by the State of New Hampshire.

NEP requests waiver of the Commission's notice requirements so that the Amendments may become effective on March 1, 1997.

Comment date: February 5, 1997, in accordance with Standard Paragraph E at the end of this notice.

19. Wisconsin Electric Power Company

[Docket No. ER97–1118–000]

Take notice that Wisconsin Electric Power Company (Wisconsin Electric) on January 7, 1997, tendered for filing an Electric Service Agreement between itself and Virginia Electric and Power Company. The Electric Service Agreement provides for service under Wisconsin Electric's Coordination Sales Tariff.

Wisconsin Electric requests an effective date of sixty days from date of filing. Copies of the filing have been served on Virginia Electric and Power Company, the Public Service Commission of Wisconsin and the Michigan Public Service Commission.

Comment date: February 5, 1997, in accordance with Standard Paragraph E at the end of this notice.

20. Wisconsin Electric Power Company

[Docket No. ER97–1119–000]

Take notice that Wisconsin Electric Power Company (Wisconsin Electric) on January 7, 1997, tendered for filing an Electric Service Agreement and a Non-Firm Transmission Service Agreement between itself and NIPSCO Energy Services Inc. The Electric Service Agreement provides for service under Wisconsin Electric's Coordination Sales Tariff. The Transmission Service Agreement allows NIPSCO Energy Services Inc. to receive non-firm transmission service under Wisconsin Electric's FERC Electric Tariff, Original Volume No. 7.

Wisconsin Electric requests an effective date of sixty days from date of filing. Copies of the filing have been served on NIPSCO Energy Services Inc., the Public Service Commission of Wisconsin and the Michigan Public Service Commission.

Wisconsin Electric requests an effective date of sixty days from date of filing. Copies of the filing have been served on Virginia Electric and Power Company, the Public Service Commission of Wisconsin and the Michigan Public Service Commission.

Comment date: February 5, 1997, in accordance with Standard Paragraph E at the end of this notice.

21. Carolina Power & Light Company

[Docket No. ER97–1120–000]

Take notice that on January 7, 1997, Carolina Power & Light Company (CP&L) tendered for filing separate Service Agreements for Non-firm Point to Point Transmission Service executed between CP&L and the following Eligible Transmission Customers: Southern Companies Services, Inc; Toledo Edison; Cleveland Electric Illuminating, New York State Electric & Gas Corporation; and Vitol Gas & Electric, LLC. Service to each Eligible Customer will be in accordance with the terms and conditions of Carolina Power & Light Company's Open Access Transmission Tariff.

Copies of the filing were served upon the North Carolina Utilities Commission and the South Carolina Public Service Commission.

Comment date: February 5, 1997, in accordance with Standard Paragraph E at the end of this notice.

22. Dayton Power & Light Company

[Docket No. ER97–1125–000]

Take notice that Dayton Power and Light Company (DP&L) on January 6, 1997, and amended on January 7, 1996 tendered for filing a service agreement establishing Monongahela Power Company, the Potomac Edison Company, and West Penn Power Company (collectively ''Allegheny Power) as a customer under the terms of DP&L's Market-Based Sales Tariff.

DP&L requests an effective date of December 7, 1996 for the service agreement. Accordingly, DP&L requests waiver of the Commission's notice requirements. Copies of the filing were served upon Allegheny Power and the Public Utilities Commission of Ohio.

Comment date: February 5, 1997, in accordance with Standard Paragraph E at the end of this notice.

23. Louisville Gas and Electric Company

[Docket No. ER97–1126–000]

Take notice that on January 6, 1997, Louisville Gas and Electric Company (LG&E) tendered for filing a copy of a Non-firm Point-to-Point Transmission Service Agreement between LG&E and various companies under LG&E's Open Access Transmission Tariff. LG&E requests that the service agreements become effective as of December 31, 1996.

Comment date: February 5, 1997, in accordance with Standard Paragraph E at the end of this notice.

24. Energy Source Power, Inc.

[Docket No. ER97–1172–000]

Take notice that on December 31, 1996, Energy Source Power, Inc. tendered for filing a Notice of Cancellation of Electric Rate Schedule FERC No. 1.

Comment date: February 5, 1997, 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. 97–2014 Filed 1–27–97; 8:45 am]

BILLING CODE 6717–01–P

[Docket No. RM95–4–000]

Revisions to Uniform System of Accounts, Forms, Statements, and Reporting Requirements for Natural Gas Companies; Correction to Attachments to Notice of Revised Electronic Filing Specifications for FERC Form Nos. 2 and 2A

January 23, 1997.

The following corrections should be made to the attachments to the notice issued October 31, 1996 in this proceeding (61 FR 57410, November 6, 1996).

In the Instruction Manual for Electronic Filing of the Form Nos. 2 and 2A, in Schedule F5, Record Type 42, the maximum length for the item, Reconciling Type, must be changed from 11 to 1. In Schedule F5, Record Type 22, the paper copy reference for item 405b, Investment Status, must be changed from 213–1. . .–b to 222–1. . .–b. In Schedule F5, Record Type 33.2, Long-Term Debt Data, insert a data item between the items, Line Number and the Class and Series of Obligation. The inserted item will be Information Reported Code. The maximum length is

1. The data type is numeric. The comments section reads, ''individual item, code = 1, total, code = 2.''

In the instructions for filing Form No. 2A on paper, ''FERC Form No. 2–A: Annual Report of Major Natural Gas Companies,'' the title is revised to read ''FERC Form No. 2–A: Annual Report of Nonmajor Natural Gas Companies.'' In the section entitled ''General Information,'' Item IV, When to Submit, is revised to read, ''Submit this report form on or before March 31st of the year following the year covered by this report.'' The List of Schedules is revised at line 12 to read Capital Stock and Long-Term Debt Data. Instruction No. 2 on page 114, Statement of Income for the Year, is revised to read, ''Report amounts in account 414, *Other Utility Operating Income*, in the same manner as accounts 412 and 413 above.''

Lois D. Cashell,

Secretary.

[FR Doc. 97–2017 Filed 1–27–97; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5681–3]

Science Advisory Board Notification of Public Advisory Committee Meeting

Pursuant to the Federal Advisory Committee Act, Public Law 92–463, notice is hereby given that the Mercury Review Subcommittee (MRS) of the Science Advisory Board (SAB) Executive Committee will meet on February 26–27, 1997, at the Holiday Inn Georgetown, 2101 Wisconsin Avenue NW, Washington, DC 20007. The hotel telephone number is (202) 338–4600. The meeting will start at 9 a.m. and end no later that 5 p.m. (Eastern Time) each day. The meeting is open to the public. Due to limited space, seating at the meeting will be on a first-come basis.

Purpose of the Meeting—The main purpose of the meeting is to discuss and review the EPA's Draft Mercury Study Report to Congress (EPA–452/R–96–001a–g, June 1996). The Subcommittee's review of the draft Report will include detailed evaluation of the following areas: (a) general scientific foundations; (b) sources; (c) environmental fate/transport; (d) exposure; (e) doses/body burdens; (f) health endpoints and susceptible subpopulations; (g) issues on wildlife assessment; (h) research needs; and (i) questions related to social cost.

For Further Information—PLEASE NOTE THAT THIS REPORT IS NOT AVAILABLE FROM THE SAB. Copies may be obtained only by ordering from the National Technical Information Service (NTIS) at (800) 553–6847, or by facsimile to (703) 321–8547. To obtain the complete draft report, request document PB 96–184–619; the cost is $310. An Executive Summary (PB 96–184–627) is available for $28. One copy of the draft Report will be available for public viewing at the EPA Library, room 2904 in the Mall section of the EPA Headquarters facility, 401 M Street, SW, Washington, DC 20460 (telephone (202) 260–5821). The Library is open from 8 a.m. to 5 p.m. Monday through Friday. Please note that copying facilities are limited; an individual may copy a maximum of 25 pages per day.

Members of the public desiring additional technical information about the draft Report should contact Dr. Kate Mahaffey, US EPA (NCEA 117), 26 W. Martin Luther King Drive, Cincinnati, OH 45268; by telephone at (513) 569–7957; by facsimile at (513) 569–7916; or via the Internet at mahaffey.kate@epamail.epa.gov

Members of the public desiring additional information about the meeting, including a draft agenda, should contact Ms. Mary Winston, Staff Secretary, Science Advisory Board (1400), US EPA, 401 M Street, SW, Washington, DC 20460, telephone (202) 260–8114, fax (202) 260–7118, or Internet at: winston.mary@epamail.epa.gov Anyone wishing to make an oral presentation at the meeting must contact Mr. Samuel Rondberg, Designated Federal Official for the MRS, in *writing* at the above address no later than 4 p.m., February 17, 1997, via fax (202) 260–7118 or via Internet at: rondberg.sam@epamail.epa.gov The request should identify the name of the individual who will make the presentation and an outline of the issues to be addressed. At least 45 copies of any written comments to the Committee are to be given to Mr. Rondberg no later than the time of the presentation for distribution to the Committee and the interested public. The Science Advisory Board expects that the public statements presented at its meetings will not be repetitive of previously submitted written statements. In general, each individual or group making an oral presentation will be limited to a total time of ten minutes. Mr. Rondberg may be contacted by telephone at (202) 260–2559.

Dated: January 22, 1997.

A. Robert Flaak,

Acting Staff Director, Science Advisory Board.

[FR Doc. 97–2043 Filed 1–27–97; 8:45 am]

BILLING CODE 6560–50–P

[FRL–5680–8]

Palmerton Zinc Superfund Site De Minimis Settlement; Proposed Administrative Settlement Under the Comprehensive Environmental Response, Compensation, and Liability Act

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice; request for public comment.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to enter into *de minimis* settlements pursuant to section 122(g)(4) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, (CERCLA) 42 U.S.C. 9622(g)(4). The proposed settlements are intended to resolve the potential liability under CERCLA of eleven (11) *de minimis* parties for response costs incurred by the Environmental Protection Agency at the Palmerton Zinc Superfund Site, Carbon County, Pennsylvania.

DATES: Comments must be provided on or before February 27, 1997.

ADDRESSES: Comments should be addressed to the Docket Clerk, United States Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107, and should refer to: In Re: Palmerton Zinc Superfund Site, Carbon County, Pennsylvania, U.S. EPA Docket Nos. III–96–25–DC, III–96–33–DC, III–96–37–DC, III–96–44–DC, III–96–49–DC, III–96–52–DC, III–96–58–DC, III–96–59–DC, III–96–61–DC, III–96–64–DC, and III–96–66–DC.

FOR ADDITIONAL INFORMATION CONTACT: Cynthia Nadolski (3RC32), Office of Regional Counsel, United States Environmental Protection Agency, 841 Chestnut Building, Philadelphia, Pennsylvania 19107, (215) 566–2673.

NOTICE OF DE MINIMIS SETTLEMENT: In accordance with section 122(i)(1) of CERCLA, 42 U.S.C. 9622(i)(1), notice is hereby given of proposed administrative settlements concerning the Palmerton Zinc Site in Carbon County, Pennsylvania. The administrative settlements were signed by the Regional Administrator of the Environmental Protection Agency, Region III, on September 30, 1996, and are subject to review by the public pursuant to this

Notice. The agreements were also subject to the approval of the Attorney General, United States Department of Justice or her designee.

The eleven parties agree to allow complete access to their properties by EPA and its representatives and to cooperate and not to interfere with the activities of EPA or its representatives during an ongoing response action to remove lead, cadmium and zinc contamination from their properties in Palmerton, Pennsylvania in exchange for receiving a covenant not to sue pursuant to section 122(g) of CERCLA, 42 U.S.C. 122(g), and contribution protection pursuant to section 113(f) of CERCLA, 42 U.S.C. 113(f). The agreements are subject to the contingency that the Environmental Protection Agency may elect not to complete the settlements based on matters brought to its attention during the public comment period established by this Notice.

EPA is entering into these agreements under the authority of sections 122(g) and 107 of CERCLA, 42 U.S.C. 9622(g) and 9607. Section 122(g) of CERCLA, 42 U.S.C. 9622(g), authorizes early settlements with *de minimis* parties to allow them to resolve their potential liability under CERCLA. Under this authority, EPA proposes to settle with homeowners at the Palmerton Zinc Site who meet the standards for a *de minimis* landowner settlement under CERCLA section 122(g)(1)(B), 42 U.S.C. 122(g)(1)(B).

The Environmental Protection Agency will receive written comments to these proposed administrative settlements for thirty (30) days from the date of publication of this Notice. A copy of the proposed Administrative Orders on Consent can be obtained from the Environmental Protection Agency, Region III, Office of Regional Counsel, (3RC00), 841 Chestnut Building, Philadelphia, Pennsylvania 19107, by contacting Cynthia Nadolski, Senior Assistant Regional Counsel, at (215) 566–2673.

Dated: September 30, 1996.

Stanley L. Laskowski,

Acting Regional Administrator, U.S. EPA Region III.

[FR Doc. 97–2045 Filed 1–27–97; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

[DA 96–2140]

Public Comment Invited; Commission Seeks Comment on Petition for Declaratory Ruling of the Cellular Telecommunications Industry Association

December 18, 1996.

Comment Date: January 17, 1997; *Reply Date:* February 3, 1997

On December 16, 1996, Cellular Telecommunications Industry Association (CTIA) filed a Petition for Declaratory Ruling (''Petition'') seeking preemption of moratoria regulation imposed by state and local governments on siting of telecommunications facilities. CTIA contends that such preemption is authorized by Sections 253, 332(c)(3) of the Communications Act of 1934, as amended, 47 U.S.C. 253, 332(c)(3), and Section 704(c) of the Telecommunications Act of 1996.

Interested parties may file comments on CTIA's petition no later than January 17, 1997. Parties interested in submitting reply comments must do so no later than February 3, 1997. All comments should reference CTIA's Petition, DA 96–2140, and should be filed with the Office of Secretary, Federal Communications Commission, 1919 M Street, N.W., Room 222, Washington, DC 20554. A copy of each filing should be sent to International Transcription Service, Inc. (ITS), 2100 M Street, N.W., Suite 140, Washington, D.C. 20037, (202) 857–3800 and Shaun A. Maher, Esq., Federal Communications Commission, Wireless Telecommunications Bureau, Commercial Wireless Division, Legal Branch, 2025 M Street, N.W., Room 7130, Washington, D.C. 20554.

Parties are encouraged to submit comments and reply comments on diskette for possible inclusion on the Commission's Internet site so that copies of these documents may be obtained electronically. Such diskette submissions would be in addition to and not a substitute for the formal filing requirements presented above. Parties submitting diskettes should submit them to Shaun A. Maher, Esq. at the above-referenced address. Such a submission should be on a 3.5 inch diskette formatted in an IBM compatible form using Word Perfect 5.1 for Windows software. The diskette should be submitted in ''read only'' mode, and should be clearly labelled with the party's name, proceeding, type of pleading (comment or reply comment) and date of submission.

The full text of all comments and reply comments will be available for inspection and duplication during regular business hours in the Commercial Wireless Division Public Reference Room, 2025 M Street, N.W., Room 5608, Washington, D.C. 20554. Copies may also be obtained from International Transcription Service, Inc. (ITS), 2100 M Street, N.W., Suite 140, Washington, D.C. 20037, (202) 857–3800.

Pursuant to Section 1.1206(b)(4) of the Commission's Rules, 47 CFR § 1.1206(b)(4), this proceeding will be conducted as a non-restricted proceeding in which ex parte communications are permitted but subject to disclosure.

For further information, contact Shaun A. Maher, Esq. of the Legal Branch of the Commercial Wireless Division, Wireless Telecommunications Bureau, at 202–418–0620 (email: smaher@fcc.gov).

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 97–2004 Filed 1–27–97; 8:45 am]

BILLING CODE 6712–01–P

[CC Docket No. 92–237; DA 97–91]

North American Numbering Council; February 1997 Meetings

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: On January 21, 1997, the Commission released a public notice announcing the February 1997 meetings of the North American Numbering Council (NANC) and the Agenda for those meetings. The intended effect of this action is to make the public aware of these meetings of the NANC and their Agenda.

FOR FURTHER INFORMATION CONTACT: Linda Simms, Administrative Assistant of the NANC, (202) 418–2330. The address is: Network Services Division, Common Carrier Bureau, Federal Communications Commission, 2000 M Street, NW, Suite 235, Washington, D.C. 20054. The fax number is: (202) 418–2345. The TTY number is: (202) 418–0484.

SUPPLEMENTARY INFORMATION: Released: January 21, 1997.

The North American Numbering Council (NANC) will hold meetings on Tuesday, February 13, 1997, and Wednesday, February 26, 1997, respectively. The February 13 meeting will be held at 1:00 P.M. EST at the ANA Hotel, 2401 M Street, N.W.,

Washington, DC. It will be preceded by a meeting of the NANC's Steering Group at 8:30 a.m. est at the same location. The February 26 meeting will be held at 9:30 a.m. est at the Federal Communications Commission, 1919 M Street, NW, Room 856, Washington, DC. For the February 13 meetings, Council members will be billed for meeting costs (room and microphones) subsequent to the meetings.

All of the above meetings will be open to members of the general public. The FCC will attempt to accommodate as many people as possible. Admittance, however will be limited to the seating available. For the meetings of the full NANC, the public may submit written statements to the NANC, which must be received two business days before the meeting. In addition, oral statements at the meetings of the full NANC by parties or entities not represented on the NANC will be permitted to the extent time permits. Such statements will be limited to five minutes in length by any one party or entity, and requests to make an oral statement must be received two business days before the meetings. Requests to make an oral statement or provide written comments to the NANC should be sent to Linda Simms, at the address under **FOR FURTHER INFORMATION CONTACT,** stated above.

Agenda

The planned agenda for the February 13, 1997 Steering Group Meeting:

1. Review of Requirements Document for North American Numbering Plan Administrator prepared by the North American Numbering Plan Administrator Working Group.

2. Other business.

The planned agenda for the February 13, 1997 full NANC meeting:

1. Review of Requirements Document for North American Numbering Plan Administrator prepared by the North American Numbering Plan Administrator Working Group.
2. Report of Steering Group activities.
3. Report of other Working Group activities.
4. NANC meeting schedule.
5. Other business.

The planned agenda for the February 26, 1997 full NANC meeting:

1. Status of Local Number Portability issues.
2. Report of Steering Group activities.
3. Report of Working Group activities.
4. Other business.

Federal Communications Commission.

Geraldine A. Matise,

Chief, Network Services Division, Common Carrier Bureau.

[FR Doc. 97–2005 Filed 1–27–97; 8:45 am]

BILLING CODE 6712–01–M

Public Information Collections Approved by Office of Management and Budget

January 22, 1997.

The Federal Communications Commission (FCC) has received Office of Management and Budget (OMB) approval for the following public information collections pursuant to the Paperwork Reduction Act of 1995, Public Law 104–13. An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid control number. For further information contact Shoko B. Hair, Federal Communications Commission, (202) 418–1379.

Federal Communications Commission

OMB Control No.: 3060–0753.

Expiration Date: 01/31/2000.

Title: Policy and Rules Concerning the Interstate, Interexchange Marketplace, CC Docket 96–61 (Integrated Rate Plans).

Form No.: N/A.

Estimated Annual Burden: 600 total annual hours; 100 hours per respondent (avg.); 6 respondents.

Estimated Annual Reporting and Recordkeeping Cost Burden: $0.

Description: Section 254(g) of the 1934 Communications Act as amended, and our rules extend rate integration to all U.S. territories and possessions. The Commission requires certain carriers to submit no later than February 1, 1997, preliminary plans to achieve rate integration by August 1, 1997, and final plans no later than June 1, 1997. These plans will permit the Commission to review progress toward achieving rate integration.

OMB Control No. 3060–0076.

Expiration Date: 12/31/99.

Title: Annual Employment Report for Common Carriers.

Form No.: FCC 395.

Estimated Annual Burden: 4000 total annual hours; 1 hour per respondent; 4000 respondents.

Estimated Annual Reporting and Recordkeeping Cost Burden: $0.

Description: The Annual Employment Report is a data collection device for enforcement and assessment of the Commission's EEO Rules. All common carrier licensees or permittees with sixteen (16) or more full-time employees are required to file this report and retain it for a two-year period. The report identifies each carriers staff by gender, race, color and/or national origin in each of nine major job categories. Requirements for filing FCC 395 form is in accordance with Sections 154(i), 303, and 307–310 of the Communications Act, as amended. Sections 1.815, 22.307, 21.307, and 23.55 of FCC rules and regulations require the information collection. The data is intended to assess compliance with equal employment opportunity requirements. Data is used by the FCC, Congress, the U.S. Commission on Civil Rights, EEOC, NTIA and public interest groups. The FCC 395 form is being updated to include the new expiration date and to insert statements required by the PRA of 1995. A Public Notice will be issued when the 1997 edition of the form is available for public use. Public reporting burden for the collections of information is as noted above. Send comments regarding the burden estimate or any other aspect of the collections of information, including suggestions for reducing the burden to the Records Management Branch, Washington, D.C. 20554.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 97–2003 Filed 1–27–97; 8:45 am]

BILLING CODE 6712–01–F

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1155–DR]

California; Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of California, (FEMA–155–DR), dated January 4, 1997, and related determinations.

EFFECTIVE DATE: January 9, 1997.

FOR FURTHER INFORMATION CONTACT: Magda Ruiz Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3260.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the State of California, is hereby amended to include the following area among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of January 4, 1997.

The County of Santa Clara for Individual Assistance and debris removal and emergency protective measures under the Public Assistance program.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance.)

Lacy E. Suiter,

Executive Associate Director, Response and Recovery Directorate.

[FR Doc. 97–2031 Filed 1–27–97; 8:45 am]

BILLING CODE 6718–02–M

[FEMA–1155–DR]

California; Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of California, (FEMA–1155–DR), dated January 4, 1997, and related determinations.

EFFECTIVE DATE: January 15, 1997.

FOR FURTHER INFORMATION CONTACT: Magda Ruiz, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3260.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the State of California, is hereby amended to include the Hazard Mitigation Grant program and additional categories of assistance under the Public Assistance program in those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of January 4, 1997:

The counties of Alpine, Amador, Butte, Calaveras, Colusa, Contra Costa, Del Norte, El Dorado, Fresno, Glenn, Humboldt, Lake, Lassen, Madera, Marin, Mariposa, Mendocino, Merced, Modoc, Mono, Monterey, Napa, Nevada, Placer, Plumas, Sacramento, San Benito, San Joaquin, San Mateo, Santa Clara, Santa Cruz, Shasta, Sierra, Siskiyou, Solano, Sonoma, Stanislaus, Sutter, Tehama, Trinity, Tulare, Tuolumne, Yolo, and Yuba Counties for Hazard Mitigation and Public Assistance Categories C, D, E, F, and G. Federal assistance to replace trees is not eligible. (These counties have already been designated for Individual Assistance and Categories A and B under Public Assistance.)

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance.)

Lacy E. Suiter,

Executive Associate Director, Response and Recovery Directorate.

[FR Doc. 97–2032 Filed 1–27–97; 8:45 am]

BILLING CODE 6718–02–P

[FEMA–1155–DR]

California; Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of California, (FEMA–1155–DR), dated January 4, 1997, and related determinations.

EFFECTIVE DATE: January 13, 1997.

FOR FURTHER INFORMATION CONTACT: Magda Ruiz, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3260.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the State of California, is hereby amended to include the following area among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of January 4, 1997:

The County of Merced for Individual Assistance and debris removal and emergency protective measures under the Public Assistance program.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance.)

Lacy E. Suiter,

Executive Associate Director, Response and Recovery Directorate.

[FR Doc. 97–2033 Filed 1–27–97; 8:45 am]

BILLING CODE 6718–02–P

[FEMA–1154–DR]

Idaho; Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Idaho, (FEMA–1154–DR), dated January 4, 1997, and related determinations.

EFFECTIVE DATE: January 10, 1997.

FOR FURTHER INFORMATION CONTACT: Magda Ruiz, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3260.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the State of Idaho, is hereby amended to include the following area among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of January 4, 1997:

Nez Perce County for Individual Assistance and debris removal and emergency protective measures under the Public Assistance program.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance.)

Lacy E. Suiter,

Executive Associate Director, Response and Recovery Directorate.

[FR Doc. 97–2030 Filed 1–27–97; 8:45 am]

BILLING CODE 6718–02–P

[FEMA–1153–DR]

Nevada; Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Nevada (FEMA–1153–DR), dated January 3, 1997, and related determinations.

EFFECTIVE DATE: January 17, 1997.

FOR FURTHER INFORMATION CONTACT: Magda Ruiz, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3260.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the incident period for this disaster is closed effective January 17, 1997.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance.)

Lacy E. Suiter,

Executive Associate Director, Response and Recovery Directorate.

[FR Doc. 97–2028 Filed 1–27–97; 8:45 am]

BILLING CODE 6718–02–P

[FEMA–1153–DR]

Nevada; Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Nevada, (FEMA–1153–DR), dated January 3, 1997, and related determinations.

EFFECTIVE DATE: January 15, 1997.

FOR FURTHER INFORMATION CONTACT: Magda Ruiz, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3260.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the State of Nevada, is hereby amended to include additional categories of assistance under the Public Assistance program and

additional areas in those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of January 3, 1997:

The counties of Douglas, Lyon, Storey, and Washoe and the Independent City of Carson City for Public Assistance Categories C,D,E,F, and G. Federal assistance to replace trees is not eligible. (These counties have already been designated for Individual Assistance and Categories A and B under Public Assistance).

The counties of Mineral and Churchill including the Walker River Paiute tribal lands located in Lyon, Churchill, and Mineral Counties for Individual Assistance and Categories A through G under the Public Assistance program. Federal assistance to replace trees is not eligible.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance.)

Lacy E. Suiter,

Executive Associate Director, Response and Recovery Directorate.

[FR Doc. 97–2029 Filed 1–27–97; 8:45 am]

BILLING CODE 6718–02–P

[FEMA–1148–DR]

New York; Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of New York, (FEMA–1148–DR), dated December 9, 1996, and related determinations.

EFFECTIVE DATE: January 14, 1997.

FOR FURTHER INFORMATION CONTACT: Magda Ruiz, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3260.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the State of New York, is hereby amended to include the following area among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of December 9, 1996:

Tompkins County for Individual Assistance (already designated for Public Assistance and Hazard Mitigation).

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance.)

Lacy E. Suiter,

Executive Associate Director, Response and Recovery Directorate.

[FR Doc. 97–2025 Filed 1–27–97; 8:45 am]

BILLING CODE 6718–02–P

[FEMA–1149–DR]

Oregon; Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Oregon (FEMA–1149–DR), dated December 23, 1996, and related determinations.

EFFECTIVE DATE: January 6, 1997.

FOR FURTHER INFORMATION CONTACT: Magda Ruiz, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3260.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, effective this date and pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, I hereby appoint Sherryl Zahn of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

This action terminates my appointment of Robert C. Freitag as Federal Coordinating Officer for this disaster.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance.)

James L. Witt,

Director.

[FR Doc. 97–2026 Filed 1–27–97; 8:45 am]

BILLING CODE 6718–02–P

[FEMA–1152–DR]

Washington; Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Washington (FEMA–1152–DR), dated January 7, 1997, and related determinations.

EFFECTIVE DATE: January 15, 1997,

FOR FURTHER INFORMATION CONTACT: Magda Ruiz, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3260.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the State of Washington, is hereby amended to include an additional category of assistance under the Public Assistance program in those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of January 7, 1997:

The counties of Klickitat, Pend Oreille, and Spokane for Category G under Public Assistance. Federal assistance to replace trees is not eligible. (These counties have already been designated for Categories A–F under Public Assistance and Hazard Mitigation.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance.)

Lacy E. Suiter,

Executive Associate Director, Response and Recovery Directorate.

[FR Doc. 97–2027 Filed 1–27–97; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL RESERVE SYSTEM

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). 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 February 21, 1997.

A. Federal Reserve Bank of San Francisco (Kenneth R. Binning, Director, Bank Holding Company) 101 Market Street, San Francisco, California 94105-1579:

1. Santa Barbara Bancorp, Santa Barbara, California; to acquire 100 percent of the voting shares of First Valley Bank, Lompoc, California.

Board of Governors of the Federal Reserve System, January 22, 1997.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 97–1976 Filed 1-27-97; 8:45 am]

BILLING CODE 6210-01-F

Notice of Proposals To Engage in Permissible Nonbanking Activities or To Acquire Companies That Are Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y, (12 CFR Part 225) to engage *de novo,* or to acquire or control voting securities or assets of a company that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.25 of Regulation Y (12 CFR 225.25) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

Each notice is available for inspection at the Federal Reserve Bank indicated. Once the notice has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act, including whether consummation of the proposal can ''reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices'' (12 U.S.C. 1843). Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than February 11, 1997.

A. Federal Reserve Bank of Chicago (James A. Bluemle, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690-1413:

1. Vermilion Bancorp, Inc., Danville, Illinois (to be formed); to engage *de novo* in making and servicing loans, pursuant to § 225.25(b)(1) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, January 22, 1997.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 97–1977 Filed 1–27–97; 8:45 am]

BILLING CODE 6210-01-F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30DAY–27]

Agency Forms Undergoing Paperwork Reduction Act Review

The Centers for Disease Control and Prevention (CDC) publishes a list of information collection requests under review by the Office of Management and Budget (OMB) in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). To request a copy of these requests, call the CDC Reports Clearance Office on (404) 639–7090. Send written comments to CDC, Desk Officer; Human Resources and Housing Branch, New Executive Office Building, Room 10235; Washington, DC 20503. Written comments should be received within 30 days of this notice.

The following requests have been submitted for review since the last publication date on January 16, 1997.

Proposed Projects

1. The National Home and Hospice Care Survey (NHHCS)—(0920–0298)—Revision—The National Home and Hospice Care Survey (NHHCS) was conducted in 1992, 1993, 1994 and 1996. It is part of the long-term Care component of the National Health Care Survey. Section 306 of the Public Health Service Act states that the National Center for Health Statistics ''shall collect statistics on health resources * * * [and] utilization of health care, including utilization of * * * services of hospitals, extended care facilities, home health agencies, and other institutions.'' NHHCS data are used to examine this most rapidly expanding sector of the health care industry. Data from the NHHCS are widely used by the health care industry and policy makers for such diverse analyses as the need for various medical supplies; minority access to health care; and planning for the health care needs of the elderly. The NHHCS also reveals detailed information on utilization patterns, as needed to make accurate assessments of the need for and costs associated with such care. Data from earlier NHHCS collections have been used by the Congressional Budget Office, the Bureau of Health Professions, the Maryland Health Resources Planning Commission, the National Association for Home Care, and by several newspapers and journals. Additional uses are expected to be similar to the uses of the National Nursing Home Survey. NHHCS data cover: baseline data on the characteristics of hospices and home health agencies in relation to their patients and staff, Medicare and Medicaid certification, costs to patients, sources of payment, patients'' functional status and diagnoses. Data collection is planned for the period July-October, 1997. Survey design is in process now. Sample selection and preparation of layout forms will precede the data collection by several months. The total annual burden is 5,000.

Respondents	Number of respondents	Number of responses/ respondent	Average burden/response (in hours)
Agency Questionnaire	1,200	1	0.333
Current Patient Sampling List	1,200	1	.333
Current Patient Questionnaire	1,200	6	.25
Discharged Patient Sampling List	1,200	1	.50

Respondents	Number of respondents	Number of responses/ respondent	Average burden/response (in hours)
Discharged Patient Questionnaire	1,200	6	.25

2. List of Ingredients Added to Tobacco in the Manufacture of Smokeless Tobacco Products—(0920–0338)—Extension—Oral use of smokeless tobacco represents a significant health risk which can cause cancer and a number of noncancerous oral conditions, and can lead to nicotine addiction and dependence. Furthermore, smokeless tobacco use is not a safe substitute for cigarette smoking. The Centers for Disease Control and Prevention's (CDC) Office on Smoking and Health (OSH) has been delegated the authority for implementing major components of the Department of Health and Human Services' (HHS) tobacco and health program, including collection of tobacco ingredients information. HHS's overall goal is to reduce death and disability resulting from cigarette smoking and other forms of tobacco use through programs of information, education and research.

The Comprehensive Smokeless Tobacco Health Education Act of 1986 (15 U.S.C. 4401 *et seq.*, Pub.L. 99–252) requires each person who manufactures, packages, or imports smokeless tobacco products to provide the Secretary of HHS with a list of ingredients added to tobacco in the manufacture of smokeless tobacco products. HHS is authorized to undertake research, and to report to the Congress (as deemed appropriate), on the health effects of the ingredients. The total annual burden is 286.

Respondents	Number of respondents	Number of responses/ respondent	Average burden/response (in hours)
Tobacco manufacturers	11	1	26

3. List of Ingredients Added to Tobacco in the Manufacture of Cigarette Products—(0920–0210)—Reinstatement—Cigarette smoking is the leading preventable cause of premature death and disability in our nation. Each year more than 400,000 premature deaths occur as the result of cigarette smoking related diseases. The Centers for Disease Control and Prevention (CDC), Office on Smoking and Health has primary responsibility for the Department of Health and Human Services' (HHS) smoking and health program. HHS's overall goal is to reduce death and disability resulting from cigarette smoking and other forms of tobacco use through programs of information, education and research.

The Comprehensive Smoking Education Act of 1984 (15 U.S.C. 1336 Pub.L. 98–474) requires each person who manufactures, packages, or imports cigarettes to provide the Secretary of HHS with a list of ingredients added to tobacco in the manufacture of cigarettes. This legislation also authorizes HHS to undertake research, and to report to the Congress (as deemed appropriate), on the health effects of the ingredients.

In 1993, OMB reinstated approval for collection of ingredients information (0920–0210) after the expiration of the previous approval; this current approval expired on December 31, 1996. The total annual burden is 2,660.

Respondents	No. of respondents	No. of responses/respondent	Average burden/response (in hours)
Tobacco Manufacturers	14	1	190

4. Surveys of State-Based Diabetes Control Cooperative Agreement Programs—New—Diabetes Mellitus and related complications are the seventh leading cause of death in the United States, and accounts for $105 billion in direct medical costs and lost productivity each year. Approximately 14 million Americans have been diagnosed with diabetes, a leading cause of new blindness and end-stage renal failure in the United States and a major co-morbid factor in lower extremity amputation, cardiovascular disease and related death, and neonatal morbidity and mortality.

Through the support of the Centers for Disease Control and Prevention (CDC) ''State-Based Program to Reduce the Burden of Diabetes: A Health Systems Approach,'' public health departments in 42 states and four U.S. territorial affiliated jurisdictions have been charged with providing leadership in reducing the gap between what should be and what is the current standard of diabetes care.

CDC will collect information from diabetes State Program Coordinators regarding the four key areas of program implementation. They are (1) Capacity building and infrastructure development, (2) surveillance and data collection, (3) health systems change, and (4) working with local programs.

The survey has three main objectives:

1. Document the progress made by Diabetes Control Programs in the four main areas of program implementation.

2. Assess the relationship between the level of infrastructure development, and a program's efforts to carry out surveillance activities, health systems change activities, and work with local programs. Information will help improve technical assistance (TA) and guidance offered to states by CDC.

3. Lay the groundwork for an evaluation instrument that can be used to collect data from Diabetes Control Programs at the end of the funding cycle in order to assess whether progress in program implementation and development is linked to reduced diabetes morbidity and mortality.

The data will result from self-administered mailed surveys sent to the Program Coordinator in each state. Most questions will be in the form of

checklists although each of the four sections contain a number of open-ended questions for explanation of unique features of programs. It is expected that the burden in time to each respondent will be about two (2) hours per Program Coordinator or Designee, resulting in a total burden of 92 hours. Results will also be made available to participants upon request. The total annual burden is 84.

Respondents	No. of respondents	No. of responses/respondent	Average burden response (in hours)
Diabetes Program Coordinators	42	1	2

Dated: January 22, 1997.

Wilma G. Johnson,

Acting Associate Director for Policy Planning and Evaluation, Centers for Disease Control and Prevention (CDC).

[FR Doc. 97–2000 Filed 1–27–97; 8:45 am]

BILLING CODE 4163–18–P

Advisory Committee on Immunization Practices; Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces the following committee meeting.

Name: Advisory Committee on Immunization Practices (ACIP).

Times and Dates: 8:15 a.m.–6:15 p.m., February 12, 1997; 8:30 a.m.–2:45 p.m., February 13, 1997.

Place: CDC, Auditorium B, Building 2, 1600 Clifton Road, NE., Atlanta, Georgia 30333.

Status: Open to the public, limited only by the space available.

Purpose: The Committee is charged with advising the Director, CDC, on the appropriate uses of immunizing agents. In addition, under 42 U.S.C. § 1396s, the Committee is mandated to establish and periodically review and, as appropriate, revise, the list of vaccines for administration to vaccine-eligible children through the Vaccines for Children (VFC) Program, along with schedules regarding the appropriate periodicity, dosage, and contraindications applicable to the vaccines.

Matters to be Discussed: Under the authority of 42 U.S.C. § 1396s, the Committee will consider adoption of VFC resolutions (1) To provide for initial inclusion in the VFC Program of new vaccines that combine previously VFC-designated vaccines, (2) to approve use in the VFC Program of FDA licensed vaccines that combine Haemophilus influenzae type b (Hib) and Hepatitis B vaccines, and (3) to approve use in the VFC Program of FDA licensed vaccines that combine Diphtheria-Tetanus-Acellular Pertussis (DTaP) and Haemophilus influenzae type b (Hib) vaccines or are licensed by the FDA for combined administration.

Other topics to be discussed include: Updates on the National Vaccine Program; updates on the Vaccine Injury Compensation Program; updates on the combination vaccines workgroup; recommended uses for licensed combination vaccines and a vote to cover combination vaccines in the Vaccines for Children Program; vaccination of HIV-infected persons; measles, mumps, and rubella recommendations; serogroup C meningococcal conjugate vaccine: update on cost-effectiveness of routine use in the U.S.; status of recently licensed acellular pertussis vaccines; approval of draft statement on programmatic strategies to increase immunization coverage—reminder/recall; update on U.S. influenza; worldwide virologic surveillance and vaccine strain selection for the 1997 influenza season; update on Parke Davis influenza vaccine recall; impact of influenza in pregnant women; investigation of a possible association between Guillain-Barre syndrome and the 1992–1993 and 1993–1994 influenza vaccinations; proposed modifications in the ACIP influenza statement for 1997; recommendations on the use of Rotashield® (Rotavirus vaccine) as part of the routine childhood immunization schedule; rabies vaccine: vaccination of ferrets; a comparison of the safety of combined adult preparation diphtheria and tetanus toxoids versus single antigen tetanus toxoid in adults; meeting the challenge of new vaccines with the vaccine economics initiative; and progress in developing new jet injectors for immunization. Other matters of relevance among the Committee's objectives may be discussed.

Agenda items are subject to change as priorities dictate.

Contact Person For More Information: Gloria A. Kovach, Committee Management Specialist, CDC, 1600 Clifton Road, NE., M/S D50, Atlanta, Georgia 30333, telephone 404/639–7250.

Dated: January 22, 1997.

Carolyn J. Russell,

Director, Management Analysis and Services Office Centers for Disease Control and Prevention (CDC).

[FR Doc. 97–1996 Filed 1–27–97; 8:45 am]

BILLING CODE 4163–18–P

Administration for Children and Families

Submission for OMB Review; Comment Request

Title: Head Start Family and Child Experience Survey (FACES).

OMB No.: New Collection.

Description: The Administration on Children, Youth and Families (ACYF), Administration for Children and Families (ACF) of the Department of Health and Human Services (DHHS) is requesting Office of Management and Budget (OMB) clearance for interview instruments to be used in the Head Start Family and Child Experience Survey FACES. This study is being conducted under contracts with Abt Associates Inc. (with the CDM Group, Inc. as their subcontractor (#105–96–1930)) to collect descriptive information on Head Start families, and Westat, Inc. (with Ellsworth Associates as their subcontractor (#105–96–1912)) to collect information on Head Start performance measures.

The design calls for these rounds of data collection. A nationally representative group of 2,400 families with children enrolled in approximately 160 centers in 40 Head Start programs will be identified in Spring, 1997. At that time, Head Start staff and parents will be interviewed, classroom observations will be completed, and children will be assessed. The second data collection period will occur in Fall, 1997. Again, staff and parents will be interviewed, and children will be assessed and observed in their classrooms. At that time children from the Spring, 1997 sample that left Head Start to enter kindergarten following the 1996–97 Head Start year will be replaced by a representative sample of children just entering Head Start. All families, including those whose children entered kindergarten in Fall, 1997 will be tracked through the school year. The final data collection effort will occur in Spring, 1998 and involve all families and children identified in the earlier two data collection periods. A subgroup of 120 families will be identified from the Spring and Fall, 1997 samples for participation in the Validation Substudy. The Validation Substudy data collection will require home visits to participating families at each major data collection point and a series of monthly contacts between data collections periods. The monthly contacts will begin with the Spring, 1997 data collection and continue through December, 1998.

This schedule of data collection is necessitated by the mandates of the Government Performance and Results Act (GPRA) of 1993 (Pub. L. 103–62), which requires that the Head Start Bureau move expeditiously toward development and testing of Head Start Performance Measures, and by the 1994 reauthorization of Head Start (Head Start Act, as amended, May 18, 1994, Section 649 (d)), which requires assessment of Head Start's quality and effectiveness.

Respondents: Federal Government, Individuals or Households, and Not-for-profit institutions.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
Spring, 1997	7,840	1	0.652	5,110
Fall, 1997	8,400	1	.648	5,440
Spring, 1998	11,460	1	.654	7,500

Estimated Total Annual Burden Hours: 9,025.

Note: The 9,025 annual hours is based on an average of 1997 and 1998 estimated burden hours.

Additional Information: Copies of the proposed collection may be obtained by writing to The Administration for Children and Families, Office of Information Services, Division of Information Resource Management Services, 370 L'Enfant Promenade, SW., Washington, DC 20447, Attn: ACF Reports Clearance Officer.

OMB Comment: OMB is required to make a decision concerning the collection of information between 30 and 60 days after publication of this document in the Federal Register. Therefore, a comment is best assured of having its full effect if OMB receives it within 30 days of publication. Written comments and recommendations for the proposed information collection should be sent directly to the following: Office of Management and Budget, Paperwork Reduction Project, 725 17th Street, NW., Washington, DC 20503, Attn: Ms. Wendy Taylor.

Dated: January 22, 1997.

Bob Sargis,

Acting Reports Clearance Officer.

[FR Doc. 97–1944 Filed 1–27–97; 8:45 am]

BILLING CODE 4184–01–M

[Program Announcement No. OCS 97–05]

Family Violence Prevention and Services Program

AGENCY: Office of Community Services, Administration for Children and Family (ACF), Department of Health and Human Services (HHS).

ACTION: Notice of the availability of funds to State domestic violence coalitions for grants to carry out family violence intervention and prevention activities.

SUMMARY: This announcement governs the proposed award of fiscal year (FY) 1997 formula grants under the Family Violence Prevention and Services Act (FVPSA) to private non-profit State domestic violence coalitions. The purpose of these grants is to assist in the conduct of activities to promote domestic violence intervention and prevention and to increase public awareness of domestic violence issues.

This announcement sets forth the application requirements, the application process, and other administrative and fiscal requirements for grants in fiscal years (FY) 1997 through FY 2000.

CLOSING DATES FOR APPLICATIONS: Applications for FY 1997 family violence grant awards meeting the criteria specified in this announcement must be received no later than March 31, 1997. Grant applications for FY 1998 through FY 2000 should be received at the address specified below by November 15 of each subsequent fiscal year.

ADDRESSES: Applications should be sent to: Department of Health and Human Services, Office of Community Services, Administration for Children and Families, ATTN: William D. Riley. Fifth Floor—West Wing, 370 L'Enfant Promenade SW., Washington, DC 20447.

FOR FURTHER INFORMATION CONTACT: William D. Riley, (202) 401–5529 or Trudy Hairston (202) 401–5319.

Introduction

This notice for family violence prevention and services grants to State domestic violence coalitions serves two purposes. The first is to confirm a Federal commitment to reducing family and intimate violence and to urge States, localities, cities, and the private sector to become involved in State and local planning efforts leading to the development of a more comprehensive and integrated service delivery approach to services for victims of domestic violence (Part I).

The second purpose is to provide information on application requirements for FY 1997 grants to State domestic violence coalitions. These funds will support planning and coordination efforts, intervention and prevention activities, and efforts to increase the public awareness of domestic violence issues and services for battered women and their children (Part II).

Part I. Reducing Family and Intimate Violence Through Coordinated Prevention and Services Strategies

A. The Importance of Coordination of Services

Family and intimate violence has serious and far reaching consequences for individuals, families and communities. A recent report from the National Research Council, Understanding Violence Against Women (1996) concludes that, Women are far more likely than men to be victimized by an intimate partner (Kilpatrick, et. al.,1992; Bachman, 1994; Bachman and Saltzman, 1995) * * * It is important to note that attacks by intimates are more dangerous to women than attacks by strangers: 52 percent of the women victimized by an intimate sustain injuries, compared with 20 percent of those victimized by a stranger (Bachman and Saltzman, 1995). Women are also significantly more likely to be killed by an intimate than are men. In 1993, 29 percent of female homicide victims were killed by their husbands, ex-husbands, or boyfriends; [while] only 3 percent of male homicide victims were killed by their wives, ex-wives, or girlfriends (Federal Bureau of Investigation, 1993).

The impacts of such family and intimate violence include physical injury and death of primary or secondary victims, psychological

trauma, isolation from family and friends, harm to children witnessing or experiencing violence in homes in which the violence occurs, increased fear, reduced mobility and employability, homelessness, substance abuse, and a host of other health and related mental health consequences.

It is estimated that between 12 percent and 35 percent of women visiting emergency rooms with injuries are there because of battering (Randall, 1990; Abbot, et. al.,1995). Estimates of the number of women who are homeless because of battering range from 27 percent (Knickman and Weitzman, 1989) to 41 percent (Bassuk and Rosenberg, 1988) to 63 percent of all homeless women (D'ercole and Struening, 1990).

The significant correlation between domestic violence and child abuse (Edelson, 1995; Stark and Flitcraft, 1988; Strauss and Gelles, 1990), and the use of welfare by battered women as an economic escape route (Raphael, 1995) also suggest the need to coordinate domestic violence intervention activities with those addressing child abuse and welfare reform activities at the Federal, State and local levels.

When programs that seek to address these issues operate independently of each other, a fragmented, and consequently less effective, service delivery and prevention system may be the result. Coordination and collaboration among the police, prosecutors, the courts, victim services providers, child welfare and family preservation services, and medical and mental health service providers is needed to provide more responsive and effective services to victims of domestic violence and their families. It is essential that all interested parties are involved in the design and improvement of intervention and prevention activities.

To help bring about a more effective response to the problem of intimate violence, the Department of Health and Human Services (HHS) urges State domestic violence coalitions receiving funds under this grant announcement to coordinate activities funded under this grant with other new and existing resources for family and intimate violence and related issues.

B. On-Going Coordination Efforts

1. The Role and Activities of State Domestic Violence Coalitions

State domestic violence coalitions have an important role in ensuring that these and other Federal and State initiatives are informed by and coordinated with related intervention and prevention efforts. It remains important that State coalition efforts to improve the judicial, social services, and health systems response to domestic violence continue to expand.

In 1996, the National Center for Injury Prevention and Control of the Centers for Disease Control and Prevention (CDC) initiated a project to compile an inventory of funding sources for domestic violence and sexual assault coalitions and community-based programs. This included a survey of coalitions and programs to identify the types of funding received and the activities this funding supported. The survey used the following categories to capture the range of activities of many State domestic violence coalitions:

Services Advocacy includes work to support the growth and development of community-based domestic violence programs, including the provision of training and technical assistance to those providing direct services (e.g., providing training and technical assistance to hotline /shelter workers and legal advocates, developing program standards for domestic violence programs).

Systems Advocacy is work to effect policy and procedural change in order to improve the institutional response to domestic violence (e.g., developing protocols for medical or mental health providers, training for those who work in the criminal and civil justice, welfare, child protective services, legal services, and educational systems. The development of coordinated community interventions, public policy advocacy directed at changing State/local laws, policies, practices related to domestic violence, and the development and implementation of statewide standards for batterers intervention programs).

Statewide Planning includes needs assessment and planning activities designed to document gaps in current response and prevention efforts and to guide future activities.

Public Awareness/Community Education includes work designed to inform and mobilize the general public around domestic violence issues (e.g., education programs in elementary, middle and high schools and expanded outreach to underserved populations).

Administration includes activities directed at supporting organizational functioning, such as fiscal and programmatic record keeping and reporting, state-wide management of programs, and fundraising.

Direct Services are those provided directly to victims of domestic violence or to their families, friends, or supporters by a State coalition (e.g., State-wide hotline, information and referral, legal advocacy services, etc.).

The above categories are included as an overview of the role that State coalitions play in domestic violence intervention and prevention and the types of activities that funding under the Family Violence Prevention and Services Act is meant to support.

2. Federal Coordination

In the fall of 1993, a Federal Interdepartmental Work Group (including the Departments of Health and Human Services, Justice, Education, Housing and Urban Development, Labor, and Agriculture) began working together to study cross-cutting issues related to violence, and to make recommendations for action in areas such as youth development, schools, juvenile justice, family violence, sexual assault, firearms, and the media. The recommendations formed a framework for ongoing policy development and coordination within and among the agencies involved.

Based on these initial coordination efforts, a new interdepartmental strategy was developed for implementing the programs and activities enacted in the Violent Crime Control and Law Enforcement Act of 1994, Public Law 103–322, (the Crime Bill). A Steering Committee on Violence Against Women is currently coordinating activities among family violence-related programs and across agencies and departments. Also, in 1995 the Departments of Justice and Health and Human Services announced the formation of a National Advisory Council on Violence Against Women to help coordinate efforts, assist victims, and advise the Federal Government on implementation of the Violence Against Women Act (VAWA).

3. Opportunities for Coordination at the State and Local Level

The major domestic violence intervention and prevention activities funded by the Federal government focus on law enforcement and justice system strategies; victim protection and assistance services; and prevention activities, such as public awareness and education. Federal programs also serve related needs, such as housing, family preservation and child welfare services, substance abuse treatment, and job training.

We want to call to your attention two major programs, recently enacted by Congress, that provide new funds to expand services and which require the involvement of State agencies, Indian tribes, State domestic violence coalitions, and others interested in prevention and services for victims of

domestic violence. These programs are: Law Enforcement and Prosecution Grants to Reduce Violent Crimes Against Women, administered by the Department of Justice, and the Family Preservation and Support Services program, administered by DHHS. Both programs (described in detail below) require State agencies and Indian tribes administering them to conduct an inclusive, broad-based, comprehensive planning process at the State and community level.

Also outlined below are the implications of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104–93 (the Welfare Reform law), to those organizations providing domestic violence intervention and prevention services.

We urge State domestic violence coalitions to participate in these service planning and decision-making processes; we believe the expertise and perspective of the family violence prevention and services field will be invaluable as decisions are made on how best to use these funds and design service delivery improvements.

(a) Law Enforcement and Prosecution Grants to Reduce Violent Crimes Against Women. Enacted as part of the Violent Crime Control and Law Enforcement Act of 1994, the Violence Against Women Act provides an opportunity to respond to violence against women in a comprehensive manner. It emphasizes the development of Federal, State and local partnerships to assure that offenders are prosecuted to the fullest extent of the law, that crime victims receive the services they need and the dignity they deserve, and that all parts of the criminal justice system have training and funds to respond effectively to both offenders and crime victims.

One program under the VAWA is administered by the Office of Justice Programs (OJP) in the Department of Justice (DOJ). Known informally as the Stop Violence Against Women Formula Grants (Services, Training, Officers, Prosecution), it made available $26 million to States in FY 1995, $130 million to States in FY 1996, and will make $145 million available to States in FY 1997.

States must allocate at least 25 percent of these funds to law enforcement activities, at least 25 percent to prosecution activities, and at least 25 percent to non-profit nongovernmental victims services, including services to underserved populations. These grant funds are to develop, strengthen, and implement effective law enforcement, prosecution, and victim assistance strategies. Eligibility for this program is limited to the States, Territories and the District of Columbia.

The Violence Against Women Act stipulates that four percent of the funds appropriated each year for the STOP program will be awarded to Indian Tribal governments. The OJP grant regulations and program guidelines will address the requirements of both the State formula grant and the Indian grant programs.

In order to be eligible for DOJ funds, States must develop a plan for implementation. As a part of the planning process, the Violence Against Women Act requires that States must consult with nonprofit, nongovernmental victims' services programs including sexual assault and domestic violence victim services programs. Such a coordinated approach will require a partnership and collaboration among the police, prosecutors, the courts, shelter and victims service providers, and medical and mental health professionals. OJP expects that States will draw on the experience of existing domestic violence task forces and coordinating councils such as the State domestic violence coalitions, as well as representatives from key components of the criminal justice system and other professionals who interact with women who are victims of violence.

(b) Family Preservation and Family Support Services Program. In August 1993, Congress created a new program entitled Family Preservation and Support Services (a new part of Title IV-B of the Social Security Act). Funds under this program are awarded to State child welfare agencies to provide needed services to families in crisis and to help bring about better coordination among child and family services programs at the state and local level. Many jurisdictions are including domestic violence programs and advocacy organizations in their on-going planning and services system to better address the needs of victims of family violence and their dependents.

Family preservation services include intensive services assisting families at-risk or in crisis, particularly in cases where children are at risk of being placed out of the home. Victims of family violence and their dependents are considered at-risk or in crisis.

Family support services include community-based preventive activities designed to strengthen parents' ability to create safe, stable, and nurturing home environments that promote healthy child development. These services also include assistance to parents themselves through home visiting and activities such as drop-in center programs and parent support groups.

4. The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Welfare Reform)

On August 22, 1996 Public Law 104–193 was enacted which abolished the Aid to Families with Dependent Children (AFDC) program and made sweeping changes to other related programs. A new welfare program was enacted, the Temporary Assistance to Needy Families (TANF) program. States now have the authority and responsibility to determine which families will receive assistance and the type and amount of assistance that will be provided.

Under the new welfare reform law, each State must submit a State plan to the Department of Health and Human Services in order to receive the TANF block grant funds. The plan must certify that local government and private sector organizations have been consulted about the plan and have had at least 45 days in which to comment. There are two areas of the Act which specifically refer to domestic violence: (1) States are allowed to exempt 20 percent of their caseload from the 60-month limit on receiving welfare benefits for ''reason of hardship or if the family includes an individual who has been battered or subjected to extreme cruelty'' (Section 408(a)(7)(C)(i)); and (2) the Family Violence Amendment, (also known as the Wellstone/Murray Family Violence Provision), gives States the option to include a certification about victims of domestic violence in their State plans which allows States to waive certain requirements for certain domestic violence victims (Section 402(a)(7)).

Part II. State Coalition Grant Requirements

This section includes application requirements for family violence prevention and services grants for State domestic violence coalitions and is organized as follows:

Application Requirements

A. Legislative Authority
B. Background
C. Eligibility
D. Funds Available
E. Expenditure Period
F. Reporting Requirements
G. Application Requirements
H. Paperwork Reduction Act
I. Executive Order 12372
J. Certifications

A. Legislative Authority

Title III of the Child Abuse Amendments of 1984 (Pub. Law 98–457, 42 U.S.C. 10401 *et seq.*) is entitled the Family Violence Prevention and Services Act (the Act). The Act was first implemented in FY 1986, was reauthorized and amended in 1992 by Public Law 102–295, and was reauthorized and amended for fiscal Years 1995 through 2000 by Public Law 103–322, the Violent Crime Control and Law Enforcement Act of 1994 (the Crime Bill), and signed into law on September 13, 1994.

The reauthorization of the Child Abuse Prevention and Treatment Act (CAPTA) on October 3, 1996, contained a technical amendment affecting the funding level for the State domestic violence coalitions. Under the new Section 310(d) of the FVPSA, of the amounts appropriated under Section 310(a) of the FVPSA, not less than 10 percent shall be used for grants to State domestic violence coalitions.

B. Background

Section 311 of the Act authorizes the Secretary to award grants to statewide private non-profit State domestic violence coalitions to conduct activities to promote domestic violence intervention and prevention and to increase public awareness of domestic violence issues.

During FYs 1994, 1995 and 1996 the Department made grant awards to 50 State domestic violence coalitions, the District of Columbia, and the U.S. Virgin Islands. In FY 1997, grant awards will be again available to one statewide domestic violence coalition in each State, the U.S. Territories, the District of Columbia, and the Commonwealth of Puerto Rico.

C. Eligibility

To be eligible for grants under this program announcement an organization shall be a statewide private non-profit domestic violence coalition meeting the following criteria:

(1) The membership of the coalition includes representatives from a majority of the programs for victims of domestic violence operating within the State (a State domestic violence coalition may include representatives of Indian Tribes and Tribal organizations as defined in the Indian Self-Determination and Education Assistance Act);

(2) The Board membership of the coalition is representative of such programs;

(3) The purpose of the coalition is to provide services, community education, and technical assistance to domestic violence programs in order to establish and maintain shelter and related services for victims of domestic violence and their children; and

(4) In the application submitted by the coalition for the grant, the coalition provides assurances satisfactory to the Secretary that the coalition:

(A) Has actively sought and encouraged the participation of law enforcement agencies and other legal or judicial entities in the preparation of the application; and

(B) Will actively seek and encourage the participation of such entities in the activities carried out with the grant (Section 311(b)).

D. Funds Available

The Department will make $7.2 million available for grants to State domestic violence coalitions. Grants of approximately $137,358 each will be available for the State domestic violence coalitions of the 50 States, the Commonwealth of Puerto Rico, and the District of Columbia. The Coalitions of the U.S. Territories (Guam, U.S. Virgin Islands, Northern Mariana Islands, American Samoa, and Trust Territory of the Pacific Islands (Palau)) are eligible for domestic violence coalition grant awards of approximately $27,472 each.

On October 1, 1994, Palau became independent and a Compact of Free Association between the United States and Palau came into effect. This change in the political status of Palau has the following effect on the status of Palau's allocation:

In FY 95, Palau was entitled to receive 100% of its allocation.

Beginning in FY 96, Palau's share was reduced as follows:

FY 96—not to have exceeded 75% of the total amount appropriated for such programs in FY 95;

FY 97—not to exceed 50% of the total amount appropriated for such programs in FY 95;

FY 98—not to exceed 25% of the total amount appropriated for such programs in FY 95.

E. Expenditure Period

Funds for each of FYs 1997 through 2000 may be used for expenditures on and after October 1 of each fiscal year for which they are granted, and will be available for expenditure through September 30 of the following fiscal year, i.e. FY 1997 funds may be used for expenditures from October 1, 1996 through September 30, 1998.

We strongly recommend that State domestic violence coalitions keep a copy of this Federal Register notice for future reference. The requirements set forth in this announcement also will apply to State domestic violence coalition grants for FY 1998 through FY 2000. Information regarding any changes in available funds, administrative or reporting requirements will be provided by program announcement in the Federal Register.

F. Reporting Requirements

1. The State domestic violence coalition grantee must submit an annual report of activities describing the coordination, training and technical assistance, needs assessment, and comprehensive planning activities carried out; and the public information and education services provided. The annual report also must provide an assessment of the effectiveness of the grant supported activities.

The annual report is due 90 days after the end of the fiscal year, i.e., December 30, in which the grant is awarded. The final program report is due 90 days after the end of the two-year expenditure period. Program Reports are to be sent to: Office of Community Services, Administration for Children and Families, Attn: William D. Riley, 370 L'Enfant Promenade, S.W., 5th Floor West, Washington, D.C. 20447.

2. The State domestic violence coalition grantees must submit an annual financial report, Standard Form 269 (SF–269). A financial report is due 90 days after the end of the fiscal year in which the grant is awarded. A final financial report is due 90 days after the end of the expenditure period. Financial reports are to be sent to: Director for Formula, Entitlement, and Block Grants, Office of Financial Management, Administration for Children and Families, 370 L'Enfant Promenade, S.W., 7th Floor, Washington, D.C. 20447.

G. Application Requirements

Except for the changes made by Public Law 103–322 (the Crime Bill), the application requirements are the same as those for FY 1996. The changes are highlighted and reflected in the language below.

The State domestic violence coalition application must be signed by the Executive Director of the Coalition or the official designated as responsible for the administration of the grant. The application must contain the following information:

We have cited each requirement to the specific section of the law.

1. A description of the process and anticipated outcomes of utilizing these federal funds to work with local domestic violence programs and providers of direct services to encourage

appropriate responses to domestic violence within the State, including—

(a) Training and technical assistance for local programs and professionals working with victims of domestic violence;

(b) Planning and conducting State needs assessments and planning for comprehensive services;

(c) Serving as an information clearinghouse and resource center for the State; and

(d) Collaborating with other governmental systems which affect battered women (Section 311(a)(1)).

2. A description of the public education campaign regarding domestic violence to be conducted by the coalition through the use of public service announcements and informative materials that are designed for print media; billboards; public transit advertising; electronic broadcast media; and other forms of information dissemination that inform the public about domestic violence, including information aimed at underserved racial, ethnic or language-minority populations (Section 311(a)(4)).

3. The anticipated outcomes and a description of planned grant activities to be conducted in conjunction with judicial and law enforcement agencies concerning appropriate responses to domestic violence cases and an examination of issues including the:

(a) Inappropriateness of mutual protection orders;

(b) Prohibition of mediation when domestic violence is involved;

(c) Use of mandatory arrests of accused offenders;

(d) Discouragement of dual arrests;

(e) Adoption of aggressive and vertical prosecution policies and procedures;

(f) Use of mandatory requirements for pre-sentence investigations;

(g) Length of time taken to prosecute cases or reach plea agreements;

(h) Use of plea agreements;

(i) Consistency of sentencing, including comparisons of domestic violence crimes with other violent crimes;

(j) Restitution to victims;

(k) Use of training and technical assistance to law enforcement and other criminal justice professionals;

(l) Reporting practices of, and the significance to be accorded to, prior convictions (both felony and misdemeanor) and protection orders;

(m) Use of interstate extradition in cases of domestic violence crimes; and

(n) The use of statewide and regional planning (Section 311(a)(2)).

4. The anticipated outcomes and a description of planned grant activities to be conducted in conjunction with family law judges, criminal court judges, Child Protective Services agencies, Child Welfare agencies, Family Preservation and Support Service agencies, and children's advocates to develop appropriate responses to child custody and visitation issues in domestic violence cases and in cases where domestic violence and child abuse are both present, including the:

(a) Inappropriateness of mutual protection orders;

(b) Prohibition of mediation when domestic violence is involved;

(c) Inappropriate use of marital or conjoint counseling in domestic violence cases;

(d) Use of training and technical assistance for family law judges, criminal court judges, and court personnel;

(e) The presumption of custody to domestic violence victims;

(f) Use of comprehensive protection orders to grant fullest protection possible to victims of domestic violence, including temporary custody support and maintenance;

(g) Development by Child Protective Services of supportive responses that enable victims to protect their children;

(h) Implementation of supervised visitations or denial of visitation to protect against danger to victims or their children; and

(i) The possibility of permitting domestic violence victims to remove children from the State when the safety of the children or the victim is at risk (Section 311(a)(3)).

5. The anticipated outcomes and a description of other activities in support of the general purpose of furthering domestic violence intervention and prevention (Section 311(a)).

6. The following documentation will certify the status of the domestic violence coalition and must be included in the grant application:

(a) A description of the procedures developed between the State domestic violence agency and the Statewide coalition that allow for implementation of the following cooperative activities:

(i) The applicant coalition's participation in the planning and monitoring of the distribution of grants and grant funds provided in its State (Section 303(a)(3)); and

(ii) The participation of the State domestic violence coalition in compliance activities regarding the State's family violence prevention and services program grantees (Section 303(a)(3)).

(b) Unless already on file at HHS, a copy of a currently valid 501(c)(3) certification letter from the Internal Revenue Service stating private non-profit status; or

A copy of the applicant's listing in the Internal Revenue's Services (IRS) most recent list of tax-exempt organizations described in Section 501(c)(3) of the IRS code; or

A copy of the articles of incorporation bearing the seal of the State in which the corporation or association is domiciled.

(c) A current list of the organizations operating programs for victims of domestic violence programs in the State and the applicant coalition's current membership list by organization;

(d) A list of the applicant coalition's current Board of Directors, with each individual's organizational affiliation and the Chairperson identified;

(e) A copy of the resume of any coalition or contractual staff to be supported by funds from this grant and/or a statement of requirements for staff or consultants to be hired under this grant; and

(f) A budget narrative which clearly describes the planned expenditure of funds under this grant.

7. Assurances (include in the application as an appendix)

(a) The applicant coalition must provide documentation in the form of support letters, memoranda of agreement, or jointly signed statements, that the coalition:

(i) Has actively sought and encouraged the participation of law enforcement agencies and other legal or judicial organizations in the preparation of the grant application (Section 311(b)(4)(A)); and

(ii) Will actively seek and encourage the participation of such organizations in grant funded activities (Section 311(b)(4)(B)).

(b) The applicant coalition must provide a signed statement that the coalition will not use grant funds, directly or indirectly, to influence the issuance, amendment, or revocation of any executive order or similar legal document by any Federal, State or local agency, or to undertake to influence the passage or defeat of any legislation by the Congress, or any State or local legislative body, or State proposals by initiative petition, except that the representatives of the State Domestic Violence Coalition may testify or make other appropriate communications:

(i) When formally requested to do so by a legislative body, a committee, or a member of such organization (Section 311(d)(1)); or

(ii) In connection with legislation or appropriations directly affecting the activities of the State domestic violence

coalition or any member of the coalition (Section 311(d)(2)).

(c) The applicant coalition must provide a signed statement that the State domestic violence coalition will prohibit discrimination on the basis of age, handicap, sex, race, color, national origin or religion. (Sec. 307).

H. Paperwork Reproduction Act

Under the Paperwork Reduction Act of 1995 (the Act), Public Law 104–13, all Departments are required to submit to the Office of Management and Budget (OMB) for review and approval any reporting or record-keeping requirement inherent in a proposed or final rule, or program announcement. This program announcement contains information collection requirements in sections (F) and (G) of Part II which require that certain information must be provided in an annual report, fiscal report, and as part of a grantee's application. We estimate that all of the information requirements for this program will take each grantee approximately 6 hours to complete. As there are 53 projected grantees, the total number of hours annually will be 318.

Organizations and individuals desiring to submit comments on the information collection requirement should direct them to the Office of Information and Regulatory Affairs, OMB, New Executive Office Building (room 308), Washington, D.C., 20503, Attention: Desk Officer for the Administration for Children and Families.

In accordance with the Act, the application requirements contained in this notice have been approved by OMB under control number 0972–0062.

I. Notification Under Executive Order 12372

This program is covered under Executive Order 12372, ''Intergovernmental Review of Federal Programs'' for State plan consolidation and simplification only—45 CFR 100.12. The review and comment provisions of the Executive Order and Part 100 do not apply.

J. Certifications

Applicants must comply with the required certifications found at Attachments A, B, C, and D as follows:

1. *The Anti-Lobbying Certification and Disclosure Form* must be signed and submitted with the application. If applicable, a Standard Form LLL, which discloses lobbying payments must be submitted.

2. *Certification Regarding Drug-Free Workplace Requirements and Certification Regarding Debarment:* The signature on the application by a Coalition official responsible for the administration of the program attests to the applicant's intent to comply with the Drug-Free Workplace Requirements and compliance with the Debarment Certification. The Drug-Free Workplace and Debarment Certifications do not have to be returned with the application.

3. *Certification Regarding Environmental Tobacco Smoke:* The signature on the application by a Coalition official certifies that the applicant will comply with the requirements of the Pro-Children Act of 1994 (Act). The applicant further agrees that it will require the language of this certification be included in any subawards which contain provisions for children's services and that all grantees shall certify accordingly.

(Catalog of Federal Domestic Assistance Number 93.591, Family Violence Prevention and Services: Grants to State Domestic Violence Coalitions)

Dated: January 22, 1997.

Donald Sykes,

Director, Office of Community Services.

Attachment A—Certification Regarding Lobbying

Certification for Contracts, Grants, Loans, and Cooperative Agreements

The undersigned certifies, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan or cooperative agreement, the undersigned shall complete and submit Standard Form–LLL, ''Disclosure Form to Report Lobbying,'' in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

State for Loan Guarantee and Loan Insurance

The undersigned states, to the best of his or her knowledge and belief, that:

If any funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this commitment providing for the United States to insure or guarantee a loan, the undersigned shall complete and submit Standard Form–LLL ''Disclosure Form to Report Lobbying,'' in accordance with its instructions.

Submission of this statement is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required statement shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

Signature

Title

Organization

Date

BILLING CODE 4184–01–P

DISCLOSURE OF LOBBYING ACTIVITIES

Approved by OMB
0348-0046

Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352
(See reverse for public burden disclosure.)

1. Type of Federal Action:	2. Status of Federal Action:	3. Report Type:
☐ a. contract b. grant c. cooperative agreement d. loan e. loan guarantee f. loan insurance	☐ a. bid/offer/application b. initial award c. post-award	☐ a. initial filing b. material change **For Material Change Only:** year _____ quarter ____ date of last report _____

4. Name and Address of Reporting Entity:	5. If Reporting Entity in No. 4 is Subawardee, Enter Name and Address of Prime:
☐ Prime ☐ Subawardee Tier ____, *if known:* **Congressional District,** *if known:*	 **Congressional District,** *if known:*
6. Federal Department/Agency:	7. Federal Program Name/Description: CFDA Number, *if applicable:* _____
8. Federal Action Number, *if known:*	9. Award Amount, *if known:* $
10. a. Name and Address of Lobbying Entity *(if individual, last name, first name, MI):*	b. Individuals Performing Services *(including address if different from No. 10a)* *(last name, first name, MI):*

(attach Continuation Sheet(s) SF-LLL-A, if necessary)

11. Amount of Payment *(check all that apply):*	13. Type of Payment *(check all that apply):*
$ _____ ☐ actual ☐ planned	☐ a. retainer ☐ b. one-time fee ☐ c. commission ☐ d. contingent fee ☐ e. deferred ☐ f. other; specify: _____
12. Form of Payment *(check all that apply):* ☐ a. cash ☐ b. in-kind; specify: nature _____ value _____	

14. Brief Description of Services Performed or to be Performed and Date(s) of Service, including officer(s), employee(s), or Member(s) contacted, for Payment Indicated in Item 11:

(attach Continuation Sheet(s) SF-LLL-A, if necessary)

15. Continuation Sheet(s) SF-LLL-A attached: ☐ Yes ☐ No

16.	
Information requested through this form is authorized by title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to the Congress semi-annually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.	**Signature:** _____ **Print Name:** _____ **Title:** _____ **Telephone No.:** _____ **Date:** _____
Federal Use Only:	**Authorized for Local Reproduction** **Standard Form - LLL**

BILLING CODE 4184–01–C

Attachment B

Certification Regarding Debarment, Suspension, and Other Responsibility Matters—Primary Covered Transactions

By signing and submitting this proposal, the applicant, defined as the primary participant in accordance with 45 CFR Part 76, certifies to the best of its knowledge and believe that it and its principals:

(a) are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal Department or agency;

(b) have not within a 3-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(c) are not presently indicted or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and

(d) have not within a 3-year period preceding this application/proposal had one or more public transactions (Federal, State, or local) terminated for cause or default.

The inability of a person to provide the certification required above will not necessarily result in denial of participation in this covered transaction. If necessary, the prospective participant shall submit an explanation of why it cannot provide the certification. The certification or explanation will be considered in connection with the Department of Health and Human Services (HHS) determination whether to enter into this transaction. However, failure of the prospective primary participant to furnish a certification or an explanation shall disqualify such person from participation in this transaction.

The prospective primary participant agrees that by submitting this proposal, it will include the clause entitled ''Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion—Lower Tier Covered Transaction.'' provided below without modification in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion—Lower Tier Covered Transactions (To Be Supplied to Lower Tire Participants)

By signing and submitting this lower tier proposal, the prospective lower tier participant, as defined in 45 CFR Part 76, certifies to the best of its knowledge and belief that it and its principals:

(a) are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency.

(b) where the prospective lower tier participant is unable to certify to any of the above, such prospective participant shall attach an explanation to this proposal.

The prospective lower tier participant further agrees by submitting this proposal that it will include this clause entitled ''Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion—Lower Tier Covered Transactions.'' Without modification in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

BILLING CODE 4184–01–P

Attachment C

U.S. Department of Health and Human Services
Certification Regarding Drug-Free Workplace Requirements
Grantees Other Than Individuals

By signing and/or submitting this application or grant agreement, the grantee is providing the certification set out below.

This certification is required by regulations implementing the Drug-Free Workplace Act of 1988, 45 CFR Part 76, Subpart F. The regulations, published in the May 25, 1990 Federal Register, require certification by grantees that they will maintain a drug-free workplace. The certification set out below is a material representation of fact upon which reliance will be placed when the Department of Health and Human Services (HHS) determines to award the grant. If it is later determined that the grantee knowingly rendered a false certification, or otherwise violates the requirements of the Drug-Free Workplace Act, HHS, in addition to any other remedies available to the Federal Government, may taken action authorized under the Drug-Free Workplace Act. False certification or violation of the certification shall be grounds for suspension of payments, suspension or termination of grants, or governmentwide suspension or debarment.

Workplaces under grants, for grantees other than individuals, need not be identified on the certification. If known, they may be identified in the grant application. If the grantee does not identify the workplaces at the time of application, or upon award, if there is no application, the grantee must keep the identity of the workplace(s) on file in its office and make the information available for Federal inspection. Failure to identify all known workplaces constitutes a violation of the grantee's drug-free workplace requirements.

Workplace identifications must include the actual address of buildings (or parts of buildings) or other sites where work under the grant takes place. Categorical descriptions may be used (e.g., all vehicles of a mass transit authority or State highway department while in operation, State employees in each local unemployment office, performers in concert halls or radio studios.)

If the workplace identified to HHS changes during the performance of the grant, the grantee shall inform the agency of the change(s), if it previously identified the workplaces in question (see above).

Definitions of terms in the Nonprocurement Suspension and Debarment common rule and Drug-Free Workplace common rule apply to this certification. Grantees' attention is called, in particular, to the following definitions from these rules:

"**Controlled substance**" means a controlled substance in Schedules I through V of the Controlled Substances Act (21 USC 812) and as further defined by regulation (21 CFR 1308.11 through 1308.15).

"**Conviction**" means a finding of guilt (including a plea of nolo contendere) or imposition of sentence, or both, by any judicial body charged with the responsibility to determine violations of the Federal or State criminal drug statutes;

"**Criminal drug statute**" means a Federal or non-Federal criminal statute involving the manufacture, distribution, dispensing, use, or possession of any controlled substance;

"**Employee**" means the employee of a grantee directly engaged in the performance of work under a grant, including: (i) All "direct charge" employees; (ii) all "indirect charge" employees unless their impact or involvement is insignificant to the performance of the grant; and, (iii) temporary personnel and consultants who are directly engaged in the performance of work under the grant and who are on the grantee's payroll. This definition does not include workers not on the payroll of the grantee (e.g., volunteers, even if used to meet a matching requirement; consultants or independent contractors not on the grantee's payroll; or employees of subrecipients or subcontractors in covered workplaces).

The grantee certifies that it will or will continue to provide a drug-free workplace by:

(a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;

(b) Establishing an ongoing drug-free awareness program to inform employees about:

(1) The dangers of drug abuse in the workplace; (2) The grantee's policy of maintaining a drug-free workplace; (3) Any available drug counseling, rehabilitation, and employee assistance programs; and, (4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

(c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a);

(d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will:

(1) Abide by the terms of the statement; and, (2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;

(e) Notifying the agency in writing, within ten calendar days after receiving notice under subparagraph (d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to every grant officer or other designee on whose grant activity the convicted employee was working, unless the Federal agency has designated a central point for the receipt of such notices. Notice shall include the identification number(s) of each affected grant;

(f) Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph (d)(2), with respect to any employee who is so convicted:

(1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or, (2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;

(g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e) and (f).

The grantee may insert in the space provided below the site(s) for the performance of work done in connection with the specific grant (use attachments, if needed):

Place of Performance (Street address, City, County, State, ZIP Code)_____

Check ___ if there are workplaces on file that are not identified here.

Sections 76.630(c) and (d)(2) and 76.635(a)(1) and (b) provide that a Federal agency may designate a central receipt point for STATE-WIDE AND STATE AGENCY-WIDE certifications, and for notification of criminal drug convictions. For the Department of Health and Human Services, the central receipt point is: Division of Grants Management and Oversight, Office of Management and Acquisition, Department of Health and Human Services, Room 517-D, 200 Independence Avenue, S.W., Washington, D.C. 20201.

DGMO Form#2 Revised May 1990

BILLING CODE 4184–01–C

Attachment D

Certification Regarding Environmental Tobacco Smoke

Public Law 103–227, Part C—Environmental Tobacco Smoke, also known as the Pro-Children Act of 1994 (Act), requires that smoking not be permitted in any portion of any indoor facility owned or leased or contracted for by an entity and used routinely or regularly for the provision of health, day care, education, or library services to children under the age of 18, if the services are funded by Federal programs either directly or through State or local governments, by Federal grant, contract, loan, or loan guarantee. The law does not apply to children's services provided in private residences, facilities funded solely by Medicare or Medicaid funds, and portions of facilities used for inpatient drug or alcohol treatment. Failure to comply with the provisions of the law may result in the imposition of a civil monetary penalty of up to $1000 per day and/or the imposition of an administrative compliance order on the responsible entity.

[FR Doc. 97–2013 Filed 1–27–97; 8:45am]

BILLING CODE 4184–01–P

Food and Drug Administration

[Docket No. 96E–0355]

Determination of Regulatory Review Period for Purposes of Patent Extension; DIFFERIN Topical Gel

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has determined the regulatory review period for DIFFERIN Topical Gel and is publishing this notice of that determination as required by law. FDA has made the determination because of the submission of an application to the Commissioner of Patents and Trademarks, Department of Commerce, for the extension of a patent which claims that human drug product.

ADDRESSES: Written comments and petitions should be directed to the Dockets Management Branch (HFA–305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Brian J. Malkin, Office of Health Affairs (HFY–20), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–1382.

SUPPLEMENTARY INFORMATION: The Drug Price Competition and Patent Term Restoration Act of 1984 (Pub. L. 98–417) and the Generic Animal Drug and Patent Term Restoration Act (Pub. L. 100–670) generally provide that a patent may be extended for a period of up to 5 years so long as the patented item (human drug product, animal drug product, medical device, food additive, or color additive) was subject to regulatory review by FDA before the item was marketed. Under these acts, a product's regulatory review period forms the basis for determining the amount of extension an applicant may receive.

A regulatory review period consists of two periods of time: A testing phase and an approval phase. For human drug products, the testing phase begins when the exemption to permit the clinical investigations of the drug becomes effective and runs until the approval phase begins. The approval phase starts with the initial submission of an application to market the human drug product and continues until FDA grants permission to market the drug product. Although only a portion of a regulatory review period may count toward the actual amount of extension that the Commissioner of Patents and Trademarks may award (for example, half the testing phase must be subtracted as well as any time that may have occurred before the patent was issued), FDA's determination of the length of a regulatory review period for a human drug product will include all of the testing phase and approval phase as specified in 35 U.S.C. 156(g)(1)(B).

FDA recently approved for marketing the human drug product DIFFERIN Topical Gel (adapalene). DIFFERIN Topical Gel is indicated for the topical treatment of acne vulgaris. Subsequent to this approval, the Patent and Trademark Office received a patent term restoration application for DIFFERIN Topical Gel (U.S. Patent No. 5,212,303) from Centre International de Recherches Dermatologiques (CIRD), and the Patent and Trademark Office requested FDA's assistance in determining this patent's eligibility for patent term restoration. In a letter dated October 24, 1996, FDA advised the Patent and Trademark Office that this human drug product had undergone a regulatory review period and that the approval of DIFFERIN Topical Gel represented the first permitted commercial marketing or use of the product. Shortly thereafter, the Patent and Trademark Office requested that FDA determine the product's regulatory review period.

FDA has determined that the applicable regulatory review period for DIFFERIN Topical Gel is 2,447 days. Of this time, 1,401 days occurred during the testing phase of the regulatory review period, while 1,046 days occurred during the approval phase. These periods of time were derived from the following dates:

1. *The date an exemption under section 505(i) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(i)) became effective*: September 20, 1989. FDA has verified the applicant's claim that the date that the investigational new drug application became effective was on September 20, 1989.

2. *The date the application was initially submitted with respect to the human drug product under section 505(b) of the Federal Food, Drug, and Cosmetic Act*: July 21, 1993. The applicant claims July 15, 1993, as the date the new drug application (NDA) for DIFFERIN Topical Gel (NDA 20–380) was initially submitted. However, FDA records indicate that NDA 20–380 was submitted on July 21, 1993.

3. *The date the application was approved*: May 31, 1996. FDA has verified the applicant's claim that NDA 20–380 was approved on May 31, 1996.

This determination of the regulatory review period establishes the maximum potential length of a patent extension. However, the U.S. Patent and Trademark Office applies several statutory limitations in its calculations of the actual period for patent extension. In its application for patent extension, this applicant seeks 13 days of patent term extension.

Anyone with knowledge that any of the dates as published is incorrect may, on or before March 31, 1997, submit to the Dockets Management Branch (address above) written comments and ask for a redetermination. Furthermore, any interested person may petition FDA, on or before July 28, 1997, for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period. To meet its burden, the petition must contain sufficient facts to merit an FDA investigation. (See H. Rept. 857, part 1, 98th Cong., 2d sess., pp. 41–42, 1984.) Petitions should be in the format specified in 21 CFR 10.30.

Comments and petitions should be submitted to the Dockets Management Branch (address above) in three copies (except that individuals may submit single copies) and identified with the docket number found in brackets in the heading of this document. Comments and petitions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: January 17, 1997.

Stuart L. Nightingale,

Associate Commissioner for Health Affairs.

[FR Doc. 97–2064 Filed 1–27–97; 8:45 am]

BILLING CODE 4160–01–F

[Docket No. 96E–0359]

Determination of Regulatory Review Period for Purposes of Patent Extension; DIFFERIN Topical Gel

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has determined the regulatory review period for DIFFERIN Topical Gel and is publishing this notice of that determination as required by law. FDA has made the determination because of the submission of an application to the Commissioner of Patents and Trademarks, Department of Commerce, for the extension of a patent which claims that human drug product.

ADDRESSES: Written comments and petitions should be directed to the Dockets Management Branch (HFA–305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Brian J. Malkin, Office of Health Affairs (HFY–20), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–1382.

SUPPLEMENTARY INFORMATION: The Drug Price Competition and Patent Term Restoration Act of 1984 (Pub. L. 98–417) and the Generic Animal Drug and Patent Term Restoration Act (Pub. L. 100–670) generally provide that a patent may be extended for a period of up to 5 years so long as the patented item (human drug product, animal drug product, medical device, food additive, or color additive) was subject to regulatory review by FDA before the item was marketed. Under these acts, a product's regulatory review period forms the basis for determining the amount of extension an applicant may receive.

A regulatory review period consists of two periods of time: A testing phase and an approval phase. For human drug products, the testing phase begins when the exemption to permit the clinical investigations of the drug becomes effective and runs until the approval phase begins. The approval phase starts with the initial submission of an application to market the human drug product and continues until FDA grants permission to market the drug product. Although only a portion of a regulatory review period may count toward the actual amount of extension that the Commissioner of Patents and Trademarks may award (for example, half the testing phase must be subtracted as well as any time that may have occurred before the patent was issued), FDA's determination of the length of a regulatory review period for a human drug product will include all of the testing phase and approval phase as specified in 35 U.S.C. 156(g)(1)(B).

FDA recently approved for marketing the human drug product DIFFERIN Topical Gel (adapalene). DIFFERIN Topical Gel is indicated for the topical treatment of acne vulgaris. Subsequent to this approval, the Patent and Trademark Office received a patent term restoration application for DIFFERIN Topical Gel (U.S. Patent No. 5,015,758) from Centre International de Recherches Dermatologiques (''CIRD''), and the Patent and Trademark Office requested FDA's assistance in determining this patent's eligibility for patent term restoration. In a letter dated October 24, 1996, FDA advised the Patent and Trademark Office that this human drug product had undergone a regulatory review period and that the approval of DIFFERIN Topical Gel represented the first permitted commercial marketing or use of the product. Shortly thereafter, the Patent and Trademark Office requested that FDA determine the product's regulatory review period.

FDA has determined that the applicable regulatory review period for DIFFERIN Topical Gel is 2,447 days. Of this time, 1,401 days occurred during the testing phase of the regulatory review period, while 1,046 days occurred during the approval phase. These periods of time were derived from the following dates:

1. *The date an exemption under section 505(i) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(i)) became effective:* September 20, 1989. FDA has verified the applicant's claim that the date that the investigational new drug application became effective was on September 20, 1989.

2. *The date the application was initially submitted with respect to the human drug product under section 505(b) of the Federal Food, Drug, and Cosmetic Act:* July 21, 1993. The applicant claims July 15, 1993, as the date the new drug application (NDA) for DIFFERIN Topical Gel (NDA 20–380) was initially submitted. However, FDA records indicate that NDA 20–380 was submitted on July 21, 1993.

3. *The date the application was approved:* May 31, 1996. FDA has verified the applicant's claim that NDA 20–380 was approved on May 31, 1996.

This determination of the regulatory review period establishes the maximum potential length of a patent extension. However, the U.S. Patent and Trademark Office applies several statutory limitations in its calculations of the actual period for patent extension. In its application for patent extension, this applicant seeks 257 days of patent term extension.

Anyone with knowledge that any of the dates as published is incorrect may, on or before March 31, 1997, submit to the Dockets Management Branch (address above) written comments and ask for a redetermination. Furthermore, any interested person may petition FDA, on or before July 28, 1997, for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period. To meet its burden, the petition must contain sufficient facts to merit an FDA investigation. (See H. Rept. 857, part 1, 98th Cong., 2d sess., pp. 41–42, 1984.) Petitions should be in the format specified in 21 CFR 10.30.

Comments and petitions should be submitted to the Dockets Management Branch (address above) in three copies (except that individuals may submit single copies) and identified with the docket number found in brackets in the heading of this document. Comments and petitions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: January 17, 1997.

Stuart L. Nightingale,

Associate Commissioner for Health Affairs.

[FR Doc. 97–2065 Filed 1–27–97; 8:45 am]

BILLING CODE 4160–01–F

[Docket No. 96E–0363]

Determination of Regulatory Review Period for Purposes of Patent Extension; DIFFERIN Solution

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has determined the regulatory review period for DIFFERIN Solution and is publishing this notice of that determination as required by law. FDA has made the determination because of the submission of an application to the Commissioner of Patents and Trademarks, Department of Commerce, for the extension of a patent which claims that human drug product.

ADDRESSES: Written comments and petitions should be directed to the Dockets Management Branch (HFA–305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Brian J. Malkin, Office of Health Affairs

(HFY–20), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–1382.

SUPPLEMENTARY INFORMATION: The Drug Price Competition and Patent Term Restoration Act of 1984 (Pub. L. 98–417) and the Generic Animal Drug and Patent Term Restoration Act (Pub. L. 100–670) generally provide that a patent may be extended for a period of up to 5 years so long as the patented item (human drug product, animal drug product, medical device, food additive, or color additive) was subject to regulatory review by FDA before the item was marketed. Under these acts, a product's regulatory review period forms the basis for determining the amount of extension an applicant may receive.

A regulatory review period consists of two periods of time: A testing phase and an approval phase. For human drug products, the testing phase begins when the exemption to permit the clinical investigations of the drug becomes effective and runs until the approval phase begins. The approval phase starts with the initial submission of an application to market the human drug product and continues until FDA grants permission to market the drug product. Although only a portion of a regulatory review period may count toward the actual amount of extension that the Commissioner of Patents and Trademarks may award (for example, half the testing phase must be subtracted as well as any time that may have occurred before the patent was issued), FDA's determination of the length of a regulatory review period for a human drug product will include all of the testing phase and approval phase as specified in 35 U.S.C. 156(g)(1)(B).

FDA recently approved for marketing the human drug product DIFFERIN Solution (adapalene). DIFFERIN Solution is indicated for the topical treatment of acne vulgaris. Subsequent to this approval, the Patent and Trademark Office received a patent term restoration application for DIFFERIN Solution (U.S. Patent No. 4,717,720) from Centre International de Recherches Dermatologiques (CIRD), and the Patent and Trademark Office requested FDA's assistance in determining this patent's eligibility for patent term restoration. In a letter dated October 24, 1996, FDA advised the Patent and Trademark Office that this human drug product had undergone a regulatory review period and that the approval of DIFFERIN Solution represented the first permitted commercial marketing or use of the product. Shortly thereafter, the patent and Trademark Office requested that FDA determine the product's regulatory review period.

FDA has determined that the applicable regulatory review period for DIFFERIN Solution is 2,814 days. Of this time, 1,651 days occurred during the testing phase of the regulatory review period, while 1,163 days occurred during the approval phase. These periods of time were derived from the following dates:

1. *The date an exemption under section 505(i) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(i)) became effective*: September 18, 1988. FDA has verified the applicant's claim that the date that the investigational new drug application became effective was on September 18, 1988.

2. *The date the application was initially submitted with respect to the human drug product under section 505(b) of the Federal Food, Drug, and Cosmetic Act*: March 26, 1993. The applicant claims March 19, 1993, as the date the new drug application (NDA) for DIFFERIN Solution (NDA 20–338) was initially submitted. However, FDA records indicate that NDA 20–338 was submitted on March 26, 1993.

3. *The date the application was approved*: May 31, 1996. FDA has verified the applicant's claim that NDA 20–338 was approved on May 31, 1996.

This determination of the regulatory review period establishes the maximum potential length of a patent extension. However, the U.S. Patent and Trademark Office applies several statutory limitations in its calculations of the actual period for patent extension. In its application for patent extension, this applicant seeks 1,512 days of patent term extension.

Anyone with knowledge that any of the dates as published is incorrect may, on or before March 31, 1997, submit to the Dockets Management Branch (address above) written comments and ask for a redetermination. Furthrmore, any interested person may petition FDA, on or before July 28, 1997, for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period. To meet its burden, the petition must contain sufficient facts to merit an FDA investigation. (See H. Rept. 857, part 1, 98th Cong., 2d sess., pp. 41–42, 1984.) Petitions should be in the format specified in 21 CFR 10.30.

Comments and petitions should be submitted to the Dockets Management Branch (address above) in three copies (except that individuals may submit single copies) and identified with the docket number found in brackets in the heading of this document. Comments and petitions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: January 17, 1997.

Stuart L. Nightingale,

Associate Commissioner for Health Affairs.

[FR Doc. 97–2066 Filed 1–27–97; 8:45 am]

BILLING CODE 4160–01–F

[Docket No. 96E–0379]

Determination of Regulatory Review Period for Purposes of Patent Extension; CAMPTOSAR®

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has determined the regulatory review period for CAMPTOSAR® and is publishing this notice of that determination as required by law. FDA has made the determination because of the submission of an application to the Commissioner of Patents and Trademarks, Department of Commerce, for the extension of a patent which claims that human drug product.

ADDRESSES: Written comments and petitions should be directed to the Dockets Management Branch (HFA–305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Brian J. Malkin, Office of Health Affairs (HFY–20), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–1382.

SUPPLEMENTARY INFORMATION: The Drug Price Competition and Patent Term Restoration Act of 1984 (Pub. L. 98–417) and the Generic Animal Drug and Patent Term Restoration Act (Pub. L. 100–670) generally provide that a patent may be extended for a period of up to 5 years so long as the patented item (human drug product, animal drug product, medical device, food additive, or color additive) was subject to regulatory review by FDA before the item was marketed. Under these acts, a product's regulatory review period forms the basis for determining the amount of extension an applicant may receive.

A regulatory review period consists of two periods of time: A testing phase and an approval phase. For human drug products, the testing phase begins when the exemption to permit the clinical investigations of the drug becomes effective and runs until the approval phase begins. The approval phase starts with the initial submission of an

application to market the human drug product and continues until FDA grants permission to market the drug product. Although only a portion of a regulatory review period may count toward the actual amount of extension that the Commissioner of Patents and Trademarks may award (for example, half the testing phase must be subtracted as well as any time that may have occurred before the patent was issued), FDA's determination of the length of a regulatory review period for a human drug product will include all of the testing phase and approval phase as specified in 35 U.S.C. 156(g)(1)(B).

FDA recently approved for marketing the human drug product CAMPTOSAR® (irinotecan hydrochloride). CAMPTOSAR® is indicated for the treatment of patients with metastatic carcinoma of the colon or rectum whose disease has recurred or progressed following 5–FU based therapy. Subsequent to this approval, the Patent and Trademark Office received a patent term restoration application for CAMPTOSAR® (U.S. Patent No. 4,604,463) from Kabushiki Kaisha Yakult Honsha, and the Patent and Trademark Office requested FDA's assistance in determining this patent's eligibility for patent term restoration. In a letter dated October 24, 1996, FDA advised the Patent and Trademark Office that this human drug product had undergone a regulatory review period and that the approval of CAMPTOSAR® represented the first permitted commercial marketing or use of the product. Shortly thereafter, the Patent and Trademark Office requested that FDA determine the product's regulatory review period.

FDA has determined that the applicable regulatory review period for CAMPTOSAR® is 2,111 days. Of this time, 1,941 days occurred during the testing phase of the regulatory review period, while 170 days occurred during the approval phase. These periods of time were derived from the following dates:

1. *The date an exemption under section 505(i) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(i)) became effective*: September 5, 1990. FDA has verified the applicant's claim that the date that the investigational new drug application became effective was on September 5, 1990.

2. *The date the application was initially submitted with respect to the human drug product under section 505(b) of the Federal Food, Drug, and Cosmetic Act*: December 28, 1995. FDA has verified the applicant's claim that the new drug application (NDA) for CAMPTOSAR® (NDA 20–571) was initially submitted on December 28, 1995.

3. *The date the application was approved*: June 14, 1996. FDA has verified the applicant's claim that NDA 20–571 was approved on June 14, 1996.

This determination of the regulatory review period establishes the maximum potential length of a patent extension. However, the U.S. Patent and Trademark Office applies several statutory limitations in its calculations of the actual period for patent extension. In its application for patent extension, this applicant seeks 1,139 days of patent term extension.

Anyone with knowledge that any of the dates as published is incorrect may, on or before March 31, 1997, submit to the Dockets Management Branch (address above) written comments and ask for a redetermination. Furthermore, any interested person may petition FDA, on or before July 28, 1997, for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period. To meet its burden, the petition must contain sufficient facts to merit an FDA investigation. (See H. Rept. 857, part 1, 98th Cong., 2d sess., pp. 41–42, 1984.) Petitions should be in the format specified in 21 CFR 10.30.

Comments and petitions should be submitted to the Dockets Management Branch (address above) in three copies (except that individuals may submit single copies) and identified with the docket number found in brackets in the heading of this document. Comments and petitions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: January 17, 1997.

Stuart L. Nightingale,

Associate Commissioner for Health Affairs.

[FR Doc. 97–2067 Filed 1–27–97; 8:45 am]

BILLING CODE 4160–01–F

[Docket No. 96E–0361]

Determination of Regulatory Review Period for Purposes of Patent Extension; DIFFERIN Solution

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has determined the regulatory review period for DIFFERIN Solution and is publishing this notice of that determination as required by law. FDA has made the determination because of the submission of an application to the Commissioner of Patents and Trademarks, Department of Commerce, for the extension of a patent which claims that human drug product.

ADDRESSES: Written comments and petitions should be directed to the Dockets Management Branch (HFA–305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Brian J. Malkin, Office of Health Affairs (HFY–20), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–1382.

SUPPLEMENTARY INFORMATION: The Drug Price Competition and Patent Term Restoration Act of 1984 (Pub. L. 98–417) and the Generic Animal Drug and Patent Term Restoration Act (Pub. L. 100–670) generally provide that a patent may be extended for a period of up to 5 years so long as the patented item (human drug product, animal drug product, medical device, food additive, or color additive) was subject to regulatory review by FDA before the item was marketed. Under these acts, a product's regulatory review period forms the basis for determining the amount of extension an applicant may receive.

A regulatory review period consists of two periods of time: A testing phase and an approval phase. For human drug products, the testing phase begins when the exemption to permit the clinical investigations of the drug becomes effective and runs until the approval phase begins. The approval phase starts with the initial submission of an application to market the human drug product and continues until FDA grants permission to market the drug product. Although only a portion of a regulatory review period may count toward the actual amount of extension that the Commissioner of Patents and Trademarks may award (for example, half the testing phase must be subtracted as well as any time that may have occurred before the patent was issued), FDA's determination of the length of a regulatory review period for a human drug product will include all of the testing phase and approval phase as specified in 35 U.S.C. 156(g)(1)(B).

FDA recently approved for marketing the human drug product DIFFERIN Solution (adapalene). DIFFERIN Solution is indicated for the topical treatment of acne vulgaris. Subsequent to this approval, the Patent and Trademark Office received a patent term restoration application for DIFFERIN Solution (U.S. Patent No. 5,015,758) from Centre International de Recherches Dermatologiques (CIRD), and the Patent and Trademark Office requested FDA's

assistance in determining this patent's eligibility for patent term restoration. In a letter dated October 24, 1996, FDA advised the Patent and Trademark Office that this human drug product had undergone a regulatory review period and that the approval of DIFFERIN Solution represented the first permitted commercial marketing or use of the product. Shortly thereafter, the Patent and Trademark Office requested that FDA determine the product's regulatory review period.

FDA had determinated that the applicable regulatory review period for DIFFERIN Solution is 2,814 days. Of this time, 1,651 days occurred during the testing phase of the regulatory review period, while 1,163 days occurred during the approval phase. These periods of time were derived from the following dates:

1. *The date an exemption under section 505(i) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(i)) became effective*: September 18, 1988. FDA has verified the applicant's claim that the date that the investigational new drug application became effective was on September 18, 1988.

2. *The date the application was initially submitted with respect to the human drug product under section 505(b) of the Federal Food, Drug, and Cosmetic Act*: March 26, 1993. The applicant claims March 19, 1993, as the date the new drug application (NDA) for DIFFERIN Solution (NDA 20–338) was initially submitted. However, FDA records indicate that NDA 20–338 was submitted on March 26, 1993.

3. *The date the application was approved:* May 31, 1996. FDA has verified the applicant's claim that NDA 20–338 was approved on May 31, 1996.

This determination of the regulatory review period establishes the maximum potential length of a patent extension. However, the U.S. Patent and Trademark Office applies several statutory limitations in its calculations of the actual period for patent extension. In its application for patent extension, this applicant seeks 257 days of patent term extension.

Anyone with knowledge that any of the dates as published is incorrect may, on or before March 31, 1997, submit to the Dockets Management Branch (address above) written comments and ask for a redetermination. Furthermore, any interested person may petition FDA, on or before July 28, 1997, for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period. To meet its burden, the petition must contain sufficient facts to merit an FDA investigation. (See H. Rept. 857, part 1, 98th Cong., 2d sess., pp. 41–42, 1984.) Petitions should be in the format specified in 21 CFR 10.30.

Comments and petitions should be submitted to the Dockets Management Branch (address above) in three copies (except that individuals may submit single copies) and identified with the docket number found in brackets in the heading of this document. Comments and petitions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: January 17, 1997.

Stuart L. Nightingale,

Associate Commissioner for Health Affairs.

[FR Doc. 97–2068 Filed 1–27–97; 8:45 am]

BILLING CODE 4160–01–F

National Institutes of Health

Submission for OMB Review; Comment Request; NCI Cancer Information Service Community Services Database Survey and Verification

SUMMARY: Under the provisions of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the National Cancer Institute (NCI), the National Institutes of Health (NIH) has submitted to the Office of Management and Budget (OMB) a request to review and approve the information collection listed below. This proposed information collection was previously published in the Federal Register on May 3, 1996, page 19943 and allowed 60 days for public comment. No public comments were received. The purpose 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: Describe the proposed information collection activity as follows. Include:

Title: NCI Cancer Information Service Community Services Database Survey and Verification.

Type of Information Collection Request: New.

Form Number: Not applicable.

Need and Use of Information Collection: The CIS provides the general public, cancer patients, families, health professionals, and others with the latest information on cancer. Essential to fulfilling its role as a referral source for cancer patients and their families is the identification, acquisition, and dissemination of information about hospitals, breasts and cervical cancer screening clinics, and cancer pain management programs. This effort involves sending a survey tool or a verification instrument annually to approximately 17,135 respondents.

Frequency of Response: Annual.

Affected Public: Not-for-profit institutions; Business or other for-profit; Federal Government; State, Local or Tribal Government.

Type of Respondent: Administrators of hospitals, pain centers, screening facilities.

The annual reporting burden is as follows:

Estimated Number of Respondents: 17,135 respondents.

Estimated Number of Responses per Respondent: One (1) per year).

Average Burden Hours Per Response: .167 hours.

Estimated Total Annual Burden Hours Requested: 2,862 hours.

The annualized cost to respondents is estimated at: $34,338.54. There are no Capital Costs to report. There are no Operating of Maintenance Costs to report.

Type of respondents	Estimated number of respondents	Estimated number of responses per respondent	Average burden hours per response	Estimated total annual burden hours requested
Year 1:				
Administrators of hospitals, pain centers, screening facilities	18,027	1	0.167	3,011
Year 2:				
New Organizations and verification	16,605	1	0.167	2,773
Year 3:				
New Organizations and verification	16,774	1	0.167	2,801

Type of respondents	Estimated number of respondents	Estimated number of responses per respondent	Average burden hours per response	Estimated total annual burden hours requested
Annualized Totals	17,315			2,862

REQUEST 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, including the validity of the methodology and assumptions used; (3) Ways to enhance the quality, utility, and clarity of the information to be collected; and (4) Ways to minimize the burden of 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, D.C. 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: Chris Thomsen, Acting Chief, Cancer Information Service, RIB, OCC, OD, NCI, Building 31, Room 10A16, 9000 Rockville Pike, Bethesda, MD 20892, or call non-toll-free number (301) 496–5583 ext. 239 or E-mail your request, including your address to: thomsenc@occ.nci.nih.gov

COMMENTS DUE DATE: Comments regarding this information collection are best assured of having their full effect if received on or before February 27, 1997.

Dated: December 12, 1996.

Nancie L. Bliss,

OMB Project Clearance Liaison.

[FR Doc. 97–1982 Filed 1–27–97; 8:45 am]

BILLING CODE 4140–01–M

Government-Owned Inventions; Availability for Licensing

AGENCY: National Institutes of Health.

ACTION: Notice.

The inventions listed below are owned by agencies 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. Foreign patent applications are filed on selected inventions to extend market coverage for U.S. companies and may also be available for licensing.

ADDRESSES: Licensing information and copies of the U.S. patent applications listed below may be obtained by writing to the indicated licensing contact at the Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, Maryland 20852–3804 (telephone 301/496–7057; fax 301/402–0220). An signed Confidential Disclosure Agreement (CDA) will be required to receive copies of the patent applications.

Immunotoxin (MAB–RICIN), for the Treatment of Focal Movement Disorders

J Hott, R Youle, M Hallet, M Dalakas (NINDS)
Serial No. 60/027,458 filed 19 Sep 96
Licensing Contact: Stephen Finley, 301/496–7735 ext 215

This invention describes the use of an immunotoxin designed to treat focal dystonias that are currently being treated by injections of botulinum toxin (BTX) or by surgical myectomy. The immunotoxin (ITX) is prepared from a monoclonal antibody (MoAb35), specific to the nicotinic acetylcholine receptor in skeletal muscle, and is covalently linked to the toxin, ricin. ITX utilizes ricin's alpha chain and beta chain for its improved potency. ITX's potency was demonstrated by intramuscular injections into a rat model. The effects of intermuscular injections of ITX were compared to that of BTX. Even lower doses of ITX proved more effective and longer lasting than BTX in weakening muscle. The ITX selectively removed muscle fiber at the injection sites. It is believed that ITX may have clinical applications to those patients who have become refractory to BTX, or when used in combination or in place of BTX. In addition to the use of ITX in the treatment of all focal muscular spasms, ITX may prove useful in the treatment of other disorders of muscular spasms such as blepharospasms, cervical dystonia, hand dystonia, limb dystonia, hemifacial spasm, bruxism, strabismus, VI nerve palsy, for spasmodic, dysphonia, and oromandibular dystonia. (portfolios: Central Nervious System—Therapeutics, neurological, other; Central Nervous System—Therapeutics, neurological, muscle relaxants; Internal Medicine—Therapeutics, other)

Methods and Compositions for p300/CBP-Associated Transcriptional Co-Factor (P/CAF)

Y Nakatani, B Howard (NICHD)
Serial No. 60/022,273 filed 23 Jul 96
Licensing Contact: Ken Hemby, 301/496–7735 ext 265

The adenoviral oncoprotein E1A induces cell transformation by binding to various cellular components, such as the products of the retinoblastoma and p300/CBP gene families. This invention provides a transcriptional co-factor, p300/CBP-associated factor (P/CAF), which has intrinsic histone acetylase activity and also competes with E1A for binding to cellular targets. Also provided are methods of screening for compounds that affect P/CAF activity. Methods for directed gene therapy to provide functional wild-type or mutant P/CAF to cells producing varying levels of P/CAF protein are also provided. (portfolios: Cancer—Diagnostics; Cancer—Therapeutics, biological response modifiers; Devices—Research Tools and Materials, biologicals and chemicals)

Conformationally Locked Nucleoside Analogs

VE Marquez, JB Rodriquez, MC Nicklaus, JJ Barchi Jr, MA Siddiqui (NCI)
Serial Number 08/311,425 filed 23 Sep 94 (with priority to 24 Sep 93) and

Conformationally Locked Nucleoside Analogs as Antiherpetic Agents

VE Marquez, MC Nicklaus, JJ Barchi Jr, JB Rodriguez, MA Siddiqui (NCI)
Serial Number 60/023,565 filed 07 Aug 96
Licensing Contact: Robert Benson, 301/496–7056 ext 267

These inventions concern novel nucleoside analogs comprising carbocyclic-4′, 6′-cyclopropane-fused-2′, 3′-derivatives of ribo, deoxyribo and dideoxyribo purines and pyrimidines, and the corresponding nucleotides. The first patent application describes an anti-HIV utility. It has been foreign filed as PCT/US94/10794. The second application describes a new utility of the deoxyribo derivatives of the first application, namely as anti-Herpes Virus agents. The thymidine analog, in particular, showed good activity against Herpes Simplex Type 1 and Herpes Simplex Type 2 viruses, and Epstein-Barr virus as shown in an in vitro assay. It showed better antiherpes activity than acyclovir in a plaque reduction assay. Descriptions of the invention are to be found in Rodriguez et al., Tetrahedron Letters 34: 6233–6236, 1993; Rodriguez et al., J. Medicinal Chemistry 37: 3389–3399, 1994; Siddiqui et al., Nucleosides Nucleotides 15: 235–250, 1996 and Marquez et al., J. Medicinal Chemistry 39: 3739–3747, 1996. (portfolio: Infectious Diseases—Therapeutics, anti-viralsa, AIDS)

Long Distance Sequencer Method: A Novel Strategy for Large DNA Sequencing Projects

K Hagiwara, CC Harris (NCI)
Serial No. 60/017,569 filed 15 May 96
Licensing Contact: Leopold J. Luberecki, Jr., 301/496–7735 ext 223

The current invention represents an improvement over existing technologies used in sequencing long fragments of DNA. Existing technologies allow for the sequencing of a 10 kb fragment of DNA in two to three months; the present invention allows for such sequences to be obtained in two to three weeks. Specifically, the method consists of the cloning of a long (5 kb or longer) fragment of DNA into an appropriate vector, followed by the generation of a series of shorter fragments by a number of restriction digests. A ''vectorette unit'' is then ligated to each restriction fragment. This vectorette unit is an oligonucleotide 53 bases in length, and has a unique sequence which is not found in the human genome. Through use of the vectorette as a ''known end,'' together with a specific primer, the DNA is amplified via PCR and directly sequenced using current technologies. The investors have successfully used this method to sequence a 35 kb fragment of DNA.

This method appears to represent four key advantages over existing sequencing methods. First, the sequence of a long fragment of DNA can be obtained far more rapidly than is currently possible. Second, as multiple cloning steps are not necessary, it is easier to perform. Third, a much smaller amount of DNA is needed for this method than is necessary when using currently available sequencing techniques. Fourth, because of its organized way of sequencing, one can clearly identify the region being sequenced. (portfolio: Devices/Instrumentation—Research Tools and Materials)

Hepatitis B Core Antigen Fusion Proteins as Tumor Vaccines

LW Kwak, A Biragyn (NCI)
Serial No. 60/013,839 filed 21 Mar 96
Licensing Contact: Joseph Contrera, 301/496–7056 ext 244

Hepatitis B Core Antigen (HBcAg) represents a potentially potent carrier of vaccines. Embodied in this invention are a number of fusion proteins of HBcAg. It has been shown that HBcAg elicits a strong immune response, and it was thought that if one were to attach other weakly antigenic peptides of choice to the HBcAg protein in order to form a fusion protein, the antigenicity of the attached peptide of choice would be considerably enhanced. The fusion proteins embodied in this invention, which contain specific H-ras or MUC–1 (human epithelial cell mucin) peptides, have been shown to elicit protective anti-tumor immunity in vivo. This immunity is, in fact, superior to that elicited through immunizing with tumor antigen alone. These HBcAg fusion proteins, therefore, are believed to represent powerful new vaccines to be used toward the prevention and treatment of a wide variety of cancers. (portfolio: Cancer—Therapeutics, immunoconjugates Mab; Cancer—Therapeutics, immunoconjugates, conjugate chemistry; Cancer—Therapeutics, immunomodulators and immunostimulants)

Substantially Pure Non-IL-2 T-Cell Growth Factors

TA Waldmann, R Bamford, E Roessler, CK Goldman, G Szakiel, JD Burton, C Peters, AJ Grant, J Brennan, M Moos (NCI)
Serial No. 08/572,423 filed 14 Dec 95
Licensing Contact: Jaconda Wagner, 301/496–7735 ext 284

The invention provides isolated interleukin-T in human form, along with the methods for isolating the interleukin, and its respective non-IL–2 T-Cell growth factor and antibodies.

T cells play both regulatory and effector functions in human immune responses that are often mediated by interleukins. Interleukins are highly redundant and pleitrophic, controlling a wide range of functions. Abnormalities of interleukin and interleukin receptor systems are observed with a broad array of human diseases, including the forms of leukemia and autoimmune diseases such as rheumatoid arthritis that are caused by human T-cell lymphotropic virus-I. Thus, the invention could be used to treat a disorder associated with immune function, such as cancer, AIDS or other immunodeficiencies, by enhancing the immune system or, in treating an immune disorder, such as graft-versus-host disease, leukemia, lymphoma or an allograft rejection, by suppressing the immune system. (portfolio: Internal Medicine—Therapeutics, anti-inflammatory; Cancer—Therapeutics, biological response modifiers, growth factors)

Method of Preventing or Treating Disease Characterized by Neoplastic Cells Expressing CD40

RJ Armitag (Immunex), WC Fanslow (Immunex), DL Longo (NCI), WJ Murphy (NCI)
Serial No. 08/172,664 filed 23 Dec 93 and Serial No. 08/360,923 filed 21 Dec 94 (CIP)
Licensing Contact: Joseph Contrera, 301/496–7056, ext 244

The subject invention proposes a method for treating a mammal afflicted with a neoplastic disease caused by cells that express CD40. CD40 is a receptor protein present on B cells, monocytes, endothelial cells, and various carcinomas. The ligand for CD40 (CD40L) is present on activated T cells. CD40 has been shown to play a critical stimulatory role in normal B cell development. It has been previously demonstrated that signals that activate normal cells can lead to inhibition of neoplastic cells by inducing activation-induced cell death. Therefore, inhibition of neoplactic cell growth can be achieved through the use of CD40 stimulation. The invention discloses monoclonal antibodies to CD40, CD40 ligands, and combinations thereof. Oligomeric forms of CD40 ligands and fusion protein ligands are also disclosed. This invention is jointly owned by the National Institutes of Health and Immunex Corporation. All fields of use are available for licensing. (portfolio: Cancer—Therapeutics, immunoconjugates, Mab)

Recombinant DNA Clone Encoding Laminin Receptor

ME Sobel, LA Liotta, UM Wewer, MC Jaye, WN Drohan (NCI)
Serial No. 06/911,863 filed 26 Sep 86, which issued as U.S. Patent No. 4,861,710 on 29 Aug 89
Licensing Contact: Raphe Kantor, 301/496–7735 ext 247

A recombinant DNA clone that encodes high-affinity cell surface receptors for laminin, a glycoprotein component of basement membranes, offers an important tool for studying a variety of normal and abnormal cell processes including tumor metastases. These laminin receptors have been shown to inhibit metastases. These recombinant receptors can be used in diagnostic methods, to assess the content of laminin receptor mRNA, and to determine the pattern of laminin receptor genes in different tissue and tumor cell populations. (portfolio: Cancer—Research Materials; Cancer—Diagnostics, Mab based)

Dated: January 17, 1997.

Barbara M. McGarey,

Deputy Director, Office of Technology Transfer.

[FR Doc. 97–2062 Filed 1–27–97; 8:45 am]

BILLING CODE 4140–01–M

National Cancer Institute; Notice of Closed Meeting

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following National Cancer Institute Special Emphasis Panel (SEP) meeting:

Name of SEP: Geographical and Statistical Modeling of Exposure to OCCs/DAHs in LI and Breast Cancer and the Environment on Long Island.

Date: January 31, 1997.

Time: 2:30 p.m.

Place: Teleconference, Executive Plaza North, Room 643B, 6130 Executive Boulevard, Bethesda, MD 20892.

Contact Person: Robert Browning, Ph.D., Scientific Review Administrator, National Cancer Institute, NIH, Executive Plaza North, Room 643B, 6130 Executive Boulevard, MSC 7405, Bethesda, MD 20892–7405, Telephone: 301/496–7929.

Purpose/Agenda: To evaluate and review grant applications.

This notice is being published less than 15 days prior to the meeting due to the urgent need to meet timing limitations imposed by the review and funding cycle.

The meeting will be closed in accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Program Numbers: 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control.)

Dated: January 21, 1997.

Paula N. Hayes,

Acting Committee Management Officer, NIH.

[FR Doc. 97–1979 Filed 1–27–97; 8:45 am]

BILLING CODE 4140–01–M

National Cancer Institute; Notice of Planning Group Meeting

Notice is hereby given that the National Cancer Institute will hold a public meeting of a Planning Group which will assist NCI in establishing a Director's Consumer Liaison Group (DCLG). The Planning Group meeting will begin at 8:30 a.m. on March 13, 1997 and will end at 1:00 p.m. on March 14, 1997 at the Holiday Inn (Bethesda, MD). All sessions of the Planning Group meeting are open to the public. However, seating is limited and will be on a first-come, first served basis.

A temporary DCLG Planning Group of NCI staff and consumer-advocates was formed to help in establishing the DCLG. The purpose of the DCLG is to: (1) Help develop and establish processes, mechanisms, and criteria for identifying appropriate consumer-advocates to serve on a variety of program and policy advisory committees responsible for advancing the mission of the NCI; (2) serve as a primary forum for discussing issues and concerns and exchanging viewpoints that are important to the broad development of NCI programmatic and research priorities, e.g., the development of the annual Bypass Budget; and (3) establish and maintain strong collaborations between NCI and the cancer advocacy community to reach common goals. The DCLG, consisting of approximately 15 consumer-advocates who are involved in cancer advocacy and/or voluntary organizations, will meet several times a year. NCI anticipates that the activities and initiatives developed by NCI, in conjunction with the DCLG, will serve as models for consumer participation. Nominations for the members of the DCLG will be solicited from the cancer advocacy community. The first meeting of the DCLG is planned for late June 1997. A notice of the date and location of this meeting will be published in the Federal Register at a later date.

The objectives of the Planning Group are to: (1) define the initial role of the DCLG; and (2) define the DCLG membership solicitation process, as well as the criteria, categories, and rating system to identify and rank potential members of the DCLG. Development of criteria for membership on the DCLG will include identification of categories of members needed to ensure balance and diversity of representation. To identify DCLG members, the process selected by the Planning Group to announce and invite submission of names of consumer-advocates to serve on the DCLG will be followed. Nominees will be screened for eligibility according to a set of criteria and categories developed by the DCLG Planning Group. Consumer-advocates who are on the Planning Group will be unable to serve as members of the DCLG in its first year of operation, but their organizations may be represented by another individual.

To provide input to the Planning Group, members of advocacy or voluntary organizations related to cancer are invited to submit eligibility criteria and categories that could be used to identify individuals who could serve on the DCLG. These criteria and categories will be used to help the Planning Group to develop the process for identifying DCLG members. Submissions on criteria and categories should be mailed to Ms. Fran Oscar at Palladian Partners, 7315 Wisconsin Avenue, Suite 440W, Bethesda, MD 20814, or sent to her by FAX to (301) 986–5047 or by E-mail to palladianp@.aol.com. They must be received no later than 5:00 p.m. (EST) on February 15, 1997 to be included in the materials provided to the Planning Group prior to the meeting. Submissions received after that date and time will be accepted, but may not be included in the materials considered by the Planning Group members at the March 13–14 meeting. All submission must be accompanied by the following information: (1) Name and address of individual making the submission; and (2) name and address of cancer advocacy or voluntary organization with which they are affiliated.

Individuals who plan to attend the meeting and need special assistance, such as sign language interpretation or other special accommodations, should call Ms. Elaine Lee, Office of Liaison Activities, NCI at (301) 496–0644 or contract her by FAX (301) 402–2594 or E-mail (leee@od.nci.nih.gov) in advance of the meeting, by February 15, 1997. For additional information, contact Ms. Lee.

Dated: January 17, 1997.

Marvin Kalt,

Director, Division of Extramural Activities, National Cancer Institute.

[FR Doc. 97–1983 Filed 1–27–97; 8:45 am]

BILLING CODE 4140–01–M

National Cancer Institute; Notice of Closed Meetings

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following National Cancer Institute Special Emphasis Panel (SEP) meetings:

Purpose/Agenda: To evaluate and review grant applications.

Name of SEP: Cancer Therapy with Activated Natural Killer Cells.

Date: February 10, 1997.

Time: 1 p.m.

Place: Teleconference, Executive Plaza North, Room 635E, 6130 Executive Boulevard, Bethesda, MD 20892.

Contact Person: David Irwin, PH.D., Scientific Review Administrator, National Cancer Institute, NIH, Executive Plaza North, Room 635E, 6130 Executive Boulevard, MSC 7405, Bethesda, MD 20892–7405, telephone: 301/402–0371.

This notice is being published less than 15 days prior to the above meetings due to the urgent need to meet timing limitations imposed by the grant review and funding cycle.

Name of SEP: Cancer Prevention and Control Research Small Grant Program.

Date: February 19, 1997.

Time: 1 p.m.

Place: Teleconference, Executive Plaza North, Room 611, 6130 Executive Boulevard, Bethesda, MD 20892.

Contact Person: Kevin T. Ryder, Ph.D., Scientific Review Administrator, National Cancer Institute, NIH, Executive Plaza North, Room 611, 6130 Executive Boulevard, MSC 7405, Bethesda, MD 20892–7405, telephone: 301/496–2785.

Name of SEP: Bone Marrow Transplantation in Human Disease Review Panel.

Date: February 27, 1997.

Time: 1 p.m.

Place: Teleconference, Executive Plaza North, Room 643H, 6130 Executive Boulevard, Bethesda, MD 20892.

Contact Person: Judy Mietz, Ph.D., Scientific Review Administrator, National Cancer Institute, NIH, Executive Plaza North, Room 643H, 6130 Executive Boulevard, MSC 7405, Bethesda, MD 20892–7405, telephone: 301/496–2378.

The meetings will be closed in accordance with the provisions set forth in secs. 552(c)(4) and 552(c)(6), Title 5, U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Program Nos. 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control.)

Dated: January 22, 1997.

Paula N. Hayes,

Acting Committee Management Officer, NIH.

[FR Doc. 97–2061 Filed 1–27–97; 8:45 am]

BILLING CODE 4140–01–M

National Heart, Lung, and Blood Institute; Notice of Closed Meeting

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following Heart, Lung, and Blood Special Emphasis Panel (SEP) meeting:

Name of SEP: Biobehavioral Factors in Coronary Heart Disease.

Date: Feb. 11–12, 1997.

Time: 7:30 p.m.

Place: Holiday Inn, 2 Montgomery Village Avenue, Gaithersburg, Maryland 20879.

Contact Person: Anthony M. Coelho, Jr., Ph.D., Two Rockledge Center, Room 7182, 6701 Rockledge Drive, Bethesda, MD 20892–7924, (301) 435–0288.

Purpose/Agenda: To review and evaluate grant applications.

This meeting will be closed in accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

This notice is being published less than fifteen days prior to this meeting due to the urgent need to meet timing limitations imposed by the review and funding cycle.

(Catalog of Federal Domestic Assistance Programs Nos. 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; and 93.839, Blood Diseases and Resources Research, National Institutes of Health.)

Dated: January 21, 1997.

Paula N. Hayes,

Acting Committee Management Officer, NIH.

[FR Doc. 97–1980 Filed 1–27–97; 8:45 am]

BILLING CODE 4140–01–M

National Institute on Aging; Notice of Closed Meetings

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following National Institute on Aging Special Emphasis Panel meetings:

Name of Committee: Fundamental Aspects of Mobility in Old Adults.

Date of Meeting: February 7, 1997.

Time of Meeting: 9:30 a.m. to adjournment.

Place of Meeting: Gateway Building, 5th Floor Conference Room, 7201 Wisconsin Avenue, Bethesda, Maryland 20892.

Purpose/Agenda: To review an amended application for a program project grant.

Contact Person: Dr. William Kachadorian, Scientific Review Administrator, Gateway Building, Room 2C212, National Institutes of Health, Bethesda, Maryland 20892–9205, (301) 496–9666.

This notice is being published less than 15 days prior to the above meeting due to the urgent need to meet timing limitations imposed by the review and funding cycle.

Name of Committee: ''Memory Deficits in the SAMP8 Mouse''.

Date of Meeting: February 11, 1997.

Time of Meeting: 3:00 p.m. to adjournment.

Place of Meeting: Hampton Inn, 2211 Market Street, St. Louis, Missouri 63103.

Purpose Agenda: To review program project grant application.

Contact Person: Dr. Arthur Schaerdel, Scientific Review Administrator, Gateway Building, Room 2C212, National Institutes of Health, Bethesda, Maryland 20892–9205, (301) 496–9666.

This notice is being published less than 15 days prior to the above meeting due to the urgent need to meet timing limitations imposed by the review and funding cycle.

Name of Committee: Aging Auditory System: Presbycusis and Its Neural Bases.

Date of Meeting: February 18, 1997.

Time of Meeting: February 18—3:00 p.m. to adjournment.

Place of Meeting: Holiday Inn-Chevy Chase, 5520 Wisconsin Avenue, Chevy Chase, Maryland 20815.

Purpose/Agenda: To review a grant application.

Contact Person: Dr. Maria Mannarino, Scientific Review Administrator, Gateway Building, Room 2C212, National Institutes of Health, Bethesda, Maryland 20892–9205, (301) 496–9666.

Name of Committee: National Institute on Aging Special Emphasis Panel—THAL (Teleconference).

Date of Meeting: February 27, 1997.
Time of Meeting: February 27—1:00 to 2:30 p.m. (adjournment).
Place of Meeting: Gateway Building, Room 2C212, 7201 Wisconsin Avenue, Bethesda, Maryland 20892.
Purpose/Agenda: To review a grant application.
Contact Person: Dr. Maria Mannarino, Scientific Review Administrator, Gateway Building, Room 2C212, National Institutes of Health, Bethesda, Maryland 20892–9205, (301) 496–9666.

Name of Committee: Models of Estrogen Interactions with Alzheimer's Disease.
Date of Meeting: March 4, 1997.
Time of Meeting: 3:00 p.m. to adjournment.
Place of Meeting: Bethesda Holiday Inn, 8120 Wisconsin Avenue, Bethesda, Maryland 20814.
Purpose/Agenda: To review a program project grant application.
Contact Person: Dr. Arthur Schaerdel, Scientific Review Administrator, Gateway Building, Room 2C212, National Institutes of Health, Bethesda, Maryland 20892–9205, (301) 496–9666.

Name of Committee: Circadian and Homeostatic Determinants of Sleep in Aging (Teleconference).
Date of Meeting: March 13, 1997.
Time of Meeting: 1:30 p.m. to adjournment.
Place of Meeting: National Institute on Aging, Gateway Building, Room 2C212, 7201 Wisconsin Avenue, Bethesda, Maryland 20892–9205.
Purpose/Agenda: To review a grant application.
Contact Person: Dr. Paul Lenz, Scientific Review Administrator, Gateway Building, Room 2C212, National Institutes of Health, Bethesda, Maryland 20892–9205, (301) 496–9666.

Name of Committee: National Institute on Aging Special Emphasis Panel—ALBIN (Teleconference).
Date of Meeting: March 26, 1997.
Time of Meeting: 1:00 p.m. to adjournment.
Place of Meeting: National Institute on Aging, Gateway Building, Room 2C212, 7201 Wisconsin Avenue, Bethesda, Maryland 20892–9205.
Purpose/Agenda: To review a grant application.
Contact Person: Dr. Paul Lenz, Scientific Review Administrator, Gateway Building, Room 2C212, National Institutes of Health, Bethesda, Maryland 20892–9205, (301) 496–9666.

These meetings will be closed in accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Program No. 93.866, Aging Research, National Institutes of Health)

Dated: January 21, 1997.

Paula N. Hayes,

Acting Committee Management Officer, NIH.

[FR Doc. 97–1981 Filed 1–27–97; 8:45 am]

BILLING CODE 4140–01–M

Division of Research Grants; Notice of Closed Meetings

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following Division of Research Grants Special Emphasis Panel (SEP) meetings:

Purpose/Agenda: To review individual grant applications.
Name of SEP: Multidisciplinary Sciences.
Date: February 20, 1997.
Time: 7:00 a.m.
Place: Georgetown Holiday Inn, Washington, DC.
Contact Person: Dr. Gerald Becker, Scientific Review Administrator, 6701 Rockledge Drive, Room 5114, Bethesda, Maryland 20892, (301) 435–1170.

Name of SEP: Clinical Sciences.
Date: February 26–28, 1997.
Time: 8:00 a.m.
Place: Georgetown Holiday Inn, Washington, DC.
Contact Person: Dr. Gopal Sharma, Scientific Review Administrator, 6701 Rockledge Drive, Room 4112, Bethesda, Maryland 20892, (301) 435–1783.

Name of SEP: Biological and Physiological Sciences.
Date: March 3–4, 1997.
Time: 8:30 a.m.
Place: Sheraton, Reston, VA.
Contact Person: Dr. Gerald Greenhouse, Scientific Review Administrator, 6701 Rockledge Drive, Room 5140, Bethesda, Maryland 20892, (301) 435–1023.

Name of SEP: Biological and Physiological Sciences.
Date: March 3–5, 1997.
Time: 8:30 a.m.
Place: Bethesda Marriott Hotel, Bethesda, MD.
Contact Person: Dr. Nabeeh Mourad, Scientific Review Administrator, 6701 Rockledge Drive, Room 4212, Bethesda, Maryland 20892, (301) 435–1222.

Name of SEP: Microbiological and Immunological Sciences.
Date: March 5, 1997.
Time: 8:30 a.m.
Place: Holiday Inn, Chevy Chase, MD.
Contact Person: Dr. Mohinder Poonian, Scientific Review Administrator, 6701 Rockledge Drive, Room 4198, Bethesda, Maryland 20892, (301) 435–1218.

Name of SEP: Microbiological and Immunological Sciences.
Date: March 7, 1997.
Time: 8:00 a.m.
Place: Holiday Inn, Chevy Chase, MD.
Contact Person: Dr. Sami Mayyasi, Scientific Review Administrator, 6701 Rockledge Drive, Room 4194, Bethesda, Maryland 20892, (301) 435–1216.

Name of SEP: Microbiological and Immunological Sciences.
Date: March 8, 1997.
Time: 8:30 a.m.
Place: Holiday Inn, Ventura, CA.
Contact Person: Dr. Mohindar Poonian, Scientific Review Administrator, 6701 Rockledge Drive, Room 4198, Bethesda, Maryland 20892, (301) 435–1218.

Name of SEP: Biological and Physiological Sciences.
Date: March 12, 1997.
Time: 8:00 a.m.
Place: Doubletree Hotel, Rockville, MD.
Contact Person: Dr. Harish Chopra, Scientific Review Administrator, 6701 Rockledge Drive, Room 5112, Bethesda, Maryland 20892, (301) 435–1169.

Name of SEP: Chemistry and Related Sciences.
Date: March 14–15, 1997.
Time: 8:30 a.m.
Place: Holiday Inn, Chevy Chase, MD.
Contact Person: Dr. Chhandra Ganguly, Scientific Review Administrator, 6701 Rockledge Drive, Room 5156, Bethesda, Maryland 20892, (301) 435–1739.

Name of SEP: Biological and Physiological Sciences.
Date: March 17–18, 1997.
Time: 8:00 a.m.
Place: Wyndham Bristol Hotel, Washington, DC.
Contact Person: Dr. Anthony Carter, Scientific Review Administrator, 6701 Rockledge Drive, Room 5108, Bethesda, Maryland 20892, (301) 435–1167.

Name of SEP: Chemistry and Related Sciences.
Date: March 25, 1997.
Time: 1:00 p.m.
Place: NIH, Rockledge 2, Room 4154, Telephone Conference.
Contact Person: Dr. Gopa Rakhit, Scientific Review Administrator, 6701 Rockledge Drive, Room 4154, Bethesda, Maryland 20892, (301) 435–1721.

The meetings will be closed in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Program Nos. 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.878, 93.892, 93.893, National Institutes of Health, HHS)

Date: January 17, 1997.

Paula N. Hayes,

Acting Committee Management Officer, NIH.

[FR Doc. 97–1978 Filed 1–27–97; 8:45 am]

BILLING CODE 4140–01–M

Division of Research Grants; Notice of Closed Meetings

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following Division of Research Grants Special Emphasis Panel (SEP) meetings:

Purpose/Agenda: To review individual grant applications.
Name of SEP: Clinical Sciences.
Date: January 19, 1997.
Time: 3:30 p.m.
Place: NIH, Rockledge 2, Room 4210, Telephone Conference.
Contact Person: Dr. Bruce Maurer, Scientific Review Administrator, 6701 Rockledge Drive, Room 4210, Bethesda, Maryland 20892, (301) 435–1225.

This notice is being published less than 15 days prior to the above meetings due to the urgent need to meet timing limitations imposed by the grant review and funding cycle.

The meeting will be closed in accordance with the provisions set forth in secs. 552(c)(4) and 552(c)(6), Title 5, U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Program Nos. 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 92.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: January 23, 1997.

Paula N. Hayes,

Acting Committee Management Officer, NIH.

[FR Doc. 97–2060 Filed 1–23–97; 3:51 pm]

BILLING CODE 4140–01–M

Substance Abuse and Mental Health Services Administration (SAMHSA); Notice of Meeting

Pursuant to Public Law 92–463, notice is hereby given of the following meeting of the SAMHSA Special Emphasis Panel II in February.

A summary of the meeting may be obtained from: Ms. Dee Herman, Committee Management Liaison, SAMHSA Office of Extramural Activities Review, 5600 Fishers Lane, Room 17–89, Rockville, Maryland 20857. Telephone: (301) 443–4783.

Substantive program information may be obtained from the individual named as Contact for the meeting listed below.

The meeting will include the review, discussion and evaluation of individual contract proposals. These discussions could reveal personal information concerning individuals associated with the proposals and confidential and financial information about an individual's proposal. The discussion may also reveal information about procurement activities exempt from disclosure by statute and trade secrets and commercial or financial information obtained from a person and privileged and confidential. Accordingly, the meeting is concerned with matters exempt from mandatory disclosure in Title 5 U.S.C. 552b(c) (3), (4), and (6) and 5 U.S.C. App. 2, § 10(d).

Committee Name: SAMHSA Special Emphasis Panel II.
Meeting Date: February 3, 1997.
Place: DoubleTree Hotel, Randolph Room, 1750 Rockville Pike, Rockville, MD 20852.
Closed: February 3, 1997 9:00 a.m.–12:30 p.m.
Contact: Ferdinand Hui, Ph.D., Room 17–89, Parklawn Building, Telephone: (301) 443–9919 and FAX: (301) 443–3437.

This notice is being published less than 15 days prior to the meeting due to the urgent need to meet timing limitations imposed by the review and funding cycle.

Dated: January 22, 1997.

Jeri Lipov,

Committee Management Officer, SAMHSA.

[FR Doc. 97–1986 Filed 1–27–97; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF THE INTERIOR

Western Water Policy Review Advisory Commission

Western Water Policy Review Advisory Commission Meeting

AGENCY: Department of the Interior.

ACTION: Notice of open meeting.

SUMMARY: As required by the Federal Advisory Committee Act, notice is hereby given that the Western Water Policy Review Advisory Commission (Commission), established by the Secretary of the Interior under the Reclamation Projects Authorization and Adjustment Act of 1992, will hold a public Aquatic Ecology Symposium. The purpose of this meeting is for the Commission to receive scientific and Federal agency testimony regarding aquatic ecology issues.

DATES: Monday, February 17, 1997, 9:00 a.m.–5:00 p.m. Tuesday, February 18, 1997, 8:00 a.m.–5:00 p.m.

ADDRESSES: Tempe Mission Palms, 60 East Fifth Street, Tempe, Arizona. Copies of the agenda are available from the Western Water Policy Review Office, D–5001; P.O. Box 25007; Denver, CO 80225–0007.

FOR FURTHER INFORMATION CONTACT: The Commission Office at telephone303–236–6211, FAX 303–236–4286, or email to rgunnarson@do.usbr.gov.

SUPPLEMENTARY INFORMATION: The symposium is being organized by the Center for Environmental Studies of Arizona State University. Room locations will be posted in the hotel lobby. The Commission will reserve some time, beginning at 3:00 p.m. on Tuesday, February 18, for Commission discussion or business if needed.

Public Participation

Seating for observers will be limited and reservations are strongly recommended. Seating may be reserved by contacting the Commission Office. Written statements may be provided in advance to the Western Water Policy Review Office, address cited under the **ADDRESSES** caption of this notice, or submitted directly at the meeting. Statements will be provided to the members prior to the meeting if received by no later than February 7, 1997. The Commission's schedule will not allow time for formal presentations by the public during the meeting.

Dated: January 17, 1997.

Larry Schulz,

Administrative Officer.

[FR Doc. 97–1950 Filed 1–27–97; 8:45 am]

BILLING CODE 4310–94–M

Fish and Wildlife Service

Notice of Alaska Land Bank Agreements

AGENCY: Fish and Wildlife, Interior.

ACTION: Notice.

SUMMARY: Notice is hereby given, pursuant to 43 U.S.C. 1636, that as of December 31, 1996, agreements executed between the Fish and Wildlife Service and the following Native Corporations include all or part of those Corporation's lands in the Alaska Land Bank Program. Lands included in the land bank agreements are: 98.2 percent of the lands conveyed to Alaska Peninsula Corporation; 100 percent of the lands conveyed to Bay View Incorporated; 99.7 percent of the lands conveyed to Becharof Corporation; 99.2 percent of the lands conveyed to Gana-a'Yoo, Limited; and 100 percent of the lands conveyed to Manokotak Natives Limited.

FOR FURTHER INFORMATION CONTACT: Sharon N. Janis, Chief, Division of

Realty, Fish and Wildlife Service, 1011 East Tudor Road, Anchorage, Alaska 99503, (907) 786–3498.

Robyn Thorson,

Acting Regional Director.

[FR Doc. 97–2002 Filed 1–27–97; 8:45 am]

BILLING CODE 4310–55–M

Notice of public meeting and extended public review period on the Draft Environmental Assessment and Land Protection Plan for the Proposed Establishment of Clarks River National Wildlife Refuge, Marshall, McCracken, and Graves Counties, Kentucky

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of public meeting and extended public review period for the proposed establishment of Clarks River National Wildlife Refuge.

SUMMARY: This notice advises the public that the U.S. Fish and Wildlife Service. Southeast Region, will hold a public meeting to answer questions and hear comments concerning its proposal to establish a new national wildlife refuge along the floodplain of the East Fork of the Clarks River in Marshal, McCracken, and Graves Counties, Kentucky. This notice also announces the Service's extension of the public review and comment period on the refuge proposal to March 14, 1997.

DATES: The Service will hold a public meeting at 7:00 p.m. on February 20, 1997, at Benton Middle School, 906 Joe Creason Drive, Benton, Kentucky. The public review and comment period on the draft environmental assessment and land protection plan has also been extended to March 14, 1997.

Written comments must be received no later than March 14, 1997, at the address below in order to be considered for preparation of the final environmental assessment.

ADDRESSES: Comments and requests for copies of the draft environmental assessment and for further information on the project should be addressed to Mr. Charles R. Danner, Team Leader, Planning and Support Team, U.S. Fish and Wildlife Service, 1875 Century Boulevard, Atlanta, Georgia 30345.

SUPPLEMENTARY INFORMATION: The purpose of the proposed refuge is to protect, enhance, and manage approximately 18,000 acres of wetlands, bottomland hardwoods, and associated buffer areas along the East Fork of the Clarks River for the benefit of migratory and resident waterfowl, neotropical migratory birds, resident wildlife, and other species dependent on the river habitats of the area. A Draft Environmental Assessment and Land Protection Plan for the proposed refuge has been developed by Service biologists in coordination with the Kentucky Department of Wildlife and Fisheries and local county officials. The assessment evaluates three alternative actions and their potential impacts on the environment. The public is invited to attend the February 20 public meeting to ask questions and offer comments on the refuge proposal. Written comments are also welcomed and should be sent to Mr. Danner at the address noted above.

Dated: January 21, 1997.

C. Monty Halcomb,

Acting Regional Director.

[FR Doc. 97–1999 Filed 1–27–97; 8:45 am]

BILLING CODE 4310–55–M

Silvio Conte National Fish and Wildlife Refuge Advisory Committee Meeting

AGENCY: Fish and Wildlife, Interior.

ACTION: Notice of meeting.

SUMMARY: Pursuant to Section 10(a)(2) of The Federal Advisory Committee Act, this notice announces a meeting of the Silvio O. Conte National Fish and Wildlife Refuge Advisory Committee established under the authority of The Silvio O. Conte National Fish and Wildlife Refuge Act.

DATES: The Silvio O. Conte National Fish and Wildlife Refuge Advisory Committee will meet from 10:00 a.m. to 2:00 p.m., Wed. March 19, 1997.

ADDRESSES: The meeting will be held in the auditorium of the Regional Office of the U.S. Fish and Wildlife Service, Hadley, MA.

Summary minutes of the meeting will be maintained in the office of the Coordinator for the Silvio O. Conte National Fish and Wildlife Refuge Advisory Committee at 38 Avenue A, Turners Falls, MA 01376.

FOR FURTHER INFORMATION CONTACT: Committee Coordinator Lawrence Bandolin at 413–863–0209, FAX 413–863–3070.

SUPPLEMENTARY INFORMATION: Committee members will be updated on refuge activities and be presented with the Challenge Cost Share grant proposals. There will also be a discussion on new appointees and the continuing rule of the Committee.

The meetings are open to the public. Interested persons may make oral statements to the Committee or may file written statements for consideration. Summary minutes of the meeting will be available for public inspection during regular business hours (8:30–4:30 p.m.) Monday through Friday within 30 days following the meeting at the committee coordinator's office listed above. Personal copies may be purchased for the cost of duplication.

Dated: January 15, 1997.

Ronald Lambertson,

Regional Director, Region 5, Hadley, Massachusetts.

[FR Doc. 97–1952 Filed 1–27–97; 8:45 am]

BILLING CODE 4310–55–M

Bureau of Land Management

[ES–930–07–1320–020241A]

Amendment to the List of Affected States Under Federal Coalbed Methane Recovery Regulations

AGENCY: Bureau of Land Management, Interior.

ACTION: Removal of Illinois from the list of Affected States.

SUMMARY: The Energy Policy Act of 1992 (the Act) (Pub.L. 102–486) requires that the Secretary of the Interior (Secretary) administer a Federal program to regulate coalbed methane development in states where coalbed methane development has been impeded by disputes or uncertainty over ownership of coalbed methane gas. As required by the Act, the Department of the Interior, with the participation of the Department of Energy, developed a List of Affected States to which this program would apply (58 FR 21589, April 22, 1993). The List of Affected States is currently comprised of the States of Illinois, Kentucky, and Tennessee.

The legislative body of the State of Illinois, in the form of resolution passed on January 24, 1996, petitioned the Secretary of the Interior for removal from the List of Affected States. The resolution stated that the General Assembly of the State of Illinois petitions the Secretary of the Interior to delete Illinois from the list of Affected States for the purposes of section 1339 of the Energy Policy Act of 1992. Section 1339 of the Act provides three mechanisms by which a state may be removed from the List of Affected States:

1. A state may pass a law or resolution requesting removal;

2. The governor of a state may petition for removal, but only after giving the legislature

6-months notice, during a legislative session, of his intention to submit the petition; or

3. The state legislature implements a law or regulation permitting and encouraging the development of coalbed methane.

Since the State of Illinois has met the condition for removal from the List of Affected States by passing a resolution requesting removal, the State of Illinois is officially removed from the List of Affected States.

FOR FURTHER INFORMATION CONTACT: David R. Stewart, Chief, Branch of Resources Planning and Protection, Bureau of Land Management, Eastern States, 7450 Boston Boulevard, Springfield, Virginia 22153, or telephone (703) 440–1728; or Charles W. Byrer, U.S. Department of Energy, 3610 Collins Ferry Road, Morgantown, West Virginia 26507, or telephone (304) 285–4547.

Dated: January 16, 1997.

Carson W. Culp, Jr.,

State Director, Eastern States.

[FR Doc. 97–1951 Filed 1–27–97; 8:45 am]

BILLING CODE 4310–GJ–M

[UT–066–1310–03]

Carbon and Emery Counties, UT; EIS on Natural Gas Development

AGENCY: Bureau of Land Management, Utah.

ACTION: Notice of Intent to Prepare and Environmental Impact Statement (EIS) on Natural Gas Development in Carbon and Emery Counties, Utah, and Notice of Scoping Meetings.

SUMMARY: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the Bureau of Land Management, Price Field Office, will be directing the preparation of an EIS by a third-party contractor on the impacts of proposed natural gas development on public and private lands in Carbon and Emery Counties in central Utah.

SUPPLEMENTARY INFORMATION: Development of natural gas in the Castle Valley area is proposed by Anadarko Petroleum Corporation, Chandler and Associates, Inc., Questar Pipeline Company and Texaco Exploration and Production, Inc. The BLM is preparing an EIS to analyze a conceptual natural gas development model based on industry's proposal.

Description of the Proposed Action

Field development of existing Federal leases within an area of approximately 96,000 acres in the Castle Valley area of Carbon and Emery Counties, Utah is proposed. The project would involve approximately 375 wells and related facilities including roads, pipelines, power lines, compressor stations and water disposal facilities.

The BLM also proposes to approve development of natural gas within the project area and approve individual drilling applications and right of way authorizations.

Possible Alternatives

The EIS will analyze the Proposed Action and the No-Action Alternative. Other alternatives may include various well spacing options and resource protection alternatives.

Anticipated Issues

Potential issues include air quality, social and economic impacts, ground water, water disposal, wildlife, and threatened and endangered species.

Other Relevant Information

The tentative project schedule is as follows: Begin Public Comment Period—February 1997, File draft EIS—June, 1998, File Final EIS—November, 1998, Record of Decision—January 1999.

Public Scoping Meetings

Three public scoping meetings will be held. The location and schedule for the meeting are as follows: February 11, 1997, 7:00 pm, Price City Hall, Price, Utah, February 12, 1997, 7:00 pm, Emery County Courthouse, Castle Dale, Utah, February 13, 1997, 7:00 pm, Bureau of Land Management, Salt Lake District Office, 2370 South, 2300 West, Salt Lake City, Utah.

Public Input Requested

Comments should address issues to be considered, feasible alternatives to examine, and relevant information to be aware of or having a bearing on the proposal.

DATES: The comment period for scoping of the EIS will commence with publication of this notice. Written comments must be submitted on or before March 14, 1997. Three public scoping meetings will be held to receive oral comments on February 11, 12 and 13, 1997, at the times and locations listed under **SUPPLEMENTARY INFORMATION.**

ADDRESSES: Comments should be sent to George Diwachak, Team Leader, The Ferron Natural Gas EIS, Bureau of Land Management, P.O. Box 45155, Salt Lake City, UT, 84145–0155.

FOR FURTHER INFORMATION CALL: George Diwachak, (801) 539–4043.

Dated: January 22, 1997.

G. William Lamb,

State Director, Utah.

[FR Doc. 97–2001 Filed 1–27–97; 8:45 am]

BILLING CODE 4310–DQ–M

[CO–030–07–1820–00–1784]

Southwest Resource Advisory Council Meetings

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice; Resource Advisory Council meetings.

SUMMARY: In accordance with the Federal Advisory Committee Act (5 USC), notice is hereby given that the Southwest Resource Advisory Council (Southwest RAC) will meet on Thursday, February 13, 1997, at the Bureau of Land Management's (BLM) Montrose District Office in Montrose, Colorado, and on Thursday, March 13, 1997, at the La Plata Fairgrounds in Durango, Colorado.

DATES: The meetings will be held on Thursday, February 13, 1997, and Thursday, March 13, 1997. Both meetings will begin at 9:00 a.m. and end at 4:30 p.m.

ADDRESSES: For additional information, contact Roger Alexander, Bureau of Land Management, Montrose District Office, 2465 South Townsend Avenue, Montrose, Colorado 81401; Telephone 970–240–5335; TDD 970–240–5366; E-Mail r2alexan@co.blm.gov.

SUPPLEMENTARY INFORMATION: The February 13, 1997, meeting is scheduled to begin at 9:00 a.m. in the conference room at BLM's Montrose District Office, 2465 South Townsend, Montrose, Colorado. The agenda will focus on off-highway vehicle use on public lands in the Gunnison Resource Area. Time will be provided for public comments.

The March 13, 1997, meeting is scheduled to begin at 9:00 a.m. in the Extension Building's Animas Room at the La Plata County Fairgrounds, 2500 Main Avenue in Durango, Colorado. The agenda will focus on BLM's oil and gas program in southwest Colorado. Time will be provided during the morning session for public comments. A field trip is scheduled for the afternoon session; the public is welcome to accompany the Southwest RAC on the field trip, but must provide their own transportation.

All Resource Advisory Council meetings are open to the public. Interested persons may make oral statements to the Council, or written statements may be submitted for the Council's consideration. Depending on

the number of persons wishing to make oral statements, a per-person time limit may be established by the Montrose District Manager.

Summary minutes for Council meetings are maintained in the Montrose District Office and are available for public inspection and reproduction during regular business hours within thirty (30) days following each meeting.

Dated: January 21, 1997.

Mark W. Stiles,

District Manager.

[FR Doc. 97–1949 Filed 1–27–97; 8:45 am]

BILLING CODE 4310–JB–P

National Park Service

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 January 18, 1997. Pursuant to section 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 February 12, 1997.

Carol D. Shull,

Keeper of the National Register.

ARIZONA

Navajo County

South Central Avenue Commercial Historic District, 119 S. Central Ave., Holbrook, 97000041

CALIFORNIA

Napa County

Napa Abajo—Fuller Park Historic District, Roughly bounded by the Napa River, Pine, Jefferson, 3rd, 4th, and Division Sts., Napa, 97000042

San Mateo County

Martin Building, 220 Grand Ave., South San Francisco, 97000043

COLORADO

Custer County

Kennicott Cabin, 63161 CO 69, Westcliffe vicinity, 97000046

Jefferson County

Rio Grande Southern Railroad, Motor No. 2, 17155 W. 44th Ave., Golden vicinity, 97000049

Rio Grande Southern Railroad, Motor No. 6, 17155 W. 44th Ave., Golden vicinity, 97000050

Schnell Farm, 3113 S. Wadsworth Blvd., Lakewood, 97000048

Montezuma County

Wrightsman House, 209 Bauer Ave., Mancos, 97000045

Routt County

Dawson—Carpenter Ranch, 13250 W. US 40, Hayden vicinity, 97000047

FLORIDA

Pasco County

Baker, Samuel, House, 5744 Moog Rd., Elfers, 97000052

Sarasota County

Casa Del Mar, 25 S. Washington Dr., Sarasota, 97000051

GEORGIA

Dooly County

Byrom, William H., House, Main St., near the jct. of GA 90 and the Seaboard Coast RR, Dooly, 97000053

Leonard—Akin House, 309 E. Union St., Vienna, 97000054

INDIANA

Monroe County

Bloomington West Side Historic District, Roughly bounded by W. 10th, N. Morton, W. 4th, and N. Adams Sts., Bloomington, 97000055

LOUISIANA

Assumption Parish

Assumption Parish Courthouse and Jail, 4809 LA 1, Napoleonville, 97000057

East Baton Rouge Parish

Sanders, Jared Young, Jr., House, 2332 Wisteria St., Baton Rouge, 97000056

East Feliciana Parish

Holly Grove, 10929 Rouchon Ln., Clinton vicinity, 97000058

St. Landry Parish

Dubuisson, Edward Benjamin, House, 437 N. Court St., Opelousas, 97000059

MARYLAND

Harford County

Pooles Island Lighthouse, NW portion of Poole's Island, SE of Rickett Point, Aberdeen Proving Ground, Edgewood vicinity, 97000060

NEW JERSEY

Burlington County

Godfrey, Edward S., Gen., House, 27 Main St., New Hanover Township, Cookstown, 97000064

Camden County

Long-A-Coming Depot, Between Washington and E. Taunton Aves., SE of jct. of NJ 73 and E. Taunton Ave., Berlin, 97000063

Cape May County Stites, Richard, Jr., House, 609 Sea Grove Ave., Lower Township, Cape May vicinity, 97000061

Gloucester County

Upper Greenwich Friends Meetinghouse, 413 Kings Hwy., E. Greenwich Township, Mickleton, 97000062

NEW YORK

Albany County

Slingerlands, Albert, House, 36 Bridge St., Slingerlands, 97000068

Columbia County

Church of Our Saviour, NY 22, near jct. with US 20, Hamlet of Lebanon Springs, New Lebanon vicinity, 97000067

Jefferson County

Tracy Farm (Orleans MPS), E. side of Wilder Rd., S of jct. with Overbluff Rd., Orleans, 97000066

Onondaga County

Ashton House (Architecture of Ward Wellington Ward in Syracuse MPS), 301 Salt Springs Rd., Syracuse, 97000089

Blanchard House (Architecture of Ward Wellington Ward in Syracuse MPS), 329 Westcott St., Syracuse, 97000094

Chapman House (Architecture of Ward Wellington Ward in Syracuse MPS), 518 Danforth St., Syracuse, 97000072

Clark House (Architecture of Ward Wellington Ward in Syracuse MPS), 105 Strathmore Dr., Syracuse, 97000090

Collins House (Architecture of Ward Wellington Ward in Syracuse MPS), 2201 E. Genesee St., Syracuse, 97000076

Dunfee House (Architecture of Ward Wellington Ward in Syracuse MPS), 206 Summit Ave., Syracuse, 97000092

Estabrook House (Architecture of Ward Wellington Ward in Syracuse MPS), 819 Comstock Ave., Syracuse, 97000071

Fairchild House (Architecture of Ward Wellington Ward in Syracuse MPS), 111 Clairmont Ave., Syracuse, 97000070

Fuller House (Architecture of Ward Wellington Ward in Syracuse MPS), 215 Salt Springs Rd., Syracuse, 97000088

Gang House (Architecture of Ward Wellington Ward in Syracuse MPS), 707 Danforth St., Syracuse, 97000073

Garrett House (Architecture of Ward Wellington Ward in Syracuse MPS), 110 Highland St., Syracuse, 97000080

Hoeffer House (Architecture of Ward Wellington Ward in Syracuse MPS), 2669 E. Genesee St., Syracuse, 97000079

Hunziker House (Architecture of Ward Wellington Ward in Syracuse MPS), 265 Robineau Rd., Syracuse, 97000087

Kelly House (Architecture of Ward Wellington Ward in Syracuse MPS), 2205 E. Genesee St., Syracuse, 97000077

Poehlman House (Architecture of Ward Wellington Ward in Syracuse MPS), 2654 E. Genesee St., Syracuse, 97000078

Porter House (Architecture of Ward Wellington Ward in Syracuse MPS), 106 Strathmore Dr., Syracuse, 97000091

Sanderson House— 112 Scottholm Ter. (Architecture of Ward Wellington Ward in Syracuse MPS), 112 Scottholm Ter., Syracuse, 97000085

Sanderson House—301 Scottholm Blvd.(Architecture of Ward Wellington Ward in Syracuse MPS), 301 Scottholm Blvd., Syracuse, 97000084

Sanford House (Architecture of Ward Wellington Ward in Syracuse MPS), 211 Summit Ave.,Syracuse, 97000075

Sherbrook Apartments (Architecture of Ward Wellington Ward in Syracuse MPS), 600—604 Walnut Ave., Syracuse, 97000093
Spencer House (Architecture of Ward Wellington Ward in Syracuse MPS), 114 Dorset Rd., Syracuse, 97000074
Stowell House (Architecture of Ward Wellington Ward in Syracuse MPS), 225 Robineau Rd., Syracuse, 97000086
Ward House (Architecture of Ward Wellington Ward in Syracuse MPS), 100 Circle Rd., Syracuse, 97000069
Welsh House (Architecture of Ward Wellington Ward in Syracuse MPS), 827 Lancaster Ave., Syracuse, 97000081
White House (Architecture of Ward Wellington Ward in Syracuse MPS), 176 Robineau Rd., Syracuse, 97000083
Ziegler House (Architecture of Ward Wellington Ward in Syracuse MPS), 1035 Oak St., Syracuse, 97000082

Suffolk County

St. Thomas' Chapel, Main St., jct. with Indian Wells Plain Hwy., Amagansett, East Hampton, 97000065

SOUTH CAROLINA

Beaufort County

Laurel Bay Plantation, Address Restricted, Beaufort vicinity, 97000095

WISCONSIN

Trempealeau County

Gale College Historic District (Galesville MRA) Twelfth St., Galesville, 84004020

[FR Doc. 97–2063 Filed 1–27–97; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF COMMERCE

International Trade Commission

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: United States International Trade Commission.

TIME AND DATE: February 10, 1997 at 11:00 a.m.

PLACE: Room 101, 500 E Street S.W., Washington, DC 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda for future meeting.
2. Minutes.
3. Ratification List.
4. Inv. Nos. 731–TA–741–743 (Final) (Melamine Institutional Dinnerware from China, Indonesia, and Taiwan)—briefing and vote.
5. Outstanding action jackets: none.

In accordance with Commission policy, subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

Issued: January 23, 1997.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 97–2179 Filed 1–24–97; 11:25 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Office of Community Oriented Policing Services; FY 1997 Community Policing Discretionary Grants

AGENCY: Office of Community Oriented Policing Services, Department of Justice.

ACTION: Notice of availability.

SUMMARY: The Department of Justice, Office of Community Oriented Policing Services (''COPS'') announces the availability of grants to hire and/or rehire additional sworn law enforcement officers to engage in community policing. The COPS Universal Hiring Program permits interested agencies to supplement their current sworn forces or jurisdictions to establish a policing agency. Eligible applicants include State, local, and Indian policing agencies, jurisdictions seeking to establish a new policing agency and other agencies serving specialized jurisdictions, such as transit, housing, college, school, or natural resources.

DATES: COPS Universal Hiring Program Application Kits are currently available. There will be three application deadlines for the Universal Hiring Program: March 14, 1997, June 13, 1997 and August 1, 1997.

ADDRESSES: COPS Universal Hiring Program Application Kits may be obtained by writing to COPS Universal Hiring Program, 1100 Vermont Avenue, NW, Washington, DC 20530, or by calling the Department of Justice Response Center, (202) 307–1480 or 1–800–421–6770, or the full application kit is also available on the COPS Office web site at: http://www.usdoj.gov/cops. Completed application kits should be sent to COPS Universal Hiring Program, COPS Office, 1100 Vermont Avenue, N.W., Washington, D.C. 20530

FOR FURTHER INFORMATION CONTACT: The Department of Justice Crime Bill Response Center, (202) 307–1480 or 1–800–421–6770.

SUPPLEMENTARY INFORMATION:

Overview

The Violent Crime Control and Law Enforcement Act of 1994 (Pub. L. 103–322) authorizes the Department of Justice to make grants for the hiring or rehiring of law enforcement officers to engage in community policing. The COPS Universal Hiring Program permits interested agencies to supplement their current sworn forces or to establish a new policing agency, through grants for up to three years. All policing agencies, as well as jurisdictions considering establishing new policing agencies, are eligible to apply for this program. In addition, policing agencies serving specialized jurisdictions, such as transit, housing, college, school, natural resources, and others, are eligible to apply for this program. There are three application deadlines for this program: March 14, 1997; June 13, 1997; and August 1, 1997. Departments may apply before any one of the deadlines and equal consideration will be given to all applications submitted by he same deadlines.

All applicants will be asked to provide basic community policing and planning information for their area of jurisdiction. In addition, new applicants serving jurisdictions of 50,000 and over, as well as all those jurisdictions seeking to establish a department and agencies serving specialized jurisdictions (such as transit, housing, college, school, or natural resources), will be asked to provide additional information relating to the applicant's community policing plan, local community policing initiatives and strategies, local community support for the applicant's community policing plan, and plans for retaining the officers at the end of the grant period. In addition to the requested community policing information, all applicants will be asked to submit a streamlined budget summary containing information relating to planned hiring levels, salary and fringe benefits, and decreasing federal share requirements. The COPS Universal Hiring Program Application offers two alternative budget worksheets which are tailored to the number of officers requested by each applicant; applicants requesting five or fewer officers will complete one budget worksheet for each officer, while applicants requesting more than five officers will complete a single budget worksheet based on the average yearly cost per officer.

Grants will be made for up to 75 percent of the total entry-level salary and benefits of each officer over three years, up to a maximum of $75,000 per officer, with the remainder to be paid by state or local funds. Waivers of the non-federal matching requirement may be requested under this program, but will be granted only upon a showing of extraordinary fiscal hardship. Grant funds may be used only for entry-level salaries and benefits. Funding will begin once the new officers have been hired

or on the date of the award, whichever is later, and will be paid over the course of the grant.

In hiring new officers with a COPS Universal Hiring Program grant, grantees must follow standard local recruitment and selection procedures. All personnel hired under this program will be required to be trained in community policing. In addition, all personnel hired under this program must be *in addition to,* and not in lieu of, other hiring plans of the grantees.

An award under the COPS Universal Hiring Program will not affect the eligibility of an agency for a grant under any other COPS program.

The Catalog of Federal Domestic Assistance reference number for this program is 16.710.

Dated: January 17, 1997.

Joseph E. Brann,

Director.

[FR Doc. 97–2038 Filed 1–27–97; 8:45 am]

BILLING CODE 4410–AT–M

Notice of Lodging of Consent Decree Pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act of 1980

In accordance with Departmental policy, 28 CFR 50.7, and 42 U.S.C. 9622(d)(2), notice is hereby given that on January 13, 1997, a Consent Decree was lodged in *United States* v. *Chrysler Corporation et al.*, Civil Action Nos. 88–341–LON and 88–534–LON (Consolidated) with the United States District Court for the District of Delaware.

This Consent Decree settles claims brought under Section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C. 9607, with respect to the Harvey & Knotts Superfund Site (the ''Site'') located in New Castle County, Delaware, against Chrysler Corporation, Knotts, Inc., and Edna Knotts. Pursuant to the terms of the Consent Decree, Chrysler Corporation will reimburse the Superfund for response costs incurred by the United States in the amount of $1,550,000, and reimburse the State of Delaware for response costs in the amount of $44,900; Knotts, Inc. will reimburse the Superfund for response costs incurred by the United States in the amount of $100,000, and Edna Knotts will provide certain easements and restrictive covenants in connection with the Site.

The Department of Justice will receive comments relating to the proposed Consent Decree for a period of thirty days from the date of publication of this notice. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States* v. *Chrysler Corporation, et al.*, Civil Action Nos. 88–341–LON and 88–534–LON (Consolidated), Ref. No. 90–11–2–34B. The proposed Consent Decree may be examined at the office of the United States Attorney, District of Delaware, Chemical Bank Plaza, 1201 Market Street, Suite 100, Wilmington, Delaware 19899. Copies of the Consent Decree may also be examined and obtained by mail at the Consent Decree Library, 1120 G Street, NW., 4th Floor, Washington, DC 20005 (202–624–0892) and the offices of the Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107. When requesting a copy by mail, please enclose a check in the amount of $11.00 (twenty-five cents per page reproduction costs) payable to the ''Consent Decree Library.''

Joel M. Gross,

Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 97–2037 Filed 1–27–97; 8:45 am]

BILLING CODE 4410–15–M

Notice of Lodging of Consent Decree Pursuant to the Clean Air Act

In accordance with Departmental policy, 28 C.F.R. § 50.7, notice is hereby given that a proposed consent decree in *United States* v. *Kalama Chemical, Inc.*, Civil Action No. C–95–5522–FDB, was lodged on January 7, 1997 with the United States District Court for the Western District of Washington. The consent decree settles several claims brought against Kalama Chemical, Inc. (''KCI'') under the Clean Air Act (''CAA''), 42 U.S.C. § 7401, *et seq.*, for violations of the NESHAPs for asbestos and benzene and the New Source Performance Standards at KCI's facility located in Kalama, Washington. Under the proposed consent decree, KCI will pay a civil penalty of $370,000 to the United States and a civil penalty of $185,000 to the Southwest Air Pollution Control Authority which brought a separate suit against KCI pursuant to the Washington Clean Air Act. Further, the consent decree provides that KCI will undertake six Supplemental Environmental Projects designed to eliminate or reduce air pollution. Among other things, KCI will install emission control equipment that will remove approximately 28 tons of volatile organic compounds (''VOCs''), primarily benzene and toluene, and 1,050 tons of carbon monoxide (''CO''). These projects are estimated to cost KCI at least $1,351,838.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States* v. *Kalama Chemical, Inc.*, DOJ Ref. # 90–5–2–1–1766.

The proposed consent decree may be examined at the office of the United States Attorney, 3600 Seafirst Fifth Avenue Plaza, 800 Fifth Avenue, Seattle, Washington 98104; the Region X Office of the Environmental Protection Agency, 1200 Sixth Avenue, Seattle, Washington 98101; and at the Consent Decree Library, 1120 G Street, N.W., 4th Floor, Washington, D.C. 20005, (202) 624–0892. A copy of the proposed consent decree may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, N.W., 4th Floor, Washington, D.C. 20005. In requesting a copy please refer to the referenced case and enclose a check in the amount of $17.50 (25 cents per page reproduction costs), payable to the Consent Decree Library.

Joel M. Gross,

Chief, Environmental Enforcement Section Environment and Natural Resources Division.

[FR Doc. 97–2035 Filed 1–27–96; 8:45 am]

BILLING CODE 4410–15–M

Notice of Lodging of Stipulation and Settlement Pursuant to the Clean Water Act

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that a proposed consent decree in *United States* v. *Meridian Engineering, Inc., et al.*, Civil Action No. 96–05M was lodged on January 13, 1997 in the United States District Court for the District of the Virgin Islands. The settlement resolves an action commenced in a complaint filed January 12, 1996, under the Clean Water Act, 33 U.S.C. 1301, *et seq.*, arising at an asphalt batching plant in St. Croix operated by Meridian Engineering, Inc. and the Virgin Islands Asphalt Products Corp.

The Complaint alleges that the Defendants violated the Clean Water Act by: (1) Discharging waste water without a National Pollutant Discharge Elimination System (NPDES) permit on two occasions, in violation of Section 301 of the Clean Water Act (CWA), 33

U.S.C. 1311; and (2) failing to apply for a NPDES storm water discharge permit, in violation of Sections 308 and 402 of the CWA, 33 U.S.C. 1319 and 1342. Under the settlement, the Defendants will pay a civil penalty to the United States of $47,500.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed settlement. Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States* v. *Meridian Engineering, Inc., et al.,* DOJ Ref. #90–5–1–1–4224.

The proposed settlement may be examined at the office of the United States Attorney, 1108 King St. #201, Christiansted, St. Croix; the Region II Office of the Environmental Protection Agency, 290 Broadway, New York, New York; and at the Consent Decree Library, 1120 G Street, NW., 4th Floor, Washington, DC 20005, (202) 624–0892. A copy of the proposed settlement may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, NW., 4th Floor, Washington, DC 20005. In requesting a copy please refer to the referenced case and enclose a check may payable to the Consent Decree Library in the amount of $2.00 (25 cents per page reproduction costs).

Joel M. Gross,

Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 97–2034 Filed 1–27–97; 8:45 am]

BILLING CODE 4410–15–M

Notice of Lodging of Consent Decree Pursuant to the Clean Air Act

In accordance with Departmental policy, 28 CFR § 50.7 notice is hereby given that a proposed consent decree in *United States* v. *Price/Costco, Inc.,* Civil Action No. C96–1965Z, was lodged on December 16, 1996, with the United States District Court for the Western District of Washington. The consent decree settles claims brought under Sections 113 and 608 of the Clean Air Act, 42 U.S.C. 7413 & 7671(g). The complaint alleged that Price/Costco sold canisters of freon to buyers who were not certified to handle ozone depleting substances in violation of 40 CFR § 82.154(m). Under the proposed consent decree, Price/Costco will pay a civil penalty of $232,500 and institute a set of procedures at its check-out counters assuring that buyers of freon canisters are certified to handle ozone depleting substances within the meaning of 40 CFR § 82.154(m).

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States* v. *Price/Costco,* DOJ Ref. #90–5–2–1–2050.

The proposed consent decree may be examined at the office of the United States Attorney, 800 Fifth Avenue, Suite 3600, Washington 98104; the Region 10 Office of the Environmental Protection Agency, 1200 Sixth Avenue, Seattle, Washington 98101; and at the Consent Decree Library, 1120 G Street, N.W., 4th Floor, Washington, D.C. 20005, (202) 624–0892. A copy of either proposed consent decree may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, N.W., 4th Floor, Washington, D.C. 20005. In requesting a copy of either decree please refer to the referenced case and enclose a check in the amount of $3.00 (25 cents per page reproduction costs), payable to the Consent Decree Library.

Joel M. Gross,

Chief Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 97–2036 Filed 1–27–97; 8:45 am]

BILLING CODE 4410–15–M

National Institute of Corrections

Solicitation for a Cooperative Agreement

SUMMARY: The Department of Justice (DOJ), National Institute of Corrections (NIC) announces the availability of funds in FY '97 for a cooperative agreement to fund ''Design, Development, and Implementation of Internal Classification Systems'' project.

PURPOSE: The National Institute of Corrections is seeking applications for a cooperative agreement to assist departments of corrections and individual prisons in designing, developing, and implementing classification systems that will guide housing, work, and program assignments within specific institutions. The award recipient will design training curriculum and provide training and technical assistance to a minimum of five (5) prisons/agencies who demonstrate interest and ability to develop a methodology for more objective and consistent internal management of inmates. They will develop guidelines and standard criteria for prison internal classification and will assess the outcomes and impact of training and assistance provided through this cooperative agreement. The award recipient will document the experiences of the participating prisons/agencies in a project report. This internal classification project will be a collaborative effort between NIC program staff and the award recipient.

AUTHORITY: Public Law 93–415.

FUNDS AVAILABLE: The award will be limited to a maximum total of $125,000 (direct and indirect costs) and project activity must be completed within 15 months of the date of award. Funds may not be used for construction, or to acquire or build real property. This project will be a collaborative venture with the NIC Prisons Division. It is anticipated that $200,000 will be allocated in the second year of the project for a continuation agreement, contingent upon availability of funds and satisfactory progress in meeting the goals of this project and the requirements of the second year offering.

DEADLINE FOR RECEIPT OF APPLICATIONS: Applications must be received in NIC's Washington, D.C. office by 4:00 p.m., Eastern time, Friday, March 7, 1997.

ADDRESSES AND FURTHER INFORMATION: Requests for the application kit, which includes further details on the project's objectives, etc., should be directed by Judy Evens, Grants Control Office, National Institute of Corrections, 320 First Street, N.W., Room 5007, Washington, D.C. 20534, or by calling 800–995–6423, ext. 159 or 202–307–3106, ext. 159. All technical and/or programmatic questions concerning this announcement should be directed to Dick Franklin at the above address or by calling 800–995–6423, ext. 145 or 202–307–1300, ext. 145, or by E-mail via franklin@bop.gov.

ELIGIBLE APPLICANTS: An eligible applicant is any private or non-profit organization, institution, or individual.

REVIEW CONSIDERATIONS: Applications received under this announcement will be subjected to an NIC 3 to 5 member Peer Review Process.

NUMBER OF AWARDS: One (1).

NIC APPLICATION NUMBER: 97P06 This number should appear as a reference line in your cover letter and also in box 11 of Standard Form 424.

EXECUTIVE ORDER 12372: This program is subject to the provisions of Executive Order 12372. Executive Order 12372 allows States that option of setting up a system for reviewing applications from within their States for assistance under certain Federal programs. Applicants

(other than Federally-recognized Indian tribal governments) should contact their State Single Point of Contact (SPOC), a list of which is included in the application kit, along with further instructions on proposed projects serving more than one State.

The Catalog of Federal Domestic Assistance number is: 16.603.

Dated: January 15, 1997.

Morris L. Thigpen,

Director, National Institute of Corrections.

[FR Doc. 97–2018 Filed 1–27–97; 8:45 am]

BILLING CODE 4410–36–M

Solicitation for a Cooperative Agreement

SUMMARY: The Department of Justice (DOJ), National Institute of Corrections (NIC) announces the availability of funds in FY '97 for a cooperative agreement to fund the ''The Management of Institution Mission Change'' project.

PURPOSE: The National Institute of Corrections is seeking applications for a cooperative agreement to survey, identify, and research departments of corrections and individual prisons that have experienced significant mission change because of changing inmate profiles, crowding of prisons, elimination of programs and/or proportionate reduction of resources, change in staff to inmate ratios, and other factors. The methodology, processes, and strategies for successful management of mission change will be studied and documented. The award recipient will prepare a document discussing the study and its findings that will assist agencies prepare for change.

AUTHORITY: Public Law 93–415.

FUNDS AVAILABLE: The award will be limited to a maximum total of $100,000 (direct and indirect costs) and project activity must be completed within 12 months of the date of award. Funds may not be used for construction, or to acquire or build real property. This project will be a collaborative venture with the NIC Prisons Division.

DEADLINE FOR RECEIPT OF APPLICATIONS: Applications must be received in NIC's Washington, D.C. office by 4:00 p.m., Eastern time, Friday, March 7, 1997.

ADDRESSES AND FURTHER INFORMATION: Requests for the application kit, which includes further details on the project's objectives, etc., should be directed to Judy Evens, Grants Control Office, National Institute of Corrections, 320 First Street, N.W., Room 5007, Washington, D.C. 20534 or by calling 800–995–6423, ext. 159 or 202–307–3106, ext. 159. All technical and/or programmatic questions concerning this announcement should be directed to Dick Franklin at the above address or by calling 800–995–6423, or 202–307–1300, ext. 145, or by E-mail via rfranklin@bop.gov.

ELIGIBLE APPLICANTS: An eligible applicant is any private or non-profit organization, institution, or individual.

REVIEW CONSIDERATIONS: Applications received under this announcement will be subjected to an NIC 3 to 5 member Peer Review Process.

NUMBER OF AWARDS: One (1).

NIC APPLICATION NUMBER: 97P07. This number should appear as a reference line in your cover letter and also in box 11 of Standard Form 424.

EXECUTIVE ORDER 12372: This program is subject to the provisions of Executive Order 12372. Executive Order 12372 allows States the option of setting up a system for reviewing applications from within their States for assistance under certain Federal programs. Applicants (other than Federally-recognized Indian tribal governments) should contact their State Single Point of Contact (SPOC), a list of which is included in the application kit, along with further instructions on proposed projects serving more than one State.

The Catalog of Federal Domestic Assistance number is: 16.603.

Dated: January 15, 1997.

Morris L. Thigpen,

Director, National Institute of Corrections.

[FR Doc. 97–2019 Filed 1–27–97; 8:45 am]

BILLING CODE 4410–36–M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

Proposed Information Collection Request Submitted for Public Comment and Recommendations; Mechanical Power Press Injury Report (OMB No. 1218–0070).

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 (PRA 95) (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 impact of collection requirements on respondents can be properly assessed. Currently, the Occupational Safety and Health Administration (OSHA) is soliciting comments concerning the proposed extension of approval for the paperwork requirements of 29 CFR 1910.217(g), Reports of injuries to employees operating mechanical power presses.

DATES: Written comments must be submitted on or before March 31, 1997.

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 submissions of responses.

ADDRESSES: Comments are to be submitted to the Docket Office, Docket No. ICR–97–1, U.S. Department of Labor, Room N–2625, 200 Constitution Avenue, NW, Washington, D.C. 20210, telephone: (202) 219–7894. Written comments limited to 10 pages or less in length may also be transmitted by facsimile to (202) 219–5046.

FOR FURTHER INFORMATION CONTACT: Bonnie Friedman, Office of Information and Consumer Affairs, Occupational Safety and Health Administration, U.S. Department of Labor, Room N–3647, 200 Constitution Avenue, NW, Washington, D.C. 20210, telephone (202) 219–8148. Copies of the referenced information collection request are available for inspection and copying in the Docket Office and will be mailed immediately to persons who request copies by telephoning Vivian Allen at (202) 219–8076. For electronic copies, contact OSHA's WebPage on Internet at http://www.osha.gov/.

SUPPLEMENTARY INFORMATION:

I. Background

This report is specifically concerned with mechanical power presses. However, because it provides information about point-of-operation injuries, the report is of disproportionally significant value to OSHA. Point-of-operation injuries are the prime safety concern for machine tools in general, not just mechanical power presses. This report provides OSHA with an ongoing and current view of the causes of point-of-operation injuries, with an extremely low burden on the public.

In addition, OSHA is conducting a national emphasis program aimed at reducing the number and severity of power press injuries. It will continue to need the information provided in the reports to monitor the types of injuries reported and the sorts of equipment and conditions associated with these injuries. Existing reports were useful in identifying affected industries and equipment, but as industry patterns evolve and new technologies arise (or old ones decline), it will be useful to have up-to-date information. Regardless of whether this information is currently needed for the revision of regulations, it is useful in the context of enforcement planning, compliance officer training, and possibly, of use in relation to the development of hazard alerts about particularly hazardous equipment or operations.

The Occupational Safety and Health Administration (OSHA) currently has approval from the Office of Management and Budget (OMB) for certain information collection requirements contained in 29 CFR 1910.217(g). That approval will expire on March 31, 1997, unless OSHA applies for an extension of the OMB approval. This notice initiates the process for OSHA to request an extension of the current OMB approval. This notice also solicits public comment on OSHA's existing paperwork burden estimates from these interested parties and to seek public response to several questions related to the development of OSHA's estimation. Interested parties are requested to review OSHA's existing estimates, which are based upon information available during rulemaking, and to comment on their accuracy or appropriateness in today's workplace situation.

II. Current Actions

This notice requests an extension of the current OMB approval of the paperwork requirements in 29 CFR 1910.217(g), Reports of injuries to employees operating mechanical power presses.

Type of Review: Extension of currently approved collection.

Agency: U.S. Department of Labor, Occupational Safety and Health Administration

Title: Reports of Injuries to Employees Operating Mechanical Power Presses (29 CFR 1910.217(g)).

OMB Number: 1218–0070.

Agency Number: Docket No. ICR–97–1.

Frequency: As needed, upon injuries to employees operating mechanical power presses.

Affected Public: Business or other for-profit institutions.

Number of respondents: 191.

Estimated Time Per Respondent: 0.3 hours.

Total Estimated Cost: $1,948.

Total Burden Hours: 57.3.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request. They will also become a matter of public record.

Dated: January 21, 1997.

Thomas H. Seymour,

Acting Director, Directorate of Safety Standards Programs.

[FR Doc. 97–2047 Filed 1–27–97; 8:45 am]

BILLING CODE 4510–26–M

NATIONAL EDUCATION GOALS PANEL

Meeting

AGENCY: The National Education Goals Panel.

ACTION: Notice of Meeting.

SUMMARY: The National Education Goals Panel was established by a Joint Statement between the President and the Nation's governors dated July 31, 1990. The Panel will determine how to measure and monitor progress toward achieving the National Education Goals and report to the nation on the progress toward the Goals.

TENTATIVE AGENDA ITEMS: The agenda for the meeting includes an update on past, current and prospective Goals Panel work related to early childhood and the achievement of Goal 1, including presentations of recent research findings on brain development. It also includes a report on US and international student achievement in mathematics and science and their implications as suggested by the recent Third International Mathematics and Science Study. Speakers will include Hollywood actor and director Rob Reiner, Harvard Nobel laureate David Hubel (invited), Chicago Tribune writer Ron Kotulak, Yale's Bush Center Lynn Kagan, U.S. TIMSS director William Schmidt, and Harvard CPRE co-director Richard Elmore.

DATES: The National Education Goals Panel meeting is scheduled for Tuesday, February 4, 1997, 1:00 p.m. to 4:00 p.m.

ADDRESSES: The J.W. Marriott Hotel, 1331 Pennsylvania Avenue, NW., Salon F, Washington, DC 20004.

FOR FURTHER INFORMATION CONTACT: The National Education Goals Panel at (202) 632–0952.

Dated: January 23, 1997.

Ken Nelson,

Executive Director.

[FR Doc. 97–1988 Filed 1–27–97; 8:45 am]

BILLING CODE 4010–01–M

NATIONAL INSTITUTE FOR LITERACY

Advisory Board Meeting

AGENCY: National Institute for Literacy Advisory Board, National Institute for Literacy.

ACTION: Notice of meeting.

SUMMARY: This Notice set forth the schedule and proposed agenda of a forthcoming meeting of the National Institute for Literacy Advisory Board (Board). This notice also describes the function of the Board. Notice of this meeting is required under Section 10(a)(2) of the Federal Advisory Committee Act. This document is intended to notify the general public of their opportunity to attend the meetings.

DATE AND TIME: February 12, 1997, 12:30 p.m. to 4:30 p.m., and February 13, 1997, 9:00 a.m. to 4:00 p.m.

ADDRESSES: National Institute for Literacy, 800 Connecticut Avenue, NW, Suite 200, Washington, DC 20006.

FOR FURTHER INFORMATION CONTACT: Sara Pendleton, National Institute for Literacy, 800 Connecticut Avenue, NW, Suite 200, Washington, DC 20006. Telephone (202) 632–1507.

SUPPLEMENTARY INFORMATION: The Board is established under Section 384 of the Adult Education Act, as amended by Title I of P.L. 102–73, the National Literacy Act of 1991. The Board consists of ten individuals appointed by the President with the advice and consent of the Senate. The Board is established to advise and make recommendations to the Interagency Group, composed of the Secretaries of Education, Labor, and Health and Human Services, which

administers the National Institute for Literacy (Institute). The Interagency Group considers the Board's recommendations in planning the goals of the Institute and in the implementation of any programs to achieve the goals of the Institute. Specifically, the Board performs the following functions, (a) makes recommendations concerning the appointment of the Director and the staff of the Institute; (b) provides independent advice on operation of the Institute; and (c) receives reports from the Interagency Group and Director of the Institute. In addition, the Institute consults with the Board on the award of fellowships. The Board will meet in Washington, DC on February 12, 1997 from 12:30 p.m. to 4:30 p.m., and February 13, 1997 from 9:30 a.m. to 4:00 p.m., and is open to the public. The agenda will include focus on the Board's recommendations for NIFL's 1997–1998 activities, the election of a new Board Chairman, and legislative issues impacting on literacy services. Records are kept of all Board proceedings and are available for public inspection at the National Institute for Literacy, 800 Connecticut Avenue, NW, Suite 200, Washington, DC 20006 from 8:30 a.m. to 5:00 p.m.

Dated: January 22, 1997.

Andrew J. Hartman,

Director, National Institute for Literacy.

[FR Doc. 97–1991 Filed 1–27–97; 8:45 am]

BILLING CODE 6055–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Geosciences; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

NAME: Special Emphasis Panel in Geosciences.

DATE AND TIME: February 17–18, 1997, 8:30 a.m.-5:00 p.m.

PLACE: Center for Clouds, Chemistry and Climate (C4), University of California, San Diego, Scripps Institution of Oceanography, 8603 La Jolla Shores Drive, Building A, Room 21A, La Jolla, CA 92037.

TYPE OF MEETING: Closed.

CONTACT PERSON: Dr. Jay S. Fein, Program Director for the Climate Dynamics Program, Division of Atmospheric Sciences, Room 775, National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230. Telephone number is (703) 306–1527.

PURPOSE OF MEETING: Site visit and technical review of the Center for Clouds, Chemistry and Climate (C4), Science and Technology Center (STC).

AGENDA: To review and evaluate the request for the renewal of the Center for Clouds, Chemistry and Climate, Science and Technology Centers proposal.

REASON FOR CLOSING: The materials being reviewed include information of a proprietary or confidential nature, including technical information; financial data; and personal information concerning individuals associated with the proposals. These matters are exempted under 5 U.S.C. 552b(c), (4) and (6) of the Government Sunshine Act.

Dated: January 22, 1997.

M. Rebecca Winkler,

Committee Management Office.

[FR Doc. 97–1962 Filed 1–27–97; 8:45 am]

BILLING CODE 7555–01–M

Special Emphasis Panel in the Division of Graduate Education; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

NAME: Special Emphasis Panel in the Division of Graduate Education (57).

DATES & TIME: February 2–9 and February 11–13, 8:30 am–5:00 pm.

PLACE: Washington Marriott Hotel, 1221 22nd Street, NW., Washington, DC.

TYPE OF MEETING: Closed.

CONTACT PERSONS: Dr. Susan W. Duby, Program Director, Division of Graduate Education, National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230.

PURPOSE OF MEETING: To review and evaluate applications.

REASON FOR CLOSING: The applications being reviewed include information of a proprietary or confidential nature, including technical information and personal information concerning individuals associated with the applications. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

REASON FOR LATE NOTICE: Administrative Error.

Dated: January 22, 1997

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 97–1961 Filed 1–27–97; 8:45 am]

BILLING CODE 7555–01–M

Special Emphasis Panel in Research, Evaluation and Communication; Notice of Meeting

In accordance with the Federal Advisory Committee Act, (Pub. L. 92–463, as amended) the National Science Foundation announces the following meeting:

NAME: Special Emphasis Panel in Research, Evaluation and Communication.

DATE AND TIME: February 20, 1997; 8:30 a.m. to 6:00 p.m. February 21, 1997; 9:00 a.m. to 4:30 p.m.

PLACE: Rooms 330, 360, 365, 370, 390, 310, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230.

TYPE OF MEETING: Closed.

CONTACT PERSON: Dr. Nora Sabelli, Program Director, 4201 Wilson Boulevard, Room 855, Arlington, VA 22230. Telephone (703) 306–1651.

PURPOSE OF MEETING: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

AGENDA: To review and evaluate proposals and provide advice and recommendations as part of the selection process for proposals submitted to the Learning and Intelligence Systems (LIS) Program.

REASON FOR CLOSING: Because the proposals reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with proposals, the meetings are closed to the public. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Dated: January 22, 1997.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 97–1963 Filed 1–27–97; 8:45 am]

BILLING CODE 7555–01–M

United States Antarctic Program (USAP) Blue Ribbon Panel; Notice of Meeting Amendment

This notice is being amended to provide for a one-hour closed session. There are no other changes. For the convenience of the reader, this notice is being re-published in its entirety. The notice for this meeting appeared in the Federal Register on January 17, Vol. 62, No. 12, page 2694.

NAME AND COMMITTEE CODE: United States Antarctic (USAP) Program Blue Ribbon Panel (#1531).

DATE AND TIME: February 7, 8 am–6 pm; February 8, 8:30 am–5 pm.

PLACE: Room 1235, NSF, 4201 Wilson Boulevard, Arlington, VA.

TYPE OF MEETING: Part open.

CONTACT PERSON: Guy G. Guthridge, Room 755, National Science Foundation, 4201 Wilson Boulevard, Arlington, Virginia 22230. Telephone: (703) 306–1031.

MINUTES: May be obtained from the contact person listed above.

PURPOSE OF MEETING: Examine a full range of infrastructure, management, and scientific options for the United States Antarctic Program so that the Foundation will be able to maintain the high quality of the research and implement U.S. policy in Antarctica under realistic budget scenarios.

Agenda

Open Session (February 7 until 4 pm and all of February 8)

The committee will continue analysis begun at its first three meetings (October 11–12, December 20–21, 1996, and January 4, 1997). It will receive presentations from Antarctic experts and will discuss options in the areas of research, research support, contractor tasking, military transition, cost-saving initiatives, health and safety context, environment and waste management, South Pole redevelopment, international aspects, science users' perspectives, and interagency involvement.

Closed Session (5:00–6:00 pm on February 7)

The committee will be discussing management of the United States Antarctic Program.

REASON FOR CLOSING: This session is closed to the public because the Committee will be reviewing and discussing materials that will include information of a personal nature that could harm individuals if disclosed. If discussions were open to the public, these matters that are exempt under 5 U.S.C. 552b(c)(6) of the Government in the Sunshine Act would be improperly disclosed.

Dated: January 22, 1997.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 97–1960 Filed 1–27–97; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

Industry Presentation on the Use of Mixed Oxide Fuel

AGENCY: Nuclear Regulatory Commission.

ACTION: Meeting notice.

SUMMARY: The Nuclear Regulatory Commission (NRC) will host a meeting for presentations by representatives from the nuclear industry on the use of mixed oxide (MOX) fuel in nuclear reactors. The meeting is open to the public, and all interested parties may attend.

DATES: February 21, 1997, from 8:30 a.m. to 1:00 p.m.

ADDRESSES: U.S. Nuclear Regulatory Commission, Two White Flint North, Auditorium, 11545 Rockville Pike, Rockville, Maryland. (Note: The NRC is accessible to the White Flint Metro Station; visitor parking around the NRC building is limited.)

FOR FURTHER INFORMATION CONTACT: Ms. Vanice A. Perin, Mail Stop T–8–A–33, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. Phone: 301–415–8143; FAX: 301–415–5390; INTERNET: VAP@NRC.GOV.

SUPPLEMENTARY INFORMATION: On January 14, 1997, the Department of Energy issued the Record of Decision (ROD) on the Storage and Disposition of Weapons-Usable Fissile Materials. One of DOE's approaches to dispose of the surplus plutonium is to burn it as MOX fuel in existing domestic commercial reactors.

The Nuclear Energy Institute has requested the opportunity to present information on the use of MOX fuel in light water reactors to NRC staff. A preliminary agenda for the meeting is as follows: (1) History of MOX Use Around the World, presented by the U.S. Department of Energy; (2) Mox Use in Asea Brown Boveri/Combustion Engineering (ABB/CE) Reactors, presented by ABB/CE; (3) MOX Use in Westinghouse Reactors, presented by Westinghouse; (4) MOX Use in General Electric (GE) Reactors, presented by GE; (5) European Pressurized Water Reactor Experience, presenter to be determined; and (6) European Boiling Water Reactor Experience, presenter to be determined.

To ensure adequate meeting room space, attendees are requested to notify Ms. Vanice A. Perin at 301–415–8143 of their planned attendance and any special requirements (e.g., for the hearing-impaired.)

Dated at Rockville, Maryland, this 22 day of January, 1997.

For the Nuclear Regulatory Commission.

Elizabeth Q. Ten Eyck,

Director, Division of Fuel Cycle Safety and Safeguards.

[FR Doc. 97–1995 Filed 1–27–97; 8:45 am]

BILLING CODE 7590–01–P

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Nuclear Regulatory Commission.

DATE: Weeks of January 27, February 3, 10, and 17, 1997.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and Closed.

MATTERS TO BE CONSIDERED:

Week of January 27

Monday, January 27

2:30 p.m.
Briefing by DOE on Plutonium Disposition (Public Meeting); (Contact: Vanice Perin, 301–415–8143)

Wednesday, January 29

10:00 a.m.
Briefing on Operating Reactors and Fuel Facilities (Public Meeting); (Contact: Victor McCree, 301–415–1711)

11:30 a.m.
Affirmation Session (Public Meeting)
*(PLEASE NOTE: This item will be affirmed immediately following the conclusion of the preceding meeting.)
a. Louisiana Energy Services—Intervenor's Motion for Partial Reconsideration of CLI–96–8; (Contact: Andrew Bates, 301–415–1963)

Thursday, January 30

10:00 a.m.
Briefing on Millstone by Northeast Utilities and NRC (Public Meeting); (Contact: Bill Travers, 301–415–8500)

Friday, January 31

10:00 a.m.
Briefing on Integrated Materials Performance Evaluation Program (Public Meeting); (Contact: Don Cool, 301–415–7197)

Week of February 3—Tentative

Tuesday, February 4

9:30 a.m.
Briefing by Maine Yankee, NRR and Region I (Public Meeting); (Contact: Daniel Dorman, 301–415–1429)

Wednesday, February 5

NOON
Affirmation Session (Public Meeting) (if needed)

Week of February 10—Tentative

Thursday, February 13

2:00 p.m.
Briefing on Operating Reactor Oversight Program and Status of Improvements in NRC Inspector Program (Public Meeting); (Contact: Bill Borchardt, 301–415–1257)

3:30 p.m.

Affirmative Session (Public Meeting) (if needed)

Week of February 17—Tentative

Tuesday, February 18

1:00 p.m.
Briefing on BPR Project on Redesigned Materials Licensing Process (Public Meeting); (Contact: Don Cool, 301–415–7197)

2:30 p.m.
Briefing on Analysis of Quantifying Plant Watch List Indicators (Public Meeting)

Wednesday, February 19

2:00 p.m.
Briefing on Millstone and Marine Yankee Lessons Learned (Public Meeting); (Contact: Steve Stein, 301–415–1296)

3:30 p.m.
Affirmation Session (Public Meeting) (if needed)

Thursday, February 20

2:00 p.m.
Briefing on EEO Program (Public Meeting); (Contact: Ed Tucker, 301–415–7382)

* 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 January 22, 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 Final Rule to Amend 10 CFR Part 71 for Fissile Materials Shipments and Exemptions'' and ''Affirmation of Sequoyah Fuel Corporation and General Atomics; LBP–96–24, Approving-Settlement with General Atomics and Dismissing Proceedings,'' be held on January 22, 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, DC 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: January 24, 1997.

William M. Hill, Jr.,

SECY Tracking Officer, Office of the Secretary.

[FR Doc. 97–2232 Filed 1–24–97; 2:08 pm]

BILLING CODE 7590–01–M

RAILROAD RETIREMENT BOARD

Privacy Act of 1974; Proposed Changes to Systems of Records

AGENCY: Railroad Retirement Board.

ACTION: Notice of a proposed new routine use.

SUMMARY: The purpose of this document is to give notice of a proposed routine use to one of the Railroad Retirement Board's (RRB's) Privacy Act systems of records.

DATES: The proposed routine use will be effective 30 calendar days from the date of this publication (February 27, 1997), unless comments are received before this date which would result in a contrary determination.

ADDRESSES: Send comments to Beatrice Ezerski, Secretary to the Board, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois 60611–2092.

FOR FURTHER INFORMATION CONTACT: LeRoy Blommaert, Privacy Act Officer, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois 60611–2092, (312) 751–4548.

SUPPLEMENTARY INFORMATION: The Debt Collection Improvement Act of 1996 (Pub. L. 104–134) requires Federal agencies to furnish necessary information to the Department of the Treasury to enable that agency to attempt to collect outstanding Federal debts by offsets to Federal payments. In order to comply with the provisions of the Privacy Act, the RRB must publish a routine use to its applicable Privacy Act System of Records that will allow it to furnish the Department with the information necessary to collect any debts arising under the laws administered by the RRB.

By authority of the Board.

Beatrice Ezerski,

Secretary to the Board.

RRB–42

SYSTEM NAME:

Uncollectible Benefit Overpayment Accounts—RRB.

* * * * *

Paragraph ''i'' is added to read as follows:

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

* * * * *

i. Debtors names, Social Security Numbers, Railroad Retirement claim numbers, accounts of debts, history of the debts, and other relevant and necessary information may be disclosed to the Financial Management Service, Department of the Treasury, for the purpose of recovery of debts under the provisions of the Debt Collection Improvement Act of 1996.

[FR Doc. 97–1984 Filed 1–27–97; 8:45 am]

BILLING CODE 7905–01–M

Appointment to the Senior Executive Service Performance Review Board

AGENCY: Railroad Retirement Board.

ACTION: Notice.

SUMMARY: The Railroad Retirement Board (Board) is announcing the membership on its Senior Executive Service Performance Review Board.

ADDRESSES: Secretary to the Board, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611.

FOR FURTHER INFORMATION CONTACT: Leonard S. Harris, Bureau of Personnel, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611, telephone (312) 751–4323.

SUPPLEMENTARY INFORMATION: Agencies are required to publish notices of appointments to their Senior Executive Service Performance Review Boards (5 U.S.C. 4314(c)(4) and 5 CFR 430.307(b)).

The members of the Railroad Retirement Board's Performance Review Board are:

Chairman

Robert J. Duda—Director of Operations

Members

John L. Thoresdale—Director of Policy and Systems
Frank J. Buzzi—Chief Actuary
Steven A. Bartholow—Deputy General Counsel
Eric T. Wooden—Counsel to the Chairman
James C. Boehner—Assistant to the Labor Member
Joseph M. Waechter—Assistant to the Management Member.

Dated: January 10, 1997.

By Authority of the Board.

Beatrice Ezerski,

Secretary of the Board.

[FR Doc. 97–1958 Filed 1–27–97; 8:45 am]

BILLING CODE 7905–01–M

SECURITIES AND EXCHANGE COMMISSION

Request For Public Comment

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549

Existing Collection:
Rule 17a–6
SEC File No. 270–433
OMB Control No. 3235-new

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') is publishing the following summary of collection for public comment.

Rule 17a–6 (17 CFR 240.17a–6) permits national securities exchanges, national securities associations, registered clearing agencies, and the Municipal Securities Rulemaking Board (collectively, ''SROs'') to destroy or convert to microfilm or other recording media records maintained under Rule 17a–1, if they have filed a record destruction plan with the Commission and the Commission has declared such plan effective.

There are 25 SROs: 8 national securities exchanges, 1 national securities associations, 15 registered clearing agencies, and the Municipal Securities Rulemaking Board. These respondents file no more than one record destruction plan per year, which requires approximately 40 hours for each respondent. Thus, the total compliance burden is 40 hours. The approximate cost per hour is $100, resulting in a total cost of compliance for these respondents of $4,000 per year (40 hours @ $100).

Written comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

Direct your written comments to Michael E. Bartell, Associate Executive Director, Office of Information Technology, Securities and Exchange Commission, 450 5th Street, N.W. Washington, DC 20549.

Dated: January 17, 1997.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–1953 Filed 1–27–97; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. IC–22475; 811–01281]

Beacon Hill Mutual Fund, Inc.; Notice of Application

January 21, 1997.

AGENCY: Security and Exchange Commission (''SEC'').

ACTION: Notice of application for deregistration under the Investment Company Act of 1940 (the ''Act'').

APPLICANT: Beacon Hill Mutual Fund, Inc.

RELEVANT ACT SECTION: Order requested under section 9(f).

SUMMARY OF APPLICATION: Applicant requests an order declaring that it has ceased to be an investment company.

FILING DATES: The application was filed on December 9, 1996, and an amended application was filed on January 16, 1997.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on February 18, 1997, and should be accompanied by proof of service on applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, N.W., Washington, D.C. 20549. Applicant, 75 Federal Street, Boston, MA 02110.

FOR FURTHER INFORMATION CONTACT: Lisa McCrea, Staff Attorney, (202) 942–0562, or Mercer E. Bullard, Branch Chief, (202) 942–0564 (Office of Investment Company Regulation, Division of Investment Management).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicant's Representations

1. Applicant is an open-end management investment company, organized as a Massachusetts corporation. Applicant registered under the Act on August 31, 1964. On the same date, applicant filed a registration statement under the Act and the Securities Act of 1933 which became effective on or about November 27, 1964. The initial public offering of its shares began on December 2, 1964.

2. On April 16, 1996, the Board of Directors of applicant unanimously approved a resolution declaring that the proposed liquidation and dissolution of the Fund was advisable and directed that it be submitted to the securityholders for consideration. Prior to the April 16, 1996 board meeting, the Board of Directors had been advised by applicant's investment adviser, Beacon Hill Management, Inc., (''Adviser''), that the continued operation of the applicant at its current size was not economically feasible for the securityholders. At that meeting, the Adviser reported that it was not confident that any marketing efforts under current circumstances would increase the applicant's size sufficiently to continue its operations and that the merger or sale of the applicant into a similar investment company was not a realistic alternative due to the small amount of applicant's assets and the fact that the applicant's Adviser could not assure a merging or acquiring fund that applicant's assets would remain in applicant. Based upon the Adviser's presentation and recommendation, the Board concluded that a liquidation of applicant was in the best interests of applicant and its securityholders. Proxy material that was sent to securityholders was filed with the SEC on August 15, 1996. Applicant's securityholders approved the Agreement on October 1, 1996, at a meeting called for such purpose.

3. As of October 22, 1996, applicant had 15,454 shares outstanding with an aggregate/per share net asset value of $582,548/$37.70. These shares were redeemed at $37.70 per share between October 22, and 29, 1996.

4. Applicant has no securityholders, except that, as of December 2, 1996, there were 647 shares, totaling $24,844, held by stock certificates where the securityholders had not presented such certificates to applicant's transfer agent, Boston Financial Data Services, Inc., for liquidation.

5. Applicant retained assets in the amount of $94,157 to offset liabilities for legal fees and expenses, audit and tax fees, custodian and transfer agent fees and expenses and other administrative

and miscellaneous items. Except for such assets, all assets of applicant have been distributed to securityholders through individual redemptions. No brokerage commissions or other fees were paid in connection with the redemptions. Prior to the redemptions, the applicant's assets were converted into cash. Regular brokerage commissions in the amount of $5,628 were paid in connection with such conversion of portfolio securities into cash.

6. The total expenses incurred in connection with the sale of assets and liquidation of the applicant, consisting of legal fees, accounting fees and printing and mailing costs for the proxy solicitation, were approximately $30,000. These expenses were paid by the applicant.

7. Applicant is not a party to any litigation or administrative proceeding. Applicant is not now engaged, nor proposes to engage, in any business activities other than those necessary for the winding-up of its affairs.

8. Applicant intends to file a Certificate of Dissolution with the State of Massachusetts.

For the SEC, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–1955 Filed 1–27–97; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. IC—22476; 811–7241]

Merrill Lynch Global Institutional Series, Inc.; Notice of Application

January 21, 1997.

AGENCY: Securities and Exchange Commission (''SEC'').

ACTION: Notice of application for deregistration under the Investment Company Act of 1940 (the ''Act'').

APPLICANT: Merrill Lynch Global Institutional Series, Inc.

RELEVANT ACT SECTION: Section 8(f).

SUMMARY OF APPLICATION: Applicant seeks an order declaring that it has ceased to be an investment company.

FILING DATE: The application was filed on December 20, 1996.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on February 18, 1997, and should be accompanied by proof of service on applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC 450 5th Street, N.W., Washington D.C. 20549. Applicant, P.O. Box 9011, Princeton, New Jersey, 08543–9011.

FOR FURTHER INFORMATION CONTACT:

Shirley A. Bodden, Paralegal Specialist, at (202) 942–0575, or Mercer E. Bullard, Branch Chief, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicant's Representations

1. Applicant is a registered open-end management investment company that was organized as a Maryland corporation on November 18, 1994. On November 23, 1994, applicant registered under the Act by filing a notification of registration on Form N–8A. On the same date, applicant filed a registration statement on Form N–1A under the Act and the Securities Act of 1933. The registration statement was never declared effective. SEC records show that, on May 30, 1996, by order of the SEC, the registration statement was declared withdrawn.

2. Applicant neither issued nor sold its shares. Applicant has had no transactions other than those relating to organizational matters.

3. Applicant has no securityholders, assets, debts, or liabilities. Applicant is not a party to any litigation or administrative proceeding. Applicant is not now engaged, nor does it propose to engage, in any business activities other than those necessary for the winding up of its affairs.

4. Applicant will terminate its existence under Maryland law as soon as practicable after its deregistration.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–1954 Filed 1–27–97; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 35–26649]

Filings Under the Public Utility Holding Company Act of 1935, as Amended (''Act'')

Janaury 21, 1997.

Notice is hereby given that the following filing(s) has/have been made with the Commission pursuant to provisions of the Act and rules promulgated thereunder. All interested persons are referred to the application(s) and/or declaration(s) for complete statements of the proposed transaction(s) summarized below. The application(s) and/or declaration(s) and any amendments thereto is/are available for public inspection through the Commission's Office of Public Reference.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by February 17, 1997, to the Secretary, Securities and Exchange Commission, Washington, DC 20549, and serve a copy on the relevant applicant(s) and/or declarant(s) at the address(es) specified below. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After said date, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

Public Service Company of Colorado (70–8985)

Public Service Company of Colorado (''PSCo''), a public-utility holding company exempt from regulation pursuant to rule 2 under section 3(a)(2) of the Act, has filed an application under section 3(b) of the Act in connection with its proposed acquisition of a public utility company operating exclusively outside of the United States (''Foreign Utility'').

PSCo states that neither Foreign Utility nor any of its subsidiary companies (1) Is a public-utility company operating in the United States or, (2) following the proposed acquisition, will serve any customers in the Untied States. PSCo further states that Foreign Utility does not derive any income from United States operations or sources within the United States.

PSCo states that due to tax, legal and regulatory considerations, it may be advisable to structure the acquisition

using one or more intermediate special purpose subsidiaries (collectively, ''PSCo Subs''). As special purpose subsidiaries to be formed for the primary purpose of acquiring an interest in Foreign Utility, PSCo Subs will derive no income from United States operations and will not be public-utility company operating in the United States. PSCo Subs will not engage in any business other than the acquisition of Foreign Utility, supervision of PSCo's investments in Foreign Utility and the participation in the management and operations of Foreign Utility.

PSCo states that it will not seek recovery through higher rates to its customers or the customers of its public-utility subsidiary, Cheyenne Light, Fuel and Power Company (''CLF&P''), to compensate it for any possible loss that it might sustain by reason of the proposed Foreign Utility investment or for any inadequate returns on such investment. PSCo has further undertaken to apply to the Colorado Public Utilities Commission and CLF&P has undertaken to apply to the Wyoming Public Service Commission, which have jurisdiction over the respective companies' retail electric and gas rates, for certification that each commission has the authority and resources to protect ratepayers subject to its jurisdiction and that it intends to exercise its authority in connection with the proposed Foreign Utility investment. PSCo represents that its domestic utility operations will be fully separated from its foreign operations.

As a result of the proposed acquisition, Foreign Utility will be a public-utility subsidiary of PSCo within the meaning of section 2(a)(8) of the Act. PSCo requests an unqualified order under section 3(b) of the Act exempting Foreign Utility from all provisions of the Act applicable to it as a subsidiary company of PSCo. The application states that, if an unqualified exemption under section 3(b) is granted, the PSCo Subs will rely upon the exemption provided by rule 10(a)(1) under the Act with respect to Foreign Utility, and PSCo will rely upon rule 11(b)(1) to provide an exemption from the approval requirements of sections 9(a)(2) and 10 to which it would otherwise be subject.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–1956 Filed 1–27–97; 8:45 am]

BILLING CODE 8010–01–M

Sunshine Act Meeting

Agency 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 open meeting during the week of January 27, 1997.

An open meeting will be held on Tuesday, January 28, 1997, at 10:00 a.m., in Room 1C30. The closed meeting, previously announced in 62 FR 3546, January 23, 1997, will follow the open meeting.

The subject matter of the open meeting scheduled for Tuesday, January 28, 1997, at 10:00 a.m., will be:

Consideration of whether to issue a release adopting amendments to revise Rule 4–08 of Regulation S–X to provide for specific disclosures of accounting policies for certain derivative instruments and to add Item 305 to Regulation S–K to provide for disclosure of market risk information related to certain derivative and other instruments. For further information, please contact Russell Mallett in the Office of the Chief Accountant at (202) 942–4400.

Commissioner Wallman, as duty officer, determined that no earlier notice thereof was possible.

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: January 24, 1997.

Jonathan G. Katz,

Secretary.

[FR Doc. 97–2202 Filed 1–24–97; 12:27 pm]

BILLING CODE 8010–01–M

[Release No. 34–38186; File No. SR–DTC–96–21]

Self-Regulatory Organizations; The Depository Trust Company; Order Granting Approval of a Proposed Rule Change Relating to the Reversal of Reclamations by Issuing and Paying Agents

January 21, 1997.

On November 5, 1996, The Depository Trust Company (''DTC'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change (File No. SR–DTC–96–21) pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'').[1] Notice of the proposal was published in the Federal Register on December 6, 1996.[2] No comment letters were received. For the reasons discussed below, the Commission is granting approval of the proposed rule change.

I. Description

The rule change offers a new service that will allow issuing and paying agents (''IPA'') to direct DTC to reverse all matched reclamations for a particular program which are made after 3:00 p.m. and which are attributable to issuer failure. Under DTC's money market instruments (''MMIs'') program, IPAs act as agents for MMI issuers. As such, IPAs issue MMIs on the issuers' behalf, and DTC automatically processes income and maturity payments to the IPAs' accounts. Both the credits generated from the issuances and the debits generated from income and maturity payments are netted into the IPA's DTC settlement obligation.

An IPA may issue MMIs and make periodic payments of income, redemption, or other proceeds on MMIs upon presentment throughout the day. An IPA is able to reverse issuances and payments for a particular program in the event of an issuer's failure by giving notice to DTC by 3:00 p.m. of the IPA's refusal to pay. This reversal mechanism is designed to make the MMI market more efficient by allowing IPAs to make issuances and payments throughout the day with respect to a particular MMI program while providing the IPAs with the protection of being able to reverse until 3:00 p.m. these issuances and payments in the event that it becomes apparent that an issuer will be unable to honor its obligation under a particular MMI program.[3] If this mechanism were not in place, an IPA would have to wait until it received funds from an issuer before making any payments to avoid taking the credit risk and being potentially at risk for the funds it had distributed throughout the day. This process permits participants having positions in the MMIs to use credits for payments on the MMIs throughout the day.[4]

To facilitate the conversion to the same day funds settlement (''SDFS''), DTC implemented a new processing schedule. As part of the new processing schedule, DTC introduced an extended

[1] 15 U.S.C. 78s(b)(1).

[2] Securities Exchange Act Release No. 38007 (December 2, 1996), 61 FR 64774.

[3] The refusal to pay deadline was set at 3:00 p.m. by the industry during the period when deliveries of MMIs were made physically.

[4] Currently, throughout the processing day a participant is allowed to use all payment credits it has received that day in connection with MMI programs, other than the single largest net payment, in order to meet its net debit cap and collateral monitor requirements.

reclamation period that allowed participants to reclaim deliveries (*i.e.*, return deliveries) until 3:30 p.m.[5] The reclamation procedure is designed to provide the recipient of a delivery with the opportunity to reject the delivery.

Prior to this amendment, a participant could unwind through the reclamation process issuances previously made by the IPA between 3:00 p.m. and 3:30 p.m., but an IPA was not able to unwind after 3:00 p.m. income and maturity payments it had made. The rule change extends the IPA's refusal to pay opportunity with respect to reclamations made to its account between 3:00 p.m. and the end of the reclamation period. The rule change allows IPAs to instruct DTC to reverse those reclaims that are processed after 3:00 p.m. in the event that the IPA believes the reclaims are associated with the issuer's insolvency. The IPA is able to request the reversal of these reclamations by giving DTC oral notice within fifteen minutes after the end of the reclamation period. Within thirty minutes after the end of the reclamation period, the IPA is required to provided DTC with written notice of the basis for which DTC could treat the issuer as insolvent under its rules.[6] A copy of the IPA's written notice would then be provided to all participants.

II. Discussion

Section 17A(b)(3)(F) provides that the rules of a clearing agency must be designed to assure the safeguarding of securities and funds which are in the custody or control of the clearing agency.[7] The Commission believes that the rule change is consistent with DTC's obligations under the Act because it enables IPAs to make issuances and payments with respect to a particular MMI program throughout the day while still affording the IPAs certain protections in the event of an issuer default. By extending IPA's ability to reverse payments in the event of issuer default, the proposal should result at the end of the day in a decrease in the number of money transfers that have been made to participants but to which the participants are not entitled because of issuer defaults while still providing for credits to be made available to participants during the day. As a result, the proposal should help facilitate the clearance and settlement of securities transactions, while still providing for the safeguarding of securities and funds which are in the custody or control of the clearing agency or for which it is responsible.

III. Conclusion

On the basis of the foregoing, the Commission finds that the proposed rule change is consistent with the requirements of the Act and in particular Section 17A of the Act and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (File No. SR–DTC–96–21) be and hereby is approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[8]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–2011 Filed 1–27–97; 8:45 am]

BILLING CODE 8010–01–M

[5] The end of the reclamation period is approximately 3:30, but this deadline may vary slightly depending upon the timing of the release of other DTC controls.

[6] DTC's Rule 12 which governs insolvency provides: ''An issuer of MMI securities subject of any transaction in the MMI Program shall be treated by [DTC] in all respects as insolvent in the event that the issuer is determined to be insolvent by any agency which regulates such issuer or in the event of the entry of a decree or order by a court having jurisdiction in the premises adjudging the issuer a bankrupt or insolvent, or approving as properly filed a petition seeking reorganization, arrangement, adjustment or composition of or in respect of the issuer under the Federal Bankruptcy Code or any other applicable Federal or State law or appointing a receiver, liquidator, assignee, trustee, sequester (or other similar official) of the issuer or of any substantial part of its property, or ordering the winding up or liquidation of its affairs or the institution by the issuer of proceedings to be adjudicated a bankrupt or insolvent or the consent by it to the institution of bankruptcy or insolvency proceedings against it, or the filing by it of a petition or answer or consent seeking reorganization or relief under the Federal Bankruptcy Code or any other applicable Federal or State law, or the consent by it to the filing of any such petition or to the appointment of a receiver, liquidator, assignee, trustee, sequester (or other similar official) of the issuer or of any substantial part of its property, or the admission by it in writing of its inability to pay its debts generally as they become due, or the taking of corporate action by the issuer in furtherance of any such action and, notwithstanding the foregoing, upon the filing by the issuer of a petition seeking reorganization, arrangement, adjustment or composition of or in respect of the issuer under the Federal Bankruptcy Code or any other applicable Federal or State law, or the filing against it or any such petition, at any time [DTC] receives notice thereof, either written or oral and from whatsoever source and, without awaiting any further adjudication, consent thereto, acceptance or approval of such filing, determines to its reasonable satisfaction that such has occurred.''

[7] 15 U.S.C. 78q–1(b)(3)(F)

[8] 17 CFR 200.30–3(a)(12).

[Release No. 34–38188; File No. SR–OCC–96–18]

Self-Regulatory Organizations; The Options Clearing Corporation; Notice of Filing of Proposed Rule Change To Revise Rules To Include Limited Cross-Guarantee Agreements

January 21, 1997.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on December 9, 1996, The Options Clearing Corporation (''OCC'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which items have been prepared primarily by OCC. The Commission is publishing this notice to solicit comments from interested persons on the proposed rule change.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The purpose of the proposed rule change is to revise OCC's by-laws and rules to authorize OCC to execute ''limited cross-guarantee agreements'' with other clearing agencies.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, OCC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. OCC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.[2]

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of the proposed rule change is to revise OCC's by-laws and rules to authorize OCC to execute ''limited cross-guarantee agreements'' with other clearing agencies. A limited cross-guarantee agreement is an agreement between two or more clearing agencies that provides that if the parties to the agreement must liquidate the assets of an entity that is a member of two or more of the agencies (''common member'') and at least one of the clearing agencies liquidates the assets of

[1] 15 U.S.C. 78s(b)(1).

[2] The Commission has modified the text of the summaries prepared by OCC.

the common member in its control to a loss and at least one liquidates the assets of the common member to a gain, each clearing agency liquidating to a gain will make the excess assets of the common member in its control available to each clearing agency liquidating to a loss up to the amount of the loss. If all of the parties to a limited cross-guarantee agreement liquidate the assets of a common member in their respective control to a gain or if all liquidate to a loss, the agreement provides that no assets will be made available by any party to the agreement to any other party. The cross-guaranties established in a limited cross-guarantee agreement are limited in the sense that each party to the agreement guarantees funds to the other parties only if it liquidates the assets of a common member in its control to a net gain and only up to the amount of the net again.

The effect of a limited cross-guarantee agreement is to enable each party to the agreement to have recourse to the assets of a defaulting common member in the control of the other parties to the agreement. Therefore, a limited cross-guarantee agreement should reduce the risk of each of the clearing agencies which is a party to the agreement because a defaulting common member may have positions spread across markets in such a manner that its net asset position at one clearing agency is positive even though its net asset position at another clearing agency is negative.

OCC is currently pursuing discussions of the terms of a limited cross-guarantee agreement with other clearing agencies. OCC anticipates that it will be filing with the Commission one or more limited cross-guarantee agreements to which it has become a party following the conclusion of those discussions.

The Commission has generally stated its support of the use of limited cross-guarantee agreements as a means of reducing the exposure of clearing agencies to loss as a result of the default of common members.[3] OCC proposes to add definitions of ''common member,'' ''cross-guarantee party,'' and ''limited cross-guarantee agreement'' to Article I of its by-laws.

OCC proposes to add new paragraph (i) to Section 5 of Article VIII of its by-laws to provide explicitly that OCC may use the clearing fund contributions of a clearing member to satisfy its limited cross-guarantee obligations to other clearing agencies with respect to that clearing member. New paragraph (i) provides that the amount charged against a clearing member's contributions to the stock clearing fund and non-equity securities clearing fund will be in proportion to the clearing member's contributions to the stock clearing fund and the non-equity securities clearing fund as fixed at the time of the suspension of the clearing member. New paragraph (i) does not provide OCC with any authority to use the clearing fund contributions of other clearing members (*i.e.*, other than the defaulting clearing member) to satisfy any limited cross-guarantee obligation that OCC has to another clearing agency because OCC will not have any obligation pursuant to a limited cross-guarantee agreement which could require recourse to the clearing fund contributions of other clearing members.

OCC also proposes to add new paragraph (j) to Section 5 of Article VIII of its by-laws to establish a rule for allocating funds received by OCC pursuant to a limited cross-guarantee agreement where OCC has charged, or will charge, the stock clearing fund and the non-equity securities clearing fund. The new paragraph provides that the funds will be credited to the stock clearing fund and the non-equity securities clearing fund in proportion to the computed contributions of the suspended clearing member to the two clearing funds as fixed at the time of the suspension of the clearing member. If one of the two clearing funds is made whole then the remainder of the funds will be credited entirely to the other clearing fund.

OCC proposes to add three new interpretations to Article VIII, Section 5 of its by-laws. New interpretation .03 states explicitly that if OCC has a deficiency after the application of all available funds of a suspended clearing member and if OCC cannot determine whether or in what amount it will be entitled to receive funds from a cross-guarantee party or when it will receive such funds, with respect to the clearing member, OCC may, in its discretion, make a charge against other clearing members; contributions to the stock clearing fund and/or the non-equity securities clearing fund. New interpretation .04 states explicitly that if OCC determines that it is likely to receive funds from a cross-guarantee party with respect to the clearing member, OCC may in anticipation of receipt of the funds from the cross-guarantee party, forego making a charge, or make a reduced charge against other clearing members' contributions to the stock clearing fund and/or the non-equity securities clearing fund. If OCC does not receive the anticipated funds or receives funds in a smaller amount than anticipated, OCC may make a charge or an additional charge against other clearing members' contributions to the stock clearing fund and/or the non-equity securities clearing fund. New interpretation .05 states explicitly that if OCC were ever to be required to refunds funds which it had received from a cross-guarantee party back to the cross-guarantee party, OCC could make a charge or an additional charge against other clearing members' contributions to the stock clearing fund and/or the non-equity securities clearing fund to make itself whole. The charge would be based on the other clearing members' computed contributions as fixed at the time of the refund and not at the time of the suspension of the clearing member.

OCC also proposes to add a new paragraph (d) to its Rule 1104 to state explicitly that OCC may use any positive balance remaining in a clearing member's liquidating settlement account to satisfy any obligation with respect to that clearing member which OCC may have to any other clearing agency pursuant to a limited cross-guarantee agreement. OCC believes the new paragraph is needed to assure that OCC's use of the assets of a clearing member in this manner is authorized by OCC's rules because Rule 1104(a) states that funds of a suspended clearing member subject to OCC's control shall be placed in the clearing member's liquidating settlement account and used ''for the purposes hereinafter specified.''

OCC believes the proposed rule change is consistent with the requirements of Section 17A of the Act and the rules and regulations thereunder because the proposal assures the safeguarding of securities and funds in its custody or control or for which OCC is responsible.

B. Self-Regulatory Organization's Statement on Burden on Competition

OCC does not believe that the proposed rule change will have any material impact on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments were not and are not intended to be solicited by OCC with respect to the proposed rule change, an none have been received.

[3] Securities Exchange Act Release No. 37616 (August 28, 1996), 61 FR 46887 [File Nos. SR–MBSCC–96–02, SR–GSCC–96–03, and SR–ISCC–96–04] (order approving proposed rule changes seeking authority to enter into limited cross-guaranty agreements filed by MBS Clearing Corporation, Government Securities Clearing Corporation and International Securities Clearing Corporation).

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within thirty-five days of the date of publication of this notice in the Federal Register or within such longer period (i) as the Commission may designate up to ninety days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which OCC consents, the Commission will:

(a) By order approve such proposed rule change or

(b) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of such filing also will be available for inspection and copying at the principal office of OCC. All submissions should refer to File No. SR–OCC–96–18 and should be submitted by February 18, 1997.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[4]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–2012 Filed 1–27–97; 8:45 am]

BILLING CODE 8010–01–M

SMALL BUSINESS ADMINISTRATION

Tangent Growth Fund, L.P. (License No. 09/09–0408); Notice of Issuance of a Small Business Investment Company License

On January 4, 1995, an application was filed by Tangent Growth Fund, L.P., 944 Market Street, Suite 800, San Francisco, California, with the Small Business Administration (SBA) pursuant to Section 107.102 of the Regulations governing small business investment companies (13 C.F.R. 107.102 (1996)) for a license to operate as a small business investment company.

Notice is hereby given that, pursuant to Section 301(c) of the Small Business Investment Act of 1958, as amended, after having considered the application and all other pertinent information, SBA issued License No. 09/09/–0408 on January 10, 1997, to Tangent Growth Fund, L.P. to operate as a small business investment company.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: January 21, 1997.

Don A. Christensen,

Associate Administrator for Investment.

[FR Doc. 97–1957 Filed 1–27–97; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

White House Commission on Aviation Safety and Security; Cancellation of Meeting

AGENCY: Office of the Secretary, DOT.

ACTION: Cancellation of Meeting.

SUMMARY: The White House Commission on Aviation Safety and Security has canceled its meeting scheduled for Tuesday, January 28, 1997, from 9:00 AM–12:00 noon and 2:00 PM to 5:00 PM. It will be set for another date and time, and notice will be given.

FOR FURTHER INFORMATION CONTACT: Richard K. Pemberton, Administrative Officer, Room 6210, GSA Headquarters, 18th & F Streets, NW, Washington, DC 20405; telephone 202.501.3863; telecopier 202.501.6160.

Issued in Washington, DC, on January 23, 1997.

Nancy E. McFadden,

General Counsel, Department of Transportation.

[FR Doc. 97–2240 Filed 1–27–97; 8:45 am]

BILLING CODE 4910–62–P

Office of the Secretary

[Docket No. OST–97–2085]

Proposed Policy Encouraging Metropolitan Planning Organizations and Airport Operators to Cooperate in Transportation Planning

AGENCY: Office of the Secretary, DOT.

ACTION: Proposed policy statement.

SUMMARY: The Department of Transportation (DOT) is publishing for comment a proposed policy statement regarding the need for coordination between aviation and surface transportation planning efforts, particularly between airport operators and metropolitan planning organizations, with emphasis on urbanized areas over one million population as defined by the latest Decennial Census.

There are a number of concerns and issues shared by policy makers responsible for airport and surface transportation decision making, including the need to plan for and develop adequate surface transportation access serving airports. This policy addresses the need to enhance cooperation across transportation modes. This type of cooperation is especially important because planning requirements for the individual transportation modes (highway, transit, rail, and aviation) are contained in separate statutory authority. The DOT believes that it is desirable to stimulate and revitalize the cooperative relationship between airport operators and metropolitan planning organizations to achieve a thoughtful and carefully coordinated program of intermodal and multimodal system planning and development.

This proposed policy is consistent with the statutory policy provisions guiding the Federal airport improvement program, such as encouraging the efficient and effective development of intermodal transportation systems. 49 U.S.C. 47101(a)(5). This proposed policy also implements the statutory policy directing the Department to integrate airport improvement planning with intermodal planning. 49 U.S.C. 47101(g), as amended by section 141 of the Federal Aviation Authorization Act of 1996. Pub. L. No. 104–264, October 9, 1996.

DATES: Comments on this proposal should be received by March 31, 1997.

ADDRESSES: Submit written, signed comments to Docket No. OST–97–2085, the Docket Clerk, U.S. Department of Transportation, Room PL–401, SVC–

[4] 17 CFR 200.30–3(a) (12).

121.30, 400 Seventh Street, S.W., Washington, DC 20590. All comments received will be available for examination at the above address between 9:00 a.m. and 5:00 p.m., ET, Monday through Friday, except Federal holidays. Those desiring notification of receipt of comments must include a self-addressed, stamped envelope or postcard.

FOR FURTHER INFORMATION CONTACT: Mr. Carl Swerdloff, Office of Economics, Office of the Secretary, at (202) 366–5427, DOT, 400 Seventh Street, SW., Washington, DC 20590; or Mr. Larry Kiernan, Office of Airport Planning and Programming, FAA, at (202) 267–8784, 800 Independence Avenue, SW., Washington, DC 20591. Office hours are from 8:30 a.m. to 5:00 p.m. ET, Monday through Friday, except Federal holidays.

The Proposed Policy Statement

The DOT proposes to adopt a new policy encouraging improved cooperation between metropolitan planning organizations and airport operators in devising realistic plans to address transportation issues and more effectively integrate airport and urban surface transportation systems.

Proposed Policy Encouraging Metropolitan Planning Organizations and Airport Operators To Cooperate in Transportation Planning

Introduction

DOT, through this proposed policy encourages metropolitan planning organizations and airport operators, especially in urbanized areas with one million population or more, to cooperate and coordinate on a wide range of transportation issues. This policy will improve cooperation between airport and metropolitan transportation planning and development activities. It is the expectation of the United States DOT that this effort will identify additional opportunities for intermodal and multimodal cooperation. The policy addresses obstacles to the effective integration of multimodal issues in metropolitan transportation planning. These obstacles have developed over time and are, in part, the unintended result of different statutory requirements for transportation planning for surface and air modes. While both surface and air transportation are recognized as having a major influence on urban development, metropolitan planning organizations have taken a larger role in surface transportation planning and have concentrated their expertise and resources on that topic.

DOT recognizes that a thoughtful program of airport planning and development conducted within the context of the metropolitan planning framework can greatly enhance the air transportation potential of the region, with benefits to the region and the nation. DOT wants to ensure that surface and airport planning are mutually supported by appropriate expertise.

Several factors must be addressed to encourage participation of metropolitan planning organizations in the airport planning process. Adequate staff and budget resources must be available to enable metropolitan planning organizations to make competent assessments of the airport planning process, especially in urbanized areas of one million population and greater. Full-time professional staff with expertise in air transportation is desirable in transportation planning agencies, but consultant services may be an acceptable alternative. Technical guidance is needed to provide the context for metropolitan planning within the framework of the national airport system and to describe the techniques available for analyzing specialized technical issues such as aviation activity forecasting, air transportation demand analysis, airspace utilization, environmental impact, and ground access requirements. Airport operators should have major input to the planning process if it is to be well informed and effective.

General Planning Principles

1. The regional airport system should be planned and operated to provide the public with the safest and most efficient air transportation service possible and to ensure adequate capacity to accommodate current and forecast aviation demand.

2. Airport planning and development within a metropolitan region should be conducted in cooperation with the metropolitan transportation planning process to ensure the best use of resources compatible with land use, general development, and surface transportation plans for the region.

3. Metropolitan planning organizations should develop and maintain organizational capacity in aviation planning including forecasting, demand analysis, environmental impact, ground transportation requirements, and economic impact.

4. Airport operators should be active and influential participants in the metropolitan transportation planning process through such mechanisms as technical advisory committees and metropolitan planning organization policy boards to ensure maximum consistency between surface and aviation plans.

5. Local governments and airport operators are encouraged to make optimal use of existing regional airport and aviation facilities and capacity in meeting current and future air transportation demand, and to plan for additional airport and aviation facilities and capacity as, when and where future transportation demand warrants.

Implementation

The DOT proposes to implement the proposed policy through a variety of measures to encourage metropolitan planning organizations to become more involved with aviation issues.

After our highest priority safety and security needs have been met, DOT will give a high priority to requests for financial aid under the Airport Improvement Program to enable metropolitan planning organizations, with special emphasis on urbanized areas of one million population and greater, to develop, retain, and apply aviation planning capabilities. DOT will develop and distribute current technical guidance including a guide for planning metropolitan and regional aviation systems and a guide for planning surface access to airports. DOT will consider the extent to which metropolitan planning organizations have enhanced their capability to analyze aviation issues as a factor in the review of requests for financial aid under this policy.

SUPPLEMENTARY INFORMATION:

Request for Comments

The proposed policy anticipates that the potential for integrating metropolitan airport capacity and service with other modes can be greatly enhanced through thoughtful and well coordinated metropolitan surface transportation and airport planning. DOT seeks public input on the following issues in its further consideration of this proposal.

—Will this goal be effectively advanced by this proposal or are additional measures necessary?
—Are incentives needed to encourage metropolitan planning organizations to develop aviation planning capability?
—Is additional technical guidance needed?
—Are the financial resources now available adequate to support the desired level of metropolitan airport planning?
—Are institutional changes necessary to expand the participation of airport

operators in the metropolitan transportation system planning process? If so, what measures are indicated, who should initiate and implement them, and what policies and procedures should apply to their implementation?

—What actions can DOT undertake to build upon this initiative to further enhance cooperation between airport and surface transportation policy makers?

Comments on these and other aspects of the proposed policy are welcome.

Issued in Washington, DC on January 21, 1997.

Federico Peña,

Secretary of Transportation.

[FR Doc. 97–2020 Filed 1–27–97; 8:45 am]

BILLING CODE 4910–62–P

Federal Aviation Administration

Executive Committee of the Aviation Rulemaking Advisory Committee; Meeting

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of meeting.

SUMMARY: The FAA is issuing this notice to advise the public of a meeting of the Executive Committee of the Federal Aviation Administration Aviation Rulemaking Advisory Committee.

DATES: The meeting will be held on February 12, 1997, at 9:30 a.m. Arrange for oral presentations by February 3, 1997.

ADDRESSES: The meeting will be held at the Aerospace Industries Association of America, 1250 Eye Street, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Miss Jean Casciano, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, telephone (202) 267–9683; fax (202) 267–5075; e-mail Jean.Casciano@faa.dot.gov.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App. II), notice is hereby given of a meeting of the Executive Committee to be held on February 12, 1997, at the Aerospace Industries Association of America, 1250 Eye Street, NW., Washington, DC, 9:30 a.m. The agenda will include:

- Approval for formal legal review of a proposed advisory circular by the Digital Information Working Group on a Use of Digital Systems for Direct Access and Interchange of Technical Data.
- Update on the status of action items resulting from visits to FAA Certification Directories.

Attendance is open to the interested public but will be limited to the space available. The public must make arrangements by February 2, 1997, to present oral statements at the meeting. The public may present written statements to the executive committee at any time by providing 25 copies to the Executive Director, or by bringing the copies to him at the meeting.

A copy of the proposed AC that will be the subject of the Digital Information Working Group's briefing may be obtained by contacting the individual listed under the heading **FOR FURTHER INFORMATION CONTACT**.

Sign and oral interpretation can be made available at the meeting, as well as an assistive listening device, if requested 10 calendar days before the meeting. Arrangements may be made by contacting the person listed under the heading **FOR FURTHER INFORMATION CONTACT**.

Issued in Washington, DC, on January 22, 1997.

Joseph A. Hawkins,

Executive Director, Aviation Rulemaking Advisory Committee.

[FR Doc. 97–2023 Filed 1–27–97; 8:45 am]

BILLING CODE 4910–03–M

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

Proposed Collection; Comment Request

AGENCY: Office of the Comptroller of the Currency (OCC), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The OCC, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995. Currently, the OCC is soliciting comments concerning an information collection titled (MA)—Government and Municipal Securities Brokers and Dealers Registration and Withdrawal.

DATES: Written comments should be submitted by March 31, 1997.

ADDRESSES: Direct all written comments to the Communications Division, Attention: 1557–0184, Third Floor, Office of the Comptroller of the Currency, 250 E Street, SW, Washington, DC 20219. In addition, comments may be sent by facsimile transmission to (202)874–5274, or by electronic mail to REGS.COMMENTS@OCC.TREAS.GOV.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the collection may be obtained by contacting Jessie Gates or Dionne Walsh, (202)874–5090, Legislative and Regulatory Activities Division (1557-0184), Office of the Comptroller of the Currency, 250 E Street, SW, Washington, DC 20219.

SUPPLEMENTARY INFORMATION:

Title: (MA)—Government and Municipal Securities Brokers and Dealers Registration and Withdrawal.

OMB Number: 1557–0184.

Form Number: MSD, MSD–W, MSD–4, MSD–5, G–FIN, and G–FIN–W.

Abstract: This information collection is required to satisfy the requirements of the Securities Act Amendments of 1975 and the Government Securities Act of 1986 which requires that any national bank that acts as a government securities broker/dealer or a municipal securities dealer notify the OCC of its broker/dealer activities. The OCC uses this information to determine which national banks are government and municipal securities broker/dealers and to monitor institutions entry into and exit from government and municipal securities broker/dealer activities. The OCC also uses the information in planning bank examinations.

Type of Review: Renewal of OMB approval.

Affected Public: Businesses or other for-profit.

Number of Respondents: 100.

Total Annual Responses: 3,080.

Frequency of Response: Occasional.

Total Annual Burden Hours: 2,706.

COMMENTS: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on:

(a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information has practical utility;

(b) The accuracy of the agency's estimate of the burden of the collection of information;

(c) Ways to enhance the quality, utility, and clarity of the information to be collected;

(d) Ways to minimize the burden of the collection on respondents, including

through the use of automated collection techniques or other forms of information technology; and

(e) Estimates of capital or startup costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: January 22, 1997.

Karen Solomon,

Director, Legislative & Regulatory Activities Division.

[FR Doc. 97–1974 Filed 1–27–97; 8:45 am]

BILLING CODE 4810–33–P]

Customs Service

Application for Recordation of Trade Name: ''Phase II''

ACTION: Notice of Application for Recordation of Trade Name.

SUMMARY: Application has been filed pursuant to § 133.12, Customs Regulations (19 CFR 133.12), for the recordation under section 42 of the Act of July 5, 1946, as amended (15 U.S.C. 1124), of the trade name ''Phase II,'' used by Phase II Machine and Tool, Inc., a corporation organized under the laws of the State of New Jersey, located at 14 Caesar Place, Moonachie, New Jersey 07074.

The application states that the trade name is used in connection with advertising, business cards, stationery. The merchandise is manufactured all over the world, but primarily Asia.

Before final action is taken on the application, consideration will be given to any relevant data, views, or arguments submitted in writing by any person in opposition to the recordation of this trade name. Notice of the action taken on the application for recordation of this trade name will be published in the Federal Register.

DATES: Comments must be received on or before March 31, 1997.

ADDRESSES: Written comments should be addressed to U.S. Customs Service, Attention: Intellectual Property Rights Branch, 1301 Constitution Avenue, NW. (Franklin Court), Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT: Delois P. Johnson, Intellectual Property Rights Branch, 1301 Constitution Avenue, NW. (Franklin Court), Washington D.C. 20229 (202–482–6960).

Dated: January 23, 1997.

John F. Atwood,

Chief, Intellectual Property Rights Branch.

[FR Doc. 97–2021 Filed 1–27–97; 8:45 am]

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Federal Register

Tuesday
January 28, 1997

Part II

Department of Transportation

Federal Highway Administration

49 CFR Part 373

General Jurisdiction Over Freight Forwarder Service; Proposed Rule

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

49 CFR Part 373

[FHWA Docket No. MC–96–43]

RIN 2125–AE00

General Jurisdiction Over Freight Forwarder Service

AGENCY: Federal Highway Administration (FHWA), DOT.

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

SUMMARY: This NPRM proposes changes to existing regulations regarding the issuance of bills of lading by freight forwarders and also gives notice of the FHWA's general jurisdiction over all segments of the freight forwarding industry (not just household goods freight forwarders), in accordance with the ICC Termination Act of 1995 (ICCTA), Public Law 104–88, 109 Stat. 803. Before the ICCTA became effective on January 1, 1996, the former Interstate Commerce Commission (ICC) had both general and licensing jurisdiction over household goods freight forwarders only, because the non-household goods segment of the freight forwarding industry had been substantially deregulated in 1985. The ICCTA abolished the ICC and gave the Secretary of Transportation (Secretary) general jurisdiction over all freight forwarder service, requiring freight forwarders to register with the Secretary to provide the transportation or service they seek to provide. The Secretary has delegated this authority over all freight forwarder service to the FHWA. This NPRM proposes to amend 49 CFR 373.201, which governs the issuance of bills of lading by household goods freight forwarders, by expanding its coverage to include the non-household goods segment of the freight forwarder industry.

DATES: Comments should be received no later than March 31, 1997.

ADDRESSES: Written, signed comments should be sent to: Docket Clerk, Attn.: FHWA Docket No. MC–96–43, Federal Highway Administration, Department of Transportation, Room 4232, 400 Seventh Street, SW., Washington, D.C. 20590. Persons who require acknowledgment of the receipt of their comments must enclose a stamped, self-addressed postcard. Comments may be reviewed at the above address from 8:30 a.m. through 3:30 p.m. Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: *For information regarding rulemaking and operational issues:* Larry Minor, Office of Motor Carrier Research and Standards, (202) 366–4012; and *for information regarding legal issues:* Michael Falk, Office of the Chief Counsel, (202) 366–1384, Federal Highway Administration, Department of Transportation, 400 Seventh Street, SW., Washington, D.C. 20590.

SUPPLEMENTARY INFORMATION: The FHWA has general jurisdiction over freight forwarder service as mandated by Congress in section 103 of the ICCTA. 49 U.S.C. 13531. The ICCTA abolished the Interstate Commerce Commission (ICC), eliminated unnecessary ICC regulatory functions, and transferred certain remaining functions to DOT. Prior to the ICC's termination, however, it had general and licensing jurisdiction over household goods freight forwarders only, pursuant to former 49 U.S.C. 10561 and 10923. The Surface Freight Forwarder Deregulation Act of 1986, Public Law 99–521, 100 Stat. 2993 (1986), enacted on October 22, 1986 (Deregulation Act) redefined and limited, for the most part, the regulated forwarding industry to household goods freight forwarders.

The ICCTA, at 49 U.S.C. 13531, expands the jurisdiction of former 49 U.S.C. 10561 and gives the Secretary general jurisdiction over all service that a freight forwarder undertakes or is authorized to provide. The ICCTA also expands former 49 U.S.C. 10923 to require the Secretary to register all freight forwarders for transportation or service they seek to provide under 49 U.S.C. 13903. Under the ICCTA, at 49 U.S.C. 13901–13905, Congress established a registration system, to replace the former ICC licensing system, requiring all for-hire motor property and passenger carriers, property brokers, and freight forwarders to register with the Secretary to provide such transportation or service. Accordingly, these new registration provisions of the ICCTA embrace both forwarders of non-household goods and household goods.

The purpose of this document is to propose changes to existing regulations to comport with statutory requirements, give notice of the FHWA's general jurisdiction over all freight forwarders (not just household goods freight forwarders), clarify the FHWA's jurisdiction over freight forwarder service in other areas, and provide guidance to freight forwarders about how to register with FHWA.

The only regulatory change proposed by FHWA in this document is the revision of 49 CFR 373.201, entitled Bills of Lading for Freight Forwarders, to include within its scope the non-household goods segment of the freight forwarding industry. The proposed revision is consistent with the FHWA's new statutory jurisdiction, as well as with the bill of lading requirements imposed on all freight forwarders by 49 U.S.C. 14706(a)(2) and its predecessor provision 49 U.S.C. 11707(a). At this time, no further amendments or changes are deemed necessary to the former ICC regulations involving freight forwarders [aside from the amendments that will be made in separate FHWA rulemaking proceedings involving registration, insurance, and designation of process agent requirements] to make them consistent with the provisions of the ICCTA.

Background

Currently, there are approximately 817 active surface freight forwarders on file at the FHWA. The term ''freight forwarder'' means a person holding itself out to the general public to provide transportation of property for compensation and in the ordinary course of its business—(A) assembles and consolidates, or provides for assembling and consolidating, shipments and performs or provides for break-bulk and distribution operations of the shipments; (B) assumes responsibility for the transportation from the place of receipt to the place of destination; and (C) uses for any part of the transportation a carrier subject to jurisdiction under section 103 of the ICCTA, part B of subtitle IV of title 49, U.S.C. The term, however, does not include a person using transportation of an air carrier. 49 U.S.C. 13102(8). A freight forwarder is also not a pipeline, rail, motor, or water carrier.

Freight forwarders were initially regulated by the ICC in 1942, and remained subject to virtually the same regulatory requirements until 1986. The ICC regulated surface freight forwarders in five major areas: Entry, ratemaking, insurance and liability matters, ownership and control, and Federal-State relations. Congress believed that these regulatory constraints prevented freight forwarders from responding efficiently and competitively to changing market conditions, especially when their competitors and the underlying transportation modes they use had been substantially deregulated. These concerns resulted in the enactment of the Deregulation Act.

The Surface Freight Forwarder Deregulation Act of 1986

This legislation substantially deregulated the general commodities segment of the surface freight

forwarding industry, but did not deregulate freight forwarders that dealt with household goods. In 1986, the year the Deregulation Act was passed, there were approximately 660 surface freight forwarders operating in the United States (590 non-household goods freight forwarders and 70 household goods freight forwarders).

Most of the regulatory constraints placed on general commodity freight forwarders, such as ICC entry and rate regulation, antitrust immunity for collective ratemaking activities, and the prohibition against the ownership of a rail, motor, or water carrier were removed by the Deregulation Act. The Deregulation Act also added a new subsection (g) to former 49 U.S.C. 11501 (49 U.S.C. 14501 under the ICCTA), that precluded a State from enacting or enforcing any law or regulation relating to the interstate rates, routes, or services of any general commodity freight forwarder.

The Deregulation Act retained Federal regulation over all surface freight forwarders with respect to cargo liability and claims settlement procedures. The provisions of the so-called Carmack amendment at former 49 U.S.C. 11707(a) remained unchanged following the Deregulation Act and applied to all freight forwarders to ensure that they were responsible for any loss or damage to the cargo they handle.

Pursuant to the legislative action taken in the Deregulation Act, the ICC instituted a rulemaking proceeding and made minor revisions in the Code of Federal Regulations to exclude all freight forwarders, except household goods freight forwarders, from the scope of most ICC rules. *Regulation of Household Goods Freight Forwarders Under the Surface Freight Forwarder Deregulation Act of 1986,* 3 I.C.C. 2d 162 (1986) (*Ex Parte No. MC–184*). Congress subsequently passed additional legislation to further ease entry, rate, and tariff requirements on motor carriers and household goods freight forwarders. Such legislation included the Negotiated Rates Act of 1993 (Pub. L. 103–180, 107 Stat. 2044) enacted to handle the on-going undercharge crisis, and the Trucking Industry Regulatory Reform Act of 1994 (TIRRA) (Pub. L. 103–311, Title II, 108 Stat. 1683) which eliminated tariff filing requirements for individually determined rates.

After the Deregulation Act's effective date of December 21, 1986, non-household goods freight forwarders no longer had to apply for licensing authority from the ICC. From 1987 to 1994, the ICC granted, on the average, approximately 100 permits to household goods freight forwarders during any given fiscal year. Prior to the ICC's termination in 1995, the ICC regulated approximately 720 household goods freight forwarders.

The ICC Termination Act of 1995

As noted above, 49 U.S.C. 13531 provides the Secretary with general jurisdiction over freight forwarder service. Section 13531 is derived from the provisions of former 49 U.S.C. 10561, which extended jurisdiction to freight forwarders of household goods only. Section 13531 extends this jurisdiction to include all segments of the surface freight forwarding industry.

Under the ICCTA, former 49 U.S.C. 10923, which authorized the ICC to license household goods freight forwarders, was repealed and a new provision, 49 U.S.C. 13903, was enacted requiring that all freight forwarders, not just household goods freight forwarders, register with the Secretary. Accordingly, the registration process is a prerequisite under the ICCTA to operate as a freight forwarder. Registration will require a showing that registrants are ''fit, willing, and able'' to provide service, and meet insurance, safety fitness, and other requirements. If a freight forwarder desires to operate as a carrier for the entire move, the freight forwarder must also be registered as a carrier. 49 U.S.C. 13902. Rules implementing the FHWA's freight forwarder registration process, including the required insurance and security needed under the ICCTA, will be promulgated in other proceedings.

The legislative history indicates that these changes were made because Congress believed that all freight forwarders act as carriers in the assembling and delivery of shipments, and both forwarders of non-household goods and household goods should be subject to the registration requirements to ensure that they are fit to operate and are insured. However, Congress was clear that, aside from the registration requirement, it did not intend to impose additional regulatory requirements on non-household goods freight forwarders. ICC Sunset Act of 1995, S. Rep. No. 176, 104th Cong., 1st sess. 42 and 45 (1995).

Presumably this registration-only approach to the forwarding of non-household goods was taken so as not to frustrate the congressional goal of the Deregulation Act to reduce the regulatory burden on the non-household goods segment of the motor carrier industry. By requiring all freight forwarders to register, however, the FHWA will be permitted to implement the new statutorily mandated registration system consistently and fairly among all segments of the freight forwarding industry.

Accordingly, the FHWA advises all non-household goods freight forwarders, including those that previously held ICC authority mooted by the Deregulation Act or those previously issued ICC authority restricted to forwarding household goods, that they are required to register with the FHWA in order to operate in interstate commerce.

Until the FHWA adopts regulations to replace the old licensing system that was previously administered by the ICC, the FHWA has been processing registration requests submitted by freight forwarders generally under the licensing regulations at 49 CFR Part 365 and using ICC application forms with minimal revisions to reflect the ICCTA's jurisdictional changes. The FHWA's processing approach to the ICCTA's new registration requirement is consistent with section 204 of the ICCTA, Savings Provisions, which provides that all legal documents of the ICC that were issued or granted by an official authorized to effect such document shall continue in effect beyond the transfer of any function from the ICC to DOT. *See Continuation of the Effectiveness of Interstate Commerce Commission Legal Documents,* 61 FR 14372 (April 1, 1996), where the FHWA has adopted all ICC regulations, decisions, and orders until such time as changes are warranted. Accordingly, the FHWA will continue to process registration requests in the manner noted above until the FHWA implements appropriate changes to conform with the registration system established by Congress on January 1, 1996.

Persons requesting applications and seeking information about the registration process should direct their inquiries to the Office of Motor Carriers Licensing and Insurance Staff, Federal Highway Administration, 400 Virginia Avenue SW., Suite 600, Washington, DC 20024, telephone (202) 358–7046.

Applications which include registration fees should be sent to FHWA/OMC/HIA30, P.O. Box 100147, Atlanta, GA 30384–0147. Applications sent via express mail only should be addressed to FHWA/OMC/HIA30, c/o Nations Bank Wholesale, Lockbox # 100147, 6000 Feldwood Road, 3rd Floor East, College Park, GA 30349, Attn: Linda Thomas. Ms. Thomas' telephone number is 707–774–6443.

Proposed Amendments

As noted above, pursuant to congressional action taken in the Deregulation Act of 1986, most of the prior regulatory constraints placed on general commodity freight forwarders

were removed. In response to that legislation, the former ICC instituted its *Ex Parte No. MC–184* proceeding noted above, to adopt ministerial revisions excluding all freight forwarders, except household goods freight forwarders, from the scope of most of its regulations. In that proceeding it was stated that 49 CFR Parts 1005 and 1081 [the latter now redesignated as 49 CFR Part 373, subpart B] would not be revised to exclude general commodity freight forwarders from their scope because:

> They relate to some extent to the Carmack liability provisions that are retained under 49 U.S.C. 11707 for all freight forwarders. Part 1005 sets forth procedures that regulated carriers and freight forwarders must follow in investigating cargo loss and damage claims, although the actual settlement of claims by carriers under these rules is voluntary. Part [373] sets forth requirements that freight forwarders must follow in issuing bills of lading. The Carmack amendment requires all carriers and freight forwarders to issue bills of lading for property they receive, 49 U.S.C. § 11707(a)(1), and is central to its liability provisions. Accordingly, we will separately consider what changes, if any, should be made to Parts 1005 and [373] to comport with the legislation in the near future. 3 I.C.C. 2d 162 at 166 (1986).

In 1989, the ICC issued a notice of proposed rulemaking in Ex Parte No. 55 (Sub-No. 73), *Practice and Procedure—Miscellaneous Amendments—Revisions* (not printed) served October 10, 1989, and published on October 11, 1989, in the Federal Register (54 FR 41643) (*Revisions*). Revisions to 24 parts of title 49, Code of Federal Regulations, including Part 373, were proposed. The ICC stated that this action was taken to streamline and update its regulations, and make the rules more understandable and easier to use. The ICC also stated that because most of the revisions involved editing to remove obsolete, unnecessary, or redundant material from regulations, the required changes would not be detailed in that proceeding.

The appendix to the notice of proposed rulemaking in Revisions shows that the proposed change to Part 373, subpart B involved removing non-household goods freight forwarders from its scope, thus requiring only household goods freight forwarders to issue bills of lading. Although some of the more significant changes were discussed in the proposed rulemaking, that notice lacks any discussion of why the ICC proposed amendments to Part 373, subpart B. The final rule is also silent as to why non-household goods freight forwarders were excluded from the scope of Part 373, subpart B. *Practice and Procedure—Misc. Amendments—Revisions,* 6 I.C.C.2d 587 (1990).

Because Part 373, subpart B existed prior to the ICCTA, the FHWA is now reviewing this provision in light of 49 U.S.C. 13531, which provides the Secretary with general jurisdiction over all freight forwarder service. As noted above, Part 373 relates to the Carmack liability provisions that are retained under 49 U.S.C. 14706 of the ICCTA (former 49 U.S.C. 11707). Section 11707 stated that all motor carriers and freight forwarders subject to the Secretary's jurisdiction shall issue a receipt or bill of lading for property received for transportation. In spite of this requirement, following the ICC's 1990 decision in *Revisions,* the ICC's regulations governing the issuance of receipts and bills of lading applied to motor carriers and household goods freight forwarders, but not to non-household goods freight forwarders. We cannot speculate as to why the ICC removed non-household goods freight forwarders from 49 CFR 373.201 in apparent contradiction to that agency's recognition, in its *Ex Parte No. MC–184* proceeding, that the Deregulation Act did not alter the Carmack amendment's liability and bill of lading requirements with respect to freight forwarders.

It is clear from the statutory provision at 49 U.S.C. 14706 that freight forwarders are still required to issue receipts or bills of lading for property they transport. A receipt and bill of lading are not synonymous. A bill of lading is the more inclusive document. The bill of lading is a receipt for the property, a contract of carriage, and documentary evidence of title to the property.

As a receipt for the goods, the bill of lading recites the place and date of shipment, describes the goods, their quantity, weight, dimensions, identification marks, condition, etc., and sometimes their quality and value. As a contract, the bill names the contracting parties, specifies the rate or charge for transportation, and sets forth the agreement and stipulations with respect to the limitations of the carrier's common-law liability in the case of loss or injury to the goods and other obligations assumed by the parties or to matters agreed upon between them. That part of the bill which constitutes a receipt may be treated as distinct from the part incorporating the contractual terms. *Bills of Lading,* 52 I.C.C. 671, citing Porter, Law of Bills of Lading, section 14.

The bill of lading provisions were implemented in order for the parties to make a prima facie case against carriers and freight forwarders under the Carmack Amendment. A bill of lading provides evidence that goods were delivered to the carrier or freight forwarder in good condition prior to shipment, or that cargo on arrival was in damaged condition. If goods are damaged, the freight bill or bill of lading can specify the monetary loss to cargo resulting from such damage.

In the past, the former ICC prescribed the proper form and contents of receipts and bills of lading to be issued by common carriers of property and freight forwarders in compliance with the statute to ensure that they convey necessary and essential information.

Potential Impact/Cost of Proposed Rule

The law has long required that all carriers and freight forwarders shall issue receipts or bills of lading covering freight received for transportation. A bill of lading is a document that lies at the heart of every transportation transaction. It is a receipt for the merchandise and a contract to transport and deliver the merchandise. Thus, a bill of lading is a bilateral agreement where both sides make guarantees. Shippers agree to tender certain freight, and carriers and freight forwarders agree to price and service options. Presumably most, if not all, freight forwarders have been issuing bills of lading in the normal course of doing business.

By including non-household goods freight forwarders within its scope, the revised rule will help to ensure that all parties to a transaction are aware of their shipping arrangement, as well as the condition of the cargo at the time it is tendered to a motor carrier for line-haul transportation. The rule change will benefit both freight forwarders and their customers alike because it could limit loss and damage claims. Moreover, no freight forwarder will be put at an competitive disadvantage. The proposed rule change will provide all freight forwarders and their customers with actual knowledge of their transportation transaction. It will also avoid uncertainty over which freight forwarders are required to issue receipts or bills of lading for property they accept for transportion in interstate commerce.

The FHWA anticipates that this revision will have no substantial economic impact on the non-household goods freight forwarder industry as a whole, the public, or on a substantial number of small entities. The proposed revision merely includes the non-household goods freight forwarder segment of the industry within the scope of the bill of lading provisions. The household goods freight forwarding

segment of the industry is already subject to this requirement.

To the extent that the non-household goods segment of the forwarding industry will now be required to comply with 49 CFR Part 373, the FHWA does not anticipate that the burden, total time, effort or financial resources expended will be substantial. As noted above, in 1986, there were 590 non-household goods freight forwarders and 70 household goods freight forwarders, a ratio of 8.4 to 1. Nine years later, In 1995, there were approximately 720 household goods freight forwarders. Assuming the same 8.4 to 1 ratio holds today, there would be over 6,048 non-household goods freight forwarders that would be affected by the proposed revision of 49 CFR Part 373.

The proposed amendment to 49 CFR Part 373 will require all freight forwarders to issue receipts and bills of lading for property they transport in interstate commerce, a requirement which has been in effect by statute since 1942 and by regulation until 1990. Consequently, it is likely that all freight forwarders have already been issuing such documents in the normal course of doing business. Consequently, the FHWA does not believe that the rule change proposed in this proceeding will have an annual effect on the non-household goods segment of the forwarding industry of $100 million or more, lead to a major increase in costs or prices, or have a significant adverse effect on any sector of the economy. This minor rule change will not per se add to a freight forwarders'' cost of doing business since it merely reflects what is required of forwarders by their customers. Accordingly, the FHWA does not believe that this action will create an unnecessary regulatory burden on the non-household goods segment of the freight forwarding industry. The FHWA merely intends to update its regulations to achieve consistency with pre-existing statutory requirements.

The FHWA seeks comments of all interested parties on the following questions: (1) What is the estimated total annual burden and frequency of issuing receipts and bills of lading for the non-household goods segment of the forwarding industry? (2) Will the proposed rule change in 49 CFR 373.201 create significant impacts or costs to the non-household goods segment of the forwarding industry? Why, or why not?

Other Comments

Currently, 49 CFR Part 1005 governs the processing of claims for loss, damage, injury, or delay to cargo handled by freight forwarders. As noted above, Part 1005 relates to the Carmack liability provisions that are retained under new 49 U.S.C. 14706 for all freight forwarders. This part will eventually be redesignated and incorporated into Chapter III of Title 49 of the Code of Federal Regulations. There is no need to revise Part 1005 at this time, but the FHWA believes it is necessary to further notify all freight forwarders that the previous law pertaining to the procedures to follow in investigating loss and damage claims at Part 1005 is continued until such time as changes are warranted. As previously noted, until the FHWA amends its regulations, section 204 of the ICCTA, Saving Provisions, provides that all rules and regulations of the ICC shall continue in effect.

Other Matters

We are further notifying the public that new chapter 145 of title 49, U.S.C., (Federal-State Relations) preserves Federal authority over intrastate transportation. New section 49 U.S.C. 14501(b) [formerly 49 U.S.C. 11501(g)] incorporates existing prohibitions against intrastate regulation of freight forwarders by States, and, for the first time, treats freight forwarders and transportation brokers the same. Subsection (c) of section 14501 also includes freight forwarders, for the first time, with motor carriers of property with respect to preemption of intrastate regulation over trucking prices, routes, and services. The ICCTA, however, did not preserve the ICC's prior authority to prescribe intrastate rates for household goods freight forwarders [formerly 49 U.S.C. 11501(a)(1) and (2)], nor did it affect Hawaii's right to regulate motor carriers operating within the State of Hawaii (49 U.S.C. 14501(b)(2)).

While most Federal preemption under chapter 145 is retained, government regulation is also narrowed in several respects. For example, State and local governments are able to regulate freight forwarders of property with respect to motor vehicle safety, financial responsibility, and other State standard transportation practices if compliance is no more burdensome than compliance under Federal law. 49 U.S.C. 14501(c)(2) and (3). These exemptions, however, do not apply to the transportation of household goods. 49 U.S.C. 14501(c)(2)(B). Additionally, there is an election provision included in the ICCTA. If a freight forwarder of property is affiliated with a direct air carrier through common control, it has the right to elect being subject to the jurisdiction of a State or local government. 49 U.S.C. 14501(c)(3)(C). Thus, the ICCTA further reduces government oversight of the surface freight forwarding industry by allowing the States to set transportation standards, or by giving the carrier alternatives to being subject to State jurisdiction.

Notwithstanding the expansion of registration jurisdiction, the ICCTA continues to promote the deregulation theme of the past years over the non-household goods segment of the motor carrier industry. Here, the FHWA has merely attempted to review its regulations applicable to freight forwarders to determine whether any changes are warranted in order to conform to the ICCTA. We are also trying to ensure that all freight forwarders are aware that they are now subject to the jurisdiction of the FHWA for registration purposes. The FHWA invites comments in this proceeding, specifically addressing jurisdictional and regulatory issues.

Rulemaking Analyses and Notices

All comments received before the close of business on the comment closing date indicated above will be considered and will be available for examination in FHWA Docket No. MC–96–43 at the above address. Comments received after the comment closing date will be filed in FHWA Docket No. MC–96–43 and will be considered to the extent practicable, but the FHWA may issue a final rule at any time after the close of the comment period. In addition to late comments, the FHWA will also continue to file, in the docket, relevant information that becomes available after the comment closing date, and interested persons should continue to examine the docket for new material.

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

The FHWA has determined that this action is not a significant regulatory action within the meaning of Executive Order 12866 or within the meaning of the Department of Transportation's regulatory policies and procedures. It is anticipated that the economic impact of this rulemaking will be minimal; therefore, a full regulatory evaluation is not required. This rule, if adopted, merely includes non-household goods freight forwarders within the scope of the FHWA bill of lading regulations. This action will ensure that all parties to a transportation transaction are aware of their shipping arrangement. Moreover, the rule change will benefit both freight forwarders and their customers alike because it could limit loss and damage claims, and provide them with actual knowledge of their transportation transaction. The FHWA

has evaluated the economic impact of the proposed changes on the non-household goods freight forwarding segment of the industry and has determined that the proporsal is reasonable, appropriate, and not per se costly to this segment of the industry. The FHWA believes that non-household goods freight forwarders issue some type of document similar to bills of lading already. Nevertheless, comments, information, and data are solicited on the economic impact of the potential change to 49 CFR Part 373.

Regulatory Flexibility Act

In compliance with the Regulatory Flexibility Act (Pub. L. 96–354, 5 U.S.C. 601–612), the FHWA has evaluated the effects of this rule on small entities and has preliminarily determined that this regulatory action will not have a significant economic impact on a substantial number of small entities. Small entities that rely on forwarder service will benefit by including the non-household goods forwarder segment of the industry within the scope of Part 373. This action will ensure that all forwarders issue receipts or bills of lading covering forwarder traffic for which the forwarder assumes full responsibility.

The FHWA does not expect that this action will have a significant impact on the non-household goods freight forwarding segment of the industry because they have traditionally been required by Federal law to issue receipts and bills of lading. This provision merely reestablishes the consistency between regulatory and statutory requirements which existed prior to 1990. Moreover, most non-household freight forwarders, regardless of their size, presumably comply with the statutory provisions that require them to issue receipts and bill of lading. This is because the forwarder is the transportation company upon whom responsibility is placed for issuance of a receipt or bill of lading and for any loss, damage, or injury to the property caused by it or by any motor carrier, railroad, or other transportation company to which such property may be delivered or over whose lines such property may pass. Accordingly, requiring all freight forwarders to issue a receipt or bill of lading will not significantly impact the industry because their issuance will preserve the relations between the forwarder and its customers once the regulations are promulgated.

Executive Order 12612 (Federalism Assessment)

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been preliminarily determined that this proposal would not have sufficient federalism implications to warrant the preparation of a federalism assessment.

While most Federal preemption over State regulation of freight forwarders is retained under the ICCTA, it is also narrowed in several instances. The ICCTA encouraged State cooperation in the enforcement of motor carrier registration and financial responsibility as a condition of Motor Carrier Safety Assistance Program (MCSAP) funding. Any additional costs or burdens that the FHWA may impose upon the States because of this type of narrowed preemption would be generated from the requirement that the States and local governments are able to regulate freight forwarders with respect to motor vehicle safety, financial responsibility, registration requirements, and other State standard transportation practices if compliance is no more burdensome than compliance under Federal law. The FHWA does not expect that this action of expanding the FHWA's regulations to include the non-household goods freight forwarder segment will infringe upon the State's ability to discharge traditional State governmental functions. Interstate commerce, which is the subject of these regulations regarding interstate operations, has traditionally been governed by Federal laws. The FHWA does not expect that it would require the States to adopt these rules once the regulations are promulgated.

Executive Order 12372 (Intergovernmental Review)

Catalog of Federal Domestic Assistance Program Number 20.217, Motor Carrier Safety. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities do not apply to this program.

Paperwork Reduction Act

The FHWA is proposing to require all freight forwarders to issue receipts and bills of lading for the property they transport in interstate commerce. The FHWA believes that the majority of freight forwarders now issue receipts and bills of lading in the normal course of their activities. The FHWA further believes that the disclosure of this information by freight forwarders to shippers and carriers is a usual and customary practice within the industry. The public, forwarders, and their customers alike benefit by the disclosure of this information because it can limit loss and damage claims. Moreover, the rule change will assist all freight forwarders and their customers by helping to ensure that they receive actual knowledge of their transportation transaction. The FHWA requests that the public comment on the accuracy of the paperwork burden estimate.

National Environmental Policy Act

The agency has analyzed this action for the purpose of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*) and has determined that this action would not have any effect on the quality of the environment.

Regulation Identification Number

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

List of Subjects in 49 CFR Part 373

Bills of lading, Highway safety, Highways and roads, Motor carriers.

Issued on: January 17, 1997.

Rodney E. Slater,

Federal Highway Administrator.

For the reasons set forth above, FHWA proposes to amend title 49, Code of Federal Regulations, Chapter III, as follows:

1. The authority citation for part 373 continues to read as follows:

Authority: 49 U.S.C. 13301 and 14706; 49 CFR 1.48.

2. Section 373.201 is revised to read as follows:

§ 373.201 Receipts and bills of lading for freight forwarders.

Every freight forwarder shall issue the shipper a receipt or through bill of lading, covering transportation from origin to ultimate destination, on each shipment for which it arranges transportation in interstate commerce. Where a motor common carrier receives freight at the origin and issues a receipt therefor on its form with a notation showing the freight forwarder's name, the freight forwarder, upon receiving the shipment at the ''on line'' or consolidating station, shall issue a through bill of lading on its form as of

the date the carrier receives the shipment.

[FR Doc. 97–1882 Filed 1–27–97; 8:45 am]
BILLING CODE 4910–22–P

Federal Register

Tuesday
January 28, 1997

Part III

Securities and Exchange Commission

17 CFR Part 202

Designation of Small Business Compliance Guides, Policy Statement; Final Rule

17 CFR Part 230, et al.

Small Business and Small Organization Definitions; Proposed Rule

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 202

[Release Nos. 33–7382, 34–38189; IC–22477, IA–1608]

Designation of Small Business Compliance Guides

AGENCY: Securities and Exchange Commission.

ACTION: Policy statement.

SUMMARY: The Securities and Exchange Commission has designated several of its publications that assist small entities in complying with Commission rules as small business compliance guides, as required by the Small Business Regulatory Enforcement Fairness Act of 1996. The Commission has also determined to include in the Code of Federal Regulations the list of small business compliance guides and information concerning how members of the public may obtain them.

EFFECTIVE DATE: January 28, 1997.

FOR FURTHER INFORMATION CONTACT: Anne H. Sullivan at (202–942–0954) or Penelope W. Saltzman at (202–942–0915), Office of the General Counsel.

SUPPLEMENTARY INFORMATION:

Designation of Compliance Guides in the Code of Federal Regulations

On March 29, 1996, Congress adopted the Small Business Regulatory Fairness Act, Pub. L. 104–121, 110 Stat. 857 (1996), which directs agencies to make available to small entities as defined by the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* ''small entity compliance guides'' (''compliance guides'') for each rule or group of rules for which the agencies prepare a final regulatory flexibility analysis under the Regulatory Flexibility Act. The Commission is adding a new section 202.8 to the *Code of Federal Regulations,* which will list the Commission's compliance guides and how to obtain them. The Commission will review all existing small entity compliance guides annually to determine their adequacy and to revise them, as appropriate.

The Commission has designated the following publications as compliance guides:

Q & A: Small Business and the SEC
The Work of the SEC
Broker-Dealer Registration Package
Investment Adviser Registration Package
Investment Company Registration Package
Examination Information for Broker-Dealers, Transfer Agents, Investment Advisers and Investment Companies

Publications and Information on Request

The Commission makes these compliance guides as well as other information available to the public through the following sources, some of which are specifically designed for small businesses:

The Commission makes available free copies of ''Q & A: Small Business and the SEC,'' ''The Work of the SEC,'' the registration packages, and the Examination Information in its Publications Room at the Commission's headquarters at 450 Fifth Street, N.W. Washington, DC 20549 (202–942–8090) or at the regional offices. Members of the public, including small businesses, also may obtain free copies of these publications by calling the Commission's toll-free telephone number (800–SEC–0330), the Office of Small Business Policy at (202) 942–2950, the Publications Room (202) 942–4040, or the Office of Investor Education and Assistance (202) 942–7040.

The World Wide Web. The Commission's World Wide Web site provides information on the SEC, its mission, and its initiatives. The Web site includes a page that contains information of special interest to small businesses, in particular, ''Q & A: Small Business and the SEC,'' ''The Work of the SEC,'' and a list of pending and completed SEC rulemakings of particular relevance to small businesses. Members of the public can also communicate with the Commission through the Commission's Internet mailboxes. These include, ''help@sec.gov'' for requests made to the Office of Investor Education and Assistance, ''enforcement@sec.gov'' for complaints and reports to the Division of Enforcement, ''e-prospectus@sec.gov'' for comments about electronic prospectuses and Internet issues, and ''rule-comments@sec.gov'' for public comment on current proposed rules. In addition, the Commission homepage provides for direct query capability for information posted on the Web site and in the EDGAR filings database.

The Commission provides the following additional sources for other information and informal guidance:

Filings and Releases On Request. Pursuant to Commission rule, 17 CFR 200.80, the following Commission records (excluding nonpublic items specified in the rule) are available for public inspection or copying:

- Commission opinions;
- Statements of policy adopted by the Commission;
- Certain staff manuals and instructions;
- Indices of opinions and statements of policy;
- Required filings with the Commission which are not confidential;
- Requests or petitions for a change in Commission rules, a no-action or interpretive letter, or an exemption from Commission regulation;
- Transcripts of public proceedings; and
- Commission reports to Congress.

Copies of Commission releases and disclosure documents filed with the Commission are available through the Commission's Public Reference Room (202–942–8090) for a copying charge of $.24 per page.

Special Ombudsman. The Commission has appointed a Special Ombudsman to serve as the liaison and agency spokesman for the concerns of small business. In addition to receiving information from small businesses concerning the impact of Commission rules and regulations, the Special Ombudsman will help small businesses in obtaining Commission publications and other information regarding the Commission's regulations. The Special Ombudsman can be reached at (202) 942–2950. In addition, the Office of Municipal Securities has designated a Municipal Securities Ombudsman for matters affecting municipal securities issuers, many of which qualify as small governments under the Regulatory Flexibility Act. The telephone number for the Municipal Securities Ombudsman is (202) 942–7300.

Small Business Liaisons. In addition to the Special Ombudsman for small business, small business liaisons are assigned in each of the Commission's regional offices for small businesses to contact for assistance.

Public Inquiry Numbers. The Divisions of Corporation Finance, Investment Management, and Market Regulation maintain public inquiry numbers at which members of the public may obtain informal guidance regarding rules and statutory provisions administered by those Divisions. Those telephone numbers are:

Division of Corporation Finance: (202) 942–2900
Division of Investment Management: (202) 942–0659
Division of Market Regulation: (202) 942–0069

Regulatory Requirements

The designation of the Commission's compliance guides is not an agency rule and, therefore, the provisions of the Administrative Procedure Act (''APA'') regarding notice of proposed rulemaking, opportunities for public

participation, and prior publication [1] are not applicable. Similarly, the provisions of the Regulatory Flexibility Act, [2] which apply only when notice and comment are required by the APA or another statute, are not applicable.

List of Subjects in 17 CFR Part 202

Administrative practice and procedure.

Text of Amendment

In accordance with the foregoing, 17 CFR, Chapter II, is amended as follows:

PART 202—INFORMAL AND OTHER PROCEDURES

1. The authority citation for Part 202 continues to read in part as follows:

Authority: 15 U.S.C. 77s, 77t, 78d–1, 78u, 78w, 78*l1*(d), 79r, 79t, 77sss, 77uuu, 80a–37, 80a–41, 80b–9, and 80b–11, unless otherwise noted.

* * * * *

2. Section 202.8 is added to read as follows:

§ 202.8 Small entity compliance guides.

The following small entity compliance guides are available to the public from the Commission's Publications Room and regional offices:

(a) *Q & A: Small Business and the SEC.*[1]

(b) *The Work of the SEC.*[1]

(c) *Broker-Dealer Registration Package.*

(d) *Investment Adviser Registration Package.*

(e) *Investment Company Registration Package.*

(f) *Examination Information for Broker-Dealers, Transfer Agents, Investment Advisers and Investment Companies.*

By the Commission.

Dated: January 22, 1997.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–2009 Filed 1–27–97; 8:45 am]

BILLING CODE 8010–01–P

[1] 5 U.S.C. 553.

[2] 5 U.S.C. 601–602.

[1] These items are also available on the Securities and Exchange Commission Web site on the Internet, http://www.sec.gov.

SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 230, 240, 270, and 275

[Release Nos. 33–7383, 34–38190, IC–22478, and IA–1609; File No. S7–4–97]

RIN 3235–AG62; 3235–AH01

Definitions of ''Small Business'' or ''Small Organization'' Under the Investment Company Act of 1940, the Investment Advisers Act of 1940, the Securities Exchange Act of 1934, and the Securities Act of 1933

AGENCY: Securities and Exchange Commission.

ACTION: Proposed rule amendments.

SUMMARY: The Securities and Exchange Commission (''Commission'') is publishing for comment proposed amendments to the definitions of ''small business'' and ''small organization'' that are used in connection with Commission rulemaking under the Investment Company Act of 1940, the Investment Advisers Act of 1940, the Securities Exchange Act of 1934, and the Securities Act of 1933 regarding regulatory requirements applicable to investment companies, investment advisers, exchanges, securities information processors, transfer agents and issuers, and broker-dealers. These definitions are used specifically for purposes of the Regulatory Flexibility Act, which requires the Commission to consider the impact of its regulations on small entities. The Commission is proposing amendments to these definitions to reflect recent changes in the law as well as changes in the securities markets over the past decade, including technological innovations and increased business relationships among participants in the securities industry.

DATES: Comments should be received on or before February 27, 1997.

ADDRESSES: Comments should be submitted in triplicate to Jonathan G. Katz, Secretary, U.S. Securities and Exchange Commission, Mail Stop 6–9, 450 Fifth Street, N.W., Washington, D.C. 20549. Comments also may be submitted electronically at the following E-mail address: rule-comments@sec.gov. All comment letters should refer to File Number S7–4–97. This file number should be included on the subject line if E-mail is used. Comment letters will be available for inspection and copying in the Public Reference Room, 450 Fifth Street, N.W., Washington D.C. 20549. Electronically submitted comment letters will be posted on the Commission's Internet web site (http://www.sec.gov).

FOR FURTHER INFORMATION CONTACT:

General: Penelope W. Saltzman, Special Counsel, at (202–942–0915), or Anne H. Sullivan, Senior Counsel, at (202–942–0954), Office of the General Counsel, Securities and Exchange Commission, 450 Fifth Street, N.W., Mail Stop 6–6, Washington, D.C. 20549.

Offices with Particular Responsibility: Thomas M.J. Kerwin, Senior Counsel, Division of Investment Management, (definitions applicable to investment companies and investment advisers) (202–942–0690).

Glenn J. Jessee, Special Counsel, Office of the Chief Counsel, Division of Market Regulation (definitions applicable to brokers, dealers, exchanges, transfer agents and issuers, securities information processors, and broker-dealers) (202–942–0073).

SUPPLEMENTARY INFORMATION: The Commission is requesting public comment on proposed amendments to the definitions of ''small business'' and ''small organization'' set forth in Rule 0–10 [17 CFR 270.0–10] under the Investment Company Act of 1940 [15 U.S.C. 80a–1] (''Investment Company Act''), Rule 0–7 [17 CFR 275.0–7] under the Investment Advisers Act of 1940 [15 U.S.C. 80b–1] (the ''Advisers Act''), Rule 0–10 [17 CFR 240.0–10] under the Securities Exchange Act of 1934 [15 U.S.C. 78a] (the ''Exchange Act''), and Rule 157 [17 CFR 230.157] under the Securities Act of 1933 [15 U.S.C. 77a] (the ''Securities Act'') as those terms are used for purposes of Chapter Six of the Administrative Procedure Act, 5 U.S.C. 601 *et seq.* (the Regulatory Flexibility Act, Pub. L. No. 96–354, 94 Stat. 1164 (1980), as amended, Pub. L. No. 104–121, Title II, Subtitle D, 110 Stat. 864 (1996) (''RFA'')). The RFA requires the Commission to, among other things, consider the impact of Commission rulemaking on entities that qualify as ''small'' under applicable standards set forth in the RFA, the Small Business Act,[1] or regulations promulgated by the Small Business Administration (''SBA'').[2] In 1982, the Commission adopted definitions that it considered appropriate for issuers and other entities subject to its regulation, and the Commission is now, after consultation with the Office of Advocacy of the SBA, proposing for public comment amendments to those definitions applicable to investment companies, investment advisers, exchanges, clearing agencies, transfer agents and issuers,[3] securities information processors, and broker-dealers. The proposed amendments are discussed below.

I. Background

The Commission has a longstanding commitment to understanding and addressing the special concerns of small business. Nearly two decades ago, in 1979, the Commission established the Office of Small Business Policy in the Division of Corporation Finance, whose mission is to direct the Commission's small business rulemaking initiatives, review and comment on the impact of Commission rule proposals on small issuers, and serve as liaison with Congressional committees, government agencies, and other groups concerned with small business. Since then, the Commission has conducted regular reviews of its rules, and their impact on small business, in response to changing market conditions, advances in technology, and innovations in financial products, as well as to determine whether the rules continue to meet appropriate regulatory objectives. These ongoing efforts have resulted in a number of rule proposals or amendments and other initiatives specifically intended to assist small businesses. They include:

- *1992 Small Business Initiative.* In 1992, the Commission undertook a major initiative to make raising capital easier for small businesses, which included the introduction of a new small business integrated disclosure system, increased exemptions permitting unregistered public and private sale of securities, and simplified ongoing periodic reporting requirements of registered small issuers.[4]
- *Mutual Fund Investments.* In 1992, the Commission also published revisions to the Guidelines to Form N–1A relating to mutual fund investments in illiquid securities, a change specifically intended to provide small

[1] 15 U.S.C. 631 *et seq.*

[2] The RFA provides that an agency, after consultation with the Office of Advocacy of the SBA and an opportunity for public comment, may establish one or more definitions of ''small entity'' that are applicable to the activities of the agency. *See* 5 U.S.C. 601(3) and 601(4).

[3] The Commission is not proposing to change the definition of small business issuer, but is proposing to delete the limitation of the definition of small business, as it refers to ''issuer'' or ''person'' under the Exchange Act rules, to Sections 12, 13, 14, 15(d), and 16 of the Exchange Act [15 U.S.C. 78*l*, 78m, 78n, 78o(d), 78p]. *See supra* p. 26.

[4] Securities Act Release No. 6949, 57 FR 36442 (Aug. 13, 1992) (included adopting Regulation S–B, which provided integrated disclosure requirements for small business issuers and simplified the process for registering securities of small business issuers for public sale, amending Regulation A to raise the ceiling for exempt offerings from $1.5 million to $5 million, and adopting Regulation D, which permitted nonpublic companies to raise up to $1 million in 12 months from any number or type of investor without federal registration and disclosure obligations except anti-fraud provisions).

businesses better access to capital markets.[5]

• *New Registration Exemption.* The Commission recently adopted a new exemption from registration requirements for limited offerings of up to $5 million that are exempt from qualification under California law.[6]

• *Fewer Small Businesses Subject to Exchange Act Registration.* The Commission also recently doubled the asset threshold that subjects companies to registration under the Exchange Act from $5 million to $10 million so that fewer small businesses are subject to reporting requirements under the Exchange Act.[7]

• *Pending Initiatives.* The Commission's Task Force on Capital Formation and Regulatory Processes has proposed a number of initiatives to further increase small business access to capital markets, including liberalizing and expanding the local offering exemption and creating a new limited exemption for certain local offerings that cross state lines, expanding the small offering exemption by permitting small businesses to raise $5 million every six months rather than once a year, and permitting companies engaged in certain exempt offerings of $5 million or less to use uncertified financial statements.[8]

In keeping with its attention to small business issues, the Commission acted quickly to implement the RFA after it was enacted in 1980. The Commission published its first semiannual agendas identifying rulemaking proposals that could affect small entities on April 9, 1981 and has regularly published semiannual agenda since then.[9] On June 29, 1981, the Commission published its ten-year plan to evaluate existing rules for their impact on small entities and has since completed all required rule reviews under the RFA.[10] Indeed, the Chief Counsel for Advocacy of the SBA, in its first report regarding the RFA, stated that the Commission's rule review ''epitomizes the initiative that all agencies should be taking in the area.'' [11]

As part of its RFA implementation efforts, in early 1982, the Commission also became the first agency to adopt rules under which entities it regulates would qualify as ''small'' for purposes of the RFA.[12] The RFA defines the term ''small entity'' as a ''small business,'' ''small organization,'' or ''small governmental jurisdiction.'' [13] ''Small business'' under the RFA incorporates the Small Business Size Regulations established by the SBA (''SBA size standards'') [14] under the Small Business Act.[15] The RFA definitions of ''small business'' and ''small organization'' also authorize agencies to establish their own definitions of ''small business'' and ''small organization'' if they determine that specialized definitions are more appropriate to the activities of the agency.[16] After reviewing SBA size standards, the Commission chose to adopt its own definitions of these terms for purposes of Commission rulemaking.[17]

The regulations the Commission adopted in 1982 were, in many ways, more expansive than the statutory definitions of ''small business'' and ''small organization'' in the RFA. Under the RFA, a business is not considered ''small'' if it is not ''independently owned and operated.'' [18] The Commission's definitions go beyond RFA requirements because, for the most part, the Commission's definitions do not limit ''small businesses'' to those that are independently owned and operated. The Commission's existing definitions also are broader in certain respects than the SBA size standards, which consider various limiting factors when determining if an entity is ''small.'' [19] For example, the SBA size standards consider if entities are affiliated by such factors as control, management, ownership, and contractual relationships in determining whether an entity is ''independently owned and operated,'' and thus, ''small.'' [20] In addition, the SBA may treat multiple entities that have identical or substantially identical business or economic interests as a single entity.[21] Although the Commission's definitions in some cases address the concept of control,[22] none of these other affiliation concepts set forth in the SBA size standards is considered in the Commission's definitions of ''small business.''

Under the Commission's existing definitions, which were adopted in 1982, a majority of investment advisers and broker-dealers qualify as small.[23] Many of these ''small'' investment

[5] Revisions of Guidelines to Form N–1A, Investment Company Act Release No. 18612, 57 FR 9828 (Mar. 20, 1992) (permitting mutual funds, other than money market funds, to increase from 10 percent to 15 percent the amount of illiquid assets they may hold).

[6] Securities Act Release No. 7285, 61 FR 21356 (May 9, 1996).

[7] Exchange Act Release No. 37157, 61 FR 21354 (May 9, 1996).

[8] *See* Report of the Task Force on Disclosure Simplification (March 1996).

[9] 46 FR 23942 (Apr. 29, 1981). The Commission first published the semiannual agenda independently. Beginning in October 1982 the Commission included its semiannual agenda in the Unified Agenda of Federal Regulations compiled by the Regulatory Service Information Center. *See* 47 FR 48300, 48988 (Oct. 28, 1982).

[10] 46 FR 33287 (June 29, 1981). The requirements regarding publication of a semiannual agenda and the ten-year rule review are set forth in 5 U.S.C. 602 and 610, respectively.

[11] Oversight of Regulatory Flexibility Act: Hearings Before the Subcomm. on Export Opportunities and Special Small Business Problems of the House Comm. on Small Business, 97th Cong., 1st Sess. 51 (1981) (statement of Frank Swain, Chief Counsel for Advocacy, SBA).

[12] Final Definitions of ''Small Business'' and ''Small Organization'' for Purposes of the Regulatory Flexibility Act, Securities Act Release No. 6380, Exchange Act Release No. 18452, PUHCA Release No. 22371, Trust Indenture Act Release No. 693, Investment Company Act Release No. 12194, Investment Advisers Act Release No. 791, 47 FR 5215 (Feb. 4, 1982) (''1982 Adopting Release''). Other agencies have adopted notices or policy statements respecting their views regarding the definition of ''small business.'' *See, e.g.*, Definitions of Small Entity and Significant Economic Impact for Making Determinations Required by the Regulatory Flexibility Act of 1980, 51 FR 45831 (Dec. 22, 1986) (Federal Aviation Administration, Department of Transportation); Policy Statement and Establishment of Definitions of ''Small Entities'' for Purposes of the Regulatory Flexibility Act, 47 FR 18618 (Apr. 30, 1982) (Commodity Futures Trading Commission).

[13] 5 U.S.C. 601(6).

[14] 13 CFR Part 121.

[15] 5 U.S.C. 601(3) (defining ''small business'' to mean ''small business concern'' under the Small Business Act, 15 U.S.C. 632(a), which in turn allows the SBA to establish standards for determining ''small business concern'').

[16] *Id.* Secs. 601(3), 601(4).

[17] The Commission determined that the industry size standards adopted by the SBA were generally inappropriate in the context of regulations affecting securities issuers and reporting companies. *See* Proposed Definitions of ''Small Business'' and ''Small Organization'' for Purposes of the Regulatory Flexibility Act, Securities Act Release No. 6302, Exchange Act Release No. 17645, PUHCA Release No. 21970, Trust Indenture Act Release No. 619, Investment Company Act Release No. 11694, Investment Advisers Act Release No. 754, 46 FR 19251 (Mar. 30, 1981) (''1981 Proposing Release''); *See also* 1982 Adopting Release, 47 FR at 5216.

[18] A ''small'' entity also cannot be dominant in its field of operation. *See* 5 U.S.C. 601(4) (''small organization'' under RFA means an entity that is ''independently owned and operated and is not dominant in its field''); 15 U.S.C. 632(a)(1) (definition of ''small business concern'' under the Small Business Act (as incorporated in the RFA definition of ''small business,'' 5 U.S.C. 601(3)) means an entity that is ''independently owned and operated and which is not dominant in its field'').

[19] *See* SBA size standards, 13 CFR 121.103 (size eligibility provisions and standards).

[20] *Id.* § 121.103(a)(1) (describing control relationships that constitute affiliation); *id.* § 121.103(a)(2) (describing factors such as ownership, management, previous relationships with or ties to another concern, and contractual relationships that SBA considers in determining whether affiliation exists).

[21] *See id.* § 121.103(a)(3).

[22] In certain definitions of ''small business'' and ''small organization'' under the Exchange Act (broker, dealer, clearing agency, municipal securities dealer, securities information processor, transfer agent), the Commission considers control interests in determining whether the entity is ''small.'' Exchange Act rule 0–10 [17 CFR 240.10]. The SBA regulations also address factors of control. 13 CFR 121.103(a)(1).

[23] Currently, approximately 75 percent of registered investment advisers and 60 percent of registered broker-dealers qualify as ''small.''

advisers handle as much as $50 million in client funds. In addition, some ''small'' broker-dealers handle customer orders in excess of $200 million from which they earn more than $6 million per year in revenue.[24] These entities continue to be classified as ''small'' under Commission rules even though they may be affiliated with larger entities that are responsible for many of the smaller firms' securities functions. For example, today most mutual funds are affiliated with large mutual fund families, and many investment advisers are affiliated with larger financial services firms. These relationships allow the ''small'' affiliates to rely on a larger entity that centralizes administrative and compliance systems for all affiliates, significantly reducing regulatory burdens for each individual affiliate. A similar relationship exists between introducing broker-dealers and the large firms through which they clear securities trades. Although introducing and clearing firms share responsibility for ensuring that a customer's account is handled properly, introducing firms typically depend on clearing firms to execute customer trades, to handle customer funds and securities, and to handle many back-office functions, including issuing the confirmation of the customer's trade. The increase in these affiliations since 1982 occurred along with tremendous growth and significant technological changes in the securities industry that facilitate such arrangements.[25] These changes in the securities industry prompted the Commission to begin reviewing certain of its ''small business'' definitions in 1995.[26]

In March 1996, Congress revisited small business concerns when it enacted the Small Business Regulatory Enforcement Fairness Act of 1996 (''SBREFA'').[27] Among other things, SBREFA imposed new obligations on the Commission and other agencies to assist small entities in understanding and complying with regulatory requirements, including the adoption of small business compliance guides and an informal guidance program for small businesses.[28] In addition, SBREFA amended the RFA to allow small entities to seek judicial review of agency compliance with the RFA.[29] SBREFA also amended the Equal Access to Justice Act (''EAJA'') [30] by expanding the class of litigants eligible to receive EAJA awards to include small entities as defined under the RFA.[31]

After SBREFA was enacted, the Commission began to develop initiatives to meet its new obligations under the Act and to review whether the Commission's definitions of ''small business'' and ''small organization'' are still appropriate in view of (1) changes in the securities industry and (2) the Commission's expanded obligations under SBREFA. [32] As a result of its review, the Commission is proposing amendments to the definitions of these terms as they apply to investment companies, investment advisers, exchanges, securities information processors, transfer agents and issuers, and broker-dealers. The Commission intends to maintain its definitions of ''small business'' as they relate to small business issuers, and other regulated entities. [33] The proposed amendments would take into account more of the factors suggested by SBA size standards in determining whether an entity qualifies as ''small.''

The Commission's proposal to amend certain ''small business'' definitions should be considered in light of the Commission's ongoing efforts to assist small business. On June 4, 1996, the Commission appointed a special ombudsman to serve as the liaison and agency spokesman for the concerns of small business. [34] The Commission also recently held the first in a series of town meetings (to be held nationwide) to educate small business issuers about the many opportunities to raise capital in the securities markets. [35] More generally, the Commission has established a World Wide Web site, which provides, among other things, a special package of information for small businesses, including Commission rulemaking and initiatives affecting small business. [36] The Commission also has established an electronic mailbox to receive comments on Commission rulemaking. [37] These communication efforts supplement the Commission's annual government-business forum on small business capital formation. This forum is held in a different place across the country each year to make attendance by small businesses easier, and it is the only government-sponsored national gathering for small businesses that annually offers small business the chance to tell government officials how the laws, rules, and regulations impact their ability to raise capital. Through these and other efforts, the Commission

[24] The revenue amount is based on information provided by broker-dealers in quarterly FOCUS reports. The amount of customer order flow is derived using revenue data in the FOCUS reports.

[25] Between 1980 and 1995, the value of public offerings (including debt and equity, but not investment company securities) increased from $58 billion to $768 billion. Between 1990 and 1995, the dollar volume of equity securities traded on U.S. securities exchanges and National Association of Securities Dealers Automated Quotation System (''Nasdaq'') grew 182 percent, with over $5.94 trillion traded in 1995. Assets under management by investment advisers (excluding investment advisers to registered investment companies) rose from $205 billion to $7.6 trillion (a 3,607 percent increase) between 1980 and 1995. Over the same period, assets of investment companies increased 1,203 percent from $235 billion to $3.062 trillion. The number of securities firms and professionals registered with the Commission or with self-regulating organizations has also surged. Between 1980 and 1995, the number of registered advisers increased from 3,500 to 22,000 (an increase of 529 percent). The number of broker-dealers grew, over the same period, from around 5,200 to approximately 7,613 (a 46 percent increase). In addition, technological progress has changed the securities industry. For example, advances in information technology have resulted in the proliferation of information vendors and electronic trading systems not contemplated in 1982. Since 1982, the markets have seen the development of fully automated electronic broker-dealers and exchanges, improved electronic order execution systems at broker-dealers, exchanges, and national securities associations, and improved electronic linkages among markets and between broker-dealers and their customers. These changes have created substantially deeper and more liquid markets and have made trading more immediate and less expensive for both institutional and retail customers.

[26] *See* The Regulatory Plan and the Unified Agenda of Federal Regulations, 60 FR 59503, 61073 (Nov. 28, 1995) (Division of Investment Management considering whether to recommend to the Commission to propose amendment of definition of ''small entity'' in Rule 0–10 [17 CFR 270.0–10] under the Investment Company Act).

[27] Pub. L. 104–121, Title II, 110 Stat. 857 (1996).

[28] Id. Secs. 212, 213(b), 110 Stat. 858, 859.

[29] Id. Sec. 242 110 Stat. 865.

[30] 5 U.S.C. 504; 28 U.S.C. 2412.

[31] Pub. L. 104–121, Sec. 232(b)(2), 110 Stat 863.

[32] The Commission is concerned that as a result of the Commission's existing broad definitions of ''small business,'' certain of the amendments made by SBREFA could result in a significant increase in the Commission's exposure to litigation beyond that reasonably contemplated by the RFA. The Commission's enforcement litigation and other litigation matters have increased in recent years. In light of increased exposure to litigation under SBREFA, which could further strain the Commission's limited budget, the Commission believes it is appropriate to consider revising certain definitions of small business to reflect the considerations contained in the definition of the term under the RFA and the SBA size standards.

[33] The Commission does not propose to revise the ''small business'' definitions with respect to clearing agencies, bank municipal securities dealers, or public utility holding company systems. In a separate release, the Commission has, however, proposed conforming changes to the definition of ''small business issuer'' to allow registrants to include non-voting as well as voting common equity, when computing the required $75 million aggregate market value of common equity held by non-affiliates of the registrant.

[34] The Ombudsman is available to receive information from small businesses concerning the impact of any Commission proposal, rule, or regulation and may be contacted at the Division of Corporation Finance's Office of Small Business Policy at (202) 942–2950.

[35] *See* Remarks of Arthur Levitt, Chairman, U.S. Securities and Exchange Commission, Los Angeles Venture Association Town Meeting (Sept. 13, 1996).

[36] The Commission's Web site is located at http://www.sec.gov.

[37] The Commission's address for rulemaking comments is: rule-comments@sec.gov.

will continue to involve small businesses in its rulemaking efforts, in furtherance of the RFA and the Commission's policy of addressing small business concerns.

Although the Commission has worked hard to meet the needs of small businesses, the Commission believes that RFA and SBREFA requirements must be viewed in the context of the requirements of the federal securities laws, which mandate the maintenance of fair, honest, and competitive securities markets and the protection of investors in those markets. As a general matter, the Commission carefully weighs the economic impact of its rules on all regulated entities, including small business. However, the Commission's primary considerations as to each rule it adopts must be the rule's effects on market integrity and investor protection. Thus, uniform rules must be applied to firms that are part of a larger national market system to ensure (1) fair and efficient securities markets and (2) the same level of protection for all investors regardless of the size of the firm to which they entrust their funds. In those situations in which market integrity and investor protection will not be compromised, however, the Commission carefully tailors its regulations to the relevant characteristics of the particular entities regulated.[38] In this way, the Commission works to meet its mandate under the federal securities laws while at the same time reducing costs and regulatory burdens for small business. The Commission intends to continue this careful, measured regulation that addresses small business concerns within the protections of the federal securities laws.

Discussion of Proposed Amendments

A. Investment Companies

Rule 0–10 under the Investment Company Act currently defines ''small business'' or ''small organization'' (together, ''small entity'') to include each investment company (''fund'') that has $50 million or less in assets as of the end of its most recent fiscal year.[39] Thus, the definition focuses only on the fund's own assets.

This approach no longer seems appropriate in the business environment in which most funds now operate.[40] Most funds are part of a large ''family of funds'' sponsored by a highly sophisticated third-party investment adviser or administrator that typically oversees assets well in excess of $50 million.[41] The adviser or administrator generally uses the same administrative, management, and compliance systems to oversee all of the funds in the complex. The fees imposed on the fund by the adviser or administrator (and the fund's resulting expense ratio) typically reflect economies of scale that the adviser or administrator achieves from managing other funds. Treating a new fund with less than $50 million of net assets as a small entity seems anomalous if the fund's adviser or administrator oversees other funds holding billions of dollars.[42]

The Commission, therefore, is proposing to amend Rule 0–10 to treat a fund as a small entity only if it and other funds in its related group have net assets of $50 million or less in the aggregate.[43] The proposed amendments would define a group of related investment companies generally to include two or more management funds that hold themselves out to investors as related companies for purposes of investment and investor services, and share either a common investment adviser (or affiliated advisers) or a common administrator.[44] In the case of unit investment trusts (''UITs''), a related group would mean two or more trusts that have a common sponsor.[45]

The proposed amendments would apply a special rule to insurance company separate accounts.[46] Because state law generally treats separate account assets as the property of the sponsoring insurance company, the rule would aggregate separate account assets with the assets of their sponsors, including other sponsored accounts.[47]

To standardize the determination of net assets, the proposed amendments would provide that the Commission may base its count of the net assets of any related group of funds on the net assets of each fund in the group at the end of each fund's fiscal year, as generally reported in Form N–SAR.[48]

The Commission estimates that as a result of the proposed amendments, approximately 400 funds would no longer be treated as small entities because they are affiliated with large fund families. Commission data suggests that approximately 800 of an estimated 3700 total active registered investment companies may be considered small entities under current Rule 0–10. Approximately 300 of these 800 funds do not identify themselves as members of a fund family, and would therefore continue to be deemed small entities. Of the remaining 500 funds, approximately 100 appear to be affiliated with fund families that have $50 million or less in aggregate assets, and therefore would continue to be deemed small entities under the proposed amendments.

The Commission requests comment on the proposed amendments to Rule 0–10. Should the definition of a group of related funds consider relationships other than a common investment adviser or administrator? When funds (like those in a master/feeder

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[38] *See supra* note 7 and accompanying text (describing exemptions from registration for small business issuers); Exchange Act rule 15c3–1 [17 CFR 240.15c3–1] (varying capital requirements for broker-dealers based on their activities).

[39] 17 CFR 270.0–10.

[40] It is appropriate to take into account the structure of business concerns in the securities industry in determining size standards. *See* 15 CFR 121.103(a)(3) (SBA rule providing for the calculation of size standards on a consolidated basis for individuals or firms with identical or substantially identical business or economic interests or that are economically dependent); *id.* § 121.103(a)(4) (SBA rule providing for the aggregation of receipts or employees of an entity and all its domestic or foreign ''affiliates'' in calculating size standards). *See also* 1981 Proposing Release, 46 FR at 19257.

[41] Nearly half (47 percent) of all fund families manage assets exceeding $1 billion per family.

[42] In the 1981 Proposing Release, the Commission noted its belief that ''the Congress did not intend to confer the benefit of any determination that an entity is small upon the affiliates of large businesses, because only those businesses and organizations that are 'independently owned' may qualify as small entities pursuant to the definitions contained in the RFA'' (*citing* 5 U.S.C. 601(4) and 15 U.S.C. 632). 46 FR at 19257. The Commission further noted its belief that it is appropriate to preclude entities with significant economic and financial resources from obtaining potential regulatory benefits under the RFA. *Id.*

[43] Conforming amendments to Rules 157(b) [17 CFR 230.157(b)] under the Securities Act and 0–10(b) [17 CFR 240.0–10(b)] under the Exchange Act would take the same approach when those statutes address investment companies. The Commission originally selected the $50 million threshold because it believed that funds having assets of $50 million or less had significantly higher expense ratios than funds with more assets, and that funds with higher expense ratios experienced greater impact from regulatory costs. 1982 Adopting Release, 47 FR at 5220. Fifty million dollars appears to remain a significant threshold for expense ratios for fund families as well as stand-alone funds, which derive similar benefits from economies of scale at lower ratios.

[44] Proposed rule 0–10(a)(1).

[45] Proposed rule 0–10(a)(2). A UIT holds a fixed portfolio of securities generally deposited with the fund by its sponsor, and does not have an investment adviser. *See generally* section 4(2) of the Investment Company Act [15 U.S.C. 80a–4(2)].

[46] Separate accounts contain assets used to fund certain insurance and investment contracts between the sponsoring insurance company and contract owners. Each account typically is organized as a UIT, or in some cases as a management fund having a sponsor-affiliated investment adviser. *See generally* section 2(a)(37) of the Investment Company Act [15 U.S.C. 80a–2(a)(37)].

[47] Proposed rule 0–10(b). This amendment would codify the Commission's longstanding approach in addressing separate accounts' status under rule 0–10. The proposed amendments would not provide a special rule for another type of fund, face amount certificate companies, which would continue to be subject to the $50 million test on a company-by-company basis.

[48] Proposed rule 0–10(c); *see* 17 CFR 274.101; Form N–SAR, Item 74T.

arrangement[49]) share a common adviser or administrator, should they be deemed a related group even though they may not hold themselves out as related (so that a feeder fund, for example, would be deemed a small entity only if the master fund is)? Alternatively, should related group status depend only on whether funds hold themselves out as related, so that funds might be in a related group even if they didn't share a common adviser or administrator? Does the $50 million asset threshold continue to be appropriate? Should the Commission consider tests other than asset size for determining whether a fund or related group is a small entity?

B. Investment Advisers

Rule 0–7 under the Investment Advisers Act currently defines ''small business'' or ''small organization'' for purposes of the RFA to include each investment adviser (''adviser'') that either (i) manages assets (''client assets'') with a total value of $50 million or less as of the end of its most recent fiscal year, and performs no other advisory services; or (ii) performs other advisory services, manages client assets of $50 million or less if it manages client funds, and has assets related to its advisory business (''business assets'') that do not exceed $50,000.[50]

Rule 0–7 currently does not distinguish between an independent adviser and an adviser that is controlled by, or under common control with, a large firm.[51] An adviser in a control relationship with a large broker-dealer or other large financial services firm typically benefits from the financial and technical resources of the large firm. The large firm may handle much of the administrative and compliance needs of its affiliated adviser using resources not reflected in the adviser's client assets or business assets.

As noted above, the Commission believes that Congress did not intend affiliates of large businesses to receive benefits under the RFA.[52] Rule 0–10 under the Exchange Act currently excludes regulated persons from small entity status when they are affiliated with a large firm through a control relationship.[53] The Commission is proposing to amend Rule 0–7 to apply a comparable provision to investment advisers.[54] Like the current definition under Exchange Act Rule 0–10, the proposed amendments to Rule 0–7 would deem an adviser ''affiliated'' with a large firm when the adviser controls, is controlled by, or is under common control with the large firm.[55] A non-control affiliation with a large firm, or a control relationship with a firm that is itself a small entity, would not trigger the exclusion.[56]

The proposed amendments also would simplify Rule 0–7 by applying the $50,000 business asset test to all advisers, rather than solely to advisers that render services other than or in addition to managing client assets.[57] In addition to facilitating application of the rule,[58] this approach would eliminate the anomaly of treating as ''small'' an adviser that manages $49 million in client assets and has $5 million in business assets (because its only advisory service is managing money for clients), while treating as ''large'' an adviser that manages $20,000 in client assets and has $55,000 in business assets (because it renders other advisory services).

The proposed amendments appear likely to have limited impact on the total number of advisers deemed small entities. The Commission estimates that up to 17,000 of approximately 22,500 total registered investment advisers meet the current rule's definition of small entity based on reported client assets or business assets.[59] Approximately 10,000 of those ''small'' advisers report that they are affiliated with broker-dealers (some of which are themselves ''small'')—but not necessarily through a control affiliation. In many cases, the affiliated broker-dealer does not own or otherwise control the adviser's advisory business. Thus, many advisers that are broker-dealer affiliates (and most other ''small'' advisers affiliated with non-brokers or having independent status) would remain small entities under the proposed amendments.

Of the ''small'' advisers that for the first time would be subject to the $50,000 business asset test (*i.e.*, the limited group that does not render advisory services other than managing client funds of $50 million or less), only a limited percentage would likely have business assets exceeding $50,000. The number of such advisers no longer treated as ''small'' probably would not exceed 2000 (or 11 percent of the total number of ''small'' advisers under the current definition), because most advisers that simply manage client funds require only modest business assets.

The Commission requests comment on the proposed amendments to Rule 0–7. Does the proposed treatment of advisers affiliated with large firms properly focus only on control affiliations? Do the thresholds of $50 million for client assets and $50,000 for business assets continue to be appropriate? Recent federal legislation transfers to states primary responsibility for regulating ''small'' advisers—those who manage less than $25 million of client assets.[60] In light of this

[49] In such an arrangement, multiple ''feeder funds'' invest all their assets in the shares of a single ''master fund'' managed by one investment adviser, thereby reducing the costs of providing investment advice to each feeder fund. The various feeder funds typically sell their shares to different investors through different distribution channels.

[50] 17 CFR 275.0–7.

[51] Such affiliations typically involve advisory firms that are controlled by or under common control with the large firm (such as a broker-dealer-owned subsidiary that advises institutional clients).

[52] *See supra* note 42.

[53] *See* 17 CFR 240.0–10(c), (d), (f), (g), and (h) (excluding from ''small'' status a broker or dealer, clearing agency, bank municipal securities dealer, securities information processor, or transfer agent affiliated through a control relationship with any person (other than a natural person) that is not a small business or small organization).

[54] The Commission is also proposing to amend the definition of ''small business'' under the Exchange Act to include consideration of other factors in addition to control relationships in determining affiliation. *See* discussion *infra* pp. 27–31. However, the Commission does not propose to include those factors in the definition of ''small business'' under the Investment Advisers Act at this time.

[55] Proposed rule 0–7(a)(2). Also in conformity with rule 0–10, ''control'' would mean the right to vote 25 percent or more of the voting securities of another person, to receive 25 percent or more of the net profits of the other person, or otherwise to direct the person's management or policies. Proposed rule 0–7(b). Many individual advisers affiliated with large firms would continue to meet the definition of ''small business'' notwithstanding the new affiliation standard because the advisers' large firm affiliates do not have the right to vote 25 percent or more of any stock issued by the advisers, do not receive 25 percent or more of the advisers' net profits, and do not direct the management of the individual advisers' business.

[56] *See* proposed rule 0–7(a)(2) and (b).

[57] Proposed rule 0–7(a)(1). The current rule's definition of ''other advisory services'' would be eliminated because it would no longer be necessary. The $50,000 threshold for the business asset test appears to remain a meaningful divide between small advisers and others. The Commission originally selected that figure because it was approximately the median value of advisers' business assets. 1982 Adopting Release, 47 FR at 5221. The median may have changed in recent years, but that figure remains significant inasmuch as more than half of all advisers apparently do not have assets exceeding it.

[58] *See* 1981 Proposing Release, 46 FR at 19257, 19263 (two attributes desirable in size standards are capacity to differentiate the small members of an industry from other members, and the use of readily available information to derive standards).

[59] Under the recently enacted National Securities Markets Improvement Act of 1996, the Commission will soon lose responsibility for regulating an estimated 16,000 of these 17,000 ''small'' advisers. *See* Pub. L. 104–290, sec. 303, 110 Stat. 3416 (1996) (transferring from the Commission to the states the primary responsibility for regulating advisers managing less than $25 million in client assets).

[60] *See id.; See also* Report on S. 1815, The Securities Investment Promotion Act of 1996, S. Rep. No. 293, 104th Cong., 2d Sess. at 3–4 (1996) (legislation would focus SEC supervision ''on investment advisers most likely to be engaged in

legislation, is a threshold of $25 million for client assets under management more appropriate than the $50 million threshold?

C. Definitions Under the Exchange Act

1. Exchanges

In the 1981 Proposing Release, the Commission expressed its doubt that Congress intended for the RFA to apply to exchanges.[61] Nevertheless, the Commission adopted a definition of ''small business'' and ''small organization'' applicable to exchanges. The Commission's proposed amendment to this definition would retain the existing provisions of Rule 0–10 that define as ''small'' those exchanges that are exempt from the requirements of Rule 11Aa3–1 regarding the dissemination of transaction reports and last sale data with respect to transactions in securities.[62]

The Commission is proposing to add a requirement that the exchange also must not be affiliated with any person (other than a natural person) that is not a small business or small organization as defined in Rule 0–10. The proposed amendment would deem an exchange ''affiliated'' with another entity when the exchange controls, is controlled by, or is under common control with the other entity. In adopting Rule 0–10 in 1982, the Commission applied this standard to broker-dealers, clearing agencies, bank municipal securities dealers, securities information processors, and transfer agents. The 1981 Proposing Release noted that such entities were not small if they were affiliated with another entity that did not qualify as small. The Commission is proposing to conform the definition of small exchange to that of other small entities by adding this affiliation standard.[63]

2. Securities Information Processors

The Commission proposes to retain the existing criteria for determining whether a securities information processor is a ''small business'' or ''small organization'' in substantially the same form, including the requirement that to be considered small, a securities information processor service less than 100 interrogation devices or moving tickets during the preceding fiscal year.[64] As a result of changes in technology since Rule 0–10 was adopted, however, the Commission is proposing to modify the definition of ''interrogation device'' for purposes of Rule 0–10 to take into account new technologies used to disseminate securities industry information to markets and market participants through increasingly diverse methods. Technological developments regarding the amount of information available electronically, the ease and speed of retrieving such information, and the increasing interconnectivity between market participants and data vendors all support a broader reading of the term interrogation device.

Accordingly, for purposes of the small business definition, the Commission believes it is appropriate to consider whether the term interrogation device should refer to any device that may be used to read or receive electronic information, including proprietary terminals or personal computers via computer to computer interfaces, or gateway access. Also, the Commission believes that it is appropriate to consider whether this definition should include all interrogation devices that display securities information such as quotations and indications of interest in addition to devices that display last sale data or transaction reports.[65]

3. Transfer Agents and Issuers

The Commission's proposal would retain the existing criteria based on volume of transfer business and number of shareholder accounts for determining whether a transfer agent is a ''small business'' or ''small organization,'' [66] and would add the requirement that small transfer agents restrict their activities to transferring the items of small issuers as defined in Exchange Act Rule 0–10.[67] The shares of small issuers, as opposed to those of large publicly traded companies, typically are held by a small portion of the investing public and are less likely to be the subject of a substantial amount of trading activity. Thus, the activities of small transfer agents, many of which are not subject to registration under Section 17A of the Exchange Act, are not likely to have a substantial effect on the investing public or the operation of the national clearance and settlement system. In contrast, transfer agents for large companies whose shares are heavily traded are likely to have a far greater effect on securities processing, generally, and on the operation of the national clearance and settlement system.[68]

Rule 0–10(a) currently applies the definition of ''small business'' when

interstate commerce'' and focus state supervision ''on advisers whose activities are most likely to be centered in their home state''; ''legislation allows states to assume the primary role with respect to regulating advisers that are small, local businesses, managing less than $25 million in client assets, while the Commission's role is focused on larger advisers with $25 million or more in client assets under management''). The Commission estimates that limiting small advisers to those managing less than $25 million in client assets would reduce the total number of small advisers by less than 500.

[61] The term ''exchange'' is defined in Section 3(a)(1) of the Exchange Act. [15 U.S.C. 78c(a)(1).] Currently, none of the eight registered exchanges is considered a ''small business'' or ''small organization'' under Rule 0–10.

[62] 17 CFR 240.11Aa3–1. In the 1981 Proposing Release, the Commission noted that those exchanges that are exempt from the requirements of Rule 11Aa3–1 would appropriately be considered small, mentioning in particular that the Spokane Stock Exchange and the Intermountain Stock Exchange had been granted exemptions from the rule, in part, because of their low trading volume. Since 1981, both of these exchanges have withdrawn from registration. Currently, no exchanges are fully exempted from the requirements of Rule 11Aa3–1.

[63] The Commission believes that it is appropriate to consider precluding entities with significant economic and financial resources from obtaining potential regulatory benefits under the RFA. *See supra* note 42. The definitions set forth in Rule 0–10 generally incorporate the concept of affiliation and provide that a broker-dealer, clearing agency, bank municipal securities dealer, securities information processor, or transfer agent is not a small business or small organization if that entity is affiliated with any person (other than a natural person) that is not a small business or small organization as defined in Rule 0–10. Under paragraph (i) of Rule 0–10, a person is affiliated with another if that person controls, is controlled by, or is under common control with such other person. Control within this context constitutes the right to vote 25 percent or more of the voting securities of any entity, the right to receive 25 percent or more of the net profits of such entity, or the ability otherwise to direct or cause the direction of the management or policies of such entity.

[64] The term ''securities information processor'' is defined in Section 3(a)(22) of the Exchange Act. [15 U.S.C. 78c(a)(22).] Currently, neither of the two registered exclusive securities information processors is designated as a ''small business'' or ''small organization'' under Rule 0–10.

[65] Formerly, paragraph (g)(2) of Rule 0–10 referenced the definition of ''interrogation device'' set forth in Rule 11Aa3–1. This definition reflects the historical use of interrogation devices to display only transaction reports or last sale data.

[66] The term ''transfer agent'' is defined in Section 3(a)(25) of the Exchange Act. [15 U.S.C. 78c(a)(25).] It is estimated that approximately 180 registered transfer agents would be designated as ''small businesses'' or ''small organizations'' under the proposed amendments to Rule 0–10.

[67] Any transfer agent that transfers items for any issuer that has total assets of greater than $5 million would not be deemed a ''small business'' or ''small organization'' under the proposed rule. Generally, transfer agents that transfer the items of small issuers are not required to be registered pursuant to Section 17A(c)(1) of the Exchange Act and are not subject to Commission regulation. In this regard, the Commission staff estimates that only 1,500 (or 21 percent) of the approximately 7,000 entities providing transfer agent services in the United States are registered under Section 17A of the Exchange Act. These 1,500 entities provide services that are essential to the efficient functioning of the national market system for securities. Of these 1,500 registered transfer agents, approximately one-half are financial institutions regulated by the various federal bank regulatory agencies. The 5,500 unregistered entities that provide transfer agent services generally handle the transfer of small issuer securities and exempted securities, such as municipal securities.

[68] *See* Securities and Exchange Commission, Study of Unsafe and Unsound Practices of Broker-Dealers (1971), pp. 37–39.

used with reference to an ''issuer'' or ''person'' under Sections 12, 13, 14, 15(d), or 16 of the Exchange Act.[69] To clarify that transfer agents who transfer items of issuers with total assets greater than $5 million would not be considered small for purposes of the RFA, the Commission is proposing to delete language in Rule 0–10(a) that limits the definition of small business, as it refers to ''issuer'' or ''person,'' to Sections 12, 13, 14, 15(d), or 16 of the Exchange Act.[70]

4. Broker-Dealers

Rule 0–10 under the Exchange Act currently defines ''small business'' or ''small organization'' to include any broker[71] or dealer[72] that has total capital of less than $500,000 and that is not affiliated with any person (other than a natural person) that is not a small business or small organization under the rule. For purposes of defining whether a broker-dealer is a ''small business'' or ''small organization,'' the Commission is proposing to retain the existing capital standard currently set forth in Rule 0–10. The Commission, however, is proposing to expand the affiliation standard applicable to broker-dealers.

The existing affiliation test, which looks only to whether a broker-dealer controls, is controlled by, or is under common control with, an entity other than a small business or small organization, focuses primarily on relationships between broker-dealers based on voting control or the sharing of profits. The structure and operation of broker-dealer activities, however, suggest that other kinds of business relationships, such as the contractual relationship between an introducing broker and its clearing firm, can give rise to an opportunity by which a clearing firm can exercise substantial influence over the business of its introducing brokers. In order to better conform its affiliation standard to the nature of business relationships that exist between broker-dealers, the Commission proposes to expand the definition of affiliation applicable to broker-dealers under Rule 0–10 to include arrangements whereby one broker-dealer introduces transactions in securities to another.

From a functional perspective, introducing and clearing brokers act as a unit in handling a customer's account. In most respects, introducing brokers are dependent on clearing firms to clear and to execute customer trades,[73] to handle customer funds and securities, and to handle many back-office functions, including issuing confirmations of customer trades and customer account statements.[74] The respective duties and obligations of an introducing broker and its clearing firm are described in the clearing agreement executed by the parties. This agreement typically contains various requirements imposed by the clearing firm with respect to the handling of customer accounts by the clearing and introducing brokers, and the clearing firm's maintenance of customer assets.[75] In addition, as a practical matter, clearing and introducing firms have identical business interests to the extent that most introducing brokers could not be in business without the capital, technology, and back-office support provided by the clearing firm. In addition, as a legal matter, for purposes of the Securities Investor Protection Act of 1970[76] and the Commission's financial responsibility rules, a customer is the customer of the clearing firm.[77]

Under the Commission's proposal, an introducing broker that introduces transactions to a large clearing firm generally would not be considered a ''small business'' or ''small organization'' for purposes of the RFA. An exception, however, would be carved out for introducing firms that handle only investment company securities or interests or participations in insurance company separate accounts. Typically, persons or firms that limit their activities to these products are small, sometimes one-person operations that combine limited securities activities with broader tax, financial planning, and insurance services. Applying this new affiliation standard in addition to the existing total capital standard, it is estimated that approximately 12 percent of all registered broker-dealers could be characterized as the type of independently owned and operated enterprise specifically addressed under the RFA.[78]

The Commission requests comments on whether alternative approaches would be more appropriate for determining whether a broker-dealer should be designated as small under Rule 0–10. One possible approach would establish a revenue test. Other approaches would be based on a broker-dealer's annual earnings or total assets. The Commission seeks comment on these approaches and requests that commenters specifically address what revenue, earnings, or total asset levels may be appropriate for distinguishing small broker-dealers, and whether

[69] 17 CFR 240.0–10(a).

[70] 15 U.S.C. 78*l*, 78m, 78n, 78o(d), and 78p. The proposed change would also clarify that a transfer agent, or any other regulated entity under the Exchange Act (broker-dealer, exchange, clearing agency, securities information processor, or bank municipal securities dealer) would not be considered small under Rule 0–10 if the entity is affiliated with an issuer that does not qualify as ''small'' under Rule 0–10. *See* 17 CFR 240.0–10. For example, a broker-dealer that is owned or controlled by a large public company with greater than $5 million in assets would not be considered small under Rule 0–10. While the Commission does not collect data that would indicate how many broker-dealers or other regulated entities may be affected by this proposed amendment, it believes such amendment is consistent with the intent of the RFA that only business and organizations that are ''independently owned'' may qualify as small entities. *See supra* note 42.

[71] The term ''broker'' is defined in Section 3(a)(4) of the Exchange Act. [15 U.S.C. 78c(a)(4).]

[72] The term ''dealer'' is defined in Section 3(a)(5) of the Exchange Act. [15 U.S.C. 78c(a)(5).]

[73] Even when introducing brokers execute their own trades, they must provide the name of their clearing broker in order that the trade may be settled and cleared.

[74] Increasingly, the back-office functions of introducing and clearing firms are linked electronically, which allows introducing brokers to transmit trades directly to the back-office systems maintained by the clearing broker using either a personal computer and modem or a terminal provided for this purpose by the clearing broker. These electronic linkages facilitate communication between introducing and clearing firms, and allow introducing firms to monitor trade execution and settlement, but control over the processing of securities trades remains with the clearing firm.

[75] For example, clearing agreements generally give clearing brokers approval over margin customers and subject margin accounts to the clearing firm's standards. Clearing brokers also may set general creditworthiness standards for the introducing broker's customers to ensure customer performance. Similarly, clearing brokers can reject customer trades if they determine a customer is unable to fully complete the trade entered through the introducing broker. New York Stock Exchange Rule 382 specifically requires clearing agreements to identify and allocate the respective functions of the introducing and clearing firms in seven areas: the opening, approving and monitoring of accounts; extensions of credit; the maintenance of books and records; the receipt and delivery of funds and securities; the safeguarding of funds and securities; confirmations and statements; and the acceptance of orders and executions of transactions. Although the customer places its order directly with the introducing firm, the Commission considers the account to be an account of the clearing firm, which has primary legal responsibility with respect to the handling of customer funds and securities, and for sending account statements to the customer. Thus, both introducing and clearing firms have a shared responsibility for ensuring that a customer's account is handled properly.

[76] 15 U.S.C. 78aaa *et seq.*

[77] Exchange Act Release No. 31511, 57 FR 56973 (Dec. 2, 1992).

[78] *See supra* note 18 (RFA definitions of ''small business''). *See also* Report to Accompany H.R. 4660, H.R. Rep. No. 519, 96th Cong., 1st Sess., 19 (1980) (suggesting that the definition of ''small businesses'' was intended to encompass businesses that are independently owned and operated and not dominant in their field of operation). Consistent with the RFA definitions of small business and small organization, SBA regulations that address affiliation consider whether individuals or firms have identical or substantially identical business interests, as in the case of firms that are economically dependent through contractual or other relationships. 13 CFR 121.103(a).

revenue, earnings, or total asset levels should be averaged over a period of years in order to account for annual fluctuations. Commenters are asked to discuss how any proposed approach relates to the SBA size standards.

5. Request for Comment

The Commission is soliciting comment on each of the proposed amendments to Rule 0–10 and whether commenters believe the proposed amendments sufficiently identify entities regulated under the Exchange Act that should qualify as either a ''small business'' or a ''small organization'' under Rule 0–10.

III. Effects on Competition and Regulatory Flexibility Considerations

Section 23(a)(2) of the Exchange Act [79] requires the Commission, in adopting rules under the Exchange Act, to consider the anticompetitive effects of such rules, if any, and to balance any anticompetitive impact against the regulatory benefits gained in terms of furthering the purposes of the Exchange Act. The Commission is of the preliminary view that the proposed amendments to Rule 0–10 would not have any effect on the regulation of entities under the Exchange Act, or impose any burden on competition among such entities.

The Commission has conferred with the SBA and believes that no regulatory flexibility analysis is required for the proposed amendments. The definitions of the terms ''small business'' and ''small organization'' and the proposed amendments do not impose any substantive requirements on small businesses. Instead the definitions are interpretations of terms used to identify those entities that the Commission will study for RFA purposes when proposing and adopting rules.[80]

[79] 15 U.S.C. 78w(a)(2).

[80] An initial regulatory flexibility analysis is required whenever an agency is required by section 553 of the Administrative Procedure Act or any other law to publish general notice of proposed rulemaking for any proposed rule. The RFA does not state that agencies that establish definitions of ''small business'' or ''small organization'' do so pursuant to rulemaking. *See* 5 U.S.C. §§ 601(3), 601(4); *see also* Definitions of Small Entity and Significant Economic Impact for Making Determinations Required by the Regulatory Flexibility Act of 1980, 51 FR 45831 (Dec. 22, 1986) (Federal Aviation Administration, Department of Transportation); NRC Size Standard for Making Determinations Required by the Regulatory Flexibility Act of 1980, 50 FR 20913 (May 21, 1985) (Nuclear Regulatory Commission invitation for public comment on proposed definition of small entities); Proposed Establishment of Definitions of ''Small Entities'' for Purposes of the Regulatory Flexibility Act, 46 Fed. Reg. 23940 (Apr. 29, 1981) (Commodity Futures Trading Commission); 1982 Adopting Release, 47 FR at 5216 (noting that the rules providing the definitions of ''small business'' for entities regulated under the securities laws also provide, as permitted by the RFA, that the Commission may, in particular instances, define a particular entity in a manner different from that set forth in the rules).

IV. Statutory Authority

The Commission is proposing to amend Rule 157 [17 CFR 230.157], Rule 0–10 [17 CFR 240.0–10], Rule 0–10 [17 CFR 270.0–10], and Rule 0–7 [17 CFR 275.0–7] pursuant to chapter 6 of title 5 of the United States Code (particularly section 601 thereof [5 U.S.C. 601]), and pursuant to the Securities Act of 1933 [15 U.S.C. 77a *et seq.*] (particularly section 19 thereof [15 U.S.C. 77s]), the Securities Exchange Act of 1934 [15 U.S.C. 78a *et seq.*] (particularly section 23 thereof [15 U.S.C. 78w]), the Investment Company Act of 1940 [15 U.S.C. 80a-1 *et seq.*] (particularly section 38 thereof [15 U.S.C. 80a-37]), and the Investment Advisers Act of 1940 [15 U.S.C. 80b-1 *et seq.*] (particularly section 211 thereof [15 U.S.C. 80b-11]).

Text of Proposed Rule Amendments

List of Subjects

17 CFR Parts 230 and 270

Investment companies, Securities.

17 CFR Part 240

Brokers, Reporting and recordkeeping requirements, Securities.

17 CFR Part 275

Investment advisers, Reporting and recordkeeping requirements, Securities.

For the reasons set out in the preamble, Title 17, Chapter II of the Code of Federal Regulations is proposed to be amended as follows:

PART 230—GENERAL RULES AND REGULATIONS, SECURITIES ACT OF 1933

1. The authority citation for Part 230 continues to read, in part, as follows:

Authority: 15 U.S.C. 77b, 77f, 77g, 77h, 77j, 77s, 77sss, 78c, 78d, 78*l*, 78m, 78n, 78o, 78w, 78*ll*(d), 78t, 80a-8, 80a-29, 80a-30, and 80a-37, unless otherwise noted.

* * * * *

2. Section 230.157 is amended by revising paragraph (b) to read as follows:

§ 230.157 Small entities for purposes of the Regulatory Flexibility Act.

* * * * *

(b) When used with reference to an investment company that is an issuer for purposes of the Act, have the meaning ascribed to those terms by § 270.0–10 of this chapter.

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

3. The authority citation for Part 240 continues to read in part as follows:

Authority: 15 U.S.C. 77c, 77d, 77g, 77j, 77s, 77eee, 77*ggg*, 77nnn, 77sss, 77ttt, 78c, 78d, 78f, 78i, 78j, 78k, 78k-1, 78*l*, 78m, 78n, 78o, 78p, 78q, 78s, 78w, 78x, 78*ll*(d), 79q, 79t, 80a-20, 80a-23, 80a-29, 80a-37, 80b-3, 80b-4 and 80b-11, unless otherwise noted.

* * * * *

4. Section 240.0–10 is amended to revise the section heading and paragraphs (a), (b), (e), (g)(2), (g)(3), and (i); redesignate paragraphs (h)(2) and (h)(3) as paragraphs (h)(3) and (h)(4), respectively; and add paragraphs (h)(2), (j) and (k) to read as follows:

§ 240.0–10 Small entities under the Securities Exchange Act for purposes of the Regulatory Flexibility Act.

* * * * *

(a) When used with reference to an ''issuer'' or a ''person,'' other than an investment company, mean an ''issuer'' or ''person'' that, on the last day of its most recent fiscal year, had total assets of $5,000,000 or less;

(b) When used with reference to an ''issuer'' or ''person'' that is an investment company, have the meaning ascribed to those terms by § 270.0–10 of this chapter;

* * * * *

(e) When used with reference to an exchange, mean any exchange that:

(1) Has been exempted from the reporting requirements of § 240.11Aa3–1; and

(2) Is not affiliated with any person (other than a natural person) that is not a small business or small organization as defined in this section;

* * * * *

(g) * * *

(2) Provided service to fewer than 100 interrogation devices or moving tickers at all times during the preceding fiscal year (or in the time that it has been in business, if shorter); and

(3) Is not affiliated with any person (other than a natural person) that is not a small business or small organization under this section;

(h) * * *

(2) Transferred items only of issuers that would be deemed ''small businesses'' or ''small organizations'' as defined in this section;

* * * * *

(i) For purposes of paragraph (c) of this section, a broker or dealer is affiliated with another person if:

(1) Such broker or dealer controls, is controlled by, or is under common control with such other person; a person

shall be deemed to control another person if that person has the right to vote 25% or more of the voting securities of such other person or is entitled to receive 25% or more of the net profits of such other person or is otherwise able to direct or cause the direction of the management or policies of such other person; or

(2) Such broker or dealer introduces transactions in securities, other than registered investment company securities or interests or participations in insurance company separate accounts, to such other person, or introduces accounts of customers or other brokers or dealers, other than accounts that hold only registered investment company securities or interests or participations in insurance company separate accounts, to such other person that carries such accounts on a fully disclosed basis.

(j) For purposes of paragraphs (d) through (h) of this section, a person is affiliated with another person if that person controls, is controlled by, or is under common control with such other person; a person shall be deemed to control another person if that person has the right to vote 25% or more of the voting securities of such other person or is entitled to receive 25% or more of the net profits of such other person or is otherwise able to direct or cause the direction of the management or policies of such other person.

(k) For purposes of paragraph (g) of this section, ''interrogation device'' shall refer to any device that may be used to read or receive securities information, including quotations, indications of interest, last sale data and transaction reports, and shall include proprietary terminals or personal computers that receive securities information via computer to computer interfaces or gateway access.

PART 270—RULES AND REGULATIONS, INVESTMENT COMPANY ACT OF 1940

5. The authority citation for Part 270 continues to read, in part, as follows:

Authority: 15 U.S.C. 80a–1 *et seq.*, 80a–37, 80a–38, unless otherwise noted;

* * * * *

6. Section 270.0–10 is revised to read as follows:

§ 270.0–10 Small entities under the Investment Company Act for purposes of the Regulatory Flexibility Act.

(a) *General.* For purposes of Commission rulemaking in accordance with the provisions of Chapter Six of the Administrative Procedure Act (5 U.S.C. 601 *et seq.*) and unless otherwise defined for purposes of a particular rulemaking, the term *small business* or *small organization* for purposes of the Act shall mean an investment company that, together with other investment companies in the same group of related investment companies, has net assets of $50 million or less as of the end of its most recent fiscal year. For purposes of this section:

(1) In the case of a management company, the term *group of related investment companies* shall mean two or more management companies (including series thereof) that:

(i) Hold themselves out to investors as related companies for purposes of investment and investor services; and

(ii) Either:

(A) Have a common investment adviser or have investment advisers that are affiliated persons of each other; or

(B) Have a common administrator; and

(2) In the case of a unit investment trust, the term *group of related investment companies* shall mean two or more unit investment trusts (including series thereof) that have a common sponsor.

(b) *Special rule for insurance company separate accounts.* In determining whether an insurance company separate account is a *small business* or *small entity* pursuant to paragraph (a) of this section, the assets of the separate account shall be cumulated with the assets of the general account and all other separate accounts of the insurance company.

(c) *Determination of net assets.* The Commission may calculate its determination of the net assets of a group of related investment companies based on the net assets of each investment company in the group as of the end of such company's fiscal year.

PART 275—RULES AND REGULATIONS, INVESTMENT ADVISERS ACT OF 1940

7. The authority citation for Part 275 continues to read, in part, as follows:

Authority: 15 U.S.C. 80b–1 *et seq.*, 80b–11, unless otherwise noted.

* * * * *

8. Section 275.0–7 is amended by revising the section heading and paragraphs (a)(1), (a)(2) and (b) to read as follows:

§ 275.0–7 Small entities under the Investment Advisers Act for purposes of the Regulatory Flexibility Act.

(a) * * *

(1) Manages assets with a total value of $50 million or less, in discretionary or non-discretionary accounts, as of the end of its most recent fiscal year, *provided that* the adviser's own assets related to its advisory business do not exceed in value $50,000 as of the end of its most recent fiscal year; and

(2) Is not affiliated with any person (other than a natural person) that is not a small business or small organization as defined in this section, § 240.0–10 or § 270.0–10 of this chapter.

(b) For purposes of this section, a person is affiliated with another person if that person controls, is controlled by, or is under common control with such other person; a person shall be deemed to control another person if that person has the right to vote 25% or more of the voting securities of such other person or is entitled to receive 25% or more of the net profits of such other person or is otherwise able to direct or cause the direction of the management or policies of such other person.

Dated: January 22, 1997.

By the Commission.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–2010 Filed 1–27–97; 8:45 am]

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Land resource management:
- Management, use, and protection of public lands
  - Criminal penalties for misuse; comment period extended; comments due by 2-5-97; published 12-16-96

INTERIOR DEPARTMENT

Fish and Wildlife Service

Endangered and threatened species:
- Alexander Archipelago wolf and Queen Charlotte Goshawk; comments due by 2-5-97; published 12-31-96

INTERIOR DEPARTMENT

Reclamation Bureau

Newlands Irrigation Project, NV; operating criteria and procedures adjustments; comments due by 2-7-97; published 12-9-96