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

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Rules and Regulations

Federal Register
Vol. 62, No. 77
Tuesday, April 22, 1997

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

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

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

14 CFR Ch. II

[Docket No. OST–96–993]

RIN 2105–AC36

Ticketless Travel: Passenger Notices

AGENCY: Office of the Secretary, DOT.

ACTION: Statement of compliance policy.

SUMMARY: The Department is issuing a statement of compliance policy that states that the ticket notices required by various DOT rules must be given (or be made readily available) to ''ticketless'' airline passengers no later than the time that they check in at the airport for the first flight in their itinerary.

EFFECTIVE DATE: This statement of compliance policy takes effect May 22, 1997.

FOR FURTHER INFORMATION CONTACT: Tim Kelly, Aviation Consumer Protection Division, Office of Aviation Enforcement and Proceedings, Office of the General Counsel, Department of Transportation, 400 Seventh Street SW., Room 4107, Washington, DC 20590, telephone (202) 366–5952. An electronic version of this statement of compliance policy will be available at http://www.dot.gov/dotinfo/general/rules/aviation.html shortly after publication in the **Federal Register**.

SUPPLEMENTARY INFORMATION:

Background

Various DOT regulations require U.S. and foreign air carriers to provide consumer notices on or with passenger tickets. These notices provide information about protections afforded by federal regulations, limitations on carrier liability, and contract terms that passengers may not otherwise be aware of. These ticket notice requirements are listed below.

Subject	Source (14 CFR)
Oversales	§ 250.11
Domestic baggage liability	§ 254.5
International baggage liability	§ 221.176
Domestic contract of carriage terms.	§ 253.5
Terms of electronic tariff (international).	§ 221.177(b)
Refund penalties (domestic)	§ 253.7
Fare increases (international)	§ 221.174
Death/injury liability limits (international).	§ 221.175

Over the past few years, a number of airlines have introduced ''ticketless travel,'' also known as ''electronic ticketing.'' Under this concept a passenger calls the airline, makes a reservation and purchases the transportation during the call, typically by credit card. Electronic tickets can also be purchased from travel agencies in many cases. No ''ticket,'' as that document has traditionally been configured, is issued. Instead, the passenger is orally given a confirmation number and/or is sent a written itinerary. Upon checking in at the airport the passenger simply provides his or her name, furnishes identification, and is given a boarding pass or other document that is used to gain access to the aircraft.

The Department of Transportation supports the development of ticketless travel. The process has the potential to reduce carrier and agent costs, and thereby costs to consumers, and to make air transportation easier to purchase. At the same time, the Department has been concerned that necessary information in the ticket notices described above be provided to passengers in a ticketless environment. Consequently, on January 19, 1996, we published in the **Federal Register** a Request for Comments on the issue of passenger notices for ticketless transactions (61 FR 1309).

Comments

We received 28 comments in response to the **Federal Register** notice. Three were from industry associations: the Air Transport Association of America (ATA), the International Air Transport Association (IATA), and the American Society of Travel Agents (ASTA). Eleven comments were from air carriers: United Air Lines, American Airlines, Delta Air Lines, Trans World Airlines, Continental Airlines, Southwest Airlines, Alaska Airlines, ValuJet Airlines, Western Pacific Airlines, Vanguard Airlines, and KLM Royal Dutch Airlines. We also received comments from four travel agencies (Costa Azul Tours and Travel, Carlson Wagonlit Travel, Meston Travel Center, and Vista Travel Service), four other organizations (Best Fares magazine, Airclaims, Ltd., QuickTix, and Stone & Webster Management Consultants), five individuals (Mr. Philip Sheridan, Mr. Laurence Hecker, Mr. Andrew Pickens, Mr. Peter Lyck, and Mr. Benjamin Dornic), and from Mr. Jeremy Silverman and Mr. Gregory Gerdes on behalf of their law school class.

In general the industry commenters did not object to providing the notices that are currently required to be provided on or with tickets. However, they urged the Department not to prescribe the manner in which those notices are to be provided, e.g. the method or the time that they are furnished to electronically ticketed passengers. The travel agent commenters said that notice should be the responsibility of the airlines, and that travel agencies should not be expected to bear the cost. Most of the individual commenters said that electronically ticketed passengers should receive written confirmation of their reservation and fare in case there is a subsequent computer error.

ATA said that it anticipates that the consumer protection notices that the Department's regulations require today will continue to be provided. ATA, IATA, ASTA, most of the air carrier commenters, and Airclaims, Ltd. said that consumer notices of the type provided with tickets should continue to be provided, but they oppose regulation of the method or time by which carriers must communicate those notices to ticketless passengers. This will allow distribution systems to be more flexible and therefore more responsive to the needs of passengers, according to ATA. It will also generate significant efficiencies, which ATA said is important in the industry's continuing efforts to provide economical air transportation. Many of these commenters said that regulating how and when the notices are to be delivered would impose costs without commensurate benefits, and could impede emerging technology.

IATA said that it strongly supports electronic ticketing, and that it was still

developing standards for international and interline electronic ticketing. Although they opposed detailed rules, IATA and ASTA suggested that DOT should provide general guidelines for acceptable times and methods for providing consumer notices.

Southwest said that 40% of its passengers are now ticketed electronically. The carrier said that it mails or faxes the consumer notices in question to its electronically ticketed passengers, but that it may want to modify this procedure in the future in response to consumer demand, new technology, or competition. Several of the carriers said that there are many ways to get adequate notices to passengers besides mailing them: for example, an annual mailing to frequent flyers, a receipt provided at the airport or travel agency, orally at the time of the reservation, on signs or handouts at the airport, a fax-back service that will fax notices to passengers who call a special number, or a notice screen for bookings that consumers make via the internet or other online services.

ValuJet, a fully ticketless carrier, states that it currently provides effective, oral notice concerning the customer's itinerary at the time of the sale, as well as written notice when its customers board. It contends that having to provide written notices at the time of purchase would increase the cost of ticketless travel without commensurate benefit.

Like ValuJet, Western Pacific and Vanguard are totally ticketless carriers. They both said that they have procedures for providing what they consider to be complete and timely notice to passengers. Like ValuJet, these two airlines provide oral notice at the time of purchase about important fare conditions, but do not provide any of the DOT notices at the time of purchase, orally or in writing, except to note that fares are non-refundable. All three carriers provide certain written notices upon check-in, although these do not necessarily include all of the DOT-mandated ticket notices or all of the required text from these notices. These three carriers also state that they will mail or fax written notices on request at any time.

ASTA said that notice of the reservation and fare will be provided to clients ''when practical.'' ASTA suggests that general guidelines be issued for delivery of other consumer notices, but that details on when to provide the notices be left to the carrier or travel agency. If the Department identifies deficiencies, it can then impose a more detailed standard. For the moment, ASTA suggests that all of the consumer notices be posted at airports, where passengers are more likely to see them than in the fine print on tickets, which ASTA contends most passengers don't read.

Several carriers and one travel agency chain advocated the concept of a voicemail or ''audio-text'' system in which passengers could be provided the choice of listening to recorded consumer notices at the end of a reservation call, or at any other time. ValuJet estimated that such a system could deliver a standard oral briefing by telephone for as little as 25 cents per call.

Western Pacific described a menu-driven (''press 1 for baggage information, 2 for oversales information * * *'') voice system that it is studying to deliver all DOT standard notices, as well as other information. The carrier says this system would provide the notices in a timelier fashion than notices that arrive in the mail several days after a telephone purchase; Western Pacific said this would be particularly useful in the case of bookings made within a few days of departure. (Western Pacific said that 20% of its bookings are made within three days of departure; Vanguard said its figure is 10% to 15%.)

TWA said that carriers should not be required to provide notices to an electronically ticketed passenger who does not request a written confirmation, or who is offered the consumer notices but declines. TWA and Continental described ATM-like machines that issue boarding passes at airports, and can require passengers to choose whether or not to receive the terms and conditions of travel and other notices. They said that carriers should have the flexibility to deliver notices by means such as this.

Generally, the individual travel agency commenters stated that notice should be the responsibility of the airlines and that it could be provided during check-in. Mr. Tom Parsons of Best Fares magazine, however, said that ''inspecting a contract at the airport gate is like reading the warranty on your new car after you buy it.'' Mr. Parsons said that the notices could be provided through the computer reservations systems; Airclaims, Ltd. suggested handouts at the point of sale. Neither of these proposals, however, indicate how the notices would be provided to persons who book by phone.

Meston Travel said that it gives its ticketless clients a written confirmation of the reservation and fare and copies of consumer notices at the time of purchase. Vista Travel said that the cost savings of electronic ticketing have accrued to the airlines but not to travel agencies; Vista believes that the costs of any new notice requirements should be part of the cost of the transportation, and should not have to be borne separately by travel agencies. Vista did say that passengers should be provided documentation of their reservation and fare before they arrive at the airport, or they will be at the mercy of the carrier in the event of a computer error. Carlson Wagonlit pointed out that many carriers rely on advertising to defray the cost of ticket jackets, and that this could help support the cost of any notices that must be delivered to electronically ticketed passengers at the time of purchase.

In the Request for Comments, the Department sought comment on air transportation purchases that take place via ''smart cards'' or online computer services. ATA said that these types of electronic tickets present no special issues. ATA asserts, as it does with regard to other forms of electronic ticketing, that the carrier should be free to determine the means of providing consumer notices. This could include providing notices when a passenger signs an initial smart card form, or electronic transmission of notices when transportation is purchased online. ASTA echoed this idea, and said the notices could be provided one time to regular clients similar to a ''signature on file'' agreement for credit card purchases.

IATA supported the concept of allowing carriers to provide notices to users of smart cards at the time they enter into the agreement for the card, although IATA said that alternatively the notices could be generated each time the card is used. Delta said that it uses smart cards on its east coast Shuttle. The carrier said that it provides DOT-required notices at the time a smart card is issued, and also makes them available at each smart card machine. IATA, several carriers and Airclaims, Ltd. suggested that members of frequent-flyer programs could be given the notices when they join the program, or annually. TWA asserted that 33% to 50% of all passengers (depending on the carrier) are members of a frequent-flyer program. United said that one-time or annual notices to frequent flyers combined with other programs to ensure reasonable notice to other customers would save costs without having an adverse impact on the traveling public.

The Department requested comment on whether a passenger should be able to have an independent record of his or her reservation status. ATA said that electronic ticketing does not create any additional likelihood that a passenger's record will be unlocatable. Continental and Western Pacific said that the

confirmation number that is given to every electronically ticketed passenger is the passenger's evidence of his or her reservation. TWA said that the Department's concern over no-record passengers is understandable in a historical context, but that over the past decade there have been numerous improvements to CRS technology and that no-record passengers are no longer a significant problem. The totally ticketless carriers that commented (ValuJet, Western Pacific and Vanguard) all said that they do not engage in deliberate overbooking and as a result have few oversales. IATA said that current scenarios contemplate some sort of confirmation being sent to passengers who book sufficiently in advance and that this is likely to contain confirmation of the reservation. However, IATA said, this should not be required by regulation.

The Department requested comment on how carriers deal with fare disputes with passengers, particularly those who purchase tickets by phone. Both ATA and IATA simply asserted that this has not been a problem. The passenger's fare ''will be included on passenger receipts,'' ATA said. Western Pacific said that it experiences about the same rate of fare disputes as paper-ticket carriers. It believes most of these disputes arise from the customer's failure to listen carefully to the fare restrictions information or the reservation recap. Vanguard said that it has encountered virtually no fare disputes.

However, a comment filed on behalf of a law school class by Jeremy Silverman and Gregory Gerdes said that several of the members of the class had had disputes over fares and reservations with ticketless carriers. They stated that carriers should provide written confirmation of the reservation and the fare to electronically ticketed passengers, and that this notice should be provided on a timely basis. They also noted the potential for problems in applying an unused electronic ticket to another flight (with payment of the appropriate penalty) after the departure date of the original flight; if the computer does not reflect the fact that the passenger did not use the transportation, the passenger does not have an unused flight coupon to prove this fact.

Mr. Laurence Heckler also expressed concern over reservation, payment, and fare disputes and urged that carriers provide timely written confirmation of these matters. Stone & Webster Management Consultants stated that electronically ticketed passengers should receive a confirmation of the fare and reservation and the DOT consumer notices shortly after purchase. Costa Azul Travel said that it receives many complaints about ticketless travel, although it didn't describe them.

On the other hand, Mr. Andrew Pickens asserted that the notices on paper tickets are unread and unnecessary. Mr. Philip Sheridan said that he has been using ticketless travel for six months on United and Southwest with no problems, and that the combination of the boarding pass and his monthly credit card statement are all the documentation he needs.

The Department sought comment on the costs of various notice alternatives. Most of the comments on this point focused on the costs of providing written notice at (or shortly after) the time of purchase. According to ATA, the average current postage cost of mailing notices to electronically ticketed passengers is 40 cents per passenger, but this does not include other handling costs. Fifty million electronic ticket transactions per year would yield a mailing cost of $20 million, ATA said, while 150 million such transactions would cost $60 million.

ASTA asserted that having to provide notices can be a significant cost factor (although it provided no figures). It highlighted the burden on agencies by citing the thin profit margins in the travel agency business resulting from changes in the commission structure and airline initiatives to sell directly to passengers.

IATA provided no cost estimates, but said that distribution costs would be affected by the number and length of the notices. IATA said that the benefits of a DOT standard for consumer notices for electronically ticketed passengers would be legal certainty, consistency and uniformity, particularly in the international environment. Potential negatives would be extra costs, and any inconsistency between the required methods of distribution and the electronic ticketing process.

ValuJet said that the cost of providing written notices at the time of purchase, particularly passenger-specific itinerary information, would be ''staggering'' in ValuJet's case. ValuJet and Western Pacific both said that major airlines have significant back-office ticketing systems that can be redirected at little incremental cost to print and distribute written itineraries and notices to ticketless passengers. ValuJet said that it would have to build such an infrastructure. It estimates that postage to mail its notices would be $88,000 per month, and additional distribution costs could be from $1 million to $2.33 million per month, which would be 17% to 42% of the carrier's 1995 net income. Western Pacific estimated that mailing or faxing itineraries and DOT notices within three days of purchase would cost approximately $50,000 per month at present traffic levels. Vanguard estimated that providing hard-copy notices at the time of sale would add $1 to the cost of each of its transactions, or $2 million per year.

Discussion

We have decided as a matter of compliance policy not to pursue remedial or punitive action if air carriers give, or make readily available, to electronically ticketed passengers the written notices required by the existing DOT ticket-notice rules no later than the time that the passengers appear at the airport for the first flight in their itinerary. We believe that this approach strikes the most reasonable balance at this time between ensuring that important information reaches consumers before they travel without inhibiting the development of electronic ticketing and imposing additional costs that might stifle industry innovations and result in higher prices for consumers. It also puts all carriers on the same footing with respect to ticketless notices; as a result of past DOT requests, many airlines currently mail or fax consumer notices to ticketless customers at the time of purchase, but some carriers do not.

Most of the industry commenters in this proceeding objected to the prospect of specifically being required to provide notices at the time of the purchase. The policy that we are implementing will not do so, and thus will avoid imposing the costs of having to mail or otherwise deliver written notices to ticketless passengers before the date of the flight. We are particularly concerned about avoiding unnecessary costs for totally-ticketless carriers, many of which are low-fare, new-entrant airlines. As noted by ValuJet, the burden of a requirement to provide written notices in advance of the flight would fall disproportionately on totally-ticketless carriers since they do not have the paper-ticket/mailing infrastructure of most larger airlines. As a result, we could envision higher prices for consumers without commensurate consumer benefits. The approach that we are taking will also address the concerns expressed by travel agents; no travel agency will be required to provide the current notices required with tickets to ticketless passengers.

Ticketless travel is a dynamic and evolving element in the marketing of air transportation. The Department will continue to monitor developments in this field, and should consumer

problems related to inadequate passenger notice arise, we may propose additional requirements in the future. We strongly encourage airlines and travel agencies to work to avoid such problems, not only by making the DOT ticket notices available to ticketless passengers at the airport as required here but also by distributing them in other ways, including those suggested in the comments in this proceeding. For example, these notices could be included with newsletters or booklets of terms and conditions mailed to members of a carrier's frequent-flyer program or holders of the airline's affinity credit card or smart card, posted in online booking services and on the carrier's World Wide Web site, included in the carrier's printed timetables, or handed to passengers who purchase electronic tickets in person (e.g., at an airline's airport or city ticket office or at a travel agency). Airlines may also wish to consider making the notices available in recorded form on their reservations telephone lines (e.g., ''press 3 to hear important consumer information'') or establishing a fax-back service, where a consumer could call a certain phone number and have the notices faxed to him or her. We also encourage travel agencies to provide the notices during face-to-face transactions, or when the agency would be mailing other documents in any event. These various distribution methods would allow a passenger to be provided the notices as far in advance as possible before the date of the flight, and in many cases before purchasing the transportation. However, none of them entails the cost of an individual mailing to each purchaser.

ASTA stated in its comments that the current notices in use by the airlines on regular ticketed transactions do not conveniently fit on a single sheet of paper while leaving room for other important information that consumers routinely want to have in writing. We would point out that much of the contractual language in notices on some carriers' conventional tickets is not required by DOT, but is placed there by the carrier for its own purposes. As we noted in our Request for Comments, all of the DOT notices would fit on back of an 8½ x 11 sheet of paper, and if the international notices are not provided to domestic passengers the domestic notices would fit on one side of such a sheet. A sample of a domestic notice may be found at http://www.dot.gov/general/rules/aviation.html.

ASTA and other commenters also suggested that airport signs may be a superior method for providing notice to ticketless passengers. While we are reluctant to rely solely on airport signs as a means of passenger notice, we have decided to hold in abeyance a proposal that we published in the **Federal Register** on June 3, 1996 (61 FR 27818) to eliminate the required sign concerning oversales. We will publish a separate document in the **Federal Register** to accomplish this. The oversales sign will continue to be required until we have more experience with any potential oversale problems involving ticketless passengers.

As a result of the policy described here, the notices that are currently required by DOT rules to accompany tickets will have to be given or made readily available to ticketless passengers in writing no later than when they appear at the airport for the first flight on their itinerary. We can envision several ways of accomplishing this:

(1) Carriers could have a box or stack of the notice sheets on the countertop at each staffed position at the ticket counter and at each gate (since some passengers check in only at the ticket counter and others only at the gate), with the box or stack prominently labeled ''Consumer Notices.''

(2) Carriers could keep a supply of the notices at a central location within sight of all passengers near the ticket counter and also near the carrier's gates.

(3) The carrier's agents could simply hand one of the notice sheets to each passenger as they check in at the ticket counter and at the gate, or hand it to every passenger at the ticket counter and at the gates have a supply of the notices in sight in one of the ways described above. The notice sheet would only have to be handed to a passenger checking in for the first flight on his or her itinerary, but carriers might choose to simply give it to all passengers in order to cut down on procedure and labor time.

(4) Carriers could post a sign visible from each position at the ticket counter and at each gate briefly describing the nature of the notice (e.g., ''important consumer information'') and stating that a copy is available from any counter or gate agent upon request. (It would not be sufficient for a carrier to simply provide a copy of the notice sheet to passengers who request it, without posting a sign, since most passengers would not know that the notice exists.) If the notice sheet is to be provided only upon request, manuals and training would probably have to be updated to ensure that carrier agents are aware of the distinction between this notice and other written material that passengers are entitled to see upon request, e.g. the detailed notice about boarding priorities and denied boarding compensation (14 CFR 250.9), the complete contract of carriage (14 CFR 253.4(b)), and a copy of the DOT rule on the rights of airline passengers with disabilities (14 CFR 382.45(d)).

If a carrier chooses to provide the notices in question to ticketless passengers in advance of the flight date (as many airlines do now), the policy described here will not require the notices to be furnished to those passengers a second time when they check in at the airport.

As indicated earlier, the Department sought comment on whether a passenger should be able to have an independent record of his or her reservation status in case a computer reservation record is lost. Based on the information currently available to us, we agree with ATA that electronic ticketing does not necessarily create any additional likelihood that a passenger's record will be unlocatable. However, there nonetheless appears to be the same likelihood of ''no record'' passengers as exists for passengers with paper tickets, and yet ticketless passengers will not necessarily have written evidence of their reservation. Continental and Western Pacific commented that a ticketless passenger's confirmation number is the evidence of his or her reservation; however, if a carrier cannot locate a passenger's reservation record in the computer, a confirmation number does not necessarily prove that the passenger had a reservation on that particular flight. It is questionable whether carriers would board a passenger based on a confirmation number alone. On the other hand, we note TWA's assertion that the Department's concern over no-record passengers is understandable in a historical context but that over the past decade there have been numerous improvements to CRS technology and that no-record passengers are no longer a significant problem. Our complaint data appear to support this: in 1996 we received only four consumer complaints against U.S. carriers about denied boardings caused by ''no record'' reservation problems. None of those complaints was about a totally-ticketless carrier.

The Request for Comments also noted that a conventional paper ticket contains a record of the passenger's fare, whereas a ticketless passenger might not have proof of the fare that had been agreed to in the event a higher charge is posted to his or her credit card. Once again, however, consumer complaints filed with DOT show no clear indication of a problem in this area. In 1996 we received 52 complaints against U.S. carriers concerning alleged overcharges, but only one of them involved a totally-

ticketless carrier. The statistics do not indicate how many of the remaining complaints may have involved ticketless transactions, but of the 36 overcharge complaints against Major U.S. carriers (i.e., airlines with revenues over $1 billion per year), only three were against Southwest Airlines or United Airlines, two Major carriers with the earliest electronic ticketing programs.

We have no rules that require reservation or fare information to appear on conventional tickets, and we will not require this information to be furnished in writing to ticketless passengers at this time. As far as we are aware, all airlines that offer electronic ticketing provide a paper itinerary showing the fare and reservation status either automatically or upon request. With most carriers, passengers also have the option of a conventional paper ticket if they prefer. A large percentage of ticketless transactions are paid for by credit card, and those passengers have the dispute-resolution procedures of the Fair Credit Billing Act available to them in the event of a problem. Nonetheless, we will continue to monitor complaints in these areas and will not hesitate to take further action in the future if it is warranted.

Likewise, the Department will continue to monitor the evolution of ticketless travel and any consumer problems that may arise from the practice. The compliance policy stated herein will be reconsidered if circumstances so justify. However, before making any substantive change in the policy, we will provide public notice of our planned actions.

We note that under present rules, certificated carriers must maintain consumer complaint records for a period of three years, flight coupons from tickets for a period of one year, and other records related to errors, oversales, irregularities, and delays in handling of passengers for a period of one year. (14 CFR 249.20.) While we see no need at this time to impose additional recordkeeping requirements on carriers using electronic ticketing systems, we encourage all carriers to maintain records sufficient and in such a fashion as to help the Department make informed decisions in the future in this important and evolving area of air transportation.

The compliance policy set forth above is an attempt to provide carriers the maximum flexibility to develop their ticketless travel systems while at the same time providing a measure of protection to consumers from unfair or deceptive practices prohibited by 49 U.S.C. 41712. At the same time, however, carriers may find it advantageous to continue to provide the written DOT ticket notices to ticketless passengers in advance or to consider implementing the innovative notification systems discussed in the comments submitted in this docket (some of which are summarized above). In this regard, carriers may ultimately decide that it is in their overall best financial interest to do so considering that the preemption protections of 49 U.S.C. 41713 and 14 CFR 253.1 may not apply unless notice of contract of carriage terms is provided to ticketless passengers at the time of sale either orally or by contemporaneously mailed (or faxed, emailed, etc.) written notice.

The policy described here does not affect the existing notice requirements for conventional paper tickets. Those tickets must continue to be accompanied by the written notices described in DOT regulations.

Accordingly, it shall be the compliance policy of the Department that ticket notices required by Department regulations shall be given or made readily available to electronically ticketed passengers in writing in a manner such as described above no later than the time that they check in for the first flight in their itinerary.

Issued this 8th day of April, 1997 at Washington, D.C.

Charles A. Hunnicutt,

Assistant Secretary for Aviation and International Affairs.

[FR Doc. 97–10147 Filed 4–21–97; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–NM–61–AD; Amendment 39–9995; AD 97–08–07]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Model DC–9–80 Series Airplanes and Model MD–88 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD), applicable to certain McDonnell Douglas Model DC–9–80 series airplanes and Model MD–88 airplanes, that currently requires an inspection to determine the type of fluorescent light ballasts installed in the cabin sidewall; and installation of a protective cover on the ballast, replacement, or removal/disconnection of the ballast, if necessary. That action also requires, for some airplanes, removal of the dust barriers from the outboard ceiling panels, and installation of modified outboard ceiling panels. This amendment would add a requirement to replace certain ballasts on which a protective cover is installed with other ballasts, or removal/disconnection of the ballast. This amendment is prompted by additional reports of heavy smoke and fumes emitting from the ceiling panels in the forward passenger cabin due to the failure of the fluorescent light ballasts. The actions specified in this AD are intended to prevent a fire in the passenger compartment, which could result from failure of the fluorescent light ballast of the upper and lower cabin sidewall, and consequent failure of the dust barriers of the outboard ceiling panel.

DATES: Effective May 7, 1997.

The incorporation by reference of McDonnell Douglas Alert Service Bulletin MD80–33A110, dated February 25, 1997, and McDonnell Douglas Alert Service Bulletin MD80–33A110, Revision 1, dated March 11, 1997, as listed in the regulations, is approved by the Director of the Federal Register as of May 7, 1997.

The incorporation by reference of certain other publications, as listed in the regulations, was approved previously by the Director of the Federal Register as of June 17, 1996 (61 FR 27251, May 31, 1996).

Comments for inclusion in the Rules Docket must be received on or before June 23, 1997.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 97–NM–61–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

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 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.

FOR FURTHER INFORMATION CONTACT: J. Kirk Baker, Aerospace Engineer, Systems and Equipment Branch, ANM–130L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712; telephone (310) 627–5345; fax (310) 627–5210.

SUPPLEMENTARY INFORMATION: On May 22, 1996, the FAA issued AD 96–11–13, amendment 39–9638 (61 FR 27251, May 31, 1996), applicable to certain McDonnell Douglas Model DC–9–80 series airplanes and Model MD–88 airplanes. That AD currently requires a one-time visual inspection to determine the type of fluorescent light ballasts installed in the cabin sidewall; and installation of a protective cover on the ballast, replacement, or removal/disconnection of the ballast, if necessary. That AD also requires, for some airplanes, removal of dust barriers from the outboard ceiling panels, and installation of modified outboard ceiling panels. That action was prompted by reports of smoke, fumes, and/or electrical fire emitting from the baggage bin of the aft passenger compartment and from the dust barriers of the outboard ceiling due to the failure of the fluorescent light ballasts. The actions required by that AD are intended to prevent a fire in the passenger compartment, which could result from failure of the fluorescent light ballast of the upper and lower cabin sidewall, and consequent failure of the dust barriers of the outboard ceiling panel.

Actions Since Issuance of Previous Rule

Since the issuance of that AD, the FAA has received two reports of heavy smoke and fumes emitting from the ceiling panels in the forward passenger cabin on McDonnell Douglas Model DC–9–80 series airplanes. Investigation revealed that the most recent incident occurred following accomplishment of the installation of a protective cover on a certain Day-Ray Products Incorporated ballast, as required by AD 96–11–13. This ballast failed and consequently caused electrical arcing that penetrated the protective cover, which resulted in a fire that damaged the upper insulation blanket and outboard ceiling panel at station 1022. At this time, the FAA is unaware if such an installation has been accomplished on the Model DC–9–80 series airplane involved in the other incident.

The FAA has determined that installation of a protective cover on certain Day-Ray Products Incorporated ballasts, as required by AD 96–11–13, does not adequately preclude failure of such fluorescent light ballasts of the upper and lower cabin sidewall, which could result in a fire in the passenger compartment.

Explanation of Relevant Service Information

Additionally, since issuance of AD 96–11–13, the FAA has reviewed and approved McDonnell Douglas Alert Service Bulletin MD80–33A110, dated February 25, 1997, and McDonnell Douglas Alert Service Bulletin MD80–33A110, Revision 1, dated March 11, 1997. These alert service bulletins supersede (but do not cancel) the procedures identified in McDonnell Douglas Alert Service Bulletin MD80–33A107, dated April 25, 1996 (which is referenced in AD 96–11–13 as the appropriate source of service information). The procedures in these new alert service bulletins are essentially identical to the procedures in Alert Service Bulletin MD80–33A107; however, the procedures for installation of a protective cover have not been retained in the new alert service bulletins.

Explanation of Requirements of Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of this same type design, this AD supersedes AD 96–11–13 to continue to require a one-time visual inspection to determine the type of fluorescent light ballasts installed in the cabin sidewall; and replacement, or removal/disconnection of the ballast, if necessary. This AD also continues to require, for some airplanes, removal of dust barriers from the outboard ceiling panels, and installation of modified outboard ceiling panels. This AD would add a requirement to replace the currently installed Day-Ray Products Incorporated ballasts, on which a protective cover is installed, with a Bruce Industries Incorporated ballast. All actions except the removal/disconnection would be required to be accomplished in accordance with alert service bulletins described previously.

Operators should note that, in addition to the recommendations of the alert service bulletins described previously, this AD provides the following two additional options for airplanes on which any Day-Ray Products Incorporated ballast that has a protective cover is installed:

1. Replacement of the Day-Ray Products Incorporated ballast and protective cover with an FAA-approved solid state electronic light ballast system, in accordance with an applicable Supplemental Type Certificate (STC) or other method approved by the FAA. Or

2. Removal or electrical disconnection of the ballast, stowage of the ballast, and protection of the loose wiring.

The FAA finds that accomplishment of these actions will address the identified unsafe condition for the affected airplanes.

Operators should also note that the applicability of the proposal differs from the applicability of AD 96–11–13 in the following two respects:

1. The applicability of this AD references two new alert service bulletins that are not referenced in the applicability statement of AD 96–11–13: McDonnell Douglas Alert Service Bulletin MD80–33A110, dated February 25, 1997, and Revision 1, dated March 11, 1997. The applicability of AD 96–11–13 references: McDonnell Douglas Alert Service Bulletin MD80–33A107, dated April 25, 1996, and McDonnell Douglas Alert Service Bulletin MD80–25A353, dated March 14, 1996. The FAA finds that the effectivity listing of either of the two new alert service bulletins includes the same airplanes as those listed in the effectivity listings of McDonnell Douglas Alert Service Bulletins MD80–33A107 and MD80–25A353 combined.

2. The applicability statement of this AD also includes the phase, ''excluding airplanes equipped with solid state electronic light ballasts.'' (The applicability statement of AD 96–11–13 does not include this phrase.) The FAA finds that operators could misinterpret the applicability statement of AD 96–11–13, as currently worded, to indicate that airplanes equipped with these ballasts are subject to the requirements of this AD when they are not. The FAA finds that, even though the effectivity listings of the referenced alert service bulletins specify such an exception, referencing the alert service bulletins alone could lead to a misinterpretation.

Determination of Rule's Effective Date

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

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the

Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES**. All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 97–NM–61–AD.'' The postcard will be date stamped and returned to the commenter.

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by removing amendment 39–9638 (61 FR 27251, May 31, 1996), and by adding a new airworthiness directive (AD), amendment 39–9995, to read as follows:

97–08–07 McDonnell Douglas: Amendment 39–9995. Docket 97–NM–61–AD. Supersedes AD 96–11–13, Amendment 39–9638.

Applicability: Model DC–9–81 (MD–81), DC–9–82 (MD–82), DC–9–83 (MD–83), and DC–9–87 (MD–87) and Model MD–88 airplanes, excluding airplanes equipped with solid state electronic light ballasts; certificated in any category; and listed in the following McDonnell Douglas Service Bulletins:

- Both McDonnell Douglas Alert Service Bulletin MD80–33A107, dated April 25, 1996, and McDonnell Douglas Alert Service Bulletin MD80–25A353, dated March 14, 1996.

Or

- McDonnell Douglas Alert Service Bulletin MD80–33A110, dated February 25, 1997.

Or

- McDonnell Douglas Alert Service Bulletin MD80–33A110, Revision 1, dated March 11, 1997.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent failure of the fluorescent light ballast of the upper and lower cabin sidewall, and consequent failure of the dust barriers of the outboard ceiling panel, accomplish the following:

(a) For airplanes listed in McDonnell Douglas Alert Service Bulletin MD80–33A107, dated April 25, 1996, and McDonnell Douglas Alert Service Bulletin MD80–25A353, dated March 14, 1996: Within 90 days after June 17, 1996 (the effective date of AD 96–11–13, amendment 39–9638), perform a one-time visual inspection to determine the type of fluorescent light ballasts installed in the upper and lower cabin sidewall, in accordance with McDonnell Douglas Alert Service Bulletin MD80–33A107, dated April 25, 1996.

Note 2: Inspections accomplished prior to the effective date of this AD in accordance with McDonnell Douglas Alert Service Bulletin MD80–33A110, dated February 25, 1997, or Revision 1, dated March 3, 1997; are considered acceptable for compliance with the visual inspection required by paragraph (a) of this AD.

(1) If any Bruce Industries Incorporated ballast is installed (specified as Condition 1 in the alert service bulletin), no further action is required by this paragraph for that ballast.

(2) If any Day-Ray Products Incorporated ballast is installed (specified as Condition 2 in the alert service bulletin), prior to further flight, accomplish either paragraph (a)(2)(i) or (a)(2)(ii) of this AD.

(i) Replace it with a Bruce Industries Incorporated ballast, in accordance with Condition 2, Option 2, of the alert service bulletin. Or

Note 3: Replacements accomplished prior to the effective date of this AD in accordance with McDonnell Douglas Alert Service Bulletin MD80–33A110, dated February 25, 1997, or Revision 1, dated March 3, 1997, are considered acceptable for compliance with the replacement required by paragraph (a)(2)(i) of this AD.

(ii) Remove or disconnect it electrically, stow it, and protect the loose wiring.

(b) For airplanes having manufacturer's fuselage numbers listed in McDonnell Douglas Alert Service Bulletin MD80–25A353, dated March 14, 1996: Within 90 days after June 17, 1996, remove the dust barriers from the outboard ceiling panels, and install modified outboard ceiling panels, in accordance with McDonnell Douglas Alert Service Bulletin MD80–25A353, dated March 14, 1996.

(c) For airplanes on which the installation of a protective cover, as described in McDonnell Douglas Alert Service Bulletin MD80–33A107, dated April 25, 1996, has been accomplished [required by paragraph (a)(2)(i) of AD 96–11–13]: Within 90 days after the effective date of this AD, accomplish paragraph (c)(1), (c)(2), or (c)(3) of this AD.

(1) Replace the Day-Ray Products Incorporated ballast and protective cover with a Bruce Industries Incorporated ballast, in accordance with Condition 2 of the Accomplishment Instructions of Boeing Alert Service Bulletin MD80–33A110, dated February 25, 1997, or Revision 1, dated March 11, 1997. Or

(2) Replace the Day-Ray Products Incorporated ballast and protective cover

with an FAA-approved solid state electronic light ballast system, in accordance with an applicable Supplemental Type Certificate (STC) or other method approved by the Manager, Los Angeles Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate. Or

(3) Remove the Day-Ray Products Incorporated ballast and protective cover or disconnect it electrically, stow it, and protect the loose wiring.

(d) As of the effective date of this AD, no Day-Ray Products Incorporated ballast, having any part number identified in paragraph 1.2 of McDonnell Douglas Alert Service Bulletin MD80–33A107, dated April 25, 1996, McDonnell Douglas Alert Service Bulletin MD80–33A110, dated February 25, 1997, or McDonnell Douglas Alert Service Bulletin MD80–33A110, Revision 1, dated March 11, 1997, shall be installed on any airplane.

(e)(1) 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 ACO. 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.

(2) Alternative methods of compliance, approved previously in accordance with AD 96–11–13, amendment 39–9638, are approved as alternative methods of compliance with this AD.

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

(g) The inspection and replacement shall be done in accordance with McDonnell Douglas Alert Service Bulletin MD80–33A107, dated April 25, 1996; McDonnell Douglas Alert Service Bulletin MD80–33A110, dated February 25, 1997; and McDonnell Douglas Alert Service Bulletin MD80–33A110, Revision 1, dated March 11, 1997. The removal of the dust barriers and installations shall be done in accordance with McDonnell Douglas Alert Service Bulletin MD80–25A353, dated March 14, 1996. The incorporation by reference of McDonnell Douglas Alert Service Bulletin MD80–33A107, dated April 25, 1996, and McDonnell Douglas Alert Service Bulletin MD80–25A353, dated March 14, 1996, was approved previously by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51 as of June 17, 1996 (61 FR 27251, May 31, 1996). The incorporation by reference of the remainder of the service documents listed above is 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.

(h) This amendment becomes effective on May 7, 1997.

Issued in Renton, Washington, on April 9, 1997.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 97–9710 Filed 4–21–97; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–NM–60–AD; Amendment 39–9996; AD 97–08–08]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 777–200 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Boeing Model 777–200 series airplanes. This action requires repetitive visual inspections of the forward mounts of certain engines to detect damaged, missing, or failed parts, and eventual modification of those engines. Accomplishment of this modification terminates the requirement for repetitive inspections. This amendment is prompted by a report indicating that bolts that attach the yoke of the forward mount to the fan case of the engine have failed due to fatigue cracking. The actions specified in this AD are intended to prevent fatigue cracking in these bolts, which could lead to failure of these bolts and consequent separation of the engine from the wing.

DATES: Effective May 7, 1997. The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of May 7, 1997.

Comments for inclusion in the Rules Docket must be received on or before June 23, 1997.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 97–NM–60–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

The service information referenced in this AD may be obtained from General Electric Aircraft Engines, GE90 Product Support, One Neuman Way, Cincinnati, Ohio 45215–6301. This information may be examined 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.

FOR FURTHER INFORMATION CONTACT: Stan Wood, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington; telephone (206) 227–2772; fax (206) 227–1181.

SUPPLEMENTARY INFORMATION: During certification testing of the General Electric (GE) 90 engine, fatigue cracking was detected in the bolts that attach the yoke of the forward mount of the engine to the fan case of the engine. Fatigue cracking in the bolts that attach the yoke of the forward mount of the engine to the fan case of the engine, if not prevented, could lead to failure of these bolts and consequent separation of the engine from the wing.

An analysis revealed that these bolts had a short fatigue life due to the large forces that the yoke exerted on them. As a result, the original yoke design was not certified as meeting the damage tolerance standards of part 25 of the Federal Aviation Regulations (14 CFR part 25). The engine manufacturer subsequently redesigned the yoke and fan case to those standards in order to prevent fatigue cracking in the bolts.

Although the airplane manufacturer did not install GE90 engines with the original yoke design on any Model 777–200 series airplanes, the engine manufacturer shipped some of these engines to operators as replacement engines. The engine manufacturer had apparently concluded, in error, that if the yoke complied with the strength requirements of part 33 of the Federal Aviation Regulations (14 CFR part 33), it could ship engines containing yokes of the original design for use as spare engines for these airplanes. The yoke must, in fact, meet both the strength standards of part 33 and the damage tolerance standards of part 25 in order to be certificated for installation on the Boeing Model 777–200 series airplane. The discrepant yokes are installed in GE90 engines having serial numbers 900–104, –105, –106, –108, –109, –110, and –111.

Explanation of Relevant Service Information

The FAA has reviewed and approved GE Aircraft Engines Service Bulletin 72–183, dated February 28, 1997, which describes procedures for conducting a visual inspection of the yoke of the forward mount of certain GE90 engines to detect damaged, missing, or failed attachment bolts, or failed engine mount links.

The FAA also has reviewed and approved GE Aircraft Engines Service Bulletin 72–275, dated March 4, 1997, which describes procedures for modifying GE90 engines by replacing the yoke of the forward engine mount with a new yoke. The new yoke has been redesigned so that it meets the damage tolerance standards of part 25 of the Federal Aviation Regulations (14 CFR part 25), and will preclude fatigue cracking in the bolts that attach the yoke to the fan case of the engine. Accomplishment of this replacement will eliminate the need for visual inspections of the yoke area.

Explanation of Requirements of the Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design, this AD is being issued to prevent fatigue cracking in the bolts that attach the yoke of the forward mount of the engine to the fan case of the engine, which could lead to failure of these bolts and consequent separation of the engine from the wing. This AD requires repetitive visual inspections of the yoke of the forward mounts of certain GE90 engines to detect damaged, missing, or failed attachment bolts, or failed engine mount links; and eventual modification of those engines. Accomplishment of the modification terminates the requirement for visual inspections of the yoke. The actions are required to be accomplished in accordance with the service bulletins described previously.

Cost Impact

No Model 777–200 series airplane powered by the General Electric 90 engines affected by this action is on the U.S. Register. All airplanes included in the applicability of this rule currently are operated by non-U.S. operators under foreign registry; therefore, they are not directly affected by this AD action. However, the FAA considers that this rule is necessary to ensure that the unsafe condition is addressed in the event that any of these subject airplanes are imported and placed on the U.S. Register in the future.

Should an affected airplane be imported and placed on the U.S. Register in the future, it would require approximately 1 work hour to accomplish the required inspection, at an average labor charge of $60 per work hour. Based on these figures, the cost impact of the required inspection of this AD would be $60 per airplane.

Additionally, it would require approximately 72 work hours to accomplish the required modification, at an average labor charge of $60 per work hour. Required parts would be supplied by the manufacturer at no cost to operators. Based on these figures, the cost impact of the required modification of this AD would be $4,320 per airplane.

Determination of Rule's Effective Date

Since this AD action does not affect any airplane that is currently on the U.S. register, it has no adverse economic impact and imposes no additional burden on any person. Therefore, prior notice and public procedures hereon are unnecessary and the amendment may be made effective in less than 30 days after publication in the **Federal Register.**

Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 97–NM–60–AD.'' The postcard will be date stamped and returned to the commenter.

Regulatory Impact

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

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:

97–08–08 Boeing: Amendment 39–9996. Docket 97–NM–60–AD.

Applicability: Model 777–200 series airplanes powered by General Electric (GE) 90 engines having serial number 900–104, –105, –106, –108, –109, –110, or –111; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been

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

Compliance: Required as indicated, unless accomplished previously.

To prevent fatigue cracking in the bolts that attach the yoke of the forward mount of the engine to the fan case of the engine, which could lead to failure of these bolts and consequent separation of the engine from the wing, accomplish the following:

(a) For airplanes powered by GE90 engines having serial numbers 900–105 and –110:

(1) Within 125 landings after the effective date of this AD, conduct a visual inspection of the yoke of the forward mount of the engine to detect damaged, missing, or failed attachment bolts, or failed engine mount links, in accordance with GE Aircraft Engines Service Bulletin 72–183, dated February 28, 1997.

(i) If no discrepancy is found, repeat this inspection thereafter at intervals not to exceed 125 landings.

(ii) If any discrepancy is found, prior to further flight, modify the engine in accordance with GE Aircraft Engines Service Bulletin 72–275, dated March 4, 1997. No further action is required by this AD for that engine.

(2) Within 1,000 landings after the effective date of this AD, modify the engine in accordance with GE Aircraft Engines Service Bulletin 72–275, dated March 4, 1997. Accomplishment of this modification constitutes terminating action for the repetitive inspections of that engine required by paragraph (a)(1)(i) of this AD.

(b) As of the effective date of this AD, no operator shall install on any airplane any GE90 engine having serial number 900–104, 900–106, 900–108, 900–109, or 900–111 unless that engine has been modified in accordance with GE Aircraft Engines Service Bulletin 72–275, dated March 4, 1997.

(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, 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.

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

(e) The inspections and modification shall be done in accordance with GE Aircraft Engines Service Bulletin 72–183, dated February 28, 1997, and GE Aircraft Engines Service Bulletin 72–275, dated March 4, 1997. 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 General Electric Aircraft Engines, GE90 Product Support, One Neuman Way, Cincinnati, Ohio 45215–6301. 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 May 7, 1997.

Issued in Renton, Washington, on April 10, 1997.

Darrell M. Pederson,

Acting Manager,

Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 97–9881 Filed 4–21–97; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 95–NM–227–AD; Amendment 39–9888; AD 97–02–04]

RIN 2120–AA64

Airworthiness Directives; Airbus Model A300, A300–600, A310, and A320 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; correction.

SUMMARY: This document corrects a typographical error that appeared in airworthiness directive (AD) 97–02–04 that was published in the **Federal Register** on January 22, 1997 (62 FR 3204). The typographical error resulted in specification of an ''inch'' figure that does not equal the ''millimeter'' figure for a certain brake wear limit. This AD is applicable to certain Airbus Model A300, A300–600, A310, and A320 series airplanes. This AD requires an inspection of the landing gear brakes for wear, and replacement if the specified wear limits are not met. That AD also requires incorporation of the specified wear limits into the FAA-approved maintenance inspection program.

DATES: Effective February 26, 1997.

FOR FURTHER INFORMATION CONTACT: Joe Jacobsen, Aerospace Engineer, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (206) 227–2011; fax (206) 227–1149.

SUPPLEMENTARY INFORMATION: Airworthiness Directive (AD) 97–02–04, amendment 39–9888, applicable to Airbus Model A300, A300–600, A310, and A320 series airplanes, was published in the **Federal Register** on January 22, 1997 (62 FR 3204). That AD requires an inspection of the landing gear brakes for wear, and replacement if the specified wear limits are not met. That AD also requires incorporation of the specified wear limits into the FAA-approved maintenance inspection program.

As published, that AD contained a typographical error in Table 3 of paragraph (b)(4), which requires replacement of any brake that has measured wear beyond the maximum wear limits specified in Table 3 with a brake that is within the wear limits. For Model A300–600 series airplanes having Messier-Bugatti brake part number (P/N) C20175100, Table 3 lists a maximum brake wear limit of 1.1 inch (50.0 mm).'' However, 1.1 inch equals 28.0 mm.

Since no other part of the regulatory information has been changed, the final rule is not being republished.

The effective date of the AD remains February 26, 1997.

§ 39.13 [Corrected]

On page 3208, the maximum brake wear limit for Model A300–600 series airplanes having Messier-Bugatti brake P/N C20175100 listed in Table 3 of paragraph (b)(4) of AD 97–02–04 is corrected to read as follows:

* * * * *

(b)(4)

Airplane model/series	Brake manufacturer	Brake part No.	Maximum brake wear limit (inch/mm)
A300–600	Messier-Bugatti	C20175100	1.1″ (28.0 mm).

* * * * *

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

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 97–10318 Filed 4–21–97; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 96–NM–146–AD; Amendment 39–9953; AD 97–05–09]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 737 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; correction.

SUMMARY: This document corrects a typographical error that appeared in airworthiness directive (AD) 97–05–09 that was published in the **Federal Register** on March 5, 1997 (62 FR 9925). The typographical error resulted in the omission of a serial number of a power control unit (PCU) from NOTE 2 of the AD. This AD is applicable to certain Boeing Model 737 series airplanes and requires replacement of the flow restrictors of the aileron and elevator PCU's with new flow restrictors.

DATES: Effective April 9, 1997.

The incorporation by reference of certain publications listed in the regulations was previously approved by the Director of the Federal Register as of April 9, 1997 (62 FR 9925, March 5, 1997).

FOR FURTHER INFORMATION CONTACT: Don Kurle, Senior Engineer, Systems and Equipment Branch, ANM–130S, FAA, Transport Airplane Directorate, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (206) 227–2798; fax (206) 227–1181.

SUPPLEMENTARY INFORMATION: Airworthiness Directive (AD) 97–05–09, amendment 39–9953, applicable to certain Boeing Model 737 series airplanes, was published in the **Federal Register** on March 5, 1997 (62 FR 9925). That AD requires replacement of the flow restrictors of the aileron and elevator power control units (PCU) with new flow restrictors.

As published, that AD contained a typographical error in NOTE 2, which identifies PCU serial numbers that correspond to part number 65–44761–21. The FAA inadvertently omitted serial number ''8549A'' from NOTE 2 of the final rule. [This serial number was included in NOTE 2 of the notice of proposed rulemaking (NPRM).]

Since no other part of the regulatory information has been changed, the final rule is not being republished.

The effective date of the AD remains April 9, 1997.

§ 39.13 [Corrected]

On page 9928, in the first column, NOTE 2 of AD 97–05–09 is corrected to read as follows:

* * * * *

Note 2: PCU's having P/N 65–45180–29 consist of a PCU assembly having P/N 65–44761–21 plus associated hydraulic fittings. Both PCU P/N's 65–45180–29 and 65–44761–21 are serialized. PCU's subject to the requirements of this AD may be more easily identified using serial numbers for P/N 65–44761–21. The following serial numbers correspond to P/N 65–44761–21:

8549A,
8550A,
8552A,
8556A,
8557A,
8561A,
8563A through 8718A inclusive,
8720A through 8726A inclusive,
8728A through 8745A inclusive,
8749A,
8750A through 8758A inclusive,
8760A through 8873A inclusive,
8876A through 9004A inclusive,
9007A through 9012A inclusive,
9014A through 9040A inclusive,
9042A through 9066A inclusive,
9068A through 9340A inclusive,
9342A through 9388A inclusive,
9390A through 9529A inclusive,
9531A through 9676A inclusive, and
9678A through 9688A inclusive.

* * * * *

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

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 97–10317 Filed 4–21–97; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 95–ANE–44; Amendment 39–9989; AD 97–08–01]

RIN 2120–AA64

Airworthiness Directives; CFM International CFM56–3, –3B, and –3C Series Turbofan Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to CFM International CFM56–3, –3B, –3C series turbofan engines, that requires a reduction of the low cycle fatigue (LCF) retirement lives for certain fan disks. This amendment is prompted by the results of a refined life analysis performed by the manufacturer which revealed minimum calculated LCF lives significantly lower than published LCF retirement lives. The actions specified by this AD are intended to prevent a LCF failure of the fan disk, which could result in an uncontained engine failure and damage to the aircraft.

DATES: Effective June 23, 1997.

FOR FURTHER INFORMATION CONTACT: Glorianne Messemer, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803–5299; telephone (617) 238–7132; fax (617) 238–7199.

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 CFM International (CFMI) CFM56–3C series turbofan engines was published in the **Federal Register** on October 10, 1995 (60 FR 52636). That action proposed to require a reduction of the low cycle fatigue (LCF) retirement lives for certain fan disks.

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

Two commenters state that the proposed rule should be revised to address the LCF retirement lives for engines that may have operated at several thrust ratings, including the CFM56–3 and –3B engine models, since the retirement lives are dependent on the thrust rating. The FAA concurs. The FAA has revised the Applicability paragraph and paragraphs (a), (b), and (c) of this final rule accordingly.

Two commenters support the rule as proposed.

In addition, the FAA has added the specific fan disk part numbers to the Applicability paragraph of this AD in order to more accurately define the population of engines to which this AD applies.

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

described previously. The FAA has determined that these changes will neither increase the economic burden on any operator nor increase the scope of the AD.

The FAA estimates that 33 engines installed on aircraft of U.S. registry will be affected by this AD, and that it will not take any additional work hours per engine to accomplish the required actions. Assuming that the parts cost is proportional to the reduction of the LCF retirement lives, the required parts will cost approximately $17,275 per engine. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $570,075.

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [AMENDED]

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

97–08–01 CFM International: Amendment 39–9989. Docket 95–ANE–44.

Applicability: CFM International (CFMI) CFM56–3, –3B, and –3C series turbofan engines with fan disks, Part Number (P/N) 335–014–509–0 or 335–014–511–0, installed, that are currently operating at, or have previously operated at, the Category C thrust rating. These engines are installed on but not limited to Boeing 737 series aircraft.

Note 1: This airworthiness directive (AD) applies to each engine identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For engines that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (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 a low cycle fatigue (LCF) failure of the fan disk, which could result in an uncontained engine failure and damage to the aircraft, accomplish the following:

(a) For CFM56–3C series engines operating at the Category C thrust rating on the effective date of this AD, remove the fan disk prior to accumulating a total Category C thrust rating life of 20,100 cycles.

(b) For CFM56–3B and –3C series engines operating at the Category B thrust rating on the effective date of this AD, but which have previously operated at the Category C thrust rating, recalculate the fan disk total cycles remaining at the Category B thrust rating using a Category C thrust rating life of 20,100 cycles.

Note 2: The current fan disk Category B thrust rating life is 24,900 cycles, and is not affected by this AD.

(c) For CFM56–3, –3B, and –3C series engines operating at the Category A thrust rating on the effective date of this AD, but which have previously operated at the Category C thrust rating, recalculate the fan disk total cycles remaining at the Category A thrust rating using a Category C thrust rating life of 20,100 cycles.

Note 3: The current fan disk Category A thrust rating life is 30,000 cycles, and is not affected by this AD.

(d) This action establishes the new Category C thrust rating LCF retirement life of 20,100 cycles listed in paragraphs (a), (b), and (c) of this AD. This retirement life is published in Chapter 05 of the CFM56–3 model series Engine Shop Manual, CFMI–TP.SM.5.

(e) The Category A, B, and C thrust ratings listed in paragraphs (a), (b), and (c) of this AD are defined in Chapter 05 of the CFM56–3 model series Engine Shop Manual, CFMI–TP.SM.5.

(f) The method to recalculate the retirement life, as stated in paragraphs (b) and (c) of this AD is defined in Chapter 05 of the CFM56–3 model series Engine Shop Manual, CFMI–TP.SM.5.

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

Note 4: Information concerning the existence of approved alternative methods of compliance with this airworthiness directive, if any, may be obtained from the Engine Certification Office.

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

(i) This amendment becomes effective on June 23, 1997.

Issued in Burlington, Massachusetts, on April 8, 1997.

Jay J. Pardee,

Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 97–10357 Filed 4–21–97; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 97–AEA–003]

Establishment of Class E Airspace; Mount Pleasant, PA

AGENCY: Federal Aviation Administration, (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action establishes Class E airspace at Mount Pleasant, PA, to accommodate a Standard Instrument Approach Procedure (SIAP), Helicopter Point In Space Approach based on the Global Positioning System (GPS), serving Frick Community Hospital Heliport. The intended effect of this action is to provide adequate controlled airspace for instrument flight rules (IFR) operations to the heliport.

EFFECTIVE DATE: 0901 UTC, May 22, 1997.

FOR FURTHER INFORMATION CONTACT: Mr. Frances Jordan, Airspace Specialist, Operations Branch, AEA–530, Air Traffic Division, Eastern Region, Federal Aviation Administration, Federal

Building #111, John F. Kennedy International Airport, Jamaica, New York 11430, telephone: (718) 553–4521.

SUPPLEMENTARY INFORMATION:

History

On February 13, 1997, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) by establishing Class E airspace at Mount Pleasant, PA (62 FR 6748). This action would provide adequate Class E airspace for IFR operations to Frick Community Hospital Heliport.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received.

Class E airspace areas designations are published in paragraph 6005 of FAA Order 7400.9D, dated September 4, 1996, and effective September 16, 1996, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations (14 CFR Part 71) establishes Class E airspace area at Mount Pleasant, PA, to accommodate a GPS SIAP Point In Space Approach and for IFR operations to Frick Community Hospital Heliport.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this regulation—(1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 10034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation it is certified that this rule will not have significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

PART 71—[AMENDED]

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

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

§ 71.1 [Amended]

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

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

* * * * *

AEA PA E5 Mount Pleasant, PA [New]

Frick Community Hospital Heliport, PA
Point In Space Coordinates
(Lat. 40°09′17″ N., long. 79°33′39″ W.)

That airspace extending upward from 700 feet above the surface within a 6-mile radius of the Point In Space serving Frick Community Hospital Heliport, excluding that portion that coincides with the Latrobe, PA Class E airspace area and the Connellsville, PA Class E airspace area.

* * * * *

Issued in Jamaica, New York, on April 10, 1997.

John S. Walker,

Manager, Air Traffic Division, Eastern Region.

[FR Doc. 97–10365 Filed 4–21–97; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 97–AEA–17]

Amendment to Class E Airspace; Bedford, PA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment modifies the Class E airspace at Bedford, PA, to accommodate a Global Positioning System (GPS) Standard Instrument Approach Procedure (SIAP) to Runway (RWY) 14 and 32 at Bedford County Airport. The intended effect of this action is to provide adequate controlled airspace for instrument flight rules (IFR) operations at the airport.

EFFECTIVE DATE: 0901 UTC, July 17, 1997.

FOR FURTHER INFORMATION CONTACT: Mr. Frances Jordan, Airspace Specialist, Operations Branch, AEA–530, Air Traffic Division, Eastern Region, Federal Aviation Administration, Federal Building #111, John F. Kennedy International Airport, Jamaica, New York 11430, telephone: (718) 553–4521.

SUPPLEMENTARY INFORMATION:

History

On February 13, 1997, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) by modifying Class E airspace at Clearfield, PA (62 FR 9397). This action would provide adequate Class E airspace for IFR operations at Bedford County Airport.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comment objecting to the proposal were received.

Class E airspace areas designations are published in paragraph 6005 of FAA Order 7400.9D, dated September 4, 1996, and effective September 16, 1996, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations (14 CFR Part 71) modifies Class E airspace area at Bedford, PA, to accommodate a GPS RWY 14 SIAP and a GPS RWY 32 SIAP and for IFR operations at Bedford County Airport.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this regulation—(1) is not ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 10034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation it is certified that this rule will not have significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

PART 71—[AMENDED]

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

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

§ 71.1 [Amended]

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

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

* * * * *

AEA PA AEA E5 Bedford, PA [Revised]

Bedford County Airport, PA
(Lat. 40°05′07″ N., long. 78°30′44″ W.)
St. Thomas VORTAC, PA
(Lat. 39°56′00″ N., long. 77°57′03″ W.)

That airspace extending upward from 700 feet above the surface within a 10-mile radius of Bedford County Airport and within 4 miles each side of the ST. Thomas VORTAC 286° radial extending from 12.2 miles west of the VORTAC to the 10-mile radius of the airport, excluding the portion that coincides with the Altoona, PA Class E airspace area and the Somerset, PA Class E airspace area.

* * * * *

Issued in Jamaica, New York, on April 10, 1997.

John S. Walker,

Manager, Air Traffic Division, Eastern Region.

[FR Doc. 97–10364 Filed 4–21–97; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 97–AEA–14]

Establishment of Class E Airspace; Kutztown, PA

AGENCY: Federal Aviation Administration (FAA) DOT.

ACTION: Final rule.

SUMMARY: This action establishes Class E airspace at Kutztown, PA, to accommodate a VHF Omni-Directional Radio Range (VOR) and Global Positioning System (GPS) Standard Instrument Approach Procedure (SIAP) at Kutztown Airport. The intended effect of this action is to provide adequate controlled airspace for instrument flight rules (IFR) operations at the airport.

EFFECTIVE DATE: 0901 UTC, July 17, 1997.

FOR FURTHER INFORMATION CONTACT: Mr. Frances Jordan, Airspace Specialist, Operations Branch, AEA–530, Air Traffic Division, Eastern Region, Federal Aviation Administration, Federal Building #111, John F. Kennedy International Airport, Jamaica, New York 11430, telephone: (718) 553–4521.

SUPPLEMENTARY INFORMATION:

History

On January 3, 1997, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) by establishing Class E airspace at Kutztown, PA (62 FR 8410). This action would provide adequate Class E airspace for IFR operations at Kutztown Airport.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received.

Class E airspace areas designations are published in paragraph 6005 of FAA Order 7400.9D, dated September 4, 1996, and effective September 16, 1996, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations (14 CFR Part 71) establishes Class E airspace area at Kutztown, PA, to accommodate a VOR or GPS A SIAP and for IFR operations at Kutztown Airport.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this regulation—(1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 10034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is to minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

PART 71—[AMENDED]

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

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

§ 71.1 [Amended]

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

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

* * * * *

AEA PA E5 Kutztown, PA [New]

Kutztown Airport, PA
(Lat. 40°30′13″ N., long. 75°47′14″ W.)

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the Kutztown Airport, excluding that portion that coincides with the Allentown, PA, and Reading, PA Class E airspace areas.

* * * * *

Issued in Jamaica, New York, on April 10, 1997.

John S. Walker,

Manager, Air Traffic Division, Eastern Region.

[FR Doc. 97–10363 Filed 4–21–97; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 97–AEA–13]

Amendment to Class E Airspace; Clearfield, PA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment modifies the Class E airspace at Clearfield, PA, to accommodate a Global Positioning System (GPS) Standard Instrument Approach Procedure (SIAP) to Runway (RWY) 30 at Clearfield-Lawrence Airport. The intended effect of this action is to provide adequate controlled

airspace for instrument flight rules (IFR) operations at the airport.

EFFECTIVE DATE: 0901 UTC, July 17, 1997.

FOR FURTHER INFORMATION CONTACT: Mr. Frances Jordan, Airspace Specialist, Operations Branch, AEA–530, Air Traffic Division, Eastern Region, Federal Aviation Administration, Federal Building #111, John F. Kennedy International Airport, Jamaica, New York 11430, telephone: (718) 553–4521.

SUPPLEMENTARY INFORMATION:

History

On February 13, 1997, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) by modifying Class E airspace at Clearfield, PA (62 FR 6895). This action would provide adequate Class E airspace for IFR operations at Clearfield-Lawrence Airport.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received.

Class E airspace areas designations are published in paragraph 6005 of FAA Order 7400.9D, dated September 4, 1996, and effective September 6, 1996, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations (14 CFR Part 71) modifies Class E airspace area at Clearfield, PA, to accommodate a GPS RWY 30 SIAP and for IFR operations at Clearfield-Lawrence Airport.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this regulation—(1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 10034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation it is certified that this rule will not have significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

PART 71—[AMENDED]

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

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

§ 71.1 [Amended]

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

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

* * * * *

AEA PA AEA E5 Clearfield, PA [Revised]

Clearfield-Lawrence Airport, PA
(Lat. 41°02′55″ N., long. 78°24′47″ W.)

That airspace extending upward from 700 feet above the surface within a 10-mile radius of Clearfield-Lawrence Airport, excluding the portion that coincides with the Philipsburg, PA Class E airspace area.

* * * * *

Issued in Jamaica, New York, on April 10, 1997.

John S. Walker,

Manager, Air Traffic Division, Eastern Region.

[FR Doc. 97–10362 Filed 4–21–97; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 97–AEA–12]

Amendment to Class E Airspace; Meadville, PA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment modifies the Class E airspace at Meadville, PA, to accommodate a Global Positioning System (GPS) Standard Instrument Approach Procedure (SIAP) to Runway (RWY) 25 at Port Meadville Airport. The intended effect of this action is to provide adequate controlled airspace for instrument flight rules (IFR) operations at the airport.

EFFECTIVE DATE: 0901 UTC, July 17, 1997.

FOR FURTHER INFORMATION CONTACT: Mr. Frances Jordan, Airspace Specialist, Operations Branch, AEA–530, Air Traffic Division, Eastern Region, Federal Aviation Administration, Federal Building #111, John F. Kennedy International Airport, Jamaica, New York 11430, telephone: (718) 553–4521.

SUPPLEMENTARY INFORMATION:

History

On February 13, 1997, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) by modifying Class E airspace at Meadville, NY, (62 FR 6747). This action would provide adequate Class E airspace for IFR operations at Port Meadville Airport.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received.

Class E airspace areas designations are published in paragraph 6005 of FAA Order 7400.9D, dated September 4, 1996, and effective September 16, 1996, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations (14 CFR Part 71) modifies Class E airspace area at Meadville, PA, to accommodate a GPS RWY 25 SIAP and for IFR operations at Port Meadville Airport.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this regulation—(1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 10034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is to minimal. Since this is a routine matter than will only affect air traffic procedures and air navigation it is certified that this rule will not have significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

PART 71—[AMENDED]

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

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

§ 71.1 [Amended]

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

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

* * * * *

AEA PA AEA E5 Meadville, PA [Revised]

Port Meadville Airport, PA
(Lat. 41°37′35″ N., long. 80°12′53″ W.)

That airspace extending upward from 700 feet above the surface within a 10.5-mile radius of Port Meadville Airport, excluding the portion that coincides with the Greenville, PA Class E airspace area.

* * * * *

Issued in Jamaica, New York, on April 10, 1997.

John S. Walker,

Manager, Air Traffic Division, Eastern Region.

[FR Doc. 97–10361 Filed 4–21–97; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 12

[T.D. 97–31]

RIN 1515–AC14

Archaeological and Ethnological Material From Canada

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Final rule.

SUMMARY: This document amends the Customs Regulations to reflect the imposition of import restrictions on certain archaeological and ethnological material of Canada's native peoples and certain underwater archaeological material. These restrictions are being imposed pursuant to an agreement between the United States and Canada which has been entered into under the authority of the Convention on Cultural Property Implementation Act in accordance with the United Nations Educational, Scientific and Cultural Organization (UNESCO) Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property. The document also contains the Designated List of Archaeological and Ethnological Material which describes the articles to which the restrictions apply.

EFFECTIVE DATE: April 22, 1997.

FOR FURTHER INFORMATION CONTACT:

Legal Aspects: Donnette Rimmer, Intellectual Property Rights Branch (202) 482–6960.

Operational Aspects: Louis Alfano, Commercial Enforcement, Office of Field Operations (202) 927–0005.

SUPPLEMENTARY INFORMATION:

Background

The value of cultural property, whether archaeological or ethnological in nature, is immeasurable. Such items often constitute the very essence of a society and convey important information concerning a people's origin, history, and traditional setting. The importance and popularity of such items regrettably makes them targets of theft, encourages clandestine looting of archaeological sites, and results in their illegal export and import.

The U.S. shares in the international concern for the need to protect endangered cultural property. The appearance in the U.S. of stolen or illegally exported artifacts from other countries where there has been pillage has, on occasion, strained our foreign and cultural relations. This situation, combined with the concerns of museum, archaeological, and scholarly communities, was recognized by the President and Congress. It became apparent that it was in the national interest for the U.S. to join with other countries to control illegal trafficking of such articles in international commerce.

The U.S. joined international efforts and actively participated in deliberations resulting in the 1970 UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property (823 U.N.T.S. 231 (1972)). U.S. acceptance of the 1970 UNESCO Convention was codified into U.S. law as the ''Convention on Cultural Property Implementation Act'' (Pub.L. 97–446, 19 U.S.C. 2601 *et seq.*)(''the Act''). This was done to promote U.S. leadership in achieving greater international cooperation towards preserving cultural treasures that are of importance not only to the nations from which they originate, but also to greater international understanding of mankind's common heritage. The U.S. is, to date, the only major art importing country to implement the 1970 Convention.

During the past several years, import restrictions have been imposed on an emergency basis on archaeological and cultural artifacts of a number of signatory nations as a result of requests for protection received from those nations.

Import restrictions are now being imposed as the result of a bilateral agreement entered into between the United States and Canada. This agreement was signed on April 10, 1997, under the authority of the provisions of 19 U.S.C. 2602. Accordingly, § 12.104g(a) of the Customs Regulations is being amended to indicate that restrictions have been imposed pursuant to the agreement between the United States and Canada.

This document contains the Designated List of Archaeological and Ethnological Material representing the cultures of the native peoples of Canada which are covered by the agreement. Importation of articles on this list is restricted unless the articles are accompanied by an appropriate export certification issued by the Government of Canada.

In reaching the decision to recommend the application of import restrictions, the Deputy Director, USIA, determined, pursuant to the requirements of the Act, that with respect to:

(1) *Inuit (Eskimo) archaeological and ethnological material,* that the cultural patrimony of Canada is in jeopardy from the pillage of archaeological and ethnological material from the Inuit which includes the following periods/cultures: Paleo-Eskimos (2000–500 B.C.), Dorset (500 B.C.–1000 A.D.), Thule (1000–1800 A.D.), and the historic period beginning approximately 1800 A.D.; and originates in the geographic region extending from the Alaskan border in the west to Baffin Island in the east and as far southeast as the coast of Labrador, and south to the treeline, and falling within the present day area defined by the Yukon and Northwest Territories and the provinces of Quebec and Newfoundland-Labrador; and with respect to

(2) *Subarctic Indian ethnological material,* that the cultural patrimony of Canada is in jeopardy from the pillage

of ethnological material of the Subarctic Indian which covers the period from approximately the 17th century and which material dates from the 17th century A.D.; and which material originates in the geographic region extending from the Alaskan border in the west to Labrador in the east, from the tundra extending south encompassing large areas of the Yukon and Northwest Territories and including parts of all provinces except New Brunswick, Nova Scotia and Prince Edward Island on the east coast; and, with respect to

(3) *Northwest Coast Indian archaeological and ethnological material,* that the cultural patrimony of Canada is in jeopardy from the pillage of archaeological and ethnological material of the Northwest Coast Indian beginning from approximately 10,000 B.C. for archaeological material and since approximately 1800 A.D. for ethnological material; and originates in the geographic region extending in Canada along the coast of British Columbia (including offshore islands) from the Alaskan border in the north to the southern tip of Vancouver Island; and, with respect to

(4) *Plateau Indian archaeological material,* that the cultural patrimony of Canada is in jeopardy from the pillage of archaeological material of the Plateau Indian dating from approximately 6,000 B.C.; and originates in the southern part of the interior region, between the coastal mountain range and the Rocky Mountains, in the province of British Columbia; and, with respect to

(5) *Plains Indian ethnological material,* that the cultural patrimony of Canada is in jeopardy from the pillage of ethnological material (dating from approximately 1700 A.D.) of the Plains Indian; and originates in Canada in the region extending eastward from the Rocky Mountains, southward from the North Saskatchewan River to the Canada/U.S. border, and encompassing portions of the provinces of Alberta, Saskatchewan and Manitoba; and, with respect to

(6) *Woodlands Indian archaeological and ethnological material,* that the cultural patrimony of Canada is in jeopardy from the pillage of archaeological (dating from approximately 9,000 B.C. to approximately 1550 A.D.) and ethnological material (dating from approximately the mid-16th century) of the Woodlands Indian; originating in an area south of the boreal forest in eastern Canada from the Great Lakes to the east coast; and, with respect to

(7) *Underwater archaeological material,* that the cultural patrimony of Canada is in jeopardy from the pillage of underwater archaeological material found (at historic shipwrecks and other underwater historic sites) in the inland waters of Canada as well as the Canadian territorial waters of the Atlantic, Pacific and Arctic Oceans, and the Great Lakes.

Designated List of Archaeological Artifacts and Ethnographic Material Culture of Canadian Origin and Certain Underwater Archaeological Material Restricted From Importation Into the United States

Pursuant to an agreement between the United States and Canada, the following list contains descriptions of the cultural materials for which the United States imposes import restrictions under the Convention on Cultural Property Implementation Act (P.L. 97–446), the legislation enabling implementation of the 1970 UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property.

Definitions

For purposes of this list and in accordance with the United States Cultural Property Implementation Act and Canada's Cultural Property Export and Import Act, the following definitions are applicable:

Archaeological artifact means an object made or worked by a person or persons and associated with historic or prehistoric cultures that is of cultural significance and at least 250 years old and normally discovered as a result of scientific excavation, clandestine or accidental digging, or exploration on land or under water.

Ethnographic material culture means an object that was made, reworked or adapted for use by a person who is an Aboriginal person of Canada (e.g., the product of a tribal or non-industrial society), is of ethnological interest and is important to the cultural heritage of a people because of its distinctive characteristics, comparative rarity, or its contribution to the knowledge of the origins, development or history of that people. The terms ethnographic material culture and ethnological material are used interchangeably.

Aboriginal person of Canada means a person of Indian or Inuit ancestry, including a Métis person, or a person recognized as being a member of an Indian, Inuit or Métis group by the other members of that group, who at any time ordinarily resided in the territory that is now Canada.

General Restrictions

Pursuant to Canada's Cultural Property Export and Import Act, certain archaeological artifacts and ethnographic material are subject to export control. Export permits are available at designated offices of Canada Customs. Information about export controls is available from Movable Cultural Property, Department of Canadian Heritage by telephone at 819–997–7761.

In the absence of export permits where required, United States import restrictions will apply to the following Aboriginal cultural groups in Canada: Inuit (Eskimo) archaeological and ethnological material; Subarctic Indian ethnological material; Northwest Coast Indian archaeological and ethnological material; Plateau Indian archaeological material; Plains Indian ethnological material; Woodlands Indian archaeological and ethnological material. Such import restrictions will also apply to underwater archaeological material found at historic shipwrecks and other underwater historic sites in the inland waters of Canada as well as the Canadian territorial waters of the Atlantic, Pacific and Arctic Oceans, and the Great Lakes.

Below are representative lists, subject to amendment, of objects covered by these import restrictions.

Ethnographic Material Culture

Below is a representative list, subject to amendment, of objects of ethnographic material culture, organized by the primary type of material used to make the object.

In accordance with Canadian law, restrictions only apply to ethnological material listed below which was made, reworked or adapted for use by an Aboriginal person of Canada who is no longer living, which is greater than 50 years old, and which has a fair market value in Canada of more than $3,000 (Canadian).

Ethnographic material from the following Aboriginal cultural groups is included in this list and is subject to United States import restrictions: Inuit (Eskimo); Subarctic Indian; Northwest Coast Indian; Plains Indian; and Woodlands Indian.

Ethnographic material from the following cultural group is excluded from this list and is not subject to United States import restrictions: Plateau Indian.

This section is organized by the primary type of material used to make the object.

I. Animal and Bird Skins (Hide), Fur and Feathers

A. Hunting and fishing equipment:
Quivers (arrow cases);
Rifle scabbards/holsters and bandoliers (ammunition belts); and
Kayaks, canoes and other boats made of skin or hide.

B. Horse trappings:

Saddle bags and throws, blankets, etc.
C. Clothing (often decorated with beads, buttons, hair, fur, shells, animal teeth, coloured porcupine quills):
Belts, dresses, jackets, leggings, moccasins, robes, shirts, vests, parkas;
Yokes, beaded;
Headdresses, decorated with feathers, hair, fur, and/or horn; and
Ornaments, jewelry and other accessories (including necklaces often with hide-covered stone).
D. Other sewn objects:
Cradle boards and covers;
Bags, pouches;
Rugs; and
Tipi covers (with or without paint or other decoration).
E. Skins with applied writing, drawing, or painted decoration, design or figures.
F. Musical instruments:
Drums.
G. Prepared Skins of Birds and mammals used in sacred bundles or as wrappings.
H. Parfleches (all-purpose hide containers, folded and/or sewn, with or without painted or other applied decoration).

II. Wood, Bark, Roots, Seeds

A. Weapons and hunting equipment:
Tomahawks;
Snowshoes;
Clubs;
Sheathes for knives;
Paddles; and
Canoes and other boats (carved wood, birchbark).
B. Containers:
Baskets, pouches, bags, mats; and
Boxes and chests (bark, root, wood), often elaborately carved or painted.
C. Domestic utensils and tools:
Bowls;
Spoons, ladles;
Trays;
Spindle whorls (small, usually circular flywheels to regulate textile or other spinning);
Adzes (axe-like tool for trimming and smoothing wood) and other woodworking tools;
Bark beaters; and
Mat creasers.
D. Furniture:
Chairs, backrests, settees (seat or small bench with back); and
Mats.
E. Carved models:
Animal and human figurines; and
Miniature canoes and totem poles.
F. Toys, dolls and games.
G. Musical instruments:
Drums;
Whistles, flutes, recorders; and
Rattles, sometimes elaborately carved in animal or human form and painted or otherwise decorated.
H. Ornaments and accessories:
Pendants, chains and other jewelry;
Combs; and
Birchbark belts.
I. Hats (spruce root, wood, bark, woven grass).
J. Ceremonial objects:
Pipes and pipestems;
Masks and headdresses (wood or cornhusk, often complexly carved and painted, usually resembling animals, or human faces, sometimes contorted);
Rattles (see description above in G.);
Bowls;
Staffs, standards (ceremonial poles, in some cases used to support banners or flags); and
Birchbark scrolls with carved pictographic designs or figures.
K. Totem poles, house posts and wall panels (usually carved and/or painted).

III. Bone, Tooth, Shell, Horn, Ivory, Antler (Items Made From, or Decorated With)

A. Carved hunting and fishing equipment (such as carved bow handles).
B. Weapons and tools:
Clubs;
Needles and sewing kits; and
Shuttles (small instrument containing a reel or spool or otherwise holding thread or other similar material during weaving or lace-making).
C. Carved figurines:
Representations of people, fish, animals.
D. Ornaments and other accessories:
Combs;
Beads and pendants; and
Snow goggles and visors.
E. Ceremonial objects:
Masks (see description in II J.); and
Amulets and charms.
F. Miniatures and game pieces:
Especially cribbage boards.
G. Pipes.
H. Musical instruments:
Whistles.

IV. Stone, Argillite Stone, Amber

A. Hunting and fishing equipment:
Bola and bola weight (weapon consisting of long cord or thong with stone balls at the end);
Blubber pounder;
Harpoon head;
Net weights; and
Toggles (rod, pin or bolt used with rope to tighten it, to make an attachment or prevent slipping).
B. Tools:
Snow knives; and
Ulus (crescent-shaped knife with small handle on side).
C. Domestic utensils:
Plates, platters, bowls;
Lamps (bowl or trough-shaped) and wick trimmers;
Boxes; and
Hearthstone.
D. Ornaments and other accessories: specially incised pendants.
E. Ceremonial objects:
Masks; and
Seated human and animal figure bowls.
F. Pipes:
Argillite, catlinite and steatite, often ornately carved with animals and human designs.
G. Carved figurines:
Especially carved argillite figural groups and miniature totem poles.

V. Porcupine Quills (items made from, or ornamented with)

A. Drinking tubes; and
B. Ornamentation for clothing and other sewn objects, usually colored.

VI. Textiles (Cotton, Wool, Linen, Canvas)

A. Decorated cloth panels and ceremonial dance curtains;
B. Garments and accessories:
Belts, dresses, hats/hoods, jackets, leggings, moccasins, robes, shirts, vests, aprons, tunics;
Blankets or capes, often decorated with buttons, quillwork, beads, shells; and
Pouches and bags.
C. Wrappings for ceremonial objects;
D. Canvas tipis and tipi models; and
E. Woven blankets (incl. Chilkat blankets of woven mountain goat wool and cedar bark, with elaborate coloured designs).

VII. Metals (Copper, Iron, Steel, Gold, Silver, Bronze)

A. Weapons and shields:
Daggers.
B. Hunting and fishing equipment:
Fishing lures.
C. Tools:
Snow knives; and
Ulus (see description under IV B.).
D. Clothing and hair ornaments;
E. Ceremonial objects:
Masks;

Rattles, charms; and
Coppers (large flat copper plates with beaten or incised decoration).

VIII. Clay

A. Figurines (people, fish, animals);
B. Pipes; and
C. Pottery vessels and containers such as bowls or jars.

IX. Beads (Glass, Clay, Shell, Bone, Brass) (Items Decorated With)

A. Horse gear (bridles, saddle bags, decorative accessories);
B. Bags, pouches, parfleches (see description in I H.), and knife sheaths (decorative);
C. Clothing: belts, dresses, leggings, moccasins, shirts, vests, jackets, hoods, mantles/robes;
D. Musical instruments:
Drums; and
E. Ceremonial/sacred amulets and objects

X. Hair (Items Decorated With, or Made From Human or Animal Hair)

Ornamentation used on clothing and other sewn objects, such as pouches, ceremonial objects.

Archaeological Artifacts

Below is a representational list, subject to amendment, of archaeological artifacts recovered from the soil of Canada, the territorial sea of Canada or the inland or other internal waters of Canada.

The Government of Canada, in accordance with Canadian law, will not restrict the export of archaeological artifacts recovered less than 75 years after their loss, concealment or abandonment. United States import restrictions, however, only will apply to archaeological material that is at least 250 years old.

Archaeological artifacts from the following Aboriginal cultural groups are included in this list: Inuit (Eskimo); Northwest Coast Indian; Plateau Indian; Woodlands Indian. Also included in this list is underwater archaeological material from historic shipwrecks and other underwater historic sites.

Archaeological artifacts from the following Aboriginal cultural groups are excluded from this list: Subarctic Indian, Plains Indian.

I. Aboriginal Archaeological Artifacts

A. Animal and Bird Skins (Hide), Fur and Feathers:
Quivers (arrow cases);
Kayaks, canoes and other boats made of skin or hide;
Clothing, ornaments and other accessories;
Bags, pouches; and
Drums.
B. Wood, Bark, Roots, Seeds:
Snowshoes;
Knives sheathes;
Canoes and paddles (wood);
Containers (wood baskets, pouches, boxes, chests);
Domestic utensils (wood bowls, spoons, woodworking tools);
Carved models, toys and games;
Musical Instruments (wood drums, flutes, whistles, rattles); and
Ceremonial objects (wood pipes, masks, rattles, bowls).
C. Bone, Tooth, Shell, Horn, Ivory, Antler:
Carved hunting and fishing equipment;
Weapons and tools (clubs, needles, shuttles);
Carved figurines (representations of people, fish, animals);
Ornaments and other accessories (combs, beads and pendants, snow goggles and visors);
Masks and other ceremonial objects;
Miniatures and game pieces (including cribbage boards);
Pipes; and
Whistles.
D. Stone, Argillite Stone, Amber:
Hunting and fishing equipment (including harpoon or spear heads, net weights, toggles, bola weights);
Tools (snow knives and ulus—see description in Ethnological Material);
Plates, platters, bowls;
Lamps (bowl or trough-shaped);
Boxes;
Ornaments and other accessories;
Masks;
Pipes; and
Carved figurines.
E. Porcupine Quills (items made from, or decorated with):
Drinking Tubes;
Ornamentation for clothing, usually coloured;
Pouches, bags; and
Ceremonial objects.
F. Textiles (wool, cotton, linen, canvas):
Garments (see description under Ethnological Material);
Blankets, often decorated with buttons, quillwork, beads, shells;
Pouches, bags; and
Wrappings for ceremonial objects.
G. Metals (copper, iron, steel, gold, silver, bronze):
Weapons and shields;
Hunting and fishing equipment, including fishing lures;
Tools (including snow knives and ulus—see description under Ethnological Material);
Clothing and hair ornaments;
Ceremonial objects, especially coppers (see description under Ethnological Material);
H. Clay:
Figurines (people, fish, animals);
Pipes; and
Pottery vessels and containers such as bowls or jars.
I. Beads (glass, clay, shell, bone, brass) (items decorated with).
J. Hair (ornamentation of human or animal hair used on clothing and other sewn objects).

II. Non-aboriginal Archaeological Artifacts: Historic Shipwrecks

A. General Ship's Parts (wood and metal):
Anchor;
Wheel;
Mast;
Riggings (block and pulley; deadeye; lanyard);
Bell;
Hull and fittings (rudder, keel, keelson, futtock, fasteners, iron supports);
Figurehead and other carved vessel decoration;
Windlass and capstan (winches);
Wood of the ship;
Furniture;
Porthole;
Ballast (pig iron) (metal weight carried to stabilize ship);
Pump assembly (plunger, working barrel, piston);
Riggings (cables); and
Heating, lighting and plumbing fixtures.
B. Navigational instruments:
Compass;
Astrolabe or sextant (instruments for calculation of navigation by stars);
Telescope;
Nocturnal;
Sounding leads;
Cross staff or back staff;
Dividers;
Lanterns; and
Binnacle (the case enclosing a ship's compass).
C. Armaments:
Cannon, carronade (type of short, light cannon), mortars;
Cannonshot (balls, chair and bar);
Arms (guns, knives, pikes, cutlasses, scabbards, swords);
Gun carriage components;
Musket shot (metal balls); and
Bandoliers (cartridge straps) .
D. Tools and wares:
Carpenter's tools;
Sail making tools;
Rope making tools;
Medicinal wares;
Galley ware (cooking caldron, crockery, glassware, beverage bottles, cutlery, treen, stoves);
Caulker tools;
Surgeon tools;

Chaplain tools;
Fishing supplies (lead sinkers, hooks, barrels, try works);
Cooper's tools; and
Blacksmith's tools.

E. Ship's Cargo:
Raw metal (iron, copper, bronze, lead);
Wood;
Ceramics;
Glassware (fine glass decanters);
Trade beads;
Containers (casks, baskets); and
Stone (for building or ballast).

F. Personal Goods Found on Ships:
Jewelry (gold, silver, stone);
Coins;
Gaming pieces (dice);
Buckles and buttons;
Chests;
Combs;
Pipes;
Religious items;
Timepieces;
Bedding, clothing and other textiles; and
Shoes.

Inapplicability of Notice and Delayed Effective Date

Because this amendment is being made in response to a bilateral agreement entered into in furtherance of the foreign affairs interests of the United States, pursuant to § 553(a)(1) of the Administrative Procedure Act, no notice of proposed rulemaking or public procedure is necessary. For the same reason, a delayed effective date is both impracticable and contrary to the public interest.

Regulatory Flexibility Act

Because no notice of proposed rulemaking is required, the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) do not apply. Accordingly, this final rule is not subject to the regulatory analysis or other requirements of 5 U.S.C. 603 and 604.

Executive Order 12866

This amendment does not meet the criteria of a ''significant regulatory action'' as described in E.O. 12866.

Drafting Information

The principal author of this document was Peter T. Lynch, Regulations Branch, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other offices participated in its development.

List of Subjects in 19 CFR Part 12

Customs duties and inspections, Imports, Cultural property.

Amendment to the Regulations

Accordingly, Part 12 of the Customs Regulations (19 CFR Part 12) is amended as set forth below:

PART 12—[AMENDED]

1. The general authority and specific authority citation for Part 12, in part, continue to read as follows:

Sections 12.104—12.104i also issued under 19 U.S.C. 2612.

Authority: 5 U.S.C. 301, 19 U.S.C. 66, 1202 (General Note 20, Harmonized Tariff Schedule of the United States (HTSUS)), 1624.

* * * * *

§ 12.104g [Amended]

2. In § 12.104g, paragraph (a), the listing of agreements imposing import restrictions on described articles of cultural property of State Parties is amended by adding ''Canada'' in appropriate alphabetical order under the column headed ''State Party'', and adding adjacent to the listing of ''Canada'' the description ''Archaeological Artifacts and Ethnological Material Culture of Canadian Origin'' under the column headed ''Cultural Property'' and the reference ''T.D. 97–31'' under the column headed ''T.D. No.''

George J. Weise,
Commissioner of Customs.

Approved: April 9, 1997.

John P. Simpson,
Deputy Assistant Secretary of the Treasury.

[FR Doc. 97–10504 Filed 4–21–97; 8:45 am]
BILLING CODE 4820–02–P

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 133

[T.D. 97–30]

RIN 1515–AC09

Disposition of Excluded Articles Pursuant to the Anticounterfeiting Consumer Protection Act

AGENCY: Customs Service, Treasury.

ACTION: Final rule.

SUMMARY: This document amends the Customs Regulations to implement section 8 of the Anticounterfeiting Consumer Protection Act of 1996 (ACPA), which was enacted by Congress to protect consumers and American businesses from counterfeit copyrighted and trademarked products. Section 8 of the ACPA concerns the disposition of excluded articles and eliminates a statutory provision that allowed infringing imported goods to be returned to the country of export whenever it is shown that the importer had no reasonable grounds for believing his or her acts constituted a violation of law. The statutory amendment now requires government officials to destroy such goods. The regulatory change reflects the statutory amendment and is designed to help Customs fight counterfeiting more effectively.

EFFECTIVE DATE: May 22, 1997.

FOR FURTHER INFORMATION CONTACT: John Atwood, Intellectual Property Rights Branch, Office of Regulations and Rulings, (202) 482–6960.

SUPPLEMENTARY INFORMATION:

Background

Finding that counterfeit products cost American businesses an estimated $200 billion each year worldwide, Congress enacted the Anticounterfeiting Consumer Protection Act of 1996 (ACPA) to make sure that Federal law adequately addresses the scope and sophistication of modern counterfeiting. The provisions of the ACPA are designed to provide important weapons in the fight against counterfeiters. On July 2, 1996, the President signed the ACPA into law (Pub.L. 104–153, 110 Stat. 1386).

The ACPA contains 13 substantive sections, which will be implemented in several **Federal Register** documents. This document concerns section 8 of the ACPA, which amends title 17 of the United States Code (17 U.S.C. 603(c)), which concerns the enforcement of anti-counterfeiting laws and disposition of excluded articles. The amendment of section 603(c) removes a provision that allowed infringing imported goods to be returned to the country of export whenever it is shown that the importer had no reasonable grounds for believing his or her acts constituted a violation of law. By eliminating this provision in section 603(c), government officials are now required to destroy such goods.

The provisions of section 603(c) are provided for at §§ 133.42(c), 133.44(a), and 133.47 of the Customs Regulations (19 CFR 133.42(c), 133.44(a), and 133.47). Accordingly, these regulatory provisions are amended by removing the language which allows for the return of seized infringing merchandise to the importer or country of export.

Inapplicability of the Regulatory Flexibility Act, And Executive Order 12866

Inasmuch as these amendments merely conform the Customs Regulations to existing law as discussed

above, pursuant to 5 U.S.C. 553(b)(B), notice and public procedure are unnecessary. Since this document is not subject to the notice and public procedure requirements of 5 U.S.C. 553, it is not subject to the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Further, this document does not meet the criteria for a ''significant regulatory action'' as specified in Executive Order 12866.

List of Subjects in 19 CFR Part 133

Copyrights, Counterfeit goods, Customs duties and inspection, Imports, Penalties, Prohibited merchandise, Reporting and recordkeeping requirements, Restricted merchandise, Seizures and forfeitures, Trademarks, Trade names, Unfair competition.

Amendment to the Regulations

For the reasons stated above, part 133 of the Customs Regulations (19 CFR part 133) is amended as set forth below:

PART 133—TRADEMARKS, TRADE NAMES, AND COPYRIGHTS

1. The general authority citation for part 133 continues to read as follows:

Authority: 17 U.S.C. 101, 601, 602, 603; 19 U.S.C. 66, 1624; 31 U.S.C. 9701.

* * * * *

§ 133.42 [Amended]

2. In § 133.42, the third sentence of paragraph (c) is amended by removing the words ‘‘, unless the article may be returned to the country of export as provided in § 133.47’’.

§ 133.44 [Amended]

3. In § 133.44, the first sentence of paragraph (a) is amended by removing the word ‘‘either’’ and the words ‘‘or, if the conditions prescribed by § 133.47 are met, permit the importer to return the article to the country of export’’. In the last sentence, the words ‘‘In either event, the’’ are removed and the word ‘‘The’’ is added in their place.

§ 133.47 [Removed]

4. Section 133.47 is removed.

Samuel H. Banks,

Acting Commissioner of Customs.

Approved: March 24, 1997.

John P. Simpson,

Deputy Assistant Secretary of the Treasury.

[FR Doc. 97–10272 Filed 4–21–97; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 5

Delegations of Authority and Organization

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending regulations for delegations of authority to allow the Director of the Center for Drug Evaluation and Research (CDER) and the Director of the Office of Compliance, CDER, to grant or deny a request, submitted in the form of a citizen petition under its pertinent regulations, for an exception or alternative to applicable current good manufacturing practice (CGMP) requirements for positron emission tomography (PET) drug products. This action is necessary to allow CDER to be able to grant an exception or alternative to applicable CGMP requirements for PET drug products when the request is made in a citizen petition.

EFFECTIVE DATE: April 28, 1997.

FOR FURTHER INFORMATION CONTACT:

Robert K. Leedham, Center for Drug Evaluation and Research (HFD–343), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–594–1026, or

Donna G. Page, Division of Management Systems and Policy (HFA–340), Food and Drug Administration, 5600 Fishers Lane, Rockville MD 20857, 301–827–4816.

SUPPLEMENTARY INFORMATION: A final rule providing the Director and the Director of the Office of Compliance, CDER, with the authority to grant requested exceptions and alternatives to requirements in 21 CFR part 211 pertaining to CGMP's for PET radiopharmaceutical drug products is published elsewhere in this issue of the **Federal Register**. This delegation allows these two agency officials to grant or deny such requests when submitted in the form of a citizen petition under 21 CFR 10.30.

Further redelegation of the authorities delegated is authorized. Authority delegated to a position by title may be exercised by a person officially designated to serve in such position in an acting capacity or on a temporary basis.

List of Subjects in 21 CFR Part 5

Authority delegations (Government agencies), Imports, Organization and functions (Government agencies).

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority of the Commissioner of Food and Drugs, 21 CFR part 5 is amended as follows:

PART 5—DELEGATIONS OF AUTHORITY AND ORGANIZATION

1. The authority citation for 21 CFR part 5 continues to read as follows:

Authority: 5 U.S.C. 504, 552, App. 2; 7 U.S.C. 138a, 2271; 15 U.S.C. 638, 1261–1282, 3701–3711a; secs. 2–12 of the Fair Packaging and Labeling Act (15 U.S.C. 1451–1461); 21 U.S.C. 41–50, 61–63, 141–149, 467f, 679(b), 801–886, 1031–1309; secs. 201–903 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321–394); 35 U.S.C. 156; secs. 301, 302, 303, 307, 310, 311, 351, 352, 361, 362, 1701–1706, 2101 of the Public Health Service Act (42 U.S.C. 241, 242, 242a, 242l, 242n, 243, 262, 263, 264, 265, 300u–300u–5, 300aa–1); 42 U.S.C. 1395y, 3246b, 4332, 4831(a), 10007–10008; E.O. 11490, 11921, and 12591.

2. Section 5.31 is amended by adding new paragraph (h) to read as follows:

§ 5.31 Petitions under part 10.

* * * * *

(h) The Director and the Director of the Office of Compliance, CDER, are each authorized to grant or deny citizen petitions submitted under § 10.30 of this chapter requesting an exception or alternative to any requirement in part 211 of this chapter pertaining to current good manufacturing practice for positron emission tomography radiopharmaceutical drug products.

Dated: April 15, 1997.

William B. Schultz,

Deputy Commissioner for Policy.

[FR Doc. 97–10340 Filed 4–21–97; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 211

[Docket No. 94N–0421]

RIN 0910–AA45

Current Good Manufacturing Practice for Finished Pharmaceuticals; Positron Emission Tomography

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending its regulations to permit FDA to approve requests from manufacturers of positron emission tomography (PET) radiopharmaceutical drug products for exceptions or alternatives to provisions of the current good manufacturing practice (CGMP) regulations. This action is intended to relieve manufacturers of PET radiopharmaceutical drug products from regulations that might result in unsafe handling of these products or that are inapplicable or inappropriate, and that do not enhance safety or quality in the manufacture of PET radiopharmaceutical drug products. Elsewhere in this issue of the **Federal Register**, FDA is amending its regulations to authorize the Director, Center for Drug Evaluation and Research (CDER) and CDER's Director of the Office of Compliance to grant or deny citizen petitions under FDA regulations requesting an exception or alternative to any requirement pertaining to CGMP.

EFFECTIVE DATE: April 28, 1997.

ADDRESSES: Decisions on the petitions may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Robert K. Leedham, Center for Drug Evaluation and Research (HFD–343), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–594–1026.

SUPPLEMENTARY INFORMATION:

I. Background

PET is a medical imaging modality used to assess the body's biochemical processes. Radionuclides are manufactured into PET radiopharmaceutical drug products that are then administered to patients for medical imaging. The medical images of the body's biochemical processes are then evaluated, generally for diagnostic purposes.

PET radiopharmaceutical drug product manufacturing differs in a number of important ways from the manufacture of conventional drug products:

1. Because of the short physical half-lives of PET radiopharmaceutical drug products, PET facilities generally manufacture the products in response to daily demand for a relatively small number of patients.

2. Manufacturing may be limited and only a few lots are produced each day.

3. PET radiopharmaceutical drug products must be administered to patients within a short period of time after manufacturing because of the short physical half-lives of the products.

In the **Federal Register** of February 27, 1995 (60 FR 10517), FDA proposed to permit manufacturers of PET radiopharmaceutical drug products to apply to the agency for approval of exceptions or alternatives to the requirements of the CGMP regulations in part 211 (21 CFR part 211). The agency noted in the proposal that there are fundamental principles of the CGMP regulations that must be applied to drug manufacturing processes, including those for PET radiopharmaceutical drug products, to ensure the safety and efficacy of the finished products. However, part 211 is primarily directed to regulating the manufacture of conventional, nonradioactive drug products, and there are certain aspects of the manufacture of PET radiopharmaceutical drug products that are unique. Therefore, regulations in part 211 may contain requirements that could result in unsafe handling or that are inapplicable or inappropriate to the manufacture of PET radiopharmaceutical drug products and do not otherwise enhance drug product quality.

The proposal specified that a request for an exception would be required to contain an explanation of why compliance with a particular CGMP provision is unnecessary or cannot be achieved. It also specified that a request for an alternative would be required to contain an explanation of how a proposed alternative procedure would satisfy the purpose of the CGMP requirement. The proposal stated that either the Director of CDER or CDER's Director of the Office of Compliance could approve an exception or alternative if it is determined that: (1) The requestor's compliance with the requirement is unnecessary to protect the radiopharmaceutical drug product's quality or safety; (2) the proposed alternative procedures satisfy the purpose of the CGMP requirement; or (3) the requestor's submission otherwise justified an exception or alternative. In addition, the proposal would allow either CDER's Director or CDER's Director of the Office of Compliance to withdraw the approval of an exception or alternative by issuing a written notice to the requestor who had obtained approval for the exception or alternative.

The proposed rule was one of three documents dealing with PET radiopharmaceutical drug products that FDA published in the **Federal Register** of February 27, 1995. Another document announced the availability of a draft guideline on the manufacture of PET radiopharmaceutical drug products (60 FR 10593). The third document announced a March 21, 1995, public workshop and explained the applicable statutory and regulatory requirements for these products (60 FR 10594). This final rule pertains only to the exceptions and alternatives to CGMP regulations for PET radiopharmaceutical drug products and addresses only those comments received on this issue.

This final rule will become effective 5 days after the date of publication in the **Federal Register**. This final rule is a substantive rule which, in the discretion of the agency, grants or recognizes an exemption or relieves a restriction. (See 5 U.S.C. 553(d)(1) and § 10.40(c)(4)(i) (21 CFR 10.40(c)(4)(i).) In addition, the Commissioner of Food and Drugs finds good cause for making a final rule, based on the proposal, effective 5 days after the date of publication in the **Federal Register**. (See 5 U.S.C. 553(d)(3) and § 10.40(c)(4)(ii).) The manufacturing process for PET radiopharmaceutical drug products is sufficiently different from that of other regulated products that application of certain CGMP requirements to the PET manufacturing process may be impractical. Because PET radiopharmaceutical drug products are already in use, a later effective date may delay FDA approval of exceptions or alternatives or hinder appropriate application of the CGMP regulations necessary to protect the integrity of the PET radiopharmaceutical manufacturing process.

II. Comments on the Proposed Rule

FDA gave interested persons until March 29, 1995, to comment on the proposed rule. The agency received comments from pharmaceutical manufacturers, health professionals, professional organizations, and State regulatory agencies. A summary of these comments and FDA's responses follows.

A. Application of CGMP Regulations to PET Radiopharmaceutical Drug Products

Several comments questioned the need to apply CGMP regulations to PET radiopharmaceutical drug products. One comment stated that there had not been an adequate explanation of why PET radiopharmaceutical drug products needed to be governed by CGMP regulations. Several comments suggested alternative standards for the regulation of PET radiopharmaceutical drug products such as the United States Pharmacopeia, the American Pharmaceutical Association Practice Standards for PET Nuclear Pharmacists, or standards set by State boards of pharmacy. Another comment suggested that FDA, in conjunction with the PET

radiopharmaceutical community, develop a regulation specifically for PET radiopharmaceutical drug products.

This rule does not trigger the applicability of CGMP regulations. CGMP regulations apply to PET radiopharmaceutical drug products by virtue of the fact that, under section 201(g) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 321(g)), these products are drugs and are, therefore, subject to the drug provisions of the act. In a notice published in the **Federal Register** of February 27, 1995 (60 FR 10594 at 10595), FDA reiterated this fact concerning the regulation of PET radiopharmaceutical drug products. Under section 501(a)(2)(B) of the act (21 U.S.C. 351(a)(2)(B)), drugs are deemed adulterated unless manufactured in conformity with CGMP requirements. PET radiopharmaceutical drug products are subject to each of the adulteration provisions of the act, including CGMP requirements, even if they are prepared in pharmacies or by pharmacists. (See *Professionals & Patients for Customized Care* v. *Shalala*, 847 F. Supp. 1359, 1364 (S.D. Tex. 1994), *aff'd*, 56 F.3d 592 (5th Cir. 1995).) Therefore, all PET radiopharmaceutical drug products must be manufactured in compliance with CGMP regulations. The regulations in part 211 contain minimum manufacturing practices to be followed by manufacturers of all drug products. Thus, in the absence of this rule, all CGMP requirements would apply to the manufacturing of PET drug products.

FDA's experience has shown that the CGMP regulations are flexible enough to accommodate most drug products and that it is generally unnecessary to create specific CGMP regulations for particular classes of drug products. Such regulations would necessarily contain a large number of provisions identical to, and redundant with, those already present in part 211. Where a CGMP regulation has been shown to be unnecessary or does not enhance the safety or quality of the manufacturing process for certain drug classes, FDA has revised the application of that regulation for that class. For example, in the **Federal Register** of November 28, 1980 (45 FR 79089), FDA amended § 211.170 to reduce the time that manufacturers are required to retain reserve samples of radioactive drugs and to exempt such drugs from the requirement for annual visual examination of reserve samples.

Although the fundamental principles embodied in the CGMP regulations are applicable to the PET radiopharmaceutical drug product manufacturing process, there are certain provisions that may not apply because of unique manufacturing characteristics. As a result, this final rule permits FDA to allow exceptions or alternatives to the CGMP regulations for PET radiopharmaceutical drug products. In addition, FDA is considering making further revisions to part 211, through rulemaking including adding a new subpart to the CGMP regulations to deal with exceptions or alternatives applicable to all PET radiopharmaceutical drug products.

B. Exceptions and Alternatives to CGMP Regulations

Several comments criticized FDA's proposed procedures to receive and evaluate requests for exceptions or alternatives to the CGMP regulations for PET radiopharmaceutical drug products. The comments objected to the proposed requirement that each manufacturer must separately describe and justify each proposed specific exception or alternative. One comment stated that FDA should identify those specific CGMP provisions from which all PET manufacturers could generally be excepted. Another comment stated that excepting some PET radiopharmaceutical drug manufacturers and not others might cause problems. A third comment stated that it is important that any alternatives and exceptions be made public and that the CGMP regulations be applied consistently and equally to all PET radiopharmaceutical drug manufacturing centers.

At this time, FDA believes that it is necessary to review individualized requests to determine whether exceptions or alternatives to CGMP regulations requested for PET radiopharmaceutical drug product manufacturing are consistent with the basic principles of the CGMP regulations and whether differences in existing PET manufacturing techniques, or the volume of product produced, may have an impact on product quality. Any procedure used in the manufacture of PET radiopharmaceutical drug products must provide a reasonable degree of certainty that products will be manufactured with consistent quality. The agency will periodically provide guidance to industry on the application of the CGMP regulations to PET radiopharmaceutical drug products.

FDA agrees that it is important that exceptions and alternatives be applied consistently to all PET radiopharmaceutical drug product manufacturers. To promote such consistency, FDA has withdrawn the provision in proposed § 211.1(d) that would have, under certain circumstances, expressly allowed oral requests for exceptions and alternatives and also would have allowed FDA to issue oral decisions on such requests. The agency believes that it is important to keep written records to maintain consistency, to adequately evaluate requests for exceptions and alternatives, and to prevent misunderstandings.

FDA also agrees that information on exceptions and alternatives should be publicly available. To maintain a publicly available record of requests for exceptions and alternatives, and agency action on such requests, FDA believes that exceptions and alternatives should be submitted in the form of a citizen petition under § 10.30 (21 CFR 10.30). A request for an exception or alternative should be clearly identified as a ''PET Request for Exception or Alternative to the CGMP Regulations.'' Decisions with respect to such petitions will be maintained for public review in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

Elsewhere in this issue of the **Federal Register**, FDA is amending 21 CFR 5.31 to authorize the Director of CDER and CDER's Director of the Office of Compliance to grant or deny citizen petitions under § 10.30 requesting an exception or alternative to any requirement in part 211 pertaining to CGMP for PET radiopharmaceutical drug products.

The proposed rule specifically listed elements that would be required to be included in a request for exception or alternative and also specifically listed the factors pertaining to FDA's decision whether to grant such a request. In response to comments that the procedure in the proposed rule was too burdensome, the final rule provides greater flexibility in that it does not require that any particular element be included in a request for exception or alternative, and does not narrowly constrain FDA's discretion to grant such a request.

Although the codified language of the regulation no longer contains specific required elements, the agency expects that a citizen petition requesting an exception or alternative would be approved if the agency determined, based upon a request, including supporting data as necessary, that: (1) The requestor's compliance with the CGMP requirement is unnecessary to provide suitable assurance that the drug meets the requirements of the act as to safety and has the identity and strength and meets the quality and purity characteristics that it purports or is represented to possess, or compliance with the requirement is not possible to

achieve; (2) alternative procedures or controls suggested and sufficiently described by the requestor satisfy the purpose of the requirement; or (3) the requestor's submission otherwise justifies an exception or alternative. Although no longer specified in the regulation, these factors, pertaining to FDA's decisions on requests for exceptions and alternatives, provide guidance both to assist PET manufacturers in preparing requests and to assist FDA in consistently evaluating those requests. As further guidance, citizen petitions for an exception or alternative may be submitted by manufacturers or trade associations individually or as a group, as long as the facts presented are sufficiently individualized for each manufacturer seeking the exception or alternative.

C. Usefulness of the Rule

Several comments objected to the proposed provision for requesting an exception or alternative to the CGMP regulations, arguing that it would not likely achieve its goal of reducing the burden on PET radiopharmaceutical drug products and would not be cost-effective.

FDA disagrees with these comments. As explained above, the purpose of the rule is to relieve PET radiopharmaceutical drug product manufacturers from regulatory provisions that might result in unsafe handling of PET radiopharmaceutical drug products, that are inapplicable or inappropriate, or that do not enhance the safety or quality of PET radiopharmaceutical drug products. The agency believes that, with the added flexibility provided by this final rule, the CGMP regulations can be applied to PET radiopharmaceutical drug products in a way that accommodates their unique manufacturing aspects while still protecting the integrity of the manufacturing process. The agency will continue to work with these manufacturers in an effort to apply CGMP requirements to PET radiopharmaceutical drug products in ways that are practical and achievable.

III. Environmental Impact

The agency has determined under 21 CFR 25.24(a)(10) 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 final rule under Executive Order 12866, under the Regulatory Flexibility Act (5 U.S.C. 601–612), and under the Unfunded Mandates Reform Act (Pub. L. 104–4). Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity). Under the Regulatory Flexibility Act, if a rule is expected to have a significant economic impact on a substantial number of small entities, the agency must analyze regulatory options that would minimize any significant economic impact of the rule on small entities. The Unfunded Mandates Reform Act requires that agencies prepare an assessment of anticipated costs and benefits before proposing any rule that may result in an annual expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more (annually adjusted for inflation).

The agency has reviewed this final rule and has determined that the rule is consistent with the principles set forth in the Executive Order. FDA finds that the rule is not a significant regulatory action under the Executive Order. In addition, the agency finds that the rule does not impose any mandates on State, local, or tribal governments, or the private sector that will result in an annual expenditure of $100 million or more.

The fact that PET radiopharmaceuticals are drugs requires compliance with the CGMP requirements under section 501(a)(2)(B) of the act, and all finished pharmaceuticals are subject to the requirements imposed by the CGMP regulations set forth in this part. This rule will allow FDA to approve requests from manufacturers of PET radiopharmaceutical drug products for exceptions or alternatives to the CGMP requirements as they apply to the unique characteristics of PET radiopharmaceutical drug product manufacturing, without compromising CGMP standards that are necessary to meet the CGMP requirements.

FDA estimates that there are approximately 70 facilities that manufacture PET radiopharmaceutical drug products, and the agency assumes for the purposes of this analysis that each facility is a small entity within the meaning of the Regulatory Flexibility Act. The only costs associated with this rule are the possible costs associated with requesting an exception or alternative.

FDA estimates that it will take approximately 20 hours, or less, for each facility to develop its request for exceptions or alternatives. Assuming that each of the 70 facilities submits one request, the burden would total 1,400 hours. Using the 1995 median weekly earnings of $524[1] for clinical laboratory technologists and technicians, and adding 40 percent for fringe benefits, the average hourly earnings would be $18.34. Thus, the combined costs for all facilities would total less than $26,000. FDA concludes that these incidental one time costs of approximately $367 per facility would constitute an insignificant percentage of gross revenue, even for a small entity.

In addition, it is expected that some facilities will collaborate with each other, or with trade associations, to submit bundled requests, as long as the facts presented are sufficiently individualized for each manufacturer seeking the exception or alternative. Moreover, because the filing of a request for an exception or alternative is voluntary, it is unlikely that a facility will file such a request unless it expects the benefit derived to exceed the cost of preparing and filing the request. Consequently, FDA believes that the rule will, in fact, provide a net economic savings for each facility that chooses to request an exception or alternative to a CGMP requirement. Therefore, under the Regulatory Flexibility Act, 5 U.S.C. 605(b), the Commissioner of Food and Drugs certifies that this final rule will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 21 CFR Part 211

Drugs, Labeling, Laboratories, Packaging and containers, Prescription drugs, Reporting and recordkeeping requirements, Warehouses.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 211 is amended as follows:

PART 211—CURRENT GOOD MANUFACTURING PRACTICE FOR FINISHED PHARMACEUTICALS

1. The authority citation for 21 CFR part 211 continues to read as follows:

Authority: Secs. 201, 501, 502, 505, 506, 507, 512, 701, 704 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 351, 352, 355, 356, 357, 360b, 371, 374).

2. Section 211.1 is amended by adding new paragraph (d) to read as follows:

[1] Employment and Earnings, U.S. Department of Labor, Bureau of Labor Statistics, vol. 43, No. 1, p. 206, January 1996.

§ 211.1 Scope.

* * * * *

(d)(1) The Director of the Center for Drug Evaluation and Research (CDER) and the CDER Director of the Office of Compliance each may approve a request from a manufacturer of positron emission tomography (PET) drug products for an exception or alternative to any requirement of this part pertaining to current good manufacturing practice for PET drug products.

(2) An approval under paragraph (d)(1) of this section may be withdrawn if either Director finds that such exception or alternative is no longer justified. Withdrawal of such approval shall be accomplished by providing written notice of such withdrawal, and the reasons for the withdrawal, to the original requestor.

Dated: April 15, 1997.

William B. Schultz,

Deputy Commissioner for Policy.

[FR Doc. 97–10341 Filed 4–21–97; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF THE INTERIOR

Minerals Management Service

30 CFR Part 218

RIN 1010–AC01

Amendments to Regulations Governing Collection of Royalties, Rentals, Bonuses, and Other Monies Due the Federal Government

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Final rulemaking.

SUMMARY: MMS is amending its regulations that specify how payments are made for mineral lease royalties, rentals, and bonuses. The changes are needed to incorporate revised U.S. Treasury requirements. Also, MMS has clarified language for other parts of this regulation.

DATES: Effective date May 22, 1997.

FOR FURTHER INFORMATION CONTACT: David S. Guzy, Chief, Rules and Procedures Staff, phone (303) 231–3432, FAX (303) 231–3194, e-Mail David__Guzy@smtp.mms.gov.

SUPPLEMENTARY INFORMATION: The principal authors of this rule are David J. Menard of the Reports and Financial Division, Financial Branch, Jim McNamee of the Office of Policy and Management Improvement, and David S. Guzy of the Rules and Procedures Staff, Lakewood, Colorado.

I. Background

The purpose of this final rule is to comply with the U.S. Treasury's final rule amending 31 CFR Part 206, Management of Federal Agency Receipts, Disbursements, and Operation of the Cash Management Improvement Fund (59 FR 4536, 1/31/94). That rule requires executive agencies to use effective, efficient disbursement mechanics, principally Electronic Funds Transfer (EFT), in making their payments. That rule also requires executive agencies to use EFT for collecting funds.

MMS has written this rule in plain English.

II. Comments on Proposed Rule

MMS published a proposed rule on April 19, 1996, at 61 FR 17267. The proposed rulemaking provided for a 60-day comment period, which ended June 18, 1996, and was extended to July 19, 1996, by a **Federal Register** Notice (61 FR 28829, June 6, 1996).

General Comments

Commenters believe writing the rule in plain English improves clarity and makes the rule easier to understand. Commenters stated they will continue to work with MMS to identify the most efficient and practical way to make payments to MMS.

Response. We appreciate these comments and will continue the plain English concept in all future rulemakings.

Specific Comments

Comment on § 218.51(a). One commenter did not think it is necessary to define person or payment when used in their common or ordinary meaning.

Response. MMS has determined that these definitions lend clarity and conform with other MMS rules. No change will be made in the final rule.

Comment on § 218.51(b). The same commenter pointed out that the word *general* was misspelled.

Response. We will correct the spelling in the final rule.

Comment on § 218.51(b)(1). Five commenters responded as follows:

(1) The section is vague and arbitrary. Sentence is circular and describes a discretionary standard. As written, the payer must use EFT anytime MMS requires EFT regardless of the reasoning or criteria or basis for the decision. They suggested alternative language.

(2) The requirement is in conflict with the preamble. Their opinion is that making all payments by EFT is neither cost effective nor practicable. They said many Indian payments cost more to process than the invoice they are paying and adding the cost of making these payments by EFT would not be cost effective. They recommend a threshold of $10,000.

(3) They feel there is a conflict with § 218.51(b) which says ''to the extent it is cost effective and practicable,'' and this section which says if instructed you must pay by EFT. They recommend a threshold of $10,000.

(4) They feel the statement of ''If MMS instructs you to use * * *.'' conflicts with the general spirit of the preamble. They feel the additional cost of making EFT payments is not justifiable from the company standpoint. They recommend the $10,000 limit be maintained.

(5) They do not believe the additional cost of making EFT payments is justifiable from the company standpoint. They recommend retaining the current $10,000 threshold.

Response. MMS does not intend to be arbitrary in implementing the Treasury EFT requirement. The Treasury rule does not allow for any type of stated threshold. Our elimination of the threshold is based on Treasury's requirement that we increase our efficiency in collecting Government monies. We feel the new rule is consistent with the Treasury rule.

We are aware of the cost and technical issues associated with making EFT payments. The U.S. Treasury is working with the banking industry to broaden the use of EFT. MMS believes our record of working with payors in implementing EFT has not been arbitrary or burdensome. It has not been our policy nor will it be our policy to unduly burden industry with EFT payment requirements. As EFT becomes more widespread, the cost should decrease; therefore, EFT will be more beneficial to industry and the Government.

Comment on § 218.51(b)(3). One commenter stated that the paragraph is confusing and should be rewritten to clearly define intent. The commenter asked two questions: (1) ''Does this statement mean that separate reports or report lines are required? (2) Are separate checks or separate lines on the check stub or other payment document needed?''

Response. The intent of this paragraph is to emphasize the fact that you must not mix Federal and Indian lease payments on a payment document. In other words, you must not include any Indian lease payments in your Federal payment documents or any Federal lease payments in your Indian payment documents. This proposed rule deals only with payments and does not change any reporting requirements.

Comment on § 218.51(b)(5). One commenter recommended adding the word *document* to the end of the sentence.

Response. We do not believe the suggested change adds to or clarifies the sentence.

Comment on § 218.51(c)(2). One commenter thought the word ''it'' was vague and open to more than one interpretation and that the sentence contained repetitive statements. They suggested alternative language.

Response. Because this word was not clear in its meaning, we replaced the word ''it'' with the words ''your payment.''

Comment on § 218.51(c)(4). One commenter pointed out that the proposed wording does not agree with § 218.51(d)(1) which says use the address supplied by a tribe. Section 218.51(c)(4) says to use address supplied by MMS.

Response. MMS agrees that the proposed rule is not consistent on the source of the address. There may be instances where the tribe will change banks or have to change the lockbox address. MMS intends to notify payors of this change as promptly as possible, but you may receive your first notification from the tribe. The lockbox agreements are with the tribes and their banks and payors should follow the tribe's instructions for a lockbox address. We will change § 218.51(d)(1) to eliminate the inconsistency.

Comment on § 218.51(f). One commenter felt that the word *document* should be added to the end of the first sentence.

Response. We do not believe the suggested change adds to or clarifies the sentence.

Comment on § 218.51 (e) through (g). One commenter pointed out that the first sentence repeats what is in the title. The commenter felt that any address change for courier deliveries would require a rulemaking because the address is included in the regulation. The commenter also suggested using declarative sentences for (c), (f), and (g).

Comment on § 218.51(f)(3)(ii). One commenter stated that the section has been oversimplified; similarly, paragraphs (f) and (g) have been oversimplified. The commenter recommends alternative language.

Comment on § 218.51(f)(4)(iii). One commenter recommended rewriting the paragraph to improve clarity.

Response. MMS agrees and reworded the paragraphs for clarification in the final rule. As to the comment on a change of address requiring a rulemaking, no policy nor procedure would be affected since MMS can notify payors of an address change outside of the rulemaking process.

Comment on § 218.51(g)(3). One commenter stated that an entity is responsible for its own actions and a payor should not be responsible for banks' actions.

Response. MMS does and will continue to hold the payor responsible for the actions of your agent for making accurate and timely payments on your behalf.

III. Procedural Matters

The Regulatory Flexibility Act

The Department certifies that this rule will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The rule is needed to comply with U.S. Treasury requirements.

Executive Order 12630

The Department certifies that the rule is not a governmental action capable of interference with constitutionally protected property rights. Thus, a Takings Implication Assessment need not be prepared under Executive Order 12630, ''Governmental Actions and Interference with Constitutionally Protected Property Rights.''

Executive Order 12988

The Department has certified to the Office of Management and Budget that these proposed regulations meet the applicable standards provided in section 2(a) and (b)(2) of Executive Order 12988.

Executive Order 12866

This document has been reviewed under Executive Order 12866 and is not a significant regulatory action.

Paperwork Reduction Act

The rule has been examined under the Paperwork Reduction Act of 1995 and has been found to contain no new reporting and information collection requirements.

Unfunded Mandate Reform Act of 1995

The Department has determined and certifies according to the Unfunded Mandates Reform Act, 2 U.S.C. 1502 *et seq.*, that this rule will not impose a cost of $100 million or more in any given year on State, local, and tribal governments, or the private sector.

National Environmental Policy Act of 1969

We have determined that this rulemaking is not a major Federal action significantly affecting the quality of the human environment, and a detailed statement under section 102(2)(C) of the National Environmental Policy Act of 1969 [42 U.S.C. 4332 (2)(C)] is not required.

List of Subjects in 30 CFR Part 218

Coal, Continental shelf, Electronic funds transfers, Geothermal energy, Government contracts, Indian lands, Mineral royalties, Oil and gas exploration, Public lands—mineral resources.

Dated: April 14, 1997.

Bob Armstrong,

Assistant Secretary—Land and Minerals Management.

For the reasons set out in the preamble, 30 CFR Part 218 is amended as follows:

PART 218—COLLECTION OF ROYALTIES, RENTALS, BONUSES AND OTHER MONIES DUE THE FEDERAL GOVERNMENT

1. The authority citation for part 218 is revised to read as follows:

Authority: 25 U.S.C. 396 *et seq.*, 396a *et seq.*, 2101 *et seq.*; 30 U.S.C. 181 *et seq.* 351 *et seq.*, 1001 *et seq.*, 1701 *et seq.*; 31 U.S.C.A. 3335; 43 U.S.C. 1301 *et seq.* 1331 *et seq.*, 1801 *et seq.*

2. Section 218.51 is revised to read as follows:

§ 218.51 How to make payments.

(a) *Definitions.*

ACH—Automated Clearing House. A type of EFT using the ACH network.

Courtesy Notice—An MMS-issued notice of rental or bonus due.

Deferred Bonus Payment—Lease bonus paid in equal annual installments over a specified number of years.

EFT—Electronic Funds Transfer. Any paperless transfer of funds a bank initiates through an electronic terminal. For MMS purposes, EFT is limited to FEDWIRE and ACH transfers.

FEDWIRE—A type of EFT using the Federal Reserve Wire network.

Invoice Document Identification—The MMS-assigned invoice document identification (four alpha and eight numeric characters).

Payment—Any monies for royalty, bonus, rental, late payment charge, assessment, penalty, or other money sent to MMS.

Person—Any individual, firm, corporation, association, partnership, consortium, or joint venture (when established as a separate entity). The term does not include Federal agencies.

Report—Form MMS–2014, *Report of Sales and Royalty Remittance.*

RIK—Royalty in kind.

(b) *General Instructions.* You must make all payments to MMS

electronically to the extent it is cost effective and practical. If you pay money to MMS or to an Indian tribe or allottee, you must follow these procedures:

(1) If MMS instructs you to use EFT, you must use EFT for all payments to MMS and/or a tribe.

(2) Contact MMS before using EFT. MMS will provide you with EFT payment instructions.

(3) Separate any payments on a Federal lease from any payments on an Indian lease.

(4) If you are not required to use EFT, use one of the following types of payment documents. MMS prefers that you use these payment documents in the order presented:

(i) Commercial check drawn on a solvent bank;

(ii) Certified check;

(iii) Cashier's check;

(iv) Money order;

(v) Bank draft drawn on a solvent bank; or

(vi) Federal Reserve check.

(5) You must include your payor code on all payments.

(6) You must pay in U.S. dollars.

(c) *How to complete a non-EFT payment.* (1) Make any payment on a Federal lease payable to: ''Department of the Interior-Minerals Management Service'' or ''DOI–MMS.''

(2) For an Indian allottee payment, send a separate payment for each Bureau of Indian Affairs (BIA) agency or area office represented by the leases on your report or invoice document. You must include the name of the applicable BIA agency or area office on your payment. Make your payment document payable to: ''Department of the Interior-Minerals Management Service for BIA [Name] Agency (allotted)'' or ''DOI-MMS for BIA [Name] Agency (allotted).''

(3) For an Indian tribal payment other than a lockbox payment, send a separate payment for each tribe represented by the leases on your report or invoice document. You must include the name of the Indian tribe on your payment. Make it payable to: ''Department of the Interior-Minerals Management Service for BIA [Name of Tribe]'' or ''DOI-MMS for BIA [Name of Tribe].''

(4) For an Indian tribal lockbox payment, follow the instructions MMS provides you on how to report and make the lockbox payment. These instructions are specific to each tribe's lockbox written agreement with the bank authorized to receive payments on the tribe's mineral leases. You will receive these instructions from MMS when you are required to use a tribal lockbox for reports and payments.

(d) *Where to send a non-EFT payment when you use the U.S. Postal Service.* (1) For a payment to an Indian tribal lockbox, send your payment to the appropriate tribal lockbox address.

(2) For a Federal nonproducing lease rental or deferred bonus payment, send it to:

Minerals Management Service, Royalty Management Program, P.O. Box 5640, Denver, CO 80217–5640.

(3) For all other Federal and Indian lease payments other than those going to an Indian tribal lockbox, send them to:

Minerals Management Service, Royalty Management Program, P.O. Box 5810, Denver, CO 80217–5810.

(e) *Where to send a non-EFT payment when you use a courier or overnight delivery service.* You should send this type of payment to:

Minerals Management Service, Royalty Management Program, Building 85, Denver Federal Center, Room A–212, Denver, CO 80225–0165.

(f) *How to prepare and what to include on your payment document.* (1) For Form MMS–2014 payments, you must include both your payor code (block 2) and your payor-assigned document number (block 3a).

(2) For invoice payments, including RIK invoice payments, you must include both your payor code and invoice document identification (four-letter prefix and eight-digit number).

(3) For bonus payments:

(i) For one-fifth bonus payments for offshore oil, gas, and sulphur leases, follow the instructions in the Notice of Lease Offering.

(ii) For payment of the four-fifths bonus for an offshore lease, use EFT and follow the instructions in § 218.155(c).

(iii) For the successful bidder's bonus in the competitive sale of a coal, geothermal, or offshore mineral (other than oil, gas or sulfur) lease, follow the instructions and terms of the Notice of Competitive Lease Sale.

(iv) For installment payments of deferred bonuses, you must use EFT.

(4) If you are paying a lease rental you must:

(i) See 30 CFR 218.155(c) for instructions on how to pay first-year rentals of an offshore oil, gas, or sulfur lease; (ii) See the Notice of Lease Offering for instructions on how to pay first-year rentals other than those covered in paragraph (f)(4)(i) of this section.

(iii) Include the MMS Courtesy Notice, when provided, or write your payor code and government-assigned lease number on the payment document when paying a rental that is not reported on Form MMS–2014 and not paid by EFT.

(g) *When is a payment to MMS due?* (1) All payments are due to MMS at the time law, regulation, or lease terms require unless MMS approves a change according to 30 CFR 243.2, ''Suspensions of orders or decisions pending appeal.'' If you file an appeal, and the requirement to submit payment is suspended, the original payment due date for purposes such as calculating late payment interest is not changed.

(2) If you use the U.S. Postal Service, courier, or overnight mail to send your payment, it is due at the MMS addresses in paragraphs (d) and (e) of this section before 4 p.m. Mountain Time on the due date, regardless of when you sent it.

(3) If you use EFT to send your payment, it is due in the MMS account by the payment due date. You are responsible for your actions or your bank's actions that cause a late or incorrect payment. You will not be held responsible for mechanical or system failures of EFT payments.

(h) *What happens if payments are late or overdue?*

(1) If MMS receives your payment late, MMS will impose a late-payment interest charge under 30 CFR 218.54.

(2) If you do not pay an amount you owe, MMS may assess civil penalties under 30 CFR 241.20 and 241.51 or other applicable regulations.

3. Paragraph (b)(1) of § 218.155 is amended by revising the last sentence to read as follows:

§ 218.155 Method of payment.

* * * * *

(b)(1) * * * EFT may be used as a method of payment for the one-fifth bonus bid amount.

* * * * *

[FR Doc. 97–10388 Filed 4–21–97; 8:45 am]

BILLING CODE 4310–MR–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

31 CFR Chapter V

Blocked Persons, Specially Designated Nationals, Specially Designated Terrorists, Specially Designated Narcotics Traffickers, and Blocked Vessels: Removal of Entry

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Final rule; amendment.

SUMMARY: The Office of Foreign Assets Control is removing from appendix C to 31 CFR chapter V an entry for a vessel

no longer deemed to be blocked under economic sanctions imposed against Iraq.

EFFECTIVE DATE: April 17, 1997.

FOR FURTHER INFORMATION CONTACT: Office of Foreign Assets Control, Department of the Treasury, Washington, DC 20220; tel.: 202/622–2520.

SUPPLEMENTARY INFORMATION:

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Background

Appendix C to 31 CFR chapter V contains the names of vessels blocked pursuant to the various economic sanctions programs administered by the Officer of Foreign Assets Control (''OFAC'') (see 61 FR 32936, June 26, 1996). The vessel M/V BAROON (also known as ''ALBAHR ALARABI'', formerly known as ''SEABANK'' and ''AL–BAHAR AL–BARABI'') was designated as a vessel registered, owned, or controlled by the Government of Iraq or by persons acting or purporting to act directly or indirectly on behalf of the Government of Iraq, pursuant to § 575.306 of the Iraqi Sanctions Regulations, 31 CFR part 575 (the ''Regulations''). (56 FR 13584, 13588, Apr. 3, 1991; see also 60 FR 6376, Feb. 1, 1995.) It therefore constituted blocked property in which the Government of Iraq has an interest, and was subject to all the prohibitions applicable to such property in the Regulations. This rule is being issued to remove the entry ''ALBAHR ALARABI'' from appendix C, since OFAC has determined that this vessel was sold in a judicial sale in Kenya and is no longer property in which there is an interest of the Government of Iraq. Accordingly, all transactions with regard to any property related to this vessel subject to the jurisdiction of the United States are authorized.

Since the Regulations involve a foreign affairs function, the provisions of Executive Order 12866 and the Administrative Procedure Act (5 U.S.C. 553) requiring notice of proposed rulemaking, opportunity for public participation, and delay in effective date, are inapplicable. Because no notice of proposed rulemaking is required for this rule, the Regulatory Flexibility Act (5 U.S.C. 601–612) does not apply.

For the reasons set forth in the preamble, and under the authority of 3 U.S.C. 301; 22 U.S.C. 287c; 50 U.S.C. 1601–1651; 50 U.S.C. 1701–1706; Pub. L. 101–410, 104 Stat 890 (28 U.S.C. 2461 note); Pub. L. 101–513, 104 Stat. 2047–2055 (50 U.S.C. 1701 note); Pub. L. 104–132, 110 Stat 1214, 1254 (18 U.S.C. 2332d); E.O. 12722, 55 FR 31803, 3 CFR. 1990 Comp., p. 294; E.O. 12724, 55 FR 33089, 3 CFR, 1990 Comp., p. 297; and E.O. 12817, 57 FR 48433, 3 CFR, 1992 Comp., p. 317, appendix C to chapter V of 31 CFR is amended as set forth below:

Appendix C to Chapter V [Amended]

1. Appendix C to chapter V of 31 CFR is amended by removing the entry for the vessel ''ALBAHR ALARABI''.

Dated: March 6, 1997.

R. Richard Newcomb,

Director, Office of Foreign Assets Control.

Approved: March 24, 1997.

James E. Johnson,

Assistant Secretary (Enforcement).

[FR Doc. 97–10321 Filed 4–17–97; 10:40 am]

BILLING CODE 4810–25–F

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

31 CFR Chapter V

Blocked Persons, Specially Designated Nationals, Specially Designated Terrorists, Specially Designated Narcotics Traffickers, and Blocked Vessels: Additional Designations and Supplemental Information

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Final rule; amendment.

SUMMARY: The Treasury Department is adding to appendices A and B to 31 CFR chapter V the names of 46 individuals and 11 entities, and revising information concerning 25 individuals, who have been determined to play a significant role in international narcotics trafficking centered in Colombia or have been determined to be owned or controlled by, or to act for or on behalf of, other specially designated narcotics traffickers.

EFFECTIVE DATE: April 17, 1997.

FOR FURTHER INFORMATION CONTACT: The Office of Foreign Assets Control, Department of the Treasury, Washington, DC 22201, tel.: 202/622–2520.

SUPPLEMENTARY INFORMATION:

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services/fac/fac.html, or in fax form through the Office's 24–hour fax–on–demand service: call 202/622–0077 using a fax machine, fax modem, or (within the United States) a touch–tone telephone.

Background

Appendices A and B to 31 CFR chapter V contain the names of blocked persons, specially designated nationals, specially designated terrorists, and specially designated narcotics traffickers designated pursuant to the various economic sanctions programs administered by the Office of Foreign Assets Control (''OFAC'') (see 61 FR 32936, June 26, 1996). Pursuant to Executive Order 12978 of October 21, 1995, ''Blocking Assets and Prohibiting Transactions with Significant Narcotics Traffickers'' (the ''Order'') and § 536.312 of the Narcotics Trafficking Sanctions Regulations, 31 CFR part 536 (62 FR 9959, Mar. 5, 1997— the ''Regulations''), the following additional 11 entities and 46 individuals are added to the appendices as persons who have been determined to be owned or controlled by, or to act for or on behalf of, persons designated in or pursuant to the Order (collectively ''Specially Designated Narcotics Traffickers'' or ''SDNTs''). Any property subject to the jurisdiction of the United States in which an SDNT has an interest is blocked, and U.S. persons are prohibited from engaging in any transaction or in dealing in any property in which an SDNT has an interest. Supplemental identifying information is also added to certain existing SDNT entries, which are revised in their entirety.

Designations of foreign persons blocked pursuant to the Order are effective upon the date of determination by the Director of the Office of Foreign Assets Control, acting under authority delegated by the Secretary of the Treasury. Public notice of blocking is effective upon the date of filing with the Federal Register, or upon prior actual notice.

Since the Regulations involve a foreign affairs function, the provisions of Executive Order 12866 and the Administrative Procedure Act (5 U.S.C. 553) requiring notice of proposed rulemaking, opportunity for public participation, and delay in effective date, are inapplicable. Because no notice of proposed rulemaking is required for this rule, the Regulatory Flexibility Act (5 U.S.C. 601–612) does not apply.

For the reasons set forth in the preamble, and under the authority of 3 U.S.C. 301; 50 U.S.C. 1601–1641; 50 U.S.C. 1701–1706; and E.O. 12978, 60 FR 54579, 3 CFR, 1995 Comp., p. 415, appendices A and B to chapter V of 31 CFR are amended as set forth below:

Appendices A and B to Chapter V [Amended]

1. Appendices A and B to chapter V of 31 CFR are amended by adding the following names inserted in alphabetical order (1) in appendix A and (2) under the heading ''Colombia'' in appendix B:

AGUAS LOZADA, Rafael, c/o COSMEPOP, Bogota, Colombia; c/o DROGAS LA REBAJA BOGOTA S.A., Bogota, Colombia; c/o LABORATORIOS BLAIMAR DE COLOMBIA S.A., Bogota, Colombia (Cedula No. 11385426 (Colombia)) (individual) [SDNT]

ALMANZA CANON, Nohora Juliana, c/o COSMEPOP, Bogota, Colombia (Cedula No. 52557912 (Colombia)) (individual) [SDNT]

ALVARADO BONILLA, Alejandro, c/o DROGAS LA REBAJA BOGOTA S.A., Bogota, Colombia (Cedula No. 79641039 (Colombia)) (individual) [SDNT]

ALZATE SALAZAR, Luis Alfredo, c/o COINTERCOS S.A., Bogota, Colombia; c/o DEPOSITO POPULAR DE DROGAS S.A., Bogota, Colombia; c/o DROGAS LA REBAJA BOGOTA S.A., Bogota, Colombia; c/o LABORATORIOS KRESSFOR DE COLOMBIA S.A., Bogota, Colombia (Cedula No. 16595689 (Colombia)) (individual) [SDNT]

BARONA, Fernando, c/o DISMERCOOP, Cali, Colombia (Cedula No. 16688872 (Colombia)) (individual) [SDNT]

BARRIOS SENIOR, Jario Ascanio, c/o PENTACOOP LTDA., Bogota, Colombia (Cedula No. 8723099 (Colombia)) (individual) [SDNT]

CARDONA RUEDA, Fernando Ivan, c/o COINTERCOS S.A., Bogota, Colombia; c/o DROGAS LA REBAJA BOGOTA S.A., Bogota, Colombia; c/o LABORATORIOS KRESSFOR DE COLOMBIA S.A., BOGOTA S.A., Colombia (Cedula No. 16607447 (Colombia)) (individual) [SDNT]

CARVAJAL SUAREZ, Luz Mary, c/o DISMERCOOP, Cali, Colombia (Cedula No. 24626230 (Colombia)) (individual) [SDNT]

CASTANEDA BLANCO, Carlos Julio, c/o COSMEPOP, Bogota, Colombia (Cedula No. 79390781 (Colombia)) (individual) [SDNT]

CASTANEDA QUINTERO, Luis Alberto, c/o FARMACOOP, Bogota, Colombia; c/o LABORATORIOS KRESSFOR DE COLOMBIA S.A., Bogota, Colombia; c/o PENTA PHARMA DE COLOMBIA S.A., Bogota, Colombia; c/o PENTACOOP LTDA., Bogota, Colombia (Cedula No. 6064977 (Colombia)) (individual) [SDNT]

CASTANEDA RAMIREZ, Lorena Constanza, c/o PENTA PHARMA DE COLOMBIA S.A., Bogota, Colombia; c/o PENTACOOP LTDA., Bogota, Colombia (Cedula No. 52071011 (Colombia)) (individual) [SDNT]

CHACON PACHON, Rodolfo, c/o COSMEPOP, Bogota, Colombia; c/o DISTRIBUIDORA DE DROGAS CONDOR S.A., Bogota, Colombia (Cedula No. 79538033 (Colombia)) (individual) [SDNT]

COINTERCOS S.A. (a.k.a. CIA. INTERAMERICANA DE COSMETICOS S.A.; f.k.a. BLAIMAR; f.k.a. LABORATORIOS BLAIMAR DE COLOMBIA S.A.), Apartado Aereo 33248, Bogota, Colombia; Calle 12B No. 27–39, Bogota, Colombia (NIT # 860511578–8) [SDNT]

COPSERVIR LTDA. (a.k.a. COOPERATIVA MULTIACTIVA DE EMPLEADOS DE DISTRIBUIDORES DE DROGAS COPSERVIR LTDA.; f.k.a. DISTRIBUIDORA DE DROGAS LA REBAJA PRINCIPAL S.A.; f.k.a. DISTRIBUIDORA DE DROGAS LA REBAJA S.A.; f.k.a. DROGAS LA REBAJA), Calle 4 No. 22–24, Bogota, Colombia; Carrera 66A No. 53–47 piso 3, Bogota, Colombia; Carrera 99 No. 46A–10 Bdg 6 y 8, Bogota, Colombia; Calle 10 No. 4–47 piso 19, Cali, Colombia; Calle 14 No. 6–66, Cali, Colombia; Calle 18 No. 121–130 Avenida Casasgordas Pance, Cali, Colombia; Carrera 10 No. 11–71, Cali, Colombia; Carrera 7 No. 13–132 piso 4, Cali, Colombia; Carrera 7A No. 14–25 piso 2, Cali, Colombia (NIT # 830011670–3) [SDNT]

COSMEPOP (a.k.a. COOPERATIVA DE COSMETICOS Y POPULARES COSMEPOP; f.k.a. BLAIMAR; f.k.a. CIA. INTERAMERICANA DE COSMETICOS S.A.; f.k.a. COINTERCOS S.A.; f.k.a. LABORATORIOS BLAIMAR DE COLOMBIA S.A.; f.k.a. LABORATORIOS BLANCO PHARMA S.A.), A.A. 55538, Bogota, Colombia; Calle 12B No. 27–37/39, Bogota, Colombia; Calle 26 Sur No. 7–30 Este, Bogota, Colombia; Carrera 99 y 100 No. 46A–10, Bodega 4, Bogota, Colombia (NIT # 800251322–5) [SDNT]

CUECA VILLARAGA, Hernan, c/o DROGAS LA REBAJA BOGOTA S.A., Bogota, Colombia (Cedula No. 11352426 (Colombia)) (individual) [SDNT]

DIAZ FAJARDO, Ricardo Javier, c/o COPSERVIR LTDA., Bogota, Colombia; c/o DISTRIBUIDORA DE DROGAS CONDOR S.A., Bogota, Colombia; c/o LABORATORIOS BLANCO PHARMA DE COLOMBIA S.A., Bogota, Colombia; Carrera 45 No. 166–42B B apt. 206, Bogota, Colombia (Cedula No. 79119795 (Colombia)) (individual) [SDNT]

DISMERCOOP (a.k.a. COOPERATIVA MULTIACTIVA DE EMPLEADOS DE SUPERMERCADOS Y AFINES; f.k.a. DISTRIBUIDORA MIGIL BOGOTA LTDA.; f.k.a. DISTRIBUIDORA MIGIL CALI S.A.; f.k.a. DISTRIBUIDORA MIGIL LTDA.; f.k.a. GRACADAL S.A.; f.k.a. MIGIL), Calle 5C No. 41–30, Cali, Colombia; Carrera 26 No. 5B–65, Cali, Colombia; Carrera 30 No. 5–12, Cali, Colombia (NIT # 805003637–5) [SDNT]

DOMINGUEZ, Fernando, c/o DISMERCOOP, Cali, Colombia (Cedula No. 16701778 (Colombia)) (individual) [SDNT]

DUQUE MARTINEZ, Maria Consuelo, c/o FARMACOOP, Bogota, Colombia; c/o LABORATORIOS KRESSFOR DE COLOMBIA S.A., Bogota, Colombia (Cedula No. 41716296 (Colombia)) (individual) [SDNT]

FARMACOOP (a.k.a. COOPERATIVA MULTIACTIVA DE COMERCIALIZACION Y SERVICIOS FARMACOOP; f.k.a. LABORATORIOS KRESSFOR DE COLOMBIA S.A.), A.A. 18491, Bogota, Colombia; Calle 16 No. 28A–51, Bogota, Colombia; Calle 16 No. 28A–57, Bogota, Colombia; Calle 17A No. 28–43, Bogota, Colombia; Calle 17A No. 28A–43, Bogota, Colombia (NIT # 830010878–3) [SDNT]

FERNANDEZ LUNA, Tiberio, c/o COPSERVIR LTDA., Bogota, Colombia; c/o DISTRIBUIDORA DE DROGAS CONDOR S.A., Bogota, Colombia; c/o LABORATORIOS BLANCO PHARMA DE COLOMBIA S.A., Bogota, Colombia (Cedula No. 93286690 (Colombia)) (individual) [SDNT]

FLEXOEMPAQUES LTDA. (f.k.a. PLASTICOS CONDOR LTDA.), Carrera 13 No. 16–62, Cali, Colombia (NIT # 800044167–2) [SDNT]

GALLEGO SANCHEZ, Isaac, c/o DISMERCOOP, Cali, Colombia; c/o GRACADAL S.A., Cali, Colombia (Cedula No. 6457399 (Colombia)) (individual) [SDNT]

GAMBA SANCHEZ, Fernando, c/o DISTRIBUIDORA DE DROGAS CONDOR S.A., Bogota, Colombia (Cedula No. 19494919 (Colombia)) (individual) [SDNT]

GONZALEZ QUINTERO, M. Patricia, c/o COINTERCOS S.A., Bogota, Colombia; c/o DISTRIBUIDORA DE DROGAS CONDOR S.A., Bogota, Colombia (Cedula No. 35415232 (Colombia)) (individual) [SDNT]

GUTIERREZ BURAGLIA, German, c/o PENTACOOP LTDA., Bogota, Colombia (Cedula No. 19439177 (Colombia)) (individual) [SDNT]

HACHITO SANCHEZ, Angel Alberto, c/o COPSERVIR LTDA., Bogota, Colombia (DOB 9 November 1962; Cedula No. 17634454 (Colombia)) (individual) [SDNT]

IDARRAGA ESCANDON, Herned (Hernet), c/o DISMERCOOP, Cali, Colombia; c/o GRACADAL S.A., Cali, Colombia; Carrera 25A No. 49–73, Cali, Colombia (Cedula No. 16595668 (Colombia)) (individual) [SDNT]

INTERAMERICA DE CONSTRUCCIONES S.A. (f.k.a. ANDINA DE CONSTRUCCIONES S.A.), Calle 12 Norte No. 9N–56, Cali, Colombia (NIT # 800237404–2) [SDNT]

INVERSIONES Y CONSTRUCCIONES COSMOVALLE LTDA. (a.k.a. COSMOVALLE; f.k.a. COMPAX LTDA.; f.k.a. INVERSIONES Y DISTRIBUCIONES COMPAX LTDA.), Calle 10 No. 4–47 piso 19, Cali, Colombia (NIT # 800102403–5) [SDNT]

JARAMILLO F., Harvy, c/o DISMERCOOP, Cali, Colombia (Cedula No. 16711189 (Colombia)) (individual) [SDNT]

LEAL RODRIGUEZ, Jose Guillermo, c/o LABORATORIOS KRESSFOR DE COLOMBIA S.A., Bogota, Colombia; c/o PENTA PHARMA DE COLOMBIA S.A., Bogota, Colombia; c/o PENTACOOP LTDA., Bogota, Colombia (Cedula No. 89867 (Colombia)) (individual) [SDNT]

LEAL FLOREZ, Luis Alejandro, c/o COINTERCOS S.A., Bogota, Colombia; c/o DISTRIBUIDORA DE DROGAS CONDOR S.A., Bogota, Colombia (Cedula No. 7217432 (Colombia)) (individual) [SDNT]

MANAURE S.A. (f.k.a. AGROPECUARIA LA ROBLEDA S.A.), Avenida 2D Norte No. 24N–76, Cali, Colombia; Carrera 61 No. 11–58, Cali, Colombia (NIT # 800160353–2) [SDNT]

MONDRAGON AVILA, Alicia, c/o INVERSIONES Y CONSTRUCCIONES COSMOVALLE LTDA., Cali, Colombia (Cedula No. 29086010 (Colombia)) (individual) [SDNT]

MUNOZ CORTES (CORTEZ), Julio Cesar, c/o DROGAS LA REBAJA BARRANQUILLA S.A., Barranquilla, Colombia; c/o BLANCO PHARMA S.A., Bogota, Colombia; c/o COPSERVIR LTDA., Bogota, Colombia; c/o DISTRIBUIDORA DE DROGAS CONDOR LTDA., Bogota, Colombia; c/o DROGAS LA REBAJA PRINCIPAL S.A., Bogota, Colombia; c/o DROGAS LA REBAJA CALI S.A., Cali, Colombia (Cedula No. 14938700 (Colombia)) (individual) [SDNT]

NAIZAQUE PUENTES, Jose de Jesus, c/o COINTERCOS S.A., Bogota, Colombia; c/o COSMEPOP, Bogota, Colombia; c/o LABORATORIOS BLAIMAR DE COLOMBIA S.A., Bogota, Colombia; Calle 58A S 80C–31, Bogota, Colombia (Cedula No. 19348370 (Colombia)) (individual) [SDNT]

NAVARRO REYES, Fernando, c/o DROGAS LA REBAJA BARRANQUILLA S.A., Barranquilla, Colombia; c/o DEPOSITO POPULAR DE DROGAS S.A., Bogota, Colombia; c/o DROGAS LA REBAJA BOGOTA S.A., Bogota, Colombia; c/o DROGAS LA REBAJA PRINCIPAL S.A., Bogota, Colombia; c/o DROGAS LA REBAJA CALI S.A., Cali, Colombia; c/o DROGAS LA REBAJA NEIVA S.A., Neiva, Colombia; c/o DROGAS LA REBAJA PEREIRA S.A., Pereira, Colombia (Cedula No. 16617177 (Colombia)) (individual) [SDNT]

PAREDES GONZALEZ, Nohora, c/o COPSERVIR LTDA., Bogota, Colombia (Cedula No. 36376456 (Colombia)) (individual) [SDNT]

PENTACOOP LTDA. (f.k.a. PENTA PHARMA DE COLOMBIA S.A.), Calle 17A No. 28A–23, Bogota, Colombia; Calle 17A No. 28A–43, Bogota, Colombia (NIT # 830016989–1) [SDNT]

PINEROS LEON, Miguel E., c/o COPSERVIR LTDA., Bogota, Colombia (Cedula No. 468712 (Colombia)) (individual) [SDNT]

RAMIREZ, James Alberto, c/o ANDINA DE CONSTRUCCIONES S.A., Cali, Colombia; c/o DISMERCOOP, Cali, Colombia; c/o GRACADAL S.A., Cali, Colombia; c/o INTERAMERICA DE CONSTRUCCIONES S.A., Cali, Colombia; c/o INVERSIONES Y CONSTRUCCIONES COSMOVALLE LTDA., Cali, Colombia (Cedula No. 16691796 (Colombia)) (individual) [SDNT]

RAMIREZ DE CASTANEDA, Maria, c/o PENTA PHARMA DE COLOMBIA S.A., Bogota, Colombia; c/o PENTACOOP LTDA., Bogota, Colombia (Cedula No. 31226330 (Colombia)) (individual) [SDNT]

RAMIREZ SUAREZ (SUARES), Luis Carlos, c/o COPSERVIR LTDA., Bogota, Colombia; c/o DROGAS LA REBAJA BUCARAMANGA S.A., Bucaramanga, Colombia (Cedula No. 19164938 (Colombia)) (individual) [SDNT]

RAMOS BONILLA, Blanca Clemencia, c/o COSMEPOP, Bogota, Colombia; c/o LABORATORIOS BLAIMAR DE COLOMBIA S.A., Bogota, Colombia (Cedula No. 41767311 (Colombia)) (individual) [SDNT]

RENDON, Maria Fernanda, c/o DISMERCOOP, Cali, Colombia (Cedula No. 38864017 (Colombia)) (individual) [SDNT]

RESTREPO HERNANDEZ, Ruben Dario, c/o DISMERCOOP, Cali, Colombia (Cedula No. 10094108 (Colombia)) (individual) [SDNT]

RODRIGUEZ, Jorge Enrique, c/o DISMERCOOP, Cali, Colombia (Cedula No. 16202232 (Colombia)) (individual) [SDNT]

SERRANO, Jose Delio, c/o DISMERCOOP, Cali, Colombia (Cedula No. 16711205 (Colombia)) (individual) [SDNT]

SOTO CELIS, Oscar, c/o COPSERVIR LTDA., Bogota, Colombia (Cedula No. 16546889 (Colombia)) (individual) [SDNT]

TORRES LOZANO, Isolina, c/o COSMEPOP, Bogota, Colombia; c/o LABORATORIOS BLAIMAR DE COLOMBIA S.A., Bogota, Colombia (Cedula No. 28796392 (Colombia)) (individual) [SDNT]

VALDIVIESO FONTAL, Diego, c/o VALLADARES LTDA., Cali, Colombia (Cedula No. 16662362 (Colombia)) (individual) [SDNT]

VALENCIA, Jesus Antonio, c/o DISMERCOOP, Cali, Colombia (Cedula No. 16447249 (Colombia)) (individual) [SDNT]

VALLADARES LTDA. (f.k.a. AGROPECUARIA BETANIA LTDA.), Calle 70N No. 14–31, Cali, Colombia; Carrera 61 No. 11–58, Cali, Colombia (NIT # 890329123–0) [SDNT]

VILLOTA GALVIS, Fernando, c/o FARMACOOP, Bogota, Colombia; c/o LABORATORIOS KRESSFOR DE COLOMBIA S.A., Bogota, Colombia (Cedula No. 17118703 (Colombia)) (individual) [SDNT]

ZAMBRANO MADRONERO, Carmen Alicia, c/o COSMEPOP, Bogota, Colombia (Cedula No. 30738265 (Colombia)) (individual) [SDNT]

Appendices A and B to Chapter V [Amended]

2. Appendices A and B to chapter V of 31 CFR are amended by revising the following existing entries to include additional identifying information (1) in appendix A and (2) under the heading ''Colombia'' in appendix B, to read as follows:

ABRIL CORTEZ, Oliverio (f.k.a. CORTEZ, Oliverio Abril), c/o AGROPECUARIA BETANIA LTDA., Cali, Colombia; c/o CONSTRUCTORA DIMISA LTDA., Cali, Colombia; c/o INVERSIONES EL PENON S.A., Cali, Colombia; c/o INVERSIONES GEMINIS S.A., Cali, Colombia; c/o VALLADARES LTDA., Cali, Colombia; c/o W. HERRERA Y CIA. S. EN C., Cali, Colombia; Calle 18A No. 8A–20, Jamundi, Colombia (Cedula No. 3002003 (Colombia)) (individual) [SDNT]

AGUADO ORTIZ, Luis Jamerson, c/o DISTRIBUIDORA MIGIL LTDA., Cali, Colombia; c/o FLEXOEMPAQUES LTDA., Cali, Colombia; c/o PLASTICOS CONDOR LTDA., Cali, Colombia (Cedula No. 2935839 (Colombia)) (individual) [SDNT]

ARBELAEZ PARDO, Amparo, c/o LABORATORIOS KRESSFOR DE COLOMBIA S.A., Bogota, Colombia; c/o VALORES MOBILIARIOS DE OCCIDENTE, Bogota, Colombia; c/o INTERAMERICA DE CONSTRUCCIONES S.A., Cali, Colombia; c/o INVERSIONES ARA LTDA., Cali, Colombia; Casa No. 19, Avenida Lago, Ciudad Jardin, Cali, Colombia (DOB 9 November 1950; alt. DOB 9 August 1950; Passports AC 568973 (Colombia), PEDO1850 (Colombia); Cedula No. 31218903 (Colombia)) (individual) [SDNT]

ARJONA ALVARADO, Rafael, c/o ALPHA PHARMA S.A., Bogota, Colombia; c/o FARMATODO S.A., Bogota, Colombia; c/o LABORATORIOS BLAIMAR, Bogota, Colombia; c/o LABORATORIOS KRESSFOR DE COLOMBIA S.A., Bogota, Colombia (Cedula No. 19442698 (Colombia)) (individual) [SDNT]

AVILA DE MONDRAGON, Ana Dolores, c/o COMPAX LTDA., Cali, Colombia; c/o INVERSIONES Y CONSTRUCCIONES COSMOVALLE LTDA., Cali, Colombia (Cedula No. 29183223 (Colombia)) (individual) [SDNT]

BARON DIAZ, Carlos Arturo, c/o GRACADAL S.A., Bogota, Colombia; c/o DISTRIBUIDORA MIGIL LTDA., Cali, Colombia (Cedula No. 49994 (Colombia)) (individual) [SDNT]

BUITRAGO DE HERRERA, Luz Mery, c/o AGROPECUARIA BETANIA LTDA., Cali, Colombia; c/o AGROPECUARIA Y REFORESTADORA HERREBE LTDA., Cali, Colombia; c/o CONSTRUEXITO S.A., Cali, Colombia; c/o INVERSIONES BETANIA LTDA., Cali, Colombia; c/o INVERSIONES GEMINIS S.A., Cali, Colombia; c/o INVERSIONES HERREBE LTDA., Cali, Colombia; c/o INVERSIONES INVERVALLE S.A., Cali, Colombia; c/o SOCOVALLE, Cali, Colombia; c/o VALLADARES LTDA., Cali, Colombia; c/o W. HERRERA Y CIA., Cali, Colombia (Cedula No. 29641219 (Colombia)) (individual) [SDNT]

CARRILLO SILVA, Armando, c/o GRACADAL S.A., Bogota, Colombia; c/o DROGAS LA REBAJA, Cali, Colombia; c/o INTERAMERICA DE CONSTRUCCIONES S.A., Cali, Colombia; c/o INVERSIONES CAMINO REAL S.A., Cali, Colombia (Cedula No. 16242828 (Colombia)) (individual) [SDNT]

CHAVARRO, Hector Fabio, c/o AGROPECUARIA BETANIA LTDA., Cali, Colombia; c/o INVERSIONES VILLA PAZ S.A., Cali, Colombia; c/o VALLADARES LTDA., Cali, Colombia (Cedula No. 16263212 (Colombia)) (individual) [SDNT]

DELGADO, Jorge Armando, c/o ALFA PHARMA S.A., Bogota, Colombia; c/o COINTERCOS S.A., Bogota, Colombia; c/o COPSERVIR LTDA., Bogota, Colombia; c/o COSMEPOP, Bogota, Colombia; c/o DISTRIBUIDORA MYRAMIREZ S.A., Bogota, Colombia; c/o FARMATODO S.A., Bogota, Colombia; c/o LABORATORIOS BLAIMAR DE COLOMBIA S.A., Bogota, Colombia; c/o LABORATORIOS BLANCO PHARMA DE COLOMBIA S.A., Bogota, Colombia; c/o LABORATORIOS KRESSFOR DE COLOMBIA S.A., Bogota, Colombia (Cedula No. 19354318 (Colombia)) (individual) [SDNT]

GARZON RESTREPO, Juan Leonardo, c/o ALFA PHARMA S.A., Bogota, Colombia; c/o BLANCO PHARMA S.A., Bogota, Colombia; c/o FARMATODO S.A., Bogota, Colombia; c/o LABORATORIOS GENERICOS VETERINARIOS DE COLOMBIA S.A., Bogota, Colombia; c/o LABORATORIOS KRESSFOR DE COLOMBIA S.A., Bogota, Colombia; c/o PENTA PHARMA DE COLOMBIA S.A., Bogota, Colombia; c/o PENTACOOP LTDA., Bogota, Colombia; c/o VALORES MOBILIARIOS DE OCCIDENTE S.A., Bogota, Colombia; Diagonal 53 No. 38A–20 apt. 103, Bogota, Colombia; c/o DISTRIBUIDORA MYRAMIREZ S.A., Cali, Colombia; c/o DROGAS LA REBAJA, Cali, Colombia; c/o INVERSIONES ARA LTDA., Cali, Colombia; Carrera 7P No. 76–90, Cali, Colombia (DOB 14 January 1962; Cedula No. 16663709 (Colombia)) (individual) [SDNT]

IDARRAGA ORTIZ, Jaime, c/o BLANCO PHARMA S.A., Bogota, Colombia; c/o DISTRIBUIDORA DE DROGAS CONDOR LTDA., Bogota, Colombia; c/o DISTRIBUIDORA DE DROGAS LA REBAJA S.A., Bogota, Colombia; c/o DROGAS LA REBAJA BOGOTA S.A., Bogota, Colombia; c/o FARMATODO S.A., Bogota, Colombia; c/o LABORATORIOS BLAIMAR DE COLOMBIA S.A., Bogota, Colombia; c/o LABORATORIOS KRESSFOR DE COLOMBIA S.A., Bogota, Colombia; c/o DEPOSITO POPULAR DE DROGAS S.A., Cali, Colombia; c/o DISTRIBUIDORA MIGIL LTDA., Cali, Colombia; c/o INTERAMERICA DE CONSTRUCCIONES S.A., Cali, Colombia; c/o INVERSIONES CAMINO REAL S.A., Cali, Colombia (Cedula No. 8237011 (Colombia)) (individual) [SDNT]

LOPEZ VALENCIA, Oscar, c/o FLEXOEMPAQUES LTDA., Cali, Colombia; c/o PLASTICOS CONDOR LTDA., Cali, Colombia; Carrera 6A No. 11–43 501–2, Cali, Colombia (Cedula No. 10537943 (Colombia)) (individual) [SDNT]

MONDRAGON DE RODRIGUEZ, Mariela, c/o LABORATORIOS KRESSFOR DE COLOMBIA S.A., Bogota, Colombia; c/o COMPAX LTDA., Cali, Colombia; c/o INVERSIONES Y CONSTRUCCIONES COSMOVALLE LTDA., Cali, Colombia; c/o MARIELA DE RODRIGUEZ Y CIA. S. EN C., Cali, Colombia (DOB 12 April 1935; Passport 4436059 (Colombia); Cedula No. 29072613 (Colombia)) (individual) [SDNT]

MORAN GUERRERO, Mario Fernando, c/o COINTERCOS S.A., Bogota, Colombia; c/o LABORATORIOS KRESSFOR, Bogota, Colombia; c/o PENTA PHARMA DE COLOMBIA S.A., Bogota, Colombia; c/o PENTACOOP LTDA., Bogota, Colombia (Cedula No. 12983857 (Colombia)) (individual) [SDNT]

MUNOZ RODRIGUEZ, Juan Carlos, c/o BLANCO PHARMA S.A., Bogota, Colombia; c/o DISTRIBUIDORA DE DROGAS CONDOR LTDA., Bogota, Colombia; c/o DISTRIBUIDORA DE DROGAS LA REBAJA S.A., Bogota, Colombia; c/o GRACADAL S.A., Bogota, Colombia; c/o LABORATORIOS BLAIMAR DE COLOMBIA S.A., Bogota, Colombia; c/o LABORATORIOS KRESSFOR DE COLOMBIA S.A., Bogota, Colombia; c/o DEPOSITO POPULAR DE DROGAS S.A., Cali, Colombia; c/o DISTRIBUIDORA MIGIL LTDA., Cali, Colombia (DOB 25 September 1964; Passport 16703148 (Colombia); Cedula No. 16703148 (Colombia)) (individual) [SDNT]

RESTREPO VILLEGAS, Camilio, Calle 116 No. 12–49, Bogota, Colombia; c/o FLEXOEMPAQUES LTDA., Cali, Colombia; c/o PLASTICOS CONDOR LTDA., Cali, Colombia (Cedula No. 6051150 (Colombia)) (individual) [SDNT]

RODRIGUEZ ABADIA, William, c/o BLANCO PHARMA S.A., Bogota, Colombia; c/o DISTRIBUIDORA DE DROGAS CONDOR LTDA., Bogota, Colombia; c/o DISTRIBUIDORA DE DROGAS LA REBAJA S.A., Bogota, Colombia; c/o LABORATORIOS BLAIMAR DE COLOMBIA S.A., Bogota, Colombia; c/o LABORATORIOS KRESSFOR DE COLOMBIA S.A., Bogota, Colombia; c/o VALORES MOBILIARIOS DE OCCIDENTE S.A., Bogota, Colombia; c/o ANDINA DE CONSTRUCCIONES S.A., Cali, Colombia; c/o ASPOIR DEL PACIFICO Y CIA. LTDA., Cali, Colombia; c/o DEPOSITO POPULAR DE DROGAS S.A., Cali, Colombia; c/o DERECHO INTEGRAL Y CIA. LTDA., Cali, Colombia; c/o DISTRIBUIDORA MIGIL LTDA., Cali, Colombia; c/o INTERAMERICA DE CONSTRUCCIONES S.A., Cali, Colombia; c/o INVERSIONES ARA LTDA., Cali, Colombia; c/o INVERSIONES MIGUEL RODRIGUEZ E HIJO, Cali, Colombia; c/o M. RODRIGUEZ O. Y CIA. S. EN C., Cali, Colombia; c/o MUNOZ Y RODRIGUEZ Y CIA. LTDA., Cali, Colombia; c/o RADIO UNIDAS FM S.A., Cali, Colombia; c/o REVISTA DEL AMERICA LTDA., Cali, Colombia; c/o RIONAP COMERCIO Y REPRESENTACIONES S.A., Quito, Ecuador (DOB 31 July 1965; Cedula No. 16716259 (Colombia)) (individual) [SDNT]

RODRIGUEZ ARBELAEZ, Maria Fernanda, c/o DISTRIBUIDORA DE DROGAS LA REBAJA S.A., Bogota, Colombia; c/o DROGAS LA REBAJA BOGOTA S.A., Bogota, Colombia; c/o DEPOSITO POPULAR DE DROGAS S.A., Cali, Colombia; c/o INTERAMERICA DE CONSTRUCCIONES S.A., Cali, Colombia; c/o INVERSIONES ARA LTDA., Cali, Colombia; c/o RIONAP COMERCIO Y REPRESENTACIONES S.A., Quito, Ecuador (DOB 28 November 1973; alternate DOB 28 August 1973; Passport AC568974 (Colombia); Cedula No. 66860965 (Colombia)) (individual) [SDNT]

RODRIGUEZ MONDRAGON, Humberto, c/o BLANCO PHARMA S.A., Bogota, Colombia; c/o DISTRIBUIDORA DE DROGAS CONDOR LTDA., Bogota, Colombia; c/o DISTRIBUIDORA DE DROGAS LA REBAJA S.A., Bogota, Colombia; c/o FARMATODO S.A., Bogota, Colombia; c/o GRACADAL S.A., Bogota, Colombia; c/o LABORATORIOS BLAIMAR DE COLOMBIA S.A., Bogota, Colombia; c/o LABORATORIOS KRESSFOR DE COLOMBIA S.A., Bogota, Colombia; c/o PENTA PHARMA DE COLOMBIA S.A., Bogota, Colombia; c/o ANDINA DE CONSTRUCCIONES S.A., Cali, Colombia; c/o DEPOSITO POPULAR DE DROGAS S.A., Cali, Colombia; c/o DISTRIBUIDORA MIGIL LTDA., Cali, Colombia; c/o INTERAMERICA DE CONSTRUCCIONES S.A., Cali, Colombia; c/o MARIELA DE RODRIGUEZ Y CIA. S. EN C., Cali, Colombia; c/o MAXITIENDAS TODO EN UNO, Cali, Colombia; c/o RADIO UNIDAS FM S.A., Cali, Colombia; c/o RIONAP COMERCIO Y REPRESENTACIONES S.A., Quito, Ecuador (DOB 21 June 1963; Passport AD387757 (Colombia); Cedula No. 16688683 (Colombia)) (individual) [SDNT]

RODRIGUEZ MONDRAGON, Jaime, c/o BLANCO PHARMA S.A., Bogota, Colombia; c/o DISTRIBUIDORA DE DROGAS CONDOR LTDA., Bogota, Colombia; c/o DISTRIBUIDORA DE DROGAS LA REBAJA S.A., Bogota, Colombia; c/o FARMATODO S.A., Bogota, Colombia; c/o GRACADAL S.A., Bogota, Colombia; c/o LABORATORIOS BLAIMAR DE COLOMBIA S.A., Bogota, Colombia; c/o LABORATORIOS KRESSFOR DE COLOMBIA S.A., Bogota, Colombia; c/o PENTA PHARMA DE COLOMBIA S.A., Bogota, Colombia; c/o DEPOSITO POPULAR DE DROGAS S.A., Cali, Colombia; c/o DISTRIBUIDORA MIGIL LTDA., Cali, Colombia; c/o FLEXOEMPAQUES LTDA., Cali, Colombia; c/o MARIELA DE RODRIGUEZ Y CIA. S. EN C., Cali, Colombia; c/o PLASTICOS CONDOR LTDA., Cali, Colombia; c/o RIONAP COMERCIO Y REPRESENTACIONES S.A., Quito, Ecuador (Cedula No. 16637592 (Colombia)) (individual) [SDNT]

RODRIGUEZ MONDRAGON, Maria Alexandra (a.k.a. RODRIGUEZ MONDRAGON, Alexandra), c/o BLANCO PHARMA S.A., Bogota, Colombia; c/o DISTRIBUIDORA DE DROGAS CONDOR LTDA., Bogota, Colombia; c/o DISTRIBUIDORA DE DROGAS LA REBAJA S.A., Bogota, Colombia; c/o GRACADAL S.A., Bogota, Colombia; c/o LABORATORIOS BLAIMAR DE COLOMBIA S.A., Bogota, Colombia; c/o PENTA PHARMA DE COLOMBIA S.A., Bogota, Colombia; c/o DEPOSITO POPULAR DE DROGAS S.A., Cali, Colombia; c/o DISTRIBUIDORA MIGIL LTDA., Cali, Colombia; c/o INTERAMERICA DE CONSTRUCCIONES S.A., Cali, Colombia; c/o MARIELA DE RODRIGUEZ Y CIA. S. EN C., Cali, Colombia; c/o TOBOGON, Cali, Colombia (DOB 30 May 1969; alt. DOB 5 May 1969; Passport AD359106 (Colombia); Cedula No. 66810048 (Colombia)) (individual) [SDNT]

RODRIGUEZ RAMIREZ, Claudia Pilar, c/o DISTRIBUIDORA DE DROGAS CONDOR LTDA., Bogota, Colombia; c/o DISTRIBUIDORA DE DROGAS LA REBAJA S.A., Bogota, Colombia; c/o FARMATODO S.A., Bogota, Colombia; c/o GRACADAL S.A., Bogota, Colombia; c/o LABORATORIOS BLAIMAR DE COLOMBIA S.A., Bogota, Colombia; c/o LABORATORIOS KRESSFOR DE COLOMBIA S.A., Bogota, Colombia; c/o DEPOSITO POPULAR DE DROGAS S.A., Cali, Colombia; c/o DISTRIBUIDORA MIGIL LTDA., Cali, Colombia; c/o INTERAMERICA DE CONSTRUCCIONES S.A., Cali, Colombia (DOB 30 June 1963; alt. DOB 30 August 1963; alt. DOB 1966; Passports 007281 (Colombia), P0555266 (Colombia); Cedula No. 51741013 (Colombia)) (individual) [SDNT]

RUEDA FAJARDO, Herberth Gonzalo, c/o FARMACOOP, Bogota, Colombia; c/o LABORATORIOS GENERICOS VETERINARIOS, Bogota, Colombia; c/o LABORATORIOS KRESSFOR DE COLOMBIA S.A., Bogota, Colombia (Cedula No. 12126395 (Colombia)) (individual) [SDNT]

SOLAQUE SANCHEZ, Alfredo, c/o ALFA PHARMA S.A., Bogota, Colombia; c/o DISTRIBUIDORA DE DROGAS CONDOR LTDA., Bogota, Colombia; c/o LABORATORIOS BLAIMAR DE COLOMBIA S.A., Bogota, Colombia; c/o LABORATORIOS KRESSFOR DE COLOMBIA S.A., Bogota, Colombia; c/o PENTA PHARMA DE COLOMBIA S.A., Bogota, Colombia; c/o PENTACOOP LTDA., Bogota, Colombia (Cedula No. 79261845 (Colombia)) (individual) [SDNT]

Dated: March 24, 1997.

R. Richard Newcomb,

Director, Office of Foreign Assets Control.

Approved: April 8, 1997.

James E. Johnson,

Assistant Secretary (Enforcement).

[FR Doc. 97–10322 Filed 4–17–97; 10:40 am]

BILLING CODE 4810–25–F

DEPARTMENT OF THE TREASURY

Internal Revenue Service

31 CFR Part 1

Privacy Act of 1974; Implementation

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final rule.

SUMMARY: In accordance with the requirements of the Privacy Act of 1974, as amended, 5 U.S.C. 552a, the Department of the Treasury gives notice of an amendment exempting the system of records entitled the Automated Information Analysis System—Treasury/IRS 46.050 from certain provisions of the Privacy Act. The exemption is intended to comply with legal prohibitions against the disclosure of certain kinds of information and to protect certain information on individuals maintained in this system of records.

EFFECTIVE DATE: April 22, 1997.

ADDRESSES: Please submit inquiries to the National Director, Governmental Liaison and Disclosure, Internal Revenue Service, 1111 Constitution Avenue, NW, Washington DC. 20224.

FOR FURTHER INFORMATION CONTACT: Michael Orth, Director of Investigations, Midstates Region, Internal Revenue Service at (202) 622–8901.

SUPPLEMENTARY INFORMATION: The Department of the Treasury published a notice of a proposed rule exempting a system of records from certain provisions of the Privacy Act of 1974, as amended, at Vol. 61, No. 188, page 50461, dated September 26, 1996. The Internal Revenue Service published the system notice in its entirety at Vol. 61, No. 175, page 47547, dated September 9, 1996.

Under 5 U.S.C. 552a(j)(2), the head of an agency may promulgate rules to exempt any system of records within the agency or within a component of the agency whose principal function is the enforcement of criminal laws from certain provisions of the Privacy Act of 1974. This system of records pertains to the enforcement of criminal laws, and contains investigatory material about individuals that is compiled to identify leads to possible criminal investigations.

Under 5 U.S.C. 552a(k)(2), the head of an agency may promulgate rules to exempt any system of records within the agency from certain provisions of the Privacy Act of 1974 if the system is investigatory material compiled for law enforcement purposes. The Automated Information Analysis System—Treasury/IRS 46.050, contains investigatory material compiled for law enforcement purposes.

The proposed rule requested that public comments be sent to the Governmental Liaison and Disclosure Office, Internal Revenue Service, 1111 Constitution Avenue, NW, Washington, DC 20224 no later than October 28, 1996. No comments pertaining to the proposed rule were received by the Governmental Liaison and Disclosure Office. Accordingly, the Department of the Treasury is hereby giving notice that the system of records entitled, ''The Automated Information Analysis System—Treasury/IRS 46.050'', is exempt from certain provisions of the Privacy Act. The provisions of the Privacy Act of 1974 from which exemption is claimed pursuant to 5 U.S.C. 552a(j)(2) and (k)(2) are as follows: 5 U.S.C. 552a (c)(3), (c)(4), (d)(1), (d)(2), (d)(3), (d)(4), (e)(1), (e)(2), (e)(3), (e)(4)(G), (H), and (I), (e)(5), (e)(8), (f), and (g).

As required by Executive Order 12291, it has been determined that this final rule is not a ''major'' rule and, therefore, does not require a Regulatory Impact Analysis.

Pursuant to the requirements of the Regulatory Flexibility Act, 5 U.S.C. 601–612, it is hereby certified that this rule will not have significant economic impact on a substantial number of small entities.

In accordance with the provisions of the Paperwork Reduction Act of 1980, the Department of the Treasury has determined that this proposed rule would not impose new recordkeeping, application, reporting, or other types of information collection requirements.

Lists of Subjects in 31 CFR Part 1

Privacy.

Part 1 of Title 31 of the Code of Federal Regulations is amended as follows:

PART 1—[AMENDED]

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

Authority: 5 U.S.C. 301 and 31 U.S.C. 321. Subpart A also issued under 5 U.S.C. as amended. Subpart C also issued under 5 U.S.C. 552a.

§ 1.36 [Amended]

2. Section 1.36 of subpart C is amended by adding the following text to the table in paragraphs (a)(1) and (b)(1) under the heading THE INTERNAL REVENUE SERVICE

* * * * *

(a) * * *

(1) * * *

Name of System	No.
* * * * *	
Automated Information Analysis System	46.050
* * * * *	

(b) * * *

(1) * * *

Name of System	No.
* * * * *	
Automated Information Analysis System	46.050
* * * * *	

Dated: March 6, 1997.

Alex Rodriguez,

Deputy Assistant Secretary (Administration).

[FR Doc.97–10288 Filed 4–21–97: 8:45 am]

Billing CODE: 4830–01–F

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 64

[Docket No. FEMA–7663]

List of Communities Eligible for the Sale of Flood Insurance

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Final rule.

SUMMARY: This rule identifies communities participating in the National Flood Insurance Program (NFIP). These communities have applied to the program and have agreed to enact certain floodplain management measures. The communities' participation in the program authorizes the sale of flood insurance to owners of property located in the communities listed.

EFFECTIVE DATES: The dates listed in the third column of the table.

ADDRESSES: Flood insurance policies for property located in the communities listed can be obtained from any licensed property insurance agent or broker serving the eligible community, or from the NFIP at: Post Office Box 6464, Rockville, MD 20849, (800) 638–6620.

FOR FURTHER INFORMATION CONTACT: Robert F. Shea, Jr., Division Director, Program Implementation Division, Mitigation Directorate, 500 C Street SW., room 417, Washington, DC 20472, (202) 646–3619.

SUPPLEMENTARY INFORMATION: The NFIP enables property owners to purchase flood insurance which is generally not otherwise available. In return, communities agree to adopt and administer local floodplain management measures aimed at protecting lives and new construction from future flooding. Since the communities on the attached list have recently entered the NFIP, subsidized flood insurance is now available for property in the community.

In addition, the Executive Associate Director of the Federal Emergency Management Agency has identified the special flood hazard areas in some of these communities by publishing a Flood Hazard Boundary Map (FHBM) or Flood Insurance Rate Map (FIRM). The date of the flood map, if one has been published, is indicated in the fourth column of the table. In the communities listed where a flood map has been published, Section 102 of the Flood Disaster Protection Act of 1973, as amended, 42 U.S.C. 4012(a), requires the purchase of flood insurance as a condition of Federal or federally related financial assistance for acquisition or construction of buildings in the special flood hazard areas shown on the map.

The Executive Associate Director finds that the delayed effective dates would be contrary to the public interest. The Executive Associate Director also finds that notice and public procedure under 5 U.S.C. 553(b) are impracticable and unnecessary.

National Environmental Policy Act

This rule is categorically excluded from the requirements of 44 CFR part 10, Environmental Considerations. No environmental impact assessment has been prepared.

Regulatory Flexibility Act

The Executive Associate Director certifies that this rule will not have a significant economic impact on a substantial number of small entities in accordance with the Regulatory Flexibility Act, 5 U. S. C. 601 *et seq.*, because the rule creates no additional burden, but lists those communities eligible for the sale of flood insurance.

Regulatory Classification

This final rule is not a significant regulatory action under the criteria of section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Paperwork Reduction Act

This rule does not involve any collection of information for purposes of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*

Executive Order 12612, Federalism

This rule involves no policies that have federalism implications under Executive Order 12612, Federalism, October 26, 1987, 3 CFR, 1987 Comp., p. 252.

Executive Order 12778, Civil Justice Reform

This rule meets the applicable standards of section 2(b)(2) of Executive Order 12778, October 25, 1991, 56 FR 55195, 3 CFR, 1991 Comp., p. 309.

List of Subjects in 44 CFR Part 64

Flood insurance, Floodplains.

Accordingly, 44 CFR part 64 is amended as follows:

PART 64—[AMENDED]

1. The authority citation for part 64 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.*, Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 64.6 [Amended]

2. The tables published under the authority of § 64.6 are amended as follows:

State/location	Community No.	Effective date of eligibility	Current effective map date
New Eligibles—Emergency Program			
North Dakota:			
Hampden, city of, Ramsey County	380094	Mar. 4, 1997.	
Nogosek, township of, Stutsman County	380693	Mar. 6, 1997.	
Great Bend, city of, Richland County	380099	Mar. 7, 1997	July 30, 1976.
Logan County, unincorporated areas	380691	.....do.	
Do. Pierce County, unincorporated areas	380087	.....do.	
Reynolds, city of, Traill and Grand Forks Counties	380199	.....do.	
Steele County, unincorporated areas	380692	.....do.	
South Dakota:			
Artas, city of, Campbell County	461207	Mar. 4, 1997.	
Centerville, city of, Turner County	460163	.....do.	
Edmunds County, unincorporated areas	460264	.....do.	
Tabor, town of, Bon Homme County	460142	.....do.	
Springfield, city of, Bon Homme County	460216	.....do.	
Twin Brooks, city of, Grant County	461208	.....do.	
Chelsea, town of, Faulk County	461209	.....do.	
Seneca, town of, Faulk County	461206	Mar. 5, 1997.	
Clark, city of, Clark County	460013	.....do	Aug. 1, 1978.
Presho, city of, Lyman County	460297	Mar. 6, 1997.	
Roscoe, city of, Edmunds County	460136	.....do.	
Walworth County, unincorporated areas	460291	.....do.	
Hosmer, city of, Edmunds County	460117	Mar. 7, 1997.	
Langford, town of, Marshall County	460125	.....do.	
Monroe, town of, Turner County	461210	.....do.	
Tea, city of, Lincoln County	460143	.....do.	
Monroe, town of, Turner County	461210	.....do.	
New Hampshire: Fritzwilliam, town of, Cheshire County	330207	.....do	Nov. 26, 1970.
Georgia: Laurens County, unincorporated areas	130462	.....do	Feb. 17, 1978.
North Carolina: Leggett, town o,f Edgecombe County	370317	.....do	July 1, 1977.
Minnesota: Comfrey, city of, Brown County	270035	.....do	Dec. 26, 1975.

State/location	Community No.	Effective date of eligibility	Current effective map date
North Dakota:			
Sargent County, unincorporated areas	380295	Mar. 11, 1997.	
New Rockford, city of Eddy County	380031	.....do	Apr. 16, 1976.
Lakota, city of Nelson County	380075	.....do.	
Wimbledon, city of, Barnes County	380212	.....do.	
Abercrombie, city of, Richland County	380151	.....do	Oct. 29, 1976.
Eddy County, unincorporated areas	380694	.....do.	
Elgin, city of, Grant County	380224	.....do.	
Wilton, city of, McLean and Burleigh County	380065	.....do.	
Gilby, city of, Grand Forks County	380035	.....do.	
Renville County, unincorporated areas.	380097	Mar. 14, 1997.	
South Dakota:			
Rosholt, city of, Roberts County	461211	Mar. 11, 1997..	
Elkton, city of, Brookings County	460172	.....do.	
Brule County, unincorporated areas	460284	.....do.	
Tyndall, city of, Bon Homme County	460220	.....do.	
Cavour, town of, Beadle County	461212	Mar. 14, 1997.	
Canova, town of, Minor County	460102	.....do.	
Willow Lake, city of, Clark County	460014	.....do	July 11, 1978.
Charles Mix County, unincorporated areas	460257	.....do.	
Tripp County, unincorporated areas	460289	.....do.	
Minnesota: Winthrop, city of, Sibley County	270441	Mar. 11, 1997.	
Michigan: Waucedah, township of, Dickinson County	260986	.....do.	
Minnesota:			
Chokio, city of, Stevens County	270464	Mar. 18, 1997	Oct. 24, 1975.
Cottonwood, city of, Lyon County [1]	270765	Mar. 21, 1997	Dec. 2, 1977.
Tracy, city of, Lyon County	270766	.....do.	
Idaho: Riggins, city of, Idaho County	160189	.....do.	
North Dakota:			
Strasburg, city of, Emmons County	380252	Mar. 18, 1997.	
Barney, city of, Richland County	380695	.....do.	
South Dakota:			
De Smet, city of, Kingsburg County	460168	.....do.	
Chancellor, town of, Turner County	460104	.....do.	
McIntosh, city of, Corson County	460195	.....do.	
Minnesota:			
Lake Wilson, city of, Murray County	270767	Mar. 26, 1997.	
Good Thunder, city of, Blue Earth County	270768	.....do.	
Elbow Lake, city of, Grant County	270769	.....do.	
New Auburn, city of, Sibley County	270770	.....do.	
Donaldson, city of, Kittson County	270225	.....do.	
Menahga, city of, Wadena County	270493	Mar. 28, 1997	Jan. 30, 1976.
Sabin, city of, Clay County	270771	.....do.	
Michigan:			
Republic, township of, Marquette County	260453	Mar. 24, 1997.	
Skandia, township of, Marquette County	260987	Mar. 26, 1997.	
Kentucky:			
Carroll County, unincorporated areas	210045	.....do	Feb. 25, 1977.
Logan County, unincorporated areas	210341	.....do	Sep. 9, 1977.
Idaho:			
Council, city of, Adams County	160005	.....do	May 3, 1974.
North Dakota:			
Foster County, unincorporated areas	380696	Mar. 26, 1997.	
Hankinson, city of, Richland County	380230	.....do.	
Standing Rock Indian Reservation, Sioux County	380697	.....do.	
South Dakota:			
Britton, city of, Marshall County	460159	.....do.	
Canistota, city of, McCook County	460162	.....do.	
Worthing, town of, Lincoln County	460151	.....do.	
Texas: Robertson County, unincorporated areas	480988	Mar. 27, 1997	June 3, 1977.
New Eligibles—Regular Program			
California: Ceres, city of, Stanislaus County [2]	060385	Mar. 7, 1997	Sept. 29, 1989.
North Carolina:			
Lake Lure, town of, Rutherford County [3]	370488	Mar. 4, 1997	June 1, 1987.
Chatham County, unincorporated areas	370299	.....do	July 16, 1991.
Washington: Shoreline, city of, King County [4]	530327	.....do	May 20, 1996.
North Carolina: Orrum, town of, Robeson County	370349	Mar. 11, 1997	Feb. 17, 1993.
Minnesota:			
Rice Lake, town of, St. Louis County	70742	Mar. 14, 1997	Feb. 19, 1992.
Midway, town of, St. Louis County	270741	Mar. 21, 1997	Do.
Sebeka, city of, Wadena County	270494	Mar. 21, 1997	May 4, 1989.
Louisiana: Oak Ridge, village of, Morehouse Parish	220303	Mar. 27, 1997.	

State/location	Community No.	Effective date of eligibility	Current effective map date
Reinstatements			
Pennsylvania:			
Marion Center, borough of, Indiana County	420503	Sept. 29, 1975, Emerg; Sept. 1, 1986, Reg; Sept. 1, 1986, Susp; Mar. 4, 1997, Rein.	Nov. 16, 1995.
West Homestead, borough of, Allegheny County	420084	May 14, 1975, Emerg; Aug. 15, 1980, Reg; Oct. 4, 1995, Susp; Mar. 4, 1997, Rein.	Oct. 4, 1995.
Michigan: Wayland, city of, Allegan County	260744	Mar. 19, 1985, Emerg; June 5, 1989, Reg; June 5, 1989, Susp; Mar. 5, 1997, Rein.	June 5, 1989.
Pennsylvania: West Vincent, township of, Chester County.	421499	Aug. 11, 1975, Emerg; Nov. 19, 1987, Reg; Nov. 20, 1996, Susp; Mar. 7, 1997 Rein.	Nov. 20, 1996.
Idaho: Madison County, unincorporated areas	160217	Feb. 2, 1997, Emerg; June 3, 1991, Reg; Feb. 19, 1997, Susp; Mar. 13, 1997, Rein.	June 3, 1991.
Pennsylvania: York Springs, borough of, Adams County.	421239	May 30, 1974, Emerg; June 1, 1979, Reg; Feb. 19, 1997, Susp; Mar. 13, 1997, Rein.	Feb. 19, 1997.
Vermont: Leicester, town of, Addison County	500006	May 27, 1975, Emerg; Nov. 1, 1985, Reg; June 4, 1990, Susp; Mar. 14, 1997 Rein.	Nov. 1, 1985.
Wisconsin: Crawford County, unincorporated areas	555551	Mar. 19, 1971, Emerg; April 20, 1973, Reg; Sept. 27, 1991, Susp; Mar. 21, 1997, Rein.	Sept. 27, 1991.
New York: Ticonderoga, town of, Essex County	361159	Apr. 15, 1975, Emerg; May 17, 1988, Reg; Sept. 6, 1996, Susp; Mar. 21, 1997, Rein.	Sept. 6, 1996.
Idaho: Juliaetta, city of, Latah County	160088	Nov. 1, 1974, Emerg; Mar. 4, 1980, Reg; Mar. 4, 1980, Susp; Mar. 21, 1997 Rein;.	Mar. 4, 1980.
Withdrawn			
Missouri: Zalma, village of, Bollinger County	290033	Mar. 14, 1997, With.	
Regular Program Conversions			
Region I			
Connecticut: Granby, town of, Hartford County	090125	Mar. 3, 1997, Suspension Withdrawn	Mar. 3, 1997.
Region II			
New York:			
Canandaigua, town of, Ontario County	360598	.....do	Do.
Gouverneur, village of, St. Lawrence County	360699	.....do	Do.
Windham, town of, Greene County	361401	.....do	Do.
Region V			
Illinois: Aurora, city of, DuPage and Kane Counties	170320	.....do	Do.
Region VI			
Oklahoma:			
Cleveland County, unincorporated areas	400475	.....do	Do.
Lexington, city of, Cleveland County	400043	.....do	Do.
Moore, city of, Cleveland County	400044	.....do	Do.
Noble, town of, Cleveland County	400045	.....do	Do.
Norman, city of, Cleveland County	400046	.....do	Do.
Oklahoma City, city of, Cleveland County	405378	.....do	Do.
Slaughterville, town of, Cleveland County	400539	.....do	Do.
Region VII			
Missouri: Marshall, city of, Saline County	290403	.....do	Do.
Region VIII			
Colorado:			
Calhan, town of, El Paso	080192	.....do	Do.
Ramah, town of, El Paso	080066	.....do	Do.
Region X			
Idaho:			
Bellevue, city of, Blaine County	160021	.....do	Do.
Blaine County, unincorporated areas	165167	.....do	Do.
Hailey, city of, Blaine County	160022	.....do	Do.
Ketchum, city of, Blaine County	160023	.....do	Do.
Sun Valley, city of, Blaine County	160024	.....do	Do.

[1] The City of Cottonwood has adopted the Lyon County (2700256) Flood Hazard Boundary Map dated December 2, 1977.
[2] The City of Ceres, California has adopted the Stanislaus County (060384) Flood Insurance Rate Map dated September 29, 1989.
[3] The Town of Lake Lure, North Carolina has adopted the Rutherford County (370217) Flood Insurance Rate Map dated June 1, 1987.
[4] The City of Shoreline, Washington has adopted the King County (530071) Flood Insurance Rate Map dated May 20, 1996.
Code for reading third column: Emerg.—Emergency; Reg.—Regular; Rein.—Reinstatement; Susp.—Suspension; With.—Withdrawn.

(Catalog of Federal Domestic Assistance No. 83.100, ''Flood Insurance.'')

Issued: April 14, 1997.

Richard W. Krimm,

Executive Associate Director, Mitigation Directorate.

[FR Doc. 97–10266 Filed 4–21–97; 8:45 am]

BILLING CODE 6718–05–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 2

[ET Docket No. 95–18; FCC 97–93]

2 GHz for Use by the Mobile Satellite Service

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: By this action, the Commission allocates 70 megahertz of spectrum at 1990–2025 MHz and 2165–2200 MHz to the Mobile-Satellite Service (MSS), to become available January 1, 2000. In order to make this spectrum available for MSS use, we are modifying the current Broadcast Auxiliary Service (BAS), Cable Television Relay Service (CARS), and Local Television Transmission Service (LTTS) allocation at 1990–2110 MHz by providing an allocation instead at 2025–2130 MHz and proposing to rechannelize these latter services at 2 GHz, from seven channels of 17- and 18-megahertz bandwidths to seven channels of 15-megahertz bandwidth. This allocation will allow the United States to participate in global MSS systems and realize the benefits to consumers of such systems. The 70 megahertz will also provide sufficient bandwidth for the operation of multiple service providers.

EFFECTIVE DATE: May 22, 1997.

FOR FURTHER INFORMATION CONTACT: Sean White, Office of Engineering and Technology, (202) 418–2453.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *First Report and Order*, ET Docket 95–18, FCC 97–93, adopted March 13, 1997, and released March 14, 1997. The full text of this Commission decision 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 duplication contractor, International Transcription Service, (202) 857–3800, 2100 M Street, N.W., Suite 140, Washington, D.C. 20037.

Summary of the First Report and Order

1. In the Report and Order, the Commission allocates 70 megahertz of spectrum at 1990–2025 MHz and 2165–2200 MHz to the Mobile-Satellite Service (MSS), effective January 1, 2000. In order to make this spectrum available for MSS use, we are modifying the current Broadcast Auxiliary Service (BAS), Cable Television Relay Service (CARS), and Local Television Transmission Service (LTTS) allocation at 1990–2110 MHz by providing an allocation instead at 2025–2130 MHz and proposing to rechannelize these latter services at 2 GHz, from seven channels of 17- and 18-megahertz bandwidths to seven channels of 15-megahertz bandwidth. We are proposing reaccommodation of existing BAS and Fixed Service (FS) operations in the 1990–2025 MHz, 2110–2130 MHz, and 2165–2200 MHz bands in accordance with the policies we established in our Emerging Technologies proceeding.[1] We defer action on technical parameters and licensing issues for MSS in the 2 GHz band. Finally, we dispose of a related pioneer's preference request filed by Celsat America, Inc. (Celsat).

A. Spectrum Allocation

2. We find that it is in the public interest to allocate spectrum at 2 GHz to MSS. We note that the Radiocommunication Sector of the ITU estimates that up to 206 megahertz of additional spectrum will be needed for MSS by the year 2005. We believe that MSS would also provide another option for mobile communications, and would provide communications to underserved areas, such as rural and remote areas where PCS, cellular, and other mobile services are less feasible. There is clearly substantial interest in providing MSS communications in the 2 GHz band, as demonstrated by the ten commenters who indicated they plan to provide mobile satellite service in the 2 GHz band.

3. We further find that it is in the public interest to allocate the full 70 megahertz at 1990–2025 MHz (uplink) and 2165–2200 MHz (downlink) to MSS as proposed, rather than a lesser amount. Because of the projected need for more MSS spectrum internationally, WRC–95 reallocated the 2010–2025 MHz portion to MSS in Region 2, effective January 1, 2005. As we stated in the NPRM[2], we believe that any 2 GHz MSS allocation should be as consistent as possible with the WARC–92 and WRC–95 allocations. This will help ensure truly universal service. In making our domestic allocation, therefore, we are supporting international plans for MSS in the 2 GHz band. We believe that this allocation will allow the United States to participate in global MSS systems and realize the benefits to consumers of such systems. A 70 megahertz will also provide sufficient bandwidth for the operation of multiple service providers.

4. Much of the spectrum for the proposed reallocation was identified as appropriate spectrum for reallocation to emerging technologies, such as MSS, in our Emerging Technologies proceeding. Some parties complain of scarcity of replacement spectrum in the 6 and 11 GHz bands for 2 GHz incumbents. In our Emerging Technologies proceeding, however, we reallocated the 1850–1990, 2110–2150, and 2160–2200 MHz bands from FS to emerging technologies, a total of 220 megahertz. We made a total of 2,480 megahertz of spectrum available for relocated FS licensees in the 4, 6, 10, and 11 GHz bands. Even though some of the higher-frequency spectrum is shared with other services, we believe that there is enough spectrum in those bands to accommodate relocation of the incumbents of 220 megahertz of spectrum, including the existing 2110–2130 MHz and 2165–2200 MHz FS licensees.

B. Relocation of Existing 1990–2025 MHz Band Services

5. The 1990–2025 MHz band is part of the 1990–2110 MHz band that is currently allocated to BAS, CARS, and LTTS. For this proceeding, we will collectively term these services BAS, and any changes in our regulatory structure applicable to BAS will be equally applicable to CARS and LTTS. We will treat CARS and LTTS in the same manner as BAS because both CARS and LTTS are authorized users of the 1990–2025 MHz band, and have invested in equipment to use the band, as has BAS. In the NPRM, we observed

[1] *See* In re Redevelopment of Spectrum to Encourage Innovation in the Use of New Telecommunications Technologies (Emerging Technologies), ET Docket 92–9, 57 FR 5993, February 19, 1992; First Report and Order and Second NPRM of Proposed Rule Making, FCC 92–437, 7 FCC Rcd. 6886 (1992), 57 FR 49020, October 29, 1992; Second Report and Order, FCC 93–350, 8 FCC Rcd 6495 (1993), 58 FR 49220, September 22, 1993; Third Report and Order and Memorandum Opinion and Order, FCC 93–351, 8 FCC Rcd 6589 (1993), 58 FR 46547, September 2, 1993; Memorandum Opinion and Order, FCC 94–60, 9 FCC Rcd 1943 (1994), 59 FR 19642, April 25, 1994; Second Memorandum Opinion and Order, FCC 94–303, 9 FCC Rcd. 7797 (1994), 59 FR 65501, December 20, 1994.

[2] In re Amendment of Section 2.106 of the Commission's Rules to Allocate Spectrum at 2 GHz for Use by the Mobile-Satellite Service, ET Docket No. 95–18, Notice of Proposed Rule Making, 10 FCC Rcd 3230, 3233 (1995), 60 FR 11644, March 2, 1995.

that sharing between MSS and BAS is not feasible. We therefore proposed to add 35 megahertz of spectrum to the upper end of the BAS band at 2110–2145 MHz and to relocate BAS incumbents currently occupying 1990–2025 MHz to 2110–2145 MHz. This proposal would provide BAS with the same amount of spectrum it currently has. As possible alternatives, we inquired into the feasibility of requiring BAS incumbents to adopt more spectrally efficient technology to operate in the remaining 85 megahertz at 2025–2110 MHz, or into the feasibility of moving all BAS operations to a higher frequency band. We further proposed requiring MSS providers to bear the cost of relocating the BAS incumbents.

6. Based on the record, we conclude that it is necessary to relocate BAS in order to accommodate MSS in the 1990–2025 MHz band. As we indicated in the NPRM, and the commenting parties agree, BAS and MSS cannot share the spectrum without unacceptable mutual interference. Therefore, to reallocate the 1990–2025 MHz band to MSS, it will be necessary to clear this band of BAS.

7. We reject Motorola's suggestion that we remove BAS from the 2 GHz band entirely. We agree with commenters who point out that the 2 GHz band has ideal propagation characteristics for mobile services including BAS, which must transmit along unengineered paths from unpredictable locations.

8. BAS currently operates with 17-and 18-megahertz wide channels. Comments from both MSS interests and broadcasting interests lead us to believe that BAS may not need channels this wide, especially in light of the fact that advances in radio technology since the current channelization of BAS was established could make it possible for BAS to transmit contribution-quality signals in somewhat narrower channels. On the other hand, we do not agree with the position of the MSS community that we should reduce BAS to 12-and 13-megahertz channels and mandate a switch to digital transmission. We believe that a reduction of five megahertz per channel is too severe to permit FM analog contribution-quality BAS signals, and we do not believe that this is the appropriate proceeding to determine whether or when BAS should convert to digital format in conjunction with the development of digital television. Some representatives of both industries, however, agree that BAS may be able to operate with 15-megahertz channels. We conclude that the best solution for BAS relocation is to reduce the BAS band at 2 GHz from 120 to 105 megahertz, and relocate the band from 1990–2110 MHz to 2025–2130 MHz. This would allow the resultant BAS band to be divided into seven channels of 15 megahertz each, thus retaining the current capacity of the BAS band. This solution is more spectrum-efficient than our primary proposal in the NPRM of simply relocating the 120-megahertz BAS band upward by 35 megahertz, and also more feasible than our alternate proposal of reducing the BAS band to 85 megahertz. Further, this solution will require the relocation of FS users from only 20 megahertz at 2110–2130 MHz, rather than 35 megahertz at 2110–2145 MHz, as in our primary proposal. However, we merely note here that a BAS band of 105 megahertz will allow seven BAS channels. Rather than mandating channels in the new band, we explore possible alternate channelizations in the Further Notice of Proposed Rule Making (Further NPRM), released March 14, 1997.

9. Relocating BAS will require retuning of BAS equipment, and in many if not most cases replacing equipment or retrofitting equipment to allow improved intermediate frequency bandpass and adjacent-channel rejection, as pointed out by SBE. Because the new BAS band is in the same region of the spectrum as the current BAS band, we anticipate that no new facilities will need to be constructed. We do not foresee that there will be any need physically to relocate or rebuild any facilities. We are confident that the reaccommodation of BAS operations can be accomplished by simply replacing or retrofitting current equipment. The cost of all steps necessary for clearing the 1990–2025 MHz band for MSS operations will be borne by MSS operators. The Further NPRM proposes rules and policies for clearing the 1990–2025 MHz band for MSS.

C. Relocation of Existing 2165–2200 MHz Band Services

10. The 2165–2200 MHz band is currently allocated to private and commercial FS, but has been reserved for emerging technologies, such as MSS. In the NPRM, we stated that five higher bands have already been allocated during our Emerging Technologies proceeding for reaccommodation of the FS incumbents. We inquired whether sharing between MSS and FS would be feasible, and whether FS incumbents should be relocated. Finally, we proposed to require that MSS pay the costs of relocating FS incumbents, where necessary. The majority of commenters advocate applying the Emerging Technologies rules adopted in ET Docket 92–9.

11. We will provide for MSS sharing with, and any necessary relocation of, FS incumbents in accordance with the policies set forth in our Emerging Technologies proceeding. It is our policy to encourage spectrum sharing between emerging technologies services and incumbent 2 GHz FS operations whenever technically feasible. Our rules do not require relocation of incumbents unless and until the incumbents will receive harmful interference from, or cause harmful interference to, a new technology service. COMSAT and LQP have provided studies indicating that sharing is possible on at least a short-term basis. At the same time, Motorola and some FS service representatives have criticized these studies, claiming that they fail to account for important factors. MSS and FS industry groups are currently working under the auspices of TIA to resolve differences over sharing models and adopt a set of mutually agreed sharing criteria. We encourage these efforts, and will consider the product of these efforts for inclusion in our rules as the standard for evaluating the likelihood of unacceptable MSS/FS interference. MSS cannot begin operations until its spectrum is cleared of all FS licensees who would receive harmful interference from MSS, but MSS will not be required to relocate any FS incumbent with whom it can successfully share spectrum. If a specific FS operation does not receive unacceptable levels of interference until several years after the beginning of MSS operations, MSS will not be required to relocate the FS licensee until that interference occurs. Where sharing proves infeasible, however, we will allow the MSS operator to relocate the incumbent FS operation to bands above 5 GHz. We will address the precise mechanism for relocation in the Further NPRM.

D. Technical Parameters for MSS Systems

12. We are deferring consideration of these technical issues until after we have accepted applications for system licenses in these bands. We are not persuaded by arguments for or against restricting use of the spectrum exclusively to either GSO or LEO systems. Either system can provide global coverage, and while a GSO system offers many advantages for domestic-only systems, we do not wish to rule out innovative designs before they are submitted. Further, as Motorola pointed out, in our proceeding to license Big LEO systems, we concluded that there was no support for a finding

that CDMA is inherently superior to TDMA as an access method. We believe that the market will be the best judge of the relative desirability of different access methods. We also believe that we will be in a better position to determine whether and what power limits we should adopt and to evaluate Celsat's proposal for a hybrid PCS/MSS system after we have received license applications and supporting documentation. Finally, we will address feeder link spectrum in proceedings addressing those bands.

E. Licensing by Competitive Bidding

13. We will defer the decision on whether to license MSS in these bands by competitive bidding until after we have accepted applications for licensing. As many commenters point out, we will not know if there is mutual exclusivity until we receive license applications. At that point, we will decide whether engineering solutions or other methods may solve mutual exclusivity, and if not, precisely how we will structure auctions.

F. Disposition of Celsat's Pioneer's Preference Request

14. Our pioneer's preference rules were established to provide a means of extending preferential treatment in our licensing processes to parties that demonstrate their responsibility for developing new communications services and technologies. A party awarded a pioneer's preference receives the right to obtain a license to operate in the service that it has innovated, using the design and technologies upon which its award is based. The pioneer's preference rules ensure that innovators have an opportunity to participate either in new services which they take a lead in developing or in existing services which they substantially enhance. A pioneer's preference applicant must persuade us that its proposal is innovative, has merit, and that it is the original developer of the innovation at issue.

15. Under the pioneer's preference rules, a necessary condition for the award of a preference is that the applicant demonstrate that it has developed the capabilities or possibilities of a new technology or service, or demonstrate that it has brought the technology or service to a more advanced or effective state. A preference is granted only if the service rules adopted are a reasonable outgrowth of the applicant's proposal and lend themselves to the grant of a preference. The applicant must also demonstrate that the new technology or service is technically feasible by submitting either the summarized results of an experiment or a technical showing. Finally, preferences are not granted casually. Rather, each applicant has a significant burden to persuade us that its proposal is innovative.

16. We deferred action on Celsat's pioneer's preference request until final action had been taken in the pioneer's preference review proceeding, ET Docket No. 93–266. Action has now been completed in that proceeding; accordingly, we herein take action on Celsat's pioneer's preference request. We find that Celsat's pioneer's preference request fails to meet the pioneer's preference criteria. We find Celsat's proposal insufficiently innovative to warrant a pioneer's preference, and we find that Celsat has not demonstrated the technical feasibility of its proposal.

Final Regulatory Flexibility Analysis

17. As required by Section 603 of the Regulatory Flexibility Act (RFA), 5 U.S.C. 603, an Initial Regulatory Flexibility Analysis (IRFA) was incorporated into the Notice of Proposed Rule Making (NPRM) in ET Docket No. 95–18.[3] The Commission sought written public comment on the proposals in the NPRM, including the IRFA. This Final Regulatory Flexibility Analysis (FRFA) conforms to the RFA, as amended by the Contract with America Advancement Act of 1996.[4]

A. Need for and Objectives of the Proposed Rule

18. In this Report and Order the Commission allocates 70 megahertz of spectrum for use by the Mobile-Satellite Service (MSS). The proposals adopted herein comport with international actions at the 1995 World Radiocommunications Conference and provide needed spectrum for mobile satellite communications.

B. Summary of Significant Issues Raised by the Public Comments in Response to the IRFA

19. No comments were submitted in direct response to the IRFA. The Association for Maximum Service Television, *et al* (MSTV) and Creative Broadcast Techniques, Inc. and the New Vision Group, Inc. (CBT) assert that licensees in the Broadcast Auxiliary Service (BAS) and the Local Transmission Television Service (LTTS), many of whom may be small entities, must be compensated for the costs of relocation, if they are required to relocate from spectrum being reallocated to MSS.[5] Similarly, The American Petroleum Institute (API), the Association of American Railroads (AAR), BellSouth Corporation (BellSouth), and UTC insist that Fixed Service (FS) licensees, many of whom may be small entities, must be compensated for the costs of relocation, if they are required to relocate from spectrum being reallocated to MSS.[6]

C. Description and Estimate of the Number of Small Entities Subject to Which the Rules Will Apply

20. For the purposes of this Report and Order, the RFA defines a small business as identical to a small business concern under the Small Business Act, 15 U.S.C. 632, unless the Commission has developed one or more definitions that are appropriate to its activities.[7] Under the Small Business Act, a small business concern is one that: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) meets any additional criteria established by the Small Business Administration (SBA).[8] The rules adopted in this Report and Order will apply to BAS, LTTS, Cable Television Relay Service (CARS), and FS licensees, and satellite communications companies.

(a) BAS, LTTS, and Cable Television Relay Service (CARS) Licensees

This service involves a variety of transmitters, generally used to relay broadcast programming to the public (through translator and booster stations) or within the program distribution chain (from a remote news gathering unit back to the station). It also includes Instructional Television Fixed Service stations, which are used to relay programming to the home or office, similar to that provided by the cable television systems. The Commission has not developed a definition of small entities applicable to Broadcast Auxiliary Service, Local Television Transmission Service or Cable Television Relay Service. Therefore, the applicable definition of small entity is the definition under the Small Business Administration (SBA) rules applicable to radiotelephone companies. SBA has

[3] In re Amendment of Section 2.106 of the Commission's Rules to Allocate Spectrum at 2 GHz for Use by the Mobile-Satellite Service, ET Docket No. 95–18, NPRM of Proposed Rule Making, 10 FCC Rcd 3230, 3233 (1995), 60 FR 11644, March 2, 1995.

[4] Public Law 104–121, 110 Stat. 847 (1996) (Subtitle II of the Small Business Regulatory Enforcement Fairness Act of 1996; 5 U.S.C. § 601 *et seq).*

[5] See MSTV Comments at 17; CBT Comments at 7.

[6] *See* API Comments at 12–14; AAR Comments at 2–5; APCO Comments at 2–3; BellSouth Comments at 3–4; UTC Comments at 1–2.

[7] *See* 5 U.S.C. § 601(3).

[8] 15 U.S.C. § 632.

defined a small business for Standard Industrial Classification (SIC) category 4812 (Radiotelephone Communications) to be small entities when they have fewer than 1500 employees.[9]

(b) Fixed Service Licensees

This Report and Order pertains to fixed service microwave licensees. The Commission has not developed a definition of small entities applicable to Fixed Service microwave licensees. Therefore, the applicable definition of small entity is the definition under the Small Business Administration (SBA) rules applicable to radiotelephone companies. This definition provides that a small entity is a radiotelephone company employing fewer than 1,500 persons. Census Bureau data indicates that there are 1,164 radiotelephone companies with fewer than 1500 employees, that might qualify as small entities if they are independently owned and operated. Since the Regulatory Flexibility Act amendments were not in effect until the record in this proceeding was closed, the Commission was unable to request information regarding the number of small businesses that would be affected by this action.

(c) Satellite Communications Services

The Commission has not developed a definition of small entities applicable to satellite communications licensees. Therefore, the applicable definition of small entity is the definition under the Small Business Administration (SBA) rules applicable to Communications Services ''Not Elsewhere Classified.'' This definition provides that a small entity is one with $11.0 million or less in annual receipts.[10] According to Census Bureau data, there are 848 firms that fall under the category of Communications Services, Not Elsewhere Classified. Of those, approximately 775 reported annual receipts of $11 million or less and qualify as small entities.[11]

21. Describing and estimating the number of small entities these rules will impact is made difficult by a number of factors. First of all, information from the Satellite Industry Association and financial analysts who specialize in this market indicate that there are few firms that could be traditionally thought of as small businesses. They point to to the fact that this is a capital intensive industry that requires ''significant partner funding and/or contract commitments prior to approaching commercial financing sources.'' [12]

22. There are however, a number of firms who identify themselves as small entities including: Columbia Corp., CTA, Mobile Communications Holdings, Inc. (MCHI), Orion, TelQuest Ventures, L.L.C., and possibly others. Several of these companies have submitted comments to the Commission's Section 257 proceeding to identify and eliminate market entry barriers for small businesses.[13]

D. Description of Projected Reporting, Recordkeeping and Other Compliance Requirement

23. The rules adopted in this Report and Order do not specify details of the process by which BAS, LTTS, CARS, and FS licensees will be relocated. Therefore, the rules impose no additional reporting, recordkeeping or other compliance requirements.

E. Significant Alternatives and Steps Taken to Minimize Significant Economic Impact on a Substantial Number of Small Entities Consistent With Stated Objectives

24. MSS licensees in the 2 GHz band will be required to bear the cost of relocating and rechannelizing BAS, LTTS, and CARS licensees in the 2 GHz band. Any MSS licensee in the 2 GHz band will be required to bear the cost of relocating any FS licensee with which it cannot share spectrum or which must be relocated to clear spectrum for BAS. The Commission considered the alternative of requiring BAS, LTTS, CARS, and FS licensees to bear the cost of relocating themselves, but rejected this alternative as unfairly burdensome on BAS, LTTS, CARS, and FS licensees.

F. Report to Congress

25. The Commission will send a copy of this FRFA, along with this Report and Order, in a report to Congress pursuant to the Small Business Regulatory Enforcement Fairness Act of 1996, 5 U.S.C. 801(a)(1)(A). A copy of this FRFA is published in this document.

List of Subjects in 47 CFR Part 2

Communications equipment, Radio.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

Rules Changes

Part 2 of Title 47 of the Code of Federal Regulations is amended as follows:

PART 2—FREQUENCY ALLOCATIONS AND RADIO TREATY MATTERS; GENERAL RULES AND REGULATIONS

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

Authority: Sec. 4, 302, 303, and 307 of the Communications Act of 1934, as amended, 47 U.S.C. Sections 154, 302, 303 and 307, unless otherwise noted.

2. Section 2.106, the Table of Frequency Allocations, is amended as follows:

a. Remove the existing entries for 1980–2200 MHz.

b. Add entries in numerical order for 1980–2200 MHz.

c. In the International Footnotes under heading I, add in numerical order footnotes S5.388, S5.389A, S5.389B, S5.389C, S5.389D, S5.389E, S5.389F, S5.391, S5.392, and S5.392A.

d. In the International Footnotes under heading II, remove footnotes 747A and 750A.

e. Revise non-Government footnotes NG118 and NG153.

The revisions and additions read as follows:

[9] 13 CFR 121.201 Standard Industrial Classification (SIC) Code 4812.

[10] 13 CFR 121.201, Standard Industrial Classification (SIC) Code 4899.

[11] U.S. Bureau of the Census, U.S. Department of Commerce, 1992 Census of Transportation, Communications, and Utilities, UC92–S–1, Subject Series, Establishment and Firm Size, Table 2D, Employment Size of Firms: 1992, SIC Code 4899 (issued May 1995).

[12] *See* ''Financing the Final Frontier: Funding Commercial Space Activities'' Bear Stearns, Global Space & Satellite Finance Report.

[13] *See* GN Docket 96–113.

§ 2.106 Table of Frequency Allocations.

International table			United States table		FCC use designators	
Region 1—allocation MHz	Region 2—allocation MHz	Region 3—allocation MHz	Government	Non-Government	Rule part(s)	Special-use frequencies
			Allocation MHz	Allocation MHz		
(1)	(2)	(3)	(4)	(5)	(6)	(7)
*	*	*	*	*	*	*
1980–1990 FIXED MOBILE MOBILE–SAT-ELLITE (Earth-to-space) S5.388 S5.389A S5.389F	1980–1990 FIXED MOBILE MOBILE-SAT-ELLITE (Earth-to-space) S5.388 S5.389A S5.389B	1980–1990 FIXED MOBILE MOBILE–SAT-ELLITE (Earth-to-space) S5.388 S5.389A	1980–1990	1980–1990 FIXED MOBILE	FIXED MICRO-WAVE (101) MOBILE PERSONAL COMMUNICA-TIONS (24)	
1990–2010 FIXED MOBILE MOBILE–SAT-ELLITE (Earth-to-space) S5.388 S5.389A S5.389F	1990–2010 FIXED MOBILE MOBILE-SAT-ELLITE (Earth-to-space) S5.388 S5.389A	1990–2010 FIXED MOBILE MOBILE-SAT-ELLITE (Earth-to-space) S5.388 S5.389A	1990–2010 US111	1990–2010 MOBILE-SAT-ELLITE (Earth-to-space) US111	AUXILIARY BROADCAST-ING (74) CABLE TELE-VISION (78) SATELLITE COM-MUNICATIONS (25)	
2010–2025 FIXED MOBILE S5.388	2010–2025 FIXED MOBILE MOBILE-SAT-ELLITE (Earth-to-space) S5.388 S5.389C S5.389D S5.389E	2010–2025 FIXED MOBILE S5.388	2010–2025 US111	2010–2025 MOBILE-SATELITTE (Earth-to-space) SATELLITE COM-MUNICATIONS (25) US111	AUXILLIARY BROADCAST-ING (74) CABLE TELE-VISION (78) SATELLITE COM-MUNICATIONS (25)	
2025–2110 SPACE OPER-ATION (Earth-to-space) (space-to-space) EARTH EXPLO-RATION-SAT-ELLITE (Earth-to-space) (space-to-space) FIXED MOBILE S5.391 SPACE RE-SEARCH (Earth-to-space) (space-to-space) S5.392	2025–2110 SPACE OPER-ATION (Earth-to-space) (space-to-space) EARTH EXPLO-RATION-SAT-ELLITE (Earth-to-space) (space-to-space) FIXED MOBILE S5.391 SPACE RE-SEARCH (Earth-to-space) (space to space) S5.392	2025–2110 SPACE OPER-ATION (Earth-to-space) (space-to-space) EARTH EXPORATION-SATELLITE (Earth-to-space) (space-to space) FIXED MOBILE S5.391 SPACE RE-SEARCH (Earth-to-space) (space-to-space) S5.392	2025–2110 US90 US111 US219 US222	2025–2110 FIXED MOBILE US90 US111 US219 US222 NG23 NG118	AUXILIARY BROADCAST-ING (74) CABLE TELE-VISION (78)	
2110–2120 FIXED	2110–2120 FIXED	2110–2120 FIXED	2110–2120	2110–2120 FIXED	AUXILIARY BROADCAST-ING (74)	

International table			United States table		FCC use designators	
Region 1—allocation MHz	Region 2—allocation MHz	Region 3—allocation MHz	Government	Non-Government	Rule part(s)	Special-use frequencies
			Allocation MHz	Allocation MHz		
(1)	(2)	(3)	(4)	(5)	(6)	(7)
MOBILE SPACE RESEARCH (deep space) (Earth-to-space) S5.388	MOBILE SPACE RESEARCH (deep space) (Earth-to-space) S5.388	MOBILE SPACE RESEARCH (deep space) (Earth-to-space) S5.388	US111 US252	MOBILE US111 US252 NG23 NG118	CABLE TELEVISION (78) FIXED MICROWAVE (101) PUBLIC MOBILE (22)	
2120–2130 FIXED MOBILE S5.388	2120–2130 FIXED MOBILE Moible-Satellite (space-to-Earth) S5.388	2120–2130 FIXED MOBILE S5.388	2120–2130	2120–2130 FIXED MOBILE NG23 NG118	AUXILIARY BROADCASTING (74) CABLE TELEVISION (78) FIXED MIRCOWAVE (101) PUBLIC MOBILE (22)	
2130–2150 FIXED MOBILE S5.388	2130–2150 FIXED MOBILE Mobile-Satellite (space-to-Earth) S5.38	2130–2150 FIXED MOBILE S5.388	2130–2150	2130–2150 FIXED MOBILE NG23 NG153	FIXED MICROWAVE (101) PUBLIC MOBILE (22)	EMERGING TECHNOLOGIES
2150–2160 FIXED MOBILE S5.388	2150–2160 FIXED MOBILE Mobile-Satellite (space-to-Earth) S5.388	2150–2160 FIXED MOBILE S5.388	2150–2160	2150–2160 FIXED NG23	DOMESTIC PUBLIC FIXED (21) FIXED MICROWAVE (101)	
2160–2165 FIXED MOBILE S5.388 S5.392A	2160–2165 FIXED MOBILE MOBILE-SATELLITE (space-to-Earth) S5.388 S5.389C S5.389D S5.389E	2160–2165 FIXED MOBILE S5.388	2160–2165	2160–2165 FIXED MOBILE NG23 NG153	DOMESTIC PUBLIC FIXED (21) FIXED MICROWAVE (101) PUBLIC MOBILE (22)	EMERGING TECHNOLOGIES
2165–2170 FIXED MOBILE S5.388 S5.392A	2165–2170 FIXED MOBILE MOBILE-SATELLITE (space-to-Earth) S5.388 S5.389C S5.389D S5.389E	2165–2170 FIXED MOBILE S5.388	2165–2170	2165–2170 MOBILE-SATELLITE (space-to-Earth) NG23	FIXED MICROWAVE (101) PUBLIC MOBILE (22) SATELLITE COMMUNICATIONS (25)	

International table			United States table		FCC use designators	
Region 1—allocation MHz	Region 2—allocation MHz	Region 3—allocation MHz	Government	Non-Government	Rule part(s)	Special-use frequencies
			Allocation MHz	Allocation MHz		
(1)	(2)	(3)	(4)	(5)	(6)	(7)
2170–2200 FIXED MOBILE MOBILE-SAT-ELLITE (space-to Earth) S5.388 S5.389A S5.389F S5.392A	2170–2200 FIXED MOBILE MOBILE-SAT-ELLITE (space-to Earth) S5.388 S5.389A	2170–2200 FIXED MOBILE MOBILE-SAT-ELLITE (space-to Earth) S5.388 S5.389A	2170–2200	2170–2200 MOBILE-SAT-ELLITE (space-to-Earth) NG23	FIXED MIRCO-WAVE (101) PUBLIC MOBILE (22) SATELLITE COM-MUNICATIONS (25)	
*	*	*	*	*	*	*

International Footnotes

* * * * *

I. New ''S'' Numbering Scheme

* * * * *

S5.388 The bands 1885–2025 MHz and 2110–2200 MHz are intended for use, on a worldwide basis, by administrations wishing to implement the future public land mobile telecommunication systems (FPLMTS). Such use does not preclude the use of these bands by other services to which these bands are allocated. The bands should be made available for FPLMTS in accordance with Resolution 212 (Rev.WRC–95).

S5.389A The use of the bands 1980–2010 MHz and 2170–2200 MHz by the mobile-satellite service is subject to coordination under Resolution 46 (Rev.WRC–95)/No. S9.11A and to the provisions of Resolution 716 (WRC–95). The use of these bands shall not commence before 1 January 2000; however the use of the band 1980–1990 MHz in Region 2 shall not commence before 1 January 2005.

S5.389B The use of the band 1980–1990 MHz by the mobile-satellite service shall not cause harmful interference to or constrain the development of the fixed and mobile services in Argentina, Brazil, Canada, Chile, Ecuador, the United States, Honduras, Jamaica, Mexico, Peru, Suriname, Trinidad and Tobago, Uruguay and Venezuela.

S5.389C The use of the bands 2010–2025 MHz and 2160–2170 MHz in Region 2 by the mobile-satellite service shall not commence before 1 January 2005 and is subject to coordination under Resolution 46 (Rev.WRC–95)/No. S9.11A and to the provisions of Resolution 716 (WRC–95).

S5.389D In Canada and the United States the use of the bands 2010–2025 MHz and 2160–2170 MHz by the mobile-satellite service shall not commence before 1 January 2000.

S5.389E The use of the bands 2010–2025 MHz and 2160–2170 MHz by the mobile-satellite service in Region 2 shall not cause harmful interference to or constrain the development of the fixed and mobile services in Regions 1 and 3.

S5.389F In Algeria, Benin, Cape Verde, Egypt, Mali, Syria and Tunisia, the use of the bands 1980–2010 MHz and 2170–2200 MHz by the mobile-satellite service shall neither cause harmful interference to the fixed and mobile services, nor hamper the development of those services prior to 1 January 2005, nor shall the former service request protection from the latter services.

S5.391 In making assignments to the mobile service in the bands 2025–2110 MHz and 2200–2290 MHz, administrations shall take into account Resolution 211 (WARC–92).

S5.392 Administrations are urged to take all practicable measures to ensure that space-to-space transmissions between two or more non-geostationary satellites, in the space research, space operations and Earth exploration-satellite services in the bands 2025–2110 MHz and 2200–2290 MHz, shall not impose any constraints on Earth-to-space, space-to-Earth and other space-to-space transmissions of those services and in those bands between geostationary and non-geostationary satellites.

S5.392A *Additional allocation:* in Russia, the band 2160–2200 MHz is also allocated to the space research service (space-to-Earth) on a primary basis until 1 January 2005. Stations in the space research service shall not cause harmful interference to, or claim protection from, stations in the fixed and mobile services operating in this frequency band.

* * * * *

Non-Government (NG) Footnotes

* * * * *

NG118 Television translator relay stations may be authorized to use frequencies in the 2025–2130 MHz band on a secondary basis to stations operating in accordance with the Table of Frequency Allocations.

* * * * *

NG153 The 2145–2150 MHz and 2160–2165 MHz bands are reserved for future emerging technologies on a co-primary basis with the fixed and mobile services. Allocations to specific services will be made in future proceedings.

* * * * *

[FR Doc. 97–9827 Filed 4–21–97; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

49 CFR Part 7

[Docket No. OST–96–1430]

RIN 2105–AC58

Public Availability of Information

AGENCY: Office of the Secretary, DOT.

ACTION: Final rule.

SUMMARY: Department of Transportation revises its regulations implementing the Freedom of Information Act (FOIA), 5 U.S.C. 552. This revision updates organizational changes since the last revision and streamlines the regulations in order to make the regulations more useful.

DATES: This rule is effective June 23, 1997.

FOR FURTHER INFORMATION CONTACT: Dorothy A. Chambers, Chief, FOIA Division, Office of the General Counsel, C–12, Department of Transportation, Washington, DC 20590, telephone (202) 366–4542, FAX (202) 366–7152.

SUPPLEMENTARY INFORMATION: The President instituted a Regulatory Review initiative for the reinvention of regulations by eliminating duplicate, redundant, or unnecessary language and revising regulations to meet the needs of users. In response to this initiative, we reviewed Part 7 and are revising it to update and streamline information on public availability of information. We

are reorganizing this part by combining in subpart B sections that relate to information that is publicly available without a specific request. Similarly, we have combined sections in subpart C that address information that must be requested under FOIA. We have shortened the descriptions of FOIA exemptions and deleted the Appendices that set forth redundant information concerning document inspection facilities. We are replacing these appendices with provisions in §§ 7.10 and 7.15, which set forth necessary information regarding public records available at Department Docket locations and FOIA contacts for records requested under the FOIA. Public comment was invited (61 FR 33075; June 26, 1996), but none was received; however, as explained below, based upon further review within DOT, some changes were made to the Notice of Proposed Rulemaking (NPRM) after publication, and, as so amended, the NPRM is being adopted as the Final Rule. This amendment does *not* reflect changes in FOIA wrought by the Electronic FOIA Act of 1996, which DOT will address later.

Changes from Proposal

Many of the changes are minor, being nothing more significant than renumberings. Substantive changes are made, however, to clarify the division of responsibility for FOIA matters at the Saint Lawrence Seaway Development Corporation between its headquarters in Washington, DC and its operating office in Massena, NY; and to reflect that the Inspector General has the same authority under this part as does any Administrator. It also clarifies that the Surface Transportation Board, a successor to the Interstate Commerce Commission within DOT, is not covered by these FOIA regulations, but, rather, by its own.

Analysis of Regulatory Impacts

This amendment is not a ''significant regulatory action'' within the meaning of Executive Order 12866. It is also not significant within the definition in DOT's Regulatory Policies and Procedures, 49 FR 11034 (1979), in part because it does not involve any change in important Departmental policies. Because the economic impact should be minimal, further regulatory evaluation is not necessary. Under the Regulatory Flexibility Act, the group of persons who will be directly affected by this amendment are the public, who will find it easier to obtain information from the DOT under FOIA. They qualify as small entities and will have burdens lessened by this amendment, as the effect of the amendment will be to make our FOIA regulations easier to understand; however, it is not likely that any such burden reduction will be large nor that it will be convertible into economic equivalents. Hence, I certify that this amendment will not have a significant economic impact on a substantial number of small entities.

This amendment does not significantly affect the environment, and therefore an environmental impact statement is not required under the National Environmental Policy Act of 1969. It has also been reviewed under Executive Order 12612, Federalism, and it has been determined that it does not have sufficient implications for federalism to warrant preparation of a Federalism Assessment.

Finally, the amendment does not contain any collection of information requirements, requiring review under the Paperwork Reduction Act, as amended.

List of Subjects in 49 CFR part 7

Freedom of information.

In accordance with the above, DOT is revising 49 CFR part 7 to read as follows:

PART 7—PUBLIC AVAILABILITY OF INFORMATION

Subpart A—General Provisions

Sec.
7.1 General.
7.2 Definitions.

Subpart B—Information Required to be Made Public by the Department

7.3 Publication in the **Federal Register**.
7.4 Publication required.
7.5 Availability of opinions, orders, staff manuals, statements of policy and interpretations and indices.
7.6 Deletion of identifying detail.
7.7 Access to materials and indices.
7.8 Copies.
7.9 Protection of records.
7.10 Public records available at Department docket locations.

Subpart C—Availability of Reasonably Described Records Under the Freedom of Information Act

7.11 Applicability.
7.12 Administration of part.
7.13 Records available.
7.14 Requests for records.
7.15 Contacts for records requested under the FOIA.
7.16 Requests for records of concern to more than one government organization.
7.17 Consultation with submitters of commercial and financial information.

Subpart D—Procedure for Appealing Decisions Not to Disclose Records and/or Waive Fees

7.21 General.

Subpart E—Time Limits

7.31 Initial determinations.
7.32 Final determinations.
7.33 Extension.

Subpart F—Fees

7.41 General.
7.42 Payment of fees.
7.43 Fee schedule.
7.44 Services performed without charge or at a reduced charge.
7.45 Transcripts.
7.46 Alternative sources of information.

Authority: 5 U.S.C. 552; 31 U.S.C. 9701; 49 U.S.C. 322; E.O. 12600, 3 CFR, 1987 Comp., p. 235.

Subpart A—General Provisions

§ 7.1 General

(a) This part implements 5 U.S.C. 552, and prescribes rules governing the availability to the public of records of the Department of Transportation. Many documents are made available to the public for inspection and copying through the Department Docket locations that are listed in subpart B of this part, which contains the regulations of the Department of Transportation concerning the availability to the public of opinions issued in the adjudication of cases, policy issuances, administrative manuals, and other information made available to the public.

(b) Subpart C of this part, describes the records that are not required to be disclosed on the Department's own action under this part, but that may be available upon request under the Freedom of Information Act.

(c) Indices are maintained to reflect all records subject to subpart B of this part, and are available for public inspection and copying as provided in subpart B.

§ 7.2 Definitions.

As used in this part—

Act and *FOIA* mean the Freedom of Information Act, 5 U.S.C. 552.

Administrator means the head of each operating administration of the Department and includes the Commandant of the Coast Guard, the Inspector General, and the Director of the Bureau of Transportation Statistics.

Department or *DOT* means the Department of Transportation, including the Office of the Secretary of Transportation, the Office of the Inspector General, and the following operating administrations:

(This definition specifically excludes the Surface Transportation Board, which has its own Freedom of Information Act regulations (49 CFR part 1001).

(1) United States Coast Guard,
(2) Federal Aviation Administration,
(3) Federal Highway Administration,

(4) Federal Railroad Administration,
(5) National Highway Traffic Safety Administration,
(6) Federal Transit Administration,
(7) Saint Lawrence Seaway Development Corporation,
(8) Maritime Administration,
(9) Research and Special Programs Administration, and
(10) Bureau of Transportation Statistics.

Record includes any writing, drawing, map, recording, tape, film, photograph, or other documentary material by which information is preserved. The term also includes any such documentary material stored by computer.

Secretary means the Secretary of Transportation or any person to whom the Secretary has delegated authority in the matter concerned.

Subpart B—Information Required To Be Made Public by the Department

§ 7.3 Publication in the Federal Register.

This subpart implements 5 U.S.C. 552(a)(1), and prescribes rules governing the publication in the **Federal Register** of the following:

(a) Descriptions of the organization of the Department, including its operating administrations and the established places at which, the officer from whom, and the methods by which, the public may secure information and make submittals or obtain decisions.

(b) Statements of the general course and methods by which the Department's functions are channeled and determined, including the nature and requirements of all formal and informal procedures available.

(c) Rules of procedure, descriptions of forms available or the places at which forms may be obtained, and instructions as to the scope and contents of all papers, reports, or examinations.

(d) Substantive rules of general applicability adopted as authorized by law and statements of general policy or interpretations of general applicability formulated and adopted by the Department.

(e) Each amendment, revision, or repeal of any material listed in paragraphs (a) through (d) of this section.

§ 7.4 Publication required.

(a) *General.* The material described in § 7.3 shall be published in the **Federal Register**. For the purposes of this paragraph, material that will reasonably be available to the class of persons affected by it will be considered to be published in the **Federal Register** if it has been incorporated by reference therein with the approval of the Director of the Federal Register.

(b) *Effect of nonpublication.* Except to the extent that a person has actual and timely notice of the terms thereof, a person may not in any manner be required to resort to, or be adversely affected by, any procedure or matter required to be published in the **Federal Register**, but not so published.

§ 7.5 Availability of opinions, orders, staff manuals, statements of policy, and interpretations and indices.

(a) This section implements 5 U.S.C. 552(a)(2). It prescribes the rules governing the availability for public inspection and copying of the following:

(1) Any final opinion (including a concurring or dissenting opinion) or order made in the adjudication of a case.

(2) Any policy or interpretation that has been adopted under the authority of the Department, including any policy or interpretation concerning a particular factual situation, if that policy or interpretation can reasonably be expected to have precedential value in any case involving a member of the public in a similar situation.

(3) Any administrative staff manual or instruction to staff that affects any member of the public, including the prescribing of any standard, procedure, or policy that, when implemented, requires or limits any action of any member of the public or prescribes the manner of performance of any activity by any member of the public. However, this does not include staff manuals or instructions to staff concerning internal operating rules, practices, guidelines, and procedures for Departmental inspectors, investigators, law enforcement officers, examiners, auditors, and negotiators and other information developed predominantly for internal use, the release of which could significantly risk circumvention of agency regulations or statutes.

(b) Any material listed in paragraph (a) of this section that is not made available for public inspection and copying, or that is not indexed as required by § 7.7, may not be cited, relied on, or used as precedent by the Department to affect any member of the public adversely unless the person to whose detriment it is relied on, used, or cited has had actual timely notice of the material.

(c) This section does not apply to material that is published in the **Federal Register** or covered by subpart C of this part.

§ 7.6 Deletion of identifying detail.

Whenever it is determined to be necessary to prevent a clearly unwarranted invasion of personal privacy, identifying details will be deleted from any record covered by this subpart that is published or made available for inspection. A full explanation of the justification for the deletion will accompany the record published or made available for inspection.

§ 7.7 Access to materials and indices.

(a) Except as provided in paragraph (b) of this section, material listed in § 7.5 will be made available for inspection and copying to any member of the public at document inspection facilities of the Department. It has been determined that it is unnecessary and impracticable to publish the index of materials in the **Federal Register**. Information as to the kinds of materials available at each facility may be obtained from the facility or the headquarters of the operating administration of which it is a part.

(b) The material listed in § 7.5 that is published and offered for sale will be indexed, but is not required to be kept available for public inspection. Whenever practicable, however, it will be made available for public inspection at any document inspection facility maintained by the Office of the Secretary, Office of Inspector General, or an operating administrator, as appropriate.

§ 7.8 Copies.

Copies of any material covered by this subpart that is not published and offered for sale may be ordered, upon payment of the appropriate fee, from the Docket Offices listed in § 7.10. Copies will be certified upon request and payment of the fee prescribed in § 7.43(f).

§ 7.9 Protection of records.

(a) Records made available for inspection and copying may not be removed, altered, destroyed, or mutilated.

(b) 18 U.S.C. 641 provides, in pertinent part, for criminal penalties for embezzlement or theft of government records.

(c) 18 U.S.C. 2071 provides, in pertinent part, for criminal penalties for the willful and unlawful concealment, mutilation or destruction of, or the attempt to conceal, mutilate, or destroy, government records.

§ 7.10 Public records available at Department docket locations.

Publicly available records are located in DOT Docket Units as follows (all times are eastern time zone, and are Monday-Friday except Federal holidays):

(a) Docket Units located at 400 7th Street, SW., Washington, DC 20590 include:

(1) Office of the Secretary and former Civil Aeronautics Board material, Plaza 401, Hours 10:00–5:00.

(2) Federal Highway Administration, Room 4232, Hours 8:30–5:00.

(3) National Highway Traffic Safety Administration, Room 5111, Hours 9:30–4:00.

(4) Federal Transit Administration, Room 9400, Hours 8:30–5:00.

(5) Maritime Administration, Room 7210, Hours 8:30–5:00.

(6) Research and Special Programs Administration, Room 8421, Hours 8:30–5:00.

(b) Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591:

(1) Rules Docket Room 915–G, Hours 8:30–5:00, and (2) Enforcement Dockets, Room 924–C, Hours 8:30–5:00.

(c) United States Coast Guard, Room 3406, Hours 8:30–5:00, 2100 2nd Street, SW., Washington, DC 20593–0001.

(d) Saint Lawrence Seaway Development Corporation, 180 Andrews Street, Massena, New York 12662–0520.

(e) Federal Railroad Administration, Room 7059, 1120 Vermont Avenue, NW, Washington, DC, Hours 9:30–4:00

(f) Certain operating administrations also maintain public record units at regional offices and at the offices of the Commandant and District Commanders of the United States Coast Guard. These facilities are open to the public Monday through Friday except Federal holidays, during regular working hours.

(g) Additional information on the location and hours of operations for Department Docket Offices can be obtained through the DOT Docket Unit, mentioned in paragraphs (a) through (e) of the section, at (202) 366–9322.

Subpart C—Availability of Reasonably Described Records Under the Freedom of Information Act

§ 7.11 Applicability.

(a) This subpart implements 5 U.S.C. 552(a)(3), and prescribes the regulations governing public inspection and copying of reasonably described records under the Freedom of Information Act.

(b) This subpart does not apply to:

(1) Records published in the **Federal Register**, opinions in the adjudication of cases, statements of policy and interpretations, and administrative staff manuals that have been published or made available under subpart B of this part.

(2) Records or information compiled for law enforcement purposes and covered by the disclosure exemption described in § 7.13(c)(7) if—

(i) The investigation or proceeding involves a possible violation of criminal law; and

(ii) There is reason to believe that—

(A) The subject of the investigation or proceeding is not aware of its pendency, and

(B) Disclosure of the existence of the records could reasonably be expected to interfere with enforcement proceedings.

(3) Informant records maintained by a criminal law enforcement component of the Department under an informant's name or personal identifier, if requested by a third party according to the informant's name or personal identifier, unless the informant's status as an informant has been officially confirmed.

§ 7.12 Administration of part.

Authority to administer this part and to issue determinations with respect to initial requests is delegated as follows:

(a) To the General Counsel for the records of the Office of the Secretary other than the Office of Inspector General.

(b) To the Inspector General for records of the Office of Inspector General.

(c) To the Administrator of each operating administration, who may redelegate to officers of that administration the authority to administer this part in connection with defined groups of records. However, each Administrator may delegate the duties under subpart D of this part to consider appeals of initial denials of requests for records only to his or her deputy or to not more than one other officer who reports directly to the Administrator and who is located at the headquarters of that operating administration.

§ 7.13 Records available.

(a) *Policy.* It is the policy of the Department of Transportation to make the records of the Department available to the public to the greatest extent possible, in keeping with the spirit of the Freedom of Information Act. This includes providing reasonably segregable information from documents that contain information that may be withheld.

(b) *Statutory disclosure requirement.* The Act requires that the Department, on a request from a member of the public submitted in accordance with the procedures in this subpart, make requested records available for inspection and copying.

(c) *Statutory exemptions.* Exempted from the Act's disclosure requirement are matters that are:

(1)(i) Specifically authorized under criteria established by Executive Order to keep secret in the interest of national defense or foreign policy, and

(ii) In fact properly classified pursuant to such Executive order.

(2) Related solely to the internal personnel rules and practices of an agency.

(3) Specifically exempted from mandatory disclosure by statute (other than the Privacy Act), provided that such statute—

(i) Requires that the matters be withheld from the public in such a manner as to leave not any discretion on the issue, or

(ii) Establishes particular criteria for withholding or refers to particular criteria for withholding or refers to particular types of matters to be withheld.

(4) Trade secrets and commercial or financial obtained from a person and privileged or confidential.

(5) Inter-agency or intra-agency memorandums or letters that would not be available by law to a party other than an agency in litigation with the agency.

(6) Personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(7) Records of information compiled for law enforcement purposes, but only to the extent that the production of such law enforcement records or information—

(i) Could reasonably be expected to interfere with enforcement proceedings,

(ii) Would deprive a person of a right to a fair or an impartial adjudication,

(iii) Could reasonably be expected to constitute an unwarranted invasion of personal privacy,

(iv) Could reasonably be expected to disclose the identify of a confidential source, including a State, local, or foreign agency or authority or any private institution that furnished information on a confidential basis, and, in the case of a record or information compiled by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation, information furnished by a confidential source.

(v) Would disclose techniques and procedures for law enforcement investigations or prosecutions or would disclose guidelines for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to risk circumvention of the law, or

(vi) Could reasonably be expected to endanger the life or physical safety of any individual;

(8) Contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for

the use of an agency responsible for the regulation or supervision of financial institutions.

(9) Geological and geophysical information and data, including maps, concerning wells.

§ 7.14 Requests for records.

(a) Each person desiring access to, or a copy of, a record covered by this subpart shall comply with the following provisions:

(1) A written request must be made for the record.

(2) Such request should indicate that it is being made under the Freedom of Information Act.

(3) The envelope in which the request is sent should be prominently marked: ''FOIA.''

(4) The request should be addressed to the appropriate office as set forth in § 7.15.

(b) If the requirement of paragraph (a) of this section are not met, treatment of the request will be at the discretion of the agency. The ten-day limit for responding to requests, described in § 7.31, will not start to run until the request has been identified, or would have been identified with the exercise of due diligence, by an employee of the Department as a request pursuant to the Freedom of Information Act and has been received by the office to which it should have been originally sent.

(c) *Form of requests.* (1) Each request should describe the particular record to the fullest extent possible. The request should describe the subject matter of the record, and, if known, indicate the date when it was made, the place where it was made, and the person or office that made it. If the description does not enable the office handling the request to identify or locate the record sought, that office will notify the person making the request and, to the extent possible, indicate the additional data required.

(2) Each request shall—

(i) Specify the fee category (commercial use, news media, educational institution, noncommercial scientific institution, or other) in which the requester claims the request to fall and the basis of this claim (see subpart F of this part for fees and fee waiver requirements), and

(ii) State the maximum amount of fees that the requester is willing to pay or include a request for a fee waiver.

(3) Requesters are advised that the time for responding to requests set forth in subpart E of this part may be delayed—

(i) If a requester has not sufficiently identified the fee category applicable to the request,

(ii) If a requester has not stated a willingness to pay fees as high as anticipated by the Department, or

(iii) If a fee waiver request is denied and the requester has not included an alternative statement of willingness to pay fees as high as anticipated by the Department.

(iv) A request seeking a fee waiver shall, to the extent possible, address why the requester believes that the criteria for fee waivers set out in § 7.44(f) are met.

(d) *Creation of records.* A request may seek only records that are in existence at the time the request is received. A request may not seek records that come into existence after the date on which it is received and may not require that new records be created in response to the request by, for example, combining or compiling selected items from manual files, preparing a new computer program, or calculating proportions, percentages, frequency distributions, trends, or comparisons. In those instances where the Department determines that creating a new record will be less burdensome than disclosing large volumes of unassembled material, the Department may, in its discretion, agree to the creation of a new record as an alternative to disclosing existing records.

(e) Each record made available under this subpart will be made available for inspection and copying during regular business hours at the place where it is located, or photocopying may be arranged with the copied materials being mailed to the requester upon payment of the appropriate fee. Original records ordinarily will be copied except in this instances where, in the Department's judgment, copying would endanger the quality of the original or raise the reasonable possibility of irreparable harm to the record. In these instances, copying of the original would not be in the public interest. In any event, original records will not be released from Department custody.

(f) If a requested record is known not to exist in the files of the agency, or to have been destroyed or otherwise disposed of, the requester will be so notified.

(g) Fees will be determined in accordance with subpart F of this part.

(h) Notwithstanding paragraphs (a) through (g) of this section, informational material, such as news releases, pamphlets, and other materials of that nature that are ordinarily made available to the public as a part of any information program of the Government will be available upon oral or written request. A fee will be not be charged for individual copies of that material so long as the material is in supply. In addition the Department will continue to respond, without charge, to routine oral or written inquiries that do not involve the furnishing of records.

§ 7.15 Contacts for records requested under the FOIA.

Each person desiring a record under this subpart should submit a request in writing to the Departmental administration where the records are located:

(a) FOIA Offices at 400 7th Street, SW., Washington, DC 20590:

(1) Office of the Secretary of Transportation, Room 5432.

(2) Federal Highway Administration, Room 4428.

(3) Federal Railroad Administration, Room 8201.

(4) National Highway Traffic Safety Administration, Room 5219.

(5) Federal Transit Administration, Room 9400.

(6) Maritime Administration, Room 7221.

(7) Research and Special Programs Administration, Room 8419.

(8) Bureau of Transportation Statistics, Room 2104.

(9) Office of Inspector General, Room 9210.

(b) Federal Aviation Administration, 800 Independence Avenue, SW., Room 906A, Washington, DC 20591.

(c) United States Coast Guard, 2100 2nd Street, SW., Room 6106, Washington, DC 20593–0001.

(d) Director, Office of Finance, Saint Lawrence Seaway Development Corporation, 180 Andrews Street, P.O. Box 520, Massena, New York 13662–0520.

(e) Certain operating administrations also maintain FOIA contacts at regional offices and at the offices of the Commandant and District Commanders of the United States Coast Guard. Additional information on the location of these offices can be obtained through the FOIA contact offices listed in paragraphs (a) through (d) of this section.

(f) If the person making the request does not know where in the Department the record is located, he or she may make inquiry to the Chief, FOIA Division, Office of the General Counsel.

§ 7.16 Requests for records of concern to more than one government organization.

(a) If the release of a record covered by this subpart would be of concern to both this Department and another Federal agency, the determination as to release will be made only after consultation with the other interested agency.

(b) If the release of the record covered by this subpart would be of concern to both this Department and a State or local government, a territory or possession of the United States, or a foreign government, the determination as to release will be made by the Department only after consultation with the other interested State or local government or foreign government.

(c) As an alternative to consultation, the Department may refer the request (or relevant portion thereof) to a Federal agency that originated or is substantially concerned with the records. Such referrals shall be made expeditiously and the requester shall be notified in writing that a referral has been made.

§ 7.17 Consultation with submitters of commercial and financial information.

(a) If a request is received for information that has been designated by the submitter as confidential commercial information, or which the Department has some other reason to believe may contain trade secrets or other commercial or financial information of the type described in § 7.13(c)(4), the submitter of such information will, except as is provided in paragraphs (c) and (d) of this section, be notified expeditiously and asked to submit any written objections to release. At the same time, the requester will be notified that notice and an opportunity to comment are being provided to the submitter. the submitter will, to the extent permitted by law, be afforded a reasonable period of time within which to provide a detailed statement of any such objections. The submitter's statement shall specify all grounds for withholding any of the information. The burden shall be on the submitter to identify all information for which exempt treatment is sought and to persuade the agency that the information should not be disclosed.

(b) The Office of the Secretary, the Office of Inspector General, or the responsible operating administration, as appropriate, will, to the extent permitted by law, consider carefully a submitter's objections and specific grounds for nondisclosure prior to determining whether to disclose business information. Whenever a decision is made to disclose such information over the objection of a submitter, the office responsible for the decision will forward to the submitter a written notice that will include:

(1) A statement of the reasons for which the submitter's disclosure objections were not accepted;

(2) A description of the business information to be disclosed; and

(3) A specific disclosure date. Such notice of intent to disclose will, to the extent permitted by law, be forwarded to the submitter a reasonable number of days prior to the specified date upon which disclosure is intended. At the same time the submitter is notified, the requester will be notified of the decision to disclose information.

(c) The notice requirements of this section will not apply if:

(1) The office responsible for the decision determines that the information should not be disclosed;

(2) The information lawfully has been published or otherwise made available to the public; or

(3) Disclosure of the information is required by law (other than 5 U.S.C. 552).

(d) The procedures established in this section shall not apply in the case of:

(1) Business information submitted to the National Highway Traffic Safety Administration and addressed in 49 CFR part 512.

(2) Information contained in a document to be filed or in oral testimony that is sought to be withheld pursuant to Rule 39 of the Rules of Practice (14 CFR 302.39) in Aviation Economic Proceedings.

(e) Whenever a requester brings suit seeking to compel disclosure of confidential commercial information, the Office of the Secretary, the Office of Inspector General, or the responsible operating administration, whichever the case may be, will promptly notify the submitter.

Subpart D—Procedures for Appealing Decisions Not to Disclose Records and/or Waive Fees

§ 7.21 General.

(a) Each officer or employee of the Department who, upon a request by a member of the public for a record under this part, makes a determination that the record is not to be disclosed, either because it is subject to an exemption or not in the Department's custody and control, will give a written statement of the reasons for that determination to the person making the request; and indicate the names and titles or positions of each person responsible for the initial determination not to comply with such request, and the availability of an appeal within the Department.

(b) When a request for a waiver of fees, pursuant to § 7.44, has been denied in whole or in part, the requester may appeal the denial.

(c) Any person to whom a record has not been made available within the time limits established by § 7.31 and any person who has been given a determination pursuant to paragraph (a) of this section that a record will not be disclosed may appeal to the head of the operating administration concerned or, in the case of the Office of the Secretary, to the General Counsel of the Department, and in the case of the Office of Inspector General, to the Inspector General, or the designee of any of them. Any person who has not received an initial determination on his or her request within the time limits established by § 7.31 can seek immediate judicial review, which may be sought without the need first to submit an administrative appeal. Judicial review may be sought in the United States District Court for the judicial district in which the requester resides or has his or her principal place of business, the judicial district in which the records are located, or in the District of Columbia. A determination that a record will not be disclosed and/or that a request for a fee waiver or reduction will not be granted does not constitute final agency action for the purposes of judicial review unless:

(1) It was made by the head of the operating administration concerned (or his or her designee), or the General Counsel or the Inspector General, as the case may be; or

(2) The applicable time limit has passed without a determination on the initial request or the appeal, as the case may be, having been made.

(d) Each appeal must be made in writing within thirty days from the date of receipt of the original denial and should include all information and arguments relied upon by the person making the request. Such letter should indicate that it is an appeal from a denial of a request made under the Freedom of Information Act. The envelope in which the appeal is sent should be prominently marked: ''FOIA Appeal.'' If these requirements are not met, the twenty-day limit described in § 7.32 will not begin to run until the appeal has been identified, or would have been identified with the exercise of due diligence, by an employee of the Department as an appeal under the Freedom of Information Act, and has been received by the appropriate office.

(e) Whenever the head of the operating administration concerned, or the General Counsel or the Inspector General, as the case may be, determines it to be necessary, he/she may require the person making the request to furnish additional information, or proof of factual allegations, and may order other proceedings appropriate in the circumstances. The decision of the head of the operating administration concerned, or the General Counsel or

the Inspector General, as the case may be, as to the availability of the record or the appropriateness of a fee waiver or reduction constitutes final agency action for the purpose of judicial review.

(f) The decision of the head of the operating administration concerned, or the General Counsel or the Inspector General, as the case may be, not to disclose a record under this part or not to grant a request for a fee waiver or reduction is considered to be a denial by the Secretary for the purpose of 5 U.S.C. 552(a)(4)(B).

(g) Any final determination by the head of an operating administration, or his or her delegate, not to disclose a record under this part, or not to grant a request for a fee waiver or reduction, is subject to concurrence by the General Counsel or his/her designee.

(h) Upon a determination that an appeal will be denied, the requester will be informed in writing of the reasons for the denial of the request and the names and titles or positions of each person responsible for the determination, and that judicial review of the determination is available in the United States District Court for the judicial district in which the requester resides or has his or her principal place of business, the judicial district in which the requested records are located, or the District of Columbia.

Subpart E—Time Limits

§ 7.31 Initial determinations.

An initial determination whether to release a record requested pursuant to subpart C of this part will be made within ten Federal working days after the request is received by the appropriate office in accordance with § 7.14, except that this time limit may be extended by up to ten Federal working days in accordance with § 7.33. The person making the request will be notified immediately of such determination. If the determination is to grant this request, the desired record will be made available as promptly as possible. If the determination is to deny the request, the person making the request will be notified in writing, at the same time he or she is notified of such determination, of the reason for the determination, the right of such person to appeal the determination, and the name and title of each person responsible for the initial determination to deny the request.

§ 7.32 Final determinations.

A determination with respect to any appeal made pursuant to § 7.21 will be made within twenty Federal working days after receipt of such appeal except that this time limit may be extended by up to ten Federal working days in accordance with § 7.33. The person making the request will be notified immediately of such determination pursuant to § 7.21.

§ 7.33 Extension.

In unusual circumstances as specified in this section, the time limits prescribed in § 7.31 and § 7.32 may be extended by written notice to the person making the request setting forth the reasons for such extension and the date on which a determination is expected to be dispatched. Such notice may not specify a date that would result in a cumulative extension of more than ten Federal working days. As used in this paragraph, ''unusual circumstances'' means, but only to the extent reasonably necessary to the proper processing of the particular request:

(a) The need to search for and collect the requested records from field facilities or other establishments that are separate from the office processing the request.

(b) The need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records that are demanded in a single request.

(c) The need for consultation, which will be conducted with all practicable speed, with any other agency of DOT element having a substantial interest in the determination of the request or among two or more components of the agency having substantial subject-matter interest therein.

Subpart F—Fees

§ 7.41 General.

(a) This subpart prescribes fees for services performed for the public under subparts B and C of this part by the Department.

(b) All terms defined by the Freedom of Information Act apply to this subpart, and the term ''hourly rate'' means the actual hourly base pay for a civilian employee or, for members of the Coast Guard, the equivalent hourly pay rate computed using a 40-hour week and the member's normal basic pay and allowances.

(c) This subpart applies to all employees of the Department, including those of non-appropriated fund activities of the Coast Guard and the Maritime Administration.

(d) This subpart does not apply to any special study, special statistical compilation, table, or other record requested under 49 U.S.C. 329(c). The fee for the performance of such a service is the actual cost of the work involved in compiling the record. All such fees received by the Department in payment of the cost of such work are deposited in a separate account administered under the direction of the Secretary, and may be used for the ordinary expenses incidental to providing the information.

(e) This subpart does not apply to requests from record subjects for records about themselves in Departmental systems of records. Fees for such requests are to be determined in accordance with the Privacy Act of 1974, as implemented by Department of Transportation regulations (49 CFR part 10).

§ 7.42 Payment of fees.

(a) The fees prescribed in this subpart may be paid by check, draft, or money order, payable to the Treasury of the United States; except that, in the case of the Saint Lawrence Seaway Development Corporation, all fees resulting from a request to that operating administration shall be made payable to the Saint Lawrence Seaway Development Corporation.

(b) Charges may be assessed by the Department for time spent searching for requested records even if the search fails to locate records or the records located are determined to be exempt from disclosure. In addition, if records are requested for commercial use, the Department may assess a fee for time spent reviewing any responsive records located to determine whether they are exempt from disclosure.

(c) When it is estimated that the search charges, review charges, duplication fees or any combination of fees that could be charged to the requester will likely exceed $25, the requester will be notified of the estimated amount of the fees, unless the requester has indicated in advance his or her willingness to pay fees as high as those anticipated. The notice will also inform the requester how to consult with the appropriate Departmental officials with the object of reformulating the request to meet his or her needs at a lower cost.

(d) Payment of fees may be required by the Department prior to actual duplication or delivery of any releasable records to a requester. However, advance payment of fees, i.e., payment before work is commenced or continued on a request, may not be required unless:

(1) Allowable charges that a requester may be required to pay are likely to exceed $250; or

(2) The requester has failed to pay within 30 days of the billing date fees charged for a previous request to any part of the Department.

(e) When paragraph (d)(1) of this section applies, the requester will be

notified of the likely cost and, where he/she has a history of prompt payment of FOIA fees, requested to furnish satisfactory assurance of full payment of FOIA fees, Where the requestor does not have any history of payment, he or she may be required to make advance payment of any amount up to the full estimated charges.

(f) When paragraph (d)(2) of this section applies, the requester will be required to demonstrate that the fee has, in fact, been paid or to pay the full amount owed, including any applicable interest, late handling charges, and penalty charges as discussed in paragraphs (g) and (h) of this section. The requester will also be required to make an advance payment of the full amount of the estimated fee before processing of a new request or continuation of a pending request is begun.

(g) The Department will assess interest on an unpaid bill starting on the 31st day following the day on which the notice of the amount due is first mailed to the requester. Interest will accrue from the date of the notice of amount due and will be at the rate prescribed in 31 U.S.C. 3717. Receipt by the Department of a payment for the full amount of the fees owed within 30 calendar days after the date of the initial billing will stay the accrual of interest, even if the payment has not been processed.

(h) If payment of fees charged is not received within 30 calendar days after the date the initial notice of the amount due is first mailed to the requester, an administrative charge will be assessed by the Department to cover the cost of processing and handling the delinquent claim. In addition, a penalty charge will be applied with respect to any principal amount of a debt that is more than 90 days past due. Where appropriate, other steps permitted by Federal debt collection statutes, including disclosure to consumer reporting agencies and use of collection agencies, will be used by the Department to encourage payment of amounts overdue.

(i) In any instance where the Department reasonably believes that a requester or a group of requesters acting in concert is attempting to break down a single FOIA request into a series of requests for the sole purpose of evading the payment of otherwise applicable fees, the Department will aggregate the requests and determine the applicable fees on the basis of the aggregation.

(j) Notwithstanding any other provision of this subpart, when the total amount of fees that could be charged for a particular request (or aggregation of requests) under subpart C of this part, after taking into account all services that must be provided free of, or at a reduced charge, is less than $10.00 the Department will not make any charge for fees.

§ 7.43 Fee schedule.

(a) The standard fee for a manual search to locate a record requested under subpart C of this part, including making it available for inspection, will be determined by multiplying each searcher's hourly rate plus 16 percent by the time spent conducting the search.

(b) the standard fee for a computer search for a record requested under subpart C of this part is the actural cost. This includes the cost of operating the central processing unit for the time directly attributable to searching for records responsive to a FOIA request and the operator/programmer salary (hourly plus 16 percent) costs apportionable to the search.

(c) The standard fee for review of records requested under subpart C of this part is the reviewer's hourly rate plus 16 percent multiplied by the time he or she spent determining whether the requested records are exempt from mandatory disclosure.

(d) The standard fee for duplication of a record requested under subpart C of this part is determined as follows:

(1) Per copy of each page (not larger than 8½ × 14 inches) reproduced by photocopy or similar methods (includes costs of personnel and equipment)—$0.10.

(2) Per copy prepared by computer such as tapes or printout—actual costs, including operator time.

(3) Per copy prepared by any other method of duplication—actual direct cost of production.

(e) Depending upon the category of requester, and the use for which the records are requested, in some cases the fees computed in accordance with the standard fee schedule in paragraphs (a) through (d) of this section will either be reduced or not charged, as prescribed by other provisions of this subpart.

(f) The following special services not required by the FOIA may be made available upon request, at the stated fees: Certified copies of documents, with Department of Transportation or operating administration seal (where authorized)–$4.00; or true copy, without seal–$2.00.

§ 7.44 Services performed without charge or at a reduced charge.

(a) A fee is not to be charged to any requester making a request under subpart C of this part for the first two hours of search time unless the records are requested for commercial use. For purposes of this subpart, when a computer search is required, two hours of search time will be considered spent when the hourly costs of operating the central processing unit used to perform the search added to the computer operator's salary cost (hourly rate plus 16 percent) equals two hours of the computer operator's salary costs (hourly rate plus 16 percent).

(b) A fee is not to be charged for any time spent searching for a record requested under subpart C if the records are not for commercial use and the requester is a representative of the news media, an educational institution whose purpose is scholarly research, or a non-commercial scientific institution whose purpose is scientific research.

(c) A fee is not be charged for duplication of the first 100 pages (standard paper, not larger than 8.5 × 14 inches) of records provided to any requester in response to a request under subpart C unless the records are requested for commercial use.

(d) A fee is not to be charged to any requester under subpart C to determine whether a record is exempt from mandatory disclosure unless the record is requested for commercial use. A review charge may not be charged except with respect to an initial review to determine the applicability of a particular exemption to a particular record or portion of a record. A review charge may not be assessed for review at the administrative appeal level. When records or portions of records withheld in full under an exemption that is subsequently determined not to apply are reviewed again to determine the applicability of other exemptions not previously considered, this is considered an initial review for purposes of assessing a review charge.

(e) Documents will be furnished without charge or at a reduced charge if the official having initial denial authority determines that disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester.

(f) Factors to be considered by officials of the Department authorized to determine whether a waiver or reduction of fees will be granted include:

(1) Whether the subject matter of the requested records concerns the operations or activities of the Federal government;

(2) Whether the disclosure is likely to contribute to an understanding of Federal government operations or activities;

(3) Whether disclosure of the requested information will contribute to the understanding of the public at large, as opposed to the individual understanding of the requester or a narrow segment of interested persons;

(4) Whether the contribution to public understanding of Federal government operations or activities will be significant;

(5) Whether the requester has a commercial interest that would be furthered by the requested disclosure; and

(6) Whether the magnitude of any identified commercial interest to the requester is sufficiently large in comparison with the public interest in disclosure that disclosure is primarily in the commercial interest of the requester.

(g) Documents will be furnished without charge or at a reduced charge if the official having initial denial authority determines that the request concerns records related to the death of an immediate family member who was, at the time of death, an employee of the Department or a member of the Coast Guard.

(h) Documents will be furnished without charge or at a reduced charge if the official having initial denial authority determines that the request is by the victim of a crime who seeks the record of the trial or court-martial at which the requestor testified.

§ 7.45 Transcripts.

Transcripts of hearings or oral arguments are available for inspection. Where transcripts are prepared by a nongovernmental contractor, and the contract permits the Department to handle the reproduction of further copies, § 7.43 applies. Where the contract permits the Department to handle the reproduction of further copies, § 7.43 applies. Where the contract for transcription services reserves the sales privilege to the reporting service, any duplicate copies must be purchased directly from the reporting service.

§ 7.46 Alternative sources of information.

In the interest of making documents of general interest publicly available at as low as cost as possible, alternative sources shall be arranged whenever possible. In appropriate instances, material that is published and offered for sale may be obtained from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402; U.S. Department of Commerce's National Technical Information Service (NTIS), Springfield, Virginia 22151; or National Audio-Visual Center, National Archives and Records Administration, Capital Heights, MD 20743–3701.

Issued in Washington, DC, on March 24, 1997.

Rodney E. Slater,

Secretary of Transportation.

[FR Doc. 97–9786 Filed 4–21–97; 8:45 am]

BILLING CODE 4910–62–M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 95–88, Notice 3]

RIN 2127–AG02

Amendment of Standard No. 121, Brake Hoses by Revision of the Whip Resistance Test Conditions

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

ACTION: Denial of petition for reconsideration.

SUMMARY: This document announces the denial of a petition for reconsideration of the agency's decision to amend the whip test requirements of Standard 106, Brake Hoses to allow the use of a supplemental support for testing certain brake hose assemblies. The petition is denied on the basis that the petitioner provided no new information on which to justify amending the standard.

FOR FURTHER INFORMATION CONTACT: The following persons at the National Highway Traffic Safety Administration, 400 Seventh Street, S.W., Washington, D.C. 20590:

For non-legal issues: Sam Daniel, Vehicle Dynamics Division, Office of Crash Avoidance Standards, (202–366–4921)

For legal issues: Mr. Marvin L. Shaw, NCC–20, Rulemaking Division, Office of Chief Counsel, (202–366–2992).

SUPPLEMENTARY INFORMATION:

Request for Interpretation

On December 8, 1994, Earl's Performance Products (Earl's) asked the agency to issue an interpretation of the whip resistance requirements in Standard No. 106. Specifically, that company asked that an alternative whip resistance test apparatus be allowed for testing its hydraulic brake hose assemblies. Earl's has manufactured armored brake hose assemblies for use in off-road, high performance race cars since the 1960s. That company sought permission to use the alternative fixture because it wished to begin selling its armored brake hose for use on conventional motor vehicles. It claimed that its product is of very high quality and easily meets all of the requirements in Standard No. 106, except for the whip resistance test. Earl's brake hose is armored with braided stainless steel while most current brake hoses are made from rubber tubing alone.

Earl's armored brake hose is installed on a vehicle differently than a conventional brake hose. Earl's hose passes through and is held in place by a supplemental support (consisting of a ball bearing with a hole in it and the ball bearing housing) which cannot be removed from the hose. The support slides into and is held in place by a bracket which is attached to the vehicle frame or some other solid vehicle structure. The alternative test apparatus proposed by Earl's simulates the attachment of the supplemental support bracket to a vehicle.

Earl's recognized that if the supplemental support is not properly attached or mounted to the vehicle, it's hoses could fail the whip resistance test due to cyclic stress at the interface between the hose and the swaged collar at the fixed end of the hose assembly. Earl's indicated, however, this was not a problem when the hose is protected by the supplemental support. Earl's further indicated that it had successfully tested hose assemblies from 9 inches to 24 inches long, using its alternative mounting technique.

On April 24, 1995, NHTSA responded to Earl's request for an interpretation, concluding that the rule as then written did not permit the use of a supplemental support to mount a brake hose when conducting the whip test. NHTSA stated that section 6.3 could not be interpreted to permit mounting the brake hose at the ''whip dampener.'' S6.3.1 *Apparatus* specifies a test apparatus that mounts the brake hose at ''capped end fittings'' on one end and ''open end fittings'' on the other, and specifies no mounting points in between. Thus, a test apparatus that mounts the brake hose at a ''whip dampener,'' which is not an end fitting, would not meet Standard No. 106.

The agency then stated that it would initiate rulemaking to further consider whether to amend the whip resistance test to permit the use of a supplemental support.

Agency Rulemaking Amending Whip Resistance Test

On November 16, 1995, NHTSA issued a notice of proposed rulemaking (NPRM) in which it proposed amending the whip resistance test of Standard No.

106. (60 FR 57562). Under that proposal, Section 6.3.2 would be amended to permit an optional mounting procedure for certain brake hose assemblies for the whip resistance test through the use of a supplemental support. Without such an amendment, some armored brake hose assemblies would remain prohibited because they could not comply with the whip resistance test in effect at that time. The proposed amendment was intended to allow a brake hose assembly to be mounted in the whip test apparatus in the same manner in which it would be mounted in the real world on a vehicle. The agency stated that the proposal would apply to those brake hose assemblies that are fitted with a supplemental support that cannot be removed intact from the hose without destroying the hose. The supplemental support would be positioned and mounted in a bracket that would simulate vehicle mounting, in accordance with the recommendation of the brake hose assembly manufacturer.

The agency invited comments on the appropriateness of the proposed modification to the whip resistance test. NHTSA received comments on the proposed amendment from vehicle manufacturers BMW and Chrysler and from automotive equipment suppliers Goodridge (UK) Ltd., Goodyear Tire & Rubber Co. and Titeflex Industrial Americas.

BMW and Chrysler supported the revisions to the whip test procedure. Goodyear Tire & Rubber Company did not express support for or against the amendments, but requested clarification regarding a number of technical issues. Titeflex Industrial Americas and Goodridge (OK) Ltd. objected to the proposed changes to the whip test, stating that the changes would allow an unfair advantage to Earl's Performance Products and would also reduce the level of safety now achieved with the existing whip test.

On August 9, 1996, NHTSA published a notice in the **Federal Register** (61 FR 41510) announcing a final rule amending Standard 106, Brake Hoses by revising the whip resistance test to permit the use of a supplemental support bracket. Along with adopting the proposed requirements, the final rule included some additional provisions, including package labeling requirements for brake hose assemblies designed for use with a supplemental support. The notice further required that a brake hose assembly equipped with a permanently attached supplemental support be tested on the whip test apparatus in a position which simulates proper installation on a vehicle.

Petition for Reconsideration of the Whip Test Amendments

On September 7, 1996 a petition for reconsideration was received from Goodridge (USA) Inc. and Goodridge (UK) Ltd. The Goodridge petition questioned the appropriateness of allowing the introduction of a ''proprietary specification'' that can be only produced by Earl's, and cited several concerns regarding the safety of the new Earl's product.

Goodridge claimed that the amendments published in the final rule give Earl's an unfair advantage because of the introduction of a proprietary specification that is protected by patents. The agency finds this argument unpersuasive. Any company that develops a brake hose assembly with an integral supplemental support may test the assembly for whip resistance in accordance with the procedures specified in Docket No. 95–88, Notice 2. The amendment of Section 6.3.2 does not specify the design of the supplemental support, as implied by Goodridge. Further, the amendment does not restrict other manufacturers from using this modified whip test apparatus if their brake hose assemblies meet the requirements, that is, include a permanently attached supplemental support, and a means of attaching the support to a fixture.

Goodridge claimed that the brake hose assemblies allowed by the amendment to the whip test procedures would reduce overall vehicle safety since the brake hoses could be improperly installed by inexperienced technicians or private citizens. The agency disagrees with Goodridge on this issue. The agency believes the required package labeling will assure correct installation of brake hose assemblies with supplemental supports. Brake technicians and private citizens who opt to utilize these products will likely be aware prior to acquisition that the assemblies have unique installation requirements. Further, the package labeling must detail proper installation instructions as well as the consequences of improper installation. Goodridge claimed that there is no test data to support the amendments to the standard. The tests in SAE J1401, from which the Federal safety requirements were adopted, were developed to be non-vehicle specific, cover all road vehicles, and represent the exposure that a component would experience in the actual use. It has long been the position of the SAE and others responsible for product testing that if a brake hose can pass the requirements of FMVSS 106, Brake Hoses, or SAE J1401 Road Vehicle-Hydraulic Brake Hose Assemblies, there is no compromise to safety since the testing represents the vehicle mounting and exposure parameters of all vehicle types.

The agency, in the final rule issued on August 9, 1996, made it clear that there are design choices and investment decisions associated with each product that is developed to meet the requirements of a safety standard. Along with those decisions goes the risk of products being displaced by new design approaches to solve old problems. It also indicated that it must remain open to amending the safety standards consistent with its statutory authority based upon changing vehicle technology. NHTSA believes that Goodridge has submitted no new information to support the claim that the design of Earl's brake hose which is properly mounted with a supplemental support is more prone to failure than any other manufacturer's brake hose that does not use a supplemental support.

As indicated in the final rule, if failures were to occur, the agency would treat them the same way it treats any other safety-related failure of a motor vehicle or item of motor vehicle equipment. The agency would expect the manufacturer to conduct a recall if one were appropriate.

The agency does not envision a large increase in the replacement installation of armored brake hoses by the general public. In many applications, vehicle modification would be required to allow for a supplemental support bracket.

Accordingly, the agency has decided to deny the petition.

Authority: 49 U.S.C. 322, 30111, 30115, 30117 and 30166; delegation of authority at 49 CFR 1.50 and 501.8.

Issued on: April 17, 1997.

L. Robert Shelton,

Associate Administrator for Safety Performance Standards.

[FR Doc. 97–10405 Filed 4–21–97; 8:45 am]

BILLING CODE 4910–59–P

Proposed Rules

Federal Register

Vol. 62, No. 77

Tuesday, April 22, 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.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 251

RIN 3206–AH72

Agency Relationships With Organizations Representing Federal Employees and Other Organizations

AGENCY: Office of Personnel Management.

ACTION: Proposed rule.

SUMMARY: The Office of Personnel Management (OPM) is issuing proposed regulations governing agency relations with managerial, supervisory, professional, and other organizations that are not labor organizations. These regulations would reflect a provision of the Federal Employee Representation Improvement Act of 1996.

DATES: Comments due by June 23, 1997.

ADDRESSES: Send written comments to Lorraine Lewis, General Counsel, Office of Personnel Management, P.O. Box 57, Washington, DC 20044, or deliver to OPM, Room 3451, 1900 E St. NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Wade Plunkett (202) 606–1700.

SUPPLEMENTARY INFORMATION: OPM published in the **Federal Register** on June 26, 1996, at 61 FR 32913–32917, final regulations on agency relationships with organizations representing Federal employees and other organizations. Section 251.101(f) of the final regulations cautions Federal employees against violating the restrictions imposed by 18 U.S.C. § 205 which, in pertinent part, restricts Federal employees from acting, other than in the proper discharge of their official duties, as agents or attorneys for any person or organization other than a labor organization, before any Federal agency or other Federal entity in connection with any matter in which the United States is a party or has a direct and substantial interest. Section 251.101(f) of the regulation accordingly advises agency officials and employees to consult with their designated agency ethics official for guidance regarding any conflicts of interest that may arise. 5 CFR 251.101(f).

Subsequent to the effective date of the final rule, Congress modified the 18 U.S.C. § 205 restrictions to permit employee representation of employee organizations under certain circumstances. The Federal Employee Representation Improvement Act of 1996; Public Law 104–177, 110 Stat. 1563, August 6, 1996. As amended, Section 205(d)(1)(B) allows a Federal officer or employee, if not inconsistent with the performance of his or her duties, to represent without compensation a non-profit cooperative, voluntary, professional, recreational or similar organization if a majority of the organization's or group's members are Government officers or employees or their spouses or dependent children.

Subsection (d)(2) of amended Section 205, sets forth the circumstances in which a Federal employee may not act as agent or attorney representing an employee organization. There are three situations in which an employee is prohibited from representing the views of the organization or group. The first situation prevents employee representation when the subject of the representation is a claim against the United States. 18 U.S.C. § 205(d)(2)(A). The second situation prohibits the prescribed action during a judicial or administrative proceeding where the organization or group is a party. 18 U.S.C. § 205(d)(2)(B). The third situation expressly disallows Federal employees from requesting grants, contracts or Federal funds on behalf of an employee organization. 18 U.S.C. § 205(d)(2)(C). Accordingly, paragraph (f) of the Part 251 regulation is being revised to reflect the new law.

Regulatory Flexibility Act

I certify that this regulation will not have a significant economic impact on a substantial number of small entities because it will only affect Federal Government employees and non-labor organizations representing such employees.

Executive Order 12866, Regulatory Review

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

List of Subjects in 5 CFR Part 251

Government employees.

U.S. Office of Personnel Management.

James B. King,

Director.

Accordingly, OPM proposes to amend 5 CFR part 251 as follows:

PART 251—AGENCY RELATIONSHIPS WITH ORGANIZATIONS REPRESENTING FEDERAL EMPLOYEES AND OTHER ORGANIZATIONS

1. The authority citation for part 251 continues to read as follows:

Authority: 5 U.S.C. § 1104; 5 U.S.C. Chap 7; 5 U.S.C. § 7135; 5 U.S.C. 7301; E.O. 11491.

2. In § 251.101, paragraph (f) is revised to read as follows:

§ 251.101 Introduction.

* * * * *

(f) Federal employees, including management officials and supervisors, may communicate with any Federal agency, officer, or other Federal entity on the employee's own behalf. However, Federal employees should be aware that 18 U.S.C. 205, in pertinent part, restricts Federal employees from acting, other than in the proper discharge of their official duties, as agents or attorneys for any person or organization other than a labor organization, before any Federal agency or other Federal entity in connection with any matter in which the United states is a party or has a direct and substantial interest. An exception to the prohibition found in 18 U.S.C. 205 permits Federal employees to represent certain nonprofit organizations before the Government except in connection with specified matters. Agency officials and employees are therefore advised to consult with their designated agency ethics officials for guidance regarding any conflicts of interest that may arise.

[FR Doc. 97–10209 Filed 4–21–97; 8:45 am]

BILLING CODE 6325–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–NM–07–AD]

RIN 2120–AA64

Airworthiness Directives; Lockheed Model L–188A and L–188C Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to all Lockheed Model L–188A and L–188C series airplanes. This proposal would require revising the Airplane Flight Manual (AFM) to prohibit the positioning of the power levers below the flight idle stop during flight, and to provide a statement of the consequences of positioning the power levers below flight idle stop. The proposed AD is prompted by incidents and accidents involving airplanes equipped with turboprop engines where the propeller ground beta was used improperly during flight. The actions specified by the proposed AD are intended to prevent loss of airplane controllability, or engine overspeed and consequent loss of engine power caused by the power levers being positioned below the flight idle stop while the airplane is in flight.

DATES: Comments must be received by June 1, 1997.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 97–NM–07–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Lockheed Aeronautical Systems Support Company (LASSC), Field Support Department, Dept. 693, Zone 0755, 2251 Lake Park Drive, Smyrna, Georgia 30080. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Small Airplane Directorate, Atlanta Aircraft Certification Office, Campus Building, 1701 Columbia Avenue, Suite 2–160, College Park, Georgia.

FOR FURTHER INFORMATION CONTACT: Thomas Peters, Aerospace Engineer, Systems and Flight Test Branch, ACE–116A, FAA, Atlanta Aircraft Certification Office, Small Airplane Directorate, Campus Building, 1701 Columbia Avenue, Suite 2–160, College Park, Georgia 30337–2748; telephone (404) 305–7367; fax (404) 305–7348.

SUPPLEMENTARY INFORMATION:

Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 97–NM–07–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 97–NM–07–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

In recent years, the FAA has received reports of 14 incidents and/or accidents involving intentional or inadvertent operation of the propellers in the ground beta range, which occurred while the airplane was in flight on airplanes equipped with turboprop engines. (For the purposes of this proposal, Beta is defined as the range of propeller operation intended for use during taxi, ground idle, or reverse operations as controlled by the power lever settings aft of the flight idle stop.)

Five of the fourteen in-flight beta occurrences were classified as accidents. In each of these five cases, operation of the propellers in the beta range occurred while the airplane was in flight. Operation of the propellers in the beta range during flight, if not prevented, could result in loss of airplane controllability, or engine overspeed with consequent loss of engine power.

Communication between the FAA and the public during a meeting held on June 11–12, 1996, in Seattle, Washington, revealed a lack of consistency of the information on in-flight beta operation contained in the FAA-approved airplane flight manual (AFM) for airplanes not certificated for in-flight operation with the power levers below the flight idle stop. (Airplanes that are certificated for this type of operation are not affected by the above-referenced conditions.)

Explanation of Relevant Service Information

The FAA has reviewed and approved a revision to the Limitations Section of the FAA-approved Electra 188C AFM, dated October 17, 1996. This revision specifies that positioning the power levers below the flight idle stop during flight is prohibited. Additionally, the revision contains a cautionary or warning statement of the consequences that such positioning of the power levers may lead to loss of airplane control, or may result in an engine overspeed condition and consequent loss of engine power.

The FAA's Determination

The FAA has examined the circumstances and reviewed all available information related to the incidents and accidents described previously. The FAA finds that the Limitations Section of the AFM's for certain airplanes must be revised to prohibit positioning the power levers below the flight idle stop while the airplane is in flight, and to provide a statement of the consequences of positioning the power levers below the flight idle stop. The FAA has determined that the affected airplanes include those that are equipped with turboprop engines and that are not certificated for in-flight operation with the power levers below the flight idle stop. Since Lockheed Model L–188A and L–188C series airplanes are equipped with turboprop engines, and are not certificated for in-flight

operation with the power levers positioned below the flight idle stop, the FAA finds that the AFM for these airplanes must be revised to include the limitation and statement of consequences described previously.

Explanation of the Requirements of the Proposed AD

Since an unsafe condition has been identified that is likely to exist or develop in other Lockheed Model L–188A and L–188C series airplanes of the same type design, the proposed AD would require revising the Limitations Section of the AFM to prohibit the positioning of the power levers below the flight idle stop during flight, and to provide a statement of consequences of such positioning of the power levers.

Interim Action

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

Cost Impact

There are approximately 75 Lockheed Model L–188A and L–188C series airplanes of the affected design in the worldwide fleet. The FAA estimates that 32 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 1 work hour per airplane to accomplish the proposed actions, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be $1,920, or $60 per airplane.

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

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Lockheed: Docket 97–NM–07–AD.

Applicability: All Model L–188A and L–188C series airplanes, certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent loss of airplane controllability or engine overspeed with consequent loss of engine power caused by the power levers being positioned below the flight idle stop while the airplane is in flight, accomplish the following:

(a) Within 30 days after the effective date of this AD, revise the Limitations Section of the FAA-approved Airplane Flight Manual (AFM) to include the following statements. This action may be accomplished by inserting either a copy of this AD into the AFM or the revision to the Limitations Section of the FAA-approved Electra 188A or 188C AFM, dated October 17, 1996.

''Positioning of power levers below the flight idle stop while the airplane is in flight is prohibited. Such positioning may lead to loss of airplane control or may result in an overspeed condition and consequent loss of engine power.''

(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. Operators shall submit their requests through an appropriate FAA Principal Operations Inspector, who may add comments and then send it to the Manager, Atlanta Aircraft Certification Office (ACO), FAA, Small Airplane Directorate.

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

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

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 97–10316 Filed 4–21–97; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 97–AWP–18]

Proposed Revision of Class E Airspace; Crescent City, Imperial County and Red Bluff, CA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to revise Class E airspace areas at Crescent City, Imperial County and Red Bluff, CA., by removing the reference to part-time status of the surface areas. A review of airspace classification has made this action necessary. The intended effect of this proposal is to correct the legal description to reflect the actual operations (e.g., continuous or part-time).

DATES: Comments must be received on or before May 31, 1997.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, Attn: Manager, Operations Branch, AWP–530, Docket No. 97–AWP–18, Air Traffic Division, P.O. Box 92007, Worldway Postal Center, Los Angeles, California 90009.

The official docket may be examined in the Office of the Assistant Chief Counsel, Western Pacific Region, Federal Aviation Administration, Room 6007, 15000 Aviation Boulevard, Lawndale, California 90261.

An informal docket may also be examined during normal business at the Office of the Manager, Operations Branch, Air Traffic Division at the above address.

FOR FURTHER INFORMATION CONTACT:

William Buck, Airspace Specialist, Operations Branch, AWP–530, Air Traffic Division, Western-Pacific Region, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, California, 90261, telephone (310) 725–6556.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with the comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Airspace Docket No. 97–AWP–18.'' The postcard will be date/time stamped and returned to the commenter. All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination in the Operations Branch Air Traffic Division, at 15000 Aviation Boulevard, Lawndale, California 90261, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Operations Branch, P.O. Box 92007, Worldway Postal Center, Los Angeles, California 90009. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2A, which describes the application procedures.

The Proposal

The FAA is considering an amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) to revise Class E airspace areas at Crescent City, Imperial County and Red Bluff, CA, by removing the reference to part-time status of the surface areas. Continuous weather reporting services now exist at the aforementioned airports. A review of airspace classification has made this action necessary. The intended effect of this proposal is to correct the legal description to reflect the actual operations (e.g. continuous or part-time). Class E airspace designations for airspace areas designated as a surface area for an airport are published in Paragraph 6002 of FAA Order 7400.9D dated September 4, 1996, and effective September 16, 1996, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document would be published subsequently in this Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this proposed regulation—(1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 10034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this proposed rule would not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) as follows:

PART 71—[AMENDED]

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

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

§ 71.1 [Amended]

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

Paragraph 6002 Class E airspace designated as a surface area for an airport.

* * * * *

AWP CA E2 Red Bluff, CA

Red Bluff Municipal Airport, CA
(Lat. 40°09′04″ N, long. 122°15′08″ W)

Within a 6.5-mile radius of the Red Bluff Municipal Airport and within 2.6 miles either side of the 161° bearing from the airport extending from the 6.5-mile radius to 10 miles south of the airport.

AWP CA E2 Crescent City, CA

Crescent City, Jack McNamara Field, CA
(Lat. 41°46′48″ N, long. 124°14′11″ W)
Crescent City VORTAC
(Lat. 41°46′46″ N, long. 124°14′27″ W)

Within a 4.3-mile radius of Jack McNamara Field and within 1.8 miles each side of the Crescent City VORTAC 324° radial, extending from the 4.3-mile radius to 7 miles northwest of the VORTAC and within 1.8 miles each side of the Crescent City VORTAC 179° radial, extending from the 4.3-mile radius to 4.8 miles south of the VORTAC.

AWP CA E2 Imperial County, CA

Imperial County Airport, CA
(Lat. 32°50′03″ N, long. 115°34′34″ W)

Within a 4-mile radius of the Imperial County Airport.

* * * * *

Issued in Los Angeles, California, on April 8, 1997.

Alton D. Scott,

Acting Manager, Air Traffic Division, Western-Pacific Region.

[FR Doc. 97–10360 Filed 4–21–97; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 97–AWP–19]

Proposed Amendment of Class E Airspace; Santa Ynez, CA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to amend the Class E airspace area at Santa Ynez, CA. The establishment of a Global Positioning System (GPS–A) Standard Instrument Approach Procedure (SIAP) at Santa Ynez Airport has made this proposal necessary. The intended effect of this proposal is to provide adequate controlled airspace for Instrument Flight Rules (IFR) operations at Santa Ynez Airport, Santa Ynez, CA.

DATES: Comments must be received on or before May 29, 1997.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, Attn: Manager, Operations Branch, AWP–530, Docket No. 97–AWP–19, Air Traffic Division, P.O. Box 92007, Worldway Postal Center, Los Angeles, California 90009.

The official docket may be examined in the Office of the Assistant Chief Counsel, Western Pacific Region, Federal Aviation Administration, Room 6007, 15000 Aviation Boulevard, Lawndale, California 90261.

An informal docket may also be examined during normal business at the Office of the Manager, Operations Branch, Air Traffic Division at the above address.

FOR FURTHER INFORMATION CONTACT: William Buck, Airspace Specialist, Operations Branch, AWP–530, Air Traffic Division, Western-Pacific Region, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, California 90261, telephone (310) 725–6556.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with the comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Airspace Docket No. 97–AWP–19.'' The postcard will be date/time stamped and returned to the commenter. All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination in the Operations Branch Air Traffic Division, at 15000 Aviation Boulevard, Lawndale, California 90261, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Operations Branch, P.O. Box 92007, Worldway Postal Center, Los Angeles, California 90009. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2A, which describes the application procedures.

The Proposal

The FAA is considering an amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) to amend the Class E airspace area at Santa Ynez, CA. The establishment of a GPS–A SIAP at Santa Ynez Airport has made this proposal necessary. The intended effect of this proposal is to provide adequate Class E airspace for aircraft executing the GPS–A SIAP at Santa Ynez Airport, Santa Ynez, CA. Class E airspace designations for airspace areas extending upward from 700 feet or more above the surface of the earth are published in Paragraph 6005 of FAA Order 7400.9D dated September 4, 1996, and effective September 16, 1996, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document would be published subsequently in this Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this proposed regulation—(1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 10034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this proposed rule would not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

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

PART 71—[AMENDED]

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

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

§ 71.1 [Amended]

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

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

* * * * *

AWP CA E5 Santa Ynez, CA [Revised]

Santa Ynez Airport, CA
(Lat. 34°36′25″ N, long. 120°04′32″ W)

That airspace extending upward from 700 feet above the surface beginning at lat. 34°33′24″ N, long. 120°00′50″ W; to lat. 34°29′00″ N, long. 120°06′04″ W; to lat. 34°29′00″ N, long. 120°12′24″ W; to lat. 34°37′10″ N, long. 120°22′34″ W; to lat. 34°45′40″ N, long. 120°18′44″ W; to lat. 34°40′25″ N; long. 120°02′37″ W, thence clockwise along the 4.3-mile radius of the Santa Ynez Airport to the point of beginning and within 4.5 miles northeast and 2 miles southwest of the 111° bearing from the Santa Ynez airport, extending from the 4.3-mile radius to 15 miles southeast of the Santa

Ynez Airport, excluding that portion within the Santa Barbara, CA, Class C and Class E airspace areas.

* * * * *

Issued in Los Angeles, California, on April 10, 1997.

Leonard A. Mobley,

Acting Manager, Air Traffic Division, Western-Pacific Region.

[FR Doc. 97–10358 Filed 4–21–97; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 198

[Docket No. 28893; Notice No. 97–5]

RIN 2120–AF23

Aviation Insurance

AGENCY: Federal Aviation Administration (FAA), DOT.

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

SUMMARY: This document contains a correction to the NPRM published in the **Federal Register** (62 FR 19008) on April 17, 1997.

The NPRM is proposing to revise Title 14 Code of Federal Regulations (CFR) part 198 to provide for the issuance of insurance for certain types of flight operations and for the issuance of insurance for certain ground support activities essential to flights insured under the Aviation Insurance Program. Also, the amendments would redefine the activation of insurance coverage, revise the process for amending insurance policies, increase the binders for non-premium insurance coverage, and reflect new statutory authority. The proposed amendments would allow the FAA to be more responsive to the aviation industry when commercial insurance coverage cannot be obtained on reasonable terms, and the insurance coverage can be provided by the Aviation Insurance Program.

DATES: Comments must be received on or before June 2, 1997.

FOR FURTHER INFORMATION CONTACT: Eleanor Eilenberg, (202) 267–3090.

Correction of Publication

In the NPRM (FR Doc. 97–9957) on page 19008 in the issue of Thursday, April 17, 1997, the Internet address for electronically sending comments was incorrectly written.

Please make the following correction: On page 19008, in the Addresses section the internet address should read as follows: 9–NPRM–CMTS@faa.dot.gov.

Issued in Washington, DC on April 17, 1997.

Ida Klepper,

Acting Director, Office of Rulemaking.

[FR Doc. 97–10368 Filed 4–21–97; 8:45 am]

BILLING CODE 4910–13–M

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 190

Proposed Amendment to Part 190, Appendix B, to Govern the Distribution of Customer Property Related to Trading on the Proposed Chicago Board of Trade—London International Financial Futures and Options Exchange Trading Link

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of a proposed amendment to Part 190, Appendix B, to govern the distribution of customer property related to trading on the proposed Chicago Board of Trade—London International Financial Futures and Options Exchange Trading Link.

SUMMARY: In connection with the proposal of the Board of Trade of the City of Chicago (''CBT'') to establish a link (''Link'') with the London International Financial Futures and Options Exchange (''LIFFE''),[1] the Commodity Futures Trading Commission (''Commission'') is proposing to amend an Appendix to its bankruptcy rules to govern the distribution of property where the debtor is a futures commission merchant (''FCM'') that maintains customer accounts that carry or trade positions in Designated CBT Contracts at LIFFE or Designated LIFFE Contracts at CBT (''Link Accounts'') as well as non-Link accounts. This new distributional framework is intended to assure that non-Link customers of such an FCM would not be affected adversely by a shortfall in Section 4d(2) segregated funds caused by the operation of the Link. The new distributional framework would become effective upon the effective date of the Link.

DATES: Comments must be received on or before May 7, 1997.

FOR FURTHER INFORMATION CONTACT: Lois J. Gregory, Attorney, Division of Trading and Markets, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, N.W., Washington, D.C. 20581. Telephone: (202) 418–5483.

SUPPLEMENTARY INFORMATION:

I. Trading in Link Contracts

The CBT, LIFFE and their respective clearing houses have entered into a Link Agreement, and CBT has sought Commission approval of rules which would permit the establishment of trading and clearing arrangements for Designated CBT Contracts[2] to be traded on LIFFE, initially cleared by the London Clearing House Limited (''LCH''), and transferred to the Board of Trade Clearing Corporation (''BOTCC''), and Designated LIFFE Contracts[3] to be traded on the CBT, initially cleared by BOTCC, and transferred to LCH.

In the case of Designated CBT Contracts traded on LIFFE, the U.S. FCM would likely maintain a customer omnibus account with a LIFFE clearing member. Each day, LCH would mark futures positions to a closing price, pay to and collect from the LIFFE clearing member the difference between trade price and mark price, pay and collect option premiums and, at the request of the LIFFE clearing member, net positions prior to their transfer to BOTCC at approximately 10:00 a.m. Chicago time. Bank settlement commitments would be required in response to instructions for Link variation obligations on trade date (''T''), with payment expected to be made to LCH on the next day (''T+1''). Also, if the CBT were closed for a holiday, LCH would hold positions in Designated CBT Contracts overnight and could call for margin. Property of the customers of the U.S. FCM that accrued to such customers as the result of such trades or contracts prior to their transfer to BOTCC or which was deposited to margin, guarantee or secure trades or contracts in Designated CBT Contracts at LIFFE would be deemed to be ''Link property''. During the interval before transfer back from LCH to BOTCC, Link property at LCH could for operational purposes be held in a foreign depository as provided in CFTC Advisory 87–5.[4]

In the case of Designated LIFFE Contracts traded on CBT, property received by the U.S. FCM to margin,

[1] The proposal to establish a Link arrangement between CBT and LIFFE was previously published for comment. 61 FR 16899. (April 18, 1996).

[2] Designated CBT Contracts would consist of U.S. Treasury Bond futures and futures options. At a later date, it is anticipated that 10 Year U.S. Treasury Note futures and futures options and 5 Year U.S. Treasury Note futures and futures options would be added.

[3] Designated LIFFE Contracts would consist of German Government Bond futures and futures options. At a later date, British Gilt futures and futures options and futures and futures options on the Italian Government Bond would be added.

[4] Comm. Fut. L. Rep., ¶ 23,997 (December 3, 1987).

secure or guarantee trades would be included in the foreign futures and foreign options secured amount, pursuant to Commission Regulation 30.7. The BOTCC has requested a no action position to permit certain excess property contained in such secured amount and separately accounted for to be used to meet original margin requirements for U.S. contracts under Section 4d(2) of the Act. Such excess property held in a combined BOTCC account but applied to margin requirements for U.S. contracts as Section 4d(2) property would also be ''Link property'' under this Framework.

To the extent that positions in Designated CBT Contracts executed on LIFFE and property supporting or accruing from those positions are deemed to be customer property under Section 4d(2) of the Act, or certain foreign currency margin deposited in respect of Designated LIFFE Contracts is held in a Section 4d(2) clearing account, any customer net equity claim in respect of such Link property held by an FCM in a Link account would be treated as a customer net equity claim under Part 190 of the Commission's rules [5] and subchapter IV of chapter 7 of the Bankruptcy Code (the commodity broker liquidation provisions).[6] In the case of an FCM bankruptcy, the commodity broker liquidation provisions of the Bankruptcy Code and Part 190 of the Commission's rules provide for a pro rata distribution of assets in proportion to net equity claims among the Section 4d(2) customers whose accounts were carried by such FCM. Thus, absent some provision to the contrary, if a participating FCM defaulted due to losses in its Link-related account(s), non-Link customers could be forced to share in losses generated by a shortfall in Link property. To avoid that result, the new framework would provide a rule of distribution that would operate to subordinate claims for Link property to Section 4d(2) claims overall as reflected in Appendix B.

II. New Bankruptcy Distribution in the Context of the CBT–LIFFE Link

When the Commission adopted its Part 190 bankruptcy regulations,[7] it included an Appendix intended to facilitate the execution of a trustee's duties, forms concerning customer instructions for return of non-cash property and transfer of hedge positions, and a proof of claim form. The Commission later adopted Appendix B to provide guidance to a trustee on the appropriate distribution of property where an FCM's customers cross-margined non-proprietary futures positions with certain securities positions.[8]

The proposed extension of Appendix B would have the effect of subordinating claims for Link property to claims for non-Link property when a shortfall in Link property was greater than the shortfall, if any, of non-Link property. The proposed amendment follows the guiding principles of Appendix B to Part 190: To assure that generally there is pro rata distribution to customers of the customer property in the bankrupt FCM's commodity interest estate and that the satisfaction of non-Link customer claims are not adversely affected by a shortfall in the pool of Link property. The proposed amendment is intended to assure that non-Link claims would never receive less than they would have received in the absence of the Link, but the distributional rule would not require Link-related claims to be subordinated in every instance.

Under the proposal, a bankruptcy trustee handling the commodity interest estate of a bankrupt FCM with Link property first would have to determine the respective shortfalls, if any, in the pools of Link customer and non-Link customer segregated funds. The trustee would then calculate the shortfall in each pool as a percentage of the segregation requirement for the pool. In making this determination, any shortfall in Link property held overseas could be offset in whole or in part by any excess funds held by the FCM in segregation in the United States.

If there were: (1) No shortfall in either of the two pools; (2) an equal percentage shortfall in the two pools; (3) a shortfall in the non-Link pool only; or (4) a greater percentage of shortfall in the non-Link pool than in the Link pool, then the two pools of segregated funds would be combined and Link customers and non-Link customers would share pro rata in the combined pool.[9]

However, if there were: (1) A shortfall in the Link pool only, or (2) a greater percentage of shortfall in the Link pool than in the non-Link pool, then the two pools of segregated funds would not be combined.[10] Rather, Link customers would share pro rata in the pool of Link segregated funds (including any excess funds held by the FCM in segregation in the U.S.), while non-Link customers would share pro rata in the pool of non-Link segregated funds. Further, if a pool of property initially would be treated as if it had a shortfall because frozen or otherwise unavailable as the result of government action, and later the freeze were lifted or funds became available, subsequent distribution would not be permitted to result in customers for whom funds were frozen receiving any greater distribution than a pro rata distribution for Section 4d (segregated funds) customers as a whole. To facilitate this distributional framework, subclasses of customer accounts, a Link account and a non-Link account would be recognized.

Like the existing distribution system for a bankrupt FCM with customer claims related to cross-margining, the proposed Appendix would assure that non-Link customers would never receive less than they would have received in the absence of the Link. The proposed Framework to the Appendix is intended to eliminate the need for each customer who seeks to trade pursuant to the Link to execute a separate subordination agreement.

III. Request for Comments

The Commission requests comments from interested persons concerning any aspect of the proposed amendment to Part 190, Appendix B, to govern the distribution of customer property related to trading on the proposed CBT–LIFFE Link.

Any person interested in submitting written data, views, or arguments on the proposal should send such comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, N.W., Washington, D.C. 20581 by the specified date. In addition, comments may be sent by facsimile transmission to facsimile number (202) 418–5521, or by electronic mail to secretary@cftc.gov. Reference should be made to the proposed amendment to Part 190, Appendix B.

IV. Related Matters

A. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA), 5 U.S.C. sections 601–611 (1988), requires that agencies, in proposing rules, consider the impact of those rules on small businesses. These rules would affect distributees of a bankrupt FCM's estate where the FCM had entered into a Link Clearing Agreement with a clearing member of LIFFE to transfer or accept the transfer of positions in Designated Link Contracts. The proposed appendix would eliminate the need for customers of FCMs who wish

[5] 17 CFR part 190.

[6] 11 U.S.C. §§ 761–766.

[7] 48 FR 8716 (March 1, 1983).

[8] 59 FR 17468 (April 13, 1994).

[9] See examples 1, 2, 5 and 6 of proposed Appendix B to part 190, Framework 2.

[10] See examples 3 and 4 of proposed Appendix B to part 190, Framework 2.

to participate in the Link to execute a subordination agreement. Further, the distributional framework is intended to assure that non-Link customers of such FCM would not be disadvantaged by a shortfall in the pool of Link funds. Persons participating in the Link will be provided with special risk disclosure related to such participants. Thus the adoption of this bankruptcy distributional rule should not in itself have a significant economic impact on such customers electing to participate but rather should operate to facilitate the Link arrangement. Therefore, the Chairperson, on behalf of the Commission, hereby certifies pursuant to 5 U.S.C. 605(b), that the action taken herein would not have a significant economic impact on a substantial number of small entities. The Commission nonetheless invites comments from any person or entity which believes that the proposal would have a significant impact on its operations.

B. Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (Pub. L. 104–13 (May 13, 1996)) imposes certain requirements on federal agencies (including the Commission) in connection with their conducting or sponsoring any collection of information as defined by the Paperwork Reduction Act. This rule would eliminate the need to execute a document and therefore would reduce rather than increase paperwork. While this rule has no burden, the group of rules (3038–0021) of which this is a part has the following burden:

Average burden hours per response: 0.35.

Number of Respondents: 802.

Frequency of response: On occasion.

Copies of the OMB approved information collection package associated with this rule may be obtained from Desk Officer, CFTC, Office of Management and Budget, Room 10202, NEOB Washington, D.C. 20503, (202) 395–7340.

List of Subjects in 17 CFR Part 190

Bankruptcy.

Accordingly, the Commission pursuant to the authority contained in the Commodity Exchange Act and, in particular, Sections 1a, 2(a), 4c, 4d, 4g, 5, 5a, 8a, 15, 19 and 20 thereof, 7 U.S.C. 1a, 2 and 4a, 6c, 6d, 6g, 7, 7a, 12a, 19, 23 and 24 (1994), and in the Bankruptcy Code and, in particular, Sections 362, 546, 548, 556 and 761–766 thereof, 11 U.S.C. 362, 546, 548, 556 and 761–766 (1994), hereby proposes to amend Part 190 of Chapter I of title 17 of the Code of Federal Regulations as follows:

PART 190—BANKRUPTCY

1. The authority citation for Part 190 continues to read as follows:

Authority: 7 U.S.C. 1a, 2, 4a, 6c, 6d, 6g, 7, 7a, 12, 19, 23 and 24 and 11 U.S.C. 362, 546, 548, 566 and 761–766.

2. Part 190 is proposed to be amended by adding to Appendix B thereof the following:

Appendix B to Part 190—Special Bankruptcy Distributions

* * * * *

Framework 2—Special Distribution of Customer Funds When FCM Participated in the Trading of Designated Link Contracts Pursuant to the CBT–LIFFE Link

The Commission has established the following distributional convention with respect to Section 4d customer funds held by a futures commission merchant (''FCM'') that participates in the trading of Chicago Board of Trade (''CBT'')—designated contracts executed on the London International Financial Futures and Options Exchange (''LIFFE'') or LIFFE-designated contracts executed on CBT (''Designated Link Contracts'') pursuant to the CBT–LIFFE Link (''Link'') which shall apply if customers of the FCM have been provided with a notice which makes reference to this distributional rule and the form of such notice has been approved by the Commission by rule, regulation or order. The maintenance of property in a Link account would result in subordination of the claim for such property to certain non-Link customer claims in certain circumstances. This creates subclasses of customer accounts required to be segregated for purposes of Section 4d(2) of the Commodity Exchange Act: a Link account and a non-Link account (a person could hold each type of account), and results in two pools of customer segregated funds: a Link pool and a non-Link pool.

In the event that there is a shortfall in the non-Link pool of customer segregated funds, and there is no shortfall in the Link pool of customer segregated funds, customer net equity claims, whether or not they arise out of the Link subclass of accounts, will be combined and will be paid pro rata out of the total pool of available Link and non-Link customer funds. In the event that there is a shortfall in the Link pool of customer segregated funds, and there is no shortfall in the non-Link pool of customer segregated funds, customer net equity claims arising from the non-Link subclass of accounts shall be satisfied from the non-Link customer segregated funds, and customer net equity claims arising from the Link subclass of accounts shall be paid from the Link customer segregated funds (and, if applicable, any excess funds held by the FCM in segregation in the U.S.). Furthermore, in the event that there is a shortfall in both the non-Link and Link pools of customer segregated funds: (1) If the non-Link shortfall as a percentage of the segregation requirement in the non-Link pool is greater than or equal to the Link shortfall as a percentage of the segregation requirement in the Link pool, customer net equity claims will be paid pro rata; and (2) if the Link shortfall as a percentage of the segregation requirement in the Link pool is greater than the non-Link shortfall as a percentage of the segregation requirement of the non-Link pool, non-Link customer net equity claims would be paid pro rata out of the available non-Link segregated funds, and Link customer net equity claims would be paid pro rata out of the available Link segregated funds. In this way, non-Link customers will never be disadvantaged by a Link shortfall.[11]

The following examples illustrate the operation of this convention. The examples assume that the FCM has two customers, one with exclusively Link accounts and one with exclusively non-Link accounts. In practice, the FCM would have a customer omnibus account with a LIFFE clearing member or would itself be a LIFFE clearing member with its own customer omnibus account. Positions in Designated CBT Contracts traded at LIFFE and initially cleared by LCH would be allocated to this customer omnibus account; following the transfer of the positions via the Link, the FCM would allocate the positions and any gains or losses to its customers' accounts. Accordingly, a customer who trades Designated CBT Contracts at LIFFE may have the portion of his account which reflects his activity in the customer omnibus account at LIFFE deemed a Link account and the remainder of the account a non-Link account. Effectively this will result in the customer having two claims—one against Link property and one against non-Link property.[12]

[11] Because Link property will be located offshore, it is possible that such property could be frozen by governmental action or become unavailable as the result of sovereign events. In that situation, should such property subsequently become available, the Link property account may acquire no greater distributional share than Section 4d(2) (segregated funds) customers generally.

[12] Certain other property of the customers of the U.S. FCM also will be treated as ''Link property'' and part of the Link account for purposes of this Framework 2. In the case of Designated LIFFE Contracts traded on CBT, property received by the U.S. FCM to margin, guarantee or secure trades is included in the foreign futures and foreign options secured amount, pursuant to Commission Regulation 30.7. The BOTCC has requested a no action position to allow certain property in excess of the required secured amount to be used to meet original margin requirements for U.S. contracts under Section 4d(2) of the Act. Such excess property held in a ''combined'' account but applied to margin requirements for U.S. contracts as Section 4d(2) property would also be ''Link property'' under this Framework.

	Non-link	Link	Total
1. Sufficient Funds to Meet Non-Link and Link Customer Claims:			
Funds in segregation	150	150	300
Segregation Requirement	150	150	300
Shortfall (dollars)	0	0	
Shortfall (percent)	0	0	
Distribution	150	150	300

There are adequate funds available, and both the non-Link and Link customer claims will be paid in full.

2. Shortfall in Non-Link Only:			
Funds in segregation	100	150	250
Segregation Requirement	150	150	300
Shortfall (dollars)	50	0	
Shortfall (percent)	50/150=33.3	0	
Pro Rata (percent)	150/300=50	150/300=50	
Pro Rata (dollars)	125	125	
Distribution	125	125	250

Due to the non-Link account, there are insufficient funds available to meet both the non-Link and the Link customer claims in full. Each customer will receive his or her pro rata share of the funds available, or 50% of the $250 available, or $125.

3. Shortfall in Link Only:			
Funds in segregation	150	100	250
Segregation Requirement	150	150	300
Shortfall (dollars)	0	50	
Shortfall (percent)	0	50/150=33.3	
Pro Rata (percent)	150/300=50	150/300=50	
Pro Rata (dollars)	125	125	
Distribution	150	100	250

Due to the Link account, there are insufficient funds available to meet both the non-Link and Link customer claims in full. Accordingly, the Link funds and non-Link funds are treated as separate pools, and the non-Link customer will be paid in full, receiving $150, while the Link customer would receive the remaining $100.

4. Shortfall in Both, Link Shortfall Exceeding Non-Link Shortfall:			
Funds in segregation	125	100	225
Segregation Requirement	150	150	300
Shortfall (dollars)	25	50	
Shortfall (percent)	25/150=16.7	50/150=33.3	
Pro Rata (percent)	150/300=50	150/300=50	
Pro Rata (dollars)	112.50	112.50	
Distribution	125	100	225

There are insufficient funds available to meet both the non-Link and Link customer claims in full, and the Link shortfall exceeds the non-Link shortfall. The non-Link customer will receive $125 available with respect to non-Link claims while the Link customer will receive the $100 available with respect to the Link claims.

5. Shortfall in Both, With Non-Link Shortfall Exceeding Link Shortfall:			
Funds in segregation	100	125	225
Segregation Requirement	150	150	300
Shortfall (dollars)	50	25	
Shortfall (percent)	50/150=33.3	25/150=16.7	
Pro Rata (percent)	150/300=50	150/300=50	
Pro Rata (dollars)	112.50	112.50	
Distribution	112.50	112.50	225

There are insufficient funds available to meet both the non-Link and Link customer claims in full, and the non-Link shortfall exceeds the Link shortfall. Each customer will receive 50% of the $225 available, or $112.50.

6. Shortfall in Both, Non-Link Shortfall = Link Shortfall:			
Funds in segregation	100	100	200
Segregation Requirement	150	150	300
Shortfall (dollars)	50	50	
Shortfall (percent)	50/150=33.3	50/150=33.3	
Pro Rata (percent)	150/300=50	150/300=50	
Pro Rata (dollars)	100	100	
Distribution	100	100	200

	Non-link	Link	Total

There are insufficient funds available to meet both the non-Link and the Link customer claims in full, and the non-Link shortfall equals the Link shortfall. Each customer will receive 50% of the $200 available, or $100.

7. Shortfall in Link Account Caused by Freeze That Is Subsequently Lifted, Where Non-Link Account Had Actual Shortfall But Link Account Did Not Sub -sequent to Lifting of Freeze Order:

Funds in segregation	100	Frozen	100
Segregation Requirement	150	150	300
Shortfall (dollars)	50	150	.....
Shortfall (percent)	50/150=33.3	150/150=100	.....
Pro Rata (percent)	150/300=50	150/300=50	.....
Pro Rata (dollars)	50	50	.....
Initial Distribution	100	0	100
Freeze Lifted: Funds Previously Frozen	0	150	150
Subsequent Distribution	25	125	.....
Total Distribution	125	125	250

Through the time of the initial distribution, this situation would follow the pattern of Example 4 because the shortfall in the Link account was larger. After the freeze was lifted, it would follow the pattern of Example 2 because the shortfall in the non-Link account was larger.

These examples illustrate the principle that pro rata distribution across both accounts is the preferable approach except when a shortfall in the Link account could harm non-Link customers. Thus, pro rata distribution occurs in Examples 1, 2, 5 and 6. Separate treatment of the Link and non-Link accounts occurs in Examples 3 and 4. In Example 7, separate treatment occurs where the funds are frozen. It is adjusted to become pro rata treatment after the freeze is lifted.

Issued in Washington, D.C. on April 16, 1997 by the Commission.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 97–10338 Filed 4–21–97; 8:45 am]

BILLING CODE 6351–01–P

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 142

RIN 1515–AB27

Publication of Entry Filer Codes

AGENCY: Customs Service, Department of the Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document proposes to amend the Customs Regulations to provide for the annual publication by electronic means of the code assigned by Customs to identify frequent entry filers. This proposal is consistent with the efforts to modernize the Customs Service and the documentation related to imports. The proposal will assist components of the trade industry in controlling import transactions and in serving their clients among the importing public. It is anticipated that, if promulgated as a final rule, the proposal will reduce the paperwork burden on the affected public and the administrative burden on the Customs Service.

DATES: Comments must be received on or before June 23, 1997.

ADDRESSES: Comments (preferably in triplicate) may be addressed to the Regulations Branch, U.S. Customs Service, Franklin Court, 1301 Constitution Avenue, NW, Washington, D.C. 20229, and may be inspected at Franklin Court, 1099 14th Street, NW, Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Ray Janiszewski, Office of Trade Compliance, (202) 927–0365 (Operational matters), or Paul Hegland, Entry and Carrier Rulings Branch, Office of Regulations and Rulings, (202) 482–7040 (Legal matters).

SUPPLEMENTARY INFORMATION:

Background

Generally, all merchandise brought into the United States is required to be ''entered'', unless specifically excepted from entry. The entry process consists of the importer of record, using reasonable care: (1) filing with Customs the documentation necessary for Customs to determine whether the merchandise may be released from Customs custody (''an entry'') and (2) completing the entry by filing the declared value, classification and rate of duty applicable to the merchandise, and such other information or documentation as is necessary to enable Customs to properly assess duties on the merchandise, collect accurate statistics with regard to the merchandise, and determine whether any other applicable requirement of the law is met (''an entry summary''). Generally, an entry is required within 5 working days after the arrival of the importing conveyance. The person making entry (by filing the required documentation) is required by law to be the owner or purchaser of the merchandise or, if appropriately designated by the owner, purchaser, or consignee of the merchandise, a licensed customs broker.

As a part of its Automated Commercial System (ACS), Customs assigns a unique 3 character (alphabetic, numeric, or alpha numeric) entry filer code to all licensed broker companies filing Customs entries and to certain other importers filing Customs entries, based on the volume and frequency of filing and other considerations. These entry filer codes are not assigned to intermittent importers, who obtain from Customs forms with Customs-assigned pre-printed entry numbers. The entry filer is required to place the filer code, along with a unique (to each entry) number and a check digit on each entry. This entry number (consisting of 11 characters) is used by Customs and the importer to identify the particular entry. This procedure of assigning entry filer codes was implemented in the Customs Regulations (see 19 CFR 142.3a) by Treasury Decision (T.D.) 86–106, published in the **Federal Register** on May 28, 1986 (51 FR 19166).

Entries of merchandise are reviewed by Customs. Under the law, Customs is responsible for fixing the final appraisement of the merchandise and the determination of applicable duty and admissibility. ''Liquidation'' is the final determination by Customs on the dutiability and admissibility of imported merchandise. Customs is required by law to give notice of liquidation to the importer, his consignee, or agent, as prescribed by regulations. The pertinent regulations require this notice to be made on a bulletin notice of liquidation, Customs Form 4333 (19 CFR 159.9).

The importer of record is named on the bulletin notice of liquidation for each entry (the entry is listed by number). As noted above, after the implementation in the Customs Regulations in 1986 of Customs procedures for the assignment of entry filer codes, the entry filer code in each entry identifies the entry filer.

On January 13, 1993, in a document published in the **Federal Register** (58 FR 4113), Customs announced in an Advance Notice of Proposed Rulemaking (ANPRM) that it was considering the amendment of the Customs Regulations to provide for the publication of a list of filer codes and the identity of the individuals, licensed Customs brokers, or importers assigned the specific filer codes. Customs stated that this action would improve control for various components of the trade community and reduce numerous questions and problems for Customs relating to entry processing requirements. Customs noted that publication of the filer codes with the persons assigned the codes might be considered to provide a means for the public to gain access to commercial information regarding import transactions which Customs had heretofore treated as confidential. This publication of filer codes will also enable brokers to identify those importers who are not using their services.

Revised Policy Regarding Confidential Treatment

The Advance Notice of Proposed Rulemaking solicited comments. Twenty letters were received, many of them setting forth similar comments. Several of the comments received addressed Customs policy providing for confidentiality of filer codes as set forth in T.D 88–38. The comments have caused Customs to review and examine this policy. This review has led Customs to revise its position so that the current position that Customs holds is that filer code information should be considered public information. Customs has reached this determination after a comprehensive review of the overall operational situation in the commercial environment. In this review, Customs found that in spite of its attempts to protect the identities of importers, there were many instances where this effort had been compromised and the identities of importers and their filer codes are readily available to those who might be seeking such information. Because of the general availability of this information in the commercial arena, Customs does not believe that a continuation of its efforts to treat the information as confidential is either necessary or warranted. Customs believes that the comments received from brokers and carriers indicate that the benefits claimed by giving broader dissemination of the information support the proposal to publish the filer codes. Customs believes that the concerns expressed by commenters in regard to the need to treat filer code information as confidential are not warranted. Because of this policy determination, it is Customs intention to revoke that portion of T.D. 88–38 which provides for confidential treatment of filer codes upon the request of an importer if the accompanying proposed rule is finalized.

Discussion of Comments

The following is a summary discussion of additional comments which were received by Customs in response to the Advanced Notice of Proposed Rulemaking, and Customs response to those comments.

Comment: The Customs brokers and the brokers association who commented supported the proposal, stating that identifying filers with filer codes would assist brokers in helping members of the public who use multiple brokers and in re-routing documentation and inquiries which have been incorrectly routed. One of these commenters suggested that publication should be through Customs Automated Commercial System (ACS), with provision made for release of the information to those who do not have access to ACS by Freedom of Information Act request. This commenter suggested this means of publication in lieu of publication in the Customs Bulletin.

Response: Customs agrees with the reasons given for support of the proposal, as consistent with the reasons given in the advance notice. As for the suggestion on the means of publication of the filer code information, there is not currently a program supported in ACS for such publication. Consideration will be given to developing such a capability in ACS if sufficient interest is shown. For the present, Customs is proposing publication of the filer code information on the Customs Electronic Bulletin Board.

Comment: The carriers and carrier associations who commented supported the proposal. One reason given for support was that carriers need this information to assist in the cargo release process (i.e., carriers could clear up discrepancies much more rapidly if they could more easily identify the parties involved). Another reason was that the information provided under the proposal would enable carriers to complete the manifest requirements, particularly carriers who are a part of Customs Automated Manifest System (AMS) (i.e., in that a carrier could more easily identify and contact a filer in the event of a discrepancy).

Response: Customs agrees. This is consistent with the reasons given for the proposal in the advance notice.

Comment: The sureties and surety associations who commented supported the proposal, on the basis that it will help automation and would enable sureties to more efficiently contact ''brokers of record'' in the event of discrepancies.

Response: Customs agrees. This is consistent with the reasons given for the proposal in the advance notice.

Comment: A trade association supported the proposal, on the basis that it would contribute significantly to the simplification of U.S. trade documentation.

Response: Customs agrees. This is consistent with the reasons given for the proposal in the advance notice.

Comment: A government agency supported the proposal, on the basis that it could use the information which would be provided under the proposal to obtain the status of a filer's entry and to communicate with the filer.

Response: Customs agrees. This is consistent with the reasons given for the proposal in the advance notice.

Comment: An association representing Customs bonded warehouses supported the proposal, on the basis that it would help warehouse proprietors to supply missing information or correct errors and to avoid liquidated damages on warehouse custodial bonds. On the issue of confidentiality, the commenter stated that it sees no difference between the proposed publication and that of the names of operators of bonded warehouses.

Response: Customs agrees with the reasons given for support of the proposal, as being consistent with the reasons given for the proposal in the advance notice. Customs has addressed that portion of the comment concerning confidentiality earlier in this document.

Comment: Three trade or industry associations either conditionally supported the proposal or did not object to it, provided that filers who desired confidentiality could request it. The commenters suggested the use of a procedure similar to the provision requesting confidential treatment of manifest information in 19 CFR 103.14(d). The reason given by one of these associations for its conditional support of the proposal was that it

would facilitate movement of cargo and could reduce costs.

Response: Customs agrees with the reason given for support of the proposal, as being consistent with the reasons given for the proposal in the advance notice. As to the suggestion that filers who desired confidentiality should be able to request such treatment, similar to the provision for parties requesting confidential treatment of manifest information, Customs finds this suggestion to be without merit. It is Customs position that the filer codes are public information and, as such, cannot be accorded confidential treatment.

Comment: Three importers either opposed the proposal or suggested that its implementation be delayed. The reasons given for opposition to, or the delay of, the proposal were that the proposal would result in the disclosure of confidential business information and that no good reason was given for the proposal.

Response: Customs believes that good reasons were given in the advance notice for this proposal, and that the reasons set forth in comments received from Customs brokers, carriers and sureties supporting the proposal provide further support for the proposal. Regarding the confidentiality issue, as indicated above, Customs believes that the filer code information is not confidential.

Proposal

After reviewing the comments to the ANPRM and further consideration, Customs has determined to proceed with the proposal to amend the regulations to provide for the annual publication of the identity of the code assigned by Customs to identify frequent entry filers on the Customs Electronic Bulletin Board, without providing for confidential treatment of filer identity.

Comments

Before adopting this proposal, consideration will be given to any written comments (preferably in triplicate) that are timely submitted to Customs. Comments submitted will be available for public inspection in accordance with the Freedom of Information Act (5 U.S.C. 552), § 1.4, Treasury Department Regulations (31 CFR 1.4), and § 103.11(b), Customs Regulations (19 CFR 103.11(b)), on regular business days between the hours of 9:00 a.m. and 4:30 p.m. at the Regulations Branch, U.S. Customs Service, Franklin Court, Suite 4000, 1099 14th Street, NW, Washington, D.C.

Executive Order 12866

This document does not meet the criteria for a ''significant regulatory action'' as specified in E.O. 12866.

Regulatory Flexibility Analysis

Because adoption of the proposed amendment will improve access to frequently needed information for the commercial community without any action on its part, pursuant to the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), it is certified that the proposed amendment, if adopted, will not have a significant economic impact on a substantial number of small entities. Accordingly, it is not subject to the regulatory analysis or other requirements of 5 U.S.C. 603 and 604.

List of Subjects in 19 CFR Part 142

Customs duties and inspection, Imports, Reporting and recordkeeping requirements.

Proposed Amendment

It is proposed to amend Part 142, Customs Regulations (19 CFR Part 142), as set forth below:

PART 142—ENTRY PROCESS

1. The authority citation for Part 142, Customs Regulations (19 CFR Part 142), continues to read as follows:

Authority: 19 U.S.C. 66, 1448, 1484, 1624.

2. It is proposed to amend § 142.3a by redesignating paragraphs (c) and (d) as paragraphs (d) and (e), respectively, and by adding a new paragraph (c) to read as follows:

§ 142.3a Entry numbers.

* * * * *

(c) *Publication of Entry Filer Codes.* The Customs Service shall make available annually by electronic means on the Customs Electronic Bulletin Board a listing of filer codes and the importers, consignees, and Customs brokers assigned those filer codes.

* * * * *

George J. Weise,

Commissioner of Customs.

Approved: November 22, 1996.

Dennis M. O'Connell,

Acting Deputy Assistant Secretary of the Treasury.

[FR Doc. 97–10273 Filed 4–21–97; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF THE INTERIOR

Minerals Management Service

30 CFR Parts 202, 206, and 211

RIN 1010–AC02

Amendments to Gas Valuation Regulations for Federal Leases

AGENCY: Minerals Management Service, Interior.

ACTION: Notice withdrawing proposed rulemaking and requesting comments on supplemental information.

SUMMARY: The Minerals Management Service (MMS) is withdrawing its proposed rulemaking to amend the regulations for valuing natural gas produced from Federal leases for royalty purposes. MMS also is requesting comments on supplemental options for valuation.

DATES: Written comments must be received on or before June 23, 1997.

ADDRESSES: Comments should be sent to: David S. Guzy, Chief, Rules and Publications Staff, Royalty Management Program, Minerals Management Service, P.O. Box 25165, MS 3101, Denver, Colorado 80225–0165; courier delivery to Building 85, Denver Federal Center, Denver, Colorado 80225; or e-Mail David__Guzy@smtp.mms.gov.

FOR FURTHER INFORMATION CONTACT: David S. Guzy, Chief, Rules and Publications Staff, Telephone (303) 231–3432, FAX (303) 231–3194, e-Mail David__Guzy@smtp.mms.gov.

SUPPLEMENTARY INFORMATION: On November 6, 1995, MMS published a proposed rule that would amend the regulations governing the valuation of natural gas produced from Federal leases (60 FR 56007). The proposed amendments reflected the consensus recommendations of the Federal Gas Valuation Negotiated Rulemaking Committee (Committee), which the Secretary chartered on June 27, 1994, to resolve many issues facing the valuation of Federal gas. Through the consensus negotiated rulemaking process, the Committee attempted to develop alternative royalty valuation methodologies that would simplify the gas royalty valuation process but would not have a significant impact on gas royalty collections.

The recommendations and subsequent proposed amendments the Committee developed would have allowed lessees to choose from several options for valuing gas for royalty purposes, including, for example, index prices published in natural gas newsletters, affiliated companies' arm's-

length resale prices, and residue gas prices applied to the wellhead. The amendments also would have eliminated certain administrative functions such as accounting for comparison (also known as ''dual accounting''), and redefined specific terms such as gathering and compression to clarify their deductibility from royalty.

While the proposed rule reflected the consensus decisions of the Committee, MMS received many unfavorable comments in response to the proposed rule. Many of the comments focused on the complexity of the various valuation alternatives, while others expressed concern about the impact on royalty revenues. On the other hand, many comments supported the proposals to clarify terms and eliminate administrative burdens.

Because of the comments received, in mid-1996 MMS reconvened the Committee and reopened the public comment period asking the public and the Committee to provide comments on five options for proceeding with rulemaking. When the Committee reconvened, representatives from major and independent companies who served on the Committee presented a ''Unified Option.'' However, State and MMS Committee members could not support the industry proposal because it would have been based on data reported to MMS but not verified for accuracy or compliance by audit. The reopened comment period closed in August 1996.

As required by the Regulatory Flexibility Act, MMS next performed a cost/benefit analysis of the impacts of the proposed rule. The MMS selected data from 1994 and 1995, because it reflected the Federal Energy Regulatory Commission (FERC) Order No. 636 marketing environment. The analysis compared the royalties that MMS would have received based on the proposed index price methodology to the actual royalties MMS received based on the lessee's gross proceeds (not verified by audit) under the current regulations. The analysis accounted for the so-called ''safety net'' (see November 6, 1995, proposed rule) comprising a median value of gross proceeds prices reported by payors who MMS assumed would chose not to pay royalties based on index prices. The results of the analysis indicated that the proposed rule would result in a loss in revenues of approximately $20 million annually. That amount is likely understated as it is based on a comparison to gross proceeds data not verified by audit. Details of the analysis may be found at the Royalty Management Program Internet home page at www.mms.gov or by calling Mr. Larry Cobb at (303) 275–7245.

MMS has decided at this time not to issue a final rule based on the consensus recommendations of the Committee for a number of reasons:

1. The natural gas market is still undergoing dramatic change. FERC recently published a **Federal Register** Notice (62 FR 10266, March 6, 1997) seeking public and industry input about ''how the industry currently works, how the industry is changing, and how the Commission's regulatory policies should respond to such changes in the marketplace.'' The FERC stated that significant changes in the structure of the natural gas industry have occurred since the issuance of Order No. 636. These include ''the consolidation in the ownership of interstate pipelines, the spin-off and spin-down of gathering facilities with the potential for State regulation, the emergence of mega-markets, and the emerging electric and gas convergence.'' The FERC also cited issues such as increasing unbundled retail access, hourly trading of natural gas, and increased transportation efficiencies in calling for a need to take a step back and examine where the market is headed.

2. MMS believes that its existing regulations are very flexible and therefore are the most appropriate means to face the continued changes in the natural gas market.

3. MMS does not believe that published indices for natural gas, representing spot prices at major pipeline interconnects, less transportation to the lease, have developed sufficiently to be representative of the gross proceeds actually received for lease production.

4. In the absence of published indices that accurately represent fair market value, any rule using these indices would inevitably become complicated because of the requirement to compare them to gross proceeds. The comparison would have to take the form of some sort of safety net calculation, as in the proposed rule, or an adjustment to index based on the difference between index and gross proceeds. Analyzing and verifying gross proceeds data to accomplish these comparisons would place a significant administrative burden on MMS.

5. The results of the MMS cost/benefit analysis indicate that the proposed rule does not achieve revenue neutrality, one of the primary goals MMS and the Committee established in developing new regulations.

MMS still seeks alternative valuation methods that would simplify the gas valuation process without significantly impacting royalty revenues. In light of MMS's decision not to proceed with finalizing the November 6, 1995, proposed rule, MMS solicits comments on two additional options for valuing Federal gas. MMS also asks for ideas and comments on other valuation options not yet presented in this rulemaking that are not inconsistant with our reasons for not issuing a final rule.

The first option is index-based. Payors wishing to pay on index would be required to pay on index plus (or minus) an annual percentage factor (known as the index +/−''X-factor'' method). The percentage X-factor would account for any difference between the average index value in the zone (as described in the November 6, 1995, proposed rule) and the average arm's-length gross proceeds received by payors paying on index in the zone. The X-factor to be applied to the current year's index prices would be computed from the previous year's differences between average indices and average gross proceeds. The X-factor may be positive or negative depending on how the average gross proceeds net of transportation costs compare to the average index value. Because transportation costs are already accounted for in the X-factor, no additional transportation allowance would be permitted to be deducted from index. In evaluating arm's-length gross proceeds, MMS would include affiliates' arm's-length resale prices.

The second option is based on the royalty collection practice in Norway. Royalty values for crude oil produced in Norway are established by the Petroleum Price Board (Board). The Board establishes ''norm'' prices that may be reduced by transportation tariffs, if the norm price point is away from the producing area. (In Norway, no norm prices can be set for gas because the royalty rate of gas was set to zero in 1992.)

The Board does not use a specific formula in deciding the norm price. Instead, the Board considers specific information sources including:

(1) Spot market indicators;

(2) Realized prices for external sales, gathered by the Board from companies on all liftings of Norwegian crude and summarized into a ''Brent-Blend Equivalent,'' which is the volume-weighted average of all Norwegian crude oils. These prices are adjusted by assessed price-differentials to Brent Blend; and

(3) Company evaluations and recommendations.

The procedure for setting the norm price has several important features.

From a timing standpoint, the prices are set quarterly and on a retroactive basis. After the end of each quarter, companies are given 4 weeks to send information about the previous quarter. Within 2 weeks the Board gives its preliminary evaluation in the form of a price band. After the band is issued, companies have 3 weeks to meet with the Board to give their views, and the Board issues its final norm price within 2 weeks thereafter.

For Federal gas (and if appropriate for other commodities), the Department of the Interior would establish a Pricing Board to determine prices similar to the process used by Norway. However, we would simplify the process wherever possible, such as eliminating the aspect of retroactive price adjustments.

Send comments on these two alternative methods to the address contained in the **ADDRESSES** section.

Dated: April 17, 1997.

Cynthia L. Quarterman,

Director, Minerals Management Service.

[FR Doc. 97–10386 Filed 4–21–97; 8:45 am]

BILLING CODE 4310–MR–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 2, 74, and 78

[ET Docket No. 95–18; FCC 97–93]

2 GHz for Use by the Mobile Satellite Service

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: In the Further Notice of Proposed Rule Making (Further NPRM), we propose specific details of relocation of affected Broadcast Auxiliary Service (BAS), Cable Television Relay Service (CARS), Local Television Transmission Service (LTTS), and Fixed Satellite (FS) licensees, and request comment on our proposals. We propose to channelize the new BAS band into seven channels of 15 megahertz bandwidth, with the new channelization plan to become primary on January 1, 2000, or the day after the last Fixed Service (FS) licensee in the 2110–2130 MHz band has been relocated in accordance with Sections 101.69–101.81 of the Commission's rules, whichever date is later. We further propose to allow MSS operators to negotiate with BAS licensees for relocation. The new and enhanced services and uses permitted by this action will create new jobs, foster economic growth, and improve access to communications by industry and the American public.

DATES: Comments must be submitted on or before June 23, 1997 and reply comments must be submitted on or before July 21, 1997.

ADDRESSES: Office of the Secretary, Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Sean White, Office of Engineering and Technology, 202–418–2453.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Further Notice of Proposed Rule Making,* (Further NPRM), ET Docket 95–18, FCC 97–93, adopted March 13, 1997, and released March 14, 1997. The full text of this Commission decision 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 duplication contractor, International Transcription Service, (202) 857–3800, 2100 M Street, N.W., Suite 140, Washington, D.C. 20037.

Summary of the Further NPRM of Proposed Rule Making

1. In the Further NPRM of Proposed Rule Making (''Further NPRM''), the Commission proposes to rechannelize the new Broadcast Auxiliary Service (BAS) spectrum from the current seven channels (within the 1990–2110 MHz band), each of 17 or 18 megahertz bandwidth, to seven channels (at 2025–2130 MHz band), each of 15 megahertz bandwidth. The Further NPRM also proposes to provide for the relocation and rechannelization of incumbent BAS, Cable Television Relay Service (CARS), and Local Television Transmission Service (LTTS) licensees in accordance with the Commission's Emerging Technologies policies, providing for voluntary and mandatory negotiations between incumbent licensees and new MSS operators, and involuntary relocation of incumbents if agreements cannot be reached. The Further NPRM proposes that, in the case of involuntary relocation, all costs of relocation will be borne by the MSS licensee. The Further NPRM also proposes that the Emerging Technologies policies for the relocation of incumbent FS licensees (in the 2110–2130 and 2165–2200 MHz bands) be followed, including voluntary and mandatory negotiation periods, provision for involuntary relocation with all costs borne by the MSS operator, and a ''sunset'' date of ten years after the beginning of the voluntary negotiation period, after which FS licensees will be required to relocate at their own expense if MSS needs the frequencies within which FS licensees operate.

2. The Commission carefully considered the balance of interests between new technology providers and incumbent service licensees, in the Emerging Technologies proceeding, ET Docket 92–9. Considering that the emerging technology service provider receives the benefits of operating in the band, including anticipated substantial profits, the Commission concluded that it is fair to require the new technology service to pay for the relocation of the displaced incumbents. Though the 1990–2110 MHz BAS band was not part of the Emerging Technologies proceeding, the logic of the Emerging Technologies proceeding applies equally well to BAS, CARS, and LTTS. MSS commenters advocate requiring BAS band licensees to finance their own relocation as their equipment depreciates and they purchase new equipment, claiming that the total costs of relocation, added to the high cost of launching satellites, would cripple the nascent MSS industry. This assertion, however, contradicts the position of MSS commenters that there is a huge, underserved demand for MSS. We believe that MSS licensees will build the cost of relocating BAS band licensees into their financial plans, and still will be able to provide service at a profit. We propose to rechannelize the BAS band to seven channels of 15 megahertz width each, as opposed to the current 17- and 18-megahertz channel widths, in order to maintain seven channels in the 2 GHz BAS band, but we also request comment on whether allowing flexibility in channelization would better serve the needs of the BAS, CARS, and LTTS industries. Because the current and new BAS bands overlap, BAS, CARS, and LTTS licensees are likely to interfere with each other if both the current and proposed new channel plans are used simultaneously. To address this problem, we propose to make the new channel plan primary on January 1, 2000, or after the 2110–2130 MHz band is cleared of incumbent FS licensees, whichever is later. We also inquire whether a later date would be more appropriate, and whether we should allow switchover on a market-by-market basis, rather than a nationwide basis. We inquire whether we should allow BAS, CARS, and LTTS licensees to negotiate with MSS individually, or whether we should impose marketwide or nationwide negotiators whose agreements would be binding on all licensees. We also

propose the same negotiation periods as those established in the Emerging Technologies proceeding: a two-year voluntary negotiation period, followed by a one-year mandatory negotiation period, followed by involuntary relocation. In the case of involuntary relocation, we propose to apply the requirements of our Emerging Technologies policies: (1) payment of all relocation expenses by the MSS operator, (2) full comparability of replacement facilities, and (3) the right of the incumbents to return to their original spectrum at MSS expense, should the replacement facilities prove not to be fully comparable within one year after relocation. Finally, we propose to require subsequently entering MSS operators to compensate earlier operators for a portion of the expenses incurred in clearing the BAS band.

3. We also propose to follow our Emerging Technologies policies in providing for the relocation of FS incumbents from the 2110–2130 MHz and 2165–2200 MHz bands, as codified at 47 CFR 101.69–101.81. Incumbents will be relocated from the 2110–2130 MHz band to clear that band for relocated BAS operations. In our Emerging Technologies proceeding, we established two periods for negotiation between new emerging technology licensees and incumbent FS licensees. The first period is for voluntary negotiations, in which the parties may arrive at any mutually agreeable solution. Negotiations during this period are strictly voluntary, and we established no parameters for these negotiations. The voluntary period begins with our acceptance of license applications for the emerging technology service, and lasts for two years, or, in the case of public safety FS, three years.[1] The voluntary period is followed by a mandatory negotiation period, which begins at any time after expiration of the voluntary period when the emerging technologies licensee informs the FS incumbent in writing of the emerging technology licensee's desire to negotiate relocation. During the mandatory period, the parties would be required to negotiate in good faith, but again the parameters of the negotiation are left to the parties. The mandatory period lasts for one year, or two years for public safety FS incumbents.[2] Should the parties fail to reach an agreement during the mandatory negotiation period, the emerging technology provider would be able to request involuntary relocation of the existing facility. Involuntary relocation requires that the emerging technology provider (1) guarantee payment of all costs of relocating the incumbent to a comparable facility; (2) complete all activities necessary for placing the new facilities into operation, including engineering and frequency coordination; and (3) build and test the new FS or alternative system. Once comparable facilities are made available to the incumbent microwave operator, the Commission will amend the 2 GHz license of the incumbent to secondary status. After relocation, the FS incumbent is entitled to a one-year trial period to determine whether the facilities are indeed comparable, and if they are not, the emerging technologies licensee is required to remedy the defects or pay to relocate the FS incumbent back to its former or an equivalent 2 GHz frequency.[3]

4. We propose to provide for FS relocation in this case using the same sunset period and good faith guidelines as those established in the Microwave Cost-Sharing proceeding, 11 FCC Rcd 8825 (1996), 61 FR 29679, June 12, 1996. Ten years after the beginning of the voluntary negotiation period for the first MSS licensees, MSS operators would no longer be required to pay the costs of relocating FS incumbents, and would be able to require the incumbents to cease operating or relocate at their own expense upon six months written notice. The MSS and FS industries are currently developing interference standards under the good offices of Telecommunications Industry Association (TIA). We propose to adopt these standards, or their successors, in determining whether our sunset rules would apply to a given FS incumbent. At the end of the six-month notice period, the incumbent FS licensees would be required to surrender their 2 GHz licenses to the Commission, unless the incumbent FS licensees arrived at an agreement with the MSS operators to allow the incumbent FS licensee to continue operations. During mandatory negotiations, we propose to adhere to the guidelines enumerated in the Microwave Cost-Sharing proceeding. We request comment on whether we should apply the sunset rule of 47 CFR 101.81 and the good faith guidelines of 47 CFR 101.75 for the 2110–2130 MHz and 2165–2200 MHz bands. If so, we inquire whether the sunset date should be ten years after the beginning of the voluntary negotiation period for relocation, as in 47 CFR 101.81, or some other date.

5. In the Microwave Cost-Sharing proceeding, we also proposed to adjust the voluntary and mandatory negotiation periods for FS relocation in the case of the D, E, and F spectrum blocks of PCS. Specifically, we proposed to reduce the voluntary period to one year, or two years in the case of public safety FS incumbents. We proposed to increase the mandatory negotiation period to two years, or three years in the case of public safety FS. Thus, the total negotiation period would remain the same, but the division into voluntary and mandatory periods would be altered. We request comment on whether we should adjust the negotiation periods for the MSS band. If so, should we follow the proposal in our Microwave Cost-Sharing proceeding, or should we establish some other negotiation periods? Also, should we begin the voluntary negotiation period when we accept applications for MSS licensing, or at some later date?

6. In addition to addressing FS in the 2110–2130 MHz and 2165–2200 MHz bands, we inquire into procedures for relocation of FS licensees in the 2130–2150 MHz band. This band is not directly reallocated by this proceeding, but FS links in the 2130–2150 MHz band are paired with links in the 2180–2200 MHz band, which is being reallocated to MSS. We propose to allow parties to negotiate the relocation of links in the 2130–2150 MHz band during negotiations for the relocation of FS licensees in the 2180–2200 MHz band. We inquire, however, whether we should assume that the involuntary relocation of FS links in the 2180–2200 MHz band necessitates relocation of the paired links in the 2130–2150 MHz band, or whether we should require relocation only of links in the 2180–2200 MHz band, leaving situate the paired links in the 2130–2150 MHz band, unless the FS licensees involved demonstrate the need to have the paired links in the 2130–2150 MHz band included in involuntary relocation. Commenters are urged to address the feasibility of paired links in widely separated frequency bands, as well as any other aspects of this question.

7. Finally, we propose to require subsequently entering MSS operators to compensate earlier MSS operators for the costs of relocating incumbent FS licensees. We propose that the subsequently entering MSS operators will pay a proportionate share of the costs of clearing the spectrum band that

[1] Public safety FS licensees eligible for the three-year voluntary negotiation period are defined in Emerging Technologies, ET Docket 92–9, Memorandum Opinion and Order, 9 FCC Rcd 1943 at ¶¶ 36–41, 59 FR 19642, April 25, 1994.

[2] See Emerging Technologies, ET Docket 92–9, Third Report and Order and Memorandum Opinion and Order, 8 FCC Rcd. 6589 at ¶ 15, 58 FR 46547, September 2, 1993.

[3] *See* 47 CFR 21.50, 94.59.

the subsequently entering MSS operator is authorized to use. Further, in any case where the earlier MSS operator was able to share spectrum with FS incumbents, but the entry of another MSS operator necessitates relocation, we propose to require the earlier MSS operator to compensate the subsequently entering MSS operator in the same manner. We also inquire, whether we should consider the age and value of FS equipment in determining costs issues in the case of involuntary relocation.

8. We request comment on all these proposals. Commenters are encouraged to present possible alternatives to any of the proposals presented in the Further NPRM. We also specifically inquire whether there are sound reasons to establish different relocation procedures for the BAS band than those we establish for FS relocation.

9. This action would make more spectrum available to MSS providers from the year 2000 forward. The staff has concluded that there is a need for more MSS spectrum, and the spectrum at issue will allow both domestic and global MSS systems to be established. The reduction of the BAS band would encourage more efficient use of the spectrum, and would increase the amount of remaining spectrum available for emerging technologies. The spectrum allocation would require relocation of BAS and FS licensees, in accordance with our Emerging Technologies rules. Finally, the new and enhanced services and uses permitted by this action will create new jobs, foster economic growth, and improve access to communications by industry and the American public.

Initial Regulatory Flexibility Analysis

10. As required by Section 603 of the Regulatory Flexibility Act,[4] the Commission has prepared an IRFA of the expected significant economic impact on small entities by the policies and rules proposed in this Further Notice of Proposed Rule Making (Further NPRM). Written public comments are requested on the IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments on the Further NPRM provided above in paragraph 83. The Secretary shall send a copy of this NPRM, including the IRFA, to the Chief Counsel for Advocacy of the Small Business Administration in accordance with paragraph 603(a) of the Regulatory Flexibility Act.

[4] 5 U.S.C. 603.

A. Need for and Objectives of the Proposed Rules

11. The Further NPRM proposes rules to govern the relocation of Broadcast Auxiliary Service (BAS), Local Television Transmission Service (LTTS), Cable Television Relay Service (CARS), and Fixed Service (FS) licensees from the 2 GHz spectrum reallocated to the MSS. These rules are designed to ensure an orderly transition of these licensees from the spectrum so that MSS operations may be conducted in the spectrum. At the same time, the rules are designed to ensure that incumbent BAS, LTTS, CARS, and FS licensees suffer no harm from relocation.

B. Legal Basis

12. The Communications Act of 1934, as amended, gives the Commission authority to ''make such regulations as it may deem necessary to prevent interference between stations and to carry out the provisions of [the Communications Act].'' 47 U.S.C. 303(f).

C. Description and Estimate of the Number of Small Entities to Which the Proposed Rules Will Apply

13. BAS, LTTS, and CARS Licensees

This service involves a variety of transmitters, generally used to relay broadcast programming to the public (through translator and booster stations) or within the program distribution chain (from a remote news gathering unit back to the station). It also includes Instructional Television Fixed Service stations, which are used to relay programming to the home or office, similar to that provided by the cable television systems. The Commission has not developed a definition of small entities applicable to Broadcast Auxiliary Service, Local Television Transmission Service or Cable Television Relay Service. Therefore, the applicable definition of small entity is the definition under the Small Business Administration (SBA) rules applicable to radiotelephone companies. SBA has defined a small business for Standard Industrial Classification (SIC) category 4812 (Radiotelephone Communications) to be small entities when they have fewer than 1500 employees.[5]

(a) There are currently 2,663 FM translators and boosters, 4, 926 TV translators, and 1,921 Low Power TV stations which will be affected by the new requirements. The FCC does not collect financial information on any broadcast facility and the Department of Commerce does not collect financial information on these auxiliary broadcast facilities. We believe that most, if not all, of these auxiliary facilities could be classified as small businesses by themselves. We recognize that most translators and boosters are owned by a parent station which, in some cases, would be covered by the revenue definition of small business entity discussed above. These stations would likely have annual revenues that exceed the SBA maximum to be designated as a small business (either $5 million for a radio station or $10.5 million for a TV station). As we indicated earlier, 96% of radio stations and 78% of TV stations are designated as small businesses.

(b) There are currently 2,000 licensed cable television relay stations, which will probably be affected by the new requirement. The Commission receives approximately 1,000 CARS applications on an annual basis. The FCC is not required to collect financial information on these facilities.

14. Fixed Service Licensees

The Further NPRM pertains to fixed service microwave licensees. The Commission has not developed a definition of small entities applicable to Fixed Service microwave licensees. Therefore, the applicable definition of small entity is the definition under the Small Business Administration (SBA) rules applicable to radiotelephone companies. This definition provides that a small entity is a radiotelephone company employing fewer than 1,500 persons. Census Bureau data indicates that there are 1,164 radiotelephone companies with fewer than 1500 employees, that might qualify as small entities if they are independently owned and operated. Since the Regulatory Flexibility Act amendments were not in effect until the record in this proceeding was closed, the Commission was unable to request information regarding the number of small businesses that would be affected by this action.

15. Satellite Communications Services

The Commission has not developed a definition of small entities applicable to satellite communications licensees. Therefore, the applicable definition of small entity is the definition under the Small Business Administration (SBA) rules applicable to Communications Services ''Not Elsewhere Classified.'' This definition provides that a small entity is one with $11.0 million or less in annual receipts.[6] According to Census Bureau data, there are 848 firms

[5] 13 CFR 121.201 Standard Industrial Classification (SIC) Code 4812.

[6] 13 CFR 121.201, Standard Industrial Classification (SIC) Code 4899.

that fall under the category of Communications Services, Not Elsewhere Classified. Of those, approximately 775 reported annual receipts of $11 million or less and qualify as small entities.[7]

16. Satellite systems authorized by the Commission can be divided into the following categories: Mobile-Satellite Service (MSS) non-geostationary satellite orbit (LEO) (low or medium orbit satellites); MSS geostationary; MSS stations; and Fixed-Satellite Service.

D. Description of Projected Reporting, Recordkeeping and Other Compliance Requirements

17. The proposed rules would require all BAS, LTTS, CARS, and FS licensees, as well as MSS operators, to negotiate for relocation or rechannelization or both, including negotiating timetables and costs. These negotiations are likely to require the skills of accountants and engineers to evaluate the economic and technical requirements of relocation.

E. Significant Alternatives to Proposed Rules Which Minimize Significant Economic Impact on Small Entities and Accomplish Stated Objectives

18. The Commission considered the alternative of requiring current BAS, LTTS, CARS, and FS licensees in the 2 GHz band to relocate or rechannelize or both at their own expense. The Commission rejected this alternative as excessively burdensome on these incumbent licensees, and not in the public interest.

19. MSS commenters advocate requiring BAS band licensees to finance their own relocation as their equipment depreciates and they purchase new equipment, claiming that the total costs of relocation, added to the high cost of launching satellites, would cripple the nascent MSS industry. This assertion, however, contradicts the position of MSS commenters that there is a huge, underserved demand for MSS. We believe that MSS licensees will build the cost of relocating BAS band licensees into their financial plans, and still will be able to provide service at a profit. We propose to rechannelize the BAS band to seven channels of 15 megahertz width each, as opposed to the current 17- and 18-megahertz channel widths, in order to maintain seven channels in the 2 GHz BAS band, but we also request comment on whether allowing flexibility in channelization would better serve the needs of the BAS, CARS, and LTTS industries. Because the current and new BAS bands overlap, BAS, CARS, and LTTS licensees are likely to interfere with each other if both the current and proposed new channel plans are used simultaneously. To address this problem, we would propose to make the new channel plan primary on January 1, 2000, or after the 2110–2130 MHz band is cleared of incumbent FS licensees, whichever is later. We would also inquire whether a later date would be more appropriate, and whether we may allow switchover on a market-by-market basis, rather than a nationwide basis. We inquire whether we should allow BAS, CARS, and LTTS licensees to negotiate with MSS individually, or whether we should impose marketwide or nationwide negotiators whose agreements would be binding on all licensees. We propose the same negotiation periods as those established in the Emerging Technologies proceeding: a two-year voluntary negotiation period, followed by a one-year mandatory negotiation period, followed by involuntary relocation. In the case of involuntary relocation, we propose to apply the requirements of our Emerging Technologies policies: (1) payment of all relocation expenses by the MSS operator, (2) full comparability of replacement facilities, and (3) the right of the incumbents to return to their original spectrum at MSS expense, should the replacement facilities prove not to be fully comparable within one year after relocation. Finally, we would propose to require subsequently entering MSS operators to compensate earlier operators for a portion of the expenses incurred in clearing the BAS band.

F. Federal Rules That May Duplicate, Overlap, or Conflict With the Proposed Rules

20. None.

List of Subjects

47 CFR Part 2

Communications equipment, Radio.

47 CFR Part 74

Television broadcasting.

47 CFR Part 78

Cable television, Radio.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 97–9828 Filed 4–21–97; 8:45 am]

BILLING CODE 6712–01–P

[7] U.S. Bureau of the Census, U.S. Department of Commerce, 1992 Census of Transportation, Communications, and Utilities, UC92–S–1, Subject Series, Establishment and Firm Size, Table 2D, Employment Size of Firms: 1992, SIC Code 4899 (issued May 1995).

Notices

Federal Register
Vol. 62, No. 77
Tuesday, April 22, 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

Forest Service

Southwestern Region, Arizona, New Mexico, West Texas and Oklahoma; Proposed Projects in the Agua/Caballos Analysis Area, Carson National Forest, Rio Arriba County, NM

AGENCY: Forest Service.

ACTION: Notice of intent to prepare a new draft environmental impact statement.

SUMMARY: The Carson National Forest, El Rito Ranger District will prepare an Environmental Impact Statement (EIS) to disclose the environmental consequences of the Agua/Caballos Proposed Projects. These projects include the allocation of old growth, harvesting of trees for sawtimber and forest products, prescribed burning, thinning, construction of new roads and closure of existing roads.

A Notice of Intent (NOI) was published for this project in December 1992, and a Draft Environmental Impact Statement (DEIS) was published in April 1995. Since the DEIS was distributed to the public a Forest Plan Amendment went into effect, which changed the standards and guidelines of the Carson Forest Plan. This notice is to disclose the Forest Service's intention to issue a new DEIS for Agua/Caballos by the end of June 1997.

DATES: Comments in response to this NOI should be received by June 1, 1997.

ADDRESSES: Send written comments to Carson Forest Supervisor's Office, 112 Cruz Alta Road, Taos, NM 87571, Attn: Carson Core Team.

RESPONSIBLE OFFICIAL: The Forest Supervisor, Carson National Forest, will be the responsible official and will decide on what, where, how and when projects will be implemented by the Forest Service in the Agua/Caballos analysis area.

FOR FURTHER INFORMATION CONTACT: Carson Core Team, Carson Forest Supervisor's Office (505) 758–6200.

SUPPLEMENTARY INFORMATION:

Proposed Action

The Forest Service is planning to manage the existing vegetation through the allocation old growth, harvesting of trees for sawtimber and forest products (e.g., fuelwood, vigas and latillas), prescribed burning, and thinning of forested stands. The proposal also includes the construction of new roads and the closure of existing roads.

Location

The Agua/Caballos analysis area is in Rio Arriba County in northern New Mexico, northeast of the village of El Rito. It is 23,767 acres and makes up one-third of the Vallecitos Federal Sustained Yield Unit (VFSYU).

Purpose

The purpose of allocating old growth is to preserve large, old vegetation structure for old growth dependent wildlife species. It is also necessary to provide a regular, sustained flow of saw logs to the Vallecitos sawmill and forest products, such as fuelwood, vigas and latillas, to small, local operators to be consistent with the stated purpose of the VFSYU and standards identified in the Carson Forest Plan. Prescribed burning is needed to create openings and maintain meadows as part of the natural variation and to support grasses and forbs for wildlife. Burning is also needed to produce conditions suitable for natural pine and aspen regeneration. In the pine/oak type, prescribed fire is needed to stimulate the growth of oak and other shrubs, which provide important habitat for turkey and browse for mule deer. Prescribed fire is also needed to reduce unnatural fuel buildup and decrease the possibility of a catastrophic fire in the analysis area. The purpose of thinning dense, forested stands is to reduce tree competition, therefore increasing the growth rate of trees left behind. The construction of new roads will access stands to be harvested and the closure of roads will move the analysis area to a desired density of 1 mile per square mile (Carson Forest Plan).

Decisions

The decisions to be made are:

—Whether additional areas should be allocated to old growth. If so, where and how much?
—Whether a timber sale(s) should be used to help achieve the desired condition. If so, which stands in the Agua/Caballos analysis area should be harvested and what vegetation conditions should be created in the harvest areas?
—Whether forest products should be offered. If so, what type of products (firewood, vigas, poles, etc.) and how much?
—Whether prescribed fire should be used. If so, where and how much area should be burned?
—Whether areas should be thinned. If so, where?
—Whether new roads ought to be built. If so where and how much?
—Whether roads should be closed. If so, which ones and where should the closures be?

Scoping

The Agua/Caballos project proposal has been through initial analysis in a DEIS (4/96). Comments of the draft and its preferred alternative (Alternative B) were received from the public and other federal and state agencies. These comments will be used in the development of new alternatives for a new draft document. Also, during the period between the issuance of the first DEIS and the present, new issues about the proposal have surfaced and will be incorporated into the new DEIS. Issues include preserving old growth vegetation structure, improving forest health through the cutting of trees and the use of fire, providing sawtimber and forest products to sustain the local economy, the use of prescribed burning close to communities, the construction of more roads and the closure of existing roads.

Alternatives

Alternatives will include the no action alternative and Alternative B from the first DEIS: Alternative B was the preferred alternative and will be used to demonstrate how the analysis has changed since the issuance of the first draft document. New alternatives will be developed based on the issues that surfaced during the comment period of the first DEIS and any new issues that have become apparent over the past year. The new action alternatives will also comply with the

new Forest Plan Amendment (6/96) guidelines on managing habitat for the Mexican spotted owl and northern goshawk.

Supplemental Information for Public Participation

There will be a 45 day comment period on the new draft environmental impact statement beginning when the legal notice of availability appears in *The Taos News*, the paper of record for the Carson National Forest. Comments received in response to this NOI or the DEIS, including names and addresses of those who comment, will be considered part of the public record on this proposed action and will be available for public inspection. Comments submitted anonymously will be accepted and considered; however, those who submit anonymous comments will not have standing to appeal the subsequent decision under 36 CFR Parts 215 or 217. Additionally, pursuant to 7 CFR 1.27(d), any person may request the agency to withhold a submission from the public record by showing how the Freedom of Information Act (FOIA) permits such confidentiality. Persons requesting such confidentiality should be aware that, under the FOIA; confidentiality may be granted in only very limited circumstances, such as to protect trade secrets. The Forest Service will inform the requester of the agency's decision regarding the request for confidentiality, and where the request is denied, the agency will return the submission and notify the requester that the comments may be resubmitted with or without name and address within 10 days.

The Forest Service believes it is important to give reviewers notice of several court rulings related to public participation in the environmental review process. To be the most helpful, comments on the DEIS should be as specific as possible and may address the adequacy of the statement or the merits of the alternatives discussed (see Council of Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3).

In addition, Federal Court decisions have established that reviewers of draft environmental impact statements must structure their participation in the environmental review of the proposal so that it is meaningful and alerts the agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp.* versus *NRDC*, 435 US 519, 533 (1978). Environmental objections that could have been raised at the draft stage may be waived if not raised until after completion of the final environmental impact statement. *City of Angoon* versus *Hodel* (9th Circuit, 1986) and *Wisconsin Heritages, Inc.* versus *Harris*, 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). The reason for this is to ensure that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the final environmental impact statement.

Dated: April 14, 1997.

Leonard L. Lucero,

Forest Supervisor, Carson National Forest.

[FR Doc. 97–10314 Filed 4–21–97; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Southwestern Region, Arizona, New Mexico, West Texas and Oklahoma; Proposed Projects in the Hopewell Analysis Area, Carson National Forest, Taos County, MN

AGENCY: Forest Service.

ACTION: Notice of intent to prepare an environmental impact statement.

SUMMARY: The Carson National Forest, Tres Piedras Ranger District will prepare an Environmental Impact Statement (EIS) to disclose the environmental consequences of the Hopewell Ridge proposed action. The proposal includes the allocation of old growth, harvesting of trees for sawtimber and forest products, prescribed burning, thinning, new road construction, road reconstruction, closure of existing roads, and designation of a cross-country ski trail.

An environmental assessment (EA) on the Hopewell Ridge proposed projects and subsequent decision notice (DN) and finding of no significant impact (FONSI) was completed and signed on December 20, 1996. The decision was appealed and later remanded back to me by the Appeal Deciding Officer (3/97). I have decided to prepare an environmental impact statement (EIS) on the Hopewell Ridge proposal and incorporate additional information related to the proposed action and alternatives to that action and their direct, indirect and cumulative environmental effects. This notice is to disclose the Forest Service's intention to issue a draft environmental impact statement (DEIS) for Hopewell Ridge proposed projects by the end of May, 1997.

DATES: Comments in response to this NOI should be received by May 15, 1997.

ADDRESSES: Send written comments to Tres Piedras Ranger District, PO 38, Tres Piedras NM 87556, ATTN: Dan Rael, District Ranger.

RESPONSIBLE OFFICIAL: The Forest Supervisor, Carson National Forest, will be the responsible official and will decide on what, where, how and when projects will be implemented by the Forest Service in the Hopewell Ridge analysis area.

FOR FURTHER INFORMATION CONTACT: Dan Rael (505) 758–8678.

SUPPLEMENTARY INFORMATION:

Proposed Action: The Forest Service is planning to manage the existing vegetation through the allocation old growth, harvesting of trees for sawtimber and forest products (e.g., fuelwood, vigas and latillas), prescribed burning, and thinning of forested stands. The proposal also includes the construction of new roads and the reconstruction and closure of existing roads.

Location: The Hopewell Ridge analysis area (13,011 acres) is located in Taos County in northern New Mexico, nine miles west of Tres Piedras.

Purpose: The purpose of allocating old growth is to preserve large, old vegetation structure for old growth dependent wildlife species. It is also necessary to provide saw logs to local sawmills and forest products, such as fuelwood, vigas and latillas, to small, local operators from nearby communities. Prescribed burning is needed to create openings and maintain meadows as part of the natural variation and to support grasses and forbs for wildlife. Burning is also needed to produce conditions suitable for natural pine and aspen regeneration and maintain watershed integrity. The regeneration of aspen will restore and sustain an aesthetically pleasing landscape. In the pine/oak type, prescribed fire is needed to stimulate the growth of oak and other shrubs, which provide important habitat for turkey and browse for mule deer. The purpose of thinning dense, forested stands is to reduce tree competition, therefore increasing the growth rate of trees left behind. The construction of new roads will access stands to be harvested and the closure of roads will move the analysis area to a desired density of one mile per square mile (Carson Forest Plan).

Decisions: The decisions to be made are:

—Whether or not to allocate old growth. If so, where and how much?
—Whether a timber sale(s) should be used to help achieve the desired condition. If so, which stands in the Hopewell Ridge analysis area should be harvested and what vegetation conditions should be created in the harvest areas?
—Whether forest products should be offered. If so, what type of products (firewood, vigas, poles, etc.) and how much?
—Whether prescribed fire should be used. If so, where and how much area should be burned?
—Whether areas should be thinned. If so, where?
—Whether new roads ought to be built. If so where and how much?
—Whether roads should be reconstructed. If so where and to what extent?
—Whether roads should be closed. If so, which ones and where should the closures be?

Scoping: The Hopewell Ridge project proposal has been through initial analysis through an environmental assessment and decision (12/96). Comments on the EA and its preferred alternative (Alternative F) were received from the public and other federal and state agencies. These comments will be used and tracked through the EIS process. Issues include the effects of allocating old growth, the effects of roads on wildlife, water quality and access into the National Forest, the effects of providing saw logs and forest products on the local community's stability and economy, and the effects of harvesting, burning and road building on wildlife and vegetation diversity.

Alternatives: Alternatives in the DEIS will be the same as those developed for the environmental assessment.

Supplemental Information for Public Participation: There will be a 45-day comment period on the draft environmental impact statement beginning when the legal notice of availability appears in *The Taos News*, the paper of record for the Carson National Forest. Comments received in response to this NOI or the DEIS, including names and addresses of those who comment, will be considered part of the public record on this proposed action and will be available for public inspection. Comments submitted anonymously will be accepted and considered; however, those who submit anonymous comments will not have standing to appeal the subsequent decision under 36 CFR parts 215 or 217. Additionally, pursuant to 7 CFR 1.27(d), any person may request the agency to withhold a submission from the public record by showing how the Freedom of Information Act (FOIA) permits such confidentiality. Persons requesting such confidentiality should be aware that, under the FOIA, confidentiality may be granted in only very limited circumstances, such as to protect trade secrets. The Forest Service will inform the requester of the agency's decision regarding the request for confidentiality, and where the request is denied, the agency will return the submission and notify the requester that the comments may be resubmitted with or without name and address within 10 days.

The Forest Service believes it is important to give reviewers notice of several court rulings related to public participation in the environmental review process. To be the most helpful, comments on the DEIS should be as specific as possible and may address the adequacy of the statement or the merits of the alternatives discussed (see Council of Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3).

In addition, Federal Court decisions have established that reviewers of draft environmental impact statements must structure their participation in the environmental review of the proposal so that it is meaningful and alerts the agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp.* v. *NRDC*, 435 U.S. 519, 533 (1978). Environmental objections that could have been raised at the draft stage may be waived if not raised until after completion of the final environmental impact statement. *City of Angoon* v. *Hodel* (9th Circuit, 1986) and *Wisconsin Heritages, Inc.* v. *Harris*, 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). The reason for this is to ensure that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the final environmental impact statement.

Dated: April 14, 1997.

Leonard L. Lucero,

Forest Supervisor, Carson National Forest.

[FR Doc. 97–10315 Filed 4–21–97; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Intergency Motor Vehicle Use Plan

AGENCY: Forest Service, USDA.

ACTION: Cancellation notice.

SUMMARY: The USDA Forest Service and USDI Bureau of Land Management have withdrawn their joint proposal to address the designation of motor vehicle routes on National Forest lands, Inyo National Forest, and Public lands, Bishop Resource Area; Inyo, Madera, Mono, and Tulare counties, California, and Mineral and Esmeralda counties, Nevada. The preparation of an environmental impact statement for this proposal is cancelled.

The Notice of Intent, published in the **Federal Register** on July 20, 1990 (55 FR 29645), and revised on February 22, 1993 (58 FR 9557) is hereby rescinded.

FOR FURTHER INFORMATION CONTACT: Direct questions about this cancellation to Bob Hawkins, Recreation Planner, Inyo National Forest, 873 North Main Street, Bishop, California, 93514, phone 760–873–2400.

Dated: April 8, 1997.

Bill Bramlette,

Deputy Forest Supervisor.

[FR Doc. 97–10277 Filed 4–21–97; 8:45 am]

BILLING CODE 3410–11–M

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the Alabama Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the Alabama Advisory Committee to the Commission will convene at 6:00 p.m. and adjourn at 8:00 p.m. on May 22, 1997, at the Christian Tutwiler, 2021 Park Place North, Birmingham, Alabama 35203. The purpose of the meeting is to plan for future activities.

Persons desiring additional information, or planning a presentation to the Committee, should contact Melvin L. Jenkins, Director of the Central Regional Office, 913–551–1400 (TDD 913–551–1414). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, April 16, 1997.

Carol-Lee Hurley,

Chief, Regional Programs Coordination Unit.

[FR Doc. 97–10287 Filed 4–21–97; 8:45 am]

BILLING CODE 6335–01–P

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the Kentucky Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the Kentucky Advisory Committee to the Commission will convene at 1:00 p.m. and adjourn at 5:00 p.m. on Thursday, May 15, 1997, at the Holiday Inn Louisville-Downtown, Sycamore Room, 120 West Broadway, Louisville, Kentucky 40202. The purpose of the meeting is to discuss current and future activities, provide orientation for new members, and review civil rights progress and problems in the State.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson Emily C. Boone, 502–585–3430, or Bobby D. Doctor, Director of the Southern Regional Office, 404–730–2476 (TDD 404–730–2481). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, April 15, 1997.

Carol-Lee Hurley,

Chief, Regional Programs Coordination Unit.

[FR Doc. 97–10286 Filed 4–21–97; 8:45 am]

BILLING CODE 6335–01–P

COMMISSION ON CIVIL RIGHTS

Notice of Cancellation of Public Meeting of the New Mexico Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the New Mexico Advisory Committee to the Commission which was to have convened at 12:00 p.m. and adjourned at 5:00 p.m. on April 18, 1997, at the Clovis Public Library, 701 North Main Street, Clovis, New Mexico, has been canceled.

The original notice for the meeting was announced in the **Federal Register** on April 3, 1997, FR Doc. 97–8445, 62 FR 15878.

Persons desiring additional information should contact Philip Montez, Director of the Western Regional Office, 213–894–3437 (TDD 213–894–3435).

Dated at Washington, DC, April 16, 1997.

Carol-Lee Hurley,

Chief, Regional Programs Coordination Unit.

[FR Doc. 97–10285 Filed 4–17–97; 12:27 pm]

BILLING CODE 6335–01–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket 31–97]

Proposed Foreign-Trade Zone—Dothan, Alabama Area Application and Public Hearing

An application has been submitted to the Foreign-Trade Zones (FTZ) Board (the Board) by the Dothan-Houston County Foreign Trade Zone, Inc. (an Alabama non-profit corporation), to establish a general-purpose foreign-trade zone in the Dothan (Houston/Dale Counties), Alabama area, adjacent to the Panama City, Florida, Customs port of entry. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a-81u), and the regulations of the Board (15 CFR Part 400). It was formally filed on April 14, 1997. The applicant is authorized to make the proposal under Act 77–498, Section 33–1–30 of the Code of Alabama, 1975, as amended.

The proposed zone is located in southeastern Alabama, approximately 25 miles north of the Alabama-Florida border. The closest Customs port of entry is Panama City, Florida. (This would be the second foreign-trade zone associated with the Panama City Customs port of entry. FTZ 65 in Panama City was established in 1981.) The proposed zone will consist of 6 sites (1,460 acres) within the Cities of Dothan and Columbia: *Site 1* (304 acres)—Dothan-Houston County Airport Industrial Park, Alabama Highway 134, Dothan; *Site 2* (157 acres)—Dothan Industrial Park, U.S. Highway 231 and Napier Field Road, Dothan; *Site 3* (349 acres)—Westgate Industrial Park, Westgate Parkway and Headland Avenue, Dothan; *Site 4* (162 acres)—Dothan Chamber of Commerce Industrial Park, Murray Road, Dothan; *Site 5* (181 acres)—Sam Houston Industrial Park, Alabama Highway 52 (Columbia Highway), Dothan; and, *Site 6* (307 acres) Columbia-Houston County Port Authority Industrial Park, Alabama Highway 95, Columbia, some 18 miles east of Dothan. Site 1 is located in Dale County and Sites 2–6 are located in Houston County.

The application contains evidence of the need for foreign-trade zone services in the Dothan, Alabama area. Several firms have indicated an interest in using zone procedures for warehousing/distribution activity. Specific manufacturing approvals are not being sought at this time. Requests would be made to the Board on a case-by-case basis.

In accordance with the Board's regulations, a member of the FTZ Staff has been designated examiner to investigate the application and report to the Board.

As part of the investigation, the Commerce examiner will hold a public hearing on May 21, 1997, 1:00 p.m., City Commission Chambers, Second Floor, Roy Driggers Municipal Building (Dothan Civic Center), 126 North Saint Andrews Street, Dothan, Alabama 36303.

Public comment on the application is invited from interested parties. Submissions (original and 3 copies) shall be addressed to the Board's Executive Secretary at the address below. The closing period for their receipt is June 23, 1997. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period to July 7, 1997.

A copy of the application and accompanying exhibits will be available during this time for public inspection at the following locations:

Roy Driggers Municipal Building, (Dothan Civic Center), 126 North Saint Andrews Street, Room 303, Dothan, Alabama. 36303

Office of the Executive Secretary, Foreign-Trade Zones Board, Room 3716, U.S. Department of Commerce, 14th and Pennsylvania Avenue, NW., Washington, DC 20230.

Dated: April 16, 1997.

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 97–10392 Filed 4–21–97; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket 29–97]

Application for Subzone Status, Conair Corporation Plant (Small Appliances, Beauty Care Products, Personal Telephones) East Windsor, NJ

An application has been submitted to the Foreign-Trade Zones Board (the Board) by Mercer County, grantee of FTZ 200, requesting subzone status for the warehousing/distribution and repair facility of Conair Corporation (Conair),

East Windsor, New Jersey. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR part 400). It was formally filed on April 11, 1997.

The Conair facility (500,000 sq. ft. on 52-acres) is located at 150 Milford Road in East Windsor, New Jersey. Operations conducted under FTZ procedures at the facility will include warehousing/distribution, testing, repackaging, and service/repair of a variety of consumer products, and in some cases this activity will involve reassembly and a change in Customs classification of incoming foreign components. Finished products include: electric personal care appliances (e.g., hair dryers/trimmers, massagers, heating pads, toothbrushes); beauty care products; small kitchen appliances/cookware, (e.g., food processors/mixers/grinders, pasta makers, toasters, blenders, coffee/espresso makers); and consumer telephones and answering machines. Foreign components that would be used in reassembly/service activity include: plastic handles and knobs, fasteners, knives, fans, electric motors, generators, transformers, telephone components, microphones, loudspeakers, earphones, resistors, printed circuits, switches, diodes, integrated circuits, conductors, insulators, and timing devices.

Zone procedures will exempt Conair from Customs duty payments on the foreign items used in its exports. On its domestic sales, the company will be able to defer Customs duty payments, and, on the service/repair activity that involves the use of foreign components, the company will be able to choose the lower Customs duty rates that might apply to finished products (range: duty-free—8.5%). The rates on the foreign parts used at the facility range from duty-free to 12.5 percent. The applicant indicates that zone procedures will help improve the international competitiveness of the company's U.S. operations.

In accordance with the Board's regulations, a member of the FTZ staff has been appointed examiner to investigate the application and report to the Board.

Public comment is invited from interested parties. Submissions (original and 3 copies) shall be addressed to the Board's Executive Secretary at the address below. The closing period for their receipt is June 23, 1997. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period (to July 7, 1997).

A copy of the application and accompanying exhibits will be available for public inspection at each of the following locations:

U.S. Department of Commerce, Export Assistance Center, 3131 Princeton Pike, Building 6, Suite 100, Trenton, New Jersey 08648

Office of the Executive Secretary, Foreign-Trade Zones Board, Room 3716, U.S. Department of Commerce 14th & Pennsylvania Aves., NW, Washington, DC 20230

Dated: April 16, 1997.

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 97–10393 Filed 4–21–97; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket 28–97]

Foreign-Trade Zone 66—Wilmington, NC, Application for Subzone Status, Unifi, Inc., Plant (Polyester Partially-Oriented Yarn) Yadkinville, NC

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the North Carolina Department of Commerce, grantee of FTZ 66, requesting special-purpose subzone status for the polyester yarn manufacturing plant of Unifi, Inc. (Unifi), located at 1641 Shacktown Road, Yadkinville (Yadkin County), North Carolina. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR Part 400). It was formally filed on April 10, 1997.

The Unifi facility (18 acres, 329,000 sq. ft.), currently under construction, consists of a melt monofilament spinning plant that will produce polyester partially-oriented (POY) yarn for the U.S. market and export. The production process involves melting polyethylene terephthalate (PET) chips (HTSUS# 3907.60.0050, duty rate: 2.2¢/kg+8.2%), extruding the molten PET into monofilament partially-oriented yarn (HTSUS# 5402.33). The application indicates that up to 30 percent of the PET consumed in the production process could be purchased from abroad and would be admitted pursuant to FTZ procedures under privileged foreign status (19 CFR 146.41).

FTZ procedures would exempt Unifi from Customs duty payments on the foreign PET used in export production (some 30% of shipments). On its domestic sales, the company would be able to defer duty payments on the foreign PET until the finished polyester POY yarn is entered for consumption. Unifi is also seeking to eliminate duty payments on certain foreign PET which, under FTZ procedures, could qualify as accountable loss in the manufacturing process (2% loss rate). FTZ procedures would also allow the deferral of duty payments on foreign capital equipment until fully assembled and ready for production. Certain foreign components of such equipment having higher individual duty rates (4.1%) could qualify for the lower finished spinning equipment rate (1.8%) when Customs entry is made on the equipment. The application indicates that subzone status would help improve the Unifi facility's international competitiveness.

In accordance with the Board's regulations, a member of the FTZ Staff has been designated examiner to investigate the application and report to the Board.

Public comment on the application is invited from interested parties. Submissions (original and three copies) shall be addressed to the Board's Executive Secretary at the address below. The closing period for their receipt is June 23, 1997. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period (to July 7, 1997).

A copy of the application and the accompanying exhibits will be available for public inspection at each of the following locations:

U.S. Department of Commerce, Export Assistance Center, 521 E. Morehead Street, Suite 435, Charlotte, NC 28202

Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, Room 3716, 14th Street & Pennsylvania Avenue, NW, Washington, DC 20230–0002

Dated: April 14, 1997.

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 97–10394 Filed 4–21–97; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 884]

Approval of Manufacturing Activity Within Foreign-Trade Zone 39, Dallas/Fort Worth, Texas; Selective Technology, Inc. (Automotive Air-Conditioner Compressors)

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u)(the Act), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, § 400.28(a)(2) of the Board's regulations, requires approval of the Board prior to commencement of new manufacturing/processing activity within existing zone facilities;

Whereas, the Dallas/Fort Worth International Airport Board, grantee of FTZ 39, has requested authority under § 400.32(b)(1) of the Board's regulations on behalf of Selective Technology, Inc., to manufacture automotive air-conditioner compressors under zone procedures within FTZ 39, Dallas/Fort Worth, Texas (filed 10–18–96, FTZ Docket A(32b1)–4–96; Doc. 22–97, assigned 3–24–97);

Whereas, pursuant to § 400.32(b)(1), the Commerce Department's Assistant Secretary for Import Administration has the authority to act for the Board in making such decisions on new manufacturing/processing activity under certain circumstances, including situations where the proposed activity is the same, in terms of products involved, to activity recently approved by the Board (§ 400.32(b)(1)(i)); and,

Whereas, the FTZ Staff has reviewed the proposal, taking into account the criteria of § 400.31, and the Executive Secretary has recommended approval;

Now, therefore, the Assistant Secretary for Import Administration, acting for the Board pursuant to § 400.32(b)(1), concurs in the recommendation and hereby approves the request subject to the Act and the Board's regulations, including § 400.28.

Signed at Washington, DC, this 10th day of April 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. 97–10391 Filed 4–21–97; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket 30–97]

Foreign-Trade Zone 183—Austin, Texas Application for Expansion

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the Foreign Trade Zone of Central Texas, Inc., grantee of FTZ 183, requesting authority to expand its zone in the Austin, Texas, area, adjacent to the Austin Customs port of entry. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a-81u), and the regulations of the Board (15 CFR Part 400). It was formally filed on April 11, 1997.

FTZ 183 was approved on December 23, 1991 (Board Order 550, 57 FR 42; 1/2/92). The zone currently consists of seven sites in the Austin, Texas, area:

Site 1—Austin Enterprise site (317 acres), consisting of seven parcels within the Austin Enterprise Zone Area along Highway 290 and the Ben White Boulevard-Montopolis Drive area, Austin;

Site 2—Balcones Research site (50 acres), located in north central Austin at the intersection of Burnett Road and Longhorn Boulevard;

Site 3—High Tech Corridor site (394 acres), consisting of five parcels located along I–35, 14 miles north of downtown Austin (site straddles Austin-Round Rock city line);

Site 4—Cedar Park site (122 acres), some eight miles northwest of the Austin city limits, in Williamson County;

Site 5—Round Rock ''SSC'' site (246 acres), consisting of two parcels located along I–35 between Chandler Road and Westinghouse Road on the northern edge of the City of Round Rock;

Site 6—Georgetown site (246 acres), located along I–35 and U.S. 81, south of downtown Georgetown;

Site 7—San Marcos site (40 acres), located within the San Marcos Municipal Airport facility in eastern San Marcos, adjacent to State Highway 21, on the Hays County/Caldwell County line.

The applicant is now requesting authority to expand Site 3 to include 368 acres (5 contiguous tracts) located within the City of Round Rock, adjacent to Site 3's eastern boundary. The additional acreage is owned and operated by Dell Computer Holdings, L.P. and Dresser Industries, Inc.

No specific manufacturing requests are being made at this time. Such requests would be made to the Board on a case-by case basis.

In accordance with the Board's regulations, a member of the FTZ Staff has been designated examiner to investigate the application and report to the Board.

Public comment on the application is invited from interested parties. Submissions (original and 3 copies) shall be addressed to the Board's Executive Secretary at the address below. The closing period for their receipt is June 23, 1997. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period (to July 7, 1997).

A copy of the application and accompanying exhibits will be available for public inspection at each of the following locations:

U.S. Department of Commerce, District Office, 903 San Jacinto Blvd., Suite 121, Austin, Texas 78701–2450

Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, Room 3716, 14th & Pennsylvania Avenue, NW, Washington, DC 20230

Dated: April 14, 1997.

John J. DaPonte, Jr.,

Executive Secretary.

[FR Doc. 97–10395 Filed 4–21–97; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Environmental Technologies Trade Advisory Committee (ETTAC)

AGENCY: International Trade Administration, Department of Commerce.

ACTION: Notice of open meeting.

SUMMARY: The Environmental Technologies Trade Advisory Committee (ETTAC) will hold its ninth plenary meeting. The ETTAC was created on May 31, 1994, to promote a close working-relationship between government and industry and to expand export growth in priority and emerging markets for environmental products and services.

DATES AND PLACE: May 1, 1997 from 12:00 p.m to 5:00 p.m. The meeting will take place in Room 6808 of the Department of Commerce, 14th Street and Constitution Ave., N.W., Washington D.C. 20230.

This program is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to

Amy Bellanca, Department of Commerce, Room 1001, Washington D.C. 20230. Seating is limited and will be on a first-come, first-served basis.

FOR FURTHER INFORMATION CONTACT: The Office of Environmental Technologies Exports, Room 1003, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230, phone (202) 482–5225, facsimile (202) 482–5665, TDD 1–800–833–8723.

Dated: April 11, 1997.

Anne L. Alonzo,

Deputy Assistant Secretary for Environmental Technologies Exports.

[FR Doc. 97–10278 Filed 4–21–97; 8:45 am]

BILLING CODE 3510–DR–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[Docket No. 970324067–7067–01]

RIN 0648–ZA29

NOAA Climate and Global Change Program, Program Announcement

AGENCY: Office of Global Programs, National Oceanic and Atmospheric Administration, Commerce.

ACTION: Notice.

SUMMARY: The Climate and Global Change Program represents a National Oceanic and Atmospheric Administration (NOAA) contribution to evolving national and international programs designed to improve our ability to observe, understand, predict, and respond to changes in the global environment. This program builds on NOAA's mission requirements and longstanding capabilities in global change research and prediction. The NOAA Program is a key contributing element of the U.S. Global Change Research Program (USGCRP), which is coordinated by the interagency Committee on Environmental and Natural Resources. NOAA's program is designed to complement other agency contributions to that national effort.

DATES: Strict deadlines for submission to the FY 1998 process are: Letters of intent must be received at OGP no later than May 23, 1997. Full proposals must be received at OGP no later than August 15, 1997. Applicants who have not received a response to their letter of intent by July 7, 1997, should contact the program office. The time from target date to grant award varies with program area. We anticipate that review of full proposals will occur during late 1997 and funding should begin during the spring of 1998 for most approved projects. April 1, 1998, should be used as the proposed start date on proposals, unless otherwise directed by the appropriate Program Officer. Applicants should be notified of their status within 6 months. All proposals must be submitted in accordance with the guidelines below. Failure to heed these guidelines may result in proposals being returned without review.

ADDRESSES: Proposals may be submitted to: Office of Global Programs, National Oceanic and Atmospheric Administration, 1100 Wayne Avenue, Suite 1225, Silver Spring, MD 20910–5603.

FOR FURTHER INFORMATION CONTACT: Irma duPree at the above address, or at phone: (301) 427–2089 ext. 17, fax: (301) 427–2073, Internet: duPree@ogp.noaa.gov.

SUPPLEMENTARY INFORMATION:

Funding Availability

NOAA believes that the Climate and Global Change Program will benefit significantly from a strong partnership with outside investigators. Current Program plans assume that over 50% of the total resources provided through this announcement will support extramural efforts, particularly those involving the broad academic community. Because of ongoing debates on the Federal budget, it is uncertain how much money will be available through this announcement. Actual funding levels will depend upon the final FY 1998 budget appropriations. This Program Announcement is for projects to be conducted by investigators both inside and outside of NOAA, primarily over a one, two or three year period. The funding instrument for extramural awards will be a grant unless it is anticipated that NOAA will be substantially involved in the implementation of the project, in which case the funding instrument should be a cooperative agreement. Examples of substantial involvement may include but are not limited to proposals for collaborative between NOAA or NOAA scientists and a recipient scientist or technician and/or contemplation by NOAA of detailing Federal personnel to work on proposal projects. NOAA will make decisions regarding the use of a cooperative agreement on a case-by-case basis. Funding for non-U.S. institutions and contractual arrangements for services and products for delivery to NOAA are not available under this announcement. Matching share is not required by this program.

Program Authority

Authority: 49 U.S.C. 44720 (b); 33 U.S.C. 883d, 883e; 15 U.S.C. 2904; 15 U.S.C. 2931 et seq.

(CFDA No. 11.431)—Climate and Atmospheric Research

Program Objectives

The long term objective of the Climate and Global Change Program is to provide reliable predictions of climate change and associated regional implications on time scales ranging from seasons to a century or more. NOAA believes that climate variability across these time scales can be modelled with an acceptable probability of success and are the most relevant for fundamental social concerns. Predicting the behavior of the coupled ocean-atmosphere-land surface system will be NOAA's primary contribution to a successful national effort to deal with observed or anticipated changes in the global environment. NOAA has a range of unique facilities and capabilities that can be applied to Climate and Global Change investigations. Proposals that seek to exploit these resources in collaborative efforts between NOAA and extramural investigations are encouraged.

Program Priorities

In FY 1998, NOAA will give priority attention to individual proposals in the areas listed below. Investigators are asked to specify clearly which of these areas is being pursued. The names, affiliations and phone numbers of relevant Climate and Global Change Program Officers are provided. Funding for some programs may be limited to ongoing projects or may be used to fund projects proposed in FY 1997 that were unable to be funded due to unusual budgetary circumstances. Prospective applicants should communicate with Program Officers for information on priorities within program elements and prospects for funding. Applicants should send letters of intent and proposals to the NOAA Office of Global Programs rather than to individual Program Officers.

Aerosols

The Aerosols Project focuses on research to improve the predictive understanding of the role of anthropogenic aerosols in climate forcing. Due to limited funds anticipated in FY 1998, all funding is expected to be used to maintain support for ongoing research activities. Unfortunately, therefore, we are unable to seek applications to fund new starts. For further information contact: Joel M.

Levy, NOAA/Office of Global Programs, 301–427–2089 ext. 21, Internet: Levy@ogp.noaa.gov; or Fred Fehsenfeld, NOAA/Aeronomy Laboratory, Boulder, CO, 303–497–5819, Internet: fcf@al.noaa.gov.

Atlantic Climate Change Program (ACCP)

ACCP investigators have greatly contributed to the fascinating picture of Atlantic climate variability that has come into focus in the past few years with the North Atlantic Oscillation and the Atlantic tropical sea surface temperature ''dipole'' playing a central role. We invite two-year duration proposals which: (1) Address, using models and theory, the underlying mechanisms of tropical and middle to high-latitude climate variability in the Atlantic sector on interannual to decadal time-scales and beyond and (2) seek to document Atlantic climate variability and climate change from the instrumental and paleo record and their link to global climate variability. For further information contact: James F. Todd, NOAA/Office of Global Programs, 301–427–2089 ext. 32, Internet: todd@ogp.noaa.gov, or Lisa Dilling, NOAA/Office of Global Programs, Silver Spring, MD: 301–427–2089 ext. 16, Internet: dilling@ogp.noaa.gov.

Atmospheric Chemistry

The Atmospheric Chemistry Project focuses on global monitoring, process-oriented laboratory and field studies, and theoretical modeling to improve the predictive understanding of the atmospheric trace gases that influence the earth's chemical and radiative balance. FY 1998 grants in Atmospheric Chemistry will focus on studies associated with the International Global Atmospheric Chemistry (IGAC) project of the IGBP. Proposals are solicited for the following: (i) (highest priority) the North Atlantic Regional Study (NARE), with emphasis on process-oriented field studies, the analysis and interpretation of those studies, and development of new airborne instrumentation and sampling methods in support of future studies; (ii) the International Support Activity: Intercalibration/Intercomparison, with emphasis on the Nonmethane Hydrocarbon Intercomparison Experiment (NOMHICE). For an information sheet containing further details, contact: Joel M. Levy, NOAA/Office of Global Programs, 301–427–2089 ext. 21, Internet: levy@ogp.noaa.gov; or Fred C. Fehsenfeld, NOAA/Aeronomy Laboratory, Boulder, CO, 303–497–5819, Internet: fcf@al.noaa.gov.

Climate Change Data and Detection

The scientific goals of this element include efforts to: (1) Provide data and information management support (i.e., data assembly, processing, inventory, distribution and archiving) for a variety of national and international programs of primary interest to NOAA's Climate and Global Change Program, e.g., the CLIVAR (Climate Variability and Prediction) Program, GEWEX (Global Energy & Water Cycle Experiment), GOALS (Global Ocean Atmosphere Land System), IGBP (International Geosphere-Biosphere Program), etc.; (2) provide data and information management support related to cross cutting science efforts necessary to assess seasonal, interannual, decadal, and longer climate variations and changes; (3) document the quantitative character of observed climate variations and changes; and (4) attribute changes in the observed climate record to specific climate forcings. Proposals are sought that are clearly linked to these scientific objectives and that are under the direction of a scientific principal investigator. Proposals that are directly linked to major national and international assessments, such as the Inter-governmental Panel on Climate Change (IPCC), are encouraged. Proposals to enhance data system infrastructure without firm science driven objectives will not be considered. NOAA/NASA Jointly Sponsored Project: Contingent on the availability of funding, a limited number of new starts are anticipated within the National Aeronautics and Space Administration (NASA)/NOAA co-sponsored project that supports research in the area of producing Enhanced Data Sets for Analysis and Applications. Projects should have a central theme of producing new and/or improved data sets for the next major scientific or climate impact assessment of the Intergovernmental Panel on Climate Change (IPCC) planned for the year 2000. We expect that each project will be able to product data sets that have direct applicability to unresolved issues in the 1995 IPCC assessments. Proposals will be favored that clearly make this linkage. NOAA/DOE Jointly Sponsored Project: Contingent on the availability of funding, approximately fifteen new starts are anticipated within the Department of Energy (DOE)/NOAA co-sponsored project that specifically addresses all aspects of Climate Change Detection and Attribution. Additional details on the jointly sponsored project are provided on supplementary fact sheet which can be obtained by calling the Program Managers, or from Irma duPree at the Office of Global Programs). For further information contact: Tom Karl, NOAA/NESDIS/National Climatic Data Center, Asheville, NC, 704–271–4319, Internet: tkarl@ncdc.noaa.gov, Bill Murray, NOAA/Global Programs, Silver Spring, MD; 301–427–2089 ext. 26, Internet: murray@ogp.noaa.gov, Chris Miller, NOAA/NESDIS, Silver Spring, MD 20910, 301–713–1264, Internet: miller@esdim.noaa.gov, Martha Maiden, NASA/Mission to Planet Earth Program Office, Goddard Space Flight Center, Greenbelt, MD, 301–286–0012, Internet: martha.maiden@gsfc.nasa.gov, or Wanda Ferrell, DOE/Environmental Sciences Division, Germantown, MD; 301–903–0043, Internet: wanda.ferrell@oer.doe.gov.

Climate Dynamics and Experimental Prediction

The GFDL-University Consortium is an Applied Research Center that increases the involvement of the university community in studying atmospheric variability and predictability by critically analyzing model output generated at the NOAA Geophysical Fluid Dynamics Laboratory (GFDL). Proposals are invited for collaboration with scientists at the NOAA/GFDL in the state-of-the-art diagnosis of the relationships between global sea surface temperature anomalies (SSTA) and the interannual variability of the atmospheric climate over the past several decades, and between the SSTA in different parts of the World Ocean. The participants will make extensive use of an evolving set of atmospheric general circulation model (GCM) experiments to be conducted at GFDL. Collaborators will participate fully in the design and implementation of these experiments, as well as in the development and application of diagnostic tools for analyzing such experiments. In the past, five consortium participants have shared approximately $500,000 annually. We anticipate similar levels of support and number of participants to be funded for a three year period beginning in 1998. For further information, contact Mark Eakin, NOAA/Global Programs, Silver Spring, MD; 301–427–2089 ext. 19, Internet: eakin@ogp.noaa.gov; or Isaac Held or Ngar-Cheung Lau, NOAA/Geophysical Fluid Dynamics Laboratory, Princeton, NJ; 609–452–6512/609–452–6524, Internet: ih@gfdl.gov or gl@gfdl.gov.

Climate Observations

This program element addresses ocean, atmosphere, and land surface climate observations, measurement

systems and techniques. Within the ocean focus, we are currently working to develop an interagency program addressing integrated ocean observations; applications will be solicited under a separate call for proposals. Within the atmospheric focus, in addition to renewal proposals, there is a potential for one or two new starts dealing with atmospheric water vapor. The potential also exists for a very limited number of projects which advance proven measurement concepts to the point of self-calibrated use on unmanned air vehicles and package carrying commercial aircraft. Within the land surface focus, no funding is expected to be available for new starts. For further information contact: Rex Fleming, NOAA/OAR, Boulder, CO, 303/497–8165, Internet: fleming@ofps.ucar.edu; Bill Murray (for atmosphere and land surface observations), NOAA/Global Programs, Silver Spring, MD; 301/427–2089 ext. 26, Internet: murray@ogp.noaa.gov; or Mike Johnson (for ocean observations), NOAA/Global Programs, Silver Spring, MD; 301/427–2089 ext. 62, Internet: johnson@ogp.noaa.gov.

Economics and Human Dimensions of Climate Fluctuations

This program element is aimed at understanding how social and economic systems are currently influenced by fluctuations in short-term climate (seasons to years), and how human behavior can be (or why it may not be) affected based on information about variability in the climate system. We are particularly interested in the extent to which probabilistic, early-warning climate forecast information can be incorporated into existing decision-making to affect adjustment and adaptation. Projects should be comprised of analyses of the following: how decision processes are sensitive to climate variability; how decisions could incorporate climate information, particularly forecasts; the social and economic factors that enhance or impede the use of climate information; and the consequences of people changing their decisions based on climate information. Decision processes can be investigated at the individual, industry, sector or institutional level, and the climate information should be based on regional climate influences driven by global climate phenomena (e.g. ENSO events). For more information and a detailed information sheet, researchers are strongly encouraged to contact: Caitlin Simpson, 1100 Wayne Avenue, Suite 1225, Silver Spring, MD 20910; telephone: (301) 427–2089 ext 47; or email: simpson@ogp.noaa.gov.

Education

Contact: Daphne Gemmill, NOAA/Office of Global Programs, Silver Spring, MD; 301–427–2089 ext. 20, Internet: gemmill@ogp.noaa.gov.

GCIP (GEWEX Continental-Scale International Project)

In research funded through this component, NOAA will direct its principal contribution for the GEWEX Continental-scale International Project to: (1) improving the representation of processes such as cold season hydrometeorological processes, subgrid scale precipitation variability, evolving soil moisture fields and their subgrid scale variability and evolving vegetation covers in coupled land/atmosphere models; (2) improving the measurement and understanding of heavy precipitation and runoff regimes in the eastern part of the Mississippi River Basin and their role in water and energy budgets; (3) improving the analysis of precipitation over a range of time and space scales; (4) initiating studies of critical physical processes in the eastern part of the Mississippi River Basin; and (5) undertaking studies and model development to make the outputs of climate forecasts and information more relevant for water resource managers. Emphasis will also be placed on issues related to the scale integration of hydrometeorological processes in climate models and on the transfer of representations of these processes into a climate model either through a nested model approach or improved land surface schemes. As outlined in its Major Activities Plan for 1997, 1998 with Outlook for 1999, GCIP anticipates that researchers will use its comprehensive in-situ, remote sensing and model output data sets for diagnostic studies and for model development and validation. A number of GCIP initial data sets have been prepared to provide data services support during the build-up period before the five-year enhanced observing period which started on 1 October 1995. The initial data sets are compiled for on-line access by GCIP investigators to the extent that is technically feasible. They have also been published on a CD–ROM for wide distribution. GCIP is interested in proposals that utilize these data sets to address the scientific problems outlined above. Further information about the GCIP data sets already compiled as well as the plans and projected schedule for future datasets can be accessed through the GCIP ''home page'' on the World Wide Web at the URL address: http://www.ogp.noaa.gov/gcip. The focus for the GEWEX Continental-scale International Project (GCIP) is the Mississippi River Basin. A more detailed information sheet will be provided to those who contact Rick Lawford, NOAA/Office of Global Programs, Silver Spring, MD; (301) 427–2089 ext. 40, Internet: lawford@ogp.noaa.gov.

Global Ocean-Atmosphere-Land System (GOALS)

The objectives of the GOALS Program are to understand global climate variability on seasonal-to-interannual time scales, to determine the extent to which this variability is predictable, to develop the observational theoretical, and computational means to predict this variability, and to foster the development of experimental predictions within the limits of proven feasibility. GOALS is intended to build upon the El Nino/Southern Oscillation (ENSO) research of the TOGA program (completed in 1994) to extend predictability of seasonal to interannual fluctuations beyond the tropical Pacific and include the effects of the other tropical upper oceans, higher latitude upper oceans, and land surface processes. Proposals for the Pan-American Climate Studies (PACS) Program, a subprogram within GOALS focusing on seasonal-to-interannual climate variability over the Americas, will be solicited under a separate announcement. For an information sheet outlining high-priority GOALS activities solicited in FY 1998, please contact Michael Patterson, NOAA/Office of Global Programs, Silver Spring, MD; 301–427–2089 ext. 12, Internet: Patterson@ogp.noaa.gov.

Ocean-Atmosphere Carbon Exchange Study (OACES)

As part of NOAA's contribution to the completion of the NOAA/DOE/NSF-sponsored Global Ocean CO_2 Survey and as a continuing effort to improve our understanding of the role of the ocean in sequestering the increasing burden of anthropogenically-derived carbon dioxide in the atmosphere, proposals are sought for supplemental measurements on two planned NOAA research cruises in FY 98. The first cruise along 24° N is the final leg of the Global Ocean CO_2 Survey in the North Atlantic. It is aimed at determining carbon transport and inventories in the North Atlantic basin and is scheduled for late winter 1997/1998. The second cruise, scheduled for early summer of 1998, seeks to improve the parametrization of the kinetics of CO_2

gas exchange. Limited funds are available for proposals addressing the measurement of specific chemical variables and physical parameters including: inorganic carbon system parameters (such as pH and alkalinity), total organic carbon, stable carbon isotopes, primary production and physical characterization of the sea surface. For an information sheet containing further details, please contact: James F. Tdd, NOAA/Office of Global Programs, Silver Spring, MD: 301–427–2089 ext. 32, Internet: todd@ogp.noaa.gov, or Lisa Dilling, NOAA/Office of Global Programs, Silver Spring, MD: 301–427–2089 ext. 16, Internet: dilling@ogp.noaa.gov.

Paleoclimatology

The NOAA Paleoclimatology Program will entertain proposals that support the new joint IGBP PAGES/WCRP CLIVAR Research Initiative that is being jointly supported by NOAA and the National Science Foundation (NSF). Proposals should address seasonal- to annually-dated time series to develop an understanding of the full range of natural environmental variability over the last 2000 years. Research efforts should focus on the utilization of seasonally- to annually-dated paleoclimate time series to develop an understanding of the seasonal to century-scale variability and predictability of: (1) the ENSO and African/Asian monsoon systems, (2) the ocean thermohaline system and its relation to global change, and (3) the hydrologic system at regional to global scales, as it relates to the above. Investigators from the paleoclimate and modern climate dynamics communities are encouraged to collaborate on proposals that focus on understanding the full range of natural variability and how well this variability can be represented by models. Proposals should be submitted to the NSF Earth System History Announcement of Opportunity with an expected due date in January 1998. Proposals submitted in response to this emphasis will be jointly reviewed in accordance with established NSF and NOAA procedures for external merit review and will be supported by the NSF/ESH Program and the NOAA/Office of Global Programs. For an information sheet or more information, contact Mark Eakin, NOAA/Global Programs, Silver Spring, MD; 301–427–2089 ext. 19, Internet: eakin@ogp.noaa.gov; Jonathan Overpact, NOAA/National Geophysical Data Center, Boulder, CO; 303–497–6172, Internet: jto@mail.ngdc.noaa.gov; or Herman Zimmerman, NSF ESH/ATM Program, Arlington, VA; 703–306–1527, Internet: hzimmerm@nsf.gov.

Eligibility

Extramural eligibility is not limited and is encouraged with the objective of developing a strong partnership with the academic community. Non-academic proposers are urged to seek collaboration with academic institutions. Universities, non-profit organizations, for profit organizations, State and local governments, and Indian Tribes, are included among entities eligible for funding under this announcement. While not a prerequisite for funding, applicants are encouraged to consider conducting their research in one or more of the National Marine Estuarine Research Reserve System or National Marine Sanctuary sites. For further information on these field laboratory sites, contact Dr. Dwight Trueblood, NOAA/NOS, 301–713–3145 ext. 174.

The NOAA Climate and Global Change Program has been approved for multi-year funding up to a three year duration. Funding for non-U.S. institutions is not available under this announcement.

Letters of Intent

Letters of Intent (LOI): (1) Letters should be no more than two pages in length and include the name and institution of principal investigator(s), a statement of the problem, brief summary of work to be completed, approximate cost of the project, and program element(s) to which the proposal should be directed. (2) Evaluation will be by program management. (3) It is in the best interest of applicants and their institutions to submit letters of intent; however, it is not a requirement. (4) Facsimile and electronic mail are acceptable for letters of intent only. (5) Projects deemed unsuitable during LOI review will not be encouraged to submit full proposals.

Evaluation Criteria

Consideration for financial assistance will be given to those proposals which address one of the Program Priorities listed below and meet the following evaluation criteria:

(1) Scientific Merit (20%): Intrinsic scientific value of the subject and the study proposed.

(2) Relevance (20%): Importance and relevance to the goal of the Climate and Global Change Program and to the research areas listed above.

(3) Methodology (20%): Focused scientific objective and strategy, including measurement strategies and data management considerations; project milestones; and final products.

(4) Readiness (20%): Nature of the problem; relevant history and status of existing work; level of planning, including existence of supporting documents; strength of proposed scientific and management team; past performance record of proposers.

(5) Linkages (10%): Connections to existing or planned national and international programs; partnerships with other agency or NOAA participants, where appropriate.

(6) Costs (10%): Adequacy of proposed resources; appropriate share of total available resources; prospects for joint funding; identification of long-term commitments.

Selection Procedures

All proposals will be evaluated and ranked in accordance with the assigned weights of the above evaluation criteria by (1) independent peer mail review, and/or (2) independent peer panel review; both NOAA and non-NOAA experts in the field may be used in this process. Their recommendations and evaluations will be considered by the Program Manager/Officer in final selections. Those ranked by the panel and program as not recommended for funding will not be given further consideration and will be notified of non-selection. For the proposals rated either Excellent, Very Good or Good, the Program Manager will: (a) ascertain which proposals meet the objectives, fit the criteria posted, and do not substantially duplicate other projects that are currently funded by NOAA or are approved for funding by other federal agencies, hence, awards may not necessarily be made to the highest-scored proposals, (b) select the proposals to be funded, (c) determine the total duration of funding for each proposal, and (d) determine the amount of funds available for each proposal.

Unsatisfactory performance by a recipient under prior Federal awards may result in an application not being considered for funding.

Proposal Submission

The guidelines for proposal preparation provided below are mandatory. Failure to heed these guidelines may result in proposals being returned without review.

(a) Full Proposals

(1) Proposals submitted to the NOAA Climate and Global Change Program must include the original and two unbound copies of the proposal.

(2) Investigators are not required to submit more than 3 copies of the

proposal, however, the normal review process requires 20 copies. Investigators are encouraged to submit sufficient proposal copies for the full review process if they wish all reviewers to receive color, unusually sized (not 8.5×11''), or otherwise unusual materials submitted as part of the proposal. Only three copies of the Federally required forms are needed.

(3) Proposals must be limited to 30 pages (numbered), including budget, investigators vitae, and all appendices, and should be limited to funding requests for one to three year duration. Appended information may not be used to circumvent the page length limit. Federally mandated forms are not included within the page count.

(4) Proposals should be sent to the NOAA Office of Global Programs at the above address.

(5) Facsimile transmissions and electronic mail submission of full proposals will not be accepted.

(b) Required Elements

All proposals should include the following elements:

(1) Signed title page: The title page should be signed by the Principal Investigator (PI) and the institutional representative and should clearly indicate which project area is being addressed. The PI and institutional representative should be identified by full name, title, organization, telephone number and address. The total amount of Federal funds being requested should be listed for each budget period.

(2) Abstract: An abstract must be included and should contain an introduction of the problem, rationale and a brief summary of work to be completed. The abstract should appear on a separate page, headed with the proposal title, institution(s) investigator(s), total proposed cost and budget period.

(3) Results from prior research: The results of related projects supported by NOAA and other agencies should be described, including their relation to the currently proposed work. Reference to each prior research award should include the title, agency, award number, PIs, period of award and total award. The section should be a brief summary and should not exceed two pages total.

(4) Statement of work: The proposed project must be completely described, including identification of the problem, scientific objectives, proposed methodology, relevance to the goal of the Climate and Global Change Program, and the program priorities listed above. Benefits of the proposed project to the general public and the scientific community should be discussed. A year-by-year summary of proposed work must be included clearly indicating that each year's proposed work is severable and can easily be separated into annual increments of meaningful work. The statement of work, including references but excluding figures and other visual materials, must not exceed 15 pages of text. Investigators wishing to submit group proposals that exceed the 15 page limit should discuss this possibility with the appropriate Program Officer prior to submission. In general, proposals from 3 or more investigators may include a statement of work containing up to 15 pages of overall project description plus up to 5 additional pages for individual project descriptions.

(5) Budget: Applicants must submit an a Standard Form 424 (4–92) ''Application for Federal Assistance'', including a detailed budget using the Standard Form 424a (4–92), ''Budget Information—Non-Construction Programs''. The form is included in the standard NOAA application kit. The proposal must include total and annual budgets corresponding with the descriptions provided in the statement of work. Additional text to justify expenses should be included as necessary.

(6) Vitae: Abbreviated curriculum vitae are sought with each proposal. Reference lists should be limited to all publications in the last three years with up to five other relevant papers.

(7) Current and pending support: For each investigator, submit a list that includes project title, supporting agency with grant number, investigator months, dollar value and duration. Requested values should be listed for pending support.

(8) List of suggested reviewers: The cover letter may include a list of individuals qualified and suggested to review the proposal. It also may include a list of individuals that applicants would prefer to not review the proposal. Such lists may be considered at the discretion of the Program Officer.

(c) Other Requirements

(1) Applicants may obtain a standard NOAA application kit form the Program Office.

Primary Applicant Certification—All primary applicants must submit a completed Form CD–511, ''Certification Regarding Debarment, Suspension and Other Responsibility Matters; Drug-Free Workplace Requirements and Lobbying''. Applicants are also hereby notified of the following:

1. Nonprocurement Debarment and Suspension—Prospective participants (as defined at 15 CFR Part 26, section 105) are subject to 15 CFR Part 26, ''Nonprocurement Debarment and Suspension,'' and the related section of the certification form prescribed above applies;

2. Drug Free Workplace—Grantees (as defined at 15 CFR part 26, section 605) are subject to 15 CFR Part 16, Subpart F, ''Governmentwide Requirements for Drug-Free Workplace (Grants)'' and the related section of the certification form prescribed above applies;

3. Anti-Lobbying—Persons (as defined at 15 CFR Part 28, section 105) are subject to the Lobbying provisions of 31 U.S.C. 1352, ''Limitation on use of appropriated funds to influence certain Federal contracting and financial transactions'', and the lobbying section of the certification form prescribed above applies to applications/bids for grants, cooperative agreements, and contracts for more than $100,000, and loans and loan guarantees for more than $150,000, or the single family maximum mortgage limit for affected programs, whichever is greater; and

4. Anti-Lobbying Disclosures—Any applicant that has paid or will pay for lobbying using any funds must submit an SF–LLL, ''Disclosure of Lobbying Activities,'' as required under 15 CFR part 28, appendix B.

Lower Tier Certifications

(1) Recipients must require applicants/bidders for subgrants, contracts, subcontracts, or lower tier covered transactions at any tier under the award to submit, if applicable, a completed Form CD–512, ''Certifications Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transactions and Lobbying'' and disclosure form SF–LLL, ''Disclosure of Lobbying Activities.'' Form CD–512 is intended for the use of recipients and should not be transmitted to DOC. SF–LLL submitted by any tier recipient or subrecipient should be submitted to DOC in accordance with the instructions contained in the award document.

(2) Recipients and subrecipients are subject to all applicable Federal laws and Federal and Department of Commerce policies, regulations, and procedures applicable to Federal financial assistance awards.

(3) Preaward Activities—If applicants incur any costs prior to an award being made, they do so solely at their own risk of not being reimbursed by the Government. Notwithstanding any verbal assurance that may have been received, there is no obligation to the applicant on the part of Department of Commerce to cover preaward costs.

(4) This program is subject to the requirements of OMB Circular No. A–110, ''Uniform Administrative Requirements for Grants and Other Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations'', and 15 CFR Part 24, ''Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments'', as applicable. Applications under this program are not subject to Executive Order 12372, ''Intergovernmental Review of Federal Programs.''

(5) All non-profit and for-profit applicants are subject to a name check review process. Name checks are intended to reveal if any key individuals associated with the applicant have been convicted of, or are presently facing criminal charges such as fraud, theft, perjury, or other matters which significantly reflect on the applicant's management, honesty, or financial integrity.

(6) A false statement on an application is grounds for denial or termination of funds and grounds for possible punishment by a fine or imprisonment as provided in 18 U.S.C. 1001.

(7) No award of Federal funds shall be made to an applicant who has an outstanding delinquent Federal debt until either:

(i) The delinquent account is paid in full,

(ii) A negotiated repayment schedule is established and at least one payment is received, or

(iii) Other arrangements satisfactory to the Department of Commerce are made.

(8) Buy American-Made Equipment or Products—Applicants are encouraged that any equipment or products authorized to be purchased with funding provided under this program must be American-made to the maximum extent feasible.

(9) The total dollar amount of the indirect costs proposed in an application under this program must not exceed the indirect cost rate negotiated and approved by a cognizant Federal agency prior to the proposed effective date of the award or 100 percent of the total proposed direct cost dollar amount in the application, whichever is less.

(d) If an application is selected for funding, the Department of Commerce has no obligation to provide any additional future funding in connection with the award. Renewal of an award to increase funding or extend the period of performance is at the total discretion of the Department of Commerce.

(e) In accordance with Federal statutes and regulations, no person on grounds of race, color, age, sex, national origin or disability shall be excluded from participation in, denied benefits of, or be subjected to discrimination under any program or activity receiving financial assistance from the NOAA Climate and Global Change Program. The NOAA Climate and Global Change Program does not have direct TDD (Telephonic Device for the Deaf) capabilities, but can be reached through the State of Maryland supplied TDD contact number, 800–735–2258, between the hours of 8:00 am—4:30 pm.

Notwithstanding any other provision of law, no person is required to respond to nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a current valid OMB control number. Classification: This notice has been determined to be not significant for purposes of Executive Order 12866. The standard forms have been approved by the Office of Management and Budget pursuant to the Paperwork Reduction Act under OMB approval number 0348–0043, 0348–0044, and 0348–0046.

Dated: April 7, 1997.

J. Michael Hall,

Director, Office of Global Programs, National Oceanic and Atmospheric Administration.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 040497A]

Small Takes of Marine Mammals Incidental to Specified Activities; Offshore Seismic Activities in the Beaufort Sea

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

ACTION: Notice of receipt of application and proposed authorization for a small take exemption; request for comments.

SUMMARY: NMFS has received a request from the BP Exploration (Alaska) 900 East Benson Boulevard, Anchorage, AK 99519 (BPXA) for a renewal of an authorization to take small numbers of marine mammals by harassment incidental to conducting seismic surveys in and near the Northstar Unit, in the Beaufort Sea in state and Federal waters. Under the Marine Mammal Protection Act (MMPA), NMFS is requesting comments on its proposal to authorize BPXA to incidentally take, by harassment, small numbers of bowhead whales and other marine mammals in the above mentioned areas during the open water period of 1997.

DATES: Comments and information must be received no later than May 22, 1997.

ADDRESSES: Comments on the application should be addressed to Michael Payne, Chief, Marine Mammal Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Silver Spring, MD 20910–3225. A copy of the application, an environmental assessment (EA), an informal section 7 consultation, the 90-day Report, and a list of references used in this document may be obtained by writing to this address or by telephoning one of the contacts listed below.

FOR FURTHER INFORMATION CONTACT: Kenneth R. Hollingshead, Office of Protected Resources, NMFS, (301) 713–2055, Brad Smith, Western Alaska Field Office, NMFS, (907) 271–5006.

SUPPLEMENTARY INFORMATION:

Background

Section 101(a)(5) (A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) directs the Secretary of Commerce to allow, upon request, the incidental, but not intentional taking of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and either regulations are issued or, if the taking is limited to harassment, notice of a proposed authorization is provided to the public for review.

Permission may be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s), will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses, and the permissible methods of taking and requirements pertaining to the monitoring and reporting of such taking are set forth.

On April 10, 1996 (61 FR 15884), NMFS published an interim rule establishing, among other things, procedures for issuing incidental harassment authorizations under section 101(a)(5)(D) of the MMPA for activities in Arctic waters. For additional information on the procedures to be followed for this authorization, please refer to that document.

Summary of Request

On March 5, 1997, NMFS received an application from BPXA requesting a 1-year renewal of their authorization for

the harassment of small numbers of several species of marine mammals incidental to conducting seismic surveys during the open water season within and near the Northstar Unit, in the Beaufort Sea between 145° 30′W and 150° 30′W, in U.S. waters. Weather permitting, the survey is expected to take place between approximately July 1 and October 20, 1997. A detailed description of the work planned is contained in the application (BPXA 1997) and is available upon request (see **ADDRESSES**). Description of Habitat and Marine Mammal Affected by the Activity

A detailed description of the Beaufort Sea ecosystem and its associated marine mammals can be found in the EA prepared for this authorization (BPXA 1996b) or in other documents (Minerals Management Service (MMS) 1992, 1996) and need not be repeated here. A copy of the EA is available upon request (see **ADDRESSES**).

Marine Mammals

The Beaufort/Chukchi Seas support a diverse assemblage of marine mammals including bowhead whales (*Balaena mysticetus*), gray whales (*Eschrichtius robustus*), belukha (*Delphinapterus leucas*), ringed seals (*Phoca hispida*), spotted seals (*Phoca largha*) and bearded seals (*Erignathus barbatus*). Descriptions of the biology and distribution of these species, and others, can be found in several other documents (BPXA 1996b, 1997, Lentfer 1988, MMS 1992, NMFS 1990 and 1996, Small and DeMaster 1995). Please refer to those documents for information on these species. Potential Effects of Seismic Surveys on Marine Mammals.

Disturbance by seismic noise is the principal means of taking by this activity. Vessels and aircraft will provide a secondary source of noise.

Deep seismic surveys are used to obtain data about formations several thousands of feet deep. The physical presence of vessels and aircraft could also lead to non-acoustic effects involving visual or other cues. The proposed seismic operation is an ocean bottom cable (OBC) survey. OBC surveys involve dropping a cable from a ship to the ocean bottom. Sensors (hydrophones) are attached to the cable. These hydrophones are used to detect seismic energy reflected back from underground rock strata. The original source of this energy is a submerged acoustic source, called a seismic airgun array, that releases compressed air into the water, creating an acoustical energy pulse that is directed downwards toward the seabed. After sufficient energy has been recorded to allow accurate mapping of the rock strata, the cable is lifted onto the deck of a cable-retrieval vessel, moved to a new location (ranging from several hundred to a few thousand feet away), and placed onto the seabed again. For a more detailed description of the seismic operation, including numbers of vessels planned for this survey, please refer to the application (BPXA 1997).

Depending upon ambient conditions and the sensitivity of the receptor, underwater sounds produced by open water seismic operations may be detectable some substantial distance away from the activity. Any sound that is detectable is (at least in theory) capable of eliciting a disturbance reaction by a marine mammal or masking a signal of comparable frequency (BPXA 1997). An incidental harassment take is presumed to occur when marine mammals in the vicinity of the seismic source, the seismic vessel, other vessels, or aircraft react to the generated sounds or visual cues.

Seismic pulses are known to cause bowhead whales to behaviorally respond within a distance of several kilometers (km) (Richardson *et al.* 1995). Although some limited masking of low-frequency sounds (e.g., whale calls) is a possibility, the intermittent nature of seismic source pulses (1 sec every 6–12 sec) will limit the extent of masking. Bowhead whales are known to continue calling in the presence of seismic survey sounds, and their calls can be heard between seismic pulses (Richardson *et al.* 1986). Masking effects are expected to be absent in the case of belukhas, given that sounds important to them are predominantly at much higher frequencies than are airgun sounds (BPXA 1997).

Hearing damage is not expected to occur during the project. It is not known whether a marine mammal very close to an airgun array would be at risk of temporary or permanent hearing impairment, but temporary threshold shift is a theoretical possibility for animals within a few hundred meters (Richardson *et al.* 1995) of the source. However, planned monitoring and mitigation measures (described below) are designed to detect marine mammals occurring near the array and to avoid exposing them to sound pulses that have any possibility of causing hearing damage.

When the received levels of noise exceed some behavioral reaction threshold, cetaceans will show disturbance reactions (BPXA 1997). The levels, frequencies, and types of noise that will elicit a response vary between and within species, individuals, locations and season. Behavioral changes may be subtle alterations in surface-respiration-dive cycles. More conspicuous responses include changes in activity or aerial displays, movement away from the sound source, or complete avoidance of the area. The reaction threshold and degree of response are related to the activity of the animal at the time of the disturbance. Whales engaged in active behaviors such as feeding, socializing or mating are less likely than resting animals to show overt behavioral reactions, unless the disturbance is directly threatening (BPXA 1997).

Bowhead Whales

Various studies (Reeves *et al.* 1984, Fraker *et al.* 1985, Richardson *et al.* 1986, Ljungblad *et al.* 1988) have reported that, when an operating seismic vessel approaches within a few kilometers, most bowhead whales exhibit strong avoidance behavior and changes in surfacing, respiration, and dive cycles. Bowheads exposed to seismic pulses from vessels more than 4.5 miles (mi) (7.5 km) away rarely showed observable avoidance of the vessel, but their surface, respiration, and dive cycles appeared altered in a manner similar to that observed in whales exposed at a closer distance (BPXA 1996).

Within a 3.7–60 mi (6–99 km) range, it has not been possible to determine a specific distance at which subtle behavioral changes no longer occur (Richardson and Malme 1993), given the high variability observed in bowhead whale behavior (BPX 1996).

Preliminary analysis of the results from BPXA's 1996 seismic monitoring program does not provide conclusive evidence about the radius of avoidance of bowheads to the seismic program. The peak number of bowhead sightings was 10–20 km (6.2–12.3 mi) from shore during no-seismic periods and 20–30 km (12.3–18.6 mi) from shore during periods that may have been influenced by seismic noise. This difference was not statistically significant, but the low numbers of sightings precluded meaningful interpretation (BPXA 1997).

Gray Whales

The reactions of gray whales to seismic pulses is similar to those of bowheads. Migrating gray whales along the California coast were noted to slow their speed of swimming, turn away from seismic noise sources, and increase their respiration rates. Malme *et al.* (1983, 1984, 1988) concluded that about 50 percent showed avoidance when the average received pulse level was 170 dB (re 1 μPa @ 1 m). Less consistent results were indicated at levels of 140–160 dB.

Belukha

The belukha is the only species of toothed whale (Odontoceti) expected to be encountered in the Beaufort Sea. Because its hearing threshold at frequencies below 100 Hz (where most of the energy from airgun arrays is concentrated) is poor (125 dB re 1 μPa @ 1 m) or more depending upon frequency (Johnson *et al.* 1989, Richardson 1991, 1995), belukha are not predicted to be strongly influenced by seismic noise. However, because of the high source levels of seismic pulses, airgun sounds may be audible to belukha at large distances (Richardson 1991, 1995).

Ringed, Largha and Bearded Seals

No detailed studies of reactions by seals to noise from open water seismic exploration have been published (Richardson *et al.* 1995). However, there are some data on the reactions of seals to various types of impulsive sounds (J. Parsons as quoted in Greene *et al.* 1985, Anon. 1975, Mate and Harvey 1985). These studies indicate that ice seals typically either tolerate or habituate to seismic noise produced from open water sources.

Underwater audiograms have been obtained using behavioral methods for three species of phocinid seals, ringed, harbor, and harp seals (*Pagophilus groenlandicus*). These audiograms were reviewed in Richardson *et al.* (1995). Below 30–50 kHz, the hearing threshold of phocinids is essentially flat down to at least 1 kHz, and ranges between 60 and 85 dB (re 1 μPa @ 1 m). There are few data on hearing sensitivity of phocinid seals below 1 kHz. NMFS considers harbor seals to have a hearing threshold of 70–85 dB at 1 kHz (60 FR 53753, October 17, 1995), and recent measurements for a harbor seal indicate that, below 1 kHz, its thresholds deteriorate gradually to 97 dB (re 1 μPa @ 1 m) at 100 Hz (Kastak and Schusterman, 1995a, b).

Because no studies to date have focused on pinniped reaction to underwater noise from pulsed, seismic arrays in open water (Richardson *et al.* 1991, 1995), as opposed to in-air exposure to continuous noise, substantive conclusions are not possible at this time. However, assuming a sound pressure level needed to be 80–100 dB over its threshold in order to cause annoyance and 130 dB for injury (pain), as is the current thought based upon human studies (ARPA and NMFS 1995), then it appears unlikely that pinnipeds would be harassed or injured by low frequency sounds from a seismic source unless they were within close proximity of the array. For permanent injury, marine mammals would need to remain in the high noise field for extended periods of time. Existing evidence also suggests that, while they may be capable of hearing sounds from seismic arrays, seals appear to tolerate intense pulsatile sounds, without known effect, once they learn that there is no danger associated with the noise (see, for example, NMFS/WDFW 1995). In addition, they will apparently not abandon feeding or breeding areas due to exposure to these noise sources (Richardson *et al.* 1991) and may habituate to certain noises over time. Since seismic work is fairly common in Western Beaufort Sea waters, pinnipeds have previously been exposed to seismic noise, and may not react to it, after initial exposure.

Numbers of Marine Mammals Expected To Be Taken

Based upon calculations provided in their application, BPXA estimates that the following numbers of marine mammals may be subject to Level B harassment, as defined in 50 CFR 216.3:

Species	Population size	Harassment takes in 1997	
		Possible	Probable
Bowhead	8,000	400	200
Gray whale	23,000	<10	0
Belukha	41,610	250	150
Ringed seal	1–1.5 million	400	<400
Spotted seal	>200,000	10	5
Bearded seal	>300,000	50	30

Effects of Seismic Noise and Other Activities on Subsistence Needs

The disturbance and potential displacement of marine mammals by sounds from seismic activities is the principle concern related to subsistence use of the area. The harvest of marine mammals (mainly bowhead whales, ringed seals, and bearded seals) is central to the culture and subsistence economies of the coastal North Slope communities (BPXA 1997). In particular, if migrating bowhead whales are displaced farther offshore by elevated noise levels, this could make harvest of these whales more difficult and dangerous for hunters. The harvest could also be affected if bowheads are more skittish when exposed to seismic noise (BPXA 1997).

Nuiqsut is the community closest to the area of the proposed activity, and only harvests bowhead whales during the fall whaling season. Nuiqsut whalers typically take zero to three whales each season (four in 1995; two in 1996), with a trend toward larger harvests in the most recent years (BPXA 1997). Nuiqsut whalers concentrate their efforts on areas north and east of Cross Island, generally in water depths greater than 65 ft (20 m). Cross Island is the principle field camp location for Nuiqsut whalers and is located within the general area of the proposed seismic area. Thus, the possibility and timing of potential seismic operations in the Cross Island area requires BPXA to provide NMFS with a Plan of Cooperation with North Slope residents (also called the Communications and Avoidance Agreement) to avoid any unmitigable adverse impact on subsistence needs.

Whalers from the village of Kaktovik search for whales east, north and west of the village. Kaktovik is located 45 mi (72 km) east of the easternmost end of the planned seismic exploration area. The westernmost reported harvest location was about 13 mi (21 km) west of Kaktovik, near 70°10′ N, 144°W. That site is about 32 mi (51 km) east of the closest part of the primary seismic exploration area (BPXA 1997). However, it should be noted that the eastern portion of the geographic area noted by BPXA for the authorization extends considerably closer to this harvest area.

Whalers from the village of Barrow search for bowhead whales much further from the planned seismic area, >125 mi (>200 km) west (BPXA 1997).

The location of the proposed seismic activity is south of the main westward migration route of bowhead whales. BPXA (1997) believes that although

whales may be able to hear the sounds emitted by the seismic array out to a distance of 30 mi (50 km) or more, it is unlikely that changes in migration route will occur at distances of >15 miles (>25 km).

It is recognized that it is difficult to determine the maximum distance at which reactions occur (Moore and Clark 1992), although whalers believe that some migrating bowheads are deflected by seismic operations at distances greater than those documented by scientific studies done to date. As a result, BPXA is developing a Communications and Avoidance Agreement with the whalers (see BPXA 1997) to reduce any potential interference with the hunt. Also, it is believed that the monitoring plan proposed by BPXA (LGL and Greeneridge 1997) will provide information that will help resolve uncertainties about the effects of seismic exploration on the accessibility of bowheads to hunters.

In addition, while seismic exploration in the Northstar Unit has some potential to influence subsistence seal hunting activities, the peak season for seal hunting is during the winter months when the harvest consists almost exclusively of ringed seals (BPXA 1997). In summer, boat crews hunt ringed, spotted and bearded seals (BPXA 1997). The most important sealing area for Nuiqsut hunters is off the Colville delta, extending as far west as Fish Creek and as far east as Pingok Island (BPXA 1997). This area overlaps with the westernmost portion of the planned seismic area. In this area, during summer, sealing occurs by boat when hunters apparently concentrate on bearded seals (BPXA 1997).

Mitigation

BPXA proposes to continue the mitigation program carried out in 1996. BPXA plans to use biological observers to monitor marine mammal presence in the vicinity of the seismic array. To avoid the potential for serious injury to marine mammals, BPXA will power down the seismic source if pinnipeds are sighted:

(a) within 260 m (853 ft) of an array of >720 in^3 and ≤1,320 in^3 at ≥2.5 m (8.3 ft) depth;

(b) within 130 m (426 ft) of that array operating at >2.5 m (8.3 ft) depth;

(c) within 130 m (426 ft) of an array of >120 in^3 and ≤720 in^3 operating at ≥2.5 m (8.3 ft) depth;

(d) within 60 m (197 ft) of that array operating at <2.5 m (8.3 ft) depth; and

(e) within 60 m (197 ft) of a single airgun or an array of ≤120 in^3.

BPXA will power down the seismic source if bowhead, gray, or belukha whales are sighted:

(a) within either 1020 m (3346 ft) of an array >720 in^3 and ≤1,320 in^3 operating at ≥2.5m (8.3 ft) depth; or

(b) within 640 m (2100 ft) of that array operating at <2.5 m (8.3 ft) depth or of any smaller airgun source operating at any depth (BPXA 1997).

In addition, BPXA proposes to ramp-up the seismic source to operating levels at a rate no greater than 6 dB/min. If the array includes airguns of different sizes, the smallest gun will be fired first. Additional guns will be added at intervals appropriate to limit the rate of increase in source level to a maximum of 6 dB/min.

Monitoring

As part of their application BPXA has provided a monitoring plan for assessing impacts to marine mammals from seismic surveys in the Beaufort Sea (LGL and Greeneridge 1997). As required by the MMPA, this monitoring plan will be subject to a peer-review panel of technical experts prior to formal acceptance by NMFS.

Preliminarily, BPXA plans to conduct the following.

Vessel-based Visual Monitoring

A minimum of two biologist-observers aboard each seismic vessel will search for and observe marine mammals whenever seismic operations are in progress, and for at least 30 minutes prior to planned start of shooting. These observers will scan the area immediately around the vessels with reticulated binoculars during the daytime and with night-vision equipment during the night (prior to mid-August, there are no hours of darkness). Individual watches will normally be limited to no more than 4 consecutive hours. When mammals are detected within a safety zone designated to prevent injury to the animals (see above), the geophysical crew leader will be notified so that shutdown procedures can be implemented immediately.

Aerial Surveys

From September 1, 1997, until the seismic program ends, aerial surveys will be conducted daily, weather permitting. The primary objective will be to document the occurrence, distribution, and movements of bowhead and belukha whales in and near the area where they might be affected by the seismic pulses. These observations will be used to estimate the level of harassment takes and for assessing the possibility that seismic operations affect the accessibility of bowhead whales for subsistence hunting. Pinnipeds will be recorded when seen. Aerial surveys will be at an altitude of 1,000 ft (300 m) above sea level. BPXA proposes to avoid overflights of the Cross Island area where whalers from Nuiqsut are based during their fall whale hunt.

The daily aerial surveys are proposed to cover two grids: A grid of 12 north-south lines spaced 5 mi (8 km) apart and extending from about 12.5 mi (20 km) west of the western side of the then-current seismic exploration area to 30 mi (50 km) east of its eastern edge, and from the barrier islands north to approximately the 100 m (328 ft) depth contour;

A grid of 4 survey lines within the above region, also spaced 5 mi (8 km) apart and mid-way between the longer lines, to provide more intensive coverage of the area of the seismic operations and immediate surrounding waters.

Acoustical Measurements

The acoustic measurement program proposed for 1997 is designed to be a sequel to the program conducted at Northstar in 1996 (see BPXA 1996a and 1997, LGL and Greeneridge 1996b and 1997 for a description of the work proposed). The acoustic measurement program is planned to include (1) retrieval of bottom recorders deployed in 1996 and analysis of usable data contained in those recorders, (2) boat-based acoustic measurements, and (3) OBC-based acoustic measurements. Two differences between the 1996 and 1997 programs are that BPXA does not plan to deploy sonobuoys during the 1997 aerial surveys, and will not redeploy the bottom-mounted recorders (5 of the 10 units remain non-functional on the sea bottom).

The boat-based acoustical measurement program is proposed for a 7-day period in mid-to late-August 1996. The objectives of this survey will be as follows: (a) To measure the levels and other characteristics of the horizontally-propagating seismic survey sounds from the type(s) of airgun array(s) to be used in 1977 as a function of distance and aspect relative to the seismic source vessel(s) and relative to water depth.

(b) To measure the levels and frequency composition of the vessel sounds emitted by vessels used regularly during the 1977 program, excluding vessels whose sounds were characterized adequately in 1996.

(c) To obtain additional site-specific ambient noise data, which determine signal-to-noise ratios for seismic and

other acoustic signals at various ranges from their sources.

New to the acoustic measurement program for 1997 is a plan to test the feasibility to use the hydrophones in the OBC to measure received levels and characteristics of airgun pulses over a large area (about 3.3X5.9 km) simultaneously. If practical, this would provide more comprehensive data while at the same time reducing the need for labor-intensive boat-based acoustic measurements.

Estimates of Marine Mammal Take

Estimates of takes by harassment will be made through vessel and aerial surveys. Preliminarily, BPXA will estimate the number of: (a) marine mammals observed within the area ensonified strongly by the seismic vessel; (b) marine mammals observed showing apparent reactions to seismic pulses (e.g., heading away from the seismic vessel in an atypical direction); (c) marine mammals subject to take by type (a) or (b) above when no monitoring observations were possible; and (d) bowheads displaced seaward from the main migration corridor.

Reporting

BPXA will provide an initial report on 1997 activities to NMFS within 90 days of the completion of the seismic program. This report will provide dates and locations of seismic operations, details of marine mammal sightings, estimates of the amount and nature of all takes by harassment, and any apparent effects on accessibility of marine mammals to subsistence users.

A final technical report will be provided by BPXA within 20 working days of receipt of the document from the contractor, but no later than April 30, 1998. The final technical report will contain a description of the methods, results, and interpretation of all monitoring tasks.

Consultation

Under section 7 of the Endangered Species Act, NMFS completed an informal consultation on the issuance of an incidental harassment authorization for this activity on July 15, 1996. A copy of that document is available upon request (see **ADDRESSES**).

National Environmental Policy Act (NEPA)

In conjunction with the 1996 notice of proposed authorization (61 FR 26501, May 28, 1996), NMFS released an EA that addressed the impacts on the human environment from issuance of the authorization and the alternatives to the proposed action. No comments were received on that document and, on July 18, 1996, NMFS concluded that neither implementation of the proposed authorization to BPXA for the harassment of small numbers of several species of marine mammals incidental to conducting seismic surveys during the open water season in the Northstar Unit and nearby waters in the U.S. Beaufort Sea, nor the alternatives to that action, would significantly affect the quality of the human environment. As a result, the preparation of an environmental impact statement on this action is not required by section 102(2) of NEPA or its implementing regulations. A copy of the EA is available upon request (see **ADDRESSES**).

Conclusions

NMFS has preliminarily determined that the short-term impact of conducting seismic surveys in the Northstar Unit of the Beaufort Sea will result, at worst, in a temporary modification in behavior by certain species of cetaceans. While behavioral modifications may be made by these species of cetaceans to avoid the resultant noise, this behavioral change is expected to have a negligible impact on the animals.

As the number of potential incidental harassment takes will depend on the distribution and abundance of marine mammals (which vary annually due to variable ice conditions and other factors) in the area of seismic operations, due to the distribution and abundance of marine mammals during the projected period of activity and the location of the proposed seismic activity in waters generally too shallow and distant from the edge of the pack ice for most marine mammals of concern, the number of potential harassment takings is estimated to be small. In addition, no take by injury and/or death is anticipated and the potential for temporary or permanent hearing impairment will be avoided through incorporation of the mitigation measures mentioned above. No rookeries, mating grounds, areas of concentrated feeding, or other areas of special significance for marine mammals occur within or near the planned area of operations during the season of operations.

Because bowhead whales are east of the seismic area in the Canadian Beaufort Sea until late August/early September, seismic activities are not expected to impact subsistence hunting of bowhead whales prior to that date. After August 31, 1997, BPXA will initiate aerial survey flights for bowhead whale assessments. Appropriate mitigation measures to avoid an unmitigable adverse impact on the availability of bowhead whales for subsistence needs will be the subject of consultation between BPXA and subsistence users.

Also, while summer seismic exploration in the Northstar Unit has some potential to influence seal hunting activities by residents of Nuiqsut, because (1) the peak sealing season is during the winter months, (2) the main summer sealing is off the Colville delta (west and inshore of Northstar), and (3) the zone of influence by seismic sources on belukha and seals is fairly small, NMFS believes the Northstar seismic survey will not have an unmitigable adverse impact on the availability of these stocks for subsistence uses.

Proposed Authorization

NMFS proposes to issue an incidental harassment authorization for the 1997 Beaufort Sea open water season for a seismic survey in and near the Northstar Unit provided the above mentioned mitigation, monitoring and reporting requirements are incorporated. NMFS has preliminarily determined that the proposed seismic activity would result in the harassment of only small numbers of bowhead whales, gray whales, and possibly belukha whales, bearded seals, and largha seals; will have a negligible impact on these marine mammal stocks; and will not have an unmitigable adverse impact on the availability of these stocks for subsistence uses.

Information Solicited

NMFS requests interested persons to submit comments, information, and suggestions concerning this request (see **ADDRESSES**).

Dated: April 16, 1997.

Hilda Diaz-Soltero,

Acting Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 97–10254 Filed 4–21–97; 8:45 am]

BILLING CODE 3510–22–P

COMMODITY FUTURES TRADING COMMISSION

Financial Products Advisory Committee; Sixth Renewal

The Commodity Futures Trading Commission has determined to renew for a period of two years its advisory committee designated as the ''Commodity Futures Trading Commission Financial Products Advisory Committee.'' As required by Section 14(a)(2)(A) of the Federal Advisory Committee Act, 5 U.S.C. App. 2, section 14(a)(2)(A), and 41 CFR 101–6.1007 and 101–6.1029, the Commission

has consulted with the Committee Management Secretariat of the General Services Administration, and the Commission certifies that the renewal of the advisory committee is in the public interest in connection with duties imposed on the Commission by the Commodity Exchange Act, 7 U.S.C. 1 *et seq.*, as amended.

The objectives and scope of activities of the Financial Products Advisory Committee are to conduct public meetings and submit reports and recommendations on issues concerning individuals and industries interested in or affected by financial markets regulated by the Commission.

Commissioner David D. Spears serves as Chairman and Designated Federal Official of the Financial Products Advisory Committee. The committee's membership will represent a cross-section of interested and affected persons and groups including representatives of newer institutional market participants, such as broker-dealers, pension sponsors, and investment companies; traditional market participants, such as futures commission merchants, commodity pool operators, and commodity trading advisors; Federal financial markets oversight agencies; futures exchanges; the academic, legal, and accounting communities; and other appropriate public participants.

Interested persons may obtain information or make comments by writing to the Commodity Futures Trading Commission, Three Lafayette Centre, 1155–21st Street, NW., Washington, DC 20581.

Issued in Washington, DC on April 15, 1997, by the Commission.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 97–10283 Filed 4–21–97; 8:45 am]

BILLING CODE 6351–01–M

DEPARTMENT OF DEFENSE

Department of the Army

Availability of Non-Exclusive, Exclusive, or Partially Exclusive Licensing of a U.S. Patent Concerning a Protective Mask for Airborne Toxic Substances

AGENCY: U.S. Army Chemical and Biological Defense Command, DOD.

ACTION: Notice.

SUMMARY: In accordance with 37 CFR 404.6, announcement is made of the availability for licensing of U.S. Patent 4,595,0003, entitled: ''Protective Mask for Airborne Toxic Substances'', issued June 17, 1986. this patent is assigned to the United States Government as represented by the Secretary of the Army.

FOR FURTHER INFORMATION CONTACT: Mr. John Biffoni, Patent Attorney, U.S. Army CBDCOM, AMSCB–GC, MD 21010–5423, Phone: (410) 671–1158.

SUPPLEMENTARY INFORMATION: The present invention relates to breathing devices and, more particularly, to breathing devices including protective masks for use in the presence of toxic or unpleasant airborne substances.

Written objections must be filed on or before May 22, 1997.

Gregory D. Showalter,

Army Federal Register Liaison Officer.

[FR Doc. 97–10310 Filed 4–21–97; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF DEFENSE

Department of the Army

Corps of Engineers

Intent To Prepare an Environmental Impact Statement (EIS) for the Shore Protection Study for the City of Imperial Beach, San Diego County, California

AGENCY: U.S. Army Corps of Engineers, DoD.

ACTION: Notice of intent.

SUMMARY: The Los Angeles District intends to prepare an EIS to support the proposed shore protection study within the 7.5 kilometer (4.7 mile) stretch of the Imperial Beach shoreline that corresponds to the city boundary of Imperial Beach. The purpose of the proposal is to identify measures that will reduce storm damage incurred upon the City of Imperial Beach. Alternative measures include restoration of the protective beach by provision of beach fill and, or, a nearshore sand berm, as well as a no action alternative. The EIS will analyze potential impacts on the environment of a range of alternatives, including the recommended plan.

FOR FURTHER INFORMATION CONTACT: For further information contact Ms. Stephanie Hall, Project Environmental Coordinator, (213) 452–3862, or Ms. Anna Zacher, Study Manager, (213) 452–3824.

SUPPLEMENTARY INFORMATION: The Army Corps of Engineers intends to prepare an EIS to assess the environmental effects associated with the proposed shore protection measures at Imperial Beach. The public will have the opportunity to comment on this analysis before any action is taken to implement the proposed action.

Scoping

a. The Army Corps of Engineers will conduct a scoping meeting prior to preparing the Environmental Impact Statement to aid in determination of significant environmental issues associated with the proposed action. The public, as well as Federal, State, and local agencies are encouraged to participate in the scoping process by submitting data, information, and comments identifying relevant environmental and socioeconomic issues to be addressed in the environmental analysis. Useful information includes other environmental studies, published and unpublished data, alternatives that could be addressed in the analysis, and potential mitigation measures associated with the proposed action.

b. A public scoping meeting will be held in the City of Imperial Beach on May 1, 1997, concurrent with a public workshop. The location and time of the public scoping will be announced in the local news media. A separate notice of this meeting will be sent to all parties on the study mailing list.

c. Individuals and agencies may offer information or data relevant to the environmental or socioeconomic impacts by attending the public scoping meeting. Comments, suggestions, and requests to be placed on the mailing list for announcements should be sent to Stephanie J. Hall, U.S. Army Corps of Engineers, Los Angeles District, P.O. Box 532711, Los Angeles, CA 90053–2325, ATTN: CESPL–PD–RQ.

Availability of the Draft EIS

The Draft EIS is scheduled to be published and circulated in December, 1998, and a public hearing to receive comments on the Draft EIS will be held after it is published.

Gregory D. Showalter,

Army Federal Register Liaison Officer.

[FR Doc. 97–10308 Filed 4–21–97; 8:45 am]

BILLING CODE 3710–KF–M

DEPARTMENT OF DEFENSE

Department of the Army

Corps of Engineers

Intent To Prepare a Draft Environmental Impact Statement (DEIS) for a Proposed Storm Damage Reduction and Beach Erosion Control Project Between Barnegat Inlet and Little Egg Inlet, Ocean County, New Jersey

AGENCY: U.S. Army Corps of Engineers, DoD.

ACTION: Notice of intent.

SUMMARY: The action being taken is an evaluation of the alternatives for storm damage reduction and the control of further erosion on the barrier island known as Long Beach Island located between Barnegat Inlet and Little Egg Inlet, New Jersey. The purpose of any consequent work would be to provide shore property protection and to stabilize the shoreline at a predetermined width.

FOR FURTHER INFORMATION CONTACT: Questions regarding the DEIS should be addressed to Mr. Nathan Dayan, (215) 656–6562, U.S. Army Corps of Engineers, CENAP–PL–E, Wanamaker Building, 100 Penn Square East, Philadelphia, PA 19107–3390 or by E-mail Nathan=S=Dayan%pl-e%nap@vines.nap.usace.army.mil.

SUPPLEMENTARY INFORMATION:

1. Proposed Action

a. The proposed document evaluates a study area approximately 18.3 miles in length and includes the land between Barnegat Inlet and Little Egg Inlet (Long Beach Island). This area is subject to storm wave action which creates severe beach erosion problems. Four potential offshore sand borrow sources situated approximately between 1.0 and 4.0 miles east of Long Beach Island will be investigated in this study.

b. The authority for the proposed project is a resolution adopted by the U.S. Senate Committee on Environment and Public Works dated December 1987.

2. Alternatives

In addition to the no action alternative, the alternatives considered for storm damage reduction and erosion control will fall into structural and non-structural categories. The structural measures to correct the beach erosion include bulkheads, seawalls, revetments, offshore, breakwaters, groins, beach restoration/nourishment, and beach sills. Non-structural measures are flood insurance, development regulations, and land acquisition.

3. Scoping

a. Numerous studies and reports addressing beach erosion along the New Jersey Coast were conducted by the Corps of Engineers. The most recent study assessing Long Beach Island is a Reconnaissance Report: New Jersey Shore Protection Study, Barnegat Inlet to Little Egg Inlet (March 1995), which has identified a number of problem areas where erosion was negatively impacting the adjacent shorelines. This study identified Long Beach Island as an area to be recommended for further study in the feasibility phase.

b. The scoping process is on-going and has involved the preliminary coordination with Federal, state, and local agencies. Participation of the general public and other interested parties and organizations will be by means of a public notice. Based on the input of these agencies and interested public, a decision to have a formal scoping meeting will be made.

c. The significant issues and concerns that have been identified include the impacts of the project on aquatic biota, water quality, intertidal habitat, shallow water habitat, cultural resources, and socio-economics.

4. Availability

It is estimated the DEIS will be made availability to the public in November 1988.

Gregory D. Showalter,

Army Federal Register Liaison Officer.

[FR Doc. 97–10309 Filed 4–21–97; 8:45 am]

BILLING CODE 3710–GR–M

DEPARTMENT OF DEFENSE

Department of the Navy

Record of Decision To Implement the Sewage Effluent Compliance Project for the Las Pulgas and San Mateo Basins of Marine Corps Base, Camp Pendleton, CA

Pursuant to Section 102(c) of the National Environmental Policy Act (NEPA) of 1969, and the Council on Environmental Quality Regulations (40 CFR parts 1500–1508), the Department of the Navy announces its decision to upgrade the wastewater treatment and disposal systems in the Las Pulgas and San Mateo Basins of Marine Corps Base (MCB), Camp Pendleton, California. Upgrades in the Las Pulgas Basin involve the construction of advanced wastewater treatment (AWT) facilities, a pipeline of approximately 19,000 lineal feet, and a field of injection wells downstream near the coastline. The AWT facilities would provide limited tertiary treatment of the sewage effluent, which would reduce the turbidity and pathogens to decrease the likelihood of clogging during effluent disposal into the injection wells. Upgrades in the San Mateo Basin involve construction of equalization ponds, a pipeline of approximately 12,500 lineal feet, and percolation basins approximately 35 acres in total size located downstream of existing potable water wells. Additionally, a pipeline connector of approximately 5,100 feet will be constructed to convey to the San Mateo Basin excess sewage effluent from the pipeline serving sewage treatment plants in the San Onofre Basin.

The existing sewage treatment plants were constructed in the 1940s and discharge secondary-treated effluent to percolation basins upstream of potable water wells that serve developments within the Las Pulgas and San Mateo Basins. These conditions, including plant design, violate the San Diego Water Quality Basin Plan, the State of California Porter Cologne Water Quality Act of 1969, and the National Pollution Discharge Elimination System requirements of the Federal Water Pollution Control Act of 1972. As a result of these conditions, the San Diego Regional Water Quality Control Board issued Cease and Desist Orders to MCB Camp Pendleton in January 1989. To meet these Cease and Desist Orders, new facilities are required to improve wastewater treatment and disposal and meet the Basin Plan.

Alternatives considered for correcting the conditions cited in the Cease and Desist Orders included no action, water disposal of effluent, and land disposal of effluent. Water disposal alternatives included construction of an ocean outfall, live-stream discharge of either secondary- or tertiary-treated effluent, discharge to an off-base publicly owned treatment works, and a basin plan amendment. Land disposal alternatives included percolation basins, biological ponds, leach fields, and injection wells. The Draft Environmental Impact Statement (DEIS) identified the following preferred alternatives for the Las Pulgas and San Mateo Basins, respectively: construction of eight new injection wells located west of Interstate 5 for discharge of effluent from sewage treatment plant 9, which will be upgraded with new AWT facilities to provide additional filtration required to improve water quality and prevent clogging of the wells; and discharge of secondary-treated effluent from sewage treatment plant 12 to new percolation basins located downstream from existing potable water wells. These alternatives were identified in the Final

Environmental Impact Statement (FEIS) as the environmentally preferred alternatives for each respective basin.

A systematic and multidisciplinary approach to identify alternatives was utilized which incorporated criteria based upon technical and functional suitability. Alternatives were evaluated for technical suitability through compatibility with constraints imposed by available land for treatment and disposal facilities, subsurface geological and hydrological conditions, and soil permeability. Technically suitable alternatives were further evaluated for their ability to satisfy the following six functional requirements of the projects: (1) Prevention of degradation of water quality to sustain beneficial uses identified in the San Diego Basin Plan, (2) sustained volume within each water basin, (3) prevention of saltwater intrusion into each water basin, (4) compliance with water quality standards in accordance with Federal and State safe drinking water standards, (5) compliance with water quality standards in accordance with State Groundwater Recharge Guidelines, and (6) compliance with the timelines identified in the Cease and Desist Orders. The analysis determined that the preferred alternative in each basin is the only alternative that meets all criteria. In each basin, the preferred alternative is environmentally preferable to the other alternatives considered because it sustains long-term water quality and meets the San Diego Basin Plan objectives. All practicable means to avoid or minimize environmental harm have been adopted as identified below and amplified in the Environmental Impact Statement.

For the Las Pulgas facility, construction of the new AWT facilities, equalization pond, pipeline and injection wells will require grading, excavation and soil-boring. For the San Mateo facility, percolation basin construction will involve grading and excavation. A soil erosion control plan will be prepared for construction, and will include restricting grading and excavation during the rainy season, restricting heavy equipment to existing rights-of-way, installing sediment control measures, and providing post-construction revegetation.

To reduce potential significant impacts on paleontological resources to an acceptable level, the Marine Corps will develop an environmental education program, develop an information pamphlet and conduct an environmental education class for all construction project personnel. Additionally, environmental monitors shall be present when construction activities occur in designated sensitive areas. Environmental monitors shall ensure that paleontological resources are recovered according to approved procedures. If paleontological resources are identified and salvage efforts are required, curation of the materials will be accomplished by the Marine Corps.

The California gnatcatcher (*Polioptilla california*), a federally listed threatened species, is present near the percolation basin and pipeline sites. The project will result in a temporary impact to 1.35 acres of coastal sage, of which only 0.4 acres are occupied gnatcatcher habitat. In accordance with USFWS Riparian Biological Opinion (BO) of 1995, to mitigate these impacts, the Marine Corps will, to the maximum extent possible, conduct construction operations in coastal sage habitat outside of the gnatcatcher breeding season. Construction that will occur within 500 feet of coastal sage during the breeding season will be surveyed prior to construction to determine the presence of active gnatcatcher nests, and all work within 500 feet of a nest will be completed outside the breeding season. All pipelines will follow existing roads to the maximum extent practical. Temporary impacts to coastal sage will be mitigated through replanting, restoration and subsequent monitoring of the restoration area for a minimum period of 3 years to ensure restoration success and to control invasive exotic vegetation. Permanent impacts to coastal sage not occupied by gnatcatcher shall be mitigated at a ratio of 1:1, and will be accomplished through habitat enhancement and conservation in the more contiguous area of coastal sage on the Base. The U.S. Fish and Wildlife Service (USFWS) concurs with this mitigation scheme.

The southwestern willow flycatcher (*Empidonax trailii*), a federally listed threatened species, is known to occur in the riparian areas of the Las Flores Creek drainage. The project will result in a permanent loss of 2.28 acres and temporary loss of .07 acres of southern willow scrub which is potential habitat for the willow flycatcher. The USFWS Riparian Biological Opinion (BO) of 1995 indicated the impacts would be significant and require mitigation. As mandated in this BO, permanent impacts to riparian wetland habitat shall be mitigated at a ratio of 1.5:1 by enhancing degraded habitat elsewhere on- or off-base. Mitigation will be achieved through implementation of invasive exotic plant species control, site monitoring, and follow-up retreatment for a period of 5 years. Temporary impacts to riparian wetland habitat will be mitigated by restoring wetlands to original or better condition and by monitoring the restoration for a minimum of 3 years to control invasive exotic plant species and to ensure restoration effectiveness.

In accordance with the 1995 USFWS Riparian BO, temporary impacts to estuarine wetland habitats will be restored to original or better condition following construction, and will be monitored for a minimum of 3 years to control invasion of invasive exotic plant species to ensure effectiveness of restoration.

To ensure avoidance of temporary impacts to the southwestern arroyo toad (*Bufo mocroscaphus*), construction will be scheduled during the period between September 15 and January 15, when toads are hibernating and activity is minimized. For construction that cannot be accomplished between September 15 and January 15, toad-proof fencing will be installed daily at all open trenches and soils stock piles. Additionally, on a daily basis, a biological monitor shall verify the absence of toads in construction areas prior to the commencement of construction. These mitigation measures comply with the 1995 USFWS Riparian BO.

In compliance with the 1995 USFWS Riparian BO, the Marine Corps will conduct monthly surface water quality monitoring for up to 2 years to establish baseline data for areas downstream of the percolation basins. Monitoring data will be collected in accordance with the provisions of the Clean Water Act Section 404 and 401 permit. Should changes in water quality be detected, the Marine Corps will consult with the San Diego Regional Water Quality Control Board (SDRWQCB) and the USFWS to develop and implement appropriate mitigation measures. Additionally, the Marine Corps will annually monitor ground water quality and levels for 10 years, as stated in the 1995 USFWS Riparian BO. Should changes in ground water quality or level be detected, the Marine Corps will consult with the SDRWQCB and the USFWS to develop and implement appropriate mitigation measures.

The proposed action will affect two archeological sites determined to be eligible for listing on the National Register of Historic Places. Where feasible, adverse direct and indirect impacts on archeological resources will be avoided through redesign or relocation of facilities to avoid areas of high cultural resource sensitivity. In areas where avoidance is not feasible, the Marine Corps will prepare a data recovery plan and consult with the California State Historic Preservation Officer (SHPO) for concurrence prior to

implementation; provide for monitoring of construction and excavation operations by a qualified archaeologist and a Native American observer; and should archaeological resources be encountered during construction, halt all work until a qualified archaeologist is consulted to determine if the resources are significant and whether excavation or protection of resources is required. The California SHPO concurs with this approach.

Analysis of air emissions that would occur during construction and operation of the percolation ponds determined that these emissions will be below *de minimis* levels and that the project conforms with the State Implementation Plan for air quality.

A Coastal Consistency Negative Determination was prepared for this project and it concluded that the proposed action is being carried out in a manner consistent, to the maximum extent practicable, with the enforceable policies of the California Coastal Management Plan. The California Coastal Commission concurs with this determination.

Preparation of the Environmental Impact Statement began with a public scoping process to identify issues that should be addressed in the document. Involvement in scoping was offered through a combination of documented public announcements and meetings with State of California agencies. Public announcements were handled through scoping letters sent to Federal, State, and local governmental agencies, citizen groups and associations, and the general public. Also, a Notice of Intent to prepare an Environmental Impact Statement was published in local newspapers and the **Federal Register**. A public scoping meeting was held on December 17, 1992 in Oceanside, California.

The Notice of Availability of the DEIS appeared in the **Federal Register** on September 6, 1996. The DEIS was distributed to agencies and officials of Federal, State and local governmental agencies, citizens groups and associations, public libraries and other interested parties. The public review period for the DEIS was from September 6, 1996 through October 22, 1996. Comments received on the DEIS focused on alternatives analysis, endangered species and wetlands issues. The FEIS addressed these comments and was distributed to officials of Federal, State and local governmental agencies, citizens groups and associations, public libraries and to other interested parties on February 7, 1997. No comments were received on the FEIS.

The Department of the Navy believes that there are no outstanding issues to be resolved with respect to this project. Questions regarding the Environmental Impact Statement prepared for this action may be directed to Mr. Lupe E. Armas, Assistant Chief of Staff, Environmental Security, Marine Corps Base, Camp Pendleton, CA 92055–5008, telephone (619) 725–4512.

Dated: April 17, 1997.

Duncan Holaday,

Deputy Assistant Secretary of the Navy, (Installations and Facilities).

[FR Doc. 97–10385 Filed 4–21–97; 8:45 am]

BILLING CODE 3810–01–P

DEPARTMENT OF ENERGY

Rocky Flats Field Office; Notice of Intent To Solicit Applications Competitiveness for Financial Assistance

AGENCY: Rocky Flats Field Office (DOE).

ACTION: Notice of intent to solicit competitive applications/proposals for financial assistance.

SUMMARY: The Rocky Flats Field Office (RFFO) of the Department of Energy is entrusted to contribute to the welfare of the nation by providing the scientific foundation, technology, policy and institutional leadership necessary to achieve efficiency in energy use, diversity in energy sources, a more productive and competitive economy, improved environmental quality, and a secure National defense. RFFO intends to fund a series of grants in special emphasis programs to encourage programs to train Native American, African American, Hispanic American, Asian-Pacific American, Women and Disabled students to pursue training in the fields of sciences and engineering; and to fund local community projects contributing to diversity-related programs.

DATES: Applications may be submitted at any time within 30 days from the date of this announcement. Applications received within 30 days from the date of this announcement, will be considered; applications received after that date may or may not be considered depending on the status of proposal review and selection.

ADDRESSES: Department of Energy, Rocky Flats Field Office, Contracts and Assets Division, P.O. Box 928, B460, Golden, Colorado 80402–0928.

FOR FURTHER INFORMATION CONTACT: Shirley Johnson, Department of Energy Rocky Flats Field Office, P.O. Box 928, B460, Golden, Colorado 80402–0928, (303) 966–9734 for application forms and additional information. Completed applications or proposal must be sent to the addresses heading.

SUPPLEMENTARY INFORMATION: There has been no previous DOE RFFO solicitation/award made under this program. DOE is under no obligation to pay for any costs associated with the preparation or submission of applications/proposals. DOE reserves the right to fund, in whole or in part, any, all, or none of the applications/proposals submitted in response to this notice.

Availability of Fiscal Year 1997 Funds

With this publication; DOE RFFO is announcing the availability of up to $500,000 in grant funds for fiscal year 1997. RFFO anticipates that six or less grants will be made for a total not to exceed $500,000. The awards will be made through a competitive process. Projects may cover a period of up to 3 yeas.

Restricted Eligibility

Eligible applicants for the purposes of funding under this notice include organizations residing in Colorado proposing to implement minority science and engineering projects in Colorado as described in the summary section of this announcement. Applicants are encouraged to propose project cost-sharing or sharing of inkind services or resources. The awards will be made through a competitive process to organizations and institutions located in the State of Colorado. The Catalog of Federal Domestic Assistance number assigned to this program is 81.502.

Evaluation Criteria

Applications will be reviewed by a panel composed of Department of Energy RFFO representatives. Successful proposal(s) will be selected on the opinion of panel members of proposals most able to meet the objectives listed in the summary section of this announcement and best able to meet the needs of this office.

DOE RFFO hereby reserves the right to fund, in part or whole, any, all, or none of the proposals submitted in response to this request. All applicants will be notified in writing of the action taken on their applications. Applicants should allow approximately 90 days for DOE evaluation. The status of any application during the evaluation and selection process will not be discussed with applicants. Unsuccessful applications will not be returned to the applicant.

Issued in Golden, Colorado, on April 10, 1997.

Hugh G. Miller,

Contracting Officer.

[FR Doc. 97–10336 Filed 4–21–97; 8:45 am]

BILLING CODE 6450–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. PR97–9–000]

AIM Pipeline Company; Notice of Petition for Rate Approval

April 16, 1997.

Take notice that on April 7, 1997, AIM Pipeline Company (AIM) filed, pursuant to Section 284.123(b)(2) of the Commission's regulations, a petition for rate approval requesting that the Commission approve as fair and equitable a rate of 27.31¢ per MMBtu for interruptible transportation services performed under Section 311(a)(2) of the Natural Gas Policy Act of 1978 (NGPA).

AIM's petition states that it is an intrastate pipeline within the meaning of Section 2(16) of the NGPA in the State of Mississippi. AIM owns pipeline facilities in the State of Mississippi, which are subject to this petition, which consist of approximately 560 miles of 4-inch through 20-inch transmission and lateral lines, 44 meters at 25 delivery points, and 5 compressor stations in the State of Mississippi. The Commission had previously approved maximum rates for AIM's interruptible transportation service of 25.70¢ per MMBtu delivered. This rate for interruptible transportation service was approved by the Commission in the March 27, 1995, letter order issued in Docket No. PR95–10–000.

Pursuant to § 284.123(b)(2)(ii), if the Commission does not act within 150 days of the filing date, the proposed rate for transportation service will be deemed fair and equitable. The Commission may, prior to the expiration of the 150-day period, extend the time for action or institute a proceeding to afford parties an opportunity for written comments and for the oral presentations of views, data, and arguments. Any person desiring to participate in this rate proceeding must file a motion to intervene in accordance with Sections 385.211 and 384.214 of the Commission's Rules or Practice and Procedures. All motions must be filed with the Secretary of the Commission or before May 1, 1997. The petition for rate approval is on file with the Commission and is available for public inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 97–10299 Filed 4–21–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP–97–156–000]

Hopkinton LNG Corporation; Notice of Site Inspection and Technical Conference, Hopkinton LNG Project

April 16, 1997.

On May 12, 1997, the Office of Pipeline Regulation environmental staff will meet at 1:00 pm with representatives of Hopkinton LNG Corporation at the Westborough, Massachusetts Marriott Hotel to conduct a cryogenic design and engineering review of the LNG facility. The Marriott Hotel is located at 5400 Computer Drive; Westborough, MA 01581. The discussion will initially be limited to the staff and members of the applicant's staff who have expertise in the given topics. Other attendees will be given the opportunity to ask questions on the above issues after the initial discussions have concluded.

On May 13, 1997, the staff will conduct an inspection of the Hopkinton LNG Facility and surrounding area, commencing at approximately 8:30 am. Those planning to attend must provide their own transportation.

For any further information on the site visit or the technical conference, call Paul McKee of the Commission's Office of External Affairs at (202) 208–1611.

Warren Edmunds,

Acting Director, Office of Pipeline Regulation.

[FR Doc. 97–10297 Filed 4–21–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP96–199–000]

Mississippi River Transmission Corporation; Notice of Informal Settlement Conference

April 16, 1997.

Take notice that an informal settlement conference will be convened in this proceeding on April 22, 1997, at 10:00 a.m., at the offices of the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, DC, for the purposes of exploring the possible settlement of the referenced docket.

Any party, as defined by 18 CFR 385.102(c) or any participant, as defined by 18 CFR 385.102(b) is invited to attend. Persons wishing to become a party must move to intervene and receive intervenor status pursuant to the Commission's regulations (18 CFR 385.214).

For additional information, contact Kathleen M. Dias at (202) 208–0524 or Russell B. Mamone at (202) 208–0744.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 97–10300 Filed 4–21–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–22–004]

Northern Border Pipeline Company; Notice of Tariff Filing

April 16, 1997.

Take notice that on April 1, 1997, Northern Border Pipeline Company (Northern Border) tendered for filing to become part of its FERC Gas Tariff, First Revised Volume No. 1, the following tariff sheets to be effective April 1, 1997:

Substitute Original Sheet Number 248E
Substitute Original Sheet Number 248G
Substitute First Revised Sheet Number 257
Substitute Original Sheet Number 300A
Original Sheet Number 300A.01

Northern Border states that the filing is in compliance with the Commission's order, issued March 26, 1997, in the above-referenced docket. Northern Border further states that the March 26, 1997 order required Northern Border to resubmit the above-referenced revised tariff sheets to include specific Gas Industry Standards Board (GISB) business standard language or to incorporate the entire GISB definition by reference.

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 Rule 211 of the Commission's Rules of Practice and Procedure, 18 CFR 385.211. All such protests should be filed on or before April 22, 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 and available for public inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 97–10301 Filed 4–21–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–275–001]

Northern Natural Gas Company; Notice of Compliance Filing

April 16, 1997.

Take notice that on April 14, 1997, Northern Natural Gas Company (Northern), tendered for filing to become part of Northern's FERC Gas Tariff the following tariff sheets proposed to become effective on May 1, 1997:

Fifth Revised Volume No. 1

Fourth Revised Sheet No. 54
Fourth Revised Sheet No. 61
Fourth Revised Sheet No. 62
Fourth Revised Sheet No. 63
Fourth Revised Sheet No. 64

Northern state that this filing is made in compliance with the Commission's Order issued April 3, 1997 in Docket No. RP97–275–000, to establish new fuel retention percentages based upon GISB Standard 1.3.16, which result in the same amounts of fuel being retained as under the currently effective methodology and percentages.

Northern states that copies of the filing were served upon Northern's customers and interested State Commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed on or before April 28, 1997. Protests will be considered by the Commission in determining the appropriate action to be taken in this proceeding, but will not serve to make protestant a party to the proceeding. Copies of this filing are on file with the Commission and are available for inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 97–10304 Filed 4–21–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No RP97–180–003]

Northwest Pipeline Corporation; Notice of Proposed Changes in FERC Gas Tariff

April 16, 1997.

Take notice that on April 11, 1997, Northwest Pipeline Corporation (Northwest) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, the following tariff sheets, to become effective June 1, 1997:

Sub Third Revised Sheet No. 212
Sub Original Sheet No. 225–A
Sub Second Revised Sheet No. 237–A
Sub Original Sheet No. 265–B
Sub Original Sheet No. 265–C
Sub Fourth Revised Sheet No. 280
Sub Second Revised Sheet No. 281

Northwest states that the purpose of this filing, which relates to common business practices, is to submit substitute tariff sheets which correct errors Northwest has identified on the tariff sheets filed on April 1, 1997 in this proceeding and to withdraw the corresponding incorrect sheets. Northwest states that this filing is also submitted to correct certain redline copies and to replace the Table of GISB Standards that was submitted as Appendix B in its April 1, 1997 filing.

Northwest states that a copy of this filing has been served upon all intervenors in Docket No. RP97–180.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed on or before May 2, 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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 97–10302 Filed 4–21–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. TM97–11–29–000]

Transcontinental Gas Pipe Line; Notice of Proposed Changes in FERC Gas Tariff

April 16, 1997.

Take notice that on April 9, 1997 Transcontinental Gas Pipe Line Corporation (Transco) tendered for filing certain revised tariff sheets to its FERC Gas Tariff, Third Revised Volume No. 1 which tariff sheets are enumerated in Appendix A attached to the filing. The tariff sheets are proposed to be effective April 1, 1997.

Transco states that the purpose of the instant filing is to track rate changes attributable to storage service purchased from CNG Transmission Corporation (CNG) under its Rate Schedule GSS the costs of which are included in the rates and charges payable under Transco's Rate Schedules GSS and LSS. This tracking filing is being made pursuant to Section 3 of Transco's Rate Schedule GSS and Section 4 of Transco's Rate Schedule LSS.

Transco states that Appendix B attached to the filing contains explanations of the rate changes and details regarding the computation of the revised Rate Schedule LSS and GSS rates.

Transco states that copies of the filing are being mailed to each of its LSS and GSS customers and interested State Commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, Washington, DC. 20426, in accordance with Section 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 97–10305 Filed 4–21–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP97–336–000]

Williams Natural Gas Company; Notice of Application

April 16, 1997.

Take notice that on April 11, 1997, Williams Natural Gas Company (WNG), P.O. Box 3288, Tulsa, Oklahoma 74101, filed in Docket No. CP97–336–000 an application pursuant to Section 7(b) of the Natural Gas Act for permission and approval to abandon by reclaim and in place a total of approximately 11.3 miles of 20-inch-diameter pipeline and approximately 0.76 mile of 16-inch-diameter pipeline located in Alfalfa and Woods Counties, Oklahoma, all as more fully set forth in the application on file with the Commission and open to public inspection.

Specifically, WNG proposes to abandon by reclaim approximately 10.4 miles of the Pampa 20-inch-diameter pipeline (Line T) and to abandon in place approximately 0.9 miles of Line T located in Alfalfa and Woods Counties, Oklahoma. WNG also proposes to abandon by reclaim approximately 0.76 mile of 16-inch-diameter pipeline (Line NX–316) located in Woods County, Oklahoma. WNG states that all deliveries made from the 20-inch-diameter pipeline have been transferred to an adjacent 4-inch-diameter pipeline, therefore there will be no abandonment of service. WNG estimates that the cost of the abandonment will be approximately $170,240 with an estimated salvage value of $165,000.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 7, 1997, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for WNG to appear or be represented at the hearing.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 97–10298 Filed 4–21–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–225–000]

Williams Natural Gas Company; Notice of Technical Conference

April 16, 1997.

Take notice that pursuant to the Commission's order issued on February 7, 1997, a technical conference was held on Tuesday March 11, 1997 to addressed the issues raised in the above-captioned proceeding. During the conference, the parties requested that time be provided to convene another technical conference in order for the parties to attempt to reach a joint settlement in this proceeding.

Take notice that the conference will be held on Wednesday, April 23, 1997, beginning at 10:00 a.m. in Room 3M–2B at the offices of the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426.

All interested persons and Staff are invited to attend.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 97–10303 Filed 4–21–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EC97–26–000, et al.]

CHI Power Marketing, Inc., et al., Electric Rate and Corporate Regulation Filings

April 16, 1997.

Take notice that the following filings have been made with the Commission:

1. CHI Power Marketing, Inc.

[Docket No. EC97–26–000]

Take notice that on April 7, 1997, CHI Power Marketing, Inc. (CHIPM) tendered for filing an application requesting that the Commission approve a ''disposition of facilities'' and/or grant any other authorization the Commission may deem to be needed under Section 203, of the Federal Power Act, as a result of the forthcoming merger between Morgan Stanley Group Inc., with which CHIPM may be affiliated, and Dean Witter, Discover & Co.

Comment date: April 25, 1997, in accordance with Standard Paragraph E at the end of this notice.

2. Citizens Utilities Company

[Docket No. ER97–2354–000]

Take notice that on March 28, 1997, Citizens Utilities Company (Citizens), tendered for filing, an Amendment to its Open Access Transmission Tariff applicable to its Vermont Electric Division.

Citizens states that this amendment is intended to (1) Provide for transmission service over Citizens' rights to the use of the Phase I/Phase II HVDC Facilities between Des Cantons, Quebec and Tewksbury, Massachusetts; (2) implement certain changes to ensure consistency with the pool-wide open access transmission tariff filed by the New England Power Pool on December 31, 1996; and (3) implement other changes to address concerns raised by intervenors in Citizens' ongoing open access proceeding in Docket No. OA96–184.

Citizens states that it served copies of this filing on all affected state commissions and customers, as well as on certain other interested parties.

Comment date: April 30, 1997, in accordance with Standard Paragraph E at the end of this notice.

3. St. Joseph Light & Power Co.

[Docket No. ER97–2356–000]

Take notice that on March 27, 1997, St. Joseph Light & Power Co. (St. Joseph), tendered for filing a proposed

change in its FERC Open Access Transmission Tariff. The change consists of a Revised Index of Point-To-Point Transmission Service Customers under St. Joseph's Open Access Transmission Tariff.

Copies of the filing were served on each person designated on the official service list compiled by the Secretary in FERC Docket No. OA96–3–000.

Comment date: April 30, 1997, in accordance with Standard Paragraph E at the end of this notice.

4. Deseret Generation & Transmission Cooperative

[Docket No. ER97–2357–000]

Take notice that on March 27, 1997, Deseret Generation & Transmission Cooperative (Deseret), tendered for filing a Notice of Cancellation of Deseret Generation & Transmission Cooperative Rate Schedule FERC No. 10 between Deseret and Koch Power Services, Inc.

Comment date: April 30, 1997, in accordance with Standard Paragraph E at the end of this notice.

5. Deseret Generation & Transmission Cooperative

[Docket No. ER97–2359–000]

Take notice that on March 27, 1997, Deseret Generation & Transmission Cooperative (Deseret), tendered for filing a Notice of Cancellation of Deseret's Rate Schedule FERC No. 11 between Deseret and PacifiCorp.

Comment date: April 30, 1997, in accordance with Standard Paragraph E at the end of this notice.

6. Deseret Generation & Transmission Cooperative

[Docket No. ER97–2360–000]

Take notice that on March 27, 1997, Deseret Generation & Transmission Cooperative (Deseret), tendered for filing a Notice of Cancellation of Deseret's Rate Schedule FERC No. 2 between Deseret and The City of Fredonia.

Comment date: April 30, 1997, in accordance with Standard Paragraph E at the end of this notice.

7. Wisconsin Power & Light Company

[Docket No. ER97–2361–000]

Take notice that on March 31, 1997, Wisconsin Power and Light Company (WP&L), tendered for a filing Form of Service Agreement for Non-Firm Point-to-Point Transmission Service establishing Southern Minnesota Municipal Power Agency as a point-to-point transmission customer under the terms of WP&L's transmission tariff.

WP&L requests an effective date of March 25, 1997, and; accordingly, seeks waiver of the Commission's notice requirements. A copy of this filing has been served upon the Public Service Commission of Wisconsin.

Comment date: April 30, 1997, in accordance with Standard Paragraph E at the end of this notice.

8. New England Power Pool

[Docket No ER97–2362–000]

Take notice that on March 31, 1997, the New England Power Pool (NEPOOL), filed a Service Agreement for Regional Network Service, including Network Integration Transmission Service pursuant to Section 205 of the Federal Power Act and 18 CFR 35.12 of the Commission's Regulations.

Acceptance of the Service Agreement will permit NEPOOL to provide transmission service to Groveland Municipal Light Department in accordance with the provisions of the NEPOOL Transmission Tariff filed with the Commission on December 31, 1996 under the above-referenced docket. NEPOOL requests an effective date of March 1, 1997 for commencement of transmission service. Copies of this filing were served upon New England Public Utility Commissioners and all NEPOOL members.

Comment date: April 30, 1997, in accordance with Standard Paragraph E at the end of this notice.

9. New England Power Pool

[Docket No. ER97–2363–000]

Take notice that on March 31, 1997, the New England Power Pool (NEPOOL), filed a service Agreement of Regional Network Service, including Network Integration Transmission Service pursuant to Section 205 of the Federal Power Act and 18 CFR 35.12 of the Commission's Regulations.

Acceptance of the service Agreement will permit NEPOOL to provide transmission service to Massachusetts Bay Transportation Authority in accordance with the provisions of NEPOOL Transmission Tariff filed with the Commission on December 31, 1996, under the above referenced docket. NEPOOL requests an effective date of March 1, 1997 for commencement of transmission service. Copies of this filing were served upon New England Public Utility Commissioners and all NEPOOL members.

Comment date: April 30, 1997, in accordance with Standard Paragraph E at the end of this notice.

10. New England Power Pool

[Docket No ER97–2365–000]

Take notice that on March 31, 1997, the New England Power Pool (NEPOOL), filed a Service Agreement for Regional Network Service, including Network Integration Transmission Service pursuant to Section 205 of the Federal Power Act and 18 CFR 35.12 of the Commission's Regulations.

Acceptance of the Service Agreement will permit NEPOOL to provide transmission service to Wellesley Municipal Light Plant in accordance with the provisions of the NEPOOL Transmission Tariff filed with the Commission on December 31, 1996 under the above-referenced docket. NEPOOL requests an effective date of March 1, 1997 for commencement of transmission service. Copies of this filing were served upon New England Public Utility Commissioners and all NEPOOL members.

Comment date: April 30, 1997, in accordance with Standard Paragraph E at the end of this notice.

11. New England Power Pool

[Docket No ER97–2366–000]

Take notice that on March 31, 1997, the New England Power Pool (NEPOOL), filed a Service Agreement for Regional Network Service, including Network Integration Transmission Service pursuant to Section 205 of the Federal Power Act and 18 CFR 35.12 of the Commission's Regulations.

Acceptance of the Service Agreement will permit NEPOOL to provide transmission service to Massachusetts Government Land Bank in accordance with the provisions of the NEPOOL Transmission Tariff filed with the Commission on December 31, 1996 under the above-referenced docket. NEPOOL requests an effective date of March 1, 1997 for commencement of transmission service. Copies of this filing were served upon New England Public Utility Commissioners and all NEPOOL members.

Comment date: April 30, 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. 97–10343 Filed 4–21–97; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER97–2311–000, et al.]

Delmarva Power and Light Company, et al.; Electric Rate and Corporate Regulation Filings

April 15, 1997.

Take notice that the following filings have been made with the Commission:

1. Delmarva Power and Light Company

[Docket No. ER97–2311–000]

Take notice that on March 28, 1997, Delmarva Power and Light Company (Delmarva) tendered for filing executed umbrella service agreements with ConAgra Energy Services, Inc., EnerZ Corporation, LG&E Power Marketing, New York State Electric & Gas Company under Delmarva's market rate sales tariff, FERC Electric Tariff, Original Volume No. 14, filed by Delmarva in Docket No. ER96–2571–000.

Comment date: April 29, 1997, in accordance with Standard Paragraph E at the end of this notice.

2. Central Power and Light Company; Public Service Company of Oklahoma; Southwestern Electric Power Company; West Texas Utilities Company

[Docket No. ER97–2313–000]

Take notice that on March 28, 1997, Central Power and Light Company (''CPL''), Public Service Company of Oklahoma (''PSO''), Southwestern Electric Power Company (''SWEPCO'') and West Texas Utilities Company (''WTU'') (collectively, the ''Companies'') each tendered for filing Service Agreements establishing the Power Company of America, Progress Power Marketing, Inc., Morgan Stanley Capital Group Inc., The Utility-Trade Corp., and Cinergy Services, Inc. as customers under the terms of each Company's CSRT–1 Tariff.

The Companies request an effective date of March 1, 1997, for each of the service agreements and, accordingly, seek waiver of the Commission's notice requirements. Copies of this filing were served on the five customers, the Arkansas Public Service Commission, the Louisiana Public Service Commission, the Oklahoma Corporation Commission and the Public Utility Commission of Texas.

Comment date: April 29, 1997, in accordance with Standard Paragraph E at the end of this notice.

3. Public Service Company of Colorado

[Docket No. ER97–2314–000]

Take notice that on March 28, 1997, Public Service Company of Colorado (''PS Colorado'') tendered for filing (1) a letter agreement between itself and the Municipal Energy Agency of Nebraska (''MEAN'') and (2) Revised Exhibit A to the Service Agreement between PS Colorado and MEAN, on file with the Commission as Service Agreement No. 2 under PS Colorado FERC Electric Tariff, Original Volume No. 1, and Exhibit A is on file as Supplement No. 1 thereof. PS Colorado states in its filing that the purpose of these filings is to lower the loss factor applicable to MEAN so as to track the loss factor specified in PS Colorado's currently effective open-access transmission tariff, which is presently set at 3%.

Comment date: April 29, 1997, in accordance with Standard Paragraph E at the end of this notice.

4. South Carolina Electric & Gas Company

[Docket No. ER97–2315–000]

Take notice that on March 28, 1997, South Carolina Electric & Gas Company (''SCE&G'') submitted service agreements establishing Coral Power L.L.C. (''CP''), and Stand Energy Corporation (''SEC'') as customers under the terms of SCE&G's Open Access Transmission Tariff.

SCE&G requests an effective date of one day subsequent to the filing of the service agreements. Accordingly, SCE&G requests waiver of the Commission's notice requirements. Copies of this filing were served upon CP, SEC, and the South Carolina Public Service Commission.

Comment date: April 29, 1997, in accordance with Standard Paragraph E at the end of this notice.

5. Entergy Services, Inc.

[Docket No. ER97–2316–000]

Take notice that on March 28, 1997, Entergy Services, Inc. (''Entergy Services''), on behalf of Entergy Arkansas, Inc., Entergy Gulf States, Inc., Entergy Louisiana, Inc., Entergy Mississippi, Inc., and Entergy New Orleans, Inc. (''Entergy Operating Companies''), tendered for filing an Interconnection and Power Agreement between itself and Hodge Utility Operating Company dated March 1, 1997.

Comment date: April 29, 1997, in accordance with Standard Paragraph E at the end of this notice.

6. Entergy Services, Inc.

[Docket No. ER97–2317–000]

Take notice that on March 28, 1997, Entergy Services, Inc. (''Entergy Services''), on behalf of Entergy Arkansas, Inc., Entergy Gulf States, Inc., Entergy Louisiana, Inc., Entergy Mississippi, Inc., and Entergy New Orleans, Inc. (''Entergy Operating Companies''), tendered for filing a Short-Term Market Rate Sales (Schedule SP) Agreement with the Municipal Energy Agency of Mississippi (''MEAM'') dated March 1, 1997.

Comment date: April 29, 1997, in accordance with Standard Paragraph E at the end of this notice.

7. Otter Tail Power Company

[Docket No. ER97–2318–000]

Take notice that on March 28, 1997, Otter Tail Power Company (OTP), tendered for filing a transmission service agreement between itself and *Wisconsin Electric Co.* (''*WE*''). The agreement establishes WE is a customer under OTP's transmission service tariff (FERC Electric Tariff, Original Volume No. 7).

OTP respectfully requests an effective date sixty days after filing. OTP is authorized to state that WE joins in the requested effective date.

Copies of the filing have been served on the WE, Public Service Commission of Wisconsin, Minnesota Public Utilities Commission, North Dakota Public Service Commission, and the South Dakota Public Utilities Commission.

Comment date: April 29, 1997, in accordance with Standard Paragraph E at the end of this notice.

8. Duke Power Company

[Docket No. ER97–2319–000]

Take notice that on March 28, 1997, Duke Power Company (Duke) tendered for filing a Market Rate Service Agreement between Duke and Florida Power & Light Company, dated as of March 17, 1997. Duke requests that the Agreement be made effective as of March 17, 1997.

Comment date: April 29, 1997, in accordance with Standard Paragraph E at the end of this notice.

9. The Detroit Edison Company

[Docket No. ER97–2320–000]

Take notice that on March 28, 1997, The Detroit Edison Company (Detroit Edison) tendered for filing Service

Agreements for wholesale power sale transactions (the Service Agreements) under Detroit Edison's Wholesale Power Sales Tariff (WPS–2), FERC Electric Tariff No. 2 (the WPS–2 Tariff), between Detroit Edison and PECO Energy Company—Power Team (PECO), dated as of March 18, 1997, and between Detroit Edison and The Toledo Edison Company (Toledo Edison), dated as of February 27, 1997. Detroit Edison requests that the Detroit Edison/PECO Service Agreement be made effective as of March 18, 1997. Detroit Edison requests that the Detroit Edison/Toledo Edison Service Agreement be made effective as of February 27, 1997.

Comment date: April 29, 1997, in accordance with Standard Paragraph E at the end of this notice.

10. The Detroit Edison Company

[Docket No. ER97–2321–000]

Take notice that on March 28, 1997, The Detroit Edison Company (Detroit Edison) tendered for filing a Service Agreement for wholesale power sale transactions (the Service Agreement) under Detroit Edison's Wholesale Power Sales Tariff (WPS–1), FERC Electric Tariff No. 1 (the WPS–1 Tariff), between Detroit Edison and PECO Energy Company—Power Team, dated as of March 18, 1997. Detroit Edison requests that the Service Agreement be made effective as of March 18, 1997.

Comment date: April 29, 1997, in accordance with Standard Paragraph E at the end of this notice.

11. Washington Water Power Company

[Docket No. ER97–2322–000]

Take notice that on March 28, 1997, Washington Water Power Company (WWP), tendered for filing with the Federal Energy Regulatory Commission pursuant to 18 CFR Section 35.12, a 1997–1999 Power Purchase Agreement between The Washington Water Power Company And Modesto Irrigation District.

Comment date: April 29, 1997, in accordance with Standard Paragraph E at the end of this notice.

12. Sierra Pacific Power Company

[Docket No. ER97–2323–000]

Take notice that on March 28, 1997, Sierra Pacific Power Company (Sierra) tendered for filing Service Agreements (Service Agreements) for Transmission Service under Sierra's Open Access Transmission Tariff (Tariff):

1. Vastar Power Marketing, Inc. for Non Firm Point-to-Point Transmission Service and
2. Idaho Power Company for Short-Term Firm Point-to-Point Transmission Service

Sierra filed the executed Service Agreements with the Commission in compliance with Section 14.4 of the Tariff and applicable Commission Regulations. Sierra also submitted revised Sheet No. 148 (Attachment E) to the Tariff, which is an updated list of all current subscribers. Sierra requests waiver of the Commission's notice requirements for Attachment E, and to allow the Service Agreements to become effective according to their terms.

Copies of this filing were served upon the Public Service Commission of Nevada, the Public Utilities Commission of California and all interested parties.

Comment date: April 29, 1997, in accordance with Standard Paragraph E at the end of this notice.

13. Union Electric Company

[Docket No. ER97–2324–000]

Take notice that on March 28, 1997, Union Electric Company (UE) tendered for filing a Service Agreement for Firm Point-to-Point Transmission Service dated March 1, 1997, between Illinois Power Company (IP) and UE. UE asserts that the purpose of the Agreement is to permit UE to provide transmission service to IP pursuant to UE's Open Access Transmission Tariff filed in Docket No. OA96–50.

Comment date: April 29, 1997, in accordance with Standard Paragraph E at the end of this notice.

14. Union Electric Company

[Docket No. ER97–2325–000]

Take notice that on March 28, 1997, Union Electric Company (UE) tendered for filing Service Agreements for Non-Firm Point-to-Point Transmission Services between UE and Carolina Power & Light Company, Equitable Power Services Co. and Sikeston Board of Municipal Utilities. UE asserts that the purpose of the Agreements is to permit UE to provide transmission service to the parties pursuant to UE's Open Access Transmission Tariff filed in Docket No. OA96–50.

Comment date: April 29, 1997, in accordance with Standard Paragraph E at the end of this notice.

15. Ohio Edison Company; Pennsylvania Power Company

[Docket No. ER97–2326–000]

Take notice that on March 28, 1997, Ohio Edison Company tendered for filing on behalf of itself and Pennsylvania Power Company, Service Agreements with Plum Street Energy Marketing, Inc., Niagara Mohawk Power Corporation, Sonat Power Marketing L.P., and Southern Minnesota Municipal Power Agency under Ohio Edison's Power Sales Tariff. This filing is made pursuant to Section 205 of the Federal Power Act.

Comment date: April 28, 1997, in accordance with Standard Paragraph E at the end of this notice.

16. Tucson Electric Power Company

[Docket No. ER97–2327–000]

Take notice that on March 28, 1997, Tucson Electric Company (TE) tendered for filing six (6) service agreements for non-firm point-to-point transmission service under Part II of its Open Access Transmission Tariff filed in Docket No. OA96–140–000 with the following entities:

1. AIG Trading Corporation
2. Aquila Power Corporation
3. Enron Power Marketing, Inc.
4. PanEnergy Trading & Marketing Services, L.L.C.
5. Southern Energy Trading and Marketing, Inc.
6. Western Power Services, Inc.

TEP requests waiver of notice to permit the service agreements to become effective as of February 28, 1997. A copy of this filing has been served upon each of the parties to the service agreements.

Comment date: April 29, 1997, in accordance with Standard Paragraph E at the end of this notice.

17. The United Illuminating Company

[Docket No. ER97–2328–000]

Take notice that on March 31, 1997, The United Illuminating Company (UI) tendered for filing a Service Agreement, dated March 12, 1997, between UI and Southern Energy Trading and Marketing, Inc. (Southern) for non-firm point-to-point transmission service under UI's Open Access Transmission Tariff, FERC Electric Tariff, Original Volume No. 4, as amended.

UI requests an effective date of March 12, 1997, for the Service Agreement. Copies of the filing were served upon Southern and upon the Connecticut Department of Public Utility Control.

Comment date: April 29, 1997, in accordance with Standard Paragraph E at the end of this notice.

18. The United Illuminating Company

[Docket No. ER97–2329–000]

Take notice that on March 31, 1997, The United Illuminating Company (UI) tendered for filing a Service Agreement, dated February 26, 1997, between UI and The Power Company of America, L.P. (The Power Company) for non-firm point-to-point transmission service under UI's Open Access Transmission Tariff, FERC Electric Tariff, Original Volume No. 4, as amended.

UI requests an effective date of March 4, 1997 for the Service Agreement. Copies of the filing were served upon The Power Company and upon the Connecticut Department of Public Utility Control.

Comment date: April 29, 1997, in accordance with Standard Paragraph E at the end of this notice.

19. Southern California Edison Company

[Docket No. ER97–2330–000]

Take notice that on March 31, 1997, Southern California Edison Company (Edison) tendered for filing Service Agreements (Service Agreements) with the City of Vernon for Firm Point-To-Point Transmission Service under Edison's Open Access Transmission Tariff (Tariff) filed in compliance with FERC Order No. 888, and a Notice of Cancellation of Service Agreement Nos. 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, and 55 under FERC Electric Tariff, Original Volume No. 4.

Edison filed the executed Service Agreements with the Commission in compliance with applicable Commission regulations. Edison also submitted a revised Sheet No. 152 (Attachment E) to the Tariff, which is an updated list of all current subscribers. Edison requests waiver of the Commission's notice requirement to permit an effective date of April 1, 1997 for Attachment E, and to allow the Service Agreements to become effective and terminate according to their terms.

Copies of this filing were served upon the Public Utilities Commission of the State of California and all interested parties.

Comment date: April 29, 1997, in accordance with Standard Paragraph E at the end of this notice.

20. Cinergy Services, Inc.

[Docket No. ER97–2331–000]

Take notice that on March 31, 1997, Cinergy Services, Inc. (Cinergy) tendered for filing on behalf of its operating companies, The Cincinnati Gas & Electric Company (CG&E) and PSI Energy Company, Inc. (PSI), a Letter of Reservation, dated February 28, 1997 between Cinergy, CG&E, PSI and Commonwealth Edison Company (Con Ed).

The Letter of Reservation provides for sale on a market basis.

Copies of the filing were served on Commonwealth Edison Company, Illinois Commerce Commission, the Kentucky Public Service Commission, the Public Utilities Commission of Ohio and the Indiana Utility Regulatory Commission.

Comment date: April 29, 1997, in accordance with Standard Paragraph E at the end of this notice.

21. Cinergy Services, Inc.

[Docket No. ER97–2332–000]

Take notice that on March 31, 1997, Cinergy Services, Inc. (Cinergy) tendered for filing a service agreement under Cinergy's Power Sales Standard Tariff (the ''Tariff'') entered into between Cinergy and Edgar Electric Cooperative Association.

Cinergy and Edgar Electric Cooperative Association are requesting an effective date of March 17, 1997.

Comment date: April 29, 1997, in accordance with Standard Paragraph E at the end of this notice.

22. Cinergy Services, Inc.

[Docket No. ER97–2333–000]

Take notice that on March 31, 1997, Cinergy Services, Inc. (Cinergy) tendered for filing on behalf of its operating companies, The Cincinnati Gas & Electric Company (CG&E) and PSI Energy, Inc. (PSI) a Transaction Agreement, dated February 20, 1997 between Cinergy, CG&E, PSI and Ontario Hydro (Hydro).

The Transaction Agreement provides for sale on a market basis.

Cinergy and Hydro have requested an effective date of one day after this initial filing of the Transaction Agreement.

Comment date: April 29, 1997, in accordance with Standard Paragraph E at the end of this notice.

23. Long Island Lighting Company

[Docket No. ER97–2334–000]

Take notice that Long Island Lighting Company (''LILCO''), on March 27, 1997, tendered for filing an amendment to its FERC Rate Schedule Nos. 32 and 34. The proposed amendment would terminate the ''Y–49 Surcharge'' from Rate Schedule Nos. 32 and 34 effective March 1, 1996.

The proposed amendment will effectuate a provision in a Settlement Agreement approved by the Commission on May 31, 1996, in Docket Nos. EL91–32–003 and EL91–34–003.

Copies of the filing were served upon all parties on the Attached List.

Comment date: April 29, 1997, in accordance with Standard Paragraph E at the end of this notice.

24. Kansas Gas and Electric Company

[Docket No. ER97–2335–000]

Take notice that on March 31, 1997, Kansas Gas and Electric Company (KGE) tendered for filing a change in its Federal Power Commission Electric Service Tariff No. 93. KGE states that the change is to reflect the amount of transmission capacity requirements required by Western Resources, Inc. under Service Schedule M to FPC Rate Schedule No. 93 for the period June 1, 1997 through May 31, 1998.

Copies of this filing were served upon the Kansas Corporation Commission.

Comment date: April 29, 1997, in accordance with Standard Paragraph E at the end of this notice.

25. Commonwealth Edison Company

[Docket No. ER97–2336–000]

Take notice that on March 28, 1997 Commonwealth Edison Company (''ComEd'') submitted for filing Service Agreements for various firm transactions with Heartland Energy Services, Inc. (''Heartland''), Wisconsin Electric Power Company (''WEPCO''), and Enron Power Marketing, Inc. (''Enron''), under the terms of ComEd's Open Access Transmission Tariff (''OATT'').

ComEd requests various effective dates, corresponding to the date each service agreement was entered into, and accordingly seeks waiver of the Commission's requirements. Copies of this filing were served upon Heartland, WEPCO, Enron, and the Illinois Commerce Commission.

Comment date: April 29, 1997, in accordance with Standard Paragraph E at the end of this notice.

26. Idaho Power Company

[Docket No. ER97–2337–000]

Take notice that on March 31, 1997, Idaho Power Company tendered for filing its FERC Electric Tariff Volume No. 1, Third Revised entitled, Short Term Capacity and/or Energy for Resale. Said filing is made for the purpose of unbundling transmission service charges pursuant to FERC Order 888. In the filing, Idaho Company submits a Notice of Cancellation of all Service Agreements currently effective under the Company's existing FERC Electric Tariff, Volume No. 1, Second Revised.

Copies of the amended filing were mailed to those utilities now signatory to Idaho Power's FERC Electric Tariff Volume 1, Second Revised, as well as the utility regulatory commissions for Idaho, Oregon and Nevada.

Comment date: April 29, 1997, in accordance with Standard Paragraph E at the end of this notice.

27. Montaup Electric Company

[Docket No. ER97–2338–000]

Take notice that on March 31, 1997, Montaup Electric Company (''Montaup'') tendered for filing the following service agreements under its open-access transmission tariff:

1. Firm Point-to-Point Service Agreement between Montaup and itself for transmission to NEPOOL PTF between March 1, 1997 and March 31, 1997;

2. Firm Point-to-Point Service Agreement between Montaup and itself for transmission to NEPOOL PTF between April 1, 1997 and April 30, 1997;

3. Unexecuted Network Integration Service Agreement between Montaup and Taunton Municipal Lighting Plant to commence on March 1, 1997;

4. Unexecuted Network Integration Service Agreement between Montaup and Pascoag Fire District to commence on March 1, 1997;

5. Unexecuted Network Integration Service Agreement between Montaup and Middleborough Electric Department to commence on March 1, 1997;

6. Unexecuted Network Integration Service Agreement between Montaup and New England Power Company to commence on March 1, 1997.

Montaup requests waiver of the Commission's prior notice requirement to permit the service agreements to become effective March 1, 1997, except for the service agreement for service to Northeast Utilities from April 1, 1997 to April 30, 1997, for which Montaup requests an effective date of April 1, 1997.

Comment date: April 29, 1997, in accordance with Standard Paragraph E at the end of this notice.

28. Boston Edison Company

[Docket No. ER97–2340–000]

Take notice that on March 31, 1997, Boston Edison Company (Boston Edison) of Boston, Massachusetts, tendered for filing unexecuted network integration transmission service agreements for service under its Order No. 888 Transmission Tariff No. 8 to the following distribution systems:

Boston Edison Company Power Marketing Department
Town of Braintree Municipal Light Department
Town of Hingham Municipal Light Department
Town of Hull Municipal Light Department
Town of Reading Municipal Light Department

Boston Edison asks that the service agreements be allowed to become effective as of March 1, 1997. Boston Edison states that this filing has been posted and that copies have been served upon the affected customers and the Massachusetts Department of Public Utilities.

Comment date: April 29, 1997, in accordance with Standard Paragraph E at the end of this notice.

29. Illinois Power Company

[Docket No. ER97–2341–000]

Take notice that on March 31, 1997, Illinois Power Company (''Illinois Power''), tendered for filing firm and non-firm transmission agreements under which The Power Company of America, L.P. will take transmission service pursuant to its open access transmission tariff. The agreements are based on the Form of Service Agreement in Illinois Power's tariff.

Illinois Power has requested an effective date of March 18, 1997.

Comment date: April 29, 1997, in accordance with Standard Paragraph E at the end of this notice.

30. Delmarva Power & Light Company

[Docket No. ER97–2342–000]

Take notice that on March 31, 1997, Delmarva Power & Light Company tendered for filing an amendment to the Interconnection Agreement between Delmarva Power & Light Company and The Town of Dover, Delaware.

Comment date: April 29, 1997, in accordance with Standard Paragraph E at the end of this notice.

31. Delmarva Power & Light Company

[Docket No. ER97–2343–000]

Take notice that on March 31, 1997, Delmarva Power & Light Company tendered for filing an amendment to the Interconnection Agreement with the Town of Easton, Maryland and the Easton Utilities Commission that unbundles the Agreement, conforms the Agreement to the PJM Operating Agreement and PJM Tariff, and provides for the sale by Delmarva of energy to Easton.

Comment date: April 29, 1997, in accordance with Standard Paragraph E at the end of this notice.

32. Atlantic City Electric Company

[Docket No. ER97–2344–000]

Take notice that on March 31, 1997, Atlantic City Electric Company tendered for filing an amendment to the Interconnection Agreement between Atlantic City Electric Company and Vineland.

Comment date: April 29, 1997, in accordance with Standard Paragraph E at the end of this notice.

33. Wisconsin Public Service Corporation

[Docket No. ER97–2345–000]

Take notice that on March 31, 1997, Wisconsin Public Service Corporation tendered for filing executed service agreements with American Energy Solutions, Inc. and NIPSCO Energy Service under its CS–1 Coordination Sales Tariff.

Comment date: April 29, 1997, in accordance with Standard Paragraph E at the end of this notice.

34. Interstate Power Company

[Docket No. ER97–2348–000]

Take notice that on March 31, 1997, Interstate Power Company (IPW) tendered for filing a Power Sales Service Agreement between IPW and Cinergy Operating Companies. Under the Agreement, IPW will sell Capacity & Energy to Cinergy Operating Companies as agreed to by both companies.

Comment date: April 29, 1997, in accordance with Standard Paragraph E at the end of this notice.

35. Interstate Power Company

[Docket No. ER97–2349–000]

Take notice that on March 31, 1997, Interstate Power Company (IPW) tendered for filing a Power Sales Service Agreement between IPW and WPS Energy Services, Inc. Under the Agreement, IPW will sell Capacity & Energy to WPS Energy Services, Inc. as agreed to by both companies.

Comment date: April 29, 1997, in accordance with Standard Paragraph E at the end of this notice.

36. New York State Electric & Gas Corporation

[Docket No. ER97–2353–000]

Take notice that New York State Electric & Gas Corporation (NYSEG) on March 28, 1997, tendered for filing proposed changes in its open access transmission (OAT) service rate and in certain non-rate provisions of the OAT Tariff (the Filing). NYSEG has also proposed rate changes for certain other rate schedules, detailed below.

OAT Rate and Tariff Changes

Rates for service under the OAT Tariff are proposed as follows:

(1) Basic transmission rate: increased from $2.83 to $3.91 per kW-month;
(2) Scheduling, System Control & Dispatch: increased from $0.00 to $0.06/kW-month;
(3) Reactive Supply & Voltage Control: decrease from $0.10 to $0.09/kW-month;
(4) Regulation and Frequency Response Service: increase from $0.12 to $0.13/kW-month;
(5) Spinning Reserve Service: decrease from $0.33 to $0.30/kW-month;
(6) Supplemental Reserve Service: decrease from $0.21 to $0.19/kW-month.

Since there are no current applications for firm transmission service under the Open Access Transmission Tariff (Tariff), no estimated changes in revenue from the Tariff can be provided. The foregoing

rate changes are a function of changes in the level of service upon which the rates are calculated and certain other changes in cost levels.

NYSEG has also proposed changes to the non-rate terms and conditions of the Tariff. The Tariff sections containing amended terms and conditions are as follows: Section 1 (definition of New York Power Pool); Section 10 (adds tariff features relating to NYSEG's liability for service under the Tariff); Sections 17.2 and 18.2 (specifies two additional requirements for the submission of a completed application for point-to-point service and provides for a confidentiality agreement); Section 29.1 (makes creditworthiness standards which are required to be met by point-to-point customers also required of network customers); Sections 36.1 through 36.2 (makes the installation of metering equipment mandatory for network transmission service and adds the requirement that metering data be made available to NYSEG); Section 36.3 (requires customers to maintain a power factor within the same range as NYSEG); Service Agreements for both point-to-point and network service are amended (adding provisions related to ancillary services, penalties and a clarification providing that the Tariff is incorporated in the service agreements as it is amended from time-to-time). Finally, Attachment J, Methodology for the Calculation of Redispatch Costs was added.

Additional Rate Schedule Changes

The Filing also contains a request for rate changes to FERC Rate Schedules 36, 67, 70, 80 and 84 under which the Company supplies firm electric transmission service to the New York Power Authority (NYPA) for the benefit of a group of municipalities and rural electric cooperatives within and outside New York State, including Allegheny Electric Cooperative Inc. and American Municipal Power—Ohio.

The transmission rate for in-state municipals under Rate Schedules 67, 70, and 80, would increase from $3.12/kW-month to $4.74 /kW-month of contract demand. The rate for out-of-state municipals under Rate Schedules 36 and 84 would increase from $3.05/kW-month to $4.12/kW-month of contract demand. The total estimated annual revenue increase under the revised transmission rates for Rate Schedules 67, 70, and 80 is $2,309,120, and for Rate Schedules 36 and 84 is $825,522, based upon historical use for the twelve-month period ending December 31, 1996 and for the 1997 forecasted load.

The subject filing also addresses an amendment of FERC Rate Schedule 110 under which NYSEG supplies transmission service to NYPA on behalf of expansion power customers. The transmission rate under Rate Schedule 110 would increase from $3.12/kW-month to $4.74/kW-month of contract demand. The total estimated annual revenue increase under the revised Rate Schedule 110 is $657,720, based upon historical use for the twelve-month period ending December 31, 1996 and for the 1997 forecasted load. The requested increased rates are necessary to cover all expenses associated with such firm transmission service and to provide NYSEG with an adequate rate of return.

Copies of the filing were served upon the persons listed on a service list submitted with its filing, including each of its existing wholesale customers and the New York State Public Service Commission.

Comment date: April 29, 1997, in accordance with Standard Paragraph E at the end of this notice.

37. Sheili Z. Rosenberg

[Docket No. ID–2993–000]

Take notice that on March 13, 1997, Sheili Z. Rosenberg (Applicant) tendered for filing an application under Section 305(b) of the Federal Power Act to hold the following positions:

Director—Illinois Power Company
Director—Anixter International

Comment date: April 30, 1997, in accordance with Standard Paragraph E at the end of this notice.

38. Tucson Electric Power Company

[Docket No. OA97–436–000]

Take notice that on April 3, 1997, Tucson Electric Power Company tendered for filing an amendment to its initial filing in the above-referenced docket.

Comment date: April 29, 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. 97–10344 Filed 4–21–97; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EG97–50–000, et al.]

Kincaid Generation, L.L.C., et al.; Electric Rate and Corporate Regulation Filings

April 14, 1997.

Take notice that the following filings have been made with the Commission:

1. Kincaid Generation, L.L.C.

[Docket No. EG97–50–000]

On April 8, 1997, Kincaid Generation, L.L.C., filed with the Federal Energy Regulatory Commission an application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's regulations.

KGL is owned by Dominion Kincaid, Inc. and Dominion Energy, Inc. (''DEI''), both Virginia corporations. Dominion Kincaid, Inc. is a wholly-owned indirect subsidiary of DEI, which in turn is a wholly-owned subsidiary of Dominion Resources, Inc., also a Virginia corporation.

KGL will own and operate the Kincaid Generating Station which consists of two 554 MW coal-fired cyclone boiler generating units with a total net capacity of approximately 1108 MW, two main power transformers, four system auxiliary transformers, four unit auxiliary transformers, coal unloading and handling facilities and associated real and personal property. The Facility is located in the town of Kincaid, Illinois.

Comment date: May 2, 1997, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

2. Moreua Manufacturing Corporation

[Docket No. ER94–466–001]

Take notice that on April 7, 1997, Moreua Manufacturing Corporation tendered for filing a Notice of Withdrawal of its compliance filing in the above-referenced docket.

Comment date: April 28, 1997, in accordance with Standard Paragraph E at the end of this notice.

3. Florida Power Corporation

[Docket No. ER96–1315–001]

Take notice that on April 9, 1997, Florida Power Corporation tendered for filing its refund report in compliance with the Commission's February 28, 1997 order approving the Settlement Agreement in this proceeding.

Florida Power states that copies of its refund report have been served on all affected customers and interested state commissions.

Comment date: April 28, 1997, in accordance with Standard Paragraph E at the end of this notice.

4. Kansas City Power & Light Company

[Docket No. ER97–2294–000]

Take notice that on March 27, 1997, Kansas City Power & Light Company (KCPL) tendered for filing a Service Agreement dated March 25, 1997 by KCPL. KCPL proposes an effective date of March 31, 1997 and requests waiver of the Commission's notice requirement to allow the requested effective date. This Agreement provides for the rates and charges for Firm Transmission Service by KCPL for a wholesale transaction.

In its filing, KCPL states that the rates included in the above-mentioned Service Agreement are KCPL's rates and charges in the compliance filing to Order 888 in Docket No. OA96–4–000.

Comment date: April 28, 1997, in accordance with Standard Paragraph E at the end of this notice.

5. Kansas City Power & Light Company

[Docket No. ER97–2295–000]

Take notice that on March 27, 1997, Kansas City Power & Light Company (KCPL) tendered for filing a Service Agreement dated March 10, 1997 by KCPL. KCPL proposes an effective date of April 1, 1997 and requests waiver of the Commission's notice requirement to allow the requested effective date. This Agreement provides for the rates and charges for Firm Transmission Service by KCPL for a wholesale transaction.

In its filing, KCPL states that the rates included in the above-mentioned Service Agreement are KCPL's rates and charges in the compliance filing to FERC Order 888 in Docket No. OA96–4–000.

Comment date: April 28, 1997, in accordance with Standard Paragraph E at the end of this notice.

6. Central Illinois Public Service Company

[Docket No. ER97–2296–000]

Take notice that on March 27, 1997, Central Illinois Public Service Company (''CIPS'') submitted a service agreement, dated March 21, 1997, establishing Natural Gas & Electric, L.P. as a customer under the terms of CIPS' Open Access Transmission Tariff.

CIPS requests an effective date of March 21, 1997 for the service agreement. Accordingly, CIPS requests waiver of the Commission's notice requirements. Copies of this filing were served upon Natural Gas & Electric, L.P. and the Illinois Commerce Commission.

Comment date: April 28, 1997, in accordance with Standard Paragraph E at the end of this notice.

7. The Detroit Edison Company

[Docket No. ER97–2297–000]

Take notice that on March 27, 1997 The Detroit Edison Company (''Detroit Edison'') tendered for filing a Service Agreement for Firm Point-to-Point Transmission Service between Detroit Edison Transmission Operations and Detroit Edison Merchant Operations under Detroit Edison's Open Access Transmission Tariff, dated as of February 27, 1997. Detroit Edison requests that the Service Agreement be made effective as of March 1, 1997.

Comment date: April 28, 1997, in accordance with Standard Paragraph E at the end of this notice.

8. Duke Power Company

[Docket No. ER97–2298–000]

Take notice that on March 27, 1997, Duke Power Company (''Duke'') tendered for filing a Market Rate Service Agreement between Duke and Illinois Power Company dated as of March 7, 1997. Duke requests that the Agreement be made effective as of March 7, 1997.

Comment date: April 28, 1997, in accordance with Standard Paragraph E at the end of this notice.

9. Duke Power Company

[Docket No. ER97–2299–000]

Take notice that on March 27, 1997, Duke Power Company (''Duke'') tendered for filing a Market Rate Service Agreement between Duke and Atlantic City Electric Company dated as of March 3, 1997. Duke requests that the Agreement be made effective as of March 3, 1997.

Comment date: April 28, 1997, in accordance with Standard Paragraph E at the end of this notice.

10. Duke Power Company

[Docket No. ER97–2300–000]

Take notice that on March 27, 1997, Duke Power Company (''Duke'') tendered for filing a Market Rate Service Agreement between Duke and Rainbow Energy Marketing Corporation dated as of March 3, 1997. Duke requests that the Agreement be made effective as of March 3, 1997.

Comment date: April 28, 1997, in accordance with Standard Paragraph E at the end of this notice.

11. Washington Water Power Company

[Docket No. ER97–2301–000]

Take notice that on March 27, 1997, Washington Water Power Company, tendered for filing with the Federal Energy Regulatory Commission pursuant to 18 CFR Section 35.13, executed Service Agreements under WWP's FERC Electric Tariff Original Volume No. 9. WWP requests waiver of the prior notice requirement and requests an effective date of March 1, 1997.

Comment date: April 28, 1997, in accordance with Standard Paragraph E at the end of this notice.

12. Boston Edison Company

[Docket No. ER97–2302–000]

Take notice that Boston Edison Company of Boston, Massachusetts, on March 27, 1997, submitted to the Commission two service agreements between Boston Edison as the transmission provider and its own power marketing department as the transmission customer. One service agreement provides for non-firm point-to-point transmission service; the other provides for firm point-to-point transmission service. Both services are to be provided under Boston Edison's Open-Access Transmission Tariff, FERC Volume No. 8. Boston Edison requests waiver of the prior notice requirement so that the non-firm service agreement may be allowed to become effective as of January 3, 1997 and so that the firm point-to-point service agreement may be allowed to become effective as of September 1, 1996.

Boston Edison states that copies of the filing have been served upon the affected customer and the Massachusetts Department of Public Utilities.

Comment date: April 28, 1997, in accordance with Standard Paragraph E at the end of this notice.

13. Kansas City Power & Light Company

[Docket No. ER97–2303–000]

Take notice that on March 27, 1997, Kansas City Power & Light Company (KCPL) tendered for filing a Service Agreement dated March 21, 1997 by KCPL. KCPL proposes an effective date of April 1, 1997 and requests waiver of the Commission's notice requirement to allow the requested effective date. This Agreement provides for the rates and charges for Firm Transmission Service by KCPL for a wholesale transaction.

In its filing, KCPL states that the rates included in the above-mentioned Service Agreement are KCPL's rates and charges in the compliance filing to FERC Order 888 in Docket No. OA96–4–000.

Comment date: April 28, 1997, in accordance with Standard Paragraph E at the end of this notice.

14. Cinergy Services, Inc.

[Docket No. ER97–2304–000]

Take notice that on March 27, 1997, Cinergy Services, Inc. (''Cinergy'') tendered for filing a service agreement under Cinergy's Open Access Transmission Service Tariff (''the Tariff'') entered into between Cinergy and CMS Marketing, Services and Trading Company (''CMS'').

Cinergy and CMS are requesting an effective date of March 15, 1997.

Comment date: April 28, 1997, in accordance with Standard Paragraph E at the end of this notice.

15. Southern California Edison Company

[Docket No. ER97–2305–000]

Take notice that on March 27, 1997, Southern California Edison Company tendered for filing a Notice of Cancellation of Service Agreements 11, 12, 17, 18, 19, 20, 21, 22, 23, 27, 28, 29, 30, 32, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, and 42 under FERC Electric Tariff, Original Volume No. 4.

Comment date: April 28, 1997, in accordance with Standard Paragraph E at the end of this notice.

16. Kentucky Utilities Company

[Docket No. ER97–2306–000]

Take notice that on March 27, 1997, Kentucky Utilities Company (KU) tendered for filing service agreements between KU and NIPSCO Energy Services and KU and Entergy Power Marketing Corporation under its Transmission Services (TS) Tariff and its Power Services (PS) Tariff.

Comment date: April 28, 1997, in accordance with Standard Paragraph E at the end of this notice.

17. St. Joseph Light & Power Company

[Docket No. ER97–2307–000]

Take notice that St. Joseph Light & Power Co. (''St. Joseph''), on March 27, 1997, tendered for filing six executed Service Agreements under its Open Access Transmission Tariff. The six Form of Service Agreements are with: Delhi Energy Services, Inc., Enron Power Marketing, Inc., Entergy Power Marketing Corp., Illinois Power Company, Omaha Public Power District, and Western Power Services, Inc. The Service Agreements are being filed to implement St. Joseph's Open Access Transmission Tariff.

Copies of the filing were served on Delhi Energy Services, Inc., Enron Power Marketing, Inc., Entergy Power Marketing Corp., Illinois Power Company, Omaha Public Power District, and Western Power Services, Inc.

Comment date: April 28, 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, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 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. 97–10345 Filed 4–21–97; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[OPP–00480; FRL–5714–2]

FIFRA Scientific Advisory Panel; Open Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of open meeting.

SUMMARY: There will be a 2–day meeting of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and Food Quality Protection Act (FQPA) Scientific Advisory Panel (SAP) to review a set of scientific issues being considered by the Agency in connection with import tolerances guidelines, anticipated residues methodologies, cholinesterase inhibitor policy issues, antimicrobial issues, and the risk assessment for the pesticide DEET (*N*,*N*-diethyl-meta-toluamide).

DATES: The meeting will be held on Tuesday and Wednesday, June 3 and 4, 1997, from 8:30 a.m. to 5 p.m.

ADDRESSES: The meeting will be held at: Crystal Gateway Marriott Hotel, 1700 Jefferson Davis Highway, Arlington, VA. The telephone number for the hotel is: (703) 920–3230.

By mail, submit written comment (1 original and 20 copies) by May 16, 1997, to: Public Information and Records Integrity Branch, Information Resources and Services Division (7506C), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring comments to: Rm. 1132, CM #2, 1921 Jefferson Davis Highway, Arlington, VA.

Comments and data may also be submitted electronically by following the instructions under SUPPLEMENTARY INFORMATION of this document. No Confidential Business Information (CBI) should be submitted through e-mail.

FOR FURTHER INFORMATION CONTACT: By mail: Larry C. Dorsey, Designated Federal Official, FIFRA Scientific Advisory Panel (7509C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460; Office location: Rm. 819B, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202; telephone: (703) 305–5369; e-mail: dorsey.larry@epamail.epa.gov.

Copies of EPA documents may be obtained by contacting: Public Information and Records Integrity Branch, Information Resources and Services Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460; Office location: Rm. 1132 Bay, CM #2, 1921 Jefferson Davis Highway, Arlington, VA; telephone: (703) 305–5805.

SUPPLEMENTARY INFORMATION: Any member of the public wishing to submit written comments should contact Larry C. Dorsey at the address or the telephone number given above. Interested persons are permitted to file written statements before the meeting. To the extent that time permits and upon advanced written request to the Designated Federal Official, interested persons may be permitted by the Chair

of the Scientific Advisory Panel to present oral statements at the meeting. There is no limit on the length of written comments for consideration by the Panel, but oral statements before the Panel are limited to approximately 5 minutes. As oral statements only will be permitted as time permits, the Agency urges the public to submit written comments in lieu of oral presentations. Persons wishing to make oral and/or written statements should notify the Designated Federal Official and submit 20 copies of the summary information no later than May 16, 1997, to ensure appropriate consideration by the Panel. Please note that the Agency will continue to accept public comments concerning the Import Tolerances Guidelines until June 30, 1997. After May 16, 1997, please submit any additional comments on the Import Tolerances Guidelines to Chris Olinger, Health Effects Division (7509C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

Information submitted as a comment in response to this notice may be claimed confidential by marking any part or all of that information as CBI. Information marked CBI will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. An edited copy of the comment that does not contain the CBI material must be submitted for inclusion in the public docket. Information not marked confidential will be included in the public docket. All comments and materials received will be made part of the public record and will be considered by the Panel.

The official record for this notice, as well as the public version, has been established for this notice under docket control number ''OPP–00480'' (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The official record is located at the address in ''ADDRESSES'' at the beginning of this document.

Electronic comments can be sent directly to EPA at:

opp-docket@epamail.epa.gov

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comment and data will also be accepted on disks in Wordperfect 5.1 file format or ASCII file format. All comments and data in electronic form must be identified by the docket control number (OPP–00480). Electronic comments on this notice may be filed online at many Federal Depository Libraries.

Copies of the Panel's report of their recommendations will be available approximately 15 working days after the meeting and may be obtained by contacting the Public Information and Records Integrity Branch, at the address or telephone number given above.

List of Subjects

Environmental protection.

Dated: April 15, 1997.

Daniel M. Barolo,

Director, Office of Pesticide Programs.

[FR Doc. 97–10408 Filed 4–21–97; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5814–6]

Notice of Public Meeting on the Sector Facilities Indexing Project

AGENCY: Environmental Protection Agency.

ACTION: The Enviromental Protection Agency will hold a public meeting to take public comments and suggestions on the methodology used to measure and display the environmental performance and records of individual facilities in context of the Sector Facility Indexing Project (SFIP).

SUMMARY: The Environmental Protection Agency (EPA) is announcing a public meeting on Wednesday, May 14, 1997 in Alexandria, VA, to hear presentations and statements from a cross-section of stakeholders on facility profiling methodologies used within the Sector Facility Indexing Project.

Any and all stakeholders (e.g., individuals, or representatives of organizations, governments, or academia) are invited to attend as members of the audience, or to submit written comments to the OPPT Docket Clerk (see **ADDRESSES** section below). There also will be an opportunity for individuals to make brief oral presentations. Please note that the number of presenters, as well as time allotted, may be limited. If you wish to make a presentation, please request a Fax Registration Form by calling (617) 520-3015.

DATES: The meeting will take place on May 14, 1997, beginning promptly at 8:30 a.m. and continuing until 6:00 p.m.

ADDRESSES: The public meeting will take place at the Holiday Inn Hotel and Suites, 625 First Street, Alexandria, VA 22314 (703–548–6300). Written comments should be submitted in triplicate to: US Environmental Protection Agency, Office of Pollution Prevention and Toxics, OPPT Docket Clerk, Mail Code 7407, 401 M Street, SW., Washington, DC 20460, and reference administrative record 178. The docket will not accommodate confidential business information. Comments and data may also be submitted electronically by sending electronic mail (e-mail) to: oppt.ncic@epamail.epa.gov. Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on disks in WordPerfect in 5.1 format of ASCII file format. All comments and data in electronic form must be identified by the administrative record number.

A record has been established for the SFIP under administrative record 178 (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, is available for inspection from noon to 4 p.m., Monday through Friday, excluding legal holidays. The public record is located in the TSCA Nonconfidential Information Center, Rm. NE–B607, 401 M St.,SW., Washington, DC 20460. The official record for the SFIP as described above will be kept in paper form. Accordingly, EPA will transfer all comments received electronically into printed, paper form as they are received and will place the paper copies in the official record which will also include all comments submitted directly in writing. The official record is the paper record maintained at the address in **ADDRESSES** above.

FOR FURTHER INFORMATION CONTACT: Maria DiBiase Eisemann, U.S. Environmental Protection Agency, Office of Compliance, 401 M Street, S.W. (2223–A), Washington, D.C., 20460; telephone: (202) 564–7016, fax: (202) 564–0050; e-mail: eisemann.maria@epamail.epa.gov.

Supplemental documents relating to the project and the public meeting will be posted at the following Internet address: http://www.epa.gov/envirosense/oeca/metd/sfi.html

SUPPLEMENTARY INFORMATION:

I. Background

The Sector Facility Indexing Project (SFIP) is a community-right-to-know

and data integration pilot project that provides environmental performance data for facilities within five industrial sectors. The industrial sectors profiled within the SFIP are automobile assembly, petroleum refining, pulp mills, iron and steel, and primary nonferrous metal production (aluminum, copper, lead and zinc). The SFIP is part of an overall EPA Reinvention initiative to improve data integration, public access to information, and methods for examining risk factors. This initiative brings together existing data from a wide range of databases to allow the user to view facility-specific environmental information in one place. The ultimate goal of the SFIP is to publish information regarding each profiled facility, and provide a publicly accessible database of current information which would allow for customized data searches. The purpose of the public meeting is to take comment on the methodology used within the SFIP, and determine how it can be improved using available information, methodologies, and measures.

EPA has traditionally stored information regarding facility-level environmental records in separate databases that relate to individual statutes and programs. To a large extent, comprehensive facility-level records that cut across multiple programs are not available. The Sector Facility Indexing Project (SFIP) consolidates this information in a way that makes it easier to make cross-program comparisons and connections. For example, the project allows users to examine the compliance records of facilities under air, water, and solid/hazardous waste regulations. In the past, interested users could not access this cross-program information without examining each database separately. The information contained within the SFIP is organized by industrial category to allow comparisons across facilities that manufacture similar products.

The performance measures used in the project are related to the following categories—production or capacity of the facility, compliance and enforcement history, chemical release data, toxicity of chemicals released, and population/demographic statistics of the surrounding area. The project encompasses raw data directly from public data sources, and statistical data that provides information aggregated directly from the raw data. This ''layered'' approach allows the user to examine both comparative statistics, and actual raw data relating to the events that have occurred or indicators that are measured. The methodology used to measure the categories examined under the SFIP are contained in supplemental documents that are available from the following Internet site (http://www.epa.gov/envirosense/oeca/metd/sfi.html) or upon request from the EPA contact listed above. EPA recommends that commenters review this background documentation to better understand the methodologies used within the project.

The SFIP does not create new policies or definitions, but uses existing information. To the extent that these definitions and associated data elements are refined, changed, or improved through other processes, SFIP will make use of the most current and best information available. SFIP uses existing data, but the project as a whole is not a forum for making fundamental changes project as a whole is not a forum for making fundamental changes to existing data definitions or reporting requirements. There is another forum, the National Performance Measures Strategy, which is a stakeholder process designed to identify and implement an enhanced set of performance measures for EPA's enforcement and compliance assurance program. While SFIP is not the vehicle for broader changes to underlying data systems, the project may help stakeholders understand what is collected now, and how it can be presented. While future improvements to data collection and reporting methodologies are important topics, EPA is most interested in using the public meeting to solicit comments and suggestions relating to how existing data can be better organized and presented within the SFIP.

II. Information for Participants

EPA is interested in focusing the public meeting on the questions presented below in Section III. Speakers may be asked clarifying questions regarding their presentations by an EPA panel. EPA encourages speakers to supplement their oral presentations with formal written comment as time constraints may not allow speakers to address all issues of interest. Persons wishing to sign-up for a presentation at the public meeting must pre-register by calling 617–520–3015 and requesting a meeting registration form. Speakers will be notified of their time slots once the final format is determined. The meeting is open to the public as space permits, and a summary of the proceedings will be prepared and entered into the SFIP docket. EPA also encourages those unable to attend the public meeting to submit formal written comments to the docket.

Please note that EPA has developed a separate public review process through EPA's Science Advisory Board (scheduled for April 29) on the topic of using toxicity weighting information in conjunction with Toxics Release Inventory data. Because this issue is being handled through the SAB process, it is not reflected in the focus topics for the public meeting. Stakeholders interested in getting more information or providing comments during the Science Advisory Board process can refer to the EPA contact, or the SFIP Internet site.

III. Focus Topics for Public Meeting

During the public meeting, EPA is interested in getting public comment on the following topics and questions.

Category 1—Public Access. How do you or your organization believe that EPA can best implement projects and policies to improve the public's ability to access facility-specific environmental data such as compliance records?

Category 2—Sector Approach. Is it useful for you or your organization to have the ability to compare facility records across plants that manufacture similar products (sector-based presentation of data)?

Category 3—Appropriate Measurement Categories. Are the overall categories of information presented (compliance, chemical releases, toxicity, production/capacity, demographics) appropriate for facility-level profiling, and should other categories be added? Please refer to supplemental documents for a discussion of methodology used for these categories.

Category 4—Alternatives. Given that the project is constrained to currently available information, are there particular facets of the project that you or your organization think should be improved, modified or added, and what proposals do you have for these changes?

Category 5—Longer-term Improvements. In the future, as EPA examines improvements to facility-profiling methodologies, are there any new categories or measurement techniques that should be considered that may require changes to existing data collection and management practices? Please provide details and an indication of whether your organization is willing to support collection or maintenance of this information?

Category 6—Public Access Methods. What format or formats are the most useful to your organization in terms of accessing facility-level environmental data (e.g., Internet standard reports, Internet searchable databases, written

reports and tables, direct access into integrated databases * * *)?

Category 7—Uses of SFIP data. If you or your organization plans to use the information contained within the project, what are the benefits of having this information and potential uses for you or your organization?

Please refer to the EPA contact, or the SFIP web site for supplemental documents that provide substantive detail on the methodology used within the project. Some of these documents may not be immediately available, but will be in place no later than April 28, 1997.

Dated: April 16, 1997.

Elaine G. Stanley,

Director, Office of Compliance.

[FR Doc. 97–10407 Filed 4–21–97; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1162–DR]

Arkansas; 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 Arkansas, (FEMA–1162–DR), dated March 2, 1997, and related determinations.

EFFECTIVE DATE: April 8, 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 Arkansas, 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 March 2, 1997:

The county of Mississippi for Public Assistance.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

Lacy E. Suiter,

Executive Associate Director, Response and Recovery Directorate.

[FR Doc. 97–10259 Filed 4–21–97; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1170–DR]

Illinois; 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 Illinois, (FEMA–1170–DR), dated March 21, 1997, and related determinations.

EFFECTIVE DATE: April 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 Illinois, is hereby amended to include Public Assistance in the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of March 21, 1997:

The counties of Alexander, Gallatin, Hardin, Massac, and Pope for Public Assistance (already designated for Individual Assistance and Hazard Mitigation).

The county of Pulaski 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. 97–10264 Filed 4–21–97; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1163–DR]

Kentucky; 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 Commonwealth of Kentucky, (FEMA–1163–DR), dated March 4, 1997, and related determinations.

EFFECTIVE DATE: April 11, 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 Commonwealth of Kentucky, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of March 4, 1997:

Barren, Boyle, Marion, and Russell Counties for Hazard Mitigation (already designated for Individual Assistance).

Green County for Public Assistance and Hazard Mitigation (already designated for Individual Assistance).

Johnson and Letcher for Hazard Mitigation (already designated for Public Assistance and Individual Assistance).

Lyon County for Public Assistance and Hazard Mitigation.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance.)

Catherine H. Light,

Deputy Associate Director, Response and Recovery Directorate.

[FR Doc. 97–10260 Filed 4–21–97; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1163–DR]

Kentucky; 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 Commonwealth of Kentucky, (FEMA–1163–DR), dated March 4, 1997, and related determinations.

EFFECTIVE DATE: April 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 Commonwealth of Kentucky, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of March 2, 1997:

The counties of Barren, Boyle, Green, Marion, and Russell for Individual Assistance.

The counties of Johnson and Letcher for Individual Assistance (already designated for Public Assistance).

The counties of Knott, Logan, Muhlenberg, Perry, Taylor, and Trigg for Individual Assistance (already designated for Public Assistance and Hazard Mitigation).

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

Dennis H. Kwiatkowski,

Deputy Associate Director, Response and Recovery Directorate.

[FR Doc. 97–10261 Filed 4–21–97; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1166–DR]

Federated States of Micronesia; 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 Federated States of Micronesia, (FEMA–1166–DR), dated March 11, 1997, and related determinations.

EFFECTIVE DATE: April 8, 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 Federated States of Micronesia, is hereby amended to include Hazard Mitigation in those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of March 11, 1997:

Yap State for Hazard Mitigation.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

Dennis H. Kwiatkowski,

Deputy Associate Director, Response and Recovery Directorate.

[FR Doc. 97–10262 Filed 4–21–97; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1175–DR]

Minnesota; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Minnesota (FEMA–1175–DR), dated April 8, 1997, and related determinations.

EFFECTIVE DATE: April 8, 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, in a letter dated April 8, 1997, the President declared a major disaster under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 *et seq.*), as follows:

I have determined that the damage in certain areas of the State of Minnesota, resulting from severe flooding, severe winter storms, snowmelt, high winds, rain, and ice on March 21, 1997, and continuing is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (''the Stafford Act''). I, therefore, declare that such a major disaster exists in the State of Minnesota.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Individual Assistance and Hazard Mitigation in the designated areas. Further, you are authorized to provide reimbursement for debris removal and emergency protective measures under the Public Assistance program. Should snow removal assistance be necessary, you are authorized to provide reimbursement for the costs of equipment, contracts, and personnel overtime that are required to clear one lane in each direction along snow emergency routes (or select primary roads in those communities without such designated roadways) to hospitals, nursing homes, and other critical facilities. Other categories of assistance under the Public Assistance program may be added at a later date, as you deem appropriate. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Public Assistance will be limited to 75 percent of the total eligible costs.

The time period prescribed for the implementation of section 310(a), Priority to Certain Applications for Public Facility and Public Housing Assistance, 42 U.S.C. 5153, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, I hereby appoint John McKay of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following areas of the State of Minnesota to have been affected adversely by this declared major disaster:

Benton, Big Stone, Brown, Chippewa, Clay, Kittson, Lac Qui Parle, Marshall, Norman, Pennington, Polk, Red Lake, Roseau, Sherburne, Stearns, Swift, Traverse, Washington, Wilkin, Wright, and Yellow Medicine Counties for Individual Assistance, Hazard Mitigation, and Categories A and B under the Public Assistance program.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance.)

James L. Witt,

Director.

[FR Doc. 97–10269 Filed 4–21–97; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1175–DR]

Minnesota; 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 Minnesota, (FEMA–1175–DR), dated April 8, 1997, and related determinations.

EFFECTIVE DATE: April 11, 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 Minnesota, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of April 8, 1997:

Norman County for Categories C through G under the Public Assistance program (already designated for Individual Assistance, Hazard Mitigation, and Categories A and B under the Public Assistance program).

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance.)

Catherine H. Light,

Deputy Associate Director, Response and Recovery Directorate.

[FR Doc. 97–10271 Filed 4–21–97; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1174–DR]

North Dakota; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of North Dakota (FEMA–1174–DR), dated April 7, 1997, and related determinations.

EFFECTIVE DATE: April 7, 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, in a letter dated April 7, 1997, the President declared a major disaster under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 *et seq.*), as follows:

I have determined that the damage in certain areas of the State of North Dakota, resulting from severe flooding, severe winter storms, heavy spring rain, rapid snowmelt, high winds, ice jams, and ground saturation due to high water tables beginning on February 28, 1997, and continuing, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (''the Stafford Act''). I, therefore, declare that such a major disaster exists in the State of North Dakota.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Individual Assistance and Hazard Mitigation in the designated areas. Further, you are authorized to provide reimbursement for debris removal and emergency protective measures under the Public Assistance program. Should snow removal assistance be necessary, you are authorized to provide reimbursement for the costs of equipment, contracts, and personnel overtime that are required to clear one lane in each direction along snow emergency routes (or select primary roads in those communities without such designated roadways) to hospitals, nursing homes, and other critical facilities. Other categories of assistance under the Public Assistance program may be added at a later date, as you deem appropriate. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Public Assistance will be limited to 75 percent of the total eligible costs.

The time period prescribed for the implementation of section 310(a), Priority to Certain Applications for Public Facility and Public Housing Assistance, 42 U.S.C. 5153, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, I hereby appoint Leslie Rucker of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following areas of the State of North Dakota to have been affected adversely by this declared major disaster:

Adams, Barnes, Benson, Billings, Bottineau, Bowman, Burke, Burleigh, Cass, Cavalier, Dickey, Divide, Dunn, Eddy, Emmons, Foster, Golden Valley, Grand Forks, Grant, Griggs, Hettinger, Kidder, Lamoure, Logan, McHenry, McIntosh, McKenzie, McLean, Mercer, Morton, Mountrail, Nelson, Oliver, Pembina, Pierce, Ramsey, Ransom, Renville, Richland, Rolette, Sargent, Sheridan, Sioux, Slope, Stark, Steele, Stutsman, Towner, Traill, Walsh, Ward, Wells, and Williams Counties for Individual Assistance and Hazard Mitigation.

Barnes, Benson, Bottineau, Burke, Burleigh, Cass, Cavalier, Dickey, Divide, Eddy, Emmons, Foster, Grand Forks, Griggs, Kidder, Lamoure, Logan, McHenry, McIntosh, McLean, Morton, Mountrail, Nelson, Pembina, Pierce, Ramsey, Ransom, Renville, Richland, Rolette, Sargent, Sheridan, Steele, Stutsman, Towner, Traill, Walsh, Ward, Wells, and Williams Counties for debris removal and emergency protective measures under the Public Assistance program.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance.)

James L. Witt,

Director.

[FR Doc. 97–10268 Filed 4–21–97; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1174–DR]

North Dakota; 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 North Dakota, (FEMA–1174–DR), dated April 7, 1997, and related determinations.

EFFECTIVE DATE: April 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 North Dakota, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of April 7, 1997:

Adams, Billings, Bowman, Dunn, Golden Valley, Grant, Hettinger, McKenzie, Mercer, Oliver, Sioux, Slope, and Stark Counties for Categories A and B under the Public Assistance program (already designated for Individual Assistance and Hazard Mitigation).

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

Dennis H. Kwiatkowski,

Deputy Associate Director, Response and Recovery Directorate.

[FR Doc. 97–10270 Filed 4–21–97; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1173–DR]

South Dakota; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of South Dakota (FEMA–1173–DR), dated April 7, 1997, and related determinations.

EFFECTIVE DATE: April 7, 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, in a letter dated April 7, 1997, the President declared a major disaster under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 *et seq.*), as follows:

I have determined that the damage in certain areas of the State of South Dakota, resulting from severe flooding, severe winter storms, heavy spring rain, rapid snowmelt, high winds, and ice jams beginning on February 3, 1997, and continuing, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (''the Stafford Act''). I, therefore, declare that such a major disaster exists in the State of South Dakota.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Individual Assistance and Hazard Mitigation in the designated areas. Further, you are authorized to provide reimbursement for debris removal and emergency protective measures under the Public Assistance program. Should snow removal assistance be necessary, you are authorized to provide reimbursement for the costs of equipment, contracts, and personnel

overtime that are required to clear one lane in each direction along snow emergency routes (or select primary roads in those communities without such designated roadways) to hospitals, nursing homes, and other critical facilities. Other categories of assistance under the Public Assistance program may be added at a later date, as you deem appropriate. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Public Assistance will be limited to 75 percent of the total eligible costs.

The time period prescribed for the implementation of section 310(a), Priority to Certain Applications for Public Facility and Public Housing Assistance, 42 U.S.C. 5153, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, I hereby appoint David P. Grier of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following areas of the State of South Dakota to have been affected adversely by this declared major disaster:

The counties of Aurora, Beadle, Bennett, Bon Homme, Brookings, Brown, Brule, Buffalo, Butte, Campbell, Charles Mix, Clark, Clay, Codington, Corson, Custer, Davison, Day, Deuel, Dewey, Douglas, Edmunds, Fall River, Faulk, Grant, Gregory, Haakon, Hamlin, Hand, Hanson, Harding, Hughes, Hutchinson, Hyde, Jackson, Jerauld, Jones, Kingsbury, Lake, Lawrence, Lincoln, Lyman, McCook, McPherson, Marshall, Meade, Mellette, Miner, Minnehaha, Moody, Pennington, Perkins, Potter, Roberts, Sanborn, Shannon, Spink, Stanley, Sully, Todd, Tripp, Turner, Union, Walworth, Yankton, and Ziebach for Individual Assistance and Hazard Mitigation.

The counties of Aurora, Beadle, Bon Homme, Brookings, Brown, Brule, Buffalo, Campbell, Charles Mix, Clark, Clay, Codington, Davison, Day, Deuel, Douglas, Edmunds, Faulk, Grant, Hamlin, Hand, Hanson, Hughes, Hutchinson, Hyde, Jerauld, Kingsbury, Lake, Lincoln, McCook, McPherson, Marshall, Miner, Minnehaha, Moody, Potter, Roberts, Sanborn, Spink, Sully, Turner, Union, Walworth, and Yankton for debris removal and emergency protective measures under the Public Assistance program.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance.)

James L. Witt,

Director.

[FR Doc. 97–10267 Filed 4–21–97; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1167–DR]

Tennessee; 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 Tennessee, (FEMA–1167–DR), dated March 7, 1997, and related determinations.

EFFECTIVE DATE: April 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 Tennessee, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of March 7, 1997:

The county of McNairy for Categories C through G under the Public Assistance program (already designated for Individual Assistance, Hazard Mitigation and Categories A and B under the Public Assistance program).

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

Dennis H. Kwiatkowski,

Deputy Associate Director, Response and Recovery Directorate.

[FR Doc. 97–10263 Filed 4–21–97; 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. 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 May 16, 1997.

A. Federal Reserve Bank of Chicago (James A. Bluemle, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690-1413:

1. Dunn Investment Co., Eagle Grove, Iowa; to become a bank holding company by acquiring up to 100 percent of the voting shares of Dunn Shares, Inc., Eagle Grove, Iowa, and thereby indirectly acquire Security Savings Bank, Eagle Grove, Iowa, and F & M Shares Corp., Eagle Grove, Iowa, and thereby indirectly acquire Farmers & Merchants Savings Bank, Manchester, Iowa.

B. Federal Reserve Bank of Kansas City (John E. Yorke, Senior Vice President) 925 Grand Avenue, Kansas City, Missouri 64198-0001:

1. Hohl Financial, Inc., Wahoo, Nebraska; to become a bank holding company by acquiring 100 percent of the voting shares of Wahoo State Bank, Wahoo, Nebraska.

Board of Governors of the Federal Reserve System, April 16, 1997.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 97–10289 Filed 4–21–97; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL RESERVE SYSTEM

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.

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 May 16, 1997.

A. Federal Reserve Bank of Richmond (Lloyd W. Bostian, Jr., Senior Vice President) 701 East Byrd Street, Richmond, Virginia 23261-4528:

1. CCB Financial Corporation, Durham, North Carolina; to acquire American Federal Bank, F.S.B., Greenville, South Carolina, and thereby engage in engaging in mortgage lending; acting as agent in the sale of certain credit related insurance; operating a savings association; and providing securities brokerage services, pursuant to §§ 225.25(b)(1)(iii), (8)(i), (9), and (15) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, April 16, 1997.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 97–10290 Filed 4–21–97; 8:45 am]

BILLING CODE 6210–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Notice of Interest Rate on Overdue Debts

Section 30.13 of the Department of Health and Human Services' claims collection regulations (45 CFR Part 30) provides that the Secretary shall charge an annual rate of interest as fixed by the Secretary of the Treasury after taking into consideration private consumer rates of interest prevailing on the date that HHS becomes entitled to recovery. The rate generally cannot be lower than the Department of Treasury's current value of funds rate or the applicable rate determined from the ''Schedule of Certified Interest Rates with Range of Maturities.'' This rate may be revised quarterly by the Secretary of the Treasury and shall be published quarterly by the Department of Health and Human Services in the **Federal Register**.

The Secretary of the Treasury has certified a rate of 13½ percent for the quarter ended March 31, 1997. This interest rate will remain in effect until such time as the Secretary of the Treasury notifies HHS of any change.

Dated: April 15, 1997.

Shirl A. Ruffin,

Acting Deputy Assistant Secretary, Finance.

[FR Doc. 97–10384 Filed 4–21–97; 8:45 am]

BILLING CODE 4150–04–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30DAY–6–97]

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.

Proposed Project

1. State-Based Evaluation of Trends and Risk Factors in Morbidity and Mortality from Sickle Cell Disease After Newborn Screening—New—Children with sickle cell disease are at increased risk for mortality and morbidity, especially in the first three years of life. The need for early diagnosis and preventive medical intervention is the rationale for newborn hemoglobinopathy screening programs, now operating in more than 40 states. Although clinical trials have clearly demonstrated the efficacy of early medical intervention, more information is needed regarding the actual utilization of available therapies and preventive measures in large populations, health statuses of children identified by newborn screening programs, and risk factors for adverse health outcomes. Potential risk factors include extent of medical care follow-up, location of treatment, the use of penicillin prophylaxis, immunization patterns, as well as parental social, demographic and educational factors. In FY 1995, CDC awarded $150,000 to three state health departments to assist in their efforts to ascertain health status and risk factors for young children with sickle cell disease. States will be using these funds to obtain information about individual children through structured questionnaires directed toward their parents and physicians. The total annual burden hours are 840.

Respondents	No. of respondents	No. of responses/respondent	Avg. burden/response (in hrs.)	Total burden (in hrs.)
Parents	840	1	.5	420
Physicians	840	1	.5	420

Wilma G. Johnson,

Acting Associate Director for Policy Planning And Evaluation, Centers for Disease Control and Prevention (CDC).

[FR Doc. 97–10312 Filed 4–21–97; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 97F–0157]

Japan Vilene Co., Ltd.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Japan Vilene Co., Ltd., has filed a petition proposing that the food additive regulations be amended to provide for the safe use of 2-propenoic acid, polymer with 2-ethyl-2-(((1-oxo-2-propenyl)oxy)methyl)-1,3-propanediyl di-2-propenoate and sodium 2-propenoate (CAS Reg. No. 76774–25–9) as a fluid absorbent material intended for use in contact with food.

DATES: Written comments on the petitioner's environmental assessment by May 22, 1997.

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: Andrew J. Zajac, Center for Food Safety and Applied Nutrition (HFS–215), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–418–3095.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5) (21 U.S.C. 348(b)(5))), notice is given that a food additive petition (FAP 7B4537) has been filed by Japan Vilene Co., Ltd., c/o Center for Regulatory Services, 2347 Paddock Lane, Reston, VA 20191. The petition proposes to amend the food additive regulations to provide for the safe use of 2-propenoic acid, polymer with 2-ethyl-2-(((1-oxo-2-propenyl)oxy)methyl)-1,3-propanediyl di-2-propenoate and sodium 2-propenoate (CAS Reg. No. 76774–25–9) as a fluid absorbent material intended for use in contact with food.

The potential environmental impact of this action is being reviewed. To encourage public participation consistent with regulations promulgated under the National Environmental Policy Act (40 CFR 1501.4(b)), the agency is placing the environmental assessment submitted with the petition that is the subject of this notice on public display at the Dockets Management Branch (address above) for public review and comment. Interested persons may, on or before May 22, 1997, submit to the Dockets Management Branch (address above) written comments. 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 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. FDA will also place on public display any amendments to, or comments on, the petitioner's environmental assessment without further announcement in the **Federal Register**. If, based on its review, the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.40(c).

Dated: April 1, 1997.

Alan M. Rulis,

Director, Office of Premarket Approval, Center for Food Safety and Applied Nutrition.

[FR Doc. 97–10415 Filed 4–21–97; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 94D–0422]

Guidance for Industry: Current Good Manufacturing Practices for Positron Emission Tomographic (PET) Drug Products; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a guidance entitled ''Guidance for Industry: Current Good Manufacturing Practices for Positron Emission Tomographic (PET) Drug Products'' prepared by FDA's Center for Drug Evaluation and Research (CDER). The guidance is intended to assist persons involved in the production of PET radiopharmaceutical drug products in achieving compliance with FDA's current good manufacturing practice (CGMP) regulations for finished pharmaceuticals.

DATES: Persons may submit written comments on the guidance at any time.

ADDRESSES: Submit written requests for single copies of the guidance entitled ''Guidance for Industry: Current Good Manufacturing Practices for Positron Emission Tomographic (PET) Drug Products'' to the Drug Information Branch (HFD–210), Center for Drug Evaluation and Research, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857. Send one self-addressed adhesive label to assist that office in processing your requests. An electronic version of this guidance is available via Internet using the World Wide Web (WWW). To connect to the CDER home page, type ''http://www.fda.gov/cder'' and go to the ''Regulatory Guidance'' section. Submit written comments on the guidance to the Dockets Management Branch (HFA–305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857. Requests and comments should be identified with the docket number found in brackets in the heading of this document. A copy of the guidance and received comments are available for public examination in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Robert K. Leedham, Center for Drug Evaluation and Research (HFD–343), Food and Drug Administration, 7520 Standish Pl., Rockville, MD 20855, 301–594–1026.

SUPPLEMENTARY INFORMATION: FDA is announcing the availability of a guidance entitled ''Guidance for Industry: Current Good Manufacturing Practices for Positron Emission Tomographic (PET) Drug Products.'' PET is a medical imaging modality used to assess the body's biochemical processes. Radionuclides are manufactured into PET radiopharmaceutical drug products that are administered to patients for medical imaging. The images of the body's biochemical processes are then evaluated, generally for diagnostic purposes.

In the **Federal Register** of February 27, 1995 (60 FR 10593), FDA announced the availability of its ''Draft Guideline on the Manufacture of Positron Emission Tomographic (PET) Drug Products.'' The notice gave interested persons an opportunity to submit comments by May 30, 1995. FDA received comments from more than 20 persons. The final PET CGMP guidance

contains revisions incorporating many of those comments.

The PET CGMP guidance discusses the requirements for manufacturing practices, procedures, and facilities used to prepare PET radiopharmaceuticals. The guidance addresses such matters as quality control units, personnel qualifications, staffing, buildings and facilities, equipment, components, containers, closures, production and process controls, packaging and labeling controls, holding and distribution, testing and release for distribution, stability testing and expiration dating, reserve samples, yields, second-person checks, reports, and records. The guidance focuses particular attention on CGMP requirements that are of special concern due to unique characteristics inherent in the production and control of PET radiopharmaceuticals.

PET radiopharmaceutical drug product manufacturing differs in a number of important ways from the manufacture of conventional drug products:

(1) Because of the short physical half-lives of PET radiopharmaceuticals, PET facilities generally manufacture the products in response to daily demand for a relatively small number of patients.

(2) Manufacturing may be limited and only a few lots produced each day.

(3) PET radiopharmaceuticals must be administered to patients within a short period of time after manufacturing because of the short half-lives of the products.

FDA recognized that, because of these differences, application of certain provisions of the CGMP regulations in part 211 (21 CFR part 211) to the manufacture of PET radiopharmaceuticals might result in unsafe handling or be otherwise inappropriate. Therefore, elsewhere in this issue of the **Federal Register**, the agency is publishing a final rule authorizing manufacturers of PET radiopharmaceuticals to apply to the agency for exceptions or alternatives to provisions of the CGMP regulations. The PET CGMP guidance notes that while the CGMP regulations apply to the manufacture of PET radiopharmaceuticals, new § 211.1(d) permits manufacturers of such drugs to request an exception or alternative to any requirement in part 211.

This guidance represents the agency's current thinking on CGMP's for PET radiopharmaceuticals. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. A regulated entity may adopt an alternative approach to CGMP's for PET drugs if such approach satisfies the requirements of the Federal Food, Drug, and Cosmetic Act and FDA regulations.

Interested persons may, at any time, submit to the Dockets Management Branch (address above) written comments on the guidance. If written comments demonstrate that changes to the final guidance are appropriate, FDA will revise the guidance accordingly. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. The guidance and received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: April 15, 1997.

William B. Schultz,

Deputy Commissioner for Policy.

[FR Doc. 97–10342 Filed 4–21–97; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). This notice also summarizes the procedures for the meeting and methods by which interested persons may participate in open public hearings before FDA's advisory committees.

FDA has established an Advisory Committee Information Hotline (the hotline) using a voice-mail telephone system. The hotline provides the public with access to the most current information on FDA advisory committee meetings. The advisory committee hotline, which will disseminate current information and information updates, can be accessed by dialing 1–800–741–8138 or 301–443–0572. Each advisory committee is assigned a 5-digit number. This 5-digit number will appear in each individual notice of meeting. The hotline will enable the public to obtain information about a particular advisory committee by using the committee's 5-digit number. Information in the hotline is preliminary and may change before a meeting is actually held. The hotline will be updated when such changes are made.

MEETING: The following advisory committee meeting is announced:

Endocrinologic and Metabolic Drugs Advisory Committee

Date, time, and place. May 14, 1997, 8 a.m., Holiday Inn—Bethesda, Versailles Ballrooms I and II, 8120 Wisconsin Ave., Bethesda, MD.

Type of meeting and contact person. Open public hearing, 8 a.m. to 9 a.m., unless public participation does not last that long; open committee discussion, 9 a.m. to 5 p.m.; Kathleen Reedy or LaNise Giles, Center for Drug Evaluation and Research (HFD–21), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–5455, or FDA Advisory Committee Information Hotline, 1–800–741–8138 (301–443–0572 in the Washington, DC area), Endocrinologic and Metabolic Drugs Advisory Committee, code 12536. Please call the hotline for information concerning any possible changes.

General function of the committee. The committee reviews and evaluates data on the safety and effectiveness of marketed and investigational human drugs for use in endocrine and metabolic disorders.

Agenda—Open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Those desiring to make formal presentations should notify the contact person before May 9, 1997, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time required to make their comments.

Open committee discussion. The committee will hear presentations and discuss data submitted regarding new drug application 20–766, Xenical™ (orlistat, tetrahydrolipstatin, Hoffman-LaRoche, Inc.) for long-term treatment of obesity.

FDA public advisory committee meetings may have as many as four separable portions: (1) An open public hearing, (2) an open committee discussion, (3) a closed presentation of data, and (4) a closed committee deliberation. Every advisory committee meeting shall have an open public hearing portion. Whether or not it also includes any of the other three portions will depend upon the specific meeting involved. There are no closed portions for the meetings announced in this notice. The dates and times reserved for the open portions of each committee meeting are listed above.

The open public hearing portion of the meeting(s) shall be at least 1 hour long unless public participation does not last that long. It is emphasized,

however, that the 1 hour time limit for an open public hearing represents a minimum rather than a maximum time for public participation, and an open public hearing may last for whatever longer period the committee chairperson determines will facilitate the committee's work.

Public hearings are subject to FDA's guideline (subpart C of 21 CFR part 10) concerning the policy and procedures for electronic media coverage of FDA's public administrative proceedings, including hearings before public advisory committees under 21 CFR part 14. Under 21 CFR 10.205, representatives of the electronic media may be permitted, subject to certain limitations, to videotape, film, or otherwise record FDA's public administrative proceedings, including presentations by participants.

Meetings of advisory committees shall be conducted, insofar as is practical, in accordance with the agenda published in this **Federal Register** notice. Changes in the agenda will be announced at the beginning of the open portion of a meeting.

Any interested person who wishes to be assured of the right to make an oral presentation at the open public hearing portion of a meeting shall inform the contact person listed above, either orally or in writing, prior to the meeting. Any person attending the hearing who does not in advance of the meeting request an opportunity to speak will be allowed to make an oral presentation at the hearing's conclusion, if time permits, at the chairperson's discretion.

The agenda, the questions to be addressed by the committee, and a current list of committee members will be available at the meeting location on the day of the meeting.

Transcripts of the open portion of the meeting may be requested in writing from the Freedom of Information Office (HFI–35), Food and Drug Administration, rm. 12A–16, 5600 Fishers Lane, Rockville, MD 20857, approximately 15 working days after the meeting, at a cost of 10 cents per page. The transcript may be viewed at the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857, approximately 15 working days after the meeting, between the hours of 9 a.m. and 4 p.m., Monday through Friday. Summary minutes of the open portion of the meeting may be requested in writing from the Freedom of Information Office (address above) beginning approximately 90 days after the meeting.

This notice is issued under section 10(a)(1) and (a)(2) of the Federal Advisory Committee Act (5 U.S.C. app. 2), and FDA's regulations (21 CFR part 14) on advisory committees.

Dated: April 15, 1997.

Michael A. Friedman,

Deputy Commissioner for Operations.

[FR Doc. 97–10339 Filed 4–21–97; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[Form # HCFA–484; OMB # 0938–0534]

Emergency Clearance: Public Information Collection Requirements Submitted to the Office of Management and Budget (OMB)

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Health Care Financing Administration (HCFA), Department of Health and Human Services (DHHS), has submitted to the Office of Management and Budget (OMB) the following request for emergency review. We are requesting an emergency review because the collection of this information is needed prior to the expiration of the normal time limits under OMB's regulations at 5 CFR Part 1320 and public harm is likely to occur. The Oxygen Certificate of Medical Necessity, completed by a Medicare beneficiary's treating physician and a durable medical equipment supplier, must be submitted to the appropriate Medicare Durable Medical Equipment Regional Carrier before a Medicare beneficiary is deemed eligible for home oxygen therapy and before a durable medical equipment supplier is eligible for reimbursement. If emergency clearance is not provided, beneficiaries may be provided vital health services in an untimely manner or may be required to pay for oxygen services normally paid for by the Federal government.

HCFA is requesting that after the 30-day comment period has concluded, OMB complete its review within 7-days and provide a 180-day approval. During this 180-day period HCFA will publish a separate **Federal Register** notice announcing the initiation of a 60-day agency review and public comment period on these requirements. Then HCFA will submit the requirements for OMB review and an extension of this emergency approval.

Type of Information Request: Reinstatement of a collection with a change of a previously approved collection for which approval has expired (OMB approval # 0938–0534); *Title of Information Collection:* Attending Physician's Certification of Medical Necessity for Home Oxygen Therapy and Supporting Regulations 42 CFR 410.38 and 42 CFR 424.5; *Form Number:* HCFA–484; *Use:* To determine oxygen is reasonable and necessary pursuant to Medicare Statute, Medicare claims for home oxygen therapy must be supported by the treating physician's statement and other information including estimate length of need (# of months), diagnosis codes (ICD–9) and:

1. Results and date of the most recent arterial blood gas PO^2 and/or oxygen saturation tests.

2. The most recent arterial blood gas PO^2 and/or oxygen saturation test performed EITHER with the patient in a chronic stable state as an outpatient, OR within two days prior to discharge from an inpatient facility to home.

3. The most recent arterial blood gas PO_2 and/or oxygen saturation test performed at rest, during exercise, or during sleep.

4. Name and address of the physician/provider performing the most recent arterial blood gas PO_2 and/or oxygen saturation test.

5. If ordering portable oxygen, information regarding the patient's mobility within the home.

6. Identification of the highest oxygen flow rate (in liters per minute) prescribed.

7. If the prescribed liters per minute (LPM), as identified in item 6, are greater than 4 LPM, provide the results and date of the most recent arterial blood gas PO_2 and/or oxygen saturation test taken on 4 LPM.

If the PO_2=56–59, or the oxygen saturation=89%, then evidence of the beneficiary meeting at least one of the following criteria must be provided.

8. The patient having dependent edema due to congestive heart failure.

9. The patient having cor pulmonale or pulmonary hypertension, as documented by P pulmonale on an EKG or by an echocardiogram, gated blood pool scan or direct pulmonary artery pressure measurement.

10. The patient having a hematocrit greater than 56%.

Form HCFA–484 obtains all pertinent information and promotes national consistency in coverage determinations; *Frequency:* Other (as needed); *Affected Public:* Individuals /households, business or other for profit, and not for profit institutions; *Number of Respondents:* 300,000; *Total Annual Responses:* 300,000; *Total Annual Hours Requested:* 50,000.

BILLING CODE 4120–03–P

U.S. DEPARTMENT OF HEALTH & HUMAN SERVICES
HEALTH CARE FINANCING ADMINISTRATION

FORM APPROVED
OMB NO. 0938-0534

CERTIFICATE OF MEDICAL NECESSITY

OXYGEN

SECTION A Certification Type/Date: INITIAL ___/___/___ REVISED ___/___/___ RECERTIFICATION ___/___/___

PATIENT NAME, ADDRESS, TELEPHONE and HIC NUMBER	SUPPLIER NAME, ADDRESS, TELEPHONE and NSC NUMBER
(___)___-____ HICN _____	(___)___-____ NSC # _____

PLACE OF SERVICE _____	HCPCS CODE	PT DOB ___/___/___; Sex ___ (M/F); HT.____(in.); WT.____(lbs.)
NAME and ADDRESS of FACILITY if applicable (See Reverse)	_____ _____ _____ _____	PHYSICIAN NAME, ADDRESS, TELEPHONE and UPIN NUMBER (___)___-____ UPIN # _____

SECTION B Information in This Section May Not Be Completed by the Supplier of the Items/Supplies.

EST. LENGTH OF NEED (# OF MONTHS): _____ 1-99 (99=LIFETIME)	DIAGNOSIS CODES (ICD-9): _____ _____ _____ _____

ANSWERS	ANSWER QUESTIONS 1-10. (Circle **Y** for Yes, **N** for No, or **D** for Does Not Apply, unless otherwise noted.)
a) _____ mm Hg b) _____% c) ___/___/___	1. Enter the result of most recent test taken on or before the certification date listed in Section A. Enter (a) arterial blood gas PO_2 and/or (b) oxygen saturation test. Enter date of test (c).
Y N	2. Was the test in Question 1 performed **EITHER** with the patient in a chronic stable state as an outpatient **OR** within two days prior to discharge from an inpatient facility to home?
1 2 3	3. Circle the one number for the condition of the test in Question 1: (1) At Rest; (2) During Exercise; (3) During Sleep
XXXXXXXXXXXXXXX XXXXXXXXXXXXXXXX XXXXXXXXXXXXXX	4. Physician/provider performing test in Question 1 (and, if applicable, Question 7). Print/type name and address below: NAME: ADDRESS:
Y N D	5. If you are ordering portable oxygen, is the patient mobile within the home? If you are not ordering portable oxygen, circle D.
_____ LPM	6. Enter the highest oxygen flow rate ordered for this patient in liters per minute. If less than 1 LPM, enter a "X".
a) _____ mm Hg b) _____% c) ___/___/___	7. If greater than 4 LPM is prescribed, enter results of most recent test taken on 4 LPM. This may be an (a) arterial blood gas PO_2 and/or (b) oxygen saturation test with patient in a chronic stable state. Enter date of test (c).
IF PO_2 = 56–59 OR OXYGEN SATURATION = 89%, AT LEAST ONE OF THE FOLLOWING CRITERIA MUST BE MET.	
Y N D	8. Does the patient have dependent edema due to congestive heart failure?
Y N D	9. Does the patient have cor pulmonale or pulmonary hypertension documented by P pulmonale on an EKG or by an echocardiogram, gated blood pool scan or direct pulmonary artery pressure measurement?
Y N D	10. Does the patient have a hematocrit greater than 56%?

NAME OF PERSON ANSWERING SECTION B QUESTIONS, IF OTHER THAN PHYSICIAN (Please Print):
NAME: _____ TITLE: _____ EMPLOYER: _____

SECTION C Narrative Description of Equipment and Cost

(1) Narrative description of all items, accessories and options ordered; **(2)** Supplier's charge and **(3)** Medicare Fee Schedule Allowance for each item, accessory and option. *(See instructions on back.)*

SECTION D Physician Attestation and Signature/Date

I certify that I am the treating physician identified in Section A of this form. I have received Sections A, B and C of the Certificate of Medical Necessity (including charges for items ordered). Any statement on my letterhead attached hereto, has been reviewed and signed by me. I certify that the medical necessity information in Section B is true, accurate and complete, to the best of my knowledge, and I understand that any falsification, omission, or concealment of material fact in that section may subject me to civil or criminal liability.

PHYSICIAN'S SIGNATURE _____ DATE ____/____/____ (SIGNATURE AND DATE STAMPS ARE NOT ACCEPTABLE)

FORM HCFA-484

SECTION A:	**(May be completed by the supplier)**
CERTIFICATION TYPE/DATE:	If this is an initial certification for this patient, indicate this by placing date (MM/DD/YY) needed initially in the space marked "INITIAL." If this is a revised certification (to be completed when the physician changes the order, based on the patient's changing clinical needs), indicate the initial date needed in the space marked "INITIAL," and also indicate the recertification date in the space marked "REVISED." If this is a recertification, indicate the initial date needed in the space marked "INITIAL," and also indicate the recertification date in the space marked "RECERTIFICATION." Whether submitting a REVISED or a RECERTIFIED CMN, be sure to always furnish the INITIAL date as well as the REVISED or RECERTIFICATION date.
PATIENT INFORMATION:	Indicate the patient's name, permanent legal address, telephone number and his/her health insurance claim number (HICN) as it appears on his/her Medicare card and on the claim form.
SUPPLIER INFORMATION:	Indicate the name of your company (supplier name), address and telephone number along with the Medicare Supplier Number assigned to you by the National Supplier Clearinghouse (NSC).
PLACE OF SERVICE:	Indicate the place in which the item is being used, i.e., patient's home is 12, skilled nursing facility (SNF) is 31, End Stage Renal Disease (ESRD) facility is 65, etc. Refer to the DMERC supplier manual for a complete list.
FACILITY NAME:	If the place of service is a facility, indicate the name and complete address of the facility.
HCPCS CODES:	List all HCPCS procedure codes for items ordered that require a CMN. Procedure codes that do not require certification should not be listed on the CMN.
PATIENT DOB, HEIGHT, WEIGHT AND SEX:	Indicate patient's date of birth (MM/DD/YY) and sex (male or female); height in inches and weight in pounds, if requested.
PHYSICIAN NAME, ADDRESS:	Indicate the physician's name and complete mailing address.
UPIN:	Accurately indicate the ordering physician's Unique Physician Identification Number (UPIN).
PHYSICIAN'S TELEPHONE NO:	Indicate the telephone number where the physician can be contacted (preferably where records would be accessible pertaining to this patient) if more information is needed.
SECTION B:	**(May not be completed by the supplier. While this section may be completed by a non-physician clinician, or a physician employee, it must be reviewed, and the CMN signed (in Section D) by the ordering physician.)**
EST. LENGTH OF NEED:	Indicate the estimated length of need (the length of time the physician expects the patient to require use of the ordered item) by filling in the appropriate number of months. If the physician expects that the patient will require the item for the duration of his/her life, then enter 99.
DIAGNOSIS CODES:	In the first space, list the ICD9 code that represents the primary reason for ordering this item. List any additional ICD9 codes that would further describe the medical need for the item (up to 3 codes).
QUESTION SECTION:	This section is used to gather clinical information to determine medical necessity. Answer each question which applies to the items ordered, circling "Y" for yes, "N" for no, "D" for does not apply, a number if this is offered as an answer option, or fill in the blank if other information is requested.
NAME OF PERSON ANSWERING SECTION B QUESTIONS:	If a clinical professional other than the ordering physician (e.g., home health nurse, physical therapist, dietician) or a physician employee answers the questions of Section B, he/she must print his/her name, give his/her professional title and the name of his/her employer where indicated. If the physician is answering the questions, this space may be left blank.
SECTION C:	**(To be completed by the supplier)**
NARRATIVE DESCRIPTION OF EQUIPMENT & COST:	Supplier gives **(1)** a narrative description of the item(s) ordered, as well as all options, accessories, supplies and drugs; **(2)** the supplier's charge for each item, option, accessory, supply and drug; and **(3)** the Medicare fee schedule allowance for each item/option/accessory/supply/drug, if applicable.
SECTION D:	**(To be completed by the physician)**
PHYSICIAN ATTESTATION:	The physician's signature certifies **(1)** the CMN which he/she is reviewing includes Sections A, B, C and D; **(2)** the answers in Section B are correct; and **(3)** the self-identifying information in Section A is correct.
PHYSICIAN SIGNATURE AND DATE:	After completion and/or review by the physician of Sections A, B and C, the physician must sign and date the CMN in Section D, verifying the Attestation appearing in this Section. The physician's signature also certifies the items ordered are medically necessary for this patient. Signature and date stamps are not acceptable.

According to the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0938-0534. The time required to complete this information collection is estimated to average 10 minutes per response, including the time to review instructions, search existing resources, gather the data needed, and complete and review the information collection. If you have any comments concerning the accuracy of the time estimate or suggestions for improving this form, please write to: HCFA, P.O. Box 26684, Baltimore, Maryland 21207 and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503.

BILLING CODE 4120–03–C

HCFA inadvertently excluded mention and description of revision to HCFA–484 in **Federal Register** Notices announcing agency and OMB review of the currently pending OMB submission 0938–0679, ''Durable Medical Equipment Regional Carrier, Certificate of Medical Necessity'', Forms HCFA–841 through HCFA–853. While all oxygen CMN related public comments received thus far on 0938–0679 will be considered by DHHS and OMB during this emergency approval process, public comment related to this proposed collection are still encouraged.

To obtain copies of the supporting statement and any related forms, E-mail your request, including your address and phone number, to Paperwork@hcfa.gov, or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collection HCFA–484, OMB #0938–0534, should be sent within 30 days of this notice directly to the OMB Desk Officer designated at the following address: OMB Human Resources and Housing Branch, Attention: Allison Eydt, New Executive Office Building, Room 10235, Washington, D.C. 20503.

Dated: April 17, 1997.

Edwin J. Glatzel,

Director, Management Analysis and Planning Staff, Office of Financial and Human Resources, Health Care Financing Administration.

[FR Doc. 97–10490 Filed 4–21–97; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Availability of The HRSA Competitive Grants Preview

AGENCY: Health Resources and Services Administration.

ACTION: General Notice.

SUMMARY: HRSA announces the availability of the HRSA Competitive Grants Preview publication (hereinafter referred to as The Preview) which constitutes a description of the Agency's competitive grant programs for Fiscal Year 1997. The purpose of the Preview is to provide the general public with a single source of program and application information related to the Agency's annual grant review cycle. The Preview is designed to replace multiple **Federal Register** notices which traditionally advertised the availability of HRSA discretionary funds for its various programs. The HRSA Preview will appear annually in the **Federal Register**. The Fiscal Year 1997 Preview appears as Attachment A to this notice.

Although the Preview describes the majority of HRSA discretionary grant program areas, it should be noted that other program initiatives, responsive to new or emerging issues in the health care area, and unanticipated at the time of publication of the Preview, may be advertised through the **Federal Register** mechanism from time-to-time. Some programs described in the initial Preview have appeared in **Federal Register** announcements earlier this Fiscal Year. Deadlines or other requirements appearing in the **Federal Register** are not changed by this notice.

The Preview will contain a description of all competitive programs and will include instructions on how to access the Agency for information and how to receive application kits upon availability. Specifically, the following information for each competitive grant program area will be provided: (1) Program Title; (2) Legislative Authority; (3) Purpose; (4) Eligibility; (5) Estimated Amount of competition; (6) Estimated number of awards; (7) Funding Priorities and/or Preferences; (8) Projected Award Date; (9) Application Deadline; (10) Application kit availability; and (11) The Catalog of Federal Domestic Assistance (CFDA) program identification number.

The first issue of the Preview relates exclusively to funding under HRSA discretionary authorities and programs as follows:

Primary Health Care Programs

- Community and Migrant Health Centers
- Health Care For The Homeless
- Grants to States for Loan Repayment Programs
- Ryan White Title III Planning Grants
- Grants to States for Community Scholarship Programs

Maternal and Child Health Programs

- Genetic Services
- Managed Care Policy and Children with Special Health Care Needs
- Integrated Services For Children With Special Needs
- Partnership for Information and Communications
- State Fetal and Infant Mortality Review Support Centers
- Health, Mental Health and Safety for Schools
- Partners in Program Planning for Adolescent Health
- Sudden Infant Death Syndrome (SIDS) and Other Infant Death (OID) Program Support Center
- Health And Safety in Child Care Settings
- Data Utilization and Enhancement For State/Community Infrastructure Building and Managed Care
- Healthy Tomorrows Partnership for Children
- Community Integrated Service Systems (CISS) Research Grants
- Maternal and Child Health Provider Partnership Cooperative Agreement
- Community Integrated Services Systems (CISS)—Local/State Community Organization Grants
- Maternal and Child Health Research Cycle
- Long Term Training In Adolescent Health
- Long Term Training In Behavioral Pediatrics
- Long Term Training In Communication Disorders
- Long Term Training In Pediatric Dentistry
- Long Term Training In Pediatric Occupational Therapy
- Long Term Training In Pediatric Physical Therapy
- Long Term Training In Public Health Social Work
- Continuing Education and Development
- Emergency Medical Services for Children: Implementation Grants
- Emergency Medical Services for Children: Planning Grants
- Emergency Medical Services for Children: Partnership Grants
- Emergency Medical Services for Children: Targeted Issues Grants
- Ryan White Title IV; Grants for Coordinated HIV Services and Access To Research for Children, Youth, Women and Families
- Healthy Start Cooperative Agreements
- Traumatic Brain Injury Demonstration Grants

Rural Health Programs

- Rural Outreach, Network Development Grant Program
- Telemedicine Network

ADDRESSES: Individuals may obtain the HRSA Preview by calling HRSA's toll free number, 1–888–333–HRSA. The HRSA Preview may also be accessed on the World Wide Web on the HRSA Home Page at: http://www.hrsa.dhhs.gov/.

Dated: April 16, 1997.

Claude Earl Fox,

Acting Administrator.

Attachment A

The Health Resources and Services Administration Competitive Grants Preview

HRSA Announcements for Federal Fiscal Year 1997

The programs administered by the Health Resources and Services Administration (HRSA) are designed to improve the health of the Nation by assuring that quality health care is available to underserved and vulnerable populations and by promoting primary care education and practice. HRSA, in providing national leadership in health care and public health, believes that health care is a right. The diversity of programs supported by HRSA reflects this philosophy and unity of purpose.

This first issue of the HRSA *Competitive Grants Preview* will provide notice to the general public of its competitive grant programs and diverse funding opportunities, subject to availability of discretionary funds, during the Federal fiscal year, which begins each October 1 and ends September 30 of the next calendar year. The Preview is designed to replace the multiple **Federal Register** notices which HRSA has traditionally published during previous fiscal years. Because this initial issue of the Preview is being distributed during the second quarter of the fiscal year, it excludes those HRSA programs which have already been advertised and competed in the early part of FY 1997. The programs included in this issue have funding effective dates ranging from June 1 to September 30, 1997. Future issues will be available each fiscal year and will present a more complete spectrum of programs.

It should be noted, however, that separate **Federal Register** notices may be published to enable HRSA to respond to unanticipated issues in the health services arena, or to comply with specific Congressional directives.

For each program, the Preview provides a description of the program category, applicant eligibility, the application deadline, projected award date, the amount of funds available, funding priorities and/or preferences, and the phone number to obtain additional information on specific funding categories. Additionally, the Preview identifies a set of generic review criteria which represents HRSA's overall approach to competitive application review. Included in the individual application package are the final review criteria specific to each program category.

We are confident that this new approach to advertising funding opportunities will facilitate easy access to HRSA's program information and grant materials.

Thank you for working in partnership with HRSA as we seek together to improve the health status of our citizens.

HRSA's Program Priorities

Academic and Community Partnerships in Health Care Professions Education

Training the next generation of health professionals through academic partnerships with communities, moving clinical education beyond hospital wards and into neighborhood sites.

Managed Care

Bringing poor, uninsured, rural and chronically ill people into the mainstream of managed care.

Administrative Simplification and Program Management

Improving services to our customers—the recipients of HRSA's programmatic efforts—by streamlining and consolidating administrative functions, developing and implementing automated systems, and assuring that the field offices are full partners.

State and Community Relationships

Working with States to better serve all populations, especially those unserved or underserved by the private health care system.

Community Infrastructure

Empowering communities to meet their own health care needs building coalitions of physicians, hospitals, clinics, health departments and residents to test, evaluate and replicate models of cooperative care.

Integrated HIV/AIDS Programs

Enhancing services provided through the Ryan White CARE Act for vulnerable populations including people living with HIV/AIDS.

School and Adolescent Health

Helping schools to keep children and adolescents healthy.

Border Health

Safeguarding the health of populations in the 51 U.S. counties along the U.S./Mexico border.

How To Obtain and Use the Preview

It is highly recommended that you carefully read the introductory materials, terminology section and individual program category descriptions before contacting the general number 1–888–333–HRSA. Likewise, we urge applicants to fully assess their eligibility for grants before requesting kits. This will greatly facilitate our ability to assist you in placing your name on the mailing list, and identifying the appropriate application kit(s), or other information you may wish to obtain.

To Obtain a Copy of the Preview: To have your name and address added to, or deleted from the Preview mailing list, please call the toll free number 1–888 *–333–HRSA. (* Call operator if experiencing difficulty)

E-mail Address: HRSA.GAC@ix.netcom.com

To Obtain an Application Kit: Upon review of the program descriptions, please determine which category or categories of application kit or kits you wish to receive, and contact the 1–888–333–HRSA number to register on the specific mailing list. If kits are already available, they will be mailed to you right away.

World Wide Web Access: The Preview is available on the HRSA Home Page via World Wide Web at http://www.hrsa.dhhs.gov. Application materials are currently available for downloading in the current cycle for some HRSA programs. HRSA's goal is to post application forms and materials for all programs in future cycles.

Grant Terminology

Authorizations: These are provided immediately preceding groupings of program categories. They are the citations of provisions of the laws authorizing the various programs.

Application Deadlines: Applications will be considered ''on time'' if they are either received on or before the established deadline date or sent on or before the deadline date given in the program announcement or in the application kit materials, unless they arrive too late for orderly processing.

CFDA Number: The relevant Catalog of Federal Domestic Assistance number for the program category or categories listed. The CFDA is a government-wide compendium of Federal programs, projects, services, and activities which provide assistance or benefits to the American public.

Cooperative Agreement: A financial assistance mechanism to be used in lieu of a grant when substantial Federal programmatic involvement with the recipient during performance is anticipated by the PHS awarding office.

Eligibility: Authorizing legislation and government programmatic regulations specify eligibility for individual grant

programs. In general, assistance is provided to nonprofit organizations and institutions, governments and their agencies, and occasionally to individuals. For-profit organizations are eligible to receive awards under financial assistance programs unless specifically excluded by legislation.

Funding Priorities and/or Preferences: Special priorities or preferences which the individual programs have identified for the funding cycle. For example, some programs give preference to organizations which have specific capabilities such as telemedicine networking, or established relationships with managed care organizations, and a preference may be given to either new or competing continuation applications.

Matching funds: Several HRSA categories require a matching amount or percentage of the total project support to come from sources other than Federal funds. Matching requirements are generally mandated in the authorizing legislation for specific categories and may be administratively required by the awarding office.

Review Criteria:

The following are generic review criteria applicable to HRSA programs:

* That the estimated cost to the Government of the project is reasonable considering the anticipated results.

* That project personnel or prospective fellows are well qualified by training and/or experience for the support sought and the applicant organization, or the organization to provide training to a fellow, has adequate facilities and manpower.

* That, insofar as practicable, the proposed activities (scientific or other), if well executed, are capable of attaining project objectives.

* That the project objectives are identical with or are capable of achieving the specific program objectives defined in the program announcement.

The specific review criteria used to review and rank applications are reflected in the individual guidance material provided with the application kits. Applicants should pay strict attention to addressing these criteria as they are the formal basis upon which their applications will be judged.

HRSA Program Competition in 1997—Primary Health Care Programs

Community and Migrant Health Centers

Authorization: Section 330 of the Public Health Service Act, 42 U.S.C. 254b.

Purpose: To extend preventive and primary health services to populations currently without such services and to improve the health status of medically underserved individuals by supporting the establishment of new health centers and/or new health centers service delivery sites for existing health centers.

Eligibility: Public and private non-profit entities. Eligible applicants for health center expansions must be current recipients of Community and/or Migrant Health Center funding.

Evaluation Criteria: Final criteria are reflected in the application kit.

Estimated Amount of Competition: $15,000,000 with applications selected so that the ratio of new users from rural areas to new users from urban areas is not less than 2 to 3, nor greater than 3 to 2.

Estimated Number of Awards: Approximately 30.

Funding Priorities and/or Preferences: Special consideration will be given to applicants that: (1) Propose to serve a designated Empowerment Zone/Enterprise Community; (2) propose to train and/or hire former welfare recipients as part of the service delivery plan; (3) are a part of a developing or operating health center managed care network or plan in States with established or developing Medicaid managed care programs; (4) have a demonstrated capacity and ability to provide required primary health services under Section (b) of this act; or (5) are in a State that does not currently have any grantees receiving support under Section (g) of this Act for migratory and/or seasonal agricultural workers, if applying to serve migratory and/or season agricultural workers. Special consideration will also be given to organizations proposing to serve sparsely populated rural areas.

Projected Award Date: 09/97.

Contact: 1–888–333–HRSA.

Application Deadline: 06/01/97.

Application Availability: 03/97.

CFDA Numbers: 93.224 and 93.246.

Health Care for the Homeless

Authorization: Section 330 of the Public Health Service Act, 42 U.S.C. 254b.

Purpose: Provision of primary health and substance abuse services to homeless individuals.

Eligibility: Non-profit private organizations and public entities, including State and local governmental agencies. Grantees and organizations with whom they may contract for services under this program must have an agreement with a State under its Medicaid program.

Evaluation Criteria: Final criteria are reflected in the application kit.

Estimated Amount of Competition: $1,000,000 to $1,500,000.

Estimated Number of Awards: 3 to 5.

Funding Priorities and/or Preferences: (1) Applicants located in those States and other distinct geographic areas (e.g., cities, counties) which have not previously received Health Care for the Homeless funds, and/or (2) applicants who have demonstrated unmet need for services in communities on the U.S./Mexico border with large numbers of homeless individuals and families.

Projected Award Date: 09/97.

Contact: 1–888–333–HRSA.

Application Deadline: 06/16/97.

Application Availability: 03/97.

CFDA Number: 93.151.

Grants to States for Loan Repayment Programs

Authorization: Section 338I of the Public Health Service Act, 42 U.S.C. 254q–1.

Purpose: To assist States in repayment of educational loans to health professionals in return for their practice in federally designated health professional shortage areas (HPSAs) to increase the availability of primary health services in such areas. States must provide adequate assurance that they will provide not less than $1 for each $1 of Federal funds provided in the grant. The Federal and State funds will be used only for loan repayments for health professionals who have entered into contracts with States. No other federal funds may be utilized to meet the required State cash contribution.

Eligibility: Any State. These programs must be administered by a State agency.

Evaluation Criteria: Final criteria are reflected in the application kit.

Estimated Amount of Competition: $3,000,000.

Estimated Number of Awards: 14.

Funding Priorities and/or Preferences: None.

Projected Award Date: 09/97.

Contact: 1–888–333–HRSA.

Application Deadline: 05/01/97.

Application Availability: 02/97.

CFDA Number: 93.165.

Ryan White Title III Planning Grants

Authorization: Subparts II and III of Part C of Title XXVI of the Public Health Service Act, 42 U.S.C. 300ff–54(c).

Purpose: To support the activities of a planning process that prepares organizations and communities to offer comprehensive HIV primary care services. To assist organizations and communities to prepare for a higher quality and broader scope of HIV primary care for a greater number of people in their service area who are HIV infected or at risk. Planning activities, leading to the establishment of HIV primary care services, must address the

requirements of the Ryan White Early Intervention Services Program. This grant is not an operational grant and does not support the care of patients.

Eligibility: Non-profit private and public entities, including local government agencies, that are not currently grant recipients of the Ryan White Title III program.

Evaluation Criteria: Final criteria are reflected in the application kit.

Estimated Amount of Competition: $650,000, with a limit of $50,000 per award.

Estimated Number of Awards: Up to 13.

Funding Priorities and/or Preferences: Applicants proposing to serve a rural or underserved community where emerging or ongoing HIV issues have not been adequately addressed.

Projected Award Date: 09/97.

Contact: 1–888–333–HRSA.

Application Deadline: 05/16/97.

Application Availability: 03/97.

CFDA Number: 93.918.

Grants to States for Community Scholarship Programs

Authorization: Section 338L of the Public Health Service Act, 42 U.S.C. 254t.

Purpose: To assist States to increase the availability of primary health care in urban and rural federally designated health professional shortage areas by assisting public or private non-profit community organizations to provide scholarships for education of individuals to serve as health professionals in these communities. States seeking support must agree (directly or through donations from public or private non-profit entities) that 60% of the total costs of the scholarships will be paid from non-federal contributions made in cash by the State and community organization. The State must make available through cash contributions not less than 15% nor more than 25% of the costs. The community organization must make available not less than 35% nor more than 45% of the costs. These grants funds will be expended only for scholarships to qualified residents of the communities to become health professionals. No other federal funds may be used to meet the State and community share of costs.

Eligibility: Any State is eligible to apply. For purposes of this notice, the term ''State'' means each of the several States including the District of Columbia. These programs must be administered by a single State agency.

Evaluation Criteria: Final criteria are reflected in the application kit.

Estimated Amount of Competition: $340,000.

Estimated Number of Awards: 12.

Funding Priorities and/or Preferences: None.

Projected Award Date: 09/97.

Contact: 1–888–333–HRSA.

Application Deadline: 05/15/97.

Application Availability: 02/97.

CFDA Number: 93.931.

Maternal and Child Health Programs

Genetic Services

Authorization: Title V of the Social Security Act, 42 U.S.C. 701.

**Eligibility:* 42 CFR Part 51a.3—(a) With the exception of training and research, as described in paragraph (b) of this section, any public or private entity, including an Indian tribe or tribal organization (as those terms are defined at 25 U.S.C. 450b) is eligible to apply for Federal funding under this Part. (b) Only public or nonprofit private institutions of higher learning may apply for training grants. Only public or nonprofit institutions of higher learning and public or private non-profit agencies engaged in research or in program relating to maternal and child health and/or services for children with special health care needs may apply for grants, contracts or cooperative agreements for research in maternal and child health services or in services for children with special health care needs.

Purpose: To improve the quality, availability, accessibility and utilization of genetic services as an integral component of comprehensive maternal and child health care. Grants will be awarded competitively to support projects on priority topics specified below.

Eligibility: 42 CFR Part 51a.3 *.

Evaluation Criteria: Final criteria are reflected in the application kit.

Estimated Amount of the Competition: $3,600,000.00.

Number of Expected Awards: 21.

Funding Priorities and/or Preferences: Priority topics for projects include: (1) Genetics in primary care; (2) genetic services networks; (3) comprehensive care for Cooley's Anemia; (4) genetic services for populations with ethnocultural barriers to care; (5) comprehensive care for infants with Sickle Cell disease identified through State newborn screening programs; and (6) genetics in managed care.

Projected Award date: 09/97.

Contact: 1–888–333–HRSA.

Application Deadline: 04/28/97.

Application Availability: 02/97.

CFDA Number: 93.110A.

Managed Care Policy and Children with Special Health Care Needs

Authorization: Title V of the Social Security Act, 42 U.S.C. 701.

Purpose: To support a national policy center to implement strategic planning to assure the availability and accessibility of comprehensive, community-based, culturally competent, and family-centered care to CSHCN and their families in a managed care environment.

Eligibility: 42 CFR Part 51a.3 *.

Evaluation Criteria: Final criteria are reflected in the application kit.

Estimated Amount of the Competition: $375,000.00.

Number of Expected Awards: 1.

Funding Priorities and/or Preferences: Preference will be given to organizations with proven national experience and an existing infrastructure for policy analysis at the national level on issues related to chronic care in the emerging managed care system.

Projected Award date: 09/97.

Contact: 1–888–333–HRSA.

Application Deadline: 04/11/97.

Application Availability: 02/97.

CFDA Number: 93.110C.

Integrated Services for Children With Special Health Care Needs

Authorization: Title V of the Social Security Act, 42 U.S.C. 701.

Purpose: To demonstrate innovative and nationally replicable models of community-based services in two areas: (1) Reduction of barriers to service integration for young children with special health care needs and their families; (2) Promoting the accessibility of ''medical homes'' (i.e., ongoing source of health/medical care) for CSHCN and their families through family/professional partnerships.

Eligibility: 42 CFR Part 51a.3 *.

Evaluation Criteria: Final criteria are reflected in the application kit.

Estimated Amount of the Competition: $900,000.00.

Number of Expected Awards: 8–10.

Funding Priorities and/or Preferences: Preference will be given to public and private community-based providers and programs; community/State agency partnerships; and community coalitions.

Projected Award Date: 09/97.

Contact: 1–888–333–HRSA.

Application Deadline: 05/16/97.

Application Availability: 02/97.

CFDA Number: 93.110F.

Partnership for Information and Communications

Authorization: Title V of the Social Security Act, 42 U.S.C. 701.

Purpose: To enhance communication between the Maternal and Child Health Bureau and governmental, professional and private organizations representing leaders and policy makers concerned with issues related to maternal and

child health. It facilitates dissemination of new maternal and child health related information of these policy and decision makers and provides those individuals and organizations with a means of communicating issues directly to the Maternal and Child Health program and to each other.

Eligibility: 42 CFR Part 51a.3 *.

Evaluation Criteria: Final criteria are reflected in the application kit.

Estimated Amount of the Competition: $1,100,000.00.

Number of Expected Awards: 5.

Funding Priorities and/or Preferences: For FY 1997, preference for funding will be given to national membership organizations representing State Governors and their staffs; State Health Officers; nonprofit and for-profit managed care organizations; and coalitions of organizations promoting the health of mothers and infants.

Projected Award date: 09/97.

Contact: 1–888–333–HRSA.

Application Deadline: 04/15/97.

Application Availability: 02/97.

CFDA Number: 93.110G.

State Fetal and Infant Mortality Review Support Centers

Authorization: Title V of the Social Security Act, 42 U.S.C. 701.

Purpose: To support State MCH agencies, or their designees, to stimulate and promote Fetal and Infant Mortality Review Programs in communities in order to enhance needs assessment and quality improvement efforts. Projects will support training and technical assistance activities that would be targeted to the particular needs within the State.

Eligibility: 42 CFR Part 51a.3*.

Evaluation Criteria: Final criteria are reflected in the application kit.

Estimated Amount of the Competition: $600,000.00.

Number of Expected Awards: 5.

Funding Priorities and/or Preferences: Preference for funding will be given to Title V programs or their designees.

Projected Award date: 09/97.

Contact: 1–888–333–HRSA.

Application Deadline: 05/13/97.

Application Availability: 02/97.

CFDA Number: 93.110I.

Health, Mental Health and Safety for Schools

Authorization: Title V of the Social Security Act, 42 U.S.C. 701.

Purpose: The purpose of this cooperative agreement is to support a process that will result in development of advisory guidelines for assuring basic health and safety in Kindergarten-12 grade school settings. The standards will be developed through a consensus process, which relies upon exchanges among groups of experts in specific topical areas to determine the state of the science and art. The guidelines will consolidate the best features of the array of guidelines, recommendations, and standards presently in existence.

Eligibility: 42 CFR Part 51a.3 *.

Evaluation Criteria: Final criteria are reflected in the application kit.

Estimated Amount of the Competition: $200,000.00.

Number of Expected Awards: 1.

Funding Priorities and or Preferences: Preference for funding will be given to organizations which have credibility in the education community and the capacity to address all aspects of health services, health education, and injury and violence prevention in the school environment.

Projected Award date: 09/97.

Contact: 1–888–333–HRSA.

Application Deadline: 06/03/97.

Application Availability: 02/97.

CFDA Number: 93.110M.

Partners in Program Planning for Adolescent Health

Authorization: Title V of the Social Security Act, 42 U.S.C. 701.

Purpose: To involve organizations having an historic interest in adolescent health in developing the programming of HRSA's Office of Adolescent Health (OAH). The OAH will collaborate with these organizations in seeking policy guidance from and providing programmatic information to their memberships.

Eligibility: 42 CFR Part 51a.3 *.

Evaluation Criteria: Final criteria are reflected in the application kit.

Estimated Amount of the Competition: $100,000.00.

Number of Expected Awards: 1.

Funding Priorities and/or Preferences: For FY 1997, preference for funding will be given to national membership organizations representing the professional discipline of nursing. Other professional disciplines may be the focus of future competitions.

Projected Award date: 09/97.

Contact: 1–888–333–HRSA.

Application Deadline: 06/17/97

Application Availability: 02/97.

CFDA Number: 93.110N.

Sudden Infant Death Syndrome(SIDS) and Other Infant Death (OID) Program Support Center

Authorization: Title V of the Public Health Service Act, 42 U.S.C. 701.

Purpose: This cooperative agreement will fund population-based activities (e.g., systems analysis, epidemiology, health promotion) in support of development of community-based services to reduce as much as possible the risk of Sudden Infant Death Syndrome (SIDS) and Other Infant Deaths (OID), to appropriately support families when an infant death does occur, and will analyze standardized information about infant deaths in the hope of discovering factors which can be ameliorated to reduce the risk of a future infant death.

Eligibility: 42 CFR Part 51a.3 *.

Evaluation Criteria: Final criteria are reflected in the application kit.

Estimated Amount of the Competition: $350,000.00.

Number of Expected Awards: 1.

Funding Priorities and/or Preferences: None.

Projected Award date: 06/97.

Contact: 1–888–333–HRSA.

Application Deadline: 04/18/97.

Application Availability: 02/97.

CFDA Number: 93.110O.

Health and Safety in Child Care Settings

Authorization: Title V of the Social Security Act, 42 U.S.C. 701.

Purpose: This cooperative agreement supports the development and implementation of State-based programs to expand the number of public (public health nurses, nurse practitioners, physicians, nutritionists, dentists, mental health providers, and others) and private sector (managed care supported outreach staff and others) health professionals trained to serve as health care consultants to child care programs.

Eligibility: 42 CFR Part 51a.3 *.

Evaluation Criteria: Final criteria are reflected in the application kit.

Estimated Amount of the Competition: $175,000.00.

Number of Expected Awards: 1.

Funding Priorities and/or Preferences: None.

Projected Award date: 09/97.

Contact: 1–888–333–HRSA.

Application Deadline: 06/03/97.

Application Availability: 02/97.

CFDA Number: 93.110P.

Data Utilization and Enhancement for State/Community Infrastructure Building and Managed Care

Authorization: Title V of the Social Security Act, 42 U.S.C. 701.

Purpose: To enable State MCH and CSHCN programs to enhance the use of qualitative and quantitative analytic methods in local program solving for MCH populations. Awards are intended to supplement or complement existing data utilization activities and to foster and strengthen continuing collaboration among State and local public health agencies, private sector efforts and academic institutions.

Eligibility: 42 CFR Part 51a.3 *.

Evaluation Criteria: Final criteria are reflected in the application kit.

Estimated Amount of the Competition: $1,000,000.00.

Number of Expected Awards: 15–17.

Funding Priorities and/or Preferences: Special consideration will be given to proposals seeking to identify and track emerging issues resulting from health care structural, financial, and demographic changes (e.g., health care and welfare reform, managed care waivers, population income shifts, etc.).

Projected Award date: 09/97.

Contact: 1–888–333–HRSA.

Application Deadline: 06/30/97.

Application Availability: 02/97.

CFDA Number: 93.110U.

Healthy Tomorrows Partnership for Children

Authorization: Title V of the Social Security Act, 42 U.S.C 701.

Purpose: To improve access to health services and utilize preventive strategies. The initiative encourages additional support from the private sector and from foundations to form community-based partnerships to coordinate health resources for pregnant women, infants and children. Proposals are invited in the following program areas: (1) Local initiatives that are community-based, family-centered, comprehensive and culturally relevant and improve access to health services for infants, children, adolescents, or children with special health care needs (CSHCN), and (2) initiatives which show evidence of a capability to meet cost participation goals by securing funds for the second and sequential years of the project.

Eligibility: 42 CFR Part 51a.3 *.

Evaluation Criteria: Final criteria are reflected in the application kit.

Estimated Amount of the Competition: $500,000.00.

Number of Expected Awards: 10.

Funding Priorities and/or Preferences: In the interest of equitable geographic distribution, special consideration for funding will be given to projects from States without a currently funded project in this category. These States are cited in the application guidance.

Projected Award date: 09/97.

Contact: 1–888–333–HRSA.

Application Deadline: 04/17/97.

Application Availability: 02/97.

CFDA Number: 93.110V.

Community Integrated Service Systems (CISS) Research Grants

Authorization: Title V of the Social Security Act, 42 U.S.C. 701.

Purpose: To support research on CISS-sponsored early intervention services programs within the context of developing and expanding local service delivery systems. The intent is to generate new knowledge on early intervention services models and on how to integrate these models into existing systems of care at the community level while sustaining the essential nature and demonstrated effectiveness of the original prototypes.

Eligibility: 42 CFR Part 51a.3 *.

Evaluation Criteria: Final criteria are included in the application kit.

Estimated Amount of the Competition: $600,000.00.

Number of Expected Awards: 2.

Funding Priorities and/or Preferences: None.

Projected Award date: 09/97.

Contact: 1–888–333–HRSA.

Application Deadline: 07/01/97.

Application Availability: 01/97.

CFDA Number: 93.110AN.

Maternal and Child Health Provider Partnership Cooperative Agreement

Authorization: Title V of the Social Security Act, 42 U.S.C. 701.

Purpose: To support an effort to encourage private sector involvement and strengthen private-public partnerships to restructure and improve perinatal health services in communities and states and to improve coordination of an access to community health resources for women of reproductive age and infants. The awardee will be expected to analyze the current circumstances and obstacles to providers in the delivery of maternal and infant health services, develop strategies to improve maternal and infant health status and service systems through collaboration with national and state public health organizations, and disseminate and communicate concerns and information pertaining to the issues and strategies employed to their members and to other national organizations.

Eligibility: 42 CFR Part 51a.3 *.

Evaluation Criteria: Final criteria are reflected in the application kit.

Estimated Amount of the Competition: $200,000.00.

Number of Expected Awards: 1.

Funding Priorities and/or Preferences: Preference for funding will be given to national membership organizations representing providers of obstetrical and gynecological services.

Projected Award date: 09/97.

Contact Person: 1–888–333–HRSA.

Application Deadline: 05/13/97.

Application Availability: 02/97.

CFDA Number: 93.110AP.

Community Integrated Service Systems (CISS)—Local/State Community Organization Grants

Authorization: Title V of the Social Security Act, 42 U.S.C. 701.

Purpose: To support community organization activities in two areas: (1) Local level agencies; and (2) State MCH agencies. Funds may be used to hire staff to assist in consortium building and to function as community organizers, to help formulate a plan for integrated services systems, to obtain and/or provide technical assistance, and to convene community or State networking meetings for information dissemination and replication of systems integration programs.

Eligibility: 42 CFR Part 51a.3 *.

Evaluation Criteria: Final criteria are reflected in the application kit.

Estimated Amount of the Competition: $1,000,000.00.

Number of Expected Awards: 20.

Funding Priorities and/or Preferences: (1) Preference for funding of local level agencies will be given to local communities. In the interest of equitable geographical distribution, special consideration for funding will be given to projects from communities without a currently-funded CISS project. (2) Preference for State Community Organization Grants will be given to State MCH agencies.

Projected Award date: 09/97.

Contact 1–888–333–HRSA.

Application Deadline: 04/30/97.

Application Availability: 01/97.

CFDA Number: 93.110AR.

Maternal and Child Health Research Cycle

Authorization: Title V of the Social Security Act, 42 U.S.C. 701.

Purpose: To encourage research in maternal and child health which has the potential for ready transfer of findings to health care delivery programs. Of special interest are projects that address factors and processes that lead to disparities in health-status and the use of services among minority and other disadvantaged groups as well as health promoting behaviors, quality outcome measures, and system/integration reform.

Eligibility: 42 CFR Part 51a.3 *.

Evaluation Criteria: Final criteria are reflected in the application kit.

Estimated Amount of the Competition: $1,900,000.00.

Number of Expected Awards: 12.

Funding Priorities and/or Preferences: Within the issues/questions comprising the research agenda, preference for funding will be given to projects which: (1) seek to develop measures of racism

and/or study its consequences for the health of mothers and children; (2) investigate the role that fathers play in caring for and nurturing the health, growth, and development of children; and (3) address the factors and processes that enhance the quality, safety, access, and effectiveness of health care services provided to mothers and newborns, especially in light of the impact of managed care.

Projected Award date: 07/97 and 12/97.

Contact: 1–888–333–HRSA.

Application Deadline: 03/01/97 and 08/01/97.

Application Availability: 02/97 and 06/97.

CFDA Number: 93.110RS.

Long Term Training in Adolescent Health

Authorization: Title V of the Social Security Act, 42 U.S.C. 701.

Purpose: To provide interdisciplinary leadership training for several professional disciplines at the graduate and postgraduate levels to prepare them for leadership roles in training for, research on, or development of organized systems for delivery of services in programs providing adolescent health care.

Eligibility: 42 CFR Part 51a.3 *.

Evaluation Criteria: Final criteria are reflected in the application kit.

Estimated Amount of the Competition: $2,200,000.00.

Number of Expected Awards: 6.

Funding Priorities and/or Preferences: Applications are encouraged from Departments of Pediatrics and Internal Medicine of accredited U.S. Medical Schools or certain pediatric teaching hospitals having formal affiliations with schools of medicine.

Projected Award date: 07/97.

Contact: 1–888–333–HRSA.

Application Deadline: 03/21/97.

Application Availability: 02/97.

CFDA Number: 93.110TA.

Long Term Training in Behavioral Pediatrics

Authorization: Title V of the Social Security Act, 42 U.S.C. 701.

Purpose: To enhance behavioral, psychosocial and developmental aspects of general pediatric care through support for fellows preparing for academic leadership roles in behavioral pediatrics and to provide pediatric practitioners, residents, and medical students with essential biopsychosocial knowledge and clinical expertise.

Eligibility: 42 CFR Part 51a.3 *.

Evaluation Criteria: Final criteria are reflected in the application kit.

Estimated Amount of the Competition: $1,000,000.00.

Number of Expected Awards: 8.

Funding Priorities and/or Preferences: Applications are encouraged from Departments of pediatrics with an identifiable behavioral pediatrics unit/program within accredited medical schools in the United States.

Projected Award date: 07/97.

Contact: 1–888–333–HRSA.

Application Deadline: 03/21/97.

Application Availability: 02/97.

CFDA Number: 93.110TB.

Long Term Training in Communication Disorders

Authorization: Title V of the Social Security Act, 42 U.S.C 701.

Purpose: To provide leadership in communication disorders education through support of: (1) Graduate training of speech/language pathologists and/or audiologists to assume leadership roles in programs providing health and related services for populations of children, particularly those with special health care needs; (2) development and dissemination of curriculum resources to enhance pediatric content in communication disorders training programs; and (3) consultation technical assistance and continuing education in communication disorder geared to the needs of the MCH community.

Eligibility: 42 CFR Part 51a.3 *.

Evaluation Criteria: Final criteria are reflected in the application kit.

Estimated Amount of the Competition: $400,000.00.

Number of Expected Awards: 3.

Funding Priorities and/or Preferences: Applications are encouraged from departments or programs of audiology, communication disorders or speech and language pathology in institutions of higher learning that offer a graduate degree and are accredited for graduate education by the American Speech-Language-Hearing Association (ASHA) Council on Academic Accreditation.

Projected Award date: 07/97.

Contact: 1–888–333–HRSA.

Application Deadline: 03/14/97.

Application Availability: 01/97.

CFDA Number: 93.110TC.

Long Term Training in Pediatric Dentistry

Authorization: Title V of the Social Security Act, 42 U.S.C. 701.

Purpose: To provide leadership in pediatric dentistry education through support of: (1) postdoctoral training of dentists in the primary care specialty of pediatric dentistry to assume leadership roles related to oral health programs for populations of children, particularly those with special health care needs; (2) development and dissemination of curriculum resources to enhance pediatric content in dentistry training programs; and (3) consultation, technical assistance and continuing education in pediatric dentistry geared to the needs of the MCH community.

Eligibility: 42 CFR Part 51a.3 *.

Evaluation Criteria: Final criteria are reflected in the application kit.

Estimated Amount of the Competition: $400,000.00.

Number of Expected Awards: 3.

Funding Priorities and/or Preferences: Applications are encouraged from advanced education programs in pediatric dentistry accredited by the Commission on Dental Accreditation (CODA) at institutions which offer graduate degrees at the Master's level and above.

Projected Award date: 07/97.

Contact: 1–888–333–HRSA.

Application Deadline: 03/14/97.

Application Availability: 01/97.

CFDA Number: 93.110TG.

Long Term Training in Pediatric Occupational Therapy

Authorization: Title V of the Social Security Act, 42 U.S.C. 701.

Purpose: To provide leadership in pediatric occupational therapy training through support of: (1) Post-professional graduate training of occupational therapists for leadership roles in programs providing health and related services for populations of mothers and children, particularly those with special health care needs; (2) development and dissemination of curriculum resources to enhance pediatric content in occupational therapy training programs; and (3) consultation, technical assistance and continuing education in occupational therapy geared to the needs of the MCH community.

Eligibility: 42 CFR Part 51a.3 *.

Evaluation Criteria: Final criteria are reflected in the application kit.

Estimated Amount of the Competition: $400,000.00.

Number of Expected Awards: 3.

Funding Priorities and/or Preferences: Applications are encouraged from schools or departments of occupational therapy accredited by the Accreditation Council for Occupational Therapy Education (ACOTE). Preference will be given to schools/departments with a pediatric focus or which are developing such a doctoral program.

Projected Award date: 07/97.

Contact: 1–888–333–HRSA.

Application Deadline: 03/14/97.

Application Availability: 01/97.

CFDA Number: 93.110TH.

Long Term Training in Pediatric Physical Therapy

Authorization: Title V of the Social Security Act, 42 U.S.C. 701.

Purpose: To provide leadership in pediatric physical therapy education through support of: (1) post-professional graduate training of physical therapists for leadership roles in programs providing health and related services for populations of mothers and children, particularly those with special health care needs; (2) development and dissemination of curriculum resources to enhance pediatric content in physical therapy training programs; and (3) consultation, technical assistance and continuing education in pediatric physical therapy geared to the needs of the MCH community.

Eligibility: 42 CFR Part 51a.3 *.

Evaluation Criteria: Final criteria are reflected in the application kit.

Estimated Amount of the Competition: $400,000.00.

Number of Expected Awards: 3.

Funding Priorities and/or Preferences: Applications are encouraged from post-professional-level graduate degree programs for physical therapists. Preference will be given to established doctoral programs with a pediatric focus or to advanced masters programs with a pediatric focus which are developing such a doctoral program.

Projected Award date: 07/97.

Contact: 1–888–333–HRSA.

Application Deadline: 03/14/97.

Application Availability: 01/97.

CFDA Number: 93.110TI.

Long Term Training in Public Health Social Work

Authorization: Title V of the Social Security Act, 42 U.S.C. 701.

Purpose: To provide leadership in public health social work education through support of: (1) graduate training of social workers for leadership roles in programs providing health and related services for populations of mothers and children, including those with special health care needs; (2) development and dissemination of curriculum resources to enhance MCH content in social work training programs; and (3) consultation, technical assistance and continuing education in public health social work geared to the needs of the MCH community. Category A programs provide a Master's degree in social work, while category B programs provide a Master's degree in public health following the MSW or combined with a doctoral degree in social work.

Eligibility: 42 CFR Part 51a.3 *.

Evaluation Criteria: Final criteria are reflected in the application kit.

Estimated Amount of the Competition: $400,000.00.

Number of Expected Awards: 3.

Funding Priorities and/or Preferences: For Category A grants, applications are encouraged from graduate programs of social work with a Master's Degree program which is fully accredited by the Council on Social Work Education (CSWE), and which have a concentration in health. For Category B grants, applications are encouraged from graduate schools of public health accredited by the Council on Education in Public Health (CEPH), or schools of social work (accredited by CSWE) offering a university-approved post-MSW program in public health social work leading to the MPH or combined MPH and PhD/DSW. The two programs must have a formal affiliation.

Projected Award date: 07/97.

Contact: 1–888–333–HRSA.

Application Deadline: 03/14/97.

Application Availability: 01/97.

CFDA Number: 93.110TL.

Continuing Education and Development

Authorization: Title V of the Social Security Act, 42 U.S.C. 701.

Purpose: To facilitate timely transfer and application of new information, research findings, and technology related to MCH through: 1) short-term, non-degree related courses, workshops, conferences, symposia, institutes, and distance learning strategies and/or; 2) development of curricula, guidelines, standards of practice and educational tools/strategies intended to assure quality health care for the MCH population. The goal is to improve the health status of the MCH population through enhancing the leadership capabilities and practices of professionals in MCH and related services and through modifying the systems that deliver services.

Eligibility: 42 CFR Part 51a.3 *.

Evaluation Criteria: Final criteria are reflected in the application kit.

Estimated Amount of the Competition: $1,000,000.00.

Number of Expected Awards: 15.

Funding Priorities and/or Preferences: None.

Projected Award Date: 09/97.

Contact: 1–888–333–HRSA.

Application Deadline: 07/01/97.

Application Availability: 04/97.

CFDA Number: 93.110TO.

* *Eligibility:* 42 CFR Part 51a.3–(a) With the exception of training and research, as described in paragraph (b) of this section, any public or private entity, including an Indian tribe or tribal organization (as those terms are defined at 25 U.S.C. 450b) is eligible to apply for federal funding under this Part. (b) Only public or nonprofit private institutions of higher learning may apply for training grants. Only public or nonprofit institutions of higher learning and public or private non-profit agencies engaged in research or in programs relating to maternal and child health and/or services for children with special health care needs may apply for grants, contracts or cooperative agreements for research in maternal and child health services or in services for children with special health care needs.

Emergency Medical Services for Children: Implementation Grants

Authorization: Section 1910 of the Public Health Service Act, 42 U.S.C. 300w–9.

Purpose: To improve the capacity of a State's EMS program to address the particular needs of children. Implementation grants are used to assist States in integrating research-based knowledge and state-of-the-art systems development approaches into the existing State EMS, MCH, and CSHCN systems, using the experience and products of previous EMSC grantees. Applicants are encouraged to consider activities that (1) Address identified needs within their State EMS system and that lay the groundwork for permanent changes in that system; (2) develop or monitor pediatric EMS capacity; (3) will be institutionalized within the State EMS system.

Eligibility: States and Accredited Schools of Medicine.

Evaluation Criteria: Final criteria are reflected in the application kit.

Estimated Amount of the Competition: $1,000,000.00.

Number of Expected Awards: 4.

Funding Priorities and/or Preferences: None.

Projected Award date: 08/97.

Contact: 1–888–333–HRSA.

Application Deadline: 04/11/97.

Application Availability: 01/97.

CFDA Number: 93.127A.

Emergency Medical Services for Children: Planning Grants

Authorization: Section 1910 of the Public Health Service Act, 42 U.S.C. 300w–9.

Purpose: To enable a State to assess needs and develop a strategy to begin to address those needs. Funds may be used to hire staff to assist in the assessment of EMSC needs of the State; obtain technical assistance from national, State, regional or local resources; help formulate a State plan for the integration of EMSC services into the existing State EMS plan; and plan a more comprehensive grant proposal based upon a needs assessment performed during the planning grant project period. The proposal should provide evidence of the State's commitment to

improving pediatric emergency medical services and describe the method by which applicant will identify problems, assess needs, and develop a planning process for improving EMSC. A comprehensive approach, addressing physical, psychological, and social aspects of EMSC along the continuum of care, should be reflected in the proposed planning process.

Eligibility: States and Accredited Schools of Medicine.

Evaluation Criteria: Final criteria are reflected in the application kit.

Estimated Amount of the Competition: $100,000.00.

Number of Expected Awards: 2.

Funding Priorities and/or Preferences: None.

Projected Award date: 07/97.

Contact: 1–888–333–HRSA.

Application Deadline: 04/11/97.

Application Availability: 01/97.

CFDA Number: 93.127B.

Emergency Medical Services for Children: Partnership Grants

Authorization: Section 1910 of the Public Health Service Act, 42 U.S.C. 300w–9.

Purpose: To support activities that represent the next logical step or steps to take to institutionalize EMSC within EMS and to continue to improve and refine EMSC. Proposed activities should be consistent with documented needs in the State and should reflect a logical progression in enhancing pediatric capabilities. For example, funding might be used to address problems identified in the course of a previous implementation grant; to increase the involvement of families in EMSC; to improve linkages between local, regional, or State agencies; to promulgate standards developed for one region of the State under previous funding to include the entire State; to devise a plan for coordinating and funding poison control centers; or to assure effective field triage of the child in physical or emotional crisis to appropriate facilities and/or other resources.

Eligibility: States.

Evaluation Criteria: Final criteria are reflected in the application kit.

Estimated Amount of the Competition: $1,920,000.00.

Number of Expected Awards: 32.

Funding Priorities and/or Preferences: None.

Projected Award date: 09/97.

Contact: 1–888–333–HRSA.

Application Deadline: 04/11/97.

Application Availability: 01/97.

CFDA Number: 93.127C.

Emergency Medical Services for Children: Targeted Issue Grants

Authorization: Section 1910 of the Public Health Service Act, 42 U.S.C. 300w–9.

Purpose: To address specific, focused issues related to the development of EMSC knowledge and capacity, with the intent of advancing the state of the art of creating tools or knowledge that will be helpful nationally. Proposals must have a well-conceived methodology for analysis and evaluation. Targeted issue priorities have been identified based on the EMSC Five Year Plan. Proposals may be submitted on emerging issues that are not included in the identified priorities. However, any such proposals must demonstrate relevance to the Plan and must make a persuasive argument that the issue is particularly critical.

Eligibility: States and Accredited Schools of Medicine.

Evaluation Criteria: Final criteria are reflected in the application kit.

Estimated Amount of the Competition: $1,050,000.00.

Number of Expected Awards: 7.

Funding Priorities and/or Preferences: Cost-benefit analyses related to EMSC, Implications of managed care for EMSC, Evaluations of EMSC components, Risk-taking behaviors of children and adolescent, Models for improving the care of culturally distinct populations, Children's emergencies in disasters.

Projected Award date: 09/97.

Contact: 1–888–333–HRSA.

Application Deadline: 04/11/97.

Application Availability: 01/97.

CFDA Number: 93.127D.

Ryan White Title IV; Grants for Coordinated HIV Services and Access to Research for Children, Youth, Women and Families

Authorization: Public Law 104–145, Title IV Ryan White CARE Act Amendments, 42 U.S.C. 300ff–71.

Purpose: To link clinical research and other research activities with comprehensive care systems, and to improve and expand the coordination of a system of comprehensive care for children, youth, women, and families who are infected/affected by HIV. Funds will be used to support programs that: (1) Cross established systems of care to coordinate service delivery HIV prevention efforts and clinical research and other research activities; and (2) creatively address the intensity of service needs high costs, and other complex barriers to comprehensive care and research experienced by underserved, at-risk and economically limited populations. Activities under these grants should address the goals of: increasing client access by linking HIV/AIDS clinical research trials and activities with comprehensive care; fostering the development and support of comprehensive, culturally competent, community-based and family-centered care infrastructures; and emphasizing prevention within the care system.

Eligibility: All public and private entities, nonprofit and for profit.

Evaluation Criteria: Final criteria are reflected in the application kit.

Estimated Amount of the Competition: $15,500,000.00.

Number of Expected Awards: 23.

Funding Priorities and/or Preferences: Preference for funding in this category will be given to projects that have: (1) Established and currently support a comprehensive, coordinated, system of HIV care serving either children, youth, women, or families; and (2) linked with or initiated activities to link with clinical trials or other research.

Projected Award date: 08/97.

Contact: 1–888–333–HRSA.

Application Deadline: 04/18/97.

Application Availability: 02/97.

CFDA Number: 93.153A.

Healthy Start Cooperative Agreements (Phase II)

Authorization: Section 301 of the Public Health Service Act, and Public Law 104–208, 42 U.S.C. 241(a).

Purpose: To operationalize successful infant mortality reduction strategies developed during the demonstration phase and to launch Healthy Start projects in new rural and urban communities (i.e., communities currently without a HSI-funded project). Competition is open to community-based entities interested in replicating or adapting existing Healthy Start models. All new HSI communities will be required to receive mentoring from one or more existing HSI projects.

Eligibility: Public or nonprofit private organizations, or tribal and other nonprofit organizations representing American Indians, Native Hawaiians, or Pacific Islanders, applying as or on behalf of an existing community-based consortium, and have infant mortality reduction initiatives already underway. In the case of applications with overlapping project areas or more than one applicant for the same project area, only one applicant will be considered for funding. Applicants must be in partnership with a current Consortium which has been: a) In operation at least the last two years prior to the date of application, and, b) involved in MCH activities (e.g. health fairs, support groups) in the project area. A consortium which has organized as community-based organization may

apply if it has demonstrable management and administrative experience.

New communities targeted under Healthy Start-Phase II are those in which infant mortality problems are most severe, resources can be concentrated, implementation is manageable, and progress can be measured. A project area is defined as a geographic area for which improvements have been planned and are being implemented. A project area must represent a reasonable and logical catchment area. The project consortium's responsibility for this catchment area includes the provision of ongoing advice to and oversight of the delivery of project services for the duration of the project period. Proposed activities should incorporate the Healthy Start principles of innovation, community commitment and involvement, increased access, service integration, and personal responsibility. Applicants are eligible for funding under Healthy Start Phase-II if, for the baseline three-year period 1991–1993, the proposed project area had the following verifiable characteristics:

An average infant mortality rate of at least 12.9 deaths per 1,000 live births, from vital statistics data, and at least three of the following:

—A percentage of births to teens which exceeded the national average of 5.0 percent of live births;
—A percentage of low birthweight births which exceeded the national average of 7.1 percent of live births;
—A rate of postneonatal mortality which exceeded the national average of 3.6 per 1,000 live births;
—A percentage of children under 18 with family incomes below the Federal Poverty level which exceeded the national average of 19.9% for 1990. (**Federal Register** dated 3/6/97).

Evaluation Criteria: Final criteria are reflected in the application kit.

Estimated Amount of the Competition: $54,000,000.00.

Number of Expected Awards: 30.

Funding Priorities and/or Preferences: Preference for funding will be given to an approved applicant to achieve an equitable national geographic distribution across all States and territories.

Projected Award date: 08/97.

Contact: 1–888–333–HRSA.

Application Deadline: 04/15/97.

Application Availability: 01/97.

CFDA Number: 93.926B.

Traumatic Brain Injury Demonstration Grants

Authorization: Section 1252 of the Public Health Service Act, 42 U.S.C. 300d–52 *et seq.*

Purpose: Category 1, State Planning Grants—Planning grants are intended to support the development of core capacity components for Traumatic Brain Injury (TBI) services. Category 2, State Implementation Grants—Implementation grants are intended for States to have the core capacity components in place. These grants will support activities that represent the next logical step(s) in building a Statewide system to assure access to comprehensive and coordinated TBI services.

Eligibility: Only State governments are eligible for funding under the TBI demonstration grant program.

Evaluation Criteria: Category 1: The composition of the Board; commitments from all identified organizations or individuals; organizational and meeting arrangements; the adequacy of the State's proposed method for developing a Statewide needs assessment; the adequacy of the State's proposed method for linking its plan of action to the findings of the Statewide needs assessment; involvement of necessary public/private organizations and agencies to assure a comprehensive approach; the qualifications and experience established for the designated lead person for TBI; and, the reasonableness of the budget. Category 2: The adequacy of proposed methodology to assure full core capacity; the relevance of the goals and objectives to the identified needs assessment; and the adequacy of the plan for organizing and carrying out the project; involvement and participation of TBI survivors, families, and organizations; collaboration and coordination among the entities in the TBI continuum; project involvement in multidisciplinary and multisystem approach to TBI development; and sustainability of the proposed project. Matching requirement: Non-Federal cash contributions of not less than $1.00 for each $2.00 of Federal funds required.

Estimated Amount of the Competition: $2,800,000.00.

Number of Expected Awards: 23.

Funding Priorities and/or Preferences: None.

Projected Award Date: 09/97.

Contact: 1–888–333–HRSA.

Application Deadline: 05/30/97.

Application Availability: 02/97.

CFDA Number: 93.TBA–1.

Rural Health Programs

Rural Outreach, Network Development Grant Program

Authorization: Public Law 104–299, The Health Centers Consolidation Act of 1996, 42 U.S.C. 254b.

Purpose: To expand access to, coordinate, restrain the cost of, and improve the quality of essential health care services, including preventive and emergency services, through development of integrated health care delivery systems or networks in rural areas and regions. Funds are available for projects to support the direct delivery of health care and related services, to expand existing services, or to enhance health service delivery through education, promotion, and prevention programs. The emphasis is on the actual delivery of specific services rather than the development of organizational capabilities. Projects may be carried out by networks of the same providers (e.g. all hospitals) or more diversified networks. Funds are also available to support planning and development of vertically integrated health care networks in rural areas. Vertically integrated networks must be composed of three or more separate providers. There must be a memorandum of agreement or other formal arrangement between members of a network.

Eligibility: Rural public or nonprofit private organizations that include three or more health care providers or other entities that provide or support the delivery of health care services. The administrative headquarters of the organizations must be located in a rural county or in a rural census tract or an urban county, or an organization constituted exclusively to provide services to migrant and seasonal farm workers in rural areas and supported under Section 330G of the Public Health Service Act. These organizations are eligible regardless of the urban or rural location of the administrative headquarters.

Evaluation Criteria: Final criteria are reflected in the application kit.

Estimate amount of competition: $16,000,000.

Number of expected awards: 80.

Funding Priorities and/or Preferences: Funding preference may be given to applicant networks that include: (1) A majority of the health care providers serving in the area or region to be served by the network; (2) any federally qualified health centers, rural health clinics, and local public health departments serving in the area or region; (3) outpatient mental health providers serving in the area or region; or (4) appropriate social service providers, such as agencies on aging, school systems, and providers under the WIC program, to improve access to and coordination of health care services.

Projected award date: 09/97.

Contact: 1–888–333–HRSA.

Application Deadline: 03/31/97.
Application Availability: 12/96.
CFDA Number: 93.912.

Telemedicine Network

Authorization: Pub. L. 104–299, The Health Centers Consolidation Act of 1996, 42 U.S.C. 254b.

Purpose: To demonstrate how telemedicine can be used as a tool in developing integrated systems of health care, improving access to health services for rural citizens and reducing the isolation of rural health care practitioners, and to collect information for the systematic evaluation of the feasibility, costs, appropriateness and acceptability of rural telemedicine. Grantees may not use in excess of 40% of their federal grant funds each year for the purchase or lease and installation of equipment (i.e., equipment used inside the health care facility for providing telemedicine services such as codecs, cameras, monitors, computers, multiplezers, etc.). Grantees may not use federal funds to purchase or install transmission equipment (i.e., microwave towers, satellite dishes, amplifiers, or laying of telephone or cable lines). Grantees may not use federal funds to build or acquire real property or for construction, except to the extent that such funds are used for minor renovations related to the installation of telemedicine equipment. No more than 20% of the amounts provided under the grants can be used to pay for the indirect costs associated with carrying out the activities under the grant.

Eligibility: In general, any public (non-federal) or private-nonprofit entity that is: (1) A health care provider and a member of an existing or proposed telemedicine network, or (2) a consortium of providers that are members of an existing or proposed telemedicine network. The applicant must be a legal entity capable of receiving federal grant funds. The applicant may be located in either a rural or urban area. Other telemedicine network members may be public or private, nonprofit or for-profit. Health facilities operated by a federal agency may be members of the network but not the applicant. A telemedicine network shall, at a minimum, be composed of a multi-specialty entity that is located in an urban or rural area, which can provide 24-hour-a-day access to a range of specialty care services, and at least two rural health care facilities, which may include rural hospitals (fewer than 100 staffed beds), rural physician offices, rural health clinics, rural community health clinics and rural nursing homes.

Evaluation Criteria: Final criteria are reflected in the application kit.

Estimated Amount of Competition: $4–5 Million.

Number of expected Awards: 10–14.

Funding Priorities and/or Preferences: Funding preference will be given to applicant networks that include: (1) A majority of the health care providers serving the area or region to be served by the network; (2) any federally qualified health centers, rural health clinics, and local public health departments serving in the area or region; (3) outpatient mental health providers serving in the area or region; or (4) appropriate social service providers (e.g., agencies on aging, school systems, and providers under the WIC program) to improve access to, and coordination of, health care services.

Projected Award Date: 09/97.
Contact: 1–888–333–HRSA.
Application Deadline: 06/97.
Application Availability: 04/97.
CFDA Number: 93.211.

[FR Doc. 97–10335 Filed 4–21–97; 8:45 am]

BILLING CODE 4160–15–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4200–N–53]

Notice of Proposed Information Collection for Public Comment

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments due:* June 23, 1997.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Oliver Walker, Housing, Department of Housing and Urban Development, 451—7th Street, SW, room 9116, Washington, DC 20410.

FOR FURTHER INFORMATION CONTACT: Joseph McCloskey, telephone number (202) 708–1672 (this is not a toll-free number) for copies of the proposed forms and other available documents.

SUPPLEMENTARY INFORMATION: The Department will submit the proposed information collection to OMB for review, as required by Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

The Notice is soliciting comments from members of the public and affecting agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

This Notice also lists the following information:

Title of Proposal: Recertification of Family Income and Composition, Section 235(b) and Statistical Report Section 235 (b), (j) and (i).

OMB Control Number: 2502–0082.

Description of the need for the information and proposed use: This Notice requests to extend the use of Form HUD–93101 and HUD–93101A to be submitted by homeowners to mortgagees to determine their continued eligibility for assistance and to determine the amount of assistance a homeowner is to receive. The forms are also used by mortgagees to report statistical and general program data to HUD.

Agency forms, if applicable: HUD 93101 and HUD–93101A.

Members of affected public: An estimation of the total number of hours needed to prepare the information collection is 1, the number of respondents is 150,962, and frequency of responses is varied.

Status of the proposed information collection: Extension of a currently approved collection.

Authority: Section 3506 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, amended.

Dated: April 16, 1997.

Nicolas P. Retsinas,

Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 97–16279 Filed 4–18–97; 8:45 am]

BILLING CODE 4210–27–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4200–N–52]

Notice of Proposed Information Collection for Public Comments

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: Comments due: June 23, 1997.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Mildred M. Hamman, Reports Liaison Officer, Public and Indian Housing, Department of Housing and Urban Development, 451 7th Street, S.W., Room 4238, Washington, D.C. 20410–5000.

FOR FURTHER INFORMATION CONTACT: Mildred M. Hamman, (202) 708–3642. extension 4128, for copies of the proposed forms and other available documents. (This is not a toll-free number).

SUPPLEMENTARY INFORMATION: The Department will submit the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

This Notice is soliciting comments from members of the public and affected agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) enhance the quality, utility, and clarity of the information to be collected; and (4) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated collection techniques or other forms of information technology; e.g., permitting electronic submission of responses.

This Notice also lists the following information:

Title of Proposal: Service Coordinators in Public Housing.

OMB Control Number: 2577–.

Description of the need for the information and proposed use: HUD will require grantees to report, semi-annually, how Federal funds are being spent as approved under the Service Coordinator Program. HUD will use the information to verify that the funds are being spent according to application approval. The information provides HUD with details on the developments receiving services, services provided to residents, services provided by the Area Agency on Aging (AAA), and salary and administrative costs. Training information complies with Section 802(d)(4) of the National Affordable Housing Act.

Members of affected public: State or Local Government, Individuals, business or other for profit.

Estimation of the total number of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response: 193 grantees, semi-annually, 2 hours average per response, 772 hours total reporting burden.

Status of the proposed information collection: New.

Authority: Section 3506 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: April 16, 1997.

Michael B. Janis,

General Deputy Assistant Secretary for Public and Indian Housing.

BILLING CODE 4210–33–M

Service Coordinators in Public Housing

U.S. Department of Housing and Urban Development
Office of Public and Indian Housing

OMB Approval No. 2577-0202 (exp. mm/dd/yy)

Public reporting burden for this collection of information is estimated to average 24 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Reports Management Officer, Paperwork Reduction Project (2577-0202), Office of Information Technology, U.S. Department of Housing and Urban Development, Washington, D.C. 20410-3600. This agency may not collect this information, and you are not required to complete this form, unless it displays a currently valid OMB control number.

Do not send this form to the above address.

This information is used by HUD to verify that grantees spend Federal funds according to application approval under the Service Coordinator Program as authorized by Section 673 of the 1992 HCD Act. The information provides HUD with details on the developments receiving services, services provided to residents, services provided by the Area Agency on Aging (AAA), and salary and administrative costs. Training information complies with Section 802(d)(4) of the National Affordable Housing Act. Responses are voluntary. The information does not lend itself to confidentiality.

Name of PHA	HUD assigned project number	Amount of funds received	Amount of funds expended
	Amount of Supportive Services	Do Supportive Services exceed 15% of costs of Supportive Services? ☐ Yes ☐ No	

Name of Development(s) where Services are provided	Number of Units in the Development	Number of Elderly Residents	Number of Residents ADL & services provided	Number of Service Coordinators	Number of Hours Service Coordinators work each wk.	Number of Aids	Number of Hours Aids work each wk.

DRAFT

Is the Service Coordinator trained per Sec. 802(d)(4) of the National Affordable Housing Act (42 U.S.C. 8011(d)(4)? ☐ Yes ☐ No
Is a copy of the Service Coordinator's job description on file? ☐ Yes ☐ No
Is the Service Coordinator shared by more than one grantee? ☐ Yes ☐ No
Is there a signed agreement on file between/among grantees? ☐ Yes ☐ No
Is staff appropriate? ☐ Yes ☐ No
Is there a Professional Assessment Committee (PAC) in existance for each resident? ☐ Yes ☐ No
Is technical assistance needed? (Use a separate sheet to explain) ☐ Yes ☐ No
Is the grantee ensuring that the Service Coordinator coordinates activities with RC/RMC? ☐ Yes ☐ No
Is the grantee maintaining a relationship with local agencies serving the elderly/disabled? ☐ Yes ☐ No
If the Service Coordinator is under contract with a 3rd-party agency, is a copy of the current contract on file? ☐ Yes ☐ No
(The file must contain beginning and ending dates of the contract; number and responsibilities of staff hired; rates of pay/costs of services to be provided; location; and an agreement to provide HUD access to the files.)

Number of Service Coordinators on-site staff persons hired by PHA: _____
Number of Service Coordinators on-site staff persons hired from 3rd-party agency: _____

Check all services provided to the residents

- ☐ Housekeeping (laundry)
- ☐ Transportation
- ☐ Bathing
- ☐ Dressing
- ☐ Medical Devices
- ☐ Money Management
- ☐ Eating
- ☐ Counseling
- ☐ Grooming
- ☐ Medical Appointments
- ☐ Proving Program Information
- ☐ Socialization Activities
- ☐ Helping arrange one's own services
- ☐ Assist in application for entitlement programs
- ☐ Other (list)

List services provided by the Area Agency on Aging (AAA)

form **HUD-52365** (02/21/97)

PHA Name	Name of Development

Administrative Costs for Program Year_____

Line	Item	Total Amount
1.	Direct Costs (Maintenance, Utilities, Postage, Printing, Copier, Fax, Rent, Equipment, Other Staff)	
	Totals	$
2.	Indirect Costs (Contract Direct Labor Costs, Fringe Benefits)	
	Totals	$
3.	Fringe Benefits (Provide percentage and calculations for direct labor positions)	
	Totals	$
4.	Materials and Equipment (Identify items and costs used in providing the above Administrative costs)	
	Totals	$
5.	Contracts (Identify service no., number of participants, unit cost and amount of service provided)	
	Totals	$
6.	Other (Specify)	
	Totals	$
7.	Total Costs (sum of Totals for lines 1 thru 6)	$
8.	Participation Fees	$
9.	Net Service Coordinator Program Funds (line 7 minus line8)	$

Footnotes (continue on back if necessary)

DRAFT

form **HUD-52365** (02/21/97)

PHA Name	Name of Development

Salary Costs for Program Year_____

Line	Item	Total Amount
1.	Salary Costs (List staff positions, hours worked, rate of pay, and year)	
	Totals	$
2.	Fringe Benefits (Provide percentage and calculations for salaried positions)	
	Totals	$
3.	Other (Specify)	
	Totals	$
4.	Total Costs (sum of Totals for lines 1 thru 6)	$
5.	Participation Fees	$
6.	Net Service Coordinator Program Funds (line 7 minus line8)	$

Footnotes (continue on back if necessary)

DRAFT

form **HUD-52365** (02/21/97)

[FR Doc. 97–10280 Filed 4–21–97; 8:45 am]
BILLING CODE 4210–33–C

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–3447–N–04]

Submission for OMB Review: Comment Request

AGENCY: Office of Administration, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments due date:* May 22, 1997.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments must be received within thirty (30) days from the date of this Notice. Comments should refer to the proposal by name and/or OMB approval number should be sent to: Joseph F. Lackey, Jr., OMB Desk Officer, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Kay F. Weaver, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, Southwest, Washington, DC 20410, telephone (202) 708–0050. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Ms. Weaver.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the OMB approval number, if applicable; (4) the description of the need for the information and its proposed use; (5) the agency form number, if applicable; (6) what members of the public will be affected by the proposal; (7) how frequently information submissions will be required; (8) an estimate of the total number of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (9) whether the proposal is new, an extension, reinstatement, or revision of an information collection requirement; and (10) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: April 9, 1997.

David S. Cristy,

Acting Director, Information Resources Management Policy and Management Division.

Title of Proposal: Public Housing Management Assessment Program (PHMAP) Certification.

Office: Public and Indian Housing.

OMB Approval Number: 2577–0156.

Description of the Need for the Information and Its Proposed Use: Public Housing Management Assessment Program (PHMAP) indicators will be used to assess the management performance of PHAs, designate troubled PHAs, and mod-troubled PHAs. The information collection will also be used to address deficiencies through a Memorandum of Agreement for each troubled and mod-troubled PHAs and annually submit to Congress a report on the status of troubled and mod-troubled PHAs.

Form Number: HUD–50072.

Respondents: State, Local, or Tribal Government and not-for-profit institutions.

Frequency of Submission: Annually and recordkeeping.

Reporting Burden:

	Number of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
1–99 Unit PHAs	1,608		1		2.4		3,859
100–499 Unit PHAs	1,274		1		2.6		3,312
500–1,249 Unit PHAs	244		1		3.7		903
1,250–3,999 Unit PHAs	102		1		4.3		438
4,000+Unit PHAs	40		1		5.1		204
Recordkeeping	3,268		1		.1		327

Total Estimated Burden Hours: 9,044.

Status: Revision.

Contact: Wanda Funk, HUD, (202) 708–0970; Joseph F. Lackey, Jr., OMB, (202) 395–7316.

Dated: April 9, 1997.

[FR Doc. 97–10281 Filed 4–21–97; 8:45 am]

BILLING CODE 4210–01–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CA–060–07–1990–00]

Notice of Public Meeting

SUMMARY: Notice is hereby given, in accordance with Public Laws 92–463 and 94–579, that the Bureau of Land Management (BLM) has scheduled a public meeting on Thursday, May 8, 1997, in Pasadena, California on the Draft Environmental Impact Statement (DEIS) for the Army's proposed expansion of the National Training Center at Fort Irwin, California. The meeting will begin at 7 p.m. in the Magnolia Room at the Pasadena Holiday Inn, located at 303 East Cordova Street.

The meeting is scheduled to provide the public additional opportunity to comment on the DEIS. Agency representatives will present an overview of the DEIS and provide attendees the opportunity to ask questions prior to the formal public meeting. A court reporter will record all comments, which will become part of the record. Previous public meetings were held in San Bernardino, Victorville, Barstow, Baker, and Sacramento.

A one-half hour ''open house'' will begin at 6:30 p.m., during which agency representatives will provide information about the proposed expansion and the environmental review process. Members of the public will have the opportunity to ask questions about the proposed project. Comments on the DEIS will be recorded only during the formal public meeting.

The DEIS for the Army's proposed Land Acquisition Project for Fort Irwin was released for public comment January 3 and comments will be accepted through June 3. The DEIS addresses the proposed withdrawal of approximately 310,000 acres of public lands currently managed by BLM from entry under public land laws.

DATES: Public comments on the Draft Environmental Impact Statement for the

Army's proposed expansion of the NTC will be accepted through June 3, 1997.

ADDRESSES: Send written comments to the Bureau of Land Management, Barstow Resource Area Office, Attention: Mike Dekeyrel, Project Manager, 150 Coolwater Lane, Barstow, California 92311.

FOR MORE INFORMATION CONTACT: Mike Dekeyrel at (619) 255–8730 or BLM public affairs in Riverside at (909) 697–5215 for more information or to request a copy of the Fort Irwin DEIS, executive summary or technical appendices.

Dated: April 16, 1997.

Henri R. Bisson,

District Manager.

[FR Doc. 97–10313 Filed 4–21–97; 8:45 am]

BILLING CODE 4310–40–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CO–030–07–1820–00–1784]

Southwest Resource Advisory Council Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice; Resource advisory council meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act (5 U.S.C.), notice is hereby given that the Southwest Resource Advisory Council (Southwest RAC) will meet on Thursday, May 8, 1997, in the City Council Chambers, Ouray Community Center, 320 6 Avenue, Ouray Colorado.

DATES: The meeting will be held on Thursday, May 8, 1997.

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 May 8, 1997, meeting is scheduled to begin at 9:00 a.m. in the Council Chambers at the Ouray Community Center, 320 6 Avenue, Ouray, Colorado. The agenda will include briefings on the Lake Fork Exchange, BLM's proposed law enforcement regulations, an update on the Gunnison Gorge user fee pilot program, and a discussion on how the RAC should be involved in travel management. Time will be provided for public comments.

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 on the Internet at http://coweb.co.blm.gov/mdo/mdo__sw__rac.htm) and are available for public inspection and reproduction within thirty (30) days following each meeting.

Dated: April 11, 1997.

Jamie Connell,

Associate District Manager.

[FR Doc. 97–10274 Filed 4–21–97; 8:45 am]

BILLING CODE 4310–JB–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV–930–1430–00; N–61415]

Notice of Proposed Withdrawal and Opportunity for Public Meeting; Nevada

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The United States Geological Survey has filed an application (N–61415) to withdraw 3 acres of public land for a drill rig maintenance facility in Carson City, Nevada. This notice closes the land for up to 2 years from surface entry and mining.

DATES: Comments and requests for meeting should be received on or before July 21, 1997.

ADDRESSES: Comments and meeting requests should be sent to the Nevada State Director, BLM, 850 Harvard Way, P.O. Box 12000, Reno, Nevada 89520.

FOR FURTHER INFORMATION CONTACT: Dennis J. Samuelson, BLM Nevada State Office, 702–785–6532.

SUPPLEMENTARY INFORMATION: On March 27, 1997, the United States Geological Survey filed an application to withdraw the following described public land from settlement, sale, location, or entry under the general land laws, including the mining laws, subject to valid existing rights:

Mount Diablo Meridian

T. 15 S., R. 20 E.,

Sec. 1, lot 1 of the NE¼ (within).

The area described contains approximately 3 acres in Carson City.

The purpose of the proposed withdrawal is for a drill rig maintenance facility. The Water Resources Division of the United States Geological Survey provides special drilling services throughout the western United States. This site will be used to house and store drilling equipment and associated materials.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the Nevada State Director of the Bureau of Land Management.

Notice is hereby given that an opportunity for a public meeting is afforded in connection with the proposed withdrawal. All interested person who desire a public meeting for the purpose of being heard on the proposed withdrawal must submit a written request to the Nevada State Director within 90 days from the date of publication of this notice. Upon determination by the authorized officer that a public meeting will be held, a notice of the time and place will be published in the **Federal Register** at least 30 days before the scheduled date of the meeting.

The application will be processed in accordance with the regulations set forth in 43 CFR Part 2300.

For a period of 2 years from the date of publication of this notice in the **Federal Register**, the lands will be segregated as specified above unless the application is denied or canceled or the withdrawal is approved prior to that date. Other uses which will be permitted during this segregative period are rights-of-way, leases, and permits.

The temporary segregation of the land in connection with a withdrawal application shall not affect administrative jurisdiction over the land, and the segregation shall not have the effect of authorizing any use of the land by the United States Geological Survey.

Dated: April 11, 1997.

William K. Stowers,

Lands Team Lead.

[FR Doc. 97–10276 Filed 4–21–97; 8:45 am]

BILLING CODE 4310–HC–P

DEPARTMENT OF THE INTERIOR

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

April 12, 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 May 7, 1997.

Carol D. Shull,

Keeper of the National Register.

ALASKA

Fairbanks North Star Borough—Census Area

F. E. Company Housing, 505, 507, 521, and 523 Illinois St., Fairbanks, 97000400

Yukon-Koyukuk Borough—Census Area

Bettles Lodge, Bettles Field, off Winter Trail, approximately 3.5 mi. E of Bettles, Bettles, 97000401

ARKANSAS

Fulton County

Camp Methodist Church, AK 9, approximately 6 mi. E of Salem, Camp, 97000402

Pulaski County

Lloyd England Hall (Thompson, Charles L., Design Collection TR), Jct. of Missouri Ave. and 6th St., NW corner, North Little Rock vicinity, 97000403

FLORIDA

Monroe County

LaBranche Fishing Camp, Address Restricted, Islamorada vicinity, 97000404

GEORGIA

Fulton County

Park Street Methodist Episcopal Church, South, 793 Park St., SW., Atlanta, 97000405

HAWAII

Hawaii County

Star of the Sea Church—Kalapana Painted Church, HI 130, .7 mi. N of Kaimu, Kaimu, 97000407

Williamson, A. J., House, 31 Halaulani Pl., Hilo, 97000406

Maui County

King Kamehameha III's Royal Residential Complex, Jct. of Front and Shaw Sts., Malu'ulu o Lele and Kamehameha Iki Parks, Lahaina, 97000408

KANSAS

Edwards County

Sears, Roebuck and Company Warehouse Building, 715 Armour Rd., North Kansas City, 97000411

Riley County

Grimes House, 203 Delaware St., Manhatten, 97000409

Sumner County

Spring Creek School, 4 mi. N of US 81, approximately 4 mi. NE of Caldwell, Corbin vicinity, 97000410

NEW YORK

Chemung County

Elmira Coca-Cola Bottling Company Works, 415 W. 2nd St., Elmira, 97000423

Columbia County

Crow Hill, Jct. of NY 9H and Co. Rt. 21, NW corner, Kinderhook vicinity, 97000412

Cortland County

Glen Haven District No. 4 School and Public Library, 7325 Fair Haven Rd., Fair Haven, 97000420

Erie County

How, James and Fanny, House, 41 St. Catherine's Crt., Buffalo, 97000415

Johnston, Edwin M. and Emily S., House, 24 Tudor Pl., Buffalo, 97000416

Kelly, Col. William, House, 36 Tudor Place, Buffalo, 97000414

Jefferson County

Clayton Historic District (Boundary Increase), 335, 403, 409, 413, 419, and 435 Riverside Dr., Clayton, 97000424

Saint Paul's Episcopal Church (Historic Churches of the Episcopal Diocese of Central New York MPS) 308—314 Clay St., Watertown, 97000413

Niagara County

Niagara County Courthouse and County Clerk's Office, 175 Hawley St. and 139 Niagara St., Lockport, 97000417

Oneida County

Grace Church (Historic Churches of the Episcopal Diocese of Central New York) 193 Genesee St., Utica, 97000419

Onondaga County

Baldwinsville Village Hall, 16 W. Genesee St., Baldwinsville, 97000421

Ontario County

Valentown Hall, Jct. of High St. and Valentown Rd., Victor, 97000425

Rensselaer County

East Nassau Central School, 37 Garfield Rd., East Nassau, 97000418

Sullivan County

Ten Mile River Baptist Church (Upper Delaware Valley, New York and Pennsylvania MPS) NY 97, jct. with Cochecton Trnpk., Tusten, 97000422

SOUTH DAKOTA

Brookings County

Intermill House, 46408 203rd St., Bruce vicinity, 97000427

Hughes County

Blackburn, Dr. William and Elizabeth, House, 219 S. Tyler Ave., Pierre, 97000426

Methodist Episcopal Church, 117 Central Ave., N., Pierre, 97000428

WISCONSIN

Door County

Vorous General Store, 4153 WI 42, Fish Creek, 97000429

Winnebago County

Hawks, Frank Winchester, House, 433 E. Wisconsin Ave., Neenah, 97000430

[FR Doc. 97–10323 Filed 4–21–97; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

Trinity River Basin Fish and Wildlife Task Force; Meeting

AGENCY: Bureau of Reclamation (Reclamation), Interior

ACTION: Notice of public meeting

SUMMARY: In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92–463), announcement is made of a meeting of the Trinity River Basin Fish and Wildlife Task Force.

DATES: The meeting will be held on Tuesday, June 12, 1997, at 1:00 p.m.

ADDRESSES: The meeting will be at the Mid-Pacific Region Office, Bureau of Reclamation, 2800 Cottage Way, Sacramento, California.

FOR FURTHER INFORMATION CONTACT: Mr. Chip Bruss, Trinity River Task Force Secretary, Bureau of Reclamation, MP–153, 2800 Cottage Way, Sacramento CA 95825. Telephone: (916) 979–2473.

SUPPLEMENTARY INFORMATION: Task Force members will be briefed on the Trinity River Mainstem Fishery Restoration Environmental Impact Statement and the U.S. Fish and Wildlife Service Trinity River Flow Study Report. The Task Force will also discuss a recommendation to extend the program.

The meeting of the Task Force is open to the public. Any member of the public may file a written statement with the Task Force in person or by mail before, during, or after the meeting. To the extent that time permits, the Task Force Chairman may allow public presentation of oral statements at the meeting.

Dated: April 7, 1997.

Kirk C. Rodgers,

Deputy Regional Director.

[FR Doc. 97–10327 Filed 4–21–97; 8:45 am]

BILLING CODE 4310–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Eustance F. Douglas, M.D.; Revocation of Registration

On July 22, 1996, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to Eustance F. Douglas, M.D., of Racine, Wisconsin, notifying him of an opportunity to show cause as to why DEA should not revoke his DEA Certificate of Registration, AD2704256, under 21 U.S.C. 824(a)(3), and deny any pending applications for renewal of such registration as a practitioner pursuant to 21 U.S.C. 823(f), for reason that he is not currently authorized to handle controlled substances in the State of Wisconsin. The order also notified Dr. Douglas that should no request for a hearing be filed within 30 days, his hearing right would be deemed waived.

The DEA received a signed receipt indicating that the order was received by Dr. Douglas on July 27, 1996. No request for a hearing or any other reply was received by the DEA from Dr. Douglas or anyone purporting to represent him in this matter. Therefore, the Acting Deputy Administrator, finding that (1) 30 days have passed since the receipt of the Order to Show Cause, and (2) no request for a hearing having been received, concludes that Dr. Douglas is deemed to have waived his hearing right. After considering the relevant materials from the investigative file in the matter, the Acting Deputy Administrator now enters his final order without a hearing pursuant to 21 C.F.R. 1301.54(e) and 1301.57.

The Acting Deputy Administrator finds that by a Final Decision and Order dated August 25, 1993, the Wisconsin Medical Examining Board accepted Dr. Douglas's surrender of his Wisconsin license to practice medicine and surgery effective August 31, 1993. The Acting Deputy Administrator finds that in light of the fact that Dr. Douglas is not current licensed to practice medicine in the State of Wisconsin, it is reasonable to infer that he is not currently authorized to handle controlled substances in that state.

The DEA does not have statutory authority under the Controlled Substances Act to issue or maintain a registration if the applicant or registrant is without state authority to handle controlled substances in the state in which he conducts his business. 21 U.S.C. 802(21), 823(f) and 824(a)(3). This prerequisite has been consistently upheld. See Dominick A. Ricci, M.D., 58 F.R. 51,104 (1993); *James H. Nickens*, M.D., 57 F.R. 59,847 (1992); Roy E. Hardman, M.D., 57 F.R. 49,195 (1992).

Here, it is clear that Dr. Douglas is not currently authorized to handle controlled substances in the State of Wisconsin. Therefore, Dr. Douglas is not entitled to a DEA registration in that state.

Accordingly, the Acting Deputy Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 824 and 28 C.F.R. 0.100(b) and 0.104, hereby orders that DEA Certificate of Registration AD2704256, previously issued to Eustance F. Douglas, M.D., be, and it hereby is, revoked. The Acting Deputy Administrator further orders that any pending applications for the renewal of such registration, be, and they hereby are, denied. This order is effective May 22, 1997.

Dated: April 8, 1997.

James S. Milford,

Acting Deputy Administrator.

[FR Doc. 97–10372 Filed 4–21–97; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. 96–21]

Ellis Turk, M.D.; Denial of Application

On February 12, 1996, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to Ellis Turk, M.D., (Respondent) of Baltimore, Maryland, notifying him of an opportunity to show cause as to why DEA should not deny his application for registration as a practitioner under 21 U.S.C. 823(f), for reason that such registration would be inconsistent with the public interest.

By letter received by DEA on March 12, 1996, Respondent, through counsel, timely filed a request for a hearing, and following prehearing procedures, a hearing was held in Arlington, Virginia on September 4, 1996, before Administrative Law Judge Paul A. Tenney. At the hearing both parties called witnesses to testify and introduced documentary evidence. After the hearing, both sides submitted proposed findings of fact, conclusions of law and argument. On November 22, 1996, Judge Tenney issued his Opinion and Recommended Ruling, Findings of Fact, Conclusions of Law and Decision, recommending that Respondent's application for a DEA Certificate of Registration should be granted subject to various temporary limitations. On December 11, 1996, Government counsel filed exceptions to the Recommended Ruling of the Administrative Law Judge, and subsequently, Respondent's counsel filed a response to the Government's exceptions. Thereafter, on January 14, 1997, Judge Tenney transmitted the record of these proceedings to the Acting Deputy Administrator.

The Acting Deputy Administrator has considered the record in its entirety, and pursuant to 21 CFR 1316.67, hereby issued his final order based upon findings of fact and conclusions of law as hereinafter set forth.

The Acting Deputy Administrator finds that Respondent previously possessed DEA Certificate of Registration, AT2444711. On April 15, 1993, and Order to Show Cause was issued proposing to revoke that Certificate of Registration, alleging that Respondent's continued registration would be inconsistent with the public interest. Following a hearing before Administrative Law Judge Mary Ellen Bittner, the then-Deputy Administrator adopted the Opinion and Recommended Decision of Judge Bittner and revoked Respondent's DEA registration in a final order dated March 30, 1995, and effective May 8, 1995. See *Ellis Turk, M.D.*, 60 FR 17,577 (April 6, 1995).

In the prior proceeding, the then-deputy Administrator found that in 1987, DEA had received reports from drug distributors that Respondent had purchased excessive quantities of phentermine and phendimetrazine, both controlled substances. Consequently, on two occasions in December 1988, DEA, pursuant to administrative inspection warrants, conducted an accountability audit of controlled substances at Respondent's office covering the period December 29, 1987, through December 12, 1988. This audit revealed shortages of phentermine and phendimetrazine. These shortages were confirmed by a second audit conducted by a different DEA investigator using different records than those used for the previous audit. As a result of the audits, on November 22, 1989, a civil complaint was filed in the United States District Court for the District of Maryland. Following a bench trial, the court found that Respondent failed to comply with the recordkeeping requirements of the Controlled Substances Act (CSA) and assessed a civil penalty of $24,000.00. The decision of the District Court was upheld by the United States Court of Appeals for the Fourth Circuit. Respondent brought a civil action

against the United States Government alleging abuse of process, malicious abuse of process, constitutional violations, interference with the physician-patient relationship, harassment, intentional infliction of emotional distress, and invasion of privacy. Respondent's complaint was dismissed for lack of federal subject matter jurisdiction and lack of process.

In his final order, the then-Deputy Administrator noted that Judge Bittner had found that ''the evidence provided by the Government clearly established the shortages in Respondent's accountability of controlled substances, and that although Respondent offered various documents into evidence, none of them offered any plausible or coherent explanation for the discrepancies found in the investigation.'' In addition, Judge Bittner found ''that the Respondent, throughout the course of his previous litigation, as well as the instant case, continuously had been defensive, hostile, and uncooperative and had insisted on clouding the issues with tangential arguments and rhetorical allegations of political wrongdoing.'' The then-Deputy Administrator adopted Judge Bittner's opinion and recommended decision in its entirety.

On July 10, 1995, Respondent submitted an application for a new DEA registration. That application is the subject of these proceedings. The Acting Deputy Administrator concludes that the then-Deputy Administrator's March 30, 1995 decision regarding Respondent is *res judicata* for purposes of this proceeding. See, *Stanley Alan Azen, M.D.,* 61 FR 57,893 (1996) (where the findings in a previous revocation proceeding were held to be *res judicata* in a subsequent administrative proceeding.) The then-Deputy Administrator's determination of the facts relating to the previous revocation of the Respondent's DEA registration is conclusive. Accordingly, the Acting Deputy Administrator adopts the March 30, 1995 final order in its entirety. The Acting Deputy Administrator concludes that the critical consideration in this proceeding is whether the circumstances, which existed at the time of the prior proceeding, have changed sufficiently to support a conclusion that Respondent's registration would be in the public interest.

The Acting Deputy Administrator finds that on April 13, 1995, after receiving notice of the revocation of his previous DEA registration, Respondent telephoned the DEA Baltimore office and complained about both the District Court Judge in the civil action and Judge Bittner. Respondent asserted that there was a conspiracy against him and that if the drug distributors had not reported him, none of this would have happened. He further asserted that his records have always been good.

On May 5, 1995, when Respondent met with representatives of DEA to surrender his DEA Certificate of Registration and his controlled substances prior to the effective date of the revocation, it was discovered that Respondent had in his possession outdated drugs that he had failed to include in his inventory of controlled substances. Respondent testified at the hearing in this matter that he came into possession of these outdated drugs when he purchased the medical practice of another doctor in 1980. Respondent stated that he advised state agents about the drugs at the time he took over the medical practice, but did not feel comfortable disposing of the drugs in the manner suggested by the state agents, and instead kept them locked up until turning them over to DEA in May 1995.

On February 22, 1996, DEA received a letter from Respondent to the Administrator of DEA complaining about the DEA Baltimore office ''and others'' and requesting that his DEA registration be returned to him. Respondent asserted that, ''[i]n December of 1988, DEA officials from the Baltimore office along with a State of Maryland drug official, entered my office three times unannounced and without a proper warrant. They illegally seized my records and harassed me, my staff, and numerous patients.'' Regarding the civil case, Respondent argued that ''I proved that my inventory of these two medications was properly reconciled in writing and the issue should never have gone to trial! However, [the District Court Judge] would not or could not believe the pleading I entered in the case! He is very ill with Parkinson's disease and probably suffers from dementia.'' Respondent then stated that ''my DEA license was taken from me fraudulently on May 8, 1995.'' He stated that Judge Bittner had the same pleading that the District Court Judge had ''showing proper reconciliation of my inventory.'' Respondent claimed that ''[his] case went from Judge Bittner to Mr. Steve Green, your deputy, who rubber-stamped Judge Bittner * * *.'' He then alleged that several doctors who had treated him in the past made ''the false complaint [that initiated this matter] since they have the motive and strong government connections.'' Respondent went on to state, ''I can understand a false complaint, but why would DEA (of Baltimore) etc. take it to such extremes (seven years now!)—was somebody paid off?''

At the hearing in this matter, Respondent testified that he had adopted the inventory techniques used by the prior physician who owned the practice which consisted of a ledger book with reconciliation every six months. Respondent unequivocally stated at the hearing that his records were correct and that the audits conducted by DEA were wrong. Specifically, Respondent stated that ''I think there was an incorrect count, whether on purpose or unintentionally by the DEA. They were in error * * * I will continue to state that.'' Later, Respondent testified, ''There were no errors on my part * * *. The mistakes were made by the DEA * * *. They made up 11½ bottles missing.'' In response to a question as to how he would keep records differently now, Respondent stated, ''I have simplified it a little bit * * *. It isn't much different * * *.'' He then described an eight column accounting form that can be reconciled on a daily basis.

Respondent was asked whether he was willing to cooperate with DEA and to discuss his inventorying techniques. He responded, ''Well, I hope if they want to come and review my inventory, I certainly will allow them. I hope it's not like the last time.'' Respondent's counsel asked, ''You would just hope that that wouldn't occur during office hours; am I hearing you correctly?'' Respondent answered, ''That's what I thought when it said reasonable time and place. I didn't think it meant in the middle of office hours.'' Later Respondent stated, ''And I would hate to have the same thing happen that happened in 1988 when they came in three times improperly.'' Specifically in response to questions about his future cooperation with DEA, Respondent testified, ''I have eight years of harassment and false charges that make me very wary of the DEA.'' Respondent further testified, ''I've always cooperated with the authorities.'' However, Respondent acknowledged that the only time that DEA has ever inspected his recordkeeping was in December 1988.

One of Respondent's patients testified that she has known Respondent for 16 years and finds him to be an honest and good doctor, who not only dispenses medication, but talks to his patients. She has never known him to dispense medication so as to increase her dosage.

Respondent introduced evidence at the hearing that indicates that he is in good standing with the Maryland Board

of Physician Quality Assurance and the Maryland Division of Drug Control.

The Government contends that Respondent's application for registration should be denied based upon the shortages of phentermine and phedimetrazine that were established at the prior proceeding, as well as Respondent's continued refusal to accept responsibility for the shortages and to recognize DEA's statutory authority to conduct inspections. The Government further contends that Respondent's testimony indicates that he is unwilling to cooperate with DEA in the future. Finally, the Government argues that Respondent failed to maintain an inventory of outdated drugs as required by the regulations.

Respondent contends that he should be granted a DEA registration. Although he believes that DEA erred, he is willing to work with DEA regarding his controlled substance handling practices. He is in good standing with the state licensing boards and has never been convicted of a controlled substance offense. Respondent further contends that the outdated drugs were abandoned by his predecessor and that he kept them securely locked rather than disposing of them in an environmentally unsound manner. Respondent argues that the Government is estopped from raising the issue of the outdated drugs because the DEA was aware of these drugs from its 1988 inspection, yet did not raise the issue during the previous revocation proceeding.

Respondent suggests that should he not be issued an unrestricted DEA Certificate of Registration, he should be issued a registration subject to the following limitations:

A. Dr. Turk will provisionally resume use of a Certificate of Registration to prescribe Schedule II controlled substances and to dispense Schedule III, IV and V controlled substances.

B. Dr. Turk will provide carbon (carbonless) copies of his prescriptions for Schedule II controlled substances to authorized DEA personnel upon request, with patient names redacted.

C. The Certificate is provided upon the condition that Dr. Turk waives any requirement(s) for an administrative warrant for ''spot'' inventories to be conducted by authorized DEA personnel. Said waiver shall continue for a least two years from the date of this recommendation.

D. The Certificate is provided upon the condition that Dr. Turk maintain a readily retrievable inventory ledger in addition to his ''med sheets,'' and will provide the same to DEA personnel upon request, with patient names redacted. Dr. Turk must agree that he will fully comply with all applicable sections and sub-sections of 21 CFR 1301–1304 (6/1/96 and subsequent editions).

E. The Certificate is provided on the condition that Dr. Turk agree to meet with appropriate DEA personnel on a scheduled basis (mutual convenience) once every six months (for at least a two year-period) and to review records and conduct discussions deigned to maximize cooperation between the parties.

Pursuant to 21 U.S.C. § 823(f), the Deputy Administrator may deny an application for a DEA Certificate of Registration if he determines that such registration would be inconsistent with the public interest, In determining the public interest, the following factors are considered:

(1) The recommendation of the appropriate State licensing board or professional disciplinary authority.

(2) The applicant's experience in dispensing, or conducting research with respect to controlled substances.

(3) The applicant's conviction record under Federal or State laws relating to the manufacture, distribution, or dispensing of controlled substances.

(4) Compliance with applicable State, Federal, or local laws relating to controlled substances.

(5) Such other conduct which may threaten the public health and safety. These factors are to be considered in the disjunctive; the Deputy Administrative may rely on any one or a combination of factors and may give each factor the weight he deems appropriate in determining whether a registration should be revoked or an application for registration be denied. See *Henry J. Schwarz, Jr., M.D.*, Docket No. 88–42, 54 FR 16,422 (1989).

The Administrative Law Judge found that all five factors are relevant in this proceeding. Regarding factor one, Judge Tenney found, and the Acting Deputy Administrator concurs, that there is no evidence of any adverse action against Respondent by the state licensing authorities. It is controverted that Respondent's medical license and license to handle controlled substances in the State of Maryland are in good standing.

As to factor two, the Administrative Law Judge found that ''[t]here is no adverse evidence concerning Respondent's dispensing experience.'' As of the date of the hearing, he had been practicing medicine for 27 years, and had been conducting a diet practice since 1980. Judge Tenney noted that a patient of Respondent testified that Respondent had never dispensed her medication so as to increase her dosage. In its exceptions to Judge Tenney's Opinion and Recommended Ruling, the Government argues that Judge Tenney improperly allowed the testimony of this patient, since she had not been disclosed as a potential witness to the Government until the day of the hearing. In its response to the Government's exceptions, Respondent contends that rebuttal witnesses need not be disclosed in advance of a hearing, and the Administrative Law Judge was careful to limit the patient's testimony. The Acting Deputy Administrator finds that DEA's regulations do not address rebuttal testimony, nevertheless as a general proposition, rebuttal witnesses need not be disclosed in advance of a hearing. The Acting Deputy Administrator therefore rejects the Government's exception and concurs with Judge Tenney's finding that there is no adverse evidence concerning Respondent's dispensing experience.

Concerning factor three, the Acting Deputy Administrator concurs with Judge Tenney's finding that Respondent has not been convicted of any Federal or State laws relating to the manufacture, distribution or dispensing of controlled substances.

Regarding Respondent's compliance with controlled substance laws under factor four, the Administrative Law Judge found that the United States District Court for the District of Maryland found Respondent liable for failing to comply with the recordkeeping requirements of the CSA and his previous registration was revoked based upon the shortages discovered as a result of the accountability audits. However, Judge Tenney noted that Respondent has now agreed to change his inventory practices to have a readily retrievable inventory.

The Acting Deputy Administrator finds that the shortages revealed by the accountability audits demonstrate Respondent's failure to maintain complete and accurate records of controlled substances as required by 21 U.S.C. 827 and 21 CFR 1304.21. Respondent's noncompliance with these provisions has previously been found by a United States District Court Judge, the United States Court of Appeals for the Fourth Circuit, Judge Bittner and the then-Deputy Administrator in the previous revocation proceeding. Despite these findings, Respondent continues to deny that there was anything wrong with this recordkeeping, instead blaming DEA and alleging that DEA made up the shortages. Respondent has not presented any credible evidence in any of these proceedings to explain the discrepancies in his recordkeeping.

The Acting Deputy Administrator is not convinced that Respondent's asserted changes to his recordkeeping practices will result in improved compliance with the laws relating to controlled substances. First, Respondent emphatically denies that there was anything wrong with his previous recordkeeping practices. Respondent's failure to accept responsibility for his misconduct does not augur well for his future compliance. Also, in describing the proposed changes in his recordkeeping, Respondent testified ''I have simplified it a little bit * * * It isn't much different * * *.''

In addressing the outdated drugs that were in Respondent's possession, the Administrative Law Judge found that ''Respondent failed either to dispose of or to maintain an inventory of outdated drugs in his possession and his estopped argument is not developed.'' However, Judge Tenney noted that Respondent's failure to dispose of or inventory the expired drugs is not likely to recur since he has only changed his practice once and that was sixteen years ago. The Acting Deputy Administrator agrees with Judge Tenney. Respondent violated 21 CFR 1304.13 by failing to include the outdated drugs in his inventory of controlled substances. However, given the circumstances regarding Respondent's possession of these drugs, it is unlikely that this violation will be repeated.

As to factor five, Judge Tenney found that ''Respondent has had a diet practice since 1980. The accountability audits revealed shortages. However, there is no evidence that Respondent diverted any controlled substances. At most, Respondent had faulty inventory practices.''

The Government disagreed, in its exceptions to Judge Tenney's Opinion and Recommended Ruling, with Judge Tenney's characterization under factor five that the shortages of controlled substances merely reflected faulty inventory practices. The Government contends that ''[s]ince Respondent has never demonstrated that the audits were incorrect, the more plausible explanation is that the controlled substances were somehow diverted into illicit uses.'' Furthermore, the Government argues that since the findings of the previous revocation proceeding are *res judicata*, it would be inconsistent to find that the shortages warranted revocation in the prior proceeding, but not in the present case. The Government noted that the significant question in this proceeding is whether there has been a significant change in circumstances from the prior proceeding. The Government argues that the Administrative Law Judge failed to make any findings ''pertaining to Respondent's continued denial of the audit shortages and Respondent's continued hostility towards regulation by DEA.'' The Government asserted in its exceptions that ''[i]t would be hard to imagine a case where a DEA applicant has exhibited less of a change in attitude than Respondent has between the revocation proceeding and the present hearing.''

In his response to the Government's exceptions, Respondent argues that the Government is collaterally estopped from arguing that Respondent unlawfully diverted controlled substances. Respondent further argues that ''the Government provides no factual basis, whatsoever, for its assertion that the more plausible explanation [for the shortages] is that the controlled substances in question were somehow diverted into illicit use.'' Respondent also takes issue with the Government's exception that the Administrative Law Judge did not consider Respondent's continued denials of the audit shortages and his alleged hostility toward DEA. Respondent argues that ''[n]owhere is hostility addressed in the record by Government counsel'' and the Government is bound by the record.

As to the Government's assertions regarding Respondent's diversion of controlled substances, the Acting Deputy Administrator finds that no evidence was presented at the prior proceeding that the shortages revealed by the audits were a result of illicit diversion. Therefore, the Acting Deputy Administrator agrees with Respondent that the Government is colleratelly estopped from raising that argument in this proceeding. However, the Acting Deputy Administrator understands the Government's concern regarding Judge Tenney's statement about the shortages that, ''[a]t most, Respondent had faulty inventory practices.'' The Acting Deputy Administrator concludes that while diversion was not proven in the prior proceeding, at the very least, the audit results revealed faulty recordkeeping. This is extremely significant, because without proper recordkeeping, it is difficult to detect whether or not diversion is occurring.

The Acting Deputy Administrator agrees with the Government's assertion that the Adminitrative Law Judge did not make findings regarding Respondent's continued denial of the audit shortages and his continued hostility towards regulation by DEA. Respondent contends that the Government cannot now raise this issue because ''[n]owhere is hostility addressed in the record by Government counsel'' and the Government is bound by the record. As noted above, the critical consideration in this proceeding is whether the circumstances, which existed at the time of the prior proceeding, have changed sufficiently to support a conclusion that Respondent's registration would be in the public interest. While the Administartive Law Judge found that Respondent has vowed to change his inventory practices, Judge Tenney did not address whether other circumstances that were found to exist in the prior proceeding have changed. In the final order revoking Respondent's previous registration, the then-Deputy Administrator adopted Judge Bittner's finding that ''Respondent, throughout the course of his previous litigation, as well as the instant case, continously had been defensive, hostile, and uncooperative and had insisted on clouding the issues with tangential arguments and rhetorical allegations of political wrongdoing.''

The Acting Deputy Administrator concludes that the record in this proceeding indicates that Respondent's attitude has not changed since issuance of the earlier final order. First, in April 1995, immediately after notification of the earlier revocation, Respondent telephoned the local DEA office complaining about the District Court Judge and Judge Bittner and alleging that there was a conspiracy against him. Respondent submitted the application for registration that is the subject of this proceeding in July 1995. Then in February 1996, approximately six months before the hearing in this matter, Respondent sent a letter to the Administrator of DEA alleging that members of the local DEA office entered his office improperly and illegally seized his records; that his evidence to explain the audit results was ignored by the District Court Judge in the civil action, Judge Bittner, and the then-Deputy Administrator; that his previous DEA registration was fraudulently taken from him; and that he believed that the investigation of him was initiated based upon a false complaint made by doctors who had treated him in the past. All of these allegations were made despite findings to the contrary by the United States District Court Judge and the United States Court of Appeals for the Fourth Circuit in the civil proceeding, and by Judge Bittner and then then-Deputy Administrator in the prior revocation proceeding. Finally, at the hearing in this matter, Respondent continued to deny that there was anything wrong with his recordkeeping and went so far as to claim that DEA

made up the shortages; continued to maintain that DEA was in his office improperly in 1988; and continued to assert that the claims against him were false and that he was harassed. Also, while Respondent indicated that he was willing to cooperate with DEA, he also made it clear that he was wary of DEA based upon the false charges and harassment against him, and that he believed that inspections should only be conducted when it is convenient for him and not during normal business hours. This last assertion is at odds with DEA's inspection authority under 21 U.S.C. 880, which requires that administrative inspection warrants be served during normal business hours.

Judge Tenney concluded that registration of Respondent would not inconsistent with the public interest with the imposition of the limitations suggested by Respondent. Therefore, Judge Tenney recommended that Respondent be granted a DEA Certificate of Registration subject to the temporary limitations suggested by Respondent. The Government filed an exception to this proposed sanction arguing that Respondent's application should be denied. Alternatively, the Government argued that if the Administrative Law Judge's recommendation is adopted by the Acting Deputy Administrator, the names and addresses of the patients on the records should not be redacted.

The Acting Deputy Administrator notes that 21 C.F.R. 1306.05 and 1304.24 require that prescriptions and records of dispensing contain the patient's name and address, and that to allow Respondent to redact that information would in effect subject him to lesser requirements than other registrants. However, the Acting Deputy Administrator finds that the Government has met its burden of proof that Respondent's registration would be inconsistent with the public interest. As the Government noted in its exceptions, in *Shatz* v. *United States Department of Justice*, 873 F. 2d 1089, 1091 (8th Cir. 1989), the court held that once the Government had met its burden, the Respondent then had the burden to rebut the evidence and to prove sufficient rehabilitation. As discussed above, while Respondent has stated that he has changed his inventory practices, there is more than sufficient evidence in the record to indicate that Respondent has not accepted responsibility for his prior actions as a DEA registrant, has not significantly changed his inventory practices, and has not exhibited a willingness for DEA to inspect his records ''at any time'', as suggested in his response to the Government exceptions. Consequently, the Acting Deputy Administrator finds that Respondent's registration with DEA would be inconsistent with the public interest.

Accordingly, the Acting Deputy Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 28 C.F.R. 0.100(b) and 0.104, hereby orders that the application for registration, executed by Ellis Turk, M.D., be, and it hereby is, denied. This order is effective May 22, 1997.

Dated: April 8, 1997.

James S. Milford,

Acting Deputy Administrator.

[FR Doc. 97–10371 Filed 4–21–97; 8:45 am]

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DEPARTMENT OF JUSTICE

[OJP(OVC)–1113]

RIN 1121–ZA60

Victims of Crime Act Victim Assistance Grant Program

AGENCY: Office of Justice Programs, Office for Victims of Crime, Justice.

ACTION: Final program guidelines.

SUMMARY: The Office for Victims of Crime (OVC), Office of Justice Programs (OJP), U.S. Department of Justice (DOJ), is publishing Final Program Guidelines to implement the victim assistance grant program as authorized by the Victims of Crime Act of 1984, as amended, 42 U.S.C. 10601, *et seq.* (hereafter referred to as VOCA).

EFFECTIVE DATE: These guidelines are effective from October 1, 1996 (Federal Fiscal Year 1997 VOCA grant program), until further revised by OVC.

FOR FURTHER INFORMATION CONTACT: Jackie McCann Cleland, Director, State Compensation and Assistance Division, 633 Indiana Avenue, NW., Washington, DC 20531–0001; e-mail address: Jackie@OJP.USDOJ.GOV; telephone number 202/307–5983. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: VOCA authorizes federal financial assistance to states for the purpose of compensating and assisting victims of crime, providing funds for training and technical assistance, and assisting victims of federal crimes. These Program Guidelines provide information on the administration and implementation of the VOCA victim assistance grant program as authorized in Section 1404 of VOCA, Public Law 98–473, as amended, codified at 42 U.S.C. 10603, and contain information under the following headings: *Summary of the Comments to the Proposed Program Guidelines; Background; Allocation of VOCA Victim Assistance Funds; VOCA Victim Assistance Application Process; Program Requirements; Financial Requirements; Monitoring; and Suspension and Termination of Funding.* The Guidelines are based on the experience gained and legal opinions rendered since the inception of the grant program in 1986, and are in accordance with VOCA. These Final Program Guidelines are all inclusive. Thus, they supersede any Guidelines previously issued by OVC.

OVC, in conjunction with DOJ's Office of Policy Development, and the Office of Information and Regulatory Affairs within the Office for Management and Budget (OMB), has determined that these Guidelines do not represent a ''significant regulatory action'' for the purposes of Executive Order 12866 and, accordingly, these Program Guidelines were not reviewed by OMB.

In addition, these Program Guidelines will not have a significant economic impact on a substantial number of small entities; therefore, an analysis of the impact of these rules on such entities is not required by the Regulatory Flexibility Act, codified at 5 U.S.C. 601, *et seq.*

The program reporting requirements described in the *Program Requirements* section have been approved by OMB as required under the Paperwork Reduction Act, 44 U.S.C. 3504(h). (OMB Approval Number 1121–0014).

Summary of the Revisions to the 1997 Final Program Guidelines

As a result of comments from the field, recent legislative amendments, and modifications of applicable federal regulations, substantive changes were made to four sections of the Proposed Program Guidelines, including: the *Availability of Funds*, the *Application Process*, the *Program Requirements*, and the *Financial Requirements.* These changes are summarized in the paragraphs below, and incorporated into the complete text of the *Final Program Guidelines for Crime Victim Assistance Grants.* The Final Program Guidelines also include several technical corrections that are not listed in this summary because they do not affect policy or program implementation.

A. Comments From the Field

In the interest of reaching a more diverse audience and making the review and comment process more convenient for victim service advocates and providers, OVC took several steps. In April, 1996, OVC asked the state VOCA

victim assistance program administrators for their comments on the effective edition of the VOCA Victim Assistance Final Program Guidelines (published in October 27, 1995). On the basis of their comments and the suggestions of several other victim advocates, OVC developed Proposed VOCA Victim Assistance Program Guidelines. Throughout the year, the OVC Director and staff met individually and in groups with VOCA administrators and subgrantees to discuss revisions to the Guidelines. In November of 1996, OVC mailed copies of the Proposed Guidelines directly to all of the state VOCA victims assistance and victim compensation program administrators, as well to the representatives of approximately 20 national crime victim advocacy organizations. In early December, the Proposed Guidelines were posted on the OVC Website for review and comment by all interested parties. Finally, the Proposed Guidelines were published in the **Federal Register** on February 18, 1997.

Since last Spring, OVC has received approximately 90 recommendations, comments, and questions from VOCA administrators, victim service providers, representatives of national victim organizations, and other victim advocates via telephone, mail, fax, and e-mail. The vast majority of the comments supported the proposed changes to the Guidelines.

OVC received comments from experts in elder services that helped OVC redefine ''elder abuse'' and include specific direction regarding respite care for elders, emergency nursing home shelter for victims of elder abuse, and inclusion of adult care providers in community cooperation efforts. These comments were made by state and national organizations, including the U.S. Department of Health and Human Services Administration on Aging and the National Association of State Units on Aging.

OVC also received comments from state and national domestic violence organizations, such as the Pennsylvania Coalition Against Domestic Violence and AYUDA, supporting the proposal to expand VOCA-funded emergency legal assistance to include child custody and visitation when such assistance is from providers with a demonstrated history of advocacy on behalf of domestic violence victims.

All of the comments received were invaluable in helping OVC prepare the Final Victim Assistance Program Guidelines. A summary of the changes occurring as a result of comments from the field are listed below in the order in which they appear in the Final Program Guidelines.

1. Definition of Crime Victim To Include Financial Harm

In Section I., Background, the definition of crime victim has been modified to specifically include victims of financial exploitation. Although VOCA-funded programs cannot restore the financial losses suffered by victims of fraud, victims are eligible for the counseling, criminal justice advocacy, and other support services offered by VOCA-funded victim assistance programs.

2. Training of Adult Protective Services Personnel

The section on the VOCA Victim Assistance Application Process (III.B.2.c.), which lists allowable uses of the administrative cost provision, has been modified to specifically include training for aging and adult protective service providers.

3. Submission of Administrative Cost Provision Budget

Previous editions of the Guidelines required state grantees to submit a budget itemizing projected administrative fund expenditures and a statement describing the types of activities they would support and how the expenditure was expected to improve the administration of the VOCA program.

The State Grantee Application Process section (III.B.2.), which describes the administrative cost provision, has been modified to lessen the burden on state grantees. Those states that use administrative funds must submit a statement to OVC that reports only the amount of the total grant that will be used as administrative funds. A special condition will be added to the award document, and periodic OJP financial reviews will be conducted to ensure states' compliance with the Program Guidelines and OJP Financial Guide to determine whether administrative funds have been used for allowable purposes.

4. Training for Non-VOCA Funded Personnel

The State Grantee Application Process section (III.C.), which outlines the allowable use of training funds, has been expanded to specifically include non-VOCA funded staff in addition to VOCA-funded personnel.

5. Submission of Training Cost Provision Budget

In previous editions of the Guidelines, state grantees were required to submit a budget itemizing projected training expenses and a statement describing the needs of the providers and the goals of the training. The section on the State Grantee Application Process (III.C.), has been modified to lessen the burden on states. States using the VOCA training funds must only report the amount of the total grant that will be used for training. States still must comply with OVC the 20% match requirement and other guidance defining allowable uses for training funds.

6. Definition of Victims of Federal Crime

In response to requests for clarification, the Program Requirements section (IV.A.4.), has been modified to include a definition of ''victims of federal crime.'' For the purposes of this program, a victim of federal crime is a victim of an offense that violates a federal criminal statute or regulation. Federal crimes also include crimes that occur in an area where the federal government has jurisdiction, such as Indian reservations, some national parks, some federal buildings, and military installations.

7. Definition of Elder Abuse

The Program Requirements section (IV.A.4.) describing grantee eligibility requirements, has been modified so that the definition of ''elder abuse'' now focuses on describing the offense, rather than on characterizing the victim. Hence, the definition, ''abuse of vulnerable adults,'' has been expanded to include ''the mistreatment of older persons through physical, sexual, or psychological violence; neglect; or economic exploitation and fraud.''

8. Identifying Underserved Victims of Crime

The Program Requirements section (IV.A.4.) describing the state grantee eligibility requirements, has been modified to encourage states to identify gaps in available services, not just by the types of crimes committed, but also by victims' demographic characteristics. Thus, these Final Guidelines ask grantees to examine the possibility that in a given state, ''underserved'' victims may also be defined by demographic characteristics such as their status as senior citizens, non-English speaking residents, disabled persons, members of racial or ethnic minorities, or by virtue of the fact that they are residents of rural or remote areas, or inner cities.

9. Funding New Programs

There was confusion about OVC's intention regarding the funding of new crime victim programs. Hence, language has been added to Section IV, the

Program Requirements (IV.B.3.), clarifying that new programs that have not yet demonstrated a record of providing services may be eligible to receive VOCA funding if they can demonstrate that 25–50 percent of their financial support comes from non-federal sources. States are responsible for establishing the base level of non-federal support required within the 25–50 percent range.

10. Funding Unfunded Mandates

Recently, many state legislatures have passed laws establishing important new rights for crime victims. OVC wishes to clarify that VOCA funds may be used for the purpose of implementing these laws. Therefore, restrictive language from the previous Guidelines has been eliminated. Please note that VOCA crime victim assistance funds still may not be used to supplant state and local funds that would otherwise be available for crime victim services.

11. Child Abuse and Adult Protective Service Agencies

Section IV., the Program Requirements section (IV.C.), which describes the criteria for eligible subrecipient organizations, has been modified to specifically include child abuse programs and treatment facilities and adult protective service agencies.

12. Legal Service Agencies or Programs With Records of Serving Victims of Domestic Violence

The Program Requirements section (IV.C.5.), which lists the local public agencies eligible to receive VOCA subgrant funds, has been modified to specifically include legal service agencies or programs with a demonstrated history of advocacy on behalf of domestic violence victims, including children.

13. State Grantees as Subrecipients

Section IV., the Program Requirements (IV.C.5), has been modified with regard to subgrants to state grantees. Since the intention of the VOCA grant program is to support and enhance the crime victim services provided by community agencies, state grantees that meet the definition of an eligible subrecipient organization may not award themselves more than 10 percent of their annual VOCA award. This limitation applies to all states and territories, except for the Northern Mariana Islands, Guam, American Samoa, and the Republic of Palau.

14. Nursing Homes as Emergency Shelters

Under the Program Requirements section (IV.E.1.a.), which lists the allowable costs for direct services, the Guidelines have been modified to clarify that emergency shelter includes short-term nursing home shelter for elder abuse victims for whom no other safe, short-term residence is available.

15. Emergency Legal Assistance

The Program Requirements section (IV.E.1.a.), which lists the allowable services, activities, and costs at the subrecipient level, has been modified to allow subgrantees discretion in providing victims of domestic violence with legal assistance such as child custody and visitation proceedings ''when such actions are directly connected to family violence cases and are taken to ensure the health and safety of the victim.'' The allowable ''Contracts for Professional Services'' section (IV.E.2.g.) also has been modified to include assistance with emergency custody and visitation proceedings from providers with a demonstrated history of advocacy on behalf of domestic violence victims.

16. Cost of Respite Care

The Program Requirements, section (IV.E.1.c.), has been modified to specifically state that assistance with participation in criminal justice proceedings may include the cost of caring for a dependent adult when this enables a victim to attend court.

17. Cost of Restitution Advocacy on Behalf of Individuals

The Program Requirement section (IV.E.1.c.), has been modified to state clearly that restitution advocacy on behalf of specific crime victims is an allowable activity.

18. Restorative Justice

In many cases, victims are not familiar with the nature and availability of restorative justice programs. Therefore, the Program Requirements section (IV.E.1.h.), has been modified to clarify that restorative justice opportunities, where crime victims meet with perpetrators, are allowable, if such meetings are requested ''or voluntarily agreed to'' by the victim. In addition, since it is impossible to guarantee the therapeutic value of any activity, this section of the Guidelines has been further modified to state that restorative justice programs must have ''possible beneficial or'' therapeutic value to crime victims.

19. Allowable Costs for Making Services Accessible to Victims With Disabilities

The Program Requirements section (IV.E.2.d.), listing allowable ''non-direct'' costs and services, has been modified to clarify that VOCA funds may be used to purchase items such as braille equipment for the blind or TTY/TTD machines for the deaf, or to make minor building improvements that make services more accessible to victims with disabilities. Additional guidance can be found in the Office of Justice Programs, Office of the Comptroller, *Financial Guide*.

20. Advanced Technologies

In the Program Requirements section (IV.E.2.f.), OVC offers the states clarification that all subrecipients receiving VOCA funds for advanced technologies such as computers and victim notification systems must meet the usual program eligibility requirements as set forth in the Guidelines.

21. Electronic Submission of Subgrant Award Reports

In the interest of meeting OVC's mandate to collect and maintain accurate and timely information on the disbursal of VOCA funds, the section describing the subgrant award report requirements (V.A.) has been modified. Beginning with the Federal Fiscal Year (FFY) 1997 VOCA grant award, state grantees are required to transmit their Subgrant Award Report information to OVC via the automated subgrant dial-in system within 90 days of the date of the subaward. Grantees can access the system without incurring a long distance telephone charge by utilizing the subgrant dial-in 1–800 number. OVC will no longer accept manual submission of the Subgrant Award Reports. States and territories outside of the continental U.S. are exempt from the requirement to use the subdial system, but these grantees must complete and submit the Subgrant Award Report form, OJP 7390/2A, for each VOCA subrecipient.

B. Legislative Changes

1. The Antiterrorism and Effective Death Penalty Act of 1996 (Public Law 104–132)

The Antiterrorism and Effective Death Penalty Act of 1996 (Public Law 104–132) (hereafter, ''The Antiterrorism Act''), was signed into law on April 24, 1996. This legislation contained a number of victim related provisions that amended VOCA, including four provisions concerning the ''Availability

of (VOCA victim assistance) Grant Funds.''

a. Higher Base Award (II.C.). The Antiterrorism Act increases the base amount for victim assistance grants from $200,000 to $500,000. The territories of Northern Mariana Islands, Guam, and American Samoa will continue to receive a base amount of $200,000, with the Republic of Palau's share governed by the Compact of Free Association between the U.S. and the Republic of Palau.

b. OVC Reserve Fund (II.B.2.). The Antiterrorism Act authorizes the OVC Director to establish a reserve fund, up to $50 million. Reserve fund monies may be used for supplemental grants to assist victims of terrorist acts or mass violence occurring within or outside the U.S. The OVC Director may award reserve funds to the following entities:

(1) States for providing compensation and assistance to their state residents, who, while outside of the borders of the U.S., become victims of a terrorist act or mass violence. The beneficiaries, however, cannot be persons who are already eligible for compensation under the Omnibus Diplomatic Security and Antiterrorism Act of 1986. Individuals covered under the Omnibus Diplomatic Security Act include those who are taken captive because of their relationship with the U.S. government as a member of the U.S. Civil Service, as well as other U.S. citizens, nationals, or resident aliens who are taken captive while rendering service to the U.S. similar to that of civil servants. Dependent family members of such persons also are covered under the Act.

(2) Eligible state crime victim compensation and assistance programs for providing compensation and emergency relief for the benefit of victims of terrorist acts or mass violence occurring within the U.S.

(3) U.S. Attorneys' Offices for use in coordination with state victim compensation and assistance efforts in providing relief to victims of terrorist acts or mass violence occurring within the U.S.

(4) Eligible state compensation and assistance programs to offset fluctuation in the funds during years in which the Fund decreases and additional monies are needed to stabilize funding for state programs.

c. Unobligated Grant Funds (II.B.4.). Beginning with FFY 1997 VOCA grants, funds not obligated by the end of the grant period, up to an annual national maximum of $500,000, will be returned to the Fund, and not to the General Treasury, as was the practice in previous years. Returned funds in excess of $500,000 in a given year shall be returned to the Treasury. Once any portion of a state's grant is returned to the Fund, the funds must be redistributed according to the formula established by VOCA and the Proposed Program Guidelines. States are encouraged to monitor closely the expenditure of VOCA funds throughout the grant period to avoid returning grant monies to OVC and/or the Treasury.

d. Grant Period Extended (II.B.3.). The Antiterrorism Act extended the VOCA victim assistance grant period from the year of award plus one, to the year of award plus two. Subsequent legislation further extended the grant period to the year of award plus three.

2. Omnibus Appropriations Act of 1997

The Omnibus Appropriations Act of 1997 (P.L. 104–208) was passed by Congress and signed into law by President Clinton in September, 1996. This Act further extended the grant period to the year of award plus three. This change is effective for all FFY 1997 grants. The Final Program Guidelines clarify that funds are available for obligation beginning October 1 of the year of the award, through September 30 of the FFY three years later. For example, grants awarded in November, 1996 (FFY 1997) are available for obligation beginning October 1, 1996 through September 30, 2000. This modification is contained in the ''Availability of Funds'' section (II.B.3) of the Final Program Guidelines.

C. Changes in Applicable Federal Regulations

1. Mandatory Enrollment in U.S. Treasury Department's Automated Clearing House (ACH) Vendor Express Program

In accordance with the Debt Collection Improvement Act of 1996, the U.S. Treasury Department revised its regulations regarding federal payments. The Final Program Guidelines have been modified to require that, effective July 26, 1996, all federal payments to state VOCA victim assistance and compensation grantees must be made via electronic funds transfer.

States that are new award recipients or those that have previously received funds in the form of a paper check from the U.S. Treasury must enroll in the Treasury Department's ACH Vendor Express program through OJP before requesting any federal funds. This means that VOCA grantees can no longer receive drawdowns against their awards via paper check mailed from the Treasury. Grant recipients must enroll in ACH for Treasury to electronically transfer drawdowns directly to their banking institutions. States that are currently on the Letter of Credit Electronic Certification System (LOCES) will be automatically enrolled in the ACH program. Enrollment forms will be included in the award packet. Enrollment in ACH need only be completed once. This modification is included in the ''Application Process'' section (III.A.6.) of the Final Program Guidelines.

2. Higher Audit Threshold

In response to suggestions made by many recipients of federal grant awards, including VOCA grant recipients, OMB Circular A–133 is being revised. Until the revisions are final, state and local government agencies that *receive* $100,000 or more in federal funds during their state fiscal year are required to submit an organization-wide financial and compliance audit report. Recipients of $25,000 to $100,000 in federal funds are required to submit a program- or organization-wide audit report as directed by the granting agency. Recipients receiving less than $25,000 in federal funds are not required to submit a program- or organization-wide financial and compliance audit report for that year. Nonprofit organizations and institutions of higher education that *expend* $300,000 or more in federal funds per year shall have an organization-wide financial and compliance audit. Grantees must submit audit reports within 13 months after their state fiscal year ends.

Previously, states that received $100,000 or more in federal financial assistance in any fiscal year were required to have a single audit for that year. States and subrecipients receiving at least $25,000, but less than $100,000, in a fiscal year had the option of performing a single audit or an audit of the federal program, and state and local governments receiving less than $25,000 in any fiscal year were exempt from audit requirements. This modification is contained in the ''Financial Requirements'' section (IV.A.) of the Proposed Program Guidelines.

Guidelines for Crime Victim Assistance Grants

I. Background

In 1984, VOCA established the Crime Victims Fund (Fund) in the U.S. Treasury and authorized the Fund to receive deposits of fines and penalties levied against criminals convicted of federal crimes. This Fund provides the source of funding for carrying out all of the activities authorized by VOCA.

OVC makes annual VOCA crime victim assistance grants from the Fund

to states. The primary purpose of these grants is to support the provision of services to victims of crime throughout the Nation. For the purpose of these Program Guidelines, services are defined as those efforts that (1) respond to the emotional and physical needs of crime victims; (2) assist primary and secondary victims of crime to stabilize their lives after a victimization; (3) assist victims to understand and participate in the criminal justice system; and (4) provide victims of crime with a measure of safety and security such as boarding-up broken windows and replacing or repairing locks.

For the purpose of the VOCA crime victim assistance grant program, a crime victim is a person who has suffered physical, sexual, financial, or emotional harm as a result of the commission of a crime.

VOCA gives latitude to state grantees to determine how VOCA victim assistance grant funds will best be used within each state. However, each state grantee must abide by the minimal requirements outlined in VOCA and these Program Guidelines.

II. Allocation of VOCA Victim Assistance Funds

A. Distribution of the Crime Victims Fund

OVC administers the deposits made into the Fund for programs and services, as specified in VOCA. The amount of funds available for distribution each year is dependent upon the total deposits into the Fund during the preceding Federal Fiscal Year (October 1 through September 30).

Pursuant to Section 1402 (d) of VOCA, deposits into the Fund will be distributed as follows:

1. The first $3,000,000 deposited in the Fund in each fiscal year is available to the Administrative Office of the U.S. Courts (AOUSC) for administrative costs to carry out the functions of the judicial branch under Sections 3611 and 3612 of Title 18 U.S. Code. (Legislation is being drafted to repeal this provision. If passed by Congress and signed by the President, AOUSC will no longer receive an allocation from the Fund.)

2. Of the next $10,000,000 deposited in the Fund in a particular fiscal year,

a. 85% shall be available to the Secretary of Health and Human Services for grants under Section 4(d) of the Child Abuse Prevention and Treatment Act for improving the investigation and prosecution of child abuse cases;

b. 15% shall be available to the Director of the Office for Victims of Crime for grants under Section 4(d) of the Child Abuse Prevention and Treatment Act for assisting Native American Indian tribes in developing, establishing, and operating programs to improve the investigation and prosecution of child abuse cases.

3. Of the remaining amount deposited in the Fund in a particular fiscal year,

a. 48.5% shall be available for victim compensation grants,

b. 48.5% shall be available for victim assistance grants; and

c. 3% shall be available for demonstration projects and training and technical assistance services to eligible crime victim assistance programs and for the financial support of services to victims of federal crime by eligible crime victim assistance programs.

B. Availability of Funds

1. VOCA Victim Assistance Grant Formula

All states, the District of Columbia, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, Northern Mariana Islands, and Palau (hereinafter referred to as ''states'') are eligible to apply for, and receive, VOCA victim assistance grants. See Section 1404(d)(1) of VOCA, codified at 42 U.S.C. 10603(d)(1).

2. Reserve Fund

As the result of provisions in the Antiterrorism Act amending VOCA, the OVC Director is authorized to retain funds in a reserve fund, up to $50 million. The Director may utilize the reserve funds in order to:

a. Award supplemental grants to assist victims of terrorist acts or mass violence outside or within the U.S. The OVC Director may grant reserve funds for such purposes to the following entities:

(1) States for providing compensation and assistance to their state residents, who while outside of the U.S. become victims of a terrorist act or mass violence. The beneficiaries, however, cannot be persons who are already eligible for compensation under the Omnibus Diplomatic Security and Antiterrorism Act of 1986.

Individuals covered under the Omnibus Diplomatic Security and Antiterrorism Act include persons who are taken captive because of their relationship with the U.S. Government as a member of the U.S. Civil Service, as well as other U.S. citizens, nationals, or resident aliens who are taken captive while rendering service to the U.S. similar to that of civil servants. Dependent family members of such persons also are covered under the Omnibus Diplomatic Security Act.

(2) Eligible state crime victim compensation and assistance programs for providing emergency relief, including crisis assistance, training, and technical assistance for the benefit of victims of terrorist acts or mass violence occurring within the U.S.

(3) U.S. Attorney's Offices for use in coordination with state victim compensation and assistance efforts in providing relief to victims of terrorist acts or mass violence occurring within the U.S.

b. Offset Fluctuations in Fund. The Director of OVC may also use the reserve fund to offset fluctuations in Fund deposits for state compensation and assistance programs in years in which the Fund decreases and additional monies are needed to stabilize programs.

3. Grant Period

Federal legislation passed in 1996 also makes victim assistance grant funds available for expenditure throughout the FFY of award as well as in the next three fiscal years. The FFY begins on October 1 and ends on September 30. For example, grants awarded in December, 1996 (FFY 1997) are available for obligation beginning October 1, 1996 through September 30, 2000.

4. Grant Deobligations

VOCA grant funds not obligated at the end of the award period will be returned to the Crime Victims Fund. In a given fiscal year, no more than $500,000 of the remaining unobligated funds can be returned to the Fund. Amounts in excess of $500,000 shall be returned to the Treasury. Once any portion of a state's grant is returned to the Fund, the funds must be redistributed according to the rules established by VOCA and the Final Program Guidelines, so states are encouraged to monitor closely the expenditure of VOCA funds throughout the grant period to ensure that no funds are returned.

C. Allocation of Funds to States

From the Fund deposits available for victim assistance grants, each state grantee receives a base amount of $500,000, except for the territories of Northern Mariana Islands, Guam, and American Samoa, which are eligible to receive a base amount of $200,000. The Republic of Palau's share is governed by the Compact of Free Association between the U.S. and the Republic of Palau. The remaining Fund deposits are distributed to each state, based upon the state's population in relation to all other states, as determined by current census data.

D. Allocation of Funds Within the States

The Governor of each state designates the state agency that will administer the VOCA victim assistance grant program. The designated agency establishes policies and procedures, which must meet the minimum requirements of VOCA and the Program Guidelines.

VOCA funds granted to the states are to be used by eligible public and private nonprofit organizations to provide direct services to crime victims. States have sole discretion for determining which organizations will receive funds, and in what amounts, as long as the recipients meet the requirements of VOCA and the Program Guidelines.

State grantees are encouraged to develop a VOCA program funding strategy, which should consider the following: the range of victim services throughout the state and within communities; the unmet needs of crime victims; the demographic profile of crime victims; the coordinated, cooperative response of community organizations in organizing services for crime victims; the availability of services to crime victims throughout the criminal justice process; and the extent to which other sources of funding are available for services.

State grantees are encouraged to expand into new service areas as needs and demographics of crime change within the state. For example, when professional training, counseling, and debriefings are made available to victim assistance providers, dispatchers, and law enforcement officers in rural or other remote areas, services to victims in these areas improve dramatically. Victim services in rural or remote areas can also be improved by using VOCA funds to support electronic networking through computers, police radios, and cellular phones.

Many state grantees use VOCA funds to stabilize victim services by continuously funding selected organizations. Some state grantees end funding to organizations after several years in order to fund new organizations. Other state grantees limit the number of years an organization may receive VOCA funds. These practices are within the state grantee's discretion and are supported by OVC, when they serve the best interests of crime victims within the state.

State grantees may award VOCA funds to organizations that are physically located in an adjacent state, when it is an efficient and cost-effective mechanism available for providing services to victims who reside in the awarding state. When adjacent state awards are made, the amount of the award must be proportional to the number of victims to be served by the adjacent-state organization. OVC recommends that grantees enter into an interstate agreement with the adjacent state to address monitoring of the VOCA subrecipient, auditing federal funds, managing noncompliance issues, and reporting requirements. States must notify OVC of each VOCA award made to an organization in another state.

III VOCA Victim Assistance Application Process

A. State Grantee Application Process

Each year, OVC issues a Program Instruction and Application Kit to each designated state agency. The Application Kit contains the necessary forms and information required to apply for VOCA grant funds, including the Application for Federal Assistance, Standard Form 424. The amount for which each state may apply is included in the Application Kit. At the time of application, state grantees are not required to provide specific information regarding the subrecipients that will receive VOCA victim assistance funds.

Completed applications must be submitted on or before the stated deadline, as determined by OVC.

In addition to the Application for Federal Assistance, state grantees shall submit the following information:

1. Single Audit Act Information, specifically, the name and address of the designated cognizant federal agency, the federal agency assigned by OMB, and the dates of the state fiscal year.

2. Certifications Regarding Lobbying, Debarment, Suspension, and Other Responsibility Matters; Drug-Free Workplace requirements; Civil Rights Compliance, and any other certifications required by OJP and OVC. In addition, states must complete a disclosure form specifying any lobbying activities that are conducted.

3. An assurance that the program will comply with all applicable nondiscrimination requirements.

4. An assurance that in the event a federal or state administrative agency makes a finding of discrimination after a due process hearing, on the grounds of race, color, religion, origin, sex, or disability against the program, the program will forward a copy of the finding to OJP, Office for Civil Rights (OCR).

5. The name of the Civil Rights contact person who has lead responsibility for ensuring that all applicable civil rights requirements are met and who shall act as liaison in civil rights matters with OCR.

6. Enrollment in Automated Clearing House (ACH). State agencies that are new award recipients, or those that have previously received funds in the form of a paper check from the U.S. Treasury, must enroll in the Treasury Department's ACH Vendor Express program through OJP before any federal funds will be disbursed. States that are currently on the Letter of Credit Electronic Certification System (LOCES) will be automatically enrolled in the ACH program. Enrollment in ACH need only be completed once.

7. Administrative Cost Provision Notification. States must indicate in a letter transmitting their annual grant application whether they intend to use the administrative cost provision. Additional information about the administrative cost provision is set forth in the following section.

B. Administrative Cost Provision for State Grantees

Each state grantee may retain up to, but not more than, 5% of each year's grant for administering the VOCA victim assistance grant at the state grantee level with the remaining portion being used exclusively for direct services to crime victims or to train direct service providers in accordance with these Program Guidelines, as authorized in Section 1404(b)(3), codified at 42 U.S.C. 10603(b)(3). Administrative funds must be expended during the project period for which the grant was awarded. States are not authorized to roll-over administrative funds from one project period to the next. The administrative cost provision is available only to the state grantee and not to VOCA subrecipients. State grantees are not required to match the portion of the grant that is used for administrative purposes. The state administrative agency may charge any federally approved indirect cost rate to this grant. However, any indirect costs requested must be paid from the 5 percent administrative funds.

This administrative cost provision is to be used by the state grantee to expand, enhance, and/or improve the state's previous level of effort in administering the VOCA victim assistance grant program at the state level and to support activities and costs that impact the delivery and quality of services to crime victims throughout the state. Thus, grantees will be required to certify that VOCA administrative funds will not be used to supplant state funds. This information will assist OVC in evaluating requests to use administrative funds.

State grantees will not be in violation of the nonsupplantation clause if there is a decrease in the state's previous financial commitment towards the

administration of the VOCA grant programs in the following situations: (1) A serious loss of revenue at the state level, resulting in across-the-board budget restrictions. (2) A decrease in the number of ''state-supported'' staff positions used to meet the state's ''maintenance of effort'' in administering the VOCA grant programs.

States are required to notify OVC if there is a decrease in the amount of its previous financial commitment to the cost of administering the VOCA program.

State grantees are not required to match the portion of the grant that is used for administrative purposes.

1. The following are examples of activities that are directly related to managing the VOCA grant and can be supported with administrative funds:

a. Pay salaries and benefits for staff and consultant fees to administer and manage the financial and programmatic aspects of VOCA;

b. Attend OVC-sponsored and other relevant technical assistance meetings that address issues and concerns to state administration of victims' programs;

c. Monitor VOCA Victim Assistance subrecipients, and potential subrecipients, provide technical assistance, and/or evaluation and assessment of program activities;

d. Purchase equipment for the state grantee such as computers, software, fax machines, copying machines;

e. Train VOCA direct service providers;

f. Purchase memberships in crime victims organizations and victim-related materials such as curricula, literature, and protocols; and

g. Pay for program audit costs;

h. Pay for indirect costs at a federally approved indirect cost rate that when applied, does not exceed the 5 percent administrative cost allowance.

2. The following activities impact the delivery and quality of services to crime victims throughout the state and, thus, can be supported by administrative funds:

a. Develop strategic plans on a state and/or regional basis, conduct surveys and needs assessments, promote innovative approaches to serving crime victims such as through the use of technology;

b. Improve coordination efforts on behalf of crime victims with other federally funded programs and with federal, state, and local agencies and organizations;

c. Provide training on crime victim issues to state, public, and nonprofit organizations that serve or assist crime victims such as law enforcement officials, prosecutors, judges, corrections personnel, social service workers, child and youth service providers, aging and adult protective service providers, and mental health and medical professionals;

d. Purchase, print, and/or develop publications such as training manuals for service providers, victim services directories, and brochures;

e. Coordinate and develop protocols, policies, and procedures that promote systemic change in the ways crime victims are treated and served; and

f. Train managers of victim service agencies.

Each state grantee that chooses to use administrative funds is required to submit a statement to OVC reporting the amount of the total grant that will be used as administrative funds. State grantees may notify OVC when the decision is made to exercise this option or at the time the Application for Federal Assistance is submitted. In addition, the grantee must maintain adequate documentation to support the expenditure of these funds.

A state may modify projections set forth in their application by notifying OVC, in writing, of the revised amount of the total grant that will be used as administrative funds. Failure to notify OVC of modifications will prevent the state from meeting its obligation to reconcile its State-wide Report with its Final Financial Status Report.

Administrative grant funds can only support that portion of a staff person's time devoted to the VOCA assistance program. If the staff person has other functions, the proportion of their time spent on the VOCA assistance program must be documented using regular time and attendance records. The documentation must provide a clear audit trail for the expenditure of grant funds.

State grantees may choose to award administrative funds to a ''conduit'' organization that assists in selecting qualified subrecipients and/or reduces the state grantee's administrative burden in implementing the grant program. However, the use of a ''conduit'' organization does not relieve the state grantee from ultimate programmatic and financial responsibilities.

C. Use of Funds for Training

State grantees have the option of retaining a portion of their VOCA victim assistance grant for conducting state-wide and/or regional trainings of victim services staff. The maximum amount permitted for this purpose is one percent of the state's grant. State grantees that choose to sponsor statewide or regional trainings are not precluded from awarding VOCA funds to subrecipients for other types of staff development.

Statewide or regional training supported with training funds should target a diverse audience of victim service providers and allied professionals, including VOCA funded and non-VOCA funded personnel, and should provide opportunities to consider issues related to types of crime, gaps in services, coordination of services, and legislative mandates.

Each training activity must occur within the grant period, and all training costs must be obligated prior to the end of the grant period. VOCA grant funds cannot be used to supplant the cost of existing state administrative staff or related state training efforts.

Each state grantee that chooses to use training funds is required to submit a statement to OVC reporting the amount of the total grant that will be used to pay for training. Grantees must maintain adequate documentation to support the expenditure of these funds.

A state may modify projections set forth in their application by notifying OVC of the revised amount of the total grant that will be used as training funds. Failure to notify OVC of modifications will prevent the state from meeting its obligation to reconcile its State-wide Report with its Final Financial Status Report.

The VOCA funds used for training by the state grantee must be matched at 20 percent of the total project cost, cash or in-kind, and the source of the match must be described. For further information regarding match requirements, see the section on Subrecipient Organization Eligibility Requirements (IV.B.).

IV. Program Requirements

A. State Grantee Eligibility Requirements

When applying for the VOCA victim assistance grant, state grantees are required to give assurances that the following conditions or requirements will be met:

1. Must Be An Eligible Organization

States should ensure that only eligible organizations receive VOCA funds, and that these funds are used only for services to victims of crime, except those funds that the state grantee uses for training victim service providers and/or administrative purposes, as authorized by Section 1404(b) codified at 42 U.S.C. 10603(b). See section *E. Services, Activities, and Costs at the Subrecipient Level* for examples of direct services to crime victims.

2. Nonsupplantation

VOCA crime victim assistance grant funds will be used to enhance or expand services and will not be used to supplant state and local funds that would otherwise be available for crime victim services. See Section 1404(a)(2)(c), codified at 42 U.S.C. 10603(a)(2)(C). This supplantation clause applies to state and local public agencies only.

3. Priority Areas

Priority shall be given to victims of sexual assault, domestic abuse, and child abuse. Thus, a minimum of 10% of each FFY's grant (30% total) will be allocated to each of these categories of crime victims. This grantee requirement does not apply to VOCA subrecipients.

Each state grantee must meet this requirement, unless it can demonstrate to OVC that: (1) a ''priority'' category is currently receiving significant amounts of financial assistance from the state or other funding sources; (2) a smaller amount of financial assistance, or no assistance, is needed from the VOCA victim assistance grant program; and (3) crime rates for a ''priority'' category have diminished.

4. ''Previously Underserved'' Priority Areas

An additional 10% of each VOCA grant will be allocated to victims of violent crime (other than ''priority'' category victims) who were ''previously underserved.'' These underserved victims of either adult or juvenile offenders may include, but are not limited to, victims of federal crimes; survivors of homicide victims; or victims of assault, robbery, gang violence, hate and bias crimes, intoxicated drivers, bank robbery, economic exploitation and fraud, and elder abuse.

For the purposes of this program, a victim of federal crime is a victim of an offense that violates a federal criminal statute or regulation. Federal crimes also include crimes that occur in an area where the federal government has jurisdiction, such as Indian reservations, some national parks, some federal buildings, and military installations.

For the purposes of this program, elder abuse is defined as the mistreatment of older persons through physical, sexual, or psychological violence, neglect, or economic exploitation and fraud.

To meet the underserved requirement, state grantees must identify crime victims by the types of crimes they have experienced (e.g., drunk driving, sexual assault, or domestic violence). States are encouraged to also identify gaps in available services by victims' demographic characteristics. For example, in a given state, *''underserved''* victims may be best defined according to their status as senior citizens, non-English speaking residents, persons with disabilities, members of racial or ethnic minorities, or by virtue of the fact that they are residents of rural or remote areas, or inner cities. Each state grantee has latitude for determining the method for identifying ''previously underserved'' crime victims, which may include public hearings, needs assessments, task forces, and meetings with state-wide victim services agencies.

Each state grantee must meet this requirement, unless it can justify to OVC that (a) services to these victims of violent crime are receiving significant amounts of financial assistance from the state or other funding sources; (b) a smaller amount of financial assistance, or no assistance, is needed from the VOCA victim assistance grant program; and (c) crime rates for these victims of violent crime have diminished.

5. Financial Record Keeping and Program Monitoring

Appropriate accounting, auditing, and monitoring procedures will be used at the grantee and subrecipient levels so that records are maintained to ensure fiscal control, proper management, and efficient disbursement of the VOCA victim assistance funds, in accordance with the *OJP Financial Guide*, effective edition.

6. Compliance With Federal Laws

Compliance with all federal laws and regulations applicable to federal assistance programs and with the provisions of Title 28 of the Code of Federal Regulations (CFR) applicable to grants.

7. Compliance With VOCA

Compliance by the state grantee and subrecipients with the applicable provisions of VOCA and the Final Program Guidelines.

8. Required Reports Submitted to OVC

Programmatic and financial reports shall be submitted. [See *Program Requirements* (Section IV.) and *Financial Requirements* (Section V.) for reporting requirements and timelines.]

9. Civil Rights

Prohibition of Discrimination for Recipients of Federal Funds. No person in any state shall, on the grounds of race, color, religion, national origin, sex, age, or disability be excluded from participation in, be denied the benefits of, be subjected to discrimination under, or denied employment in connection with any program or activity receiving federal financial assistance, pursuant to the following statutes and regulations: Section 809(c), Omnibus Crime Control and Safe Streets Act of 1968, as amended, 42 U.S.C. 3789d, and Department of Justice Nondiscrimination Regulations, 28 CFR Part 42, Subparts C, D, E, and G; Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000d, *et seq.*; Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. 794; Subtitle A, Title II of the Americans with Disabilities Act of 1990, 42 U.S.C. 12101, *et seq.* and Department of Justice regulations on disability discrimination, 28 CFR Part 35 and Part 39; Title IX of the Education Amendments of 1972, as amended, 20 U.S.C. 1681–1683; and the Age Discrimination Act of 1975, as amended, 42 U.S.C. 6101, *et seq.*

10. Obligation to Report Discrimination Finding

In the event a federal or state court or administrative agency makes a finding of discrimination on the grounds of race, color, religion, national origin, sex, age, or disability against a recipient of VOCA victim assistance funds, state grantees are required to forward a copy of the finding to the Office for Civil Rights (OCR) for OJP.

11. Obligation to Report Other Allegations/Findings

In the event of a formal allegation or a finding of fraud, waste, and/or abuse of VOCA funds, state grantees are required to immediately notify OVC of said finding. State grantees are also obliged to apprise OVC of the status of any on-going investigations.

12. Coordination With State VOCA Compensation Program and Federal Law Enforcement

OVC encourages state grantees to coordinate their activities with their state's VOCA compensation program and the U.S. Attorneys' Offices and FBI Field Offices within their state. Only with an emphasis on coordination will a continuum of services be ensured for all crime victims. Coordination strategies could include inviting Compensation Program Directors and Federal Victim-Witness Coordinators to serve on subgrant review committees; providing Compensation Program Directors and Federal Victim-Witness Coordinators with a list of VOCA-funded organizations; attending meetings organized by Compensation Program Directors and Federal Victim-

Witness Coordinators regarding the provision of victim assistance services; providing training activities for subrecipients to learn about the compensation program; developing joint guidance, where applicable, on third-party payments to VOCA assistance organizations; and providing training for compensation program staff on the trauma of victimization, particularly for victims of economic crime and survivors of homicide victims.

B. Subrecipient Organization Eligibility Requirements

VOCA establishes eligibility criteria that must be met by all organizations that receive VOCA funds. These funds are to be awarded to subrecipients only for providing services to victims of crime through their staff. Each subrecipient organization shall meet the following requirements:

1. Public or Nonprofit Organization

To be eligible to receive VOCA funds, organizations must be operated by public or nonprofit organization, or a combination of such organizations, and provide services to crime victims.

2. Record of Effective Services

Demonstrate a record of providing effective services to crime victims. This includes having the support and approval of its services by the community, a history of providing direct services in a cost-effective manner, and financial support from other sources.

3. New Programs

Those programs that have not yet demonstrated a record of providing services may be eligible to receive VOCA funding, if they can demonstrate that 25–50 percent of their financial support comes from non-federal sources. It is important that organizations have a variety of funding sources besides federal funding in order to ensure their financial stability. States are responsible for establishing the base level of non-federal support required within the 25–50 percent range.

4. Program Match Requirements

The purpose of matching contributions is to increase the amount of resources available to the projects supported by grant funds. Matching contributions of 20% (cash or in-kind) of the total cost of each VOCA project (VOCA grant plus match) are required for each VOCA-funded project and must be derived from non-federal sources, except as provided in the *OJP Financial Guide*, effective edition (Part III. Post Award Requirements, Chapter 3. Matching or Cost Sharing). All funds designated as match are restricted to the same uses as the VOCA victim assistance funds and must be expended within the grant period. Match must be provided on a project-by-project basis. Any deviation from this policy must be approved by OVC.

For the purposes of this program, in-kind match may include donations of expendable equipment, office supplies, workshop or classroom materials, work space, or the monetary value of time contributed by professionals and technical personnel and other skilled and unskilled labor, if the services they provide are an integral and necessary part of a funded project. The value placed on donated services must be consistent with the rate of compensation paid for similar work in the subrecipient's organization. If the required skills are not found in the subrecipient's organization, the rate of compensation must be consistent with the labor market. In either case, fringe benefits may be included in the valuation. The value placed on loaned or donated equipment may not exceed its fair market value. The value of donated space may not exceed the fair rental value of comparable space as established by an independent appraisal of comparable space and facilities in privately-owned buildings in the same locality.

a. Record Keeping. VOCA recipients and their subrecipients must maintain records that clearly show the source, the amount, and the period during which the match was allocated. The basis for determining the value of personal services, materials, equipment, and space must be documented. Volunteer services must be documented, and to the extent feasible, supported by the same methods used by the subrecipient for its own paid employees. The state has primary responsibility for subrecipient compliance with the requirements. State grantees are encouraged not to require excessive amounts of match.

b. Exceptions to the 20% Match. OVC sets a lower match requirements for:

(1) Native American Tribes/Organizations Located on Reservations. The match for new or existing VOCA subrecipients that are Native American tribes/organizations located on reservations is 5% (cash or in-kind) of the total VOCA project. For the purpose of this grant, a Native American tribe/organization is defined as any tribe, band, nation, or other organized group or community, which is recognized as eligible for the special programs and services provided by the U.S. to Native Americans because of their status as Native Americans. A reservation is defined as a tract of land set aside for use of, and occupancy by, Native Americans.

(2) The U.S. Virgin Islands, and all other territories and possessions of the U.S., except Puerto Rico, are *not* required to match VOCA funds. See 48 U.S.C. 1469a(d).

(3) OVC may waive the match requirement if extraordinary need is documented by State VOCA administrators.

5. Volunteers

Subrecipient organizations must use volunteers unless the state grantee determines there is a compelling reason to waive this requirement. A ''compelling reason'' may be a statutory or contractual provision concerning liability or confidentiality of counselor/victim information, which bars using volunteers for certain positions, or the inability to recruit and maintain volunteers after a sustained and aggressive effort.

6. Promote Community Efforts to Aid Crime Victims

Promote, within the community, coordinated public and private efforts to aid crime victims. Coordination may include, but is not limited to, serving on state, federal, local, or Native American task forces, commissions, working groups, coalitions, and/or multi-disciplinary teams. Coordination efforts also include developing written agreements that contribute to better and more comprehensive services to crime victims. Coordination efforts qualify an organization to receive VOCA victim assistance funds, but are not activities that can be supported with VOCA funds.

7. Help Victims Apply for Compensation Benefits

Such assistance may include identifying and notifying crime victims of the availability of compensation, assisting them with application forms and procedures, obtaining necessary documentation, and/or checking on claim status.

8. Comply With Federal Rules Regulating Grants

Subrecipients must comply with the applicable provisions of VOCA, the Program Guidelines, and the requirements of the *OJP Financial Guide*, effective edition, which includes maintaining appropriate programmatic and financial records that fully disclose the amount and disposition of VOCA funds received. This includes: Financial documentation for disbursements; daily

time and attendance records specifying time devoted to allowable VOCA victim services; client files; the portion of the project supplied by other sources of revenue; job descriptions; contracts for services; and other records which facilitate an effective audit.

9. Maintain Civil Rights Information

Maintain statutorily required civil rights statistics on victims served by race, national origin, sex, age, and disability, within the timetable established by the state grantee; and permit reasonable access to its books, documents, papers, and records to determine whether the subrecipient is complying with applicable civil rights laws. This requirement is waived when providing a service, such as telephone counseling, where soliciting the information may be inappropriate or offensive to the crime victim.

10. Comply With State Criteria

Subrecipients must abide by any additional eligibility or service criteria as established by the state grantee including submitting statistical and programmatic information on the use and impact of VOCA funds, as requested by the grantee.

11. Services to Victims of Federal Crimes

Subrecipients must provide services to victims of federal crimes on the same basis as victims of state/local crimes.

12. No Charge to Victims for VOCA-Funded Services

Subrecipients must provide services to crime victims, at no charge, through the VOCA-funded project. Any deviation from this provision requires prior approval by the state grantee. Prior to authorizing subrecipients to generate income, OVC strongly encourages administrators to carefully weigh the following considerations regarding federal funds generating income for subrecipient organizations.

a. The purpose of the VOCA victim assistance grant program is to provide services to all crime victims regardless of their ability to pay for services rendered or availability of insurance or other third-party payment resources. Crime victims suffer tremendous emotional, physical, and financial losses. It was never the intent of VOCA to exacerbate the impact of the crime by asking the victim to pay for services.

b. State grantees must ensure that they and their subrecipients have the capability to track program income in accordance with federal financial accounting requirements. All VOCA-funded program and match income, no matter how large or small, is restricted to the same uses as the VOCA grant.

Program income can be problematic because of the required tracking systems needed to monitor VOCA-funded income and ensure that it is used only to make additional services available to crime victims. For example: VOCA often funds only a portion of a counselor's time. Accounting for VOCA program income generated by this counselor is complicated, involving careful record keeping by the counselor, the subrecipient program, and the state.

13. Client-Counselor and Research Information Confidentiality

Maintain confidentiality of client-counselor information, as required by state and federal law.

14. Confidentiality of Research Information

Except as otherwise provided by federal law, no recipient of monies under VOCA shall use or reveal any research or statistical information furnished under this program by any person and identifiable to any specific private person for any purpose other than the purpose for which such information was obtained in accordance with VOCA. Such information, and any copy of such information, shall be immune from legal process and shall not, without the consent of the person furnishing such information, be admitted as evidence or used for any purpose in any action, suit, or other judicial, legislative, or administrative proceeding. See Section 1407(d) of VOCA codified at 42 U.S.C. 10604.

These provisions are intended, among other things, to ensure the confidentiality of information provided by crime victims to counselors working for victim services programs receiving VOCA funds. Whatever the scope of application given this provision, it is clear that there is nothing in VOCA or its legislative history to indicate that Congress intended to override or repeal, in effect, a state's existing law governing the disclosure of information which is supportive of VOCA's fundamental goal of helping crime victims. For example, this provision would not act to override or repeal, in effect, a state's existing law pertaining to the mandatory reporting of suspected child abuse. See *Pennhurst School and Hospital v. Halderman, et al.,* 451 U.S. 1 (1981). Furthermore, this confidentiality provision should not be interpreted to thwart the legitimate informational needs of public agencies. For example, this provision does not prohibit a domestic violence shelter from acknowledging, in response to an inquiry by a law enforcement agency conducting a missing person investigation, that the person is safe in the shelter. Similarly, this provision does not prohibit access to a victim service project by a federal or state agency seeking to determine whether federal and state funds are being utilized in accordance with funding agreements.

C. Eligible Subrecipient Organizations

VOCA specifies that an organization must provide services to crime victims and be operated by a public agency or nonprofit organization, or a combination of such agencies or organizations in order to be eligible to receive VOCA funding. Eligible organizations include victim services organizations whose sole mission is to provide services to crime victims. These organizations include, but are not limited to, sexual assault and rape treatment centers, domestic violence programs and shelters, child abuse programs, centers for missing children, mental health services, and other community-based victim coalitions and support organizations including those who serve survivors of homicide victims.

In addition to victim services organizations, whose sole purpose is to serve crime victims, there are many other public and nonprofit organizations that have components which offer services to crime victims. These organizations are eligible to receive VOCA funds, if the funds are used to expand or enhance the delivery of crime victims' services. These organizations include, but are not limited to, the following:

1. Criminal Justice Agencies

Such agencies as law enforcement organizations, prosecutors' offices, courts, corrections departments, and probation and paroling authorities are eligible to receive VOCA funds to help pay for victims' services. For example, prosecutor-based victim services may include victim-witness programs, victim notification, and victim impact statements, including statements of pecuniary damages for restitution. Corrections-based victim services may include victim notification, restitution advocacy, victim-offender mediation programs, and victim impact panels. Police-based victim services may include victim crisis units or victim advocates, victim registration and notification, and cellular phone and alarm services for domestic abuse victims. In general, VOCA funds may be used to provide crime victim services that *exceed* a law enforcement official's normal duties. Regular law enforcement duties such as crime scene intervention,

questioning of victims and witnesses, investigation of the crime, and follow-up activities may not be paid for with VOCA funds.

2. Religiously-Affiliated Organizations

Such organizations receiving VOCA funds must ensure that services are offered to all crime victims without regard to religious affiliation and that the receipt of services is not contingent upon participation in a religious activity or event.

3. State Crime Victim Compensation Agencies

Compensation programs, including both centralized and decentralized programs, may receive VOCA assistance funds if they offer direct services to crime victims that extend beyond the essential duties of compensation staff such as claims investigations, distribution of information about compensation and referral to other sources of public and private assistance. Such services would include assisting victims in identifying and accessing needed services and resources.

4. Hospitals and Emergency Medical Facilities

Such organizations must offer crisis counseling, support groups, and/or other types of victim services. In addition, state grantees may only award VOCA funds to a medical facility for the purpose of performing forensic examinations on sexual assault victims if (1) the examination meets the standards established by the state, local prosecutor's office, or state-wide sexual assault coalition; *and* (2) appropriate crisis counseling and/or other types of victim services are offered to the victim in conjunction with the examination.

5. Others

State and local public agencies such as mental health service organizations, state/local public child and adult protective services, state grantees, legal services agencies and programs with a demonstrated history of advocacy on behalf of domestic violence victims, and public housing authorities that have components specifically trained to serve crime victims. Since the intention of the VOCA grant program is to support and enhance the crime victim services provided by community agencies, state grantees that meet the definition of an eligible subrecipient organization may not subaward themselves more than 10 percent of their annual VOCA award. This limitation applies to all states and territories, except for the Northern Mariana Islands, Guam, American Samoa, and the Republic of Palau.

D. Ineligible Recipients of VOCA Funds

Some public and nonprofit organizations that offer services to crime victims are not eligible to receive VOCA victim assistance funding. These organizations include, but are not limited to, the following:

1. Federal Agencies

This includes U.S. Attorneys Offices and FBI Field Offices. Receipt of VOCA funds would constitute an augmentation of the federal budget with money intended for state agencies. However, private nonprofit organizations that operate on federal land may be eligible subrecipients of VOCA victim assistance grant funds.

2. In-Patient Treatment Facilities

For example, those designed to provide treatment to individuals with drug, alcohol, and/or mental health-related conditions.

E. Services, Activities, and Costs at the Subrecipient Level

1. Allowable Costs for Direct Services

The following is a listing of services, activities, and costs that are eligible for support with VOCA victim assistance grant funds within a subrecipient's organization:

a. Immediate Health and Safety. Those services which respond to the immediate emotional and physical needs (excluding medical care) of crime victims such as crisis intervention; accompaniment to hospitals for medical examinations; hotline counseling; emergency food, clothing, transportation, and shelter (including emergency, short-term nursing home shelter for elder abuse victims for whom no other safe, short-term residence is available); and other emergency services that are intended to restore the victim's sense of security. This includes services which offer an immediate measure of safety to crime victims such as boarding-up broken windows and replacing or repairing locks. Also allowable is emergency legal assistance such as filing restraining orders and obtaining emergency custody/visitation rights when such actions are directly connected to family violence cases and are taken to ensure the health and safety of the victim.

b. Mental Health Assistance. Those services and activities that assist the primary and secondary victims of crime in understanding the dynamics of victimization and in stabilizing their lives after a victimization such as counseling, group treatment, and therapy. ''Therapy'' refers to intensive professional psychological/psychiatric treatment for individuals, couples, and family members related to counseling to provide emotional support in crises arising from the occurrence of crime. This includes the evaluation of mental health needs, as well as the actual delivery of psychotherapy.

c. Assistance with Participation in Criminal Justice Proceedings. In addition to the cost of emergency legal services noted above in section a. ''Immediate Health and Safety'', there are other costs associated with helping victims participate in the criminal justice system that also are allowable. These services may include advocacy on behalf of crime victims; accompaniment to criminal justice offices and court; transportation to court; child care or respite care to enable a victim to attend court; notification of victims regarding trial dates, case disposition information, and parole consideration procedures; and assistance with victim impact statements. State grantees may also fund projects devoted to restitution advocacy on behalf of specific crime victims. VOCA funds cannot be used to pay for non-emergency legal representation such as for divorces, or civil restitution recovery efforts.

d. Forensic Examinations. For sexual assault victims, forensic exams are allowable costs only to the extent that other funding sources (such as state compensation or private insurance or public benefits) are unavailable or insufficient and, such exams conform with state evidentiary collection requirements. State grantees should establish procedures to monitor the use of VOCA victim assistance funds to pay for forensic examinations in sexual assault cases.

e. Costs Necessary and Essential to Providing Direct Services. This includes pro-rated costs of rent, telephone service, transportation costs for victims to receive services, emergency transportation costs that enable a victim to participate in the criminal justice system, and local travel expenses for service providers.

f. Special Services. Services to assist crime victims with managing practical problems created by the victimization such as acting on behalf of the victim with other service providers, creditors, or employers; assisting the victim to recover property that is retained as evidence; assisting in filing for compensation benefits; and helping to apply for public assistance.

g. Personnel Costs. Costs that are directly related to providing direct services, such as staff salaries and fringe benefits, including malpractice insurance; the cost of advertising to recruit VOCA-funded personnel; and

the cost of training paid and volunteer staff.

h. Restorative Justice. Opportunities for crime victims to meet with perpetrators, if such meetings are requested or voluntarily agreed to by the victim and have possible beneficial or therapeutic value to crime victims.

State grantees that plan to fund this type of service should closely review the criteria for conducting these meetings. At a minimum, the following should be considered: (1) the safety and security of the victim; (2) the benefit or therapeutic value to the victim; (3) the procedures for ensuring that participation of the victim and offender are voluntary and that everyone understands the nature of the meeting, (4) the provision of appropriate support and accompaniment for the victim, (5) appropriate ''debriefing'' opportunities for the victim after the meeting or panel, (6) the credentials of the facilitators, and (7) the opportunity for a crime victim to withdraw from the process at any time. State grantees are encouraged to discuss proposals with OVC prior to awarding VOCA funds for this type of activity. VOCA assistance funds cannot be used for victim-offender meetings which serve to replace criminal justice proceedings.

2. Other Allowable Costs and Services

The services, activities, and costs listed below are not generally considered direct crime victim services, *but are* often a necessary and essential activity to ensure that quality direct services are provided. Before these costs can be supported with VOCA funds, the state grantee and subrecipient must agree that direct services to crime victims cannot be offered without support for these expenses; that the subrecipient has no other source of support for them; and that only limited amounts of VOCA funds will be used for these purposes. The following list provides examples of such items:

a. Skills Training for Staff. VOCA funds designated for training are to be used exclusively for developing the skills of direct service providers including paid staff and volunteers, so that they are better able to offer quality services to crime victims. An example of skills development is training focused on how to respond to a victim in crisis.

VOCA funds can be used for training both VOCA-funded and non-VOCA-funded service providers who work within a VOCA recipient organization, but VOCA funds cannot be used for management and administrative training for executive directors, board members, and other individuals that do not provide direct services.

b. Training Materials. VOCA funds can be used to purchase materials such as books, training manuals, and videos for direct service providers, within the VOCA-funded organization, and can support the costs of a trainer for in-service staff development. Staff from other organizations can attend in-service training activities that are held for the subrecipient's staff.

c. Training Related Travel. VOCA funds can support costs such as travel, meals, lodging, and registration fees to attend training within the state or a similar geographic area. This limitation encourages state grantees and subrecipients to first look for available training within their immediate geographical area, as travel costs will be minimal. However, when needed training is unavailable within the immediate geographical area, state grantees may authorize using VOCA funds to support training outside of the geographical area. For example, VOCA grantees may benefit by attending national conferences that offer skills building training workshops for victim assistance providers.

d. Equipment and Furniture. VOCA funds may be used to purchase furniture and equipment that provides or enhances direct services to crime victims, as demonstrated by the VOCA subrecipient.

VOCA funds cannot support the entire cost of an item that is not used exclusively for victim-related activities. However, VOCA funds can support a prorated share of such an item. In addition, subrecipients cannot use VOCA funds to purchase equipment for another organization or individual to perform a victim-related service. Examples of allowable costs may include beepers; typewriters and word processors; video-tape cameras and players for interviewing children; two-way mirrors; and equipment and furniture for shelters, work spaces, victim waiting rooms, and children's play areas.

The costs of furniture, equipment such as braille equipment or TTY/TTD machines for the deaf, or minor building alterations/improvements that make victims services more accessible to persons with disabilities are allowable. Refer to the OJP *Financial Guide,* effective edition, before these types of decisions are made.

e. Purchasing or Leasing Vehicles. Subrecipients may use VOCA funds to purchase or lease vehicles if they can demonstrate to the state VOCA administrator that such an expenditure is essential to delivering services to crime victims. The VOCA administrator must give *prior* approval for all such purchases.

f. Advanced Technologies. At times, computers may increase a subrecipient's ability to reach and serve crime victims. For example, automated victim notification systems have dramatically improved the efficiency of victim notification and enhanced victim security.

In order to receive a grant for advanced technologies, each subrecipient must meet the program eligibility requirements set forth in section IV.B. of the Guidelines, Subrecipient Organization Eligibility Requirements. In making such expenditures, VOCA subrecipients must describe to the state how the computer equipment will enhance services to crime victims; how it will be integrated into and/or enhance the subrecipient's current system; the cost of installation; the cost of training staff to use the computer equipment; the on-going operational costs, such as maintenance agreements, supplies; and how these additional costs will be supported. Property insurance is an allowable expense as long as VOCA funds support a prorated share of the cost of the insurance payments.

State grantees that authorize equipment to be purchased with VOCA funds must establish policies and procedures on the acquisition and disbursement of the equipment, in the event the subrecipient no longer receives a VOCA grant. At a minimum, property records must be maintained with the following: a description of the property and a serial number or other identifying number; identification of title holder; the acquisition date; the cost and the percentage of VOCA funds supporting the purchase; the location, use, and condition of the property; and any disposition data, including the date of disposal and sale price. (See *OJP Financial Guide,* effective edition.)

g. Contracts for Professional Services. VOCA funds generally should not be used to support contract services. At times, however, it may be necessary for VOCA subrecipients to use a portion of the VOCA grant to contract for specialized services. Examples of these services include assistance in filing restraining orders or establishing emergency custody/visitation rights (the provider must have a demonstrated history of advocacy on behalf of domestic violence victims); forensic examinations on a sexual assault victim to the extent that other funding sources are unavailable or insufficient; emergency psychological or psychiatric services; or sign and/or interpretation

for the deaf or for crime victims whose primary language is not English.

Subrecipients are prohibited from using a majority of VOCA funds for contracted services, which contain administrative, overhead, and other indirect costs included in the hourly or daily rate.

h. Operating Costs. Examples of allowable operating costs include supplies; equipment use fees, when supported by usage logs; printing, photocopying, and postage; brochures which describe available services; and books and other victim-related materials. VOCA funds may support administrative time to complete VOCA-required time and attendance sheets and programmatic documentation, reports, and statistics; administrative time to maintain crime victims' records; and the pro-rated share of audit costs.

i. Supervision of Direct Service Providers. State grantees may provide VOCA funds for supervision of direct service providers when they determine that such supervision is necessary and essential to providing direct services to crime victims. For example, a state grantee may determine that using VOCA funds to support a coordinator of volunteers or interns is a cost-effective way of serving more crime victims.

j. Repair and/or Replacement of Essential Items. VOCA funds may be used for repair or replacement of items that contribute to maintaining a healthy and/or safe environment for crime victims, such as a furnace in a shelter. In the event that a vehicle is purchased with VOCA funds, related items, such as routine maintenance and repair costs, and automobile insurance are allowable. State grantees are cautioned to scrutinize each request for expending VOCA funds for such purposes to ensure the following: (1) that the building or vehicle is owned by the subrecipient organization and not rented or leased, (2) all other sources of funding have been exhausted, (3) there is no available option for providing the service in another location, (4) that the cost of the repair or replacement is reasonable considering the value of the building or vehicle, and (5) the cost of the repair or replacement is pro-rated among all sources of income.

k. Public Presentations. VOCA funds may be used to support presentations that are made in schools, community centers, or other public forums, and that are designed to identify crime victims and provide or refer them to needed services. Specifically, activities and costs related to such programs including presentation materials, brochures, and newspaper notices can be supported by VOCA funds.

3. Non-Allowable Costs and Activities

The following services, activities, and costs, although not exhaustive, *cannot* be supported with VOCA victim assistance grant funds at the subgrantee level:

a. Lobbying and Administrative Advocacy. VOCA funds cannot support victim legislation or administrative reform, whether conducted directly or indirectly.

b. Perpetrator Rehabilitation and Counseling. Subrecipients cannot knowingly use VOCA funds to offer rehabilitative services to offenders. Likewise, VOCA funds cannot support services to incarcerated individuals, even when the service pertains to the victimization of that individual.

c. Needs Assessments, Surveys, Evaluations, Studies. VOCA program funds may not be used to pay for efforts conducted by individuals, organizations, task forces, or special commissions to study and/or research particular crime victim issues.

d. Prosecution Activities. VOCA funds cannot be used to pay for activities that are directed at prosecuting an offender and/or improving the criminal justice system's effectiveness and efficiency, such as witness notification and management activities and expert testimony at a trial. In addition, victim witness protection costs and subsequent lodging and meal expenses are considered part of the criminal justice agency's responsibility and cannot be supported with VOCA funds.

e. Fundraising activities.

f. Indirect Organizational Costs. The costs of liability insurance on buildings; capital improvements; security guards and body guards; property losses and expenses; real estate purchases; mortgage payments; and construction may not be supported with VOCA funds.

g. Property Loss. Reimbursing crime victims for expenses incurred as a result of a crime such as insurance deductibles, replacement of stolen property, funeral expenses, lost wages, and medical bills is not allowed.

h. Most Medical Costs. VOCA funds cannot pay for nursing home care (emergency short-term nursing home shelter as described in section IV.E.1.a. is allowable), home health-care costs, in-patient treatment costs, hospital care, and other types of emergency and non-emergency medical and/or dental treatment. VOCA victim assistance grant funds cannot support medical costs resulting from a victimization, except for forensic medical examinations for sexual assault victims.

i. Relocation Expenses. VOCA funds cannot support relocation expenses for crime victims such as moving expenses, security deposits on housing, ongoing rent, and mortgage payments. However, VOCA funds may be used to support staff time in locating resources to assist victims with these expenses.

j. Administrative Staff Expenses. Salaries, fees, and reimbursable expenses associated with administrators, board members, executive directors, consultants, coordinators, and other individuals unless these expenses are incurred while providing direct services to crime victims.

k. Development of Protocols, Interagency Agreements, and Other Working Agreements. These activities benefit crime victims, but they are considered examples of the types of activities that subrecipients undertake as part of their role as a victim services organization, which in turn qualifies them as an eligible VOCA subrecipient.

l. Costs of Sending Individual Crime Victims to Conferences.

m. Activities Exclusively Related to Crime Prevention.

V. Program Reporting Requirements

State grantees must adhere to all reporting requirements and timelines for submitting the required reports, as indicated below. Failure to do so may result in a hold being placed on the drawdown of the current year's funds, a hold being placed on processing the next year's grant award, or can result in the suspension or termination of a grant.

A. Subgrant Award Reports

A Subgrant Award Report is required for each organization that receives VOCA funds and uses the funds for such allowable expenses including employee salaries, fringe benefits, supplies, and rent. This requirement applies to all state grantee awards including grants, contracts, or subgrants and to all subrecipient organizations.

Subgrant Award Reports are not to be completed for organizations that serve only as conduits for distributing VOCA funds or for organizations that provide limited, emergency services, on an hourly rate, to the VOCA subrecipient organizations. Services and activities that are purchased by a VOCA subrecipient are to be included on the subrecipient's Subgrant Award Report.

1. Reporting Deadline

State grantees are required to submit to OVC, within 90 days of making the subaward, Subgrant Award Report information for each subrecipient of VOCA victim assistance grant funds.

2. Electronic Submission

State grantees shall transmit their Subgrant Award Report information to OVC via the automated subgrant dial-in system. By utilizing the subgrant dial-in number (1–800/838–0106), grantees can access the system without incurring a long distance telephone charge. States and territories outside of the continental U.S. are exempt from the requirement to use the subdial system, but these grantees must complete and submit the Subgrant Award Report form, OJP 7390/2A, for each VOCA subrecipient.

3. Changes to Subgrant Award Report

If the Subgrant Award Report information changes by the end of the grant period, state grantees must inform OVC of the changes, by revising the information via the automated subgrant subdial system. The total of all Subgrant Award Reports submitted by the state grantee must agree with the Final Financial Status Report (Standard Form 269A) that is submitted at the end of the grant period.

B. Performance Report

1. Reporting Deadline

Each state grantee is required to submit specific grant performance data on the OVC-provided Performance Report, form No. OJP 7390/4, by December 31 of each year.

2. Administrative Cost Provision

For those state grantees who opt to use a portion of the VOCA victim assistance grant for administrative costs, the Performance Report will be used to describe how the funds were actually used and the impact of the 5% administrative funds on the state grantee's ability to expand, enhance, and improve services to crime victims. State grantees who choose to use a portion of their VOCA victim assistance grant for administrative costs must maintain a clear audit trail of all costs supported by administrative funds and be able to document the value of the grantee's previous commitment to administering VOCA.

VI. Financial Requirements

As a condition of receiving a grant, state grantees and subrecipients shall adhere to the financial and administrative provisions set forth in the *OJP Financial Guide* and applicable OMB Circulars and Common Rules. The following section describes the audit requirements for state grantees and subrecipients, the completion and submission of Financial Status Reports, and actions that result in termination of advance funding.

A. Audit Responsibilities for Grantees and Subrecipients

Audits of non-profit institutions and institutions of higher education must comply with the organizational audit requirements of OMB Circular A–133, which states that recipients who expend $300,000 or more during their fiscal year in federal funds during their fiscal year, are required to submit an organization-wide financial and compliance audit report within 13 months after the close of each fiscal year during the term of the award to their cognizant federal agency.

State and local units of government must comply with the organizational audit requirements of OMB circular A–128, which states that recipients of $25,000 of federal funds during their fiscal year, are required to submit an audit report to their cognizant agency. Recipients who receive less than $25,000 in federal funds are exempt from the audit requirement.

B. Audit Costs

Audit costs incurred at the grantee (state) level are determined to be an administrative expense, and may be paid with the allowable five percent for administration. Subrecipients may not use any VOCA funds to pay for administrative costs, including the cost of audits.

C. Financial Status Report for State Grantees

Financial Status Reports (269A) are required from all state agencies. A Financial Status Report shall be submitted to the Office of the Comptroller for each calendar quarter in which the grant is active. This Report is due even though no obligations or expenditures were incurred during the reporting period. Financial Status Reports shall be submitted to the Office of the Comptroller, by the state, within 45 days after the end of each calendar quarter. Calendar quarters end March 31, June 30, September 30, and December 31. A Final Financial Status Report is due 120 days after the end of the VOCA grant.

D. Termination of Advance Funding to State Grantees

If the state grantee receiving cash advances by direct Treasury deposit demonstrates an unwillingness or inability to establish procedures that will minimize the time elapsing between cash advances and disbursements, OJP may terminate advance funding and require the state to finance its operations with its own working capital. Payments to the state will then be made to the state by the ACH Vendor Express method to reimburse the grantee for actual cash disbursements. It is essential that the grantee organization maintain a minimum of cash on hand and that drawdowns of cash are made only when necessary for disbursements.

VII. Monitoring

A. Office of the Comptroller

The Office of the Comptroller conducts periodic reviews of the financial policies, procedures, and records of VOCA grantees and subrecipients. Therefore, upon request, state grantees and subrecipients must allow authorized representatives to access and examine all records, books, papers, case files, or documents related to the grant, use of administrative funds, and all subawards.

B. Office for Victims of Crime

OVC conducts on-site monitoring in which each state grantee is visited a minimum of once every three years. While on site, OVC personnel will review various documents and files such as (1) program manuals and procedures governing the VOCA grant program; (2) reports for the grantee and all VOCA subrecipients; (3) the state grantee's VOCA application kit, procedures, and guidelines for subawarding VOCA funds; and (4) all other state grantee and subrecipient records and files.

In addition, OVC will visit selected subrecipients and will review similar documents such as (1) reports; (2) policies and procedures governing the organization and the VOCA funds; (3) programmatic records of victims' services; and (4) timekeeping records and other supporting documentation for costs supported by VOCA funds.

VIII. Suspension and Termination of Funding

If, after notice and opportunity for a hearing, OVC finds that a state has failed to comply substantially with VOCA, the OJP Financial Guide (effective edition), the Final Program Guidelines, or any implementing regulation or requirement, OVC may suspend or terminate funding to the state and/or take other appropriate action. At such time, states may request a hearing on the justification for the suspension and/or termination of VOCA funds. VOCA subrecipients, within the state, may not request a hearing at the federal level. However, VOCA subrecipients who believe that the state grantee has violated a program and/or financial requirement are not precluded

from bringing the alleged violation(s) to the attention of OVC.

Dated: April 17, 1997.

Aileen Adams,

Director, Office for Victims of Crime, Office for Justice Programs.

[FR Doc. 97–10403 Filed 4–21–97; 8:45 am]

BILLING CODE 4410–18–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

Proposed Information Collection Request, Submitted for Public Comment and Recommendations; 29 CFR Part 1904 Recording and Reporting Occupational Injuries and Illnesses (1218–0176)

ACTION: Notice.

SUMMARY: The Department of Labor, as part of this continuing effort to reduce paperwork and respondent burden conducts a pre-clearance 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 1904, Recording and Reporting Occupational Injuries and Illnesses (less 1904.8, Reporting of Fatality or Multiple Hospitalization Incidents and 1904.17, Annual OSHA Injury and Illness Survey of Ten or More Employers).

DATES: Written comments must be submitted on or before June 23, 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–97–10 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 N3647, 200 Constitution Avenue, NW, Washington, D.C. 20210, telephone: (202) 219–8148. Copies of the reference 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 the Internet at http://www.osha.gov/.

SUPPLEMENTARY INFORMATION:

I. Background

The OSHA Act and 29 CFR part 1904 prescribe that certain employers maintain records of job related injuries and illnesses. The injury and illness records are intended to have multiple purposes. One purpose is to provide data needed by OSHA to carry out enforcement and intervention activities to guarantee workers a safe and healthy work environment. The data are also needed by the Bureau of Labor Statistics to report on the number and rate of occupational injuries and illnesses in the country.

The data also provide information for employers and employees of the kind of injuries and illnesses occurring in the workplace and their related hazards. Increased employer awareness should result in the identification and voluntary correction of hazardous workplace conditions. Likewise, employees who are provided information on injuries and illnesses will be more likely to follow safe work practices and report workplace hazards. This would generally raise the overall level of safety and health in the workplace.

OSHA currently has approval from the Office of Management and Budget (OMB) for information collection requirements contained in 29 CFR 1904. That approval will expire on September 30, 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 those 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 estimates, which are based upon the most current data available, and to comment on their accuracy or appropriateness in today's workplace situation.

29 CFR 1904.8, Reporting of Fatality or Multiple Hospitalization Incidents (OMB control number 1218–0007) and 29 CFR 1904.17, Annual OSHA Injury and Illness Survey of Ten or More Employers (OMB control number yet to be assigned) are each under separate Information Collection Request (ICR)

II. Current Action

This notice requests an extension of the current OMB approval of the paperwork requirements in 29 CFR 1904, Recording and Reporting Occupational Injuries and Illnesses.

Type of Review: Extension of currently approved collection.

Agency: U.S. Department of Labor, Occupational Safety and Health Administration.

Title: Recording and Reporting Occupational Injuries and Illnesses.

OMB Number: 1218–0176.

Agency Number: Docket No. ICR–97–10.

Frequency: Recordkeeping.

Affected Public: Business or other for-profit; Farms; Not for-profit institutions; State and Local Government.

Number of respondents: 816,766.

Estimated Time Per Respondent: 1.93 hours.

Total Estimated Cost: $29,058,139.

Total Burden Hours: 1,575,821 hours.

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: April 16, 1997.

Stephen A. Newell,

Director, OSHA Office of Statistics.

[FR Doc. 97–10356 Filed 4–21–97; 8:45 am]

BILLING CODE 4510–26–M

NATIONAL SCIENCE FOUNDATION

Proposed Collection: Comment Request

Title of Proposed Collection: NSF Surveys to Measure Customer Service Satisfaction.

In compliance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the National Science Foundation (NSF) will publish periodic summaries of proposed projects. This material is being submitted for OMB review with no changes. To request more information on the proposed project or to obtain a copy of the data collection plans and instruments, call the NSF Clearance Officer on (703) 306–1125 x2010.

Comments are invited on (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information shall have practical utility; (b) the accuracy of the Agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information on respondents, including through the use of automated collection techniques or other forms of information technology.

Proposed Project: On September 11, 1993, President Clinton issued Executive Order 12862, ''Setting Customer Service Standards,'' which calls for Federal agencies to provide service that matches or exceeds the best service available in the private sector. Section 1(b) of that order requires agencies to ''survey customers to determine the kind and quality of services they want and their level of satisfaction with existing services.'' The National Science Foundation (NSF) has an ongoing need to collect information from its customer community (primarily individuals and organizations engaged in science and engineering research and education) about the quality and kind of services it provides and use that information to help improve agency operations and services.

Burden on the Public: The burden on the public will change according to the needs of each individual customer satisfaction survey, however, each survey is estimated to take approximately 30 minutes per response.

Send comments to Gail A. McHenry, Reports Clearance Officer, National Science Foundation, 4201 Wilson Boulevard, Suite 245, Arlington, Virginia 22230. Written comments should be received within 60 days of the date of this notice.

Dated: April 17, 1977.

Herman G. Fleming,

Reports Officer.

[FR Doc. 97–10398 Filed 4–21–97; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Bioengineering and Environmental Systems; 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 Bioengineering and Environmental Systems (No. 1189).

Date and Time: May 9, 1997; 9:00 am–4:00 pm.

Place: National Science Foundation, 4201 Wilson Boulevard, Room 1150, Arlington, VA 22230.

Type of Meeting: Closed.

Contact Person: Edward H. Bryan, Ph.D., Environmental Engineering Program, Division of Bioengineering and Environmental Systems, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230, Telephone: (703) 306–1318.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c) (4) and (6) of the Government in the Sunshine Act.

Dated: April 17, 1997.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 97–10377 Filed 4–21–97; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Biological Sciences; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

Name: Special Emphasis Panel in Biological Sciences, Code 1754.

Date and Time: May 14–16, 1997.

Place: National Science Foundation, 4201 Wilson Boulevard, Room 380, Arlington, VA 22230.

Type of Meeting: Closed.

Contact Person: Dr. Charles O'Kelly, Division of Environmental Biology, Room 635, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230. Telephone: (703) 306–1479.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate Partnerships for Enhancing Expertise in Taxonomy (PEET) proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c) (4) and (6) of the Government in the Sunshine Act.

Dated: April 17, 1997.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 97–10381 Filed 4–21–97; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Elementary, Secondary and Informal 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 and Committee Code: Special Emphasis Panel in Elementary, Secondary and Informal Education.

Date and Time: Tuesday, May 13, 1997.

Place: National Science Foundation, 4201 Wilson Boulevard, Room 830, Arlington, VA 22230.

Type of Meeting: Closed.

Contact Person: Dr. Gerhard Salinger, Program Director, Division of Elementary, Secondary and Informal Education, National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230. Telephone: (703) 306–1614.

Purpose of Meeting: To provide advice and recommendations concerning proposals for the Advance Technological Education Program submitted to NSF for financial support.

Agenda: To review and evaluate proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c) (4) and (6) of the Government in the Sunshine Act.

Dated: April 17, 1997.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 97–10380 Filed 4–21–97; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Experimental Program To Stimulate Competitive Research (EPSCoR) Grants: Notice of Meeting

In accordance with the Federal Advisory Committee Act (Public Law 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Special Emphasis Panel in Experimental Program to Stimulate Competitive Research (EPSCoR) #1198.

Date: May 12, 1997.

Time: 8:30 a.m.–5:30 p.m.; May 12, 1997.

Place: National Science Foundation, 4201 Wilson Boulevard, Suite 365, Arlington, Virginia 22230, 703–306–1683 FAX 703–306–0456.

Type of Meeting: Closed.

Contact: Dr. Richard J. Anderson, Head, Office of Experimental Program to Stimulate Competitive Research (EPSCoR), National Science Foundation, Suite 875, 4201 Wilson Blvd., Arlington, VA 22230, (703) 306–1683.

Purpose of Meeting: To provide advice and recommendations concerning year-5 renewal of EPSCoR Cooperative Agreements for the states of Idaho, Montana, Nebraska, Nevada, and West Virginia.

Agenda: To review and evaluate year 5 renewal requests from five (5) states participating in the Experimental Program to Stimulate Competitive Research. Proposals request support for the final 12 months of 60-month EPSCoR Cooperative Agreements and are submitted in response to NSF solicitation 95–141.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c) (4) and (6) of the Government in the Sunshine Act.

Dated: April 16, 1997.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 97–10379 Filed 4–21–97; 8:45 am]

BILLING CODE 7555–01–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 (1756).

Date and Time: Sunday, May 11–Friday, May 16, 1997; 8:30 AM–5:00 PM.

Place: Rooms 310, 320, 330, 340, National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230.

Type of Meeting: Closed.

Contact Person: Dr. Michael R. Reeve, Section Head, National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230. Telephone: (703) 306–1582.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate Ocean Sciences Research Section (OSRS) proposals as part of the selection process for awards.

Reason For Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in The Sunshine Act.

Dated: April 17, 1997.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 97–10378 Filed 4–21–97; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Information, Robotics and Intelligent Systems; 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 Information, Robotics and Intelligent Systems (1200).

Date and Time: May 5–6, 1997, 8:30 a.m. to 5:00 p.m.

Place: St. James Hotel, 950 24th Street, NW., Washington, DC 22037.

Type of Meeting: Closed.

Contact Person: Dr. Maria Zemankova, Deputy Division Director, National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230. Telephone: (703) 306–1929.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate Database and Expert Systems Program proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: April 16, 1997.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 97–10374 Filed 4–21–97; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Networking & Communications Research & Infrastructure; 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 Networking and Communications Research & Infrastructure (#1207).

Date and Time: May 15 and 16, 1997; 8:30 a.m. to 5:00 p.m.

Place: National Science Foundation, 4201 Wilson Blvd., Room 1175 Arlington, VA 22230.

Type of meeting: Closed.

Contact person(s): Tatsuya Suda, Program director, CISE/NCRI, Room 1175, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230, (703) 306–1950.

Purpose of meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review & evaluate proposals submitted for the Networking and Communications Program.

Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries, and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b.(c) (4) and (6) of the Government in the Sunshine Act.

Dated: April 17, 1997.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 97–10382 Filed 4–21–97; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Polar Programs; 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 and Committee Code: Special Emphasis Panel in Polar Programs (1209).

Date and Time: May 9, 1997, 8:30 a.m. to 5:00 p.m.

Place: Room 950, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230.

Type of Meeting: Closed.

Contact Person: Scott Borg, Antarctic Geology & Geophysics, Office of Polar Programs, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230. Telephone: (703) 306–1033.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate Mars Rock: Special Research Opportunity proposals as part of the selection process for awards.

Reason For Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c) (4) and (6) of the Government in the Sunshine Act.

Dated: April 17, 1997.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 97–10376 Filed 4–21–97; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Advisory Panel for Social and Political Sciences; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation (NSF) announces the following meeting.

Name: Advisory Panel for Social and Political Sciences (1761).

Date and Time: May 8, 1997 12:00 p.m. (Conference Call).

Place: National Science Foundation, Stafford Place, 4201 Wilson Boulevard, Room 980.1, Arlington, VA 22230.

Type of Meeting: Closed.

Contact Person: Dr. Harmon Hosch, Program Director for Law and Social Science, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230 Telephone: 703: 306–1762.

Purpose of Meeting: To provide advice and recommendations concerning support for research proposals submitted to the NSF for financial support.

Agenda: To review and evaluate the Global Perspective on Sociolegal Studies proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c) (4) and (6) of the Government in the Sunshine Act.

Dated: April 16, 1997.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 97–10375 Filed 4–21–97; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–382]

Entergy Operations, Inc.; Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. NPF–38 issued to Entergy Operations Inc., (the licensee) for operation of the Waterford Steam Electric Station, Unit 3, located in St. Charles Parish, Louisiana.

The proposed amendment would change Waterford 3 Technical Specifications by deleting Technical Specification (TS) 3.7.1.3, Action (b) and its associated surveillance requirement. The current TS 3.7.1.3 limiting condition for operation (LCO) allowes credit for an alternate supply for emergency feedwater (EFW) in the event the condensate storage pool (CSP) is unavailable as the primary source. Surveillance 4.7.1.3.2 is being deleted since use of the Wet Cooling Tower (WCT) basins as the backup supply as described in the current Action (b) will no longer be allowed.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Will operation of the facility in accordance with this proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

As previously identified, the accidents for which the combined water inventory of the CSP and WCT basin is needed are tornado and natural circulation events. The combined inventory is also required during post-LOCA long term cooling until shutdown cooling is entered. CSP level is not a failure mode for any of these events. The contents of the CSP and one WCT basin are sufficient to meet plant needs for accident mitigation in each of these scenarios. Deletion of TS 3.7.1.3 Action (b) and the associated surveillance do not affect the volume of either the CSP or the WCT basin and will not affect the consequences of the accidents for which the CSP and a WCT basin are needed.

In addition, all accident analyses assume that EFW is initially aligned to the CSP. No credit is taken for an initial alignment to the WCT basins. Thus removal of this action will not impact any analysis.

As previously discussed, a catastrophic failure of the CSP concurrent with an EFW system demand is not a credible scenario. As a conservative measure, Waterford 3 has elected to incorporate administrative controls in its off-normal procedures to address this scenario.

2. Will operation of the facility in accordance with this proposed change create the possibility of a new or different type of accident from any accident previously evaluated?

Response: No.

The CSP is used almost exclusively as the water supply for EFW. The only exceptions are its use as a makeup source for the CCW system, Emergency Diesel Generator Jacket Cooling Water System, Fuel Pool and Purification System, and Essential Chilled Water, which place a minimal demand on the pool. The possible failure modes that could keep the CSP from fulfilling its intended safety function as the only dedicated source of EFW are tank vent clogging, low tank level, and pump suction flashing.

The CSP is equipped with an 8 in. vent line which penetrates the pool ceiling and terminates in the above room six feet above the floor. There is no isolation valve on the line, and there are no known sources of debris in the area which could clog such a large diameter pipe. Also, the pipe ends with a ''U''-bend, with the open end turned downwards. Accidental crimping of the thick walled pipe is not considered credible since the pipe is not within the travel path of any cranes, and is located in a congested area behind an instrument cabinet, out of the path of any fork lifts.

The CSP is equipped with redundant, safety grade level indicators and TS 3.7.1.3 requires operators to verify tank level is within allowable limits every 12 hours.

In addition, the CSP water remains at Reactor Auxiliary Building (RAB) ambient temperatures, usually below 90°. There are no lines from hot, interfacing systems which connect to the lines between the CSP and pump suction.

Therefore, the probability of these failure modes will not increase by the deletion of TS 3.7.1.3, Action (b). As such, it is not considered credible that tank level would be out of limits when a system demand occurred. Also, no new system connections or interactions are created by this change. Deletion of this TS action statement does not

create a new or different accident with regard to the CSP.

An Emergency Feedwater Actuation Signal (EFAS) is initiated upon either a low steam generator level coincident with no low steam generator pressure or a low steam generator level coincident with high steam generator differential pressure to feed the steam generator with the highest pressure. CSP level does not affect initiation of an EFAS, therefore this proposed change does not create a new or different EFAS initiator.

Therefore, the proposed change will not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Will operation of the facility in accordance with this proposed change involve a significant reduction in a margin of safety?

Response: No.

The proposed change will preserve the margin of safety. The CSP is unaffected by this change and will continue to perform its intended safety function as the water supply for EFW. The combined volumes of the CSP and one WCT basin are still available to perform their accident mitigation function. If the action statement for TS 3.7.1.3 is entered, the plant will have 4 hours to restore the CSP to an operable condition or begin to shutdown.

The WCT basins will continue to perform their intended safety function as the ultimate heat sink and the quantity of water available for that purpose is unaffected by this change. The WCT basins will still be available as an additional source for EFW during accident conditions; however, they will not be lined up as the primary source of EFW when the CSP is inoperable and they will not be credited to extend the allowed outage time for the CSP when the CSP is inoperable.

Therefore, the proposed change will not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish in the **Federal Register** a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Chief, Rules Review and Directives Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room 6D22, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland, from 7:30 a.m. to 4:15 p.m. Federal workdays. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC.

The filing of requests for hearing and petitions for leave to intervene is discussed below.

By May 22, 1997, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's ''Rules of Practice for Domestic Licensing Proceedings'' in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the University of New Orleans Library, Louisiana Collection, Lakefront, New Orleans, Louisiana 70122. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to

present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Docketing and Services Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, by the above date. Where petitions are filed during the last 10 days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1–(800) 248–5100 (in Missouri 1–(800) 342–6700). The Western Union operator should be given Datagram Identification Number N1023 and the following message addressed to William D. Beckner: petitioner's name and telephone number, date petition was mailed, plant name, and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and to Winston & Strawn, 1400 L Street, N.W. Washington, DC, attorney for the licensee.

Non-timely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated April 11, 1997, which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the University of New Orleans Library, Louisiana Collection, Lakefront, New Orleans, LA 70122.

Dated at Rockville, Maryland, this 15th day of April, 1997.

For The Nuclear Regulatory Commission.

Chandu P. Patel,

Project Manager, Project Directorate IV–1, Division of Reactor Projects—III/IV, Office of Nuclear Reactor Regulation.

[FR Doc. 97–10324 Filed 4–21–97; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–382]

Entergy Operations, Inc.; Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. NPF–38 issued to Entergy Operations Inc., (the licensee) for operation of the Waterford Steam Electric Station, Unit 3, (Waterford 3) located in St. Charles Parish, Louisiana.

The proposed amendment would change Waterford 3 Technical Specifications by revising Technical Specification 3.6.2.2 and Surveillance Requirement 4.6.2.2 for the Containment Cooling System. The purpose of this amendment is to make the Technical Specification 3.6.2.2 and Surveillance Requirement 4.6.2.2 consistent with the containment cooling assumptions in the Waterford 3 containment analysis. Additionally, a Surveillance Requirement has been added to verify valves actuate on a Safety Injection Actuation Signal. A change to the Technical Specification Bases 3/4.3.6.2.2 has been included to support this change.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Will operation of the facility in accordance with this proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The results of the reanalysis show that the consequences of an accident are not increased by this change to the required number of operable fan coolers and [Component Cooling Water] CCW flow to each fan cooler. Specifically, the acceptance criteria for peak containment pressure during an accident and pressure reduction at 24 hours after the accident are met. The calculated peak pressure for the limiting [Main Steam Line Break] MSLB is less than the containment design pressure of 44 psig. The pressure at 24 hours after the start of the limiting [Loss of Coolant Accident] LOCA is less than one half of the peak pressure.

Therefore, revising the containment fan cooler Technical Specification to require two fan coolers per train operable with a lower CCW flow rate of 1200 gpm to each will not adversely impact the consequences of accidents previously evaluated. The flow rate of 1200 gpm is conservatively greater than the assumed flow rate in the analysis (1100 gpm). Furthermore, since the fan coolers are not an initiator of any event, the proposed change will not impact the probability of occurrence of an accident previously evaluated.

An [Ultimate Heat Sink] UHS analysis has been performed of the effect of the lower CCW flows to the [Containment Fan Coolers] CFC and shutdown cooling heat exchanger used in this [Technical Specification Change Request] TSCR. The analysis has shown that the peak accident heat load and wet cooling tower basin water consumption is bounded by the existing UHS analysis.

An analysis has been performed to determine the impact on environmentally qualified equipment based on the lower flows to the CFCs and shutdown cooling heat exchanger. The current temperature profile and containment peak pressure used to determine post accident operability on environmentally qualified equipment bounds this analysis.

Therefore, the proposed change will not involve a significant increase in the probability or consequences of any accident previously evaluated.

2. Will operation of the facility in accordance with this proposed change create the possibility of a new or different type of accident from any accident previously evaluated?

Response: No.

The proposed change does not alter the operation of the fan coolers in a manner that

would create a new or different accident. Although both CFCs per train are now required to be operable with a lower CCW flow to each CFC, the manner in which the CFCs perform their safety function is not changed. There are no new system interactions that could lead to a different kind of accident. This change serves to clarify the specification with respect to the Waterford 3 safety analysis and provide further information in the Bases. The configuration required by the proposed specification is permitted by the existing specification.

Therefore, the proposed change will not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Will operation of the facility in accordance with this proposed change involve a significant reduction in a margin of safety?

Response: No.

The proposed change revises Technical Specification 3.6.2.2 and Surveillance Requirement 4.6.2.2 for the Containment Cooling System. This change revises the required number of fan coolers from one fan cooler per train to two fan coolers per train. This change also revises the surveillance flow requirement from 1325 gpm to a value consistent with containment cooling assumptions in Waterford 3 containment analyses. This flow rate will be tested with the CCW system in the accident lineup to be consistent with the analysis assumptions.

The containment cooling system is designed, as described in the containment depressurization and cooling system Technical Specification Bases, to maintain the post accident containment peak pressure below its design value of 44 psig. The system is also designed to reduce the containment pressure by a factor of 2 from its post-accident peak within 24 hours.

The revised analyses done to support this Technical Specification change has shown that the peak containment pressure remains below 44 psig and the 24 hour pressure is less than half the peak. Therefore, the proposed change does not adversely impact margin of safety.

The revised analysis has also shown that the containment peak temperature remains below the temperature provided in the Technical Specification 3.6.2.1 and 3.6.2.2 Bases.

An UHS analysis has been performed of the effect of the lower CCW flows to the CFC and shutdown cooling heat exchanger used in this TSCR. The analysis has shown that the peak accident heat load and wet cooling tower basin water consumption is bounded by the existing UHS analysis.

An analysis has been performed to determine the impact on environmentally qualified equipment based on the lower flows to the CFCs and shutdown cooling heat exchanger. The current temperature profile and containment peak pressure used to determine post accident operability on environmentally qualified equipment bounds this analysis.

Therefore, the proposed change will not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish in the **Federal Register** a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Chief, Rules Review and Directives Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room 6D22, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland, from 7:30 a.m. to 4:15 p.m. Federal workdays. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, N.W., Washington, DC.

The filing of requests for hearing and petitions for leave to intervene is discussed below.

By May 22, 1997, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's ''Rules of Practice for Domestic Licensing Proceedings'' in 10 CFR part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, N.W., Washington, DC, and at the local public document room located at the University of New Orleans Library, Louisiana Collection, Lakefront, New Orleans, LA 70122. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention

and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Docketing and Services Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, N.W., Washington, DC, by the above date. Where petitions are filed during the last 10 days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1–(800) 248–5100 (in Missouri 1–(800) 342–6700). The Western Union operator should be given Datagram Identification Number N1023 and the following message addressed to William D. Beckner: petitioner's name and telephone number, date petition was mailed, plant name, and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and to Winston & Strawn, 1400 L Street, N.W. Washington, DC, attorney for the licensee.

Non-timely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1) (i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated April 11, 1997, which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, N.W., Washington, DC, and at the local public document room located at the University of New Orleans Library, Louisiana Collection, Lakefront, New Orleans, LA 70122.

Dated at Rockville, Maryland, this 16th day of April 1997.

For the Nuclear Regulatory Commission.

Chandu P. Patel,

Project Manager, Project Directorate IV–1, Division of Reactor Projects—III/IV, Office of Nuclear Reactor Regulation.

[FR Doc. 97–10325 Filed 4–21–97; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–313]

Entergy Operations, Inc.; Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DPR–51, issued to Entergy Operations, Inc. (the licensee), for operation of Arkansas Nuclear One, Unit 1, located in Pope County, Arkansas.

The proposed amendment would permit steam generator tubes with intergranular corrosion indications that may exceed through-wall limits to remain in service until the next refueling outage.

The proposed amendment is being processed under exigent circumstances for the following reason. During the 1R13 refueling outage, an eddy current technique was used for the satisfactory completion of the ANO–1 steam generator inspection surveillance. The technique used had been qualified per Appendix H of the EPRI ''PWR Steam Generator Tube Examination Guidelines.'' This technique was used to depth size all intergranular attack flaws within the upper tubesheet. As required by the technical specifications, all upper tube sheet IGA indications with a depth size of greater than the plugging limit as determined by the qualified sizing technique, were also removed from service by plugging.

During the steam generator inspections, three tube samples containing upper tubesheet IGA flaws were removed from the ''B'' OTSG and sent offsite to be analyzed for future development of an alternate repair criteria and to further support the qualified eddy current sizing technique employed during refueling outages. The preliminary destructive examination results were recently received by the ANO staff. This data arrived approximately 5 months after the resumption of operation following the steam generator inspections that occurred during 1R13. These results indicate that the flaw depths do not correlate well with the depths sized using the qualified eddy current technique. Upon further review, ANO has determined that the application of the sizing criterion is no longer valid. With the qualified sizing technique invalidated, there is a potential that tubes could have been left in service with indications that have through-wall depths greater than the plugging limit specified in the technical specifications. This would be considered a condition that is not allowed by the technical specifications. Prior to the receipt of the preliminary destructive examination results, ANO had no reason to question the adequacy of the steam generator inspections that occurred during 1R13.

Based on the developments described above, on April 9, 1997, the NRC verbally issued a Notice of Enforcement Discretion (NOED). The NOED was documented by letter dated April 11, 1997. The NOED expressed NRC's intention to exercise discretion in enforcing compliance with portions of the technical specifications related to steam generator tubes. The NOED will remain in effect until an exigent technical specification amendment is processed but in no case later than May 7, 1997.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

Pursuant to 10 CFR 50.91(a)(6) for amendments to be granted under exigent circumstances, the NRC staff must determine that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

An evaluation of the proposed change has been performed in accordance with 10 CFR 50.91(a)(1) regarding no significant hazards considerations using the standards in 10 CFR 50.92(c). A discussion of these standards as they relate to this amendment request follows:

Criterion 1—Does Not Involve a Significant Increase in the Probability or Consequences of an Accident Previously Evaluated.

The steam generators are used to remove heat from the reactor coolant system during normal operation and during accident conditions. The steam generator tubing forms a substantial portion of the reactor coolant pressure boundary. A steam generator tube failure is a violation of the reactor coolant pressure boundary and is a specific accident analyzed in the ANO–1 Safety Analysis Report.

The purpose of the periodic surveillance performed on the steam generator in accordance with ANO–1 Technical Specification 4.18, is to ensure that the structural integrity of this portion of the reactor coolant system (RCS) will be maintained. The technical specification (TS) plugging limit of 40% of the nominal tube wall thickness requires tubes to be repaired or removed from service because the tube may become unserviceable prior to the next inspection. Unserviceable is defined in the TS as the condition of a tube if it leaks or contains a defect large enough to affect its structural integrity in the event of an operating basis earthquake, a loss-of-coolant accident, or a steam line break.[sic] Of these accidents, the most severe condition with respect to patch intergranular attack (IGA) degradation within the upper tube sheet is the main steam line break (MSLB). During this event the differential pressure across the tube could be as high as 2500 psid. The rupture of a tube during this event could permit the flow of reactor coolant into the secondary coolant system thus bypassing the containment.

From testing performed on simulated flaws within the tubesheet it has been shown that the patch IGA indications within the upper tubesheet left in service during 1R13 with potential depths greater than the plugging limit, do not represent structurally significant flaws which would increase the probability of a tube failure beyond that currently assumed in the ANO–1 Safety Analysis Report.

Burst tests were conducted on tubing with simulated flaws within the tubesheet. In these tests, through-wall holes of varying sizes up to 0.5 inch in diameter were drilled in test specimens. The flawed specimen tubes were then inserted into a simulated tubesheet and pressurized. In all cases the tube burst away from the flaw in that portion of tube that was outside the tubesheet. The size of these simulated flaws bound the indications left in service within the upper tubesheet during 1R13. These tests demonstrate for flaws similar to the patch IGA found in the ANO–1 upper tubesheet that the tubes will not fail at this location under accident conditions.

The dose consequences of a MSLB accident are analyzed in the ANO–1 accident analysis. This analysis assumes the unit is operating with a 1 gpm steam generator tube leak and that the unit has been operating with 1% defective fuel.

Increased leakage during a postulated MSLB accident resulting from the patch IGA left in service in the upper tube sheet is not expected. IGA has been present in the ANO–1 steam generators for many years with no known leakage attributed to this damage mechanism. Because of its localized nature and morphology, the flaw does not open under accident pressure conditions.

This change allows continued operation with IGA indications within the upper tube sheet with the potential of through-wall depths greater than the technical specification plugging limit. Continued operation with these flaws present does not result in a significant increase in the probability or consequences of an accident previously evaluated for ANO–1.

Therefore, this change does *not* involve a significant increase in the probability or consequences of any accident previously evaluated.

Criterion 2—Does Not Create the Possibility of a New or Different Kind of Accident from any Previously Evaluated.

The steam generators are passive components. The intent of the technical specification surveillance requirements are being met by this change in that adequate structural and leakage integrity will be maintained. Additionally, the proposed change does not introduce any new modes of plant operation.

Therefore, this change does *not* create the possibility of a new or different kind of accident from any previously evaluated.

Criterion 3—Does Not Involve a Significant Reduction in the Margin of Safety.

The ANO–1 Technical Specification Bases specify that the surveillance requirements (which includes the plugging limits) are to ensure the structural integrity of this portion of the RCS pressure boundary. The technical specification plugging limit of 40% of the nominal tube wall thickness requires tubes to be repaired or removed from service because the tube may become unserviceable prior to the next inspection. Unserviceable is defined in the technical specification as the condition of a tube if it leaks or contains a defect large enough to affect its structural integrity in the event of an operating basis earthquake, a loss-of-coolant accident, or a MSLB.[sic] Of these accidents the most severe condition with respect to IGA within the upper tubesheet is the MSLB.

Testing of tubes with representative IGA flaws removed from ANO–1 OTSGs during 1R13, showed the flawed tubes to be capable of withstanding differential pressures in excess of 10,000 psid without the presence of the tubesheet. Testing of simulated through-wall flaws of up to 0.5 inch in diameter within a tubesheet showed that the tubes always failed outside of the tubesheet. Thus the structural requirements listed in the bases of the technical specification is satisfied considering this change.

Leakage under accident conditions would be limited due to the small size and morphology of the flaws and would be low enough to ensure offsite dose limits are not exceeded.

Therefore, this change does *not* involve a significant reduction in the margin of safety.

In conclusion, based upon the reasoning presented above and the previous discussion of the amendment request, Entergy Operations has determined that the requested change does *not* involve a significant hazards consideration.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 14 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of the 14-day notice period. However, should circumstances change during the notice period, such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 14-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish in the **Federal Register** a notice

of issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Chief, Rules Review and Directives Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room 6D22, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland, from 7:30 a.m. to 4:15 p.m. Federal workdays. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC.

The filing of requests for hearing and petitions for leave to intervene is discussed below.

By May 22, 1997, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's ''Rules of Practice for Domestic Licensing Proceedings'' in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Tomlinson Library, Arkansas Tech University, Russellville, AR 72801. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 14 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 14 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing.

The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If the amendment is issued before the expiration of the 30-day hearing period, the Commission will make a final determination on the issue of no significant hazards consideration. If a hearing is requested, the final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Docketing and Services Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, by the above date. Where petitions are filed during the last 10 days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1–(800) 248–5100 (in Missouri 1–(800) 342–6700). The Western Union operator should be given Datagram Identification Number N1023 and the following message addressed to Dr. William Beckner: petitioner's name and telephone number, date petition was mailed, plant name, and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and to Winston & Strawn, 1400 L Street, N.W., Washington, 20005–3502, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated April 11, 1997, which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room, located at the Tomlinson Library, Arkansas Tech University, Russellville, AR 72801.

Dated at Rockville, Maryland, this 16th day of April, 1997.

For the Nuclear Regulatory Commission.

George Kalman,

Senior Project Manager, Project Directorate IV–1, Division of Reactor Projects—III/IV, Office of Nuclear Reactor Regulation.

[FR Doc. 97–10332 Filed 4–21–97; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–346]

Toledo Edison Company, Centerior Service Company and the Cleveland Electric Illuminating Company (Davis-Besse Nuclear Power Station, Unit No. 1); Notice of Withdrawal of Application for Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has granted the request of Toledo Edison Company, Centerior Service Company, and The Cleveland Electric Illuminating Company (the licensees) to withdraw their June 6, 1994, application, as supplemented by letters dated July 20, 1994, November 11, 1994, April 12, 1995, September 19, 1995, September 27, 1995, and October 30, 1995, for proposed amendment to Facility Operating License No. NPF–3 for the Davis-Besse Nuclear Power Station, Unit No. 1, located in Ottawa County, Ohio. The September 19, 1995, submittal included a request for license transfer pursuant to 10 CFR 50.80.

The proposed amendment would have revised the license to reflect the proposed merger of Toledo Edison Company into The Cleveland Electric Illuminating Company.

The Commission had previously issued a Notice of Consideration of Issuance of Amendment published in the **Federal Register** on July 6, 1994, (59 FR 34669) and an Environmental Assessment published in the **Federal Register** on July 20, 1994 (59 FR 37059). However, by letter dated October 9, 1996, the licensee withdrew the proposed changes, including the request for license transfer.

For further details with respect to this action, see the licensees' application for amendment dated June 6, 1994, as supplemented by letters dated July 20, 1994, November 11, 1994, April 12, 1995, September 19, 1995, September 27, 1995, and October 30, 1995, and the licensees' letter dated October 9, 1996, which withdrew the application for license amendment and the request for license transfer. The above documents are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the University of Toledo, William Carlson Library, Government Documents Collection, 2801 West Bancroft Avenue, Toledo, Ohio 43606.

Dated at Rockville, Maryland, this 16th day of April 1997.

For the Nuclear Regulatory Commission.

Allen G. Hansen,

Project Manager, Project Directorate III–3, Division of Reactor Projects—III/IV, Office of Nuclear Reactor Regulation.

[FR Doc. 97–10330 Filed 4–21–97; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket 70–7001]

Notice of Amendment to Certificate of Compliance GDP–1 for the U.S. Enrichment Corporation, Paducah Gaseous Diffusion Plant, Paducah, KY

The Director, Office of Nuclear Material Safety and Safeguards, has made a determination that the following amendment request is not significant in accordance with 10 CFR 76.45. In making that determination, the staff concluded that: (1) There is no change in the types or significant increase in the amounts of any effluents that may be released offsite; (2) there is no significant increase in individual or cumulative occupational radiation exposure; (3) there is no significant construction impact; (4) there is no significant increase in the potential for, or radiological or chemical consequences from, previously analyzed accidents; (5) the proposed changes do not result in the possibility of a new or different kind of accident; (6) there is no significant reduction in any margin of safety; and (7) the proposed changes will not result in an overall decrease in the effectiveness of the plant's safety, safeguards or security programs. The basis for this determination for the amendment request is shown below.

The NRC staff has reviewed the certificate amendment application and concluded that it provides reasonable assurance of adequate safety, safeguards, and security, and compliance with NRC requirements. Therefore, the Director, Office of Nuclear Material Safety and Safeguards, is prepared to issue an amendment to the Certificate of Compliance for the Paducah Gaseous Diffusion Plant. The staff has prepared a Compliance Evaluation Report which provides details of the staff's evaluation.

The NRC staff has determined that this amendment satisfies the criteria for a categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for this amendment.

USEC or any person whose interest may be affected may file a petition, not exceeding 30 pages, requesting review of the Director's Decision. The petition must be filed with the Commission not later than 15 days after publication of this **Federal Register** Notice. A petition for review of the Director's Decision shall set forth with particularity the interest of the petitioner and how that interest may be affected by the results of the Decision. The petition should specifically explain the reasons why review of the Decision should be permitted with particular reference to the following factors: (1) The interest of the petitioner; (2) how that interest may be affected by the Decision, including the reasons why the petitioner should be permitted a review of the Decision; and (3) the petitioner's areas of concern about the activity that is the subject matter of the Decision. Any person described in this paragraph (USEC or any person who filed a petition) may file a response to any petition for review, not to exceed 30 pages, within 10 days after filing of the petition. If no petition is received within the designated 15-day period, the Director will issue the final amendment to the Certificate of Compliance without further delay. If a petition for review is received, the Decision on the amendment application will become final in 60 days, unless the Commission grants the petition for review or otherwise acts within 60 days after publication of this **Federal Register** Notice.

A petition for review must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Docketing and Services Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW, Washington, DC, by the above date.

For further details with respect to the action see (1) the application for amendment and (2) the Commission's Compliance Evaluation Report. These items are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW, Washington, DC, and at the Local Public Document Room.

Date of amendment request: December 23, 1996.

Brief description of amendment: The amendment changes the Technical Safety Requirement surveillance for the

Autoclave High Pressure Systems to reflect the ability to test all inner and outer penetration isolation valves.

Basis for Finding of No Significance

1. The proposed amendment will not result in a change in the types or significant increase in the amounts of any effluents that may be released offsite.

The proposed TSR changes reflect the autoclave piping modifications that permit independent testing of the inner and outer penetration isolation valves. Testing of these valves demonstrates the ability to establish containment in the event of uranium hexafluoride leakage from the cylinder into the autoclave. The proposed changes provide enhanced assurance that the containment function will be available if needed. These changes have no impact on plant effluents and will not result in any impact to the environment.

2. The proposed amendment will not result in a significant increase in individual or cumulative occupational radiation exposure.

The proposed changes provide enhanced assurance that the autoclave containment function will be available if needed. The changes will not result in increased individual or cumulative occupational radiation exposure.

3. The proposed amendment will not result in a significant construction impact.

The proposed changes will not result in any building construction, therefore, there will be no construction impacts.

4. The proposed amendment will not result in a significant increase in the potential for, or radiological or chemical consequences from, previously analyzed accidents.

The proposed changes allow testing of the inner and outer penetration isolation valves. This testing of the autoclave containment function is not involved in any precursor to an evaluated event; therefore, the potential of occurrence of an evaluated event is unaffected. The proposed changes provide enhanced assurance that the function will be available if required; the consequences of previously evaluated accidents are not increased.

5. The proposed amendment will not result in the possibility of a new or different kind of accident.

The autoclave piping configuration modifications permit independent testing of the inner and outer penetration isolation valves to demonstrate the ability to establish containment in the event of a leak from the cylinder into the autoclave. The changes affect only the autoclave isolation valves and create no new operating conditions or new plant configuration that could lead to a new or different type of accident.

6. The proposed amendment will not result in a significant reduction in any margin of safety.

The proposed changes reflect modifications that permit independent testing of the inner and outer penetration isolation valves. The proposed changes enhance the availability of the autoclave containment function. There is no reduction in the margin of safety.

7. The proposed amendment will not result in an overall decrease in the effectiveness of the plant's safety, safeguards or security programs.

The proposed changes reflect the autoclave piping configuration modifications made to permit independent testing of inner and outer penetration isolation valves. Testing of these valves demonstrates the ability to establish containment in the event of uranium hexafluoride leakage from the cylinder into the autoclave. The changes do not affect any other equipment functions or administrative requirements. The testing of the autoclave containment function is not addressed in the safeguards and security programs. The effectiveness of the safety, safeguards, and security programs is not decreased.

Effective date: June 23, 1997.

Certificate of Compliance No. GDP–1: Amendment will revise the Technical Safety Requirements.

Local Public Document Room location: Paducah Public Library, 555 Washington Street, Paducah, Kentucky 42003.

Dated at Rockville, Maryland, this 14th day of April 1997.

For the Nuclear Regulatory Commission.

Carl J. Paperiello,

Director, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 97–10326 Filed 4–21–97; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–368]

Entergy Operations, Inc.; Arkansas Nuclear One, Unit 2; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an exemption from certain requirements of its regulations to Entergy Operations, Inc. (the licensee), in connection with operation of Arkansas Nuclear One, Unit 2, located in Pope County, Arkansas, under Facility Operating License No. NPF–6.

Environmental Assessment

Identification of the Proposed Action

The proposed action would exempt the licensee from the requirement to have an oil collection system for the RCP lube oil addition system, thus allowing the licensee to utilize compensatory actions and procedures to add lube oil to reactor coolant pumps (RCPs) in limited quantities at power. The requirement is contained in 10 CFR Part 50, Appendix R, Section III.0, which provides that the licensee shall have a collection system ''capable of collecting lube oil from all pressurized and unpressurized leakage sites in the reactor coolant pump lube oil systems.'' It also specifies that ''leakage points to be protected shall include lift pump and piping, overflow lines, lube oil cooler, oil fill and drain lines and plugs, flanged connections on oil lines, and lube oil reservoirs where such features exist on the reactor coolant pumps.''

The proposed action is in accordance with the licensee's application for an exemption dated December 23, 1997.

The Need for the Proposed Action

The proposed action is needed to reduce dose and personnel hazards to workers who periodically add oil to the RCP lube oil system during power operation.

Environmental Impacts of the Proposed Action

The Commission has completed its evaluation of the proposed action and has concluded that despite not having a lube oil collection system for the reactor coolant pump lube oil fill lines, the design of the oil filling system and the level of protection provided by compensatory measures during oil fill operations provide reasonable assurance that a lube oil fire will not occur. The staff also has concluded that in the event of a worst-case postulated fire, it would be of limited magnitude and extent. In addition, such a fire would not cause significant damage in the containment building and would not prevent the operators from achieving and maintaining safe shutdown conditions.

The proposed action will not increase the probability or consequences of accidents, no changes are being made in the types of any effluents that may be released offsite, and there is no significant increase in the allowable individual or cumulative occupational

radiation exposure. Accordingly, the Commission concludes that there are no significant radiological environmental impacts associated with the proposed action.

With regard to potential nonradiological impacts, the proposed action involves features located entirely within the restricted area as defined in 10 CFR Part 20. It does not affect nonradiological plant effluents and has no other environmental impact. Accordingly, the Commission concludes that there are no significant nonradiological environmental impacts associated with the proposed action.

Alternatives to the Proposed Action

Since the Commission has concluded there is no measurable environmental impact associated with the proposed action, any alternatives with equal or greater environmental impact need not be evaluated. As an alternative to the proposed action, the staff considered denial of the proposed action. Denial of the application would result in no change in current environmental impacts. The environmental impacts of the proposed action and the alternative action are similar.

Alternative Use of Resources

This action does not involve the use of any resources not previously considered in the Final Environmental Statement for ANO–2.

Agencies and Persons Consulted

In accordance with its stated policy, on March 14, 1997, the staff consulted with the Arkansas State official, Mr. David Snellings, Director of Radiation Control and Emergency Management, regarding the environmental impact of the proposed action. The State official had no comments.

Finding of No Significant Impact

Based upon the environmental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed action.

For further details with respect to the proposed action, see the licensee's letter dated April 11, 1996, which is available for public inspection at the Commission's Public Document Room, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Tomlinson Library, Arkansas Tech University, Russellville, AR 72801.

Dated at Rockville, Maryland, this 16th day of April 1997.

For the Nuclear Regulatory Commission.

William D. Beckner,

Project Director, Project Directorate VI–1, Division of Reactor Projects III/IV, Office of Nuclear Reactor Regulation.

[FR Doc. 97–10333 Filed 4–21–97; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–461]

Illinois Power Company; Clinton Power Station (Unit No. 1); Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. NPF–62, issued to Illinois Power Company (the licensee), for operation of the Clinton Power Station, Unit No. 1 (CPS), located in DeWitt County, Illinois.

Environmental Assessment

Identification of the Proposed Action

The proposed amendment would modify Technical Specification (TS) Table 3.3.8.1–1, ''Loss of Power Instrumentation.'' The modification requires that interim administrative controls be maintained in order to minimize the potential that the Class 1E loads will receive inadequate voltage in the event of a degraded voltage condition. These controls are to be maintained until the licensee completes planned modifications for upgrading the degraded voltage protection instrumentation and distribution system for all three divisions of safety-related AC power.

The Need for the Proposed Action

As described in CPS Licensee Event Report 94–005, the degraded voltage relays at CPS, and their setpoints, are not sufficient to ensure proper operation of all Class 1E equipment, contrary to the current licensing basis for CPS. As interim corrective action, the licensee installed an undervoltage alarm for the Division 1, 2, and 3, 4.16–kV buses and established contingent operator actions in order to minimize the potential that the Class 1E loads would receive inadequate voltage for proper operation. Subsequent licensee review of these interim administrative controls has concluded that, although the use of compensatory administrative controls reduces the risk associated with a degraded voltage condition, reliance on the interim administrative controls can potentially result in a malfunction of equipment important to safety of a different type than previously evaluated in the CPS Updated Safety Analysis Report and, therefore, constitutes an unreviewed safety question. In addition, the licensee has concluded that the interim administrative controls can result in a small reduction in the margin of safety as defined in the CPS TSs.

The proposed amendment, requested by the licensee in their letter dated April 1, 1997, would modify TS Table 3.3.8.1–1, ''Loss of Power Instrumentation.'' The proposed change requires the interim administrative controls to be maintained to minimize the potential that the Class 1E loads would receive inadequate voltage in the event of a degraded voltage condition. These controls are to be maintained until the licensee completes planned modifications for upgrading the degraded voltage protection instrumentation and distribution system for all three divisions of safety-related AC power. The new interim administrative controls primarily consist of system planning controls on the voltage of the 345-kV offsite grid, notification of plant operators under offsite grid conditions that may result in a degraded voltage condition if CPS tripped off-line, and utilizing an installed degraded voltage alarm that will prompt operators to take action to transfer the 4.16-kV buses to their associated diesel generators in the event voltage is not adequate to ensure proper operation of the Class 1E loads.

Description of the Proposed Change

The licensee proposes to revise footnote (b) associated with TS Table 3.3.8.1–1, ''Loss of Power Instrumentation,'' which was incorporated by Amendment No. 110 to Facility Operating License No. NPF–62 to require use of the revised setpoints for the new relays in a particular division based on release for operations (RFO) of the plant modification that installs the new undervoltage relays for that division. Specifically, the licensee proposes to add to the note a new sentence that reads, ''Administrative controls as described in the 'Administrative Controls' section of Attachment 2 to Illinois Power Company's letter U–602714, dated April 1, 1997, shall be maintained until RFO of the corresponding plant modifications for Divisions 1, 2, and 3.''

Environmental Impacts of the Proposed Action

The Commission has reviewed the proposed action and concludes that there will be no significant changes to the facility or its operation as a result of

the proposed action. Accordingly, the NRC staff concludes that there are no significant radiological environmental impacts associated with the proposed action.

With regard to potential nonradiological impacts, the proposed action will not affect nonradiological plant effluents and will have no other environmental impact. Accordingly, the NRC staff concludes that there are no significant nonradiological environmental impacts associated with the proposed action.

Alternatives to the Proposed Action

As an alternative to the proposed action, the staff considered denial of the proposed action. Denial of the application would result in no change in current environmental impacts. The environmental impacts of the proposed action and the alternative action are similar.

Alternative Use of Resources

This action does not involve the use of any resources not previously considered in the Final Environmental Statement for the Clinton Power Station, Unit No. 1, documented in NUREG–0854.

Agencies and Persons Consulted

In accordance with its stated policy, on April 8, 1997, the staff consulted with the Illinois state official of the Illinois Department of Nuclear Safety, regarding the environmental impact of the proposed action. The state official had no comments.

Finding of No Significant Impact

Based upon the environmental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed action.

For further details with respect to the proposed action, see the licensee's letter dated April 1, 1997, which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Vespasian Warner Public Library, 310 N. Quincy Street, Clinton, IL.

Dated at Rockville, Maryland, this 16th day of April 1997.

For the Nuclear Regulatory Commission.

Gail H. Marcus,

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

[FR Doc. 97–10329 Filed 4–21–97; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Nuclear Regulatory Commission.

DATE: Weeks of April 21, 28, May 5, and 12, 1997.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and Closed.

MATTERS TO BE CONSIDERED:

Week of April 21

Wednesday, April 23

10:00 a.m.
Briefing on Millstone (Public Meeting)
(Contact: Gene Imbro, 301–415–1490)
11:30 a.m.
Affirmation Session (Public Meeting) (if needed)
1:30 p.m.
Briefing on Electric Grid Reliability (Public Meeting)
(Contact: Ernie Rossi, 301–415–7499)

Thursday, April 24

9:00 a.m.
Briefing on Electric Utility Restructuring (Public Meeting)
(Contact: Bob Wood, 301–415–1255)
1:30 p.m.
Briefing on Staff Response to Arthur Andersen Study Recommendations (Public Meeting)
(Contact: Rich Barrett, 301–415–7482)

Friday, April 25

10:00 a.m.
Meeting with Commonwealth Edison on Response to 10 CFR 50.54 (F) Letter (Public Meeting)
(Contact: Bob Capra, 301–415–1395)

Week of April 28—Tentative

Friday, May 2

9:00 a.m.
Meeting with Advisory Committee on Reactor Safeguards (ACRS) (Public Meeting)
(Contact: John Larkins, 301–415–7360)
10:30 .m.
Meeting with Nuclear Safety Research Review Committee (NSRRC) (Public Meeting)
(Contact: Jose Cortez, 301–415–6596)
Noon
Affirmation Session (Public Meeting) (if needed)

Week of May 5

Tuesday, May 6

2:00 p.m.
Brifing on PRA Implementation Plan (Public Meeting)
(Contact: Gary Holahan, 301–415–2884)

Wednesday, May 7

2:00 p.m.
Briefing on IPE Insight Report (Public Meeting)
3:30 p.m.
Affirmation Session (Public Meeting) (if needed)

Thursday, May 8

9:00 a.m.
Meeting with Advisory Committee on Medical Uses of Isotopes (ACMUI) (Public Meeting)
(Contact: Larry Camper, 301–415–7231)

Week of May 12

Wednesday, May 14

2:00 p.m.
Briefing on Status of Activities with CNWRA and HLW Program (Public Meeting)

Thursday, May 15

10:00 a.m.
Briefing by DOE on HLW Program (Public Meeting)
11:30 a.m.
Affirmation Session (Public Meeting) (if needed)
2:00 p.m.
Briefing on Performance Assessment Progress in HLW, LLW, and SDMP (Public Meeting)

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.

* * * * *

The NRC Commission Meeting Schedule can be found on the Internet at: http://www.nrc.gov/SECY/smj/schedule.htm.

This notice is distributed by mail to several hundred subscribers; if you no longer wish to receive it, or would like to be added to it, please contact the Office of the Secretary, Attn: Operations Branch, Washington, D.C. 20555 (301–415–1661).

In addition, distribution of this meeting notice over the internet system is available. If you are interested in receiving this Commission meeting

schedule electronically, please send an electronic message to wmh@nrc.gov or dkw@nrc.gov.

* * * * *

Dated: April 18, 1997.

William M. Hill, Jr.,

SECY Tracking Officer, Office of the Secretary.

[FR Doc. 97–10534 Filed 4–18–97; 2:14 pm]

BILLING CODE 7590–01–M

NUCLEAR REGULATORY COMMISSION

Regulatory Guide; Issuance, Availability

The Nuclear Regulatory Commission has issued a guide in its Regulatory Guide Series. This series has been developed to describe and make available to the public such information as methods acceptable to the NRC staff for implementing specific parts of the Commission's regulations, techniques used by the staff in evaluating specific problems or postulated accidents, and data needed by the staff in its review of applications for permits and licenses.

Regulatory Guide 8.39, ''Release of Patients Administered Radioactive Materials,'' provides guidance to licensees on complying with the NRC's regulations on determining when the licensee may authorize the release of a patient who has been administered radiopharmaceuticals or permanent implants containing radioactive material. The guide also provides guidance on instructions that may be necessary for such patients and on records that may be needed for such patients.

The NRC has verified with the Office of Management and Budget the determination that this regulatory guide is not a major rule.

Comments and suggestions in connection with items for inclusion in guides currently being developed or improvements in all published guides are encouraged at any time. Written comments may be submitted to the Rules Review and Directives Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

Regulatory guides are available for inspection at the Commission's Public Document Room, 2120 L Street NW., Washington, DC. Single copies of regulatory guides may be obtained free of charge by writing the Office of Administration, Attention: Distribution and Services Section, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, or by fax at (301)415–2260. Issued guides may also be purchased from the National Technical Information Service on a standing order basis. Details on this service may be obtained by writing NTIS, 5285 Port Royal Road, Springfield, VA 22161. Regulatory guides are not copyrighted, and Commission approval is not required to reproduce them.

(5 U.S.C. 552(a))

Dated at Rockville, Maryland, this 9th day of April 1997.

For the Nuclear Regulatory Commission.

Joseph A. Murphy,

Executive Assistant to the Director, Office of Nuclear Regulatory Research.

[FR Doc. 97–10328 Filed 4–21–97; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 35–26706]

Filings Under the Public Utility Holding Company Act of 1935, as Amended (''Act'')

April 16, 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 May 12, 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.

The Southern Company (70–9035)

Notice of Proposal To Issue Securities; Order Authorizing Solicitation of Proxies

The Southern Company (''Southern''), 270 Peachtree Street, N.W., Atlanta, Georgia 30303, a registered holding company, has filed a declaration pursuant to sections 6(a), 7 and 12(e) of the Act and rules 62 and 65 thereunder.

Southern proposes, from time to time through February 17, 2007, to grant Incentive Stock Options, Nonqualified Stock Options, Stock Appreciation Rights and Restricted Stock (collectively, ''Awards''), and to issue up to 40 million shares of its common stock, par value $5.00 per share (''Common Stock''), pursuant to the Southern Company Performance Stock Plan (''Plan''). The Compensation & Management Succession Committee of the Board of Directors of Southern will administer the Plan. The Plan permits the Committee to grant, in its discretion, Awards to directors of Southern or certain of its subsidiaries and those employees, as determined by the Committee, who have a significant impact on the long-term performance and success of Southern.

Nonqualified Stock Options entitle the grantee to purchase, not more than ten years after the grant, up to the number of shares of Common Stock specified in the grant at a price set by the Committee at the time the grant is made. The price cannot be less than fair market value on the date of grant.

Stock Options designated by the Committee as Incentive Stock Options are intended to comply with section 422 of the Internal Revenue Code and may be granted only to employees. The aggregate amount (calculated on the basis of the fair market value of Common Stock at the time of each grant) of the interest of any grantee in Incentive Stock Options that may vest in a calendar year may not exceed $100,000.

Stock Appreciation Rights may be granted in the sole discretion of the Committee in conjunction with an Incentive Stock Option or Nonqualified Stock Option and may not be exercised more than ten years after the date granted. Stock Appreciation Rights, when exercised, entitle the grantee to the appreciation in value (from the date granted to the date exercised) of the number of shares of Common Stock specified in the grant. Such amount would be payable in cash and/or Common Stock, as determined by the Committee.

Restricted Stock awards are grants of shares of Common Stock held by

Southern for the benefit of the grantee without payment of consideration by the grantee. The Committee will establish a restriction period of one through ten years for each award. The grantee's right to transfer the shares is subject to restrictions, but the grantee will be entitled to dividends paid on the Restricted Stock and will have the right to vote the shares.

Southern proposes to make a total of 40 million shares of Common Stock available for grants under the Plan. The maximum number of shares of Common Stock that may be the subject of any award to a grantee during any calendar year is one million.

The Plan will terminate February 17, 2001, unless terminated sooner by the Board of Directors. The Board of Directors of Southern may terminate or amend the Plan at any time, but may not, without stockholder approval, increase the total number of shares of Common Stock available for grants.

Approval of the Plan requires the affirmative vote of the holders of a majority of the shares of Common Stock represented in person or by proxy at the annual meeting, scheduled to be held on May 28, 1997. Southern may employ professional proxy solicitors to assist in the solicitation of proxies, and may pay their expenses and compensation for such assistance in an amount not to exceed $30,000.

Southern proposes to mail the notice of meeting, proxy statement and proxy to its shareholders for the annual meeting, and has filed its proxy solicitation materials relating to the Plan. It appears to the Commission that Southern's declaration, to the extent that it relates to the proposed solicitation of proxies, should be permitted to become effective forthwith pursuant to rule 62(d).

It is ordered, that the declaration, to the extent that it relates to the proposed solicitation of proxies in connection with proposed approval of the Plan be, and it hereby is, permitted to become effective forthwith, pursuant to rule 62 and subject to the terms and conditions prescribed in rule 24 under the Act.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–10383 Filed 4–21–97; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94–409, that the Securities and Exchange Commission will hold the following meetings during the week of April 21, 1997.

A closed meeting will be held on Thursday, April 24, 1997, at 10:00 a.m. An open meeting will be held on Friday, April 25, 1997, at 9:30 a.m.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the closed meeting. Certain staff members who have an interest in the matters may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c) (4), (8), (9)(A) and (10) and 17 CFR 200.402(a) (4), (8), (9)(i) and (10), permit consideration of the scheduled matters at the closed meeting.

Commissioner Wallman, as duty officer, voted to consider the items listed for the closed meeting in a closed session.

The subject matter of the closed meeting scheduled for Thursday, April 24, 1997, at 10:00 a.m., will be:

Institution and settlement of injunctive actions.

Institution and settlement of administrative proceedings of an enforcement nature.

The subject matter of the open meeting scheduled for Friday, April 25, 1997, at 9:30 a.m., will be:

(1) The Commission will hear oral argument on appeal by Suzanne L. Cook from an administrative law judge's initial decision. For further information, contact Sara P. Crovitz at (202) 942–0982.

(2) The Commission will hear oral argument on appeal by Richard H. Morrow from an administrative law judge's initial decision. For further information, contact Joan L. Loizeaux at (202) 942–0950.

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: April 18, 1997.

Jonathan G. Katz,

Secretary.

[FR Doc. 97–10516 Filed 4–18–97; 12:11 pm]

BILLING CODE 8010–01–M

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #2949]

State of Minnesota

As a result of the President's major disaster declaration on April 8, 1997, I find that the following counties in the State of Minnesota constitute a disaster area due to damages caused by severe flooding, severe winter storms, snowmelt, high winds, rain, and ice beginning March 21, 1997 and continuing: Benton, Big Stone, Brown, Chippewa, Clay, Kittson, LacQui Parle, Marshall, Norman, Pennington, Polk, Red Lake, Roseau, Sherburne, Stearns, Swift, Traverse, Washington, Wilkin, Wright, and Yellow Medicine. Applications for loans for physical damages may be filed until the close of business on June 7, 1997, and for loans for economic injury until the close of business on January 8, 1998 at the address listed below or other locally announced locations: U.S. Small Business Administration, Disaster Area 2 Office, One Baltimore Place, Suite 300, Atlanta, GA 30308.

In addition, applications for economic injury loans from small businesses located in the following contiguous counties may be filed until the specified date at the above location: Anoka, Becker, Beltrami, Blue Earth, Carver, Chisago, Clearwater, Cottonwood, Dakota, Douglas, Grant, Hennepin, Isanti, Kandiyohi, Lake of the Woods, Lincoln, Lyon, Mahnomen, McLeod, Meeker, Mille Lacs, Morrison, Nicollet, Otter Tail, Pope, Ramsey, Redwood, Renville, Stevens, Todd, and Watonwan in the State of Minnesota; and Pierce, Polk, and St. Croix in the State of Wisconsin. Any counties contiguous to the above-named primary counties and not listed herein have been covered under a separate declaration for the same occurrence.

Interest rates are:

	Percent
For Physical Damage:	
Homeowners with credit available elsewhere	7.625
Homeowners without credit available elsewhere	3.875
Businesses with credit available elsewhere	8.000
Businesses and non-profit organizations without credit available elsewhere	4.000
Others (including non-profit organizations) with credit available elsewhere	7.250
For Economic Injury:	

	Percent
Businesses and small agricultural cooperatives without credit available elsewhere	4.000

The number assigned to this disaster for physical damage is 294906. For economic injury, the numbers are 947200 for Minnesota and 947300 for Wisconsin.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: April 14, 1997.

Herbert Mitchell,

Acting Associate Administrator for Disaster Assistance.

[FR Doc. 97–10294 Filed 4–21–97; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #2948]

State of North Dakota

As a result of the President's major disaster declaration on April 7, 1997, I find that the following counties in the State of North Dakota constitute a disaster area due to damages caused by severe flooding, severe winter storms, heavy spring rain, rapid snowmelt, high winds, ice jams and ground saturation due to high water tables beginning February 28, 1997 and continuing: Adams, Barnes, Benson, Billings, Bottineau, Bowman, Burke, Burleigh, Cass, Cavalier, Dickey, Divide, Dunn, Eddy, Emmons, Foster, Golden Valley, Grand Forks, Grant, Griggs, Hettinger, Kidder, Lamoure, Logan, McHenry, McIntosh, McKenzie, McLean, Mercer, Morton, Mountrail, Nelson, Oliver, Pembina, Pierce, Ramsey, Ransom, Renville, Richland, Rolette, Sargent, Sheridan, Sioux, Slope, Stark, Steele, Stutsman, Towner, Traill, Walsh, Ward, Wells, and Williams. Applications for loans for physical damages may be filed until the close of business on June 6, 1997, and for loans for economic injury until the close of business on January 7, 1998 at the address listed below or other locally announced locations: U.S. Small Business Administration, Disaster Area 3 Office 4400 Amon Carter Blvd., Suite 102, Fort Worth, TX 76155.

In addition, applications for economic injury loans from small businesses located in the following contiguous counties may be filed until the specified date at the above location: Clay, Kittson, Marshall, Norman, Polk, and Wilkin in the State of Minnesota; and Richland, Roosevelt, Sheridan, and Wibaux in the State of Montana. Any counties contiguous to the above-named primary counties and not listed herein have been covered under a separate declaration for the same occurrence.

Interest rates are:

	Percent
For Physical Damage:	
Homeowners with Credit Available elsewhere	7.625
Homeowners without Credit Available elsewhere	3.875
Businesses with Credit Available elsewhere	8.000
Businesses and Non-Profit Organizations without Credit Available elsewhere	4.000
Others (including Non-Profit Organizations with Credit Available elsewhere	7.250
For Economic Injury:	
Businesses and Small Agricultural Cooperatives without Credit Available elsewhere	4.000

The number assigned to this disaster for physical damage is 294806. For economic injury, the numbers are 946200 for North Dakota, 946400 for Minnesota, 946500 for Montana.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: April 14, 1997.

Herbert Mitchell,

Acting Associate Administrator for Disaster Assistance.

[FR Doc. 97–10295 Filed 4–21–97; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #2947]

State of South Dakota

As a result of the President's major disaster declaration on April 7, 1997, I find that the following counties in the State of South Dakota constitute a disaster area due to damages caused by severe flooding, severe winter storms, heavy spring rain, rapid snowmelt, high snowmelt, high winds, and ice jams beginning February 3, 1997 and continuing: Aurora, Beadle, Bennett, Bon Homme, Brookings, Brown, Brule, Buffalo, Butte, Campbell, Charles Mix, Clark, Clay, Codington, Corson, Custer, Davison, Day, Deuel, Dewey, Douglas, Edmunds, Fall River, Faulk, Grant, Gregory, Haakon, Hamlin, Hand, Hanson, Harding, Hughes, Hutchinson, Hyde, Jackson, Jerauld, Jones, Kingsbury, Lake, Lawrence, Lincoln, Lyman, McCook, McPherson, Marshall, Meade, Mellette, Miner, Minnehaha, Moody, Pennington, Perkins, Potter, Roberts, Sanborn, Shannon, Spink, Stanley, Sully, Todd, Tripp, Turner, Union, Walworth, Yankton, and Ziebach. Applications for loans for physical damages may be filed until the close of business on June 6, 1997, and for loans for economic injury until the close of business on January 7, 1998 at the address listed below or other locally announced locations: U.S. Small Business Administration, Disaster Area 3 Office, 4400 Amon Carter Blvd., Suite 102, Fort Worth, TX 76155.

In addition, applications for economic injury loans from small businesses located in the following contiguous counties may be filed until the specified date at the above location: Lyon, Plymouth, Sioux, and Woodbury in the State of Iowa; Big Stone, Lac Qui Parle, Lincoln, Pipestone, Rock, Traverse, and Yellow Medicine in the State of Minnesota; Carter and Fallon in the State of Montana; Boyd, Cedar, Cherry, Dakota, Dawes, Dixon, Keya Paha, Knox, Sheridan, and Sioux in the State of Nebraska; Crook, Niobrara, and Weston in the State of Wyoming. Any counties contiguous to the above-named primary counties and not listed herein have been covered under a separate declaration for the same occurrence.

Interest rates are:

	Percent
For Physical Damage:	
Homeowners with credit available elsewhere	7.625
Homeowners without credit available elsewhere	3.875
Businesses with credit available elsewhere	8.000
Businesses and non-profit organizations without credit Available elsewhere	4.000
Others (including non-profit organizations) with credit available elsewhere	7.250
For Economic Injury:	
Businesses and small agricultural cooperatives without credit available elsewhere	4.000

The number assigned to this disaster for physical damage is 294706. For economic injury, the numbers are 945700 for South Dakota, 945800 for Iowa, 945900 for Minnesota, 946000 for Montana, 946100 for Nebraska, and 946300 for Wyoming.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: April 14, 1997.

Herbert Mitchell,

Acting Associate Administrator for Disaster Assistance.

[FR Doc. 97–10296 Filed 4–21–97; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

Hartford District Advisory Council; Public Meeting

The U.S. Small Business Administration Region I Advisory Council, located in the geographical area of Hartford, Connecticut will hold a public meeting from 8:30 a.m., on Monday, April 21, 1997, at 1 Science Park, New Haven, Connecticut 06511, to discuss such matters as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call Jo-Ann Van Vechten, District Director, U.S. Small Business Administration, 330 Main Street, Hartford, Connecticut, telephone (860) 240–4670.

Dated: April 8, 1997.

Michael P. Novelli,

Director, Office of Advisory Councils.

[FR Doc. 97–10292 Filed 4–21–97; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

Clarksburg District Advisory Council; Public Meeting

The U.S. Small Business Administration Region III Advisory Council, located in the geographical area of Clarksburg, West Virginia, will hold a public meeting at 10:00 a.m. on Thursday, April 24, 1997, at Oliverio's Restaurant, Bridgeport, West Virginia, to discuss such matters as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call, Ms. Jayne Armstrong, State Director, U.S. Small Business Administration, 168 West Main Street, Clarksburg, West Virginia 26301, (304) 623–5631.

Dated: April 8, 1997.

Michael P. Novelli,

Director, Office of Advisory Councils.

[FR Doc. 97–10293 Filed 4–21–97; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

Milwaukee Branch Office Advisory Council; Public Meeting

The U.S. Small Business Administration Region V Advisory Council, located in the geographical area of Milwaukee, Wisconsin, will hold a public meeting from 12:00 p.m. to 1:30 p.m., April 21, 1997, at Metro Milwaukee Area Chamber (MMAC) Association of Commerce Building (Milwaukee & Mason), 4th Floor—The Milwaukee Room, 756 North Milwaukee Street, Milwaukee, Wisconsin, to discuss such matters as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call Kimberly R. West, U.S. Small Business Administration, 310 West Wisconsin Avenue, Suite 400, Milwaukee, Wisconsin 53203, telephone (414) 297–1092.

Dated: April 8, 1997.

Michael P. Novelli,

Director, Office of Advisory Councils.

[FR Doc. 97–10291 Filed 4–21–97; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Application of Citylink Airlines, Inc.

d/b/a Citylink for Issuance of New Certificate Authority

AGENCY: Department of Transportation.

ACTION: Notice of order to show cause (Order 97–4–17) Docket OST–96–1916.

SUMMARY: The Department of Transportation is directing all interested persons to show cause why it should not issue an order (1) finding CityLink Airlines, Inc. d/b/a CityLink fit, willing, and able, and (2) awarding it a certificate to engage in interstate scheduled air transportation of persons, property, and mail.

DATES: Persons wishing to file objections should do so no later than May 7, 1997.

ADDRESSES: Objections and answers to objections should be filed in Docket OST–96–1916 and addressed to Department of Transportation Dockets (SVC–120.30, Room PL–401), U.S. Department of Transportation, 400 Seventh Street, SW, Washington, DC 20590 and should be served upon the parties listed in Attachment A to the order.

FOR FURTHER INFORMATION CONTACT: Ms. Janet A. Davis, Air Carrier Fitness Division (X–56, Room 6401), U.S. Department of Transportation, 400 Seventh Street, SW, Washington, DC 20590, (202) 366–9721.

Dated: April 16, 1997.

Patrick V. Murphy,

Deputy Assistant Secretary for Aviation and International Affairs.

[FR Doc. 97–10399 Filed 4–21–97; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Docket No. 28895]

Airport Privatization Pilot Program: Application Procedures

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed procedures; notice of public meeting.

SUMMARY: Section 149 of the Federal Aviation Authorization Act of 1996 establishes an airport privatization pilot program, and authorizes the Department of Transportation to grant exemptions from certain Federal statutory and regulatory requirements for up to five airport privatization projects. This notice identifies the issues the Department will need to consider in granting exemptions and approving the transfer of a public use airport under the program, and proposes application procedures to be used by interested public airport sponsors and private parties to apply for inclusion in the program. A public meeting will be held on the proposed procedures on Wednesday, May 21, 1997.

DATES: Comments must be received by June 4, 1997. The public meeting will be held on May 21, 1997 at FAA headquarters, 800 Independence Avenue SW., Washington, DC; 3rd Floor auditorium; telephone: (202) 267–8728.

Registration: 8:30 a.m.; Meeting: 9:00 a.m.–1:00 p.m. Please note: Please allow time to go through FAA building security.

ADDRESSES: Comments should be mailed, in quadruplicate, to: Federal Aviation Administration, Office of Chief Counsel, Attention: Rules Docket (AGC–200), Docket No. 28895, 800 Independence Avenue, SW., Washington, DC 20591. All comments must be marked: ''Docket No. 28895.'' Commenters wishing the FAA to acknowledge receipt of their comments must include a pre-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. 28895.'' The postcard will be date stamped and mailed to the commenter. Comments on this Notice may be examined in room 915G on weekdays, except on Federal holidays, between 8:30 a.m. and 5 p.m.

FOR FURTHER INFORMATION CONTACT: Benedict D. Castellano, Manager, Airport Safety and Compliance Branch, AAS–310, Federal Aviation Administration, 800 Independence Ave. SW., Washington, DC 20591, telephone (202) 267–8728. To request to be

included on the list of speakers at the public meeting, call Kevin Hehir AAS–310, (202) 267–8224.

SUPPLEMENTARY INFORMATION:

Introduction and Background

This proposal of application procedures to be used by applicants for an airport privatization project is being published pursuant to § 149 of the Federal Aviation Administration Authorization Act of 1996, Pub. L. No. 104–264 (October 9, 1996) (1996 Reauthorization Act), which adds a new § 47134 to Title 49 of the U.S. Code. Section 47134 authorizes the Secretary of Transportation, and through delegation, the FAA Administrator, to exempt a sponsor of a public use airport that has received Federal assistance, from certain Federal requirements in connection with the privatization of the airport by sale or lease to a private party. Specifically, the Administrator may exempt the sponsor from all or part of the requirements to use airport revenues for airport-related purposes, to pay back a portion of Federal grants upon the sale of an airport, and to return airport property deeded by the Federal Government upon transfer of the airport. The Administrator is also authorized to exempt the private purchaser or lessee from the requirement to use all airport revenues for airport-related purposes, to the extent necessary to permit the purchaser or lessee to earn compensation from the operations of the airport.

In addition to proposing application procedures, this notice describes the issues the FAA will consider in determining whether to approve an application for an exemption under § 47134 and other Federal requirements for airport operation. The term ''public sponsor'' is used in this document to mean the governmental agency or authority that currently owns or operates a public airport and proposes to sell or lease it to a private purchaser or lessee. The term ''private operator'' is used to refer to a private firm or firms that propose to purchase or lease a public use airport under the program; the term ''applicant'' means all of the parties jointly participating in the application for privatization of a particular airport.

Requirements for Transfer of a Federally-Assisted Public Airport

A request for transfer of the operation of an airport from an existing public sponsor to a new operator, whether public or private, requires FAA approval. The request for exemption under § 47134 would be considered in conjunction with existing approval requirements and processes.

Grant/Deed Conditions

Airport sponsors receiving Federal assistance under a grant program or through donation of surplus property agree as a condition of the assistance to obtain FAA approval before transferring control or ownership of the airport to another party. For example, Assurance No. 5.b. in Airport Improvement Program (AIP) grant agreements provides that a sponsor will not sell, lease, or otherwise transfer any part of its title or other interests in the airport property subject to the grant assurances, for the duration of the term of the grant agreement, without approval by the Secretary. Assurance No. 5 further provides that the sponsor and the transferee approved by the Secretary shall insert in the contract or document transferring the sponsor's interest, and make binding upon the transferee, all of the terms, conditions and assurances contained in the sponsor's grant agreement. Similar conditions are written into the deeds of conveyance for Federal surplus property donated to an airport sponsor.

In reviewing a request for transfer, the FAA will consider whether the new owner/operator will assume the obligations of the original sponsor under existing grant agreements or deeds, and whether the new owner/operator has the powers and authority to fulfill its obligations under the assurances.

Regulatory Requirements

An operator of an airport receiving air service by aircraft with more than 30 passenger seats must hold an FAA operating certificate under 14 C.F.R. Part 139. Authority to certificate airports served by aircraft with 9 or more passenger seats was granted to the FAA in the 1996 Reauthorization Act. FAA operating certificates are not transferable; a new operator of a certificated airport must obtain a new certificate issued by the FAA.

Section 47134

Section 47134 contains specific provisions for issuance of an exemption in connection with a transfer of airport operation. These conditions supplement and to some extent overlap the factors that FAA would consider under Assurance No. 5.b., but do not replace other requirements for approval of an airport transfer. In summary, § 47134 provides that the Administrator may issue exemptions to a public sponsor and a private sponsor only if the Administrator finds that the sale or lease agreement contains provisions satisfactory to the Administrator to ensure that:

(1) The airport will continue to be available for public use on reasonable terms and conditions without unjust discrimination;

(2) The operation of the airport will not be interrupted if the private operator experiences bankruptcy or other financial difficulty;

(3) The private operator will ''maintain, improve, and modernize'' airport facilities through capital investments, and submit a plan for these actions;

(4) Airport fees imposed on air carriers will not increase faster than inflation unless a higher amount is approved by at least 65 percent of the air carriers using the airport and the air carriers having at least 65 percent of the landed weight of aircraft at the airport;

(5) Fees imposed on general aviation operators will not exceed the percentage increase in fees imposed on air carriers;

(6) Safety and security will be maintained ''at the highest possible levels;''

(7) Adverse effects of noise from operations at the airport will be mitigated to the same extent as at a public airport;

(8) Adverse effects on the environment from airport operations will be mitigated to the same extent as at a public airport; and

(9) Collective bargaining agreements that cover airport employees on the date of the sale or lease.

In addition, the Administrator must find that the transfer will not result in unfair and deceptive trade practices or unfair methods of competition.

Number of Participating Airports

In establishing the privatization pilot program, Congress placed limitations on the number and kind of airports eligible to participate. Paragraph 47134(d)(1) provides that if the applications of 5 airports are approved, then one must be a general aviation airport. Paragraph 47134(d)(2) provides that no more than one of the airports approved may be an airport with more than 1 percent of total passenger boardings (a large hub airport), as defined in 49 U.S.C. § 47102(10).

Process for Applying for an Exemption Under Section 47134

This part of the notice summarizes the FAA's proposed procedures for applying for an exemption under 49 U.S.C. § 47134, including the information required from applicants and the process for agency handling of requests. Final guidance on application

procedures will be issued after a review of public comments on this notice.

Substantive issues the FAA believes need to be considered in the issuance of an exemption and approval of transfer are discussed below (see section titled, Issues Considered By the FAA in Granting an Exemption Under § 47134) as further guidance for applicants.

Exemption Application and Review Process: Overview

Subject to revision after review of public comment, the FAA intends to apply the following policies to the process for filing and review of requests for privatization of a public airport:

1. A request for participation in the airport privatization pilot program will be initiated by the filing of an application for exemption under § 47134(a).

2. With the exception noted below, applications for exemption will be accepted on or after December 1, 1997, and will be handled on a first-come first-served basis until the limits of § 47134 are reached. An otherwise qualifying application for exemption will be accepted before December 1, 1997, if the sponsor has issued, on or before the date of publication of this notice, a formal solicitation or request for proposals for the sale or lease of an airport. All applications will be evaluated in the order of receipt.

3. Participation in the program is limited to five airports. The maximum of five participants in the program will be considered to have been reached based on applications under review, not exemptions granted, so that an airport with an application on file will not be in a race for inclusion in the program.

4. An application received by the FAA will be considered to be filed on the date received. Application packages will be date-stamped on receipt in Room 600 East, FAA headquarters building.

5. FAA will review the application to determine if it meets the procedural requirements stated in this notice.

6. The FAA will not accept ''placeholder'' applications filed before the applicant has sufficient information on the proposed transfer. If an application cannot reasonably be brought into compliance with the requirements of § 47134 and other applicable Federal statutes with current information, the FAA will notify the applicant that the application is rejected and that the application is no longer on file. The applicant may file a new application at any time, and receive a new ''on file'' date at that time.

7. If the application does meet the procedural requirements described in this notice, the applicant will be notified that the application is ''accepted for review.'' The FAA may request additional information before accepting the application for review, but the original filing date will remain in effect.

8. The FAA proposes to publish in the **Federal Register** a notice that an application has been received under 49 U.S.C. § 47134, and that the FAA has accepted the application for review. The FAA will establish a docket and accept public comment on the application for a defined period.

9. Selection as one of the 5 airports eligible to participate in the program will be evidenced by the issuance of an exemption under § 47134(b). If an application is approved, an exemption will be issued after the execution of all documents necessary to fulfill the requirements of § 47134 and other laws and regulations within the FAA's jurisdiction (e.g., issuance of a Part 139 certificate to the private operator; FAA approval of a security program under Part 107; and possibly a 3-way agreement between the public sponsor, the private operator, and the FAA.

10. FAA representatives will be available to meet with parties interested in an airport privatization project both before and after the filing of an application for exemption to discuss the Federal statutory requirements and policies that apply to applications under § 47134.

Filing an Application

1. Applicants must submit a complete application package containing the information described under ''Form and Content of Applications'' in this notice to: Susan L. Kurland, Associate Administrator for Airports, ARP–1, Room 600 East, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591.

2. Applications may be delivered or mailed, but will not be considered to be ''on file'' with the FAA until received and date-time stamped in the Office of the Associate Administrator for Airports, Room 600 East.

Form and Content of Applications

1. There is no required form for an application. However, the application package must be submitted with a cover letter, signed jointly by appropriate officials of the current public sponsor and the private operator proposing to buy or lease the airport, requesting an exemption pursuant to 49 U.S.C. § 47134 for the purpose of the privatization of an airport. Officials signing for the public sponsor must provide evidence of their authority to file the application.

2. The following statements and information must be included in an application. The FAA realizes that some documents, figures, and other information will not be available until shortly before the execution of the transfer transaction. The agency assumes that the application would be filed after the public sponsor has selected a private operator and reached sufficient agreement with the operator on the terms of the transaction to represent those terms in an application. The FAA will not require that all information listed below be provided at the time of the application, however. For each item below for which information is not available, the applicant may substitute a description of the expected response and the date by which the final information will be available. Information not provided with the application should be submitted to the FAA as soon as it becomes available.

The Application

Part I. Parties to the Transaction

A. Name of the airport proposed for sale or lease.

B. Name and address of the public sponsor of the airport; name, address, telephone number and fax number of the person to contact about the application.

C. Name and address of the private operator proposing to purchase or lease the airport; name, address, telephone number and fax number of the person to contact about the application.

D. If the private operator proposing to purchase or lease the airport is a partnership, joint venture, or other consortium of multiple interests, the name and address of each of the participating members.

E. Citizenship of the private operator and/or each member of the private operator consortium, and percentage of interest of each such member.

Part II. Airport Property

A. A description of the airport property to be transferred. Applicants should describe property in sufficient detail to identify the parcels of property and facilities to be transferred; a map and a legal description of the property may be included but are not required.

B. A history of the acquisition of existing airport property: applicants should include information on grants, types of deeds, the dates and means of conveyance (e.g. Surplus Property Act), other Federal conveyance of donated property, parcels purchased with Federal funds and parcels purchased with only local funds.

Part III. Terms of the Transfer

A. A detailed description of the terms of the transfer, other than financial, including:

The form of the transaction (sale, lease, other);

Term of the lease or other transfer agreement;

Description of any rights, authority, or interests retained by the public sponsor, including reversion of title to facilities;

If the private operator is a consortium, a description of the respective rights and responsibilities of each member;

B. Financial terms of the transaction:

Amounts and timing of payments to public sponsor.

Amounts of payments to sponsor to be used, respectively, for airport purposes (including recoupment of public sponsor investments not previously recovered) and other purposes.

Financing arrangements of the private operator for purchase payment or initial lease payment.

Other relevant financial terms of the transfer.

C. Copies of all documents executed as part of the transfer, to be provided as they are executed or are in sufficiently final form to indicate the substantive nature of the expected final document.

D. If applicable, a request for confidentiality of any particular document or information submitted, with supporting information.

Part IV. Qualifications of the Private Operator

A. Complete description of airport operations experience. If the private operator is a newly formed entity, describe the experience of the constituent members and the proposed management structure to integrate operational functions.

B. Financial resources for operating/capital expenses of the airport.

C. Timing/details of application for Part 139 certificate, if applicable.

D. Plan for compliance with Part 107, if applicable.

E. Affiliations with air carriers or other persons engaged in aeronautical business activity at an airport (other than airport management).

Part V. Requests for Exemption

A. Describe the specific exemption requested by the public sponsor under 49 U.S.C. § 47134(b)(1), from the prohibition on use of airport revenue for general purposes, including the amount of funds involved.

B. Describe the specific exemption requested by the public sponsor under 49 U.S.C. § 47134(b)(2), from the requirement to repay Federal grant funds or return property.

C. Describe the specific exemption requested by the private operator under 49 U.S.C. § 47134(b)(3), from the prohibition on use of airport revenue for general purposes.

Part VI. Certification of Air Carrier Approval

A. Provide a certification that air carriers meeting the requirements of 49 U.S.C. § 47134(b)(1)(A) approve the exemption described in Part V.A. above. (See Granting Exemptions under the section titled Issues Considered by the FAA in Granting An Exemption Under § 47134 for definitions and guidance.)

B. Provide a list of all air carriers serving the airport (as described in the above mentioned section on granting exemptions), a list of the air carriers that have approved the exemption, the total landed weight of all air carrier aircraft at the airport within the preceding year, and the total landed weight of the carriers that have approved the exemption.

C. Provide a copy of each document indicating air carrier approval of or objection to the exemption requested.

Part VII. Airport Operation and Development

A. Provide a description of how the private operator, the public sponsor, or both will address the following issues with respect to the operation, maintenance, and development of the airport after the proposed transfer. (Factors the FAA will consider in reviewing applications are discussed in this notice under the previously mentioned section on granting exemptions below.)

1. Part 139 certification. A request for Part 139 certificate should be filed with the local FAA regional Airports Division. The exemption application needs only to reflect the private operator's intentions and the status of a certificate application, if applicable.

2. Continuing access to the airport on fair and reasonable terms and without unjust discrimination, in accordance with § 47134(c)(1).

3. Continued operation of the airport in the event of bankruptcy or other financial impairment of the private operator, in accordance with § 47134(c)(2). The application should include any provision for reversion to the public sponsor.

4. Maintenance, improvement, and modernization of the airport, in accordance with § 47134(c)(3), including the public sponsor's most recent 5-year capital improvement plan (CIP) and the 5-year CIP proposed by the private operator. Applicants should identify the sources of funds to be used for capital development, including any continuing contributions by the public sponsor. Applicants should also include any financial security provisions , such as a letter of credit or performance bond, for the accomplishment of the maintenance, improvement, and modernization projects committed to by the private operator.

5. Compliance with the limitations on air carrier fees described in § 47134(c)(4).

6. Compliance with the limitation on general aviation fees described in § 47134(c)(5).

7. Maintenance of safety and security at the airport, in accordance with § 47134(c)(6). The application should note the applicant's contacts with the Airports District Office on Part 139 and the Office of Aviation Security on Part 107, but does not need to duplicate information filed in connection with those actions.

8. Mitigation of adverse effects of noise from airport operations, in accordance with § 47134(c)(7). The applicant should specifically describe its intentions with respect to an existing or future Part 150 noise compatibility program for the airport, with respect to the public sponsor's commitments under past records of decisions on airport development projects, and other measures the private operator intends to take in the future.

9. Mitigation of adverse effects on the environment from airport operations, in accordance with § 47134(c)(8).

10. Recognition of existing collective bargaining agreements covering employees of the public sponsor, in accordance with § 47134(c)(9).

B. The applicant's acceptance of the grant assurances contained in the public sponsor's grant agreements with the FAA. Assurance No. 25 need not be addressed.

Part VIII. Periodic Audits

Section 47134(k) provides that the FAA may conduct periodic audits of the financial records and operations of an airport receiving an exemption under the pilot program.

Applicants should indicate their express assent to this provision in the application.

Issues Considered by the FAA in Granting an Exemption Under 47134

Granting Exemptions

Section 47134(b) authorizes the Secretary, in connection with approval of an application for transfer to a private operator, to grant the following exemptions: From requirements governing use of airport revenue, to the

extent necessary to permit the sponsor to recover from the transfer, the amount approved by 65 percent of the carriers serving the airport and by carriers whose landed weight at the airport in the preceding calendar year represented 65 percent of the total landed weight at the airport;

From any statutes, regulations or grant assurances requiring repayment of Federal grants or the return of Federal property; and

From requirements governing use of airport revenue to the extent necessary to permit the airport operator to earn compensation from the operations of the airport.

The exemption authority is discretionary. The FAA will make every effort to exercise its authority under § 47134 to permit the completion of transactions negotiated in good faith in reliance on the statute and this guidance. The FAA notes that § 47134 authorizes exemptions only from the requirements on the use of airport revenue to permit the private operator to earn compensation from the airports. As discussed below, the compensation of the private operator could also be subject to limitations based on the requirement that aeronautical fees be reasonable. Reasonable fees are addressed separately under § 47134(g).

65 Percent Carrier Approval

The FAA proposes to apply the 65 percent approval requirement as follows. The FAA would consider ''the carriers operating at the airport'' to be (1) all air carriers, including air carriers operating under 14 CFR Part 135, that are parties to a lease, use or operating agreement with the public sponsor on the date the applicants solicit carrier certification of agreement, and (2) any other carriers that conducted at least 50 commercial operations in the calendar year preceding the application. This would not include infrequent or transient users of the airport, but would include all carriers with a substantial interest in the fees charged and facilities provided by the airport operator. The FAA proposes to define landed weight as the total landed weight at the airport, as determined from records used by the public sponsor to calculate weight-based landing fees owed by each air carrier landing at the airport in the calendar year preceding the filing of the application. An applicant that did not use landed weight to calculate weight-based landing fees could request a waiver and propose an alternate methodology.

Terms and Conditions Required for Approval—General Approach

Section 47134(c) permits the FAA to grant an exemption only upon finding that the sale or lease agreement includes provisions satisfactory to the FAA to ensure that nine separate statutory objectives will be fulfilled.

With respect to some of the objectives listed in § 47134(c), it may be appropriate to rely on provisions in the sale or lease agreement that track the general statutory language to meet the substantive requirements of the terms and conditions. For other objectives, as discussed below, it will be necessary for applicants to describe the specific measures they intend to take to meet the objective. The FAA proposes to require that the purchase or lease agreement provide that terms and conditions included in the agreement to satisfy objectives in § 47134(c) (at least those objectives relating to safety, environment, and reasonable access) are intended to create third party beneficiary rights for the United States enforceable through a civil action to obtain specific performance of the terms and conditions. The FAA will also consider the private operator's adherence to the terms and conditions agreed upon to meet the objectives of § 47134(c), in evaluating requests for discretionary AIP grants. These steps are considered to be reasonably necessary for the FAA to assure that the terms and conditions will be followed after the sale of an airport or during the life of a lease.

The FAA solicits comment on whether any additional actions would be appropriate. In particular, should the FAA conduct an independent evaluation of the qualifications of the private operator similar to the evaluation of fitness of an applicant for an air carrier economic certificate conducted by the Department under 49 U.S.C. §§ 41108, 41110. The FAA is proposing to require information on the proposed airport operator's qualifications and financial resources in the application. Commenters suggesting any other actions are requested to include the policy or legal justification for their suggestions.

Terms and Conditions To Assure Public Access on Reasonable Terms Without Unjust Discrimination

Section 47134(c)(1) requires the transfer agreement to include provisions ensuring that the airport will be available for public use on reasonable terms without unjust discrimination. The FAA has construed a corresponding requirement in the AIP grant assurances to require the following:

(1) that the airport be open to all members of the public for aeronautical use on reasonable terms and conditions, without unjust discrimination;

(2) that, subject to its physical limitations, the airport be open to all commercial aviation service providers who meet the reasonable terms, conditions and minimum standards adopted by the airport proprietor, unless the airport proprietor undertakes a particular aviation service in its own name on an exclusive basis; and

(3) that the rates, fees and charges imposed on aeronautical users of the airport will be reasonable and not unjustly discriminatory.

The FAA would construe the assurance of access on reasonable terms in the transfer agreement to encompass no less, even if the assurance were framed in the general terms of the statute. The FAA invites comment on whether more specific provisions should be required.

Reasonable Rates and Charges Imposed by Airport Operator

Other provisions in § 47134 make it clear that Congress intended the airport operator to charge only reasonable, not unjustly discriminatory fees. For example, § 47134(g) provides that an airport operator shall not be prohibited from collecting reasonable fees and charges from aircraft operators. In addition, an airport operator under this provision would be subject to the Anti-Head Tax Act, which prohibits imposition of unreasonable airport charges. Finally, § 47134 provides that consideration of the reasonableness of fees charged at an airport under § 47134 will be subject to review under 49 U.S.C. 47129, which provides expedited procedures for determining the reasonableness of airport fees. In light of this latter provision, the FAA intends to apply the Policy on Airport Rates and Charges to aeronautical fees imposed by the transferee. In addition, if § 47129's jurisdictional requirements are met, the expedited procedures mandated by § 47129 would be employed to determine the reasonableness of disputed fees.

Reasonable Compensation for the Airport Operator

Section 47134(b)(3) authorizes the FAA to exempt the private operator from statutory limitations on use of airport revenue to permit the transferee to earn compensation from the operations of the airport. No other exemptions to permit compensation are specifically mentioned in the statute.

If a transferee intends to earn compensation from the aeronautical operations of the airport, then the requirement for reasonable fees would apply to that compensation. It is well accepted that for a fee to be reasonable, the amount of compensation to the operator of a facility, in the form of rate of return or return on equity included in the fee, must also be reasonable.

The OST/FAA Policy Regarding Airport Rates and Charges (Policy) addresses the issue of compensation to private airport owners only briefly. As to fees for the use of the airfield, paragraph 2.4 of the Policy provides that ''a private equity owner of an airport can include a reasonable return on investment in the airfield.'' 61 FR 32019. A private equity owner that has done so may not include an imputed interest charge, as well. Policy, Par. 2.4.1(a). The Policy does not further define a reasonable rate of return. For the use of aeronautical facilities other than the airfield, the Policy permits the airport owner to establish fees using any reasonable methodology. Policy, Par. 2.6, 61 FR 32020. The FAA considers Paragraph 2.6 to permit a private equity owner of the airport to earn a reasonable return on its equity investment in nonairfield aeronautical facilities.

The FAA does not propose to provide additional guidance, at this time. The FAA will apply the provisions of the policy to permit a private operator to earn, through aeronautical fees, a reasonable rate of return on the funds it invests in aeronautical facilities at the airport. The private operator would not be able to include in the aeronautical fees a rate of return on its lease payments to the public sponsor, unless agreed to by the aeronautical users. Comments are requested on the effect of this aspect of the rates and charges policy on proposed lease and sale transactions.

The FAA will not attempt to define as a matter of general policy the level of a reasonable rate of return for equity owners or lessees but would consider the issue on a case-by-case basis. Consistent with accepted practices for determining the reasonableness of regulated rates, the primary factor that the FAA would consider in determining a reasonable rate of return would be the private operator's cost of capital for its investment in the airport. The FAA requests that commenters who disagree with this proposed case-by-case approach propose and justify an alternative approach that could be adopted as a matter of general policy.

Consistent with the terms of the Policy, the provisions governing reasonable rates of return on investment need not be followed if the private operator and aeronautical users agree to another arrangement. Policy Par. 2.4. Such an agreement would also be subject to sections 47134(c) (4), (5), as discussed below.

Carrier Approval of Fee Increases

Section 47134(c)(4) requires the transfer agreement to include provisions ensuring that airport fees imposed on air carriers will not increase faster than the rate of inflation unless 65 percent of carriers operating at the airport and air carriers whose aircraft accounted for 65 percent of the landed weight at the airport in the preceding calendar year approve of the increase. The FAA does not intend to require the purchase agreement to include any more specific language than the statutory provision. However, if a fee increase that exceeds the rate of inflation is contemplated as part of the initial transfer, the FAA would require that the application for approval include proof that the requisite carrier approval has been obtained.

Another provision of § 47134 requires the airport operator to commit to making capital investments in the airport. Consistent with that provision, the FAA does not intend to apply § 47134(c) to fee increases that are attributable solely to inclusion of new investments in the airport rate base. If the 65 percent approval requirement were to apply to fee increases caused by new capital improvements, the requirement would give air carriers an effective veto over those capital improvements, since investors could not be expected to put capital into a project that is legally barred from generating sufficient revenue to earn a return on investment. Thus, an interpretation of the 65 percent approval requirement to apply to fee increases attributable solely to new investment at the airport would frustrate implementation of the statutory provision requiring the airport operator to commit to making capital investment at the airport. The FAA, therefore, intends to permit fee increases based solely on new capital investment at the airport to occur without 65 percent air carrier approval. Existing majority-in-interest clauses and similar agreements would continue in effect, however. Comments are requested on the effect of this interpretation of the 65 percent approval provision.

Terms and Conditions To Assure Continued Operation in the Event of Bankruptcy or Insolvency

Section 47134(c)(2) requires the sale or lease agreement to include provisions ensuring that the operation of the airport will not be interrupted by the insolvency, liquidation, or bankruptcy proceeding. The FAA considers this to be an issue for which simple repetition of the statutory assurance in the sale or lease agreement will not be adequate. Some provisions that could be sufficient to ensure continued operation are listed below; the FAA invites suggestions for other approaches:

(1) Including in the transfer agreement an automatic reverter to the public sponsor in the event that the airport ceases operations due to the bankruptcy or reorganization of the private operator.

(2) In lieu of automatic reverter, including in the application a contingency plan for sponsor takeover in defined circumstances.

(3) Recording as an encumbrance on the airport property the obligation to operate the property as an airport.

(4) Establishing an escrow fund or bond to ensure funds are available to pay the essential costs of operating the airport.

The FAA's objective is to implement the statutory mandate to assure that the transferred airport continues to operate while avoiding requirements that interfere with the feasibility of a pilot program. The FAA specifically invites comment on whether the individual options would be effective under U.S. bankruptcy law.

Terms and Conditions To Assure Capital Investment and Improvements by the Airport Operator

One of the purposes of the pilot program is to use private ownership or long term leases of airports to increase investment in airport infrastructure above that available through the public sector. Section 47134(c)(3) requires the transfer agreement to include provisions to assure that the airport operator will maintain, improve and modernize the facilities of the airport through capital investments and will submit to the Secretary a plan for carrying out such maintenance, improvements and modernization. The FAA proposes to consider as acceptable components of the plan for improvement and modernization (1) a five-year capital improvement plan (CIP), and inclusion in the transfer agreement of a provision assuring that the airport operator will substantially implement the five-year CIP; and (2) an assurance of a certain minimum level of capital investment using the private operator's funds. For an assurance of sufficient minimum investment, the applicant could, for example, offer a five-year CIP that exceeds or accelerates the public sponsor's most recent five-year CIP for the airport; commit to an amount that exceeds the local match for entitlement

funds; commit to apply for and use entitlement funds, if available, for the life of the lease of the airport; or commit to use sources other than PFCs to finance at least a share of its investment in the airport.

Terms and Conditions Relating to Safety and Security

Section 47134(c)(6) requires that the transfer agreement include satisfactory provisions to assure that safety and security at the airport will be maintained at the highest possible levels.

For airports that are currently subject to airport operator certificates issued under 14 CFR Part 139, the FAA proposes to satisfy this statutory mandate as it applies to safety by requiring that the transfer agreement provide that the private operator shall not take over operational control of the airport until the private operator has received a new Part 139 certificate. The FAA proposes to take a similar approach to airport security by requiring that a transfer agreement for an airport governed by an airport security plan approved under 14 CFR Part 107 provide that the private operator shall not take over operational control of the airport until the private operator has received approval of an airport security plan under Part 107.

For general aviation airports, including reliever airports, that are not governed by Part 107 or Part 139, the FAA intends to rely on the private operator's assumption of the public sponsor's outstanding grant obligations to provide for the requisite level of safety and security of the airport. Standard assurance 19.a requires the airport sponsor to ''suitably operate and maintain the airport and all facilities thereon or connected therewith,'' and further requires that the ''airport and all facilities which are necessary to serve aeronautical users of the airport * * * shall be operated at all times in a safe and serviceable conditions and in accordance with the minimum standards as may be required or prescribed by applicable Federal, state and local agencies for maintenance and operation. It will not cause or permit any activity or action thereon which would interfere with its use for airport purposes.'' The FAA relies on the assurances to provide an appropriate level of safety and security at all grant-obligated general aviation airports, including privately-owned reliever airports currently under grant.

Terms and Conditions Relating to Noise Mitigation

Section 47134(c)(7) requires the transfer agreement to include satisfactory provisions to assure that adverse effects of noise from the operation of the airport will be mitigated to the same extent as at a public airport.

The FAA will look to proponents to describe means of assuring that this condition can be satisfied for the particular airport at issue. One obvious provision would be the private operator's commitment to continue to implement the measures of an existing approved Part 150 noise compatibility program, which could be included in the transfer agreement. (Proponents should note the provision in Section 47109(a), as amended, setting the Federal share at 40% of project costs if discretionary funds are used. Although FAA will evaluate applications from a private operator according to the same priority ranking system as for a public sponsor, the private operator should anticipate bearing 60 percent of allowable noise project costs as well as other projects receiving discretionary funds.) The FAA solicits comment on other possible commitments by applicants that would satisfy the intent of the congressional requirement. For example, the sponsor could commit to continue to exercise its land-use control powers, including the power to condemn land for public purposes, to assure airport compatible land use.

In proposing measures to assure the implementation of § 47134(c)(7), proponents should keep in mind that the private operator will be subject to other assurances to permit access to the airport on reasonable and not unjustly terms, without unreasonable burdens on air commerce. Also, the airport under private operation will be subject to the Airport Noise and Capacity Act of 1990 (ANCA). ANCA prohibits the adoption of noise or access restrictions on stage 2 aircraft unless specified procedures are followed and prohibits the adoption of noise or access restrictions on stage 3 aircraft except by agreement with aircraft operators or upon approval by the FAA.

Terms and Conditions Relating to Environmental Mitigation

Section 47134(c)(8) requires the transfer agreement to include satisfactory provisions to assure that any adverse effects on the environment from operations at the airport will be mitigated to the same extent as at a public airport. The FAA proposes to implement this provision by requiring the airport operator to assume all mitigation measures identified in existing records of decisions accompanying final environmental impact statements, findings of no significant impact, and airport layout plan approvals previously agreed to by the public sponsor. The FAA would rely on its current practices for airport layout plan approval, and approval of AIP grants and PFC applications to assure that adverse effects from any new airport development are suitably mitigated.

Terms and Conditions: Collective Bargaining

Section 47134(c)(9) requires the transfer agreement to include satisfactory provisions to assure that the transfer does not abrogate any collective bargaining agreement covering employees of the airport in effect on the date of transfer. The FAA proposes to consider this provision satisfied if the transfer agreement includes a provision by which the parties agree not to abrogate any collective bargaining agreement covering employees of the airport in effect on the date of transfer. Certification from each collective bargaining representative that the transfer agreement will not abrogate its contract would also meet the requirement.

Unfair Competition Finding

Section 47134(e) requires the FAA to find that approval will not result in unfair and deceptive practices or unfair methods of competition. The FAA proposes to evaluate each proposed transaction's potential for unfair competition individually and solicits comment on information that would be needed to perform this evaluation.

Protection of General Aviation Interests

Section 47134(f) requires the FAA to ensure that the interests of general aviation users of the airport are not adversely affected in approving an application for a private transfer. The FAA intends to review the exemption application and transfer agreement for the applicant's commitment to this effect. The FAA solicits comments on whether any additional measures are appropriate.

Revocation Procedures

Section 47134(i) authorizes the FAA to revoke the exemptions granted to permit a private transfer if, after providing the airport operator with notice and an opportunity to be heard, the FAA determines that the transferee has knowingly violated any of the required terms and conditions specified

in the section titled, Form and Content of Applications. The FAA proposes to rely on the procedures in 14 CFR Part 16 to provide the required notice and opportunity to be heard in the case of a revocation proceeding. In addition, the FAA will consider other remedies, such as obtaining orders for specific performance of the terms and conditions, as an alternative to commencement of revocation procedures. The FAA invites comments on the adequacy of these procedures in the event of a violation of the terms of the exemption.

Administration of AIP Grants

Sections 47134(g)(1) authorizes otherwise eligible airports to continue to qualify for AIP apportionments under 49 U.S.C. § 47114. In addition, a private operator may receive discretionary AIP funds, but with a higher local share required than a public sponsor's share. Under 49 U.S.C. § 47107, the FAA must receive satisfactory written assurances on a number of subjects before issuing a grant. This requirement is fulfilled by the standard sponsor assurances included in every AIP grant agreement. Section 47134 authorizes the FAA to grant exemptions from a very limited number of the assurances mandated by § 47107.

In addition, standard assurance 5.b. requires a sponsor, before transferring an obligated airport to include in the transfer document and make binding on the transferee all conditions and assurances contained in the grant agreement.

The FAA intends to apply the requirement in standard assurance 5.b. to any transfer proposed under § 47134, subject to the specific exemptions authorized by that section. In addition, the FAA would require an airport operator applying for new AIP grants to agree to all standard assurances except those from which § 47134 authorizes an exemption. As with a public sponsor, approval of a project grant would be subject to the provisions of 49 U.S.C. § 47106, which requires the FAA to make special findings on environmental impacts and local acceptance before approving grants for certain airport improvement projects.

The FAA employs a priority system to allocate discretionary AIP funds. The current system does not differentiate between otherwise equivalent projects proposed by public and private sponsors. The FAA solicits comment on whether such a distinction is appropriate for requests for discretionary funds submitted by participants in the pilot program.

Administration of Passenger Facility Charges

Section 47134(g)(1) authorizes an airport operator to impose a passenger facility charge (PFC) under 49 U.S.C. § 40117. If a PFC is being collected at an airport at the time of transfer, the FAA would require the private operator to agree to accept all of the terms, requirements, and limitations of the PFC statute, 14 CFR Part 158 and all applicable records of decision approving collection and use of PFC revenues as a condition of continuing the existing PFC program. A private operator would need to comply with the PFC statute and Part 158 to obtain new approval to impose a new PFC or to use PFC revenue not already approved for use in an FAA record of decision.

Notice of Public Meeting

Background

The FAA will conduct a public meeting on the proposed application procedures and policies discussed in this notice. Comments from the public at this meeting should be directed specifically to the agency's implementation of the Airport Privatization Pilot Program established in the FAA Reauthorization Act of 1996.

The closing date for comments on the proposal is June 4, 1997. In order to give the public an additional opportunity to comment on this notice, the FAA is planning this public meeting. Because this additional opportunity to comment is provided, the FAA does not intend to extend the closing date for comments.

Participation at the Public Meeting

Requests from persons who wish to present oral statements at the public meeting on the Airport Privatization Pilot Program should be received by the FAA no later than May 16, 1997. Such requests should be submitted to Kevin Hehir, AAS–310, 202–267–8224 as listed in the section titled **FOR FURTHER INFORMATION CONTACT**. Requests received after May 16, 1997, will be scheduled if time is available during the meeting; however, the name of those individuals may not appear on the written agenda. The FAA will prepare an agenda of speakers that will be available at the meeting. To accommodate as many speakers as possible, the amount of time allocated to each speaker may be less than the amount of time requested. Those persons desiring to have available audiovisual equipment should notify the FAA when requesting to be placed on the agenda.

Public Meeting Procedures

The following procedures are established to facilitate the public meeting:

1. There will be no admission fee or other charge to attend or to participate in the public meeting. The meeting will be open to all persons who have requested in advance to present statements or who register on the day of the meeting, subject to availability of space in the meeting room.
2. The public meeting may adjourn earlier if all speakers have completed their statements.
3. The FAA will try to accommodate all speakers; therefore, it may be necessary to limit the time available for an individual or group.
4. Participants should address their comments to the panel. No individual will be subject to cross-examination by any other participant.
5. 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.
6. Representatives of the FAA will conduct the public meeting.
7. The meeting will be recorded by a court reporter. A transcript of the meeting and any material accepted by the panel during the meeting will be included in the public docket. Any person who is interested in purchasing a copy of the transcript should contact the court reporter directly. This information will be available at the meeting.
8. The FAA will review and consider all material presented by participants at the public meeting. Position papers or material presenting views or information related to this notice may be accepted at the discretion of the presiding officer and subsequently placed in the public docket. The FAA requests that persons participating in the meeting provide 10 copies of all materials to be presented for distribution to the panel members; other copies may be provided to the audience at the discretion of the participant.
9. Statements made by members of the public meeting panel are intended to facilitate discussion of the issues or to clarify issues. FAA officials may ask questions to clarify statements made by the public and to ensure a complete and accurate record. Comments made at this public meeting will be considered by the FAA when deliberations begin concerning whether to adopt any or all of the proposed rules.
10. The meeting is designed to solicit public views and more complete information on the proposed application

procedures and implementation of the Airport Privatization Pilot Program. Therefore, the meeting will be conducted in an informal and nonadversarial manner.

Issued in Washington, DC on April 16, 1997.

David L. Bennett,

Director, Office of Airport Safety and Standards.

[FR Doc. 97–10355 Filed 4–18–97; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE–97–24]

Petitions for Exemption; Summary of Petitions Received; Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemption received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR Part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR Chapter I), dispositions of certain petitions previously received, and corrections. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATES: Comments on petitions received must identify the petition docket number involved and must be received on or before May 12, 1997.

ADDRESSES: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rule Docket (AGC–200), Petition Docket No. _____, 800 Independence Avenue, SW., Washington, D.C. 20591.

Comments may also be sent electronically to the following internet address: 9–NPRM–CMNTS@faa.dot.gov.

The petition, any comments received, and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC–200), Room 915G, FAA Headquarters Building (FOB 10A), 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 267–3132.

FOR FURTHER INFORMATION CONTACT: Fred Haynes (202) 267–3939 or Angela Anderson (202) 267–9681 Office of Rulemaking (ARM–1), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, DC, on April 16, 1997.

Donald P. Byrne,

Assistant Chief Counsel for Regulations.

Petitions for Exemption

Docket No.: 28760.
Petitioner: McDonnell Douglas.
Sections of the FAR Affected: 14 CFR 25.785(d), 25.807(c)(1), 25.857(e), and 25.1447(c)(1).
Description of Relief Sought: To permit the accommodation of two supernumeraries outside the cockpit and the installation of a crew rest facility in the Class E cargo compartment of MD–11 freighter aircraft.

Docket No.: 23771.
Petitioner: Cessna Aircraft Company.
Sections of the FAR Affected: 14 CFR 91.9(a) and 91.531(a)(1) and (2).
Description of Relief Sought/ Disposition: To permit operators to allow certain qualified pilots of Cessna Citation Model 550, S550, 552, or 560 aircraft to operate those aircraft without a pilot who is designated as second in command. *GRANT, March 26, 1997, Exemption No. 4050I.*

Docket No.: 23869.
Petitioner: The Uninsured Relative Workshop, Inc.
Sections of the FAR Affected: 14 CFR 105.43(a).
Description of Relief Sought/ Disposition: To permit the petitioner's employees, representatives, and other volunteer experimental parachute test jumpers under its direction and control to make tandem parachute jumps while wearing a dual-harness, dual-parachute pack having at least one main parachute and one approved auxiliary parachute packed in accordance with § 105.43(a). Also to permit pilots in command of aircraft involved in these operations to allow such persons to make these jumps. *PARTIAL GRANT, March 19, 1997, Exemption No. 4943G.*

Docket No.: 25233.
Petitioner: Alaska Air Carriers Association.
Sections of the FAR Affected: 14 CFR 43.3(g), 121.709(b)(3), and 135.443(b)(3).
Description of Relief Sought/ Disposition: To allow a certificated and appropriately trained pilot employed by an Alaska Air Carriers Association member airline to remove and reinstall passenger seats on aircraft used by that airline in operations conducted under part 121 and part 135. *GRANT, March 20, 1997, Exemption No. 4802G.*

Docket No.: 25552.
Petitioner: State of Alaska Department of Transportation.
Sections of the FAR Affected: 14 CFR 45.29(h).
Description of Relief Sought/ Disposition: To allow persons operating aircraft within, to, or from the State of Alaska to fly their aircraft across the inner boundaries of the Alaskan Air Defense Identification Zone or the Defense Early Warning Identification Zone without displaying temporary or permanent registration marks at least 12-inches high, unless otherwise required by the Federal Aviation Regulations. *GRANT, March 10, 1997, Exemption No. 5630B.*

Docket No.: 26474.
Petitioner: Deere & Company.
Sections of the FAR Affected: 14 CFR 21.197(a)(1).
Description of Relief Sought/ Disposition: To permit the petitioner to operate its Cessna Model CE–650 aircraft, Registration No. N400JD, Serial No. 650–0035; Registration No. N900JD, Serial No. 650–0213; and Registration No. N600JD, Serial No. 650–0236, without obtaining a special flight permit when the flaps fail in the up position. *GRANT, March 11, 1997, Exemption No. 6581.*

Docket No.: 26478.
Petitioner: Department of the Air Force.
Sections of the FAR Affected: 14 CFR 91.209 (a) and (d).
Description of Relief Sought/ Disposition: To allow the Air Force to conduct counternarcotics aircrew flight training operations in support of drug law enforcement and drug traffic interdiction, without lighted aircraft position or anticollision lights. *GRANT, March 11, 1997, Exemption No. 5305B.*

Docket No.: 26734.
Petitioner: Sierra Industries, Inc.
Sections of the FAR Affected: 14 CFR 91.9(a) and 91.531(a) (1) and (2).
Description of Relief Sought/ Disposition: To permit certain qualified pilots of its Cessna Citation 500 airplanes (Serial Nos. 0001 through 0349 only) with Supplemental Type Certificate (STC) No. SA8176SW and either STC No. SA2172NM or SA645NW to operate that aircraft without a pilot who is designated as second in command. *GRANT, March 26, 1997, Exemption No. 5517C.*

Docket No.: 26976.
Petitioner: United States Coast Guard.
Sections of the FAR Affected: 14 CFR 91.119(c).
Description of Relief Sought/ Disposition: To permit the petitioner to operate over other than congested areas at an altitude of less than 500 feet and, in operations over open water or sparsely populated areas, at a distance closer than 500 feet to any person, vessel, vehicle, or structure for the purpose of rescuing and aiding persons and protecting and saving property. *GRANT, February 26, 1997, Exemption No. 5614C.*

Docket No.: 27193.
Petitioner: Rocky Mountain Holdings, L.L.C.
Sections of the FAR Affected: 14 CFR 135.143(c)(2).
Description of Relief Sought/ Disposition: To allow the petitioner to operate certain aircraft under the provisions of part 135 without a TSO–C112 (Mode S) transponder installed on those aircraft. *GRANT, February 26, 1997, Exemption No. 5774C.*

Docket No.: 27874.
Petitioner: The University of Oklahoma.
Sections of the FAR Affected: 14 CFR 141.67(a)(2).
Description of Relief Sought/ Disposition: To allow the University of Oklahoma to recommend for a pilot certificate a student who has not completed all the applicable training at the University of Oklahoma. *GRANT, February 26, 1997, Exemption No. 6085A.*

Docket No.: 27984.
Petitioner: Epps Air Service, Inc.
Sections of the FAR Affected: 14 CFR 135.143(c)(2).
Description of Relief Sought/ Disposition: To permit the petitioner to operate without a TSO–C112 transponder installed on its aircraft operating under the provisions of part 135. *GRANT, February 27, 1997, Exemption No. 6037A.*

Docket No.: 27999.
Petitioner: Alaska Airlines, Inc.
Sections of the FAR Affected: 14 CFR 121.433(c)(1)(iii), 121.441 (a)(1) and (b)(1), and appendix F to part 121.
Description of Relief Sought/ Disposition: To allow the petitioner to combine recurrent flight and ground training and proficiency checks for its flight crewmembers in a single annual training and proficiency evaluation program. *GRANT, March 26, 1997, Exemption No. 6043A.*

Docket No.: 28054.
Petitioner: Air Vegas, Inc.
Sections of the FAR Affected: 14 CFR 121.345(c)(2) and 135.143(c)(2).
Description of Relief Sought/ Disposition: To permit the petitioner to operate without a TSO–C112 (Mode S) transponder installed on its aircraft operating under the provisions of part 121 or part 135. *GRANT, March 17, 1997, Exemption No. 6588.*

Docket No.: 28099.
Petitioner: Delta Air Lines, Inc.
Sections of the FAR Affected: 14 CFR 25.791(a) and 121.317(a).
Description of Relief Sought/ Disposition: To permit the petitioner to operate its McDonnell Douglas MD–90 aircraft with ''No Smoking'' signs that are always illuminated. *GRANT, February 26, 1997, Exemption No. 6034A.*

Docket No.: 28158.
Petitioner: Twin Otter International, Ltd.
Sections of the FAR Affected: 14 CFR 135.143(c)(2).
Description of Relief Sought/ Disposition: To allow the petitioner to operate without a TSO–C112 (Mode S) transponder installed on its aircraft operating under the provisions of part 121 or part 135. *GRANT, March 26, 1997, Exemption No. 6111A.*

Docket No.: 28159.
Petitioner: Grand Canyon Airlines, Inc.
Sections of the FAR Affected: 14 CFR 135.143(c)(2).
Description of Relief Sought/ Disposition: To allow the petitioner to operate without a TSO–C112 (Mode S) transponder installed on its aircraft operating under the provisions of part 121 or part 135. *GRANT, March 26, 1997, Exemption No. 6101A.*

Docket No.: 28501.
Petitioner: Alaska Air Carriers Association.
Sections of the FAR Affected: 14 CFR 121.
Description of Relief Sought/ Disposition: To allow Alaska Air Carriers Association member carriers to continue to operate 10- to 19-seat aircraft solely in Alaska for scheduled passenger operations under 14 CFR part 135. *DENIAL, March 17, 1997, Exemption No. 6586.*

Docket No.: 28719.
Petitioner: Comair, Inc.
Sections of the FAR Affected: 14 CFR 121.412(c)(1).
Description of Relief Sought/ Disposition: To permit the petitioner's Canadair CL–65 airplane simulator flight instructors to serve in a training program established under subpart N of part 121 without those instructors having to hold a type rating for the CL–65 airplane. *DENIAL, February 25, 1997, Exemption No. 6579.*

Docket No.: 28732.
Petitioner: Vieques Air Link, Inc.
Sections of the FAR Affected: 14 CFR 119.2.
Description of Relief Sought/ Disposition: To allow the petitioner to continue to operate its Britten-Norman BN–2A Mark III Tri-Islander aircraft in scheduled operations under the requirements of 14 CFR part 135 after March 20, 1997, the deadline to transition to 14 CFR part 121. *DENIAL, March 19, 1997, Exemption No. 6591.*

Docket No.: 28742.
Petitioner: Aerolineas Argentinas, S.A.
Sections of the FAR Affected: 14 CFR 145.47(b).
Description of Relief Sought/ Disposition: To permit the petitioner to substitute the calibration standards of the Instituto Nacional de Tecnologia Industrial, Argentina's national standards organization, for the calibration standards of the U.S. National Institute of Standards and Technology, formerly the National Bureau of Standards, to test its inspection and test equipment. *GRANT, March 14, 1997, Exemption No. 6584.*

Docket No.: 28759.
Petitioner: Associated Air Center.
Sections of the FAR Affected: 14 CFR 25.2(b).
Description of Relief Sought/ Disposition: To permit the petitioner to alter the emergency exit configuration on Boeing 757 aircraft from one every 60 feet to one every 76 feet. *DENIAL, March 5, 1997, Exemption No. 6580.*

Docket No.: 28761.
Petitioner: Boeing Commercial Airplane Group.
Sections of the FAR Affected: 14 CFR 25.1435(b)(1).
Description of Relief Sought/ Disposition: To allow the petitioner to forego the static pressure test requirement of § 25.1435(b)(1) for the hydraulic system of the Boeing 757–300 aircraft. *GRANT, February 25, 1997, Exemption No. 6577.*

Docket No.: 28782.
Petitioner: Flying Boat, Inc., D.B.A. Chalk's International Airlines and Pan Am Air Bridge.
Sections of the FAR Affected: 14 CFR 121.2(a)(1)(ii), 121.191, 121.289(a)(2), 121.310 (c) and (h)(1)(i), and 121.313(f).
Description of Relief Sought/ Disposition: To (1) permit the petitioner's 17-seat, transport-category, turbopropeller-powered airplanes to be included as one of the 20- to 30-seat transport-category, turbopropeller-powered airplanes; (2) permit the petitioner to operate airplanes that do not have a landing gear aural warning

device; (3) permit the petitioner to operate airplanes that do not have lighting for interior emergency exit markings; (4) permit the petitioner to operate airplanes that do not have exterior emergency lighting; and (5) permit the petitioner to operate airplanes without a door between the passenger and pilot compartments. *GRANT, March 11, 1997, Exemption No. 6583.*

Docket No.: 28791.

Petitioner: Mesaba Aviation, Inc., D.B.A. Mesaba Airlines.

Sections of the FAR Affected: 14 CFR 121.402(a); 121.412 (b), (c), and (f); and 121.414 (a), (c), (d), (e), and (g).

Description of Relief Sought/ Disposition: To permit the petitioner to use certain qualified pilot and flight simulator instructors employed by AVRO International Aerospace (AVRO) for the purpose of training the petitioner's initial cadre of pilots in the AVRO RJ85 aircraft without holding appropriate U.S. certificates and ratings, and without the instructors meeting all the applicable training requirements of subpart N to part 121. *GRANT, February 25, 1997, Exemption No. 6578.*

Docket No.: 28794.

Petitioner: Atlantic Southeast Airlines, Inc.

Sections of the FAR Affected: 14 CFR 121.313 (f) and (g).

Description of Relief Sought/ Disposition: To allow the petitioner to operate 24 Embraer EMB–120 airplanes that are not equipped with a key to the lock in the door that separates the passenger and pilot compartments. *PARTIAL GRANT, March 4, 1997, Exemption No. 6582.*

Docket No.: 28806.

Petitioner: Great Lakes Aviation, Ltd.

Sections of the FAR Affected: 14 CFR 121.313(f) and 121.587(a).

Description of Relief Sought/ Disposition: To allow the petitioner to operate 12 Embraer EMB–120 airplanes without a key for the locking door that separates the passenger compartment from the pilot compartment, and to operate those airplanes with the door separating the flightcrew compartment from the passenger compartment closed but not locked during flight. *GRANT, March 18, 1997, Exemption No. 6589.*

Docket No.: 28809.

Petitioner: Mesa Airlines, Inc.

Sections of the FAR Affected: 14 CFR 121.313(g) and 121.587(a).

Description of Relief Sought/ Disposition: To allow the petitioner to operate up to 14 Embraer EMB–120 airplanes without a key for the locking door that separates the passenger compartment from the pilot compartment, and to operate those airplanes with the door separating the flightcrew compartment from the passenger compartment closed but not locked during flight. *GRANT, March 18, 1997, Exemption No. 6590.*

Docket No.: 28813.

Petitioner: Reeve Aleutian Airways and Keith Campbell.

Sections of the FAR Affected: 14 CFR 119.67(a)(1).

Description of Relief Sought/ Disposition: To allow Keith Campbell to serve as Director of Operations at RAA without holding an airline transport pilot certificate. *GRANT, March 10, 1997, Exemption No. 6585.*

Docket No.: 28816.

Petitioner: Eagle Jet Charter, Inc. and Brian N. Duehring.

Sections of the FAR Affected: 14 CFR 119.67(a)(1).

Description of Relief Sought/ Disposition: To permit Brian N. Duehring to serve as Director of Operations at EJC without holding an airline transport pilot certificate. *CONDITIONAL GRANT, March 17, 1997, Exemption No. 6587.*

Docket No.: 28820.

Petitioner: Northern Air Cargo, Inc. and Leonard F. Kirk.

Sections of the FAR Affected: 14 CFR 119.67(a)(1).

Description of Relief Sought/ Disposition: To allow Leonard F. Kirk to serve as Director of Operations at NAC without holding an airline transport pilot certificate. *GRANT, March 19, 1997, Exemption No. 6592.*

Docket No.: 28823.

Petitioner: Cape Smythe Air Service, Inc., and Willis M. Fisher.

Sections of the FAR Affected: 14 CFR 119.71(a).

Description of Relief Sought/ Disposition: To permit Willis M. Fisher to serve as Director of Operations at CSA without holding an airline transport pilot certificate. *CONDITIONAL GRANT, March 19, 1997, Exemption No. 6594.*

Docket No.: 28828.

Petitioner: North American Airlines, Inc., and Edward F. Dascoli.

Sections of the FAR Affected: 14 CFR 119.67(a)(1).

Description of Relief Sought/ Disposition: To permit Edward F. Dascoli to serve as Director of Operations at NAA without holding an airline transport pilot certificate. *GRANT, March 19, 1997, Exemption No. 6593.*

Docket No.: 28846.

Petitioner: Great Lakes Aviation, Ltd.

Sections of the FAR Affected: 14 CFR 121.359(g).

Description of Relief Sought/ Disposition: To allow the petitioner to operate 24 Beechcraft 1900C airplanes with oxygen masks that are not equipped with a microphone installed in the oxygen mask. *GRANT, March 21, 1997, Exemption No. 6596.*

Docket No.: 28856.

Petitioner: Frontier Flying Service.

Sections of the FAR Affected: 14 CFR 119.21(a)(1).

Description of Relief Sought/ Disposition: To allow the petitioner to continue to conduct its scheduled operations with airplanes having a passenger-seat configuration of 10 or more seats under the commuter operations rules of part 135 instead of the domestic operations rules of part 121. *GRANT, March 24, 1997, Exemption No. 6597.*

[FR Doc. 97–10367 Filed 4–21–97; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

RTCA, Inc., Special Committee 187; Mode Select Beacon and Data Link System

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (P.L. 92–463, 5 U.S.C., Appendix 2), notice is hereby given for Special Committee 187 meeting to be held on May 20, 1997, starting at 9:00 a.m. The meeting will be held at RTCA, 1140 Connecticut Avenue, N.W., Suite 1020, Washington, DC 20036.

The agenda will be as follows: (1) Introductory Remarks; (2) Review and Approval of the Agenda; (3) Review and Approval of the Summary of the Previous Meeting; (4) Review of Change 3 to RTCA/DO–181A; (5) Review of Change 2 to RTCA/DO–218; (6) Other Business; (7) Date and Place of Next Meeting.

Attendance is open to the interested public but limited to space availability. With the approval of the chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the RTCA Secretariat, 1140 Connecticut Avenue, N.W., Suite 1020, Washington, D.C. 20036; (202) 833–9339 (phone); (202) 833–9434 (fax); or http://www.rtca.org (web site). Members of the public may present a written statement to the committee at any time.

Issued in Washington, D.C., on April 16, 1997.

Janice L. Peters,

Designated Official.

[FR Doc. 97–10359 Filed 4–21–97; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

RTCA, Inc. Special Committee 172; Future Air-Ground Communications in the VHF Aeronautical Data Band (118–137 MHz)

Pursuant to section 10(a) (2) of the Federal Advisory Committee Act (P.L. 92–463, 5 U.S.C., Appendix 2), notice is hereby given for Special Committee 172 meeting to be held May 14–16, 1997, starting at 9:00 a.m. The meeting will be held at RTCA, 1140 Connecticut Avenue, N.W., Suite 1020, Washington, DC, 20036.

The agenda will be as follows: Wednesday, May 14: (1) Plenary Convenes at 9:00 a.m. for 30 minutes: (2) Introductory Remarks; (3) Review and Approval of the Agenda; (4) Working Group (WG–2, VHF Data Radio Signal-in-Space MASPS, Continue Refinement of Upper Layers and Review Change 1 of the MASPS. Thursday, May 15: (a.m.) (5) WG–2 Continues; (p.m.) (6) WG–3, Review of Activities in VHF Digital Radio MOPS Document Program. Friday, May 16: (7) Plenary Reconvenes at 9:00 a.m.: (8) Review and Approval of the Minutes of the Previous Meeting; (9) Presentation of ''Speak Easy''; (10) EUROCAE WG–47 Report; (11) Reports from WG's 2 & 3 Activities; (12) Reports on CSMA Validation and FAA Vocoder Activity; (13) Review Issues List and Address Future Work; (14) Other Business; (15) Dates and Places of Next Meetings.

Attendance is open to the interested public but limited to space availability. With the approval of the chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the RTCA Secretariat, 1140 Connecticut Avenue, N.W., Suite 1020, Washington, DC 20036; (202) 833–9339 (phone); (202) 833–9434 (fax); or http://www.rtca.org (web site). Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on April 14, 1997.

Janice L. Peters,

Designated Official.

[FR Doc. 97–10400 Filed 4–21–97; 8:45 am]

BILLING CODE 4810–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on Application; Number 97–02–C–00–ALO To Impose and Use the Revenue From a Passenger Facility Charge (PFC) at Waterloo Municipal Airport, Waterloo, IA

AGENCY: Federal Aviation Administration, (FAA), DOT.

ACTION: Notice of Intent To Rule on Application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Waterloo Municipal Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

DATES: Comments must be received on or before May 22, 1997.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Federal Aviation Administration, Central Region, Airports Division, 601 E. 12th Street, Kansas City, MO 64106.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Terry E. Lorenzen, Director of Aviation of the Waterloo Airport Commission at the following address: Waterloo Municipal Airport, 2790 Airport Boulevard, Waterloo, Iowa 50703.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the Waterloo Airport Commission under section 158.23 of Part 158.

FOR FURTHER INFORMATION CONTACT: Lorna Sandridge, PFC Program Manager, FAA, Central Region, 601 E. 12th Street, Kansas City, MO 64106, (816) 426–4730. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at the Waterloo Municipal Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

On April 9, 1997, the FAA determined that the application to impose and use the revenue from a PFC submitted by the Waterloo Airport Commission, Waterloo, Iowa, was substantially complete within the requirements of section 158.25 of Part 158. The FAA will approve or disapprove the application, in whole or in part, no later than July 29, 1997.

The following is a brief overview of the application.

Level of the proposed PFC: $3.00.

Proposed charge effective date: June, 1998.

Proposed charge expiration date: May, 1999.

Total estimated PFC revenue: $153,660.

Brief description of proposed project(s): Overlay Runway 18/36 (construction); Rehabilitation of terminal apron and general aviation apron; replace a snow blower and a snow grader/tractor.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION.**

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Waterloo Municipal Airport.

Issued in Kansas City, Missouri on April 9, 1997.

George A. Hendon,

Manager, Airports Division, Central Region.

[FR Doc. 97–10366 Filed 4–21–97; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. 97–22; Notice 1]

Notice of Receipt of Petition for Decision That Nonconforming 1994 Mercedes-Benz S600L Passenger Cars Are Eligible for Importation

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Notice of receipt of petition for decision that nonconforming 1994 Mercedes-Benz S600L passenger cars are eligible for importation.

SUMMARY: This notice announces receipt by the National Highway Traffic Safety Administration (NHTSA) of a petition for a decision that a 1994 Mercedes-Benz S600L that was not originally manufactured to comply with all applicable Federal motor vehicle safety standards is eligible for importation into the United States because (1) It is substantially similar to a vehicle that was originally manufactured for

importation into and sale in the United States and that was certified by its manufacturer as complying with the safety standards, and (2) it is capable of being readily altered to conform to the standards.

DATES: The closing date for comments on the petition is May 21, 1997.

ADDRESSES: Comments should refer to the docket number and notice number, and be submitted to: Docket Section, Room 5109, National Highway Traffic Safety Administration, 400 Seventh St, SW, Washington, DC 20590. [Docket hours are from 9:30 am to 4 pm]

FOR FURTHER INFORMATION CONTACT: George Entwistle, Office of Vehicle Safety Compliance, NHTSA (202–366–5306).

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. § 30141(a)(1)(A), a motor vehicle that was not originally manufactured to conform to all applicable Federal motor vehicle safety standards shall be refused admission into the United States unless NHTSA has decided that the motor vehicle is substantially similar to a motor vehicle originally manufactured for importation into and sale in the United States, certified under 49 U.S.C. § 30115, and of the same model year as the model of the motor vehicle to be compared, and is capable of being readily altered to conform to all applicable Federal motor vehicle safety standards.

Petitions for eligibility decisions may be submitted by either manufacturers of importers who have registered with NHTSA pursuant to 49 CFR Part 592. As specified in 49 CFR 593.7, NHTSA publishes notice in the **Federal Register** of each petition that it receives, and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA decides, on the basis of the petition and any comments that it has received, whether the vehicle is eligible for importation. The agency then publishes this decision in the **Federal Register**.

Northern California Diagnostic Laboratories, Inc. of Napa, California (''NCDL'') (Registered Importer No. R–92–011) has petitioned NHTSA to decide whether 1994 Mercedes-Benz S600L passenger cars are eligible for importation into the United States. The vehicle which NCDL believes is substantially similar is the 1994 Mercedes-Benz S600. NCDL has submitted information indicating that Daimler-Benz A.G., the company that manufactured the 1994 Mercedes-Benz S600, certified that vehicle as conforming to all applicable Federal Motor vehicle safety standards and offered it for sale in the United States.

The petitioner contends that it carefully compared the 1994 Mercedes-Benz S600L to the 1994 Mercedes-Benz S600, and found the two models to be substantially similar with respect to compliance with most applicable Federal motor vehicle safety standards. The petitioner informed the agency that both vehicles are 4-door sedans, with the S600L having an extended wheel base.

NCDL submitted information with its petition intended to demonstrate that the 1994 Mercedes-Benz S600L, as originally manufactured, conforms to many Federal motor vehicle safety standards in the same manner as the 1994 Mercedes-Benz S600 that was offered for sale in the United States, or is capable of being readily altered to conform to those standards.

Specifically, the petitioner claims that the 1994 Mercedes-Benz S600L is identical to the certified 1994 Mercedes-Benz S600 with respect to compliance with Standards Nos. 102 *Transmission Shift Lever Sequence* * * *, 103 *Defrosting and Defogging Systems,* 104 *Windshield Wiping and Washing Systems,* 105 *Hydraulic Brake Systems,* 106 *Brake Hoses,* 109 *New Pneumatic Tires,* 113 *Hood Latch Systems,* 116 *Brake Fluid,* 124 *Accelerator Control Systems,* 125 *Warning Devices,* 129 *New Non-pneumatic Tires for Passenger Cars,* 135 *Passenger Car Brake Systems,* 201 *Occupant Protection in Interior Impact,* 202 *Head Restraints,* 204 *Steering Control Rearward Displacement,* 205 *Glazing Materials,* 206 *Door Locks and Door Retention Components,* 208 *Occupant Crash Protection,* 207 *Seating Systems,* 209 *Seat Belt Assemblies,* 210 *Seat Belt Assembly Anchorages,* 212 *Windshield Retention,* 216 *Roof Crush Resistance,* 219 *Windshield Zone Intrusion,* and 302 *Flammability of Interior Materials.*

Additionally, the petitioner states that the 1994 Mercedes-Benz S600L complies with the Bumper Standard found in 49 CFR Part 581.

Petitioner also contends that the vehicle is capable of being readily altered to meet the following standards, in the manner indicated:

Standard No. 101 *Controls and Displays*: (a) Substitution of a lens marked ''Brake'' for a lens with an ECE symbol on the brake failure indicator lamp; (b) installation of a seat belt warning lamp that displays the appropriate symbol; (c) recalibration of the speedometer/odometer for kilometers to miles per hour.

Standard No. 108 *Lamps, Reflective Devices and Associated Equipment*: (a) Installation of U.S.—model headlamp assemblies which incorporate sealed beam headlamps; (b) Installation of U.S.—model taillamp assemblies; (c) Installation of U.S.—model front and rear sidemarker/reflector assemblies; (d) Installation of a high mounted stop lamp.

Standard No. 110 *Tire Selection and Rims*: Installation of a tire information placard.

Standard No. 111 *Rearview Mirrors*: Modification of the passenger side rear view mirror.

Standard No. 114 *Theft Protection*: Installation of a buzzer microswitch in the steering lock assembly, and a warning buzzer.

Standard No. 118 *Power Window Systems*: Rewiring of the power window system so that the window transport is inoperative when the ignition is switched off.

Standard No. 214 *Side Impact Protection*: Installation of reinforced door beams.

Standard No. 301 *Fuel System Integrity*: Installation of a rollover valve in the fuel tank vent line.

Additionally, the petitioner states that a Vehicle Identification Number plate will be affixed to the vehicle to meet the requirements of 49 CFR Part 565.

Interested persons are invited to submit comments on the petition described above. Comments should refer to the docket number and be submitted to: Docket Section, National Highway Traffic Safety Administration, Room 5109, 400 Seventh Street, SW., Washington, DC 20590. It is requested but not required that 10 copies be submitted.

All comments received before the close of business on the closing date indicated above will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Notice of final action on the petition will be published in the **Federal Register** pursuant to the authority indicated below.

Authority: 49 U.S.C. 30141 (a)(1)(A) and (b)(1); 49 CFR 593.8; delegations of authority at 49 CFR 1.50 and 501.8.

Issued on: April 9, 1997.

Marilynne Jacobs,

Director, Office of Vehicle Safety Compliance.

[FR Doc. 97–10406 Filed 4–21–97; 8:45 am]

BILLING CODE 4910–59–M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. 97–028; Notice 1]

Cooper Tire & Rubber Company; Receipt of Application for Decision of Inconsequential Noncompliance

Cooper Tire & Rubber Company (Cooper) has determined that some of its tires fail to comply with the labeling requirements of 49 CFR 571.119, Federal Motor Vehicle Safety Standard (FMVSS) No. 119, ''New Pneumatic Tires for Vehicles Other Than Passenger Cars,'' and has filed an appropriate report pursuant to 49 CFR Part 573, ''Defect and Noncompliance Reports.'' Cooper has also applied to be exempted from the notification and remedy requirements of 49 U.S.C. Chapter 301—''Motor Vehicle Safety'' on the basis that the noncompliance is inconsequential to motor vehicle safety.

This notice of receipt of an application is published under 49 U.S.C. 30118 and 30120 and does not represent any agency decision or other exercise of judgment concerning the merits of the application.

Paragraphs S6.5(d)(j) of FMVSS No. 119, ''Tire markings,'' requires that tires be marked on each sidewall with the maximum load rating and corresponding inflation pressure of the tire and the letter designating the tire load range. The markings shall be placed between the maximum section width (exclusive of sidewall decorations or curb ribs) and the bead on at least one sidewall, unless the maximum section width of the tire is located in an area which is not more than one-fourth of the distance from the bead to the shoulder of the tire. If the maximum section width falls within that area, the markings shall appear between the bead and a point one-half the distance from the bead to the shoulder of the tire, on at least one sidewall.

Cooper's description of the noncompliance follows:

> Our [Cooper] Findlay, Ohio, tire manufacturing facility had one mold in production during the forty-seventh and forty-eighth production weeks of 1996 in which, on the serial side, there was an incorrect load and inflation plate for the tire being produced.
>
> The involved tires were the Dean Wildcat Radial LT 235/85R16, tubeless, outline white letters, 10 ply rating, and load range E.
>
> The incorrect plate read ''LOAD RANGE D MAX. LOAD SINGLE 1190 kg (2623 LBS) AT 450 kPa (65 P.S.I.) COLD (8 PLY RATING) MAX. LOAD DUAL 1080 kg (2381 LBS) AT 450 kPa (65 P.S.I.) COLD.'' The correct information should have been ''LOAD RANGE E MAX. LOAD SINGLE 1380 kg (3042 LBS) AT 550 kPa (80 P.S.I.) COLD (10 PLY RATING) MAX. LOAD DUAL 1260 kg (2778 LBS) AT 550 kPa (80 P.S.I.) COLD.
>
> The involved tires have the correct load and inflation information on the non-serial side which is the side with the outline white letters. In addition, each tire had a paper tread label affixed to it reflecting the correct load information as set forth on Attachment A. [Copy available in the National Highway Traffic Safety Administration Docket Section.]
>
> There were a total of five hundred fifty-three (553) tires produced with the incorrect load and inflation information on the non-serial side of the tire during the forty-seventh and forty-eighth production periods. Forty-eight (48) of the involved tires have been accounted for in Cooper's inventory, leaving five hundred five (505) tires not accounted for in Cooper's inventory.
>
> The involved tires produced from this mold during the aforementioned production periods comply with all other requirements of 49 CFR 571.

Cooper supported its application for inconsequential noncompliance with the following:

> We [Cooper] submit that the noncompliance with the standard established under 15 U.S.C. is inconsequential as it relates to motor vehicle safety because it is (i) correctly stated on the non-serial side and on the paper tread label and (ii) the incorrect load range and inflation information is within the design parameters of the tire and would not result in any overloading or overinflation of the involved tires.
>
> The forty-eight (48) tires in Cooper's inventory will be re-stamped with the correct load and inflation information.

Interested persons are invited to submit written data, views, and arguments on the application of Cooper, described above. Comments should refer to the docket number and be submitted to: Docket Section, National Highway Traffic Safety Administration, Room 5109, 400 Seventh Street, SW, Washington, D.C., 20590. It is requested but not required that six copies be submitted.

All comments received before the close of business on the closing date indicated below will be considered. The application and supporting materials, and all comments received after the closing date, will also be filed and will be considered to the extent possible.

When the application is granted or denied, the notice will be published in the **Federal Register** pursuant to the authority indicated below.

Comment closing date: May 22, 1997.

(49 U.S.C. 30118, 30120; delegations of authority at 49 CFR 1.50 and 501.8)

Issued on: April 17, 1997.

L. Robert Shelton,

Associate Administrator for Safety Performance Standards.

[FR Doc. 97–10404 Filed 4–21–97; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

[Notice No. 97–2]

Safety Advisory: Unauthorized Marking and Modification of Compressed Gas Cylinders

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

ACTION: Safety advisory notice.

SUMMARY: This is to notify the public that RSPA is investigating the unauthorized marking and modification of high-pressure compressed gas cylinders. On March 27, 1997, RSPA inspectors entered the premises of Browns Welding Supply. They observed numerous compressed gas cylinders and found a significant number marked with an expired Retester Identification Number (RIN) or unauthorized RIN. Based on those RIN markings and the inspectors' observations, RSPA believes that many of these cylinders may not have been retested in accordance with the Hazardous Materials Regulations (49 CFR Parts 171–180)(HMR).

Furthermore, the inspectors observed many cylinders that exhibited evidence of improper grinding. Unauthorized grinding can have a significant effect on a cylinder's minimum wall thickness, and therefore, its structural integrity. Unauthorized grinding can remove required markings and can be used to mask a cylinder's overall condition. Serious personal injury, death, and property damage could result from the rupture of a cylinder. Cylinders which have not been retested in accordance with the HMR may not be charged or filled with a hazardous material.

FOR FURTHER INFORMATION CONTACT: Anthony Smialek, Chief, Western Region, telephone (909) 483–5624, Fax—(909) 483–5636, Office of Hazardous Materials Enforcement, Research and Special Programs Administration, Department of Transportation, 3200 Inland Empire Boulevard, Suite 230, Ontario, CA 91764.

SUPPLEMENTARY INFORMATION: On Thursday, March 27, 1997, RSPA inspectors entered the premises of Browns Welding Supply located at 4165 State Street, Pomona, California 91766

and 14412 East Valley Boulevard, La Puente, California 91746. They observed a large number of cylinders that were marked with the following two RINs:

(1)

C 2

X Y

4 7

where

X = month of retest

Y = year of retest

On September 1, 1988, RSPA issued RIN C274 for a 5-year period to Coast Welding Supply in Oxnard, California. Coast Welding did not renew its RIN and is no longer in business. Thus, the RIN expired on September 1, 1993 and, after that date, persons are not authorized to mark any cylinders with that RIN. RSPA believes that any cylinder marked with RIN C274 between a test date of ''10 93'' or any later date is not in compliance with the HMR. Under the HMR, hydrostatic retesting is required to verify a cylinder's structural integrity. Thus, persons who have a cylinder marked with this RIN and a date after September 1, 1993 should not charge or fill the cylinder without first having the cylinder inspected/retested by a DOT-authorized retest facility.

(2)

A 3

X Y

7 3

where

X = month of retest

Y = year of retest

RIN A337 was issued to Altair/Ultratest, a Torrance, California cylinder filler/shipper that also retests and stamps its own cylinders. RSPA believes that persons, who were not authorized to use this RIN, marked an unknown number of cylinders with Altair/Ultratest's RIN, in violation of 49 CFR 173.34(e)(2). RSPA believes that many of these cylinders also bear ''UT'', plus (+) sign and five-pointed star (☆) markings indicating that the cylinders have been tested with ultrasonic equipment, can be filled to a pressure 10 percent in excess of cylinder's marked service pressure and qualify for a ten-year hydrostatic retest, respectively. Specifically with regard to the ''UT'' markings, Altair/Ultratest has indicated that it began ultrasonic testing after April 1995. Therefore, RSPA believes that any cylinder marked with RIN A337 earlier than ''4 95'' and bearing ''UT'' markings is not in compliance with the HMR and should not be charged or filled without first having the cylinder inspected/retested by a DOT-authorized retest facility. It is important to note, however, that other cylinders marked with RIN A337 and test dates after ''4 95'' with or without the ''UT'', ''+'' and (☆) markings may not be in compliance with the HMR.

RSPA also believes that an unknown number of cylinders bearing RINs C274 and A337 (and possibly others) had permanent markings (e.g. ICC/DOT-specifications, service pressures, original manufacturers' dates and Independent Inspection Agency (IIA) marks, and older hydrostatic test dates) ground off and were then restamped with more contemporary information before or after painting. The grinding may have included areas of corrosion or other imperfections which may have met the criteria for rejection on visual examination in accordance with 49 CFR 173.34(e)(3) and Compressed Gas Association Pamphlet C–6, Standards for Visual Inspection of Steel Compressed Gas Cylinders. Some cylinder neck collars, which generally indicate the cylinder owner, were also subjected to grinding and may be detected by a ''wavy'', irregular appearance. In some cases, the ground areas of cylinders may appear smoother to the touch when compared to untouched areas adjacent to them or these areas may reveal paint brush strokes which contrast to other untouched areas of the cylinder surface. This grinding may have a significant effect on the minimum wall thickness and, therefore, the overall integrity of the cylinder. In some cases, cylinders may have a ''putty-like'' substance applied to the area adjacent to the cylinder's valve. This substance may cover defects in the cylinder and prevent a complete visual inspection.

Should any evidence of unauthorized or improper grinding be found, the cylinder(s) may not be used until a DOT-authorized cylinder retest facility has reinspected and retested the cylinder(s) as required by 49 CFR 173.34(e). If a cylinder fails the reinspection and retest or the DOT-authorized cylinder retest facility cannot verify the markings on a cylinder, the cylinder must be condemned in accordance with 49 CFR 173.34(e)(6).

Filled cylinders (if filled with an atmospheric gas) described in this safety notice should be vented or otherwise properly and safely evacuated and purged, and taken to a DOT-authorized cylinder retest facility for visual reinspection and retest to determine compliance with the HMR.

Under no circumstances should a cylinder described in this safety notice be filled, refilled or used for any purpose other than scrap, absent reinspection and retest by a DOT-authorized retest facility.

Persons possessing cylinders described in this safety notice, and marked with RIN A337, can contact Altair/Ultratest to verify the cylinder's retest information and markings. Altair/Ultratest will require the cylinder's serial number and dimensions/size/capacity. Altair/Ultratest requests this information by fax (Fax Number: (310) 371–2162).

It is further recommended that persons finding or possessing cylinders described in this safety notice contact Anthony Smialek for further information and instructions.

Issued in Washington, DC on April 16, 1997.

Alan I. Roberts,

Associate Administrator for Hazardous Materials Safety.

[FR Doc. 97–10397 Filed 4–21–97; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Ex Parte No. 334 (Sub–No. 8)[1]]

Joint Petition for Rulemaking on Railroad Car Hire Compensation (Clarification of Association of American Railroad's Code of Car Hire Rules)

AGENCY: Surface Transportation Board.

ACTION: Notice of clarification.

SUMMARY: The Board clarifies that Rule 25, Car Hire Arbitration of the Association of American Railroads' Code of Car Hire Rules and Interpretations—Freight, may be amended as provided in part D of the rule, without prior Board approval, but subject to subsequent Board review on petition or on the Board's own initiative.

DATES: The decision is effective on April 22, 1997.

ADDRESSES: Send an original and 10 copies of pleadings referring to Ex Parte

[1] This notice also embraces Joint Petition for Exemption of Arbitration Rule from Application of 49 U.S.C. 10706 and Motion to Dismiss, Ex Parte No. 334 (Sub-No. 8A).

No. 334 (Sub-No. 8) to: Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, N.W., Washington, DC 20423–0001. In addition, send one copy of all documents to: (1) Petitioners' representatives, Daniel Saphire, Association of American Railroads, 50 F Street, N.W., Washington, DC 20001 and Alice Saylor, American Short Line Railroad Association, 1120 G Street, N.W., Washington, DC 20005; and (2) Representative for The Greenbrier Companies, Karl Morell, Ball, Janik LLP, 1455 F Street, N.W., Washington, DC 20005.

FOR FURTHER INFORMATION CONTACT: Beryl Gordon, (202) 565–1600. [TDD for the hearing impaired: (202) 565–1695).]

SUPPLEMENTARY INFORMATION: Additional information is contained in the Board's decision. To purchase a copy of the full decision, write to, call, or pick up in person from: DC NEWS & DATA, INC., 1925 K Street, N.W., Suite 210, Washington, DC 20006. Telephone: (202) 289–4357. [TDD for the hearing impaired: (202) 565–1695.]

Decided: April 9, 1997.

By the Board, Chairman Morgan and Vice Chairman Owen.

Vernon A. Williams,

Secretary.

[FR Doc. 97–10236 Filed 4–21–97; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB–55 (Sub–No. 546X)]

CSX Transportation, Inc.—Discontinuance of Trackage Rights Exemption—in Marion Country, IN

CSX Transportation, Inc. (CSXT) has filed a notice of exemption under 49 CFR 1152 Subpart F—Exempt Abandonments and Discontinuances of Trackage Rights to discontinue trackage rights over approximately 13.50 miles of Consolidated Rail Corporation's (Conrail) Indianapolis Belt Running Track, between milepost 0.0 at North Indianapolis and milepost 13.5 at Conrail's Indianapolis Belt Running Track's connection with the former Norfolk and Western Railway Company, in Marion County, IN.

CSXT has certified that: (1) no local traffic has moved over the line for at least 2 years; (2) there is no overhead traffic on the line; (3) no formal complaint filed by a user of rail service on the line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Surface Transportation Board (Board) or with any U.S. District Court or has been decided in favor of complainant within the 2-year period; and (4) the requirements at 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the abandonment shall be protected under Oregon Short Line R. Co—Abandonment—Coshen, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on May 22, 1997,[1] unless stayed pending reconsideration. Petitions to stay and formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),[2] must be filed by May 2, 1997. Petitions to reopen must be filed by May 12, 1997, with: Office of the Secretary, Case Control Unit, Surface Transportation Board, 1925 K Street, N.W., Washington, DC 20423.

A copy of any petition filed with the Board should be sent to applicant's representative: Charles M. Rosenberger, Senior Counsel, CSX Transportation, Inc., 500 Water Street J150, Jacksonville, FL 32202.

If the verified notice contains false or misleading information, the exemption is void *ab initio*.

Pursuant to the provisions of 49 CFR 1152.29(e)(2), CSXT shall file a notice of consumption with the Board to signify that it has exercise the authority granted and discontinued service over the line. If consummation has not been effected by CSXT's filing of a notice of consummation by April 22, 1998, and there are no legal or regulatory barriers to consummation, the authority to discontinue will automatically expire.

Decided: April 15, 1997.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 97–10234 Filed 4–21–97; 8:45 am]

BILLING CODE 4910–00–P–M

[1] Because this is a discontinuance proceeding and not an abandonment, trail use/railbanking and public use conditions are not appropriate. Likewise, no environmental or historical documentation is required here under 49 CFR 1105.6(c)(6).

[2] Each offer of financial assistance must be accompanied by the filing fee, which currently is set at $900. See 49 CFR 1002.2(f)(25).

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB–55 (Sub-No. 537X)]

CSX Transportation, Inc.—Abandonment Exemption—in Alachua County, FL

AGENCY: Surface Transportation Board.

ACTION: Notice of exemption.

SUMMARY: The Board, under 49 U.S.C. 10502, exempts from the prior approval requirements of 49 U.S.C. 10903 the abandonment by CSX Transportation, Inc., of a 2.87-mile portion of its Jacksonville Service Lane, Deerhaven Subdivision, extending between milepost 738.65 at 23rd Avenue, NW., in Gainesville and milepost 741.52 at the end of the track, in Alachua County, FL, subject to labor protective conditions, a trail use condition, and a public use condition.

DATES: Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on May 22, 1997. Formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2) and additional requests for interim trail use/rail banking under 49 CFR 1152.29 must be filed by May 2, 1997; petitions to stay must be filed by May 7, 1997; and petitions to reopen must be filed by May 19, 1997.

ADDRESSES: Send pleadings referring to STB Docket No. AB–55 (Sub-No. 537X) to: (1) Office of the Secretary, Case Control Unit, Surface Transportation Board, 1925 K Street, NW., Washington, DC 20423–0001; and (2) Charles M. Rosenberger, CSX Transportation, Inc., 500 Water Street, Jacksonville, FL 32202.

FOR FURTHER INFORMATION CONTACT: Joseph H. Dettmar, (202) 565–1600. [TDD for the hearing impaired: (202) 565–1695.]

SUPPLEMENTARY INFORMATION: Additional information is contained in the Board's decision. To purchase a copy of the full decision, write to, call, or pick up in person from: DC News & Data, Inc., 1925 K Street, NW., Suite 210, Washington, DC 20006. Telephone: (202) 289–4357. [Assistance for the hearing impaired is available through TDD services (202) 565–1695.]

Decided: April 15, 1997.

By the Board, Chairman Morgan and Vice Chairman Owen.

Vernon A. Williams,

Secretary.

[FR Doc. 97–10396 Filed 4–21–97; 8:45 am]

BILLING CODE 4910–00–M

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

Submission for OMB Review; 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 a proposed information collection, as required by the Paperwork Reduction Act of 1995. Currently, the OCC is soliciting comments concerning an information collection titled Year 2000 Assessment.

DATES: Written comments should be submitted by May 9, 1997.

ADDRESSES: Direct all written comments to the Communications Division, Attention: 1557–YR2K, 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 may be sent to Jessie Gates or Dionne Walsh, (202) 874–5090, Legislative and Regulatory Activities Division (1557–YR2K), Office of the Comptroller of the Currency, 250 E Street, SW, Washington, DC 20219.

SUPPLEMENTARY INFORMATION: The OCC has submitted the Year 2000 Assessment to OMB under the emergency processing procedures in 5 CFR 1320.13. Further, the OCC has requested OMB action by May 9, 1997.

Title: Year 2000 Assessment.
OMB Number: 1557–YR2K.
Form Number: N/A.
Abstract: The turn of the century will present significant problems for users of automated systems, unless timely corrective action is taken. Financial institutions, due to the reliance on computer based processing systems, face critical challenges in addressing what is now known as the Year 2000 problem. Experts agree that the Year 2000 problem represents one of the largest and most costly project management efforts that have been undertaken.

The OCC and the other federal banking agencies alerted the industry to Year 2000 issues in June, 1996 and are currently working on updated guidance which they expect to issue shortly. The OCC has begun comprehensive examinations of national bank Year 2000 preparedness. As a part of this effort, the OCC is seeking to obtain a current, accurate and uniform system-wide assessment of each bank's Year 2000 efforts. We will use the information gleaned from this assessment to identify institutions needing priority attention and will schedule those institutions for early examination.

To complete the Year 2000 assessment, examiners will ask bank management questions similar to those that follow. The OCC may develop additional questions to facilitate its assessment of national bank Year 2000 preparations as the process continues.

Year 2000 Assessment

Overall Plan

1. Does the institution have a year 2000 process including: recognition of the problem, inventory of systems, remediation of systems, testing, and implementation?
2. Has the institution completed an inventory to determine Year 2000 impact?
3. Has the institution prioritized internally and externally maintained systems (hardware, software, operating, ATM's HVAC, elevators, vaults, etc.), including those supplied by hardware and software vendors?

Resource Implications

4. Has the institution established a budget for the Year 2000 effort?
5. Has the institution determined whether they have resources (hardware, people, etc.) sufficient to achieve Year 2000 processing capabilities?

Sponsorship/Monitoring

6. Has the institution assigned overall responsibility for the Year 2000 effort to a senior manager?
7. Have the institution established project target dates and deliverables for the Year 2000 effort?
8. Does the process include a regular reporting to and monitoring by senior management?
9. Does the institution's plan call for all critical systems to meet Year 2000 processing requirements no later than December 31, 1998?
10. Has the institution developed a testing strategy for the Year 2000 effort?
11. For remediated systems, did the testing results meet management's expectations?

Type of Review: New collection.
Affected Public: Businesses or other for-profit.
Number of Respondents: 2,800.
Total Annual Responses: 2,800.
Frequency of Response: Occasional.
Total Annual Burden Hours: 700.

Comments

Comments submitted in response to this notice will be considered in developing the final version of the Year 2000 Assessment. 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: April 17, 1997.

Karen Solomon,

Director, Legislative and Regulatory Activities Division.

[FR Doc. 97–10402 Filed 4–17–97; 2:47 pm]

BILLING CODE 4810–33–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 8582

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 8582, Passive Activity Loss Limitations.

DATES: Written comments should be received on or before June 23, 1997 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue

Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Martha R. Brinson, (202) 622–3869, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Passive Activity Loss Limitations.

OMB Number: 1545–1008.

Form Number: 8582.

Abstract: Under Internal Revenue Code section 469, losses from passive activities, to the extent that they exceed income from passive activities, cannot be deducted against nonpassive income. Form 8582 is used to figure the passive activity loss allowed and the loss to be reported on the tax return.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations, individuals, and farms.

Estimated Number of Responses: 4,500,000.

Estimated Time Per Response: 4 hr., 48 min.

Estimated Total Annual Burden Hours: 21,615,000.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: April 11, 1997.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 97–10255 Filed 4–21–97; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 5452

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 5452, Corporate Report of Nondividend Distributions.

DATES: Written comments should be received on or before June 23, 1997 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Martha R. Brinson, (202) 622–3869, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Corporate Report of Nondividend Distributions.

OMB Number: 1545–0205.

Form Number: 5452.

Abstract: Form 5452 is used by corporations to report their nontaxable distributions as required by Internal Revenue Code section 6042(d)(2). The information is used by IRS to verify that the distributions are nontaxable as claimed.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations and farms.

Estimated Number of Responses: 1,700.

Estimated Time Per Response: 25 hr., 18 min.

Estimated Total Annual Burden Hours: 43,010.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax 3 returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: April 11, 1997.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 97–10256 Filed 4–21–97; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 5213

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 5213, Election to Postpone Determination as To Whether the Presumption Applies That an Activity Is Engaged in for Profit.

DATES: Written comments should be received on or before June 23, 1997 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Martha R. Brinson, (202) 622–3869, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Election to Postpone Determination as To Whether the Presumption Applies That an Activity Is Engaged in for Profit.

OMB Number: 1545–0195.

Form Number: 5213.

Abstract: Section 183 of the Internal Revenue Code allows taxpayers to elect to postpone a determination as to whether an activity is entered into for profit or is in the nature of a non-deductible hobby. The election is made on Form 5213 and allows taxpayers 5 years (7 years for breeding, training, showing, or racing horses) to show a profit from an activity.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations and individuals.

Estimated Number of Responses: 10,730.

Estimated Time Per Response: 42 min.

Estimated Total Annual Burden Hours: 7,511.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: April 14, 1997.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 97–10257 Filed 4–21–97; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 1099–G

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 1099–G, Certain Government and Qualified State Tuition Program Payments.

DATES: Written comments should be received on or before June 23, 1997 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Martha R. Brinson, (202) 622–3869, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Certain Government and Qualified State Tuition Program Payments.

OMB Number: 1545–0120.

Form Number: 1099–G.

Abstract: Form 1099–G is used to report government payments such as unemployment compensation, state and local income tax refunds, credits, or offsets, discharges of indebtedness by the Federal Government, taxable grants, subsidy payments from the Department of Agriculture, and qualified state tuition program payments.

Current Actions: The title of Form 1099–G has been changed from ''Certain Government Payments'' to ''Certain Government and Qualified State Tuition Program Payments''. Also, Box 5 of the form will be used to report taxable qualified state tuition program payments.

Type of Review: Revision of a currently approved collection.

Affected Public: Federal, state, local or tribal governments.

Estimated Number of Responses: 58,631,638.

Estimated Time Per Response: 12 min.

Estimated Total Annual Burden Hours: 11,726,328.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the

agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: April 16, 1997.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 97–10258 Filed 4–21–97; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Renewable Electricity Production Credit, Publication of Inflation Adjustment Factor and Reference Prices for Calendar Year 1997

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Publication of inflation adjustment factor and reference prices for calendar year 1997 as required by section 45(d)(2)(A) (26 U.S.C. 45(d)(2)(A)).

SUMMARY: The 1997 inflation adjustment factor and reference prices are used in determining the availability of the renewable electricity production credit under section 45(a).

DATES: The 1997 inflation adjustment factor and reference prices apply to calendar year 1997 sales of kilowatt hours of electricity produced in the United States or a possession thereof from qualified energy resources.

Inflation Adjustment Factor

The inflation adjustment factor for calendar year 1997 is 1.0970.

Reference Prices

The reference prices for calendar year 1997 are 6.4¢ per kilowatt hour for facilities producing electricity from wind and 0¢ per kilowatt hour for facilities producing electricity from closed-loop biomass. The reference price for electricity produced from closed-loop biomass, as defined in section 45(c)(2), is based on a determination under section 45(d)(2)(C) that in calendar year 1996 there were no sales of electricity generated from closed-loop biomass energy resources under contracts entered into after December 31, 1989.

Because the 1997 reference prices for electricity produced from wind and closed-loop biomass energy resources do not exceed 8¢ multiplied by the inflation adjustment factor, the phaseout of the credit provided in section 45(b)(1) does not apply to electricity sold during calendar year 1997.

Credit Amount

As required by section 45(b)(2), the 1.5¢ amount in section 45(a)(1) is adjusted by multiplying such amount by the inflation adjustment factor for the calendar year in which the sale occurs. If any amount as increased under the preceding sentence is not a multiple of 0.1¢, such amount is rounded to the nearest multiple of 0.1¢. Under the calculation required by section 45(b)(2), the renewable electricity production credit for calendar year 1997 under section 45(a) is 1.6¢ per kilowatt hour on the sale of electricity produced from closed-loop biomass and wind energy resources.

FOR FURTHER INFORMATION CONTACT: David A. Selig, IRS, CC:DOM:P&SI:5, 1111 Constitution Ave., NW., Washington, D.C. 20224, (202) 622–3040 (not a toll-free call).

Judith C. Dunn,

Associate Chief Counsel (Domestic).

[FR Doc. 97–10412 Filed 4–21–97; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[Delegation Order No. 221 (Rev. 2)]

Delegation of Authority

AGENCY: Internal Revenue Service.

ACTION: Delegation of authority.

SUMMARY: Applications for extensions of time to file Forms W–2, W–2G, 1042–S, 1098, 1099, 5498, and 8027 on paper forms will now be sent to the Martinsburg Computing Center and approved by magnetic media specialists. Also, applications for extensions of time to furnish recipient copies of these information returns will be sent to the Martinsburg Computing Center and approved by magnetic media specialists. The text of the delegation order appears below.

EFFECTIVE DATE: April 4, 1997.

FOR FURTHER INFORMATION CONTACT: Donna Phillips, IS:N:M:P:I, P.O. Box 1208, Martinsburg, WV 25401, 304–263–8700 (not a toll free number).

Delegation Order No. 221 (Rev. 2)

Effective: April 4, 1997.

Authority To Grant an Extension or a Waiver of Certain Magnetic Media Reporting Requirements

Authority: To grant extensions of time to file Form W–2 and Tax Statement; Form W–2G, Certain Gambling Winnings; Form 1042–S, Foreign Person's U.S. Source Income Subject to Withholding; Form 1098, Mortgage Interest Statement; Form 1099 series, Information Returns; Form 5498, Individual Retirement Arrangement Information; and Form 8027, Employer's Annual Information Return of Tip Income and Allocated Tips; and to grant waivers of the magnetic media reporting requirements for these information returns. This authority can only be exercised when the taxpayer has provided prescribed written documentation containing the reason for the request and it is sufficient to warrant the approval of an extension or a waiver of the magnetic media filing requirements.

Authority: To grant extensions of time to furnish the statements to recipients (recipient copies of the forms described in above). This authority can only be exercised in situations when the taxpayer has provided written documentation containing the reason for the request and it is sufficient to warrant the approval of an extension.

Delegated to: Magnetic Media Specialists at the Martinsburg Computing Center.

Redelegation: These authorities may not be redelegated.

Authority: 26 CFR 1.6081–1, 26 CFR 301.7701–9, 26 CFR 301.6011–2, 26 CFR 1.6042–4(c)(2), 26 CFR 1.6044–5(c)(2), 26 CFR 1.6049–3(c)(2), 26 CFR 1.6050E–1(1)(2), 26 CFR 1.6050J–1T (Q/A–42), 26 CFR 31.6051–1(d)(2), 26 CFR 1.6052–2(c)(2), and Treasury Order 150–10.

To the extent that authority previously exercised consistent with this order may require ratification, it is hereby approved and ratified. This order supersedes Delegation Order No. 221 (Rev. 1), effective July 20, 1994.

Dated: April 4, 1997.

Toni L. Zimmerman,

Acting Chief Information Officer IS.

[FR Doc. 97–10411 Filed 4–21–97; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[Delegation Order No. 226]

Delegation of Authority

AGENCY: Internal Revenue Service

ACTION: Revocation of delegation of authority.

SUMMARY: Delegation Order No. 226 is revoked because requests for extensions of time to file Form 1042, Annual Withholding Tax Return for U.S. Source Income of Foreign Persons, will no longer be processed by Martinsburg Computing Center. These requests will be sent on Form 2758, Application for Extension of Time to File Certain Excise, Income, Information, and other Returns, to the Philadelphia Service Center. The text of the delegation order appears below.

EFFECTIVE DATE: April 4, 1997.

FOR FURTHER INFORMATION CONTACT: Donna Phillips, IS:N:M:P:I, P.O. Box 1208, Martinsburg, WV 25401, 304–263–8700 (not a toll-free number).

Order No. 226.

Effective: April 4, 1997.

Authority to Extend the Time to File Form 1042: (Revoked)

1. Pursuant to the authority vested in the Commissioner of the Internal Revenue by 26 CFR 1.6081–1, 301.7701–9 and 301.6011–2, there is hereby delegated to the Director, Martinsburg Computer Center, the authority to grant extensions of time to file Form 1042, Annual Withholding Tax Return for U.S. Source Income of Foreign Persons, only when also approving extensions to file associated Forms 1042S on magnetic tape.

2. This authority may be redelegated no lower than Magnetic Media Specialists.

Dated: April 4, 1997.

Toni L. Zimmerman,

Acting Chief Information Officer IS.

[FR Doc. 97–10410 Filed 4–21–97; 8:45 am]

BILLING CODE 4830–01–U

UNITED STATES INFORMATION AGENCY

Culturally Significant Objects Imported for Exhibition; Determinations

Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985. 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978 (43 F.R. 13359, March 29, 1978), and Delegation Order No. 85–5 of June 27, 1985 (50 F.R. 27393, July 2, 1985), I hereby determine that the objects to be included in the exhibit, ''The Spirt of Ancient Peru: Treasures from the Museo Archeologico Raphael Larco Herrera'' (See list [1]), imported from abroad for the temporary exhibition without profit within the United States are of cultural significance. These objects are imported pursuant to a loan agreement with the foreign lenders. I also determine that the exhibition or display of the listed exhibit objects at the Fine Arts Museums of San Francisco, San Francisco, California from on or about May 17, 1997 to on or about August 10, 1997, and at the Knoxville Museum of Art, Knoxville, Tennessee, September 27, 1997 to on or about January 4, 1998, is in the national interest. Public Notice of these determinations is ordered to be published in the **Federal Register**.

Dated: April 16, 1997.

Les Jin,

General Counsel.

[FR Doc. 97–10307 Filed 4–21–97; 8:45 am]

BILLING CODE 8230–01–M

[1] A copy of this list may be obtained by contacting Ms. Carol B. Epstein, Assistant General Counsel, at 202/619–6981, and the address is Room 700, U.S. Information Agency, 301 Fourth Street, S.W., Washington, D.C. 20547–0001.

Corrections

Federal Register

Vol. 62, No. 77

Tuesday, April 22, 1997

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 961203339-7063-02;I.D. 111896B]
RIN 0648-AI88

Fisheries of the Exclusive Economic Zone Off Alaska; Scallop Fishery Off Alaska; Scallop Vessel Moratorium

Correction

In final rule document 97–9433 beginning on page 17749 in the issue of Friday, April 11, 1997 make the following correction:

On page 17749, in the third column, in the last line, remove ''17750''.

BILLING CODE 1505-01-D

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA 94–2–7235; FRL–5810–7]

Approval and Promulgation of State Implementation Plans; California–South Coast

Correction

In proposed rule document 97–9581, beginning on page 18071, in the issue of Monday, April 14, 1997, make the following correction;

On page 18071, in the second column, in the **DATES:** section, ''May 14, 1994'' should read ''May 14, 1997''.

BILLING CODE 1505-01-D

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD 97-008]

Agency Information Collection Activities Under OMB Review

Correction

In notice document 97–5069 beginning on page 9478 in the issue of Monday, March 3, 1997 make the following correction:

On page 9478, in the second column, in the **DATES** section, ''April 2, 1997'' should read ''May 2, 1997''.

BILLING CODE 1505-01-D

federal register

Tuesday
April 22, 1997

Part II

The President

Proclamation 6991—National Day of Prayer, 1997

Executive Order 13044—Amending Executive Order 12752, Implementation of the Agricultural Trade Development and Assistance Act of 1954, as Amended, and the Food for Progress Act of 1985, as Amended

Federal Register
Vol. 62, No. 77
Tuesday, April 22, 1997

Presidential Documents

Title 3—

The President

Proclamation 6991 of April 18, 1997

National Day of Prayer, 1997

By the President of the United States of America

A Proclamation

America was born out of intense conflict as our forefathers fought the forces of oppression and tyranny. From our earliest history, Americans have always looked to God for strength and encouragement in those moments when darkness seemed to encroach from every side. Our people have always believed in the power of prayer and have called upon the name of the Lord through times of peace and war, hope and despair, prosperity and decline.

In his first inaugural address, during the rush of optimism that followed the Colonies' uplifting victory in the American Revolution, George Washington observed that ''it would be peculiarly improper to omit, in this first official act my fervent supplications to that Almighty Being who rules over the universe.'' Amid the bleak turmoil of the Civil War, Abraham Lincoln conveyed similar sentiments by calling Americans to ''a firm reliance on Him who has never yet forsaken this favored land.'' Almost a century later, Harry Truman emphasized the need for God's help in making decisions: ''when we are striving to strengthen the foundation of peace and security we stand in special need of divine support.''

Indeed, the familiar phrase ''In God we trust,'' which has been our national motto for more than 40 years and which first appeared on our coinage during the Civil War, is a fitting testimony to the prayers offered up by American women and men through the centuries. Today within our Nation's Capitol Building, a stained glass window depicts General Washington humbly kneeling and repeating the words of the 16th Psalm, ''Preserve me, O God, for in Thee do I put my trust.''

As we face the last years of the 20th century, let us uphold the tradition of observing a day in which every American, in his or her own way, may come before God seeking increased peace, guidance, and wisdom for the challenges ahead. Even as we continue to work toward hopeful solutions, may our national resolve be matched by a firm reliance on the Author of our lives—for truly it is in God that we trust.

The Congress, by Public Law 100-307, has called our citizens to reaffirm annually our dependence on Almighty God by recognizing a ''National Day of Prayer.''

NOW, THEREFORE, I, WILLIAM J. CLINTON, President of the United States of America, do hereby proclaim May 1, 1997, as a National Day of Prayer. As in previous years, let us once again celebrate this day in the tradition of our Founders by humbly asking for divine help in maintaining the courage, determination, faith, and vigilance so necessary to our continued advancement as a people. On this National Day of Prayer, may all Americans come together to reaffirm our reliance upon our Creator, and, in the words of Franklin Roosevelt, to ''pray to Him now for the vision to see our way clearly.''

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

William J. Clinton

[FR Doc. 97–10604
Filed 4–21–97; 11:16 am]
Billing code 3195–01–P

Presidential Documents

Executive Order 13044 of April 18, 1997

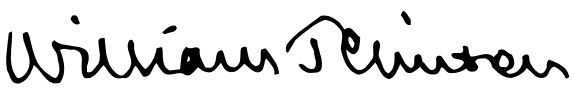
Amending Executive Order 12752, Implementation of the Agricultural Trade Development and Assistance Act of 1954, as Amended, and the Food for Progress Act of 1985, as Amended

By the authority vested in me as President by the Constitution and the laws of the United States of America, and in order to provide for carrying out the provisions of the Agricultural Trade Development and Assistance Act of 1954, as amended by Public Law 101-624 (7 U.S.C. 1691 *et seq.*), it is hereby ordered that:

1) The first sentence of section 1(a) of Executive Order 12752 be amended by deleting the words ''developing countries'' and inserting the words ''developing countries and private entities'' in lieu thereof;

2) Sections 4(a) and (c) be deleted; and

3) Sections 4(b), (d), (e), (f), and (g) be renumbered as sections 4(a), (b), (c), (d), and (e), respectively.



THE WHITE HOUSE,
April 18, 1997.

[FR Doc. 97–10605
Filed 4–21–97; 11:17 am]
Billing code 3195–01–P

Reader Aids

Federal Register

Vol. 62, No. 77

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CUSTOMER SERVICE AND INFORMATION

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The United States Government Manual **523–5227**

Other Services

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

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

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WHERE: Glenn M. Anderson Federal Building
501 W. Ocean Blvd.
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Long Beach, CA 90802

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WHEN: May 21, 1997 at 9:00 am to 12:00 noon

WHERE: Phillip Burton Federal Building and Courthouse
450 Golden Gate Avenue
San Francisco, CA 94102

Anchorage, AK

WHEN: May 23, 1997 at 9:00 am to 12:00 noon

WHERE: Federal Building and U.S. Courthouse
222 West 7th Avenue
Executive Dining Room (Inside Cafeteria)
Anchorage, AK 99513

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WHEN: May 21, 1997 at 9:00 am to 12:00 noon

WHERE: Phillip Burton Federal Building and Courthouse
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San Francisco, CA 94102

Anchorage, AK

WHEN: May 23, 1997 at 9:00 am to 12:00 noon

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