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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 959

[Docket No. FV97–959–1 FIR]

Onions Grown in South Texas; Amendment of Sunday Packing and Loading Prohibitions

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: The Department of Agriculture (Department) is adopting as a final rule, with change an interim final rule which removed the restriction prohibiting handlers from packaging and loading onions on Sunday. The order regulates the handling of onions grown in South Texas and is administered locally by the South Texas Onion Committee (Committee). The Committee unanimously recommended removing the prohibition to increase supplies of South Texas onions in the marketplace. Heavy rainfall in the production area during late March and most of April prevented handlers from packing and loading enough onions to meet buyer needs. Removing the prohibition provided handlers additional time to prepare onions for market and meet buyer needs. This rule also changes an erroneous regulatory period ending date which appeared in the interim final rule.

EFFECTIVE DATE: August 18, 1997.

FOR FURTHER INFORMATION CONTACT: Belinda G. Garza, Regional Manager, McAllen Marketing Field Office, Marketing Order Administration Branch, F&V, AMS, USDA, 1313 E. Hackberry, McAllen, Texas 78501; telephone: (210) 682–2833, Fax: (210) 682–5942; or George J. Kelhart, Technical Advisor, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, room 2525–S, P.O. Box 96456, Washington, DC 20090–6456; telephone: (202) 690–3919; Fax: (202) 720–5698. Small businesses may request information on compliance with this regulation by contacting Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, room 2525–S, P.O. Box 96456, Washington, DC 20090–6456; telephone: (202) 720–2491; Fax: (202) 720–5698.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement No. 143 and Order No. 959, both as amended (7 CFR part 959), regulating the handling of onions grown in South Texas, hereinafter referred to as the ''order.'' The marketing agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act.''

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

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

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

Due to record amounts of rainfall during late March and most of April 1997, South Texas growers had difficulty harvesting their onions. Normally, 1½ to 2 million 50-lb. equivalents of onions are shipped by April 15, but this year only approximately ½ million were shipped by that date.

Section 959.322 of the order prohibits the packaging and loading of onions on Sundays during the March 1 through May 20 period each season. This restriction was implemented to contribute to orderly marketing conditions. However, the industry indicated that, since the advent of the heavy rains, all onions had to be dried in mechanical dryers prior to packing. This disrupted the normal pattern of harvesting, packing, and loading. Growers could not harvest more onions until the dryers were emptied, and dryers could not be emptied until the dried onions could be packed and shipped. Thus, the Sunday packing and loading restrictions had placed an undue hardship on growers and handlers. There was a need to pack and ship each day of the week.

The Committee met on April 16, 1997, and, by telephone vote, unanimously recommended revising the current handling regulation to remove the restriction on packing and loading onions on Sundays for the remainder of the 1997 shipping season. That recommendation was intended to provide handlers with greater flexibility and additional time to prepare the onions for market.

If this recommendation had not been implemented, crop losses would have been significant. In addition, the cessation in harvesting activity would have resulted in increased unemployment among onion field workers and employees at handlers' facilities. Finally, reduced supplies would likely have resulted in consumers paying higher prices for South Texas onions.

Thus, in the interest of growers, handlers, and consumers, the interim final rule relaxed requirements by modifying language in the order's handling regulation, as authorized by § 959.52 of the order, to allow Sunday packing and loading of onions during the period April 20, 1997, through May 20, 1997. This final rule finalizes that action. In 1998, Sunday packing and loading prohibitions will again apply to handlers marketing South Texas onions during the period March 1, 1998, through May 20, 1998.

This final rule also corrects the June 15 ending date in the first sentence of

§ 959.322. The correct date is ''June 4'', and the first sentence of § 959.322 is changed accordingly.

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

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

There are 36 handlers of South Texas onions who are subject to regulation under the order and approximately 60 producers in the regulated area. Small agricultural service firms, which includes handlers, have been defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts of less than $5,000,000. Small agricultural producers are defined as those having annual receipts of less than $500,000. The majority of handlers and producers of South Texas onions may be classified as small entities.

Committee meetings are widely publicized in advance and are held in a location central to the production area. The meetings are open to all industry members (including small business entities) and other interested persons—who are encouraged to participate in the deliberations and voice their opinions on topics under discussion. Thus, Committee recommendations can be considered to represent the interests of small business entities in the industry.

Many years of marketing experience led to the development of the current shipping and packing procedures. These procedures have helped the industry address marketing problems by keeping supplies and movement of packed onions in balance with market needs, and strengthening market conditions. However, the heavy rains in late March and most of April 1997, disrupted the normal pattern of harvesting, packing, and loading. All onions had to be dried in mechanical dryers prior to packing. Growers could not harvest more onions until the dryers had been emptied, and the dryers could not be emptied until the dried onions could be packed and shipped. Thus, the Sunday packing and loading prohibition placed an undue burden on South Texas onion growers and packers.

The Committee considered not relaxing the regulation for the remainder of the season, but felt that would result in significant crop losses. The Committee also felt that a cessation in harvesting activity would result in increased unemployment among onion field workers and employees at handlers' facilities. In addition, the Committee believed that reduced supplies would likely have resulted in consumers paying higher prices for these onions.

While the level of benefits of the interim final rule are difficult to quantify, the stabilizing effects of the relaxation in the packing and loading regulation impacted both small and large onion handlers positively by helping them maintain markets in the phase of adverse harvesting and packing conditions in 1997.

There are some reporting, recordkeeping, and other compliance requirements under the marketing order. The reporting and recordkeeping burdens are necessary for compliance purposes and for developing statistical data for maintenance of the program. The forms require information which is readily available from handler records and which can be provided without data processing equipment or trained statistical staff. As with other similar marketing order programs, reports and forms are periodically reviewed to reduce or eliminate duplicate information collection burdens by industry and public sector agencies. This final rule does not change those requirements.

The Department has not identified any relevant Federal rules that duplicate, overlap, or conflict with this regulation.

An interim final rule regarding this action was issued by the Department on April 18, 1997, and published in the **Federal Register** (62 FR 19667, April 23, 1997), with an effective date of April 19, 1997. That rule provided a 30-day comment period which ended May 23, 1997. No comments were received. However, as stated earlier, the interim final rule, contained an erroneous regulatory period ending date and this document changes it.

After consideration of all relevant material presented, including the Committee's recommendation, and other information, it is found that finalizing the interim final rule, with change, will tend to effectuate the declared policy of the Act.

List of Subjects in 7 CFR Part 959

Marketing agreements, Onions, Reporting and recordkeeping requirements.

Accordingly, the interim final rule amending 7 CFR part 959 which was published at 62 FR 19667 on April 23, 1997, is adopted as a final rule with the following change:

PART 959—ONIONS GROWN IN SOUTH TEXAS

1. The authority citation for 7 CFR part 959 continues to read as follows:

Authority: 7 U.S.C. 601–674.

§ 959.322 [Amended]

2. Section 959.322, introductory text, is amended by removing the date ''June 15,'' in the first sentence and adding the date ''June 4,'' in its place.

* * * * *

Dated: July 11, 1997.

Sharon Bomer Lauritsen,

Acting Director, Fruit and Vegetable Division.

[FR Doc. 97–18820 Filed 7–16–97; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–NM–122–AD; Amendment 39–10083; AD 97–15–09]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 757 and 767 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to all Boeing Model 757 and 767 series airplanes. This action requires repetitive inspections to detect damage and to verify proper configuration of the battery ground terminations of the auxiliary power unit (APU) at the battery and connected structure; and removal, replacement, and repair of the battery ground termination, if necessary. This amendment is prompted by reports of smoke or fire coming from the APU due to battery grounds that were not installed/maintained properly. The actions specified in this AD are intended to detect and correct such APU battery grounds, which could result in heat damage and consequent smoke/fire on the airplane.

DATES: Effective August 1, 1997.

Comments for inclusion in the Rules Docket must be received on or before September 15, 1997.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 97–NM–122–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Information concerning this amendment may be obtained from or examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Forrest Keller, Senior Aerospace Engineer, Systems and Equipment Branch, ANM–130S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington; telephone (425) 227–2790; fax (425) 227–1181.

SUPPLEMENTARY INFORMATION: The FAA has received several reports of smoke or fire that originated in areas adjacent to the auxiliary power unit (APU) battery grounds on Boeing Model 757 and 767 series airplanes. Investigation revealed that APU battery grounds were not installed/maintained properly on these airplanes. In addition, the existing design of the battery ground (i.e., single lug) is prone to overheating when installed improperly. Such improper installation/maintenance, if not corrected, could result in heat damage to the battery ground of the APU and consequent smoke/fire on the airplane.

Explanation of the Requirements of the Rule

Since an unsafe condition has been identified that is likely to exist or develop on other Boeing Model 757 and 767 series airplanes of the same type design, this AD is being issued to detect and correct improperly installed/maintained APU battery grounds, which could result in heat damage and consequent smoke/fire on the airplane. This AD requires repetitive detailed visual inspections to detect damage and to verify proper configuration of the battery ground terminations of the APU at the battery and connected structure; and removal, replacement, and repair of the battery ground termination, if necessary.

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 concern 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–122–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, 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:

97–15–09 Boeing: Amendment 39–10083. Docket 97–NM–122–AD.

Applicability: All Model 757 and 767 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 detect and correct improperly installed/maintained auxiliary power unit (APU) battery grounds, which could result in heat damage and consequent smoke/fire on the airplane, accomplish the following:

(a) Within 90 days after the effective date of this AD, perform a detailed visual inspection to detect damage and to verify proper configuration of the battery ground terminations of the APU at the battery and connected structure.

(1) If no damage is detected and all battery ground terminations are configured properly (i.e., all required washer and other parts installed, and termination bolts are torqued properly) in accordance with Boeing Standard Wiring Practices Manual D6–54446,

repeat the visual inspection thereafter at intervals not to exceed 1,000 flight hours.

(2) If any damage is detected or any battery ground termination is found to be configured improperly, prior to further flight, remove, replace, and repair the battery ground termination, as applicable, in accordance with Boeing Standard Wiring Practices Manual D6–54446 and applicable Boeing drawings. Repeat the detailed visual inspection thereafter at intervals not to exceed 1,000 flight hours.

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

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

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

(d) This amendment becomes effective on August 1, 1997.

Issued in Renton, Washington, on July 11, 1997.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 97–18933 Filed 7–16–97; 8:45 am]

BILLING CODE 4910–13–P–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–NM–136–AD; Amendment 39–10082; AD 97–14–11]

RIN 2120–AA64

Airworthiness Directives; Bombardier Model CL–600–2B19 (Regional Jet Series 100 and 200) Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This document publishes in the **Federal Register** an amendment adopting airworthiness directive (AD) 97–14–11 that was sent previously to all known U.S. owners and operators of certain Bombardier Model CL–600–2B19 (Regional Jet Series 100 and 200) series airplanes by individual notices. This AD requires repetitive inspections to detect cracks of a certain bulkhead web of the fuselage at certain locations, and repair, if necessary. This action is prompted by a report of a pressurization problem during flight, which was caused by fatigue cracking in the underfloor pressure bulkhead of the fuselage. The actions specified by this AD are intended to detect and correct such fatigue cracking, which could result in uncontrolled depressurization of the airplane and/or reduced structural integrity of the fuselage.

DATED: Effective July 22, 1997. To all persons except those persons to whom it was made immediately effective by emergency AD 97–14–11, issued on June 27, 1997, which contained the requirements of this amendment.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of Federal Register as of July 22, 1997.

Comments for inclusion in the Rules Document must be received on or before September 15, 1997.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 97–NM–136–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

The applicable service information may be obtained from Bombardier, Inc., Canadair Aerospace Group, P.O. Box 6087, Station Centre-ville, Quebec H3C 3G9, Canada. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Engine and Propeller Directorate, New York Aircraft Certification Office (ACO), 10 Fifth Street, Third Floor, Valley Stream, New York; or at the Office of the Federal Register, 800 North Capital Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: George Duckett, Aerospace Engineer, or Franco Peiri, Aerospace Engineer, Airframe and Propulsion Branch ANE–171, FAA, Engine and Propeller Directorate, New York Aircraft Certification Office, 10 Fifth Street, Third Floor, Valley Stream, New York; telephone (516) 256–7525 or –7526; fax (516) 568–2716.

SUPPLEMENTARY INFORMATION: On June 27, 1997, the FAA issued emergency AD 97–14–11, which is applicable to certain Bombardier Model CL–600–2B19 (Regional Jet Series 100 and 200) series airplanes. That action was prompted by a report of a pressurization problem during flight on a Model CL–600–2B19 series airplane. Investigation revealed a crack approximately 14 inches long in the center pressure bulkhead. In addition, such cracking was found on seven other Model CL–600–2B19 series airplanes. The cause of this cracking has been attributed to structural fatigue. Fatigue cracking in the underfloor pressure bulkhead of the fuselage, if not detected and corrected in a timely manner, could result in uncontrolled depressurization of the airplane and/or reduced structural integrity of the fuselage.

Explanation of Relevant Service Information

The manufacturer has issued Canadair Regional Jet Alert Service Bulletin A601R–53–045, dated June 25, 1997, which describes procedures for repetitive detailed visual inspections to detect cracks at FS 409+128 of a certain bulkhead web of the fuselage at certain locations, and repair, if necessary. Transport Canada Aviation classified this alert service bulletin as mandatory and issued Canadian airworthiness directive CF–97–11, dated June 25, 1997, in order to assure the continued airworthiness of these airplanes in Canada.

FAA's Conclusions

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

Explanation of the Requirements of the Rule

Since the unsafe condition described is likely to exist or develop on other airplanes of the same type design registered in the United States, the FAA issued emergency AD 97–14–11 to require repetitive detailed visual inspections to detect cracks at FS 409+128 of a certain bulkhead web of the fuselage at certain locations, and repair, if necessary. This AD also requires that operators report the results of the detailed visual inspection to the FAA. The inspections are required to be accomplished in accordance with the alert service bulletin previously described. The repair is required to be accomplished in accordance with a method approved by the FAA.

Operators should note that, while it is not the FAA's normal policy to allow flight with known cracks, this AD does permit further flight with cracking within certain limits. The results of a review, conducted by the manufacturer, revealed that cracking in the underfloor pressure bulkhead of the fuselage will not result in rapid decompression of the airplane. Therefore, according to the review, if the crack size limits are strictly observed and if repetitive inspections are performed at the required intervals, cracks that grow beyond the limits will be detected, and corrective action taken, before they can grow to a size that would create an unacceptable risk of structural failure. Transport Canada Aviation concurs with the findings of this review. In consideration of these findings and based on the FAA's criteria for flight with known cracking, the FAA has determined that further flight with cracking within certain limits in the center pressure bulkhead is permissible for an interim period.

This is considered to be interim action. The manufacturer has advised that it currently is developing a modification that will positively address the unsafe condition addressed by this AD. Once this modification is developed, approved, and available, the FAA may consider additional rulemaking.

Since it was found that immediate corrective action was required, notice and opportunity for prior public comment thereon were impracticable and contrary to the public interest, and good cause existed to make the AD effective immediately by individual notices issued on June 27, 1997, to all known U.S. owners and operators of certain Bombardier Model CL–600–2B19 (Regional Jet Series 100 and 200) series airplanes. These conditions still exist, and the AD is hereby published in the **Federal Register** as an amendment to section 39.13 of the Federal Aviation Regulations (14 CFR 39.13) to make it effective as to all persons.

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–136–AD.'' The postcard will be date stamped and returned to the commenter.

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

97–14–11 Bombardier, Inc. (Formerly Canadair): Amendment 39–10082. Docket 97–NM–136–AD.

Applicability: Model CL–600–2B19 (Regional Jet Series 100 and 200) series airplanes, serial numbers 7003 and subsequent; certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To detect and correct fatigue cracking in the underfloor pressure bulkhead of the fuselage, which could result in uncontrolled depressurization of the airplane and/or reduced structural integrity of the fuselage, accomplish the following:

(a) Within 20 flight hours after the effective date of this AD, perform a detailed visual inspection to detect cracks at frame station (FS) 409+128 of the bulkhead web [part number (P/N) 601R32208–123] of the fuselage, in accordance with Canadair Regional Jet Alert Service Bulletin A601R–53–045, dated June 25, 1997.

(1) If no crack is detected or if all three of the conditions specified in paragraphs (a)(1)(i), (a)(1)(ii), and (a)(1)(iii) of this AD are met, continued flight is allowed. Repeat the detailed visual inspection thereafter at intervals not to exceed 100 flight hours.

(i) No more than one crack exists at each corner; and

(ii) No crack extends under the angles having P/N 601R32208–79 and P/N 601R32208–81 on the aft side of the bulkhead web; and

(iii) No crack exists in angles having P/N 601R32208–79 and P/N 601R32208–81 on the aft side of the bulkhead web.

(2) If any cracking other than that identified in paragraphs (a)(1)(i), (a)(1)(ii), and (a)(1)(iii) of this AD is detected, prior to further flight, repair it in accordance with the method approved by the Manager, New York Aircraft Certification Office (ACO), FAA, Engine and Propeller Directorate.

(b) Within 10 days after accomplishing the initial and repetitive detailed visual inspections required by paragraph (a) of this AD, submit a report of any finding(s) of cracking to the Manager, New York ACO, telephone (516) 256–7525; fax (516) 568–2716. Information collection requirements contained in this regulation have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*) and have been assigned OMB Control Number 2120–0056.

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

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

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

(e) The inspections shall be done in accordance with Canadair Regional Jet Alert Service Bulletin A601R–53–045, dated June 25, 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 Transport Canada Aviation. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the New York Aircraft Certification Office (ACO), FAA, Engine and Propeller Directorate; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(f) This amendment becomes effective on July 22, 1997. All persons except those persons to whom it was made immediately effective by emergency AD 97–14–11, issued on June 27, 1997, which contained the requirements of this amendment.

Issued in Renton, Washington, on July 11, 1997.

James V. Devany,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 97–18934 Filed 7–16–97; 8:45 am]

BILLING CODE 4910–13–P–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 96–ASW–11]

Establishment of Class E Airspace; Manila, AR

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action establishes Class E airspace extending upward from 700 feet above ground level (AGL) at Manila Municipal Airport, Manila, AR. The development of a Nondirectional Radio Beacon (NDB) Standard Instrument Approach Procedure (SIAP) to Runway (RWY) 18 has made this action necessary. This action is intended to provide adequate controlled airspace for aircraft executing the NDB SIAP to RWY 18 at Manila Municipal Airport, Manila, AR.

EFFECTIVE DATE: 0901 UTC, September 11, 1997.

FOR FURTHER INFORMATION CONTACT: Donald J. Day, Airspace Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, Fort Worth, TX 76193–0520, telephone 817–222–5593.

SUPPLEMENTARY INFORMATION:

History

On June 18, 1996, a proposal to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) to establish Class E airspace at Manila, AR, was published in the **Federal Register** (61 FR 30843). The development of a NDB SIAP to RWY 18 made the proposal necessary. The proposal was to establish adequate controlled airspace for aircraft executing the NDB SIAP to RWY 18 at Manila Municipal Airport, Manila, AR.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments to the proposal were received. However, the proposed Manila, AR, Class E airspace did not exclude Blytheville, AR, Class E airspace. The description of the Manila, AR, Class E airspace has been revised to reflect this change. The FAA has determined that this change is relieving in nature and will not increase the scope of this rule. Except for the non-substantive change just discussed, the rule is adopted as proposed.

The coordinates for this airspace docket are based on North American Datum 83. Class E airspace designations for airspace areas 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 at Manila Municipal Airport, Manila, AR, to provide controlled airspace for aircraft executing the NDB SIAP to RWY 18.

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

PART 71—[AMENDED]

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

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of 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.

* * * * *

ASW AR E5 Manila, AR [New]

Manila, Manila Municipal Airport
(Lat. 35°53′35″ N., long. 90°09′17″ W.)
Manila NDB
(Lat. 35°53′28″ N., long. 90°09′25″ W.)

That airspace extending upward from 700 feet above the surface within a 6.3-mile radius of Manila Municipal Airport, and within 2.5 miles each side of the 007° bearing from the Manila NDB extending from the 6.3-mile radius to 6.9 miles north of the airport excluding that airspace within the Blytheville, AR, Class E airspace area.

* * * * *

Issued in Fort Worth, TX, on June 23, 1997.

Albert L. Viselli,

Acting Manager, Air Traffic Division, Southwest Region.

[FR Doc. 97–18844 Filed 7–16–97; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 96–ASW–27]

Revision of Class E Airspace; Athens, TX

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This section revises the Class E airspace extending upward from 700 feet above ground level (AGL) at Athens, TX. The development of a Nondirectional Radio Beacon (NDB) Standard Instrument Approach Procedure (SIAP) to Runway (RWY) 35 at Athens Municipal Airport has made this action necessary. This action is intended to provide adequate Class E airspace to contain instrument flight rule (IFR) operations for aircraft executing the NDB SIAP to RWY 35 at Athens, Municipal Airport, Athens, TX.

EFFECTIVE DATE: 0901 UTC, September 11, 1997.

FOR FURTHER INFORMATION CONTACT: Donald J. Day, Airspace Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, Fort Worth, TX 76193–0520, telephone 817–222–5593.

SUPPLEMENTARY INFORMATION:

History

On February 20, 1997, a proposal to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) to revise the Class E airspace at Athens, TX, was published in the **Federal Register** (62 FR 7740). A NDB SIAP to RWY 35 developed for Athens Municipal Airport, Athens, TX, requires the revision of the Class E airspace at this airport. The proposal was to revise the controlled airspace extending upward from 700 feet AGL to contain IFR operations in controlled airspace during portions of the terminal operation and while transitioning between the enroute and terminal environments.

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

The coordinates for this airspace docket are based on North American Datum 83. Class E airspace designations for airspace areas extending upward from 700 feet or more AGL 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) amends the Class E airspace located at Athens, TX, to provide controlled airspace extending upward from 700 feet AGL for aircraft executing the NDB SIAP to RWY 35.

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

PART 71—[AMENDED]

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

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of 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.

* * * * *

ASW TX E5 Athens, TX [Revised]

Athens Municipal Airport, TX
(Lat. 32°09′50″ N., long. 95°49′42″ W.)
Athens, Lochridge Ranch Airport, TX
(Lat. 31°59′22″ N., long. 95°57′04″ W.)
Crossroads RBN
(Lat. 32°03′49″ N., long. 95°57′27″ W.)
Athens NDB
(Lat. 32°09′34″ N., long. 95°49′49″ W.)

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Athens Municipal Airport and within 2.5 miles each side of the 177° bearing of the Athens NDB extending from the 6.5-mile radius to 7.3 miles south of the Athens Municipal Airport and within a 6.5-mile radius of Lochridge Ranch Airport and within 4 miles each side of the 356° bearing of the Crossroads RBN extending from the 6.5-mile radius to 9.2 miles north of the RBN.

* * * * *

Issued in Fort Worth, TX, on June 23, 1997.

Albert L. Viselli,

Acting Manager, Air Traffic Division, Southwest Region.

[FR Doc. 97–18845 Filed 7–16–97; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 96–ASW–26]

Revision of Class E Airspace; Longview, TX

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action revises the Class E airspace extending upward from 700 feet above ground level (AGL) at Longview, TX. The development of a VHF Omnidirectional Range (VOR) or Tactical Air Navigation (TACAN) Standard Instrument Approach Procedure (SIAP) to Runway (RWY) 13 at Gregg County Airport has made this action necessary. This action is

intended to provide adequate Class E airspace to contain instrument flight rule (IFR) operations for aircraft executing the VOR or TACAN SIAP to RWY 13 at Gregg County Airport, Longview, TX.

EFFECTIVE DATE: 0901 UTC, September 11, 1997.

FOR FURTHER INFORMATION CONTACT: Donald J. Day, Airspace Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, Fort Worth, TX 76193–0520, telephone 817–222–5593.

SUPPLEMENTARY INFORMATION:

History

On February 20, 1997, a proposal to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) to revise the Class E airspace at Longview, TX, was published in the **Federal Register** (62 FR 7739). A VOR or TACAN SIAP to RWY 13 developed for Gregg County Airport, Longview, TX, requires the revision of the Class E airspace at this airport. The proposal was to revise the controlled airspace extending upward from 700 feet AGL to contain IFR operations in controlled airspace during portions of the terminal operation and while transitioning between the enroute and terminal environments.

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

The coordinates for this airspace docket are based on North American Datum 83. Class E airspace designations for airspace areas extending upward from 700 feet or more AGL 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) amends the Class E airspace located at Longview, TX, to provide controlled airspace extending upward from 700 feet AGL for aircraft executing the VOR or TACAN SIAP to RWY 13.

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

PART 71—[AMENDED]

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

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of 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.

* * * * *

ASW TX E5 Longview, TX [Revised]

Longview, Gregg County Airport, TX
(Lat. 32°23′05″ N., long. 94°42′42″ W.)
Gregg County VORTAC
(Lat. 32°25′04″ N., long. 94°45′11″ W.)

That airspace extending upward from 700 feet above the surface within a 7.1-mile radius of Gregg County Airport and within 1.5 miles each side of the 133° radial of the Gregg County Airport extending from the 7.1-mile radius to 10.9 miles southeast of the airport and within 3.1 miles each side of the 305° radial of the Gregg County VORTAC extending from the 7.1—mile radius to 10.3 miles northwest of the airport.

* * * * *

Issued in Fort Worth, TX, on June 23, 1997.

Albert L. Viselli,

Acting Manager, Air Traffic Division, Southwest Region.

[FR Doc. 97–18846 Filed 7–16–97; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 96–ASW–25]

Revision of Class E Airspace; Brinkley, AR

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action revises the Class E airspace extending upward from 700 feet above ground level (AGL) at Brinkley, AR. The development of a Global Positioning System (GPS) Standard Instrument Approach Procedure (SIAP) at Frank Federer Memorial Airport has made this action necessary. This action is intended to provide adequate Class E airspace to contain instrument flight rule (IFR) operations for aircraft executing the GPS–A SIAP at Frank Federer Memorial Airport, Brinkley, AR.

EFFECTIVE DATE: 0901 UTC, September 11, 1997.

FOR FURTHER INFORMATION CONTACT: Donald J. Day, Airspace Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, Fort Worth, TX 76193–0520, telephone 817–222–5593.

SUPPLEMENTARY INFORMATION:

History

On February 20, 1997, a proposal to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) to revise the Class E airspace at Brinkley, AR, was published in the **Federal Register** (62 FR 7737). A GPS–A SIAP developed for Frank Federer Memorial Airport, Brinkley, AR, requires the revision of the Class E airspace at this airport. The proposal was to revise the controlled airspace extending upward from 700 feet AGL to contain IFR operations in controlled airspace during portions of the terminal operation and while transitioning between the enroute and terminal environments.

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

The coordinates for this airspace docket are based on North American Datum 83. Class E airspace designations for airspace areas extending upward from 700 feet or more AGL 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) amends the Class E airspace located at Brinkley, AR, to provide controlled airspace extending upward from 700 AGL for aircraft executing the GPS–A SIAP.

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

PART 71—[AMENDED]

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

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the 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.

* * * * *

ASW AR E5 Brinkley, AR [Revised]

Brinkley, Frank Federer Memorial Airport, AR

(Lat. 34°52′49″N., long. 91°10′35″W.)

That airspace extending upward from 700 feet above the surface within a 6.4-mile radius of Frank Federer Memorial Airport and within 2.5 miles each side of the 011° bearing from the airport extending from the 6.4 mile radius to 7.3 miles north of the airport.

* * * * *

Issued in Forth Worth, TX, on June 23, 1997.

Albert L. Viselli,

Acting Manager, Air Traffic Division, Southwest Region.

[FR Doc. 97–18847 Filed 7–16–97; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 96–ASW–24]

Revision of Class E Airspace; Jasper, TX

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action revises the Class E airspace extending upward from 700 feet above ground level (AGL) at Jasper, TX. The development of a Global Positioning System (GPS) Standard Instrument Approach Procedure (SIAP) to Runway (RWY) 18 at Jasper County-Bell Field has made this action necessary. This action is intended to provide adequate Class E airspace to contain instrument flight rule (IFR) operations for aircraft executing the GPS SIAP to RWY 18 at Jasper County-Bell Field, Jasper, TX.

EFFECTIVE DATE: 0901 UTC, September 11, 1997.

FOR FURTHER INFORMATION CONTACT: Donald J. Day, Airspace Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, Fort Worth, TX 76193–0520, telephone 817–222–5593.

SUPPLEMENTARY INFORMATION:

History

On February 20, 1997, a proposal to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) to revise the Class E airspace at Jasper, TX, was published in the **Federal Register** (62 FR 7736). A GPS SIAP to RWY 18 developed for Jasper County-Bell Field, Jasper, TX, requires the revision of the Class E airspace at this airport. The proposal was to revise the controlled airspace extending upward from 700 feet AGL to contain IFR operations in controlled airspace during portions of the terminal operation and while transitioning between the enroute and terminal environments.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments to the proposal were received. However, the geographic coordinates for Jasper County-Bell Field airport were incorrect in the proposed rule. The correct geographic coordinates for the airport are latitude 30°53′26″ N., longitude 94°02′05″ W. The description in this final rule reflects the corrected coordinates for the airport. The FAA has determined that this change is editorial in nature and will not increase the scope of this rule. Except for the non-substantive change just discussed, the rule is adopted as proposed.

The coordinates for this airspace docket are based on North American Datum 83. Class E airspace designations for airspace areas extending upward from 700 feet or more AGL 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) amends the Class E airspace located at Jasper, TX, to provide controlled airspace extending upward from 700 feet AGL for aircraft executing the GPS SIAP to RWY 18. This action also corrects the geographic coordinates of the airport.

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

PART 71—[AMENDED]

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

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of 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

* * * * *

ASW TX E5 Jasper, TX [Revised]

Jasper, Jasper County-Bell Field, TX
(Lat. 30°53′26″ N., long 94°02′05″ W.)
Jasper RBN
(Lat. 30°57′17″ N., long 94°02′01″ W.)

That airspace extending upward from 700 feet above the surface within a 6.4-mile radius of Jasper County-Bell Field and within 2.6 miles each side of the 001° bearing from the Jasper RBN extending from the 6.4-mile radius to 10.9 miles north of the airport.

* * * * *

Issued in Fort Worth, TX, on June 23, 1997.

Albert L. Viselli,

Acting Manager, Air Traffic Division, Southwest Region.

[FR Doc. 97–18848 Filed 7–16–97; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 96–ASW–23]

Revision of Class E Airspace; Socorro, NM

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action revises the Class E airspace extending upward from 700 feet above ground level (AGL) at Socorro, NM. The development of a Global Positioning System (GPS) Standard Instrument Approach Procedure (SIAP) to Runway (RWY) 33 at Socorro Municipal Airport has made this action necessary. This action is intended to provide adequate Class E airspace to contain instrument flight rule (IFR) operations for aircraft executing the GPS SIAP to RWY 33 at Socorro Municipal Airport, Socorro, NM.

EFFECTIVE DATE: 0901 UTC, September 11, 1997.

FOR FURTHER INFORMATION CONTACT: Donald J. Day, Airspace Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, Fort Worth, TX 76193–0520, telephone 817–222–5593.

SUPPLEMENTARY INFORMATION:

History

On February 20, 1997, a proposal to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) to revise the Class E airspace at Socorro, NM, was published in the **Federal Register** (62 FR 7735). A GPS SIAP to RWY 33 developed for Socorro Municipal Airport, Socorro, NM, requires the revision of the Class E airspace at this airport. The proposal was to revise the controlled airspace extending upward from 700 feet AGL to contain IFR operations in controlled airspace during portions of the terminal operation and while transitioning between the enroute and terminal environments.

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

The coordinates for this airspace docket are based on North American Datum 83. Class E airspace designations for airspace areas extending upward from 700 feet or more AGL 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) amends the Class E airspace located at Socorro, NM, to provide controlled airspace extending upward from 700 feet AGL for aircraft executing the GPS SIAP to RWY 33.

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

PART 71—[AMENDED]

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

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

* * * * *

ASW NM E5 Socorro, NM [Revised]

Socorro Municipal Airport, NM
(lat. 34°01′19″ N., long. 106°54′10″ W.)

That airspace extending upward from 700 feet above the surface within a 6.7-mile radius of Socorro Municipal Airport and within 1.4 miles each side of the 164° bearing from the airport extending from the 6.7-mile radius to 7.1 miles south of the airport excluding that airspace west of long. 107°00′02″.

* * * * *

Issued in Forth Worth, TX, on June 23, 1997.

Albert L. Viselli,

Acting Manager, Air Traffic Division, Southwest Region.

[FR Doc. 97–18849 Filed 7–16–97; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 96–ASW–22]

Revision of Class E Airspace; Perry, OK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action revises the Class E airspace extending upward from 700 feet above ground level (AGL) at Perry, OK. The development of a Global Positioning System (GPS) Standard Instrument Approach Procedure (SIAP) to Runway (RWY) 17 at Perry Municipal Airport has made this action necessary. This action is intended to provide adequate Class E airspace to contain instrument flight rule (IFR) operations for aircraft executing the GPS SIAP to RWY 17 at Perry Municipal Airport, Perry, OK.

EFFECTIVE DATE: 0901 UTC, September 11, 1997.

FOR FURTHER INFORMATION CONTACT: Donald J. Day, Airspace Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, Fort Worth, TX 76193–0520, telephone 817–222–5593.

SUPPLEMENTARY INFORMATION:

History

On February 20, 1997, a proposal to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) to revise the Class E airspace at Perry, OK, was published in the **Federal Register** (62 FR 7734). A GPS SIAP to RWY 17 developed for Perry Municipal Airport, Perry, OK, requires the revision of the Class E airspace at this airport. The proposal was to revise the controlled airspace extending upward from 700 feet AGL to contain IFR operations in controlled airspace during portions of the terminal operation and while transitioning between the enroute and terminal environments.

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

The coordinates for this airspace docket are based on North American Datum 83. Class E airspace designations for airspace areas extending upward from 700 feet or more AGL 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) amends the Class E airspace located at Perry, OK, to provide controlled airspace extending upward from 700 feet AGL for aircraft executing the GPS SIAP to RWY 17.

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

PART 71—[AMENDED]

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

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of 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.

* * * * *

ASW OK E5 Perry, OK [Revised]

Perry Municipal Airport, OK
(Lat. 36°23′08″ N., long. 97°16′38″ W.)

That airspace extending upward room 700 feet above the surface within a 6.5-mile radius of Perry Municipal Airport and within 2 miles each side of the 359° bearing from the airport extending from the 6.5-mile radius to 10.5 miles north of the airport.

* * * * *

Issued in Fort Worth, TX, on June 23, 1997.

Albert L. Viselli,

Acting Manager, Air Traffic Division, Southwest Region.

[FR Doc. 97–18850 Filed 7–16–97; 8:45 am]

BILLING CODE 4910–13–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[UT15–1–6775, UT12–2–6728, UT16–1–6776; FRL–5856–8]

Approval and Promulgation of Air Quality Implementation Plans; State of Utah; Salt Lake and Davis Counties Ozone Redesignation to Attainment, Designation of Areas for Air Quality Planning Purposes, Approval of Related Elements, Approval of Partial NO_X RACT Exemption, and Approval of Weber County I/M Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: On May 23, 1997, EPA published a notice of proposed rulemaking (NPR) that proposed to approve the State of Utah's request to redesignate the Salt Lake and Davis Counties (SLDC) moderate ozone nonattainment area to attainment. In that NPR, EPA also proposed to approve the maintenance plan for the SLDC area, and the following related State Implementation Plan (SIP) elements: the 1990 base year emissions inventory, Reasonably Available Control Technology (RACT) for Volatile Organic Compounds (VOC), Nitrogen Oxides (NO_X) RACT for Kennecott's Utah Power Plant and for the Pacificorp Gadsby Power Plant, and the Basic Inspection and Maintenance (I/M) and Improved I/M provisions for Salt Lake and Davis Counties. EPA also proposed to approve a partial NO_X RACT exemption request. In this final rulemaking, EPA is approving the redesignation request, the maintenance plan, the various related SIP elements, and the partial NO_X RACT exemption request. In the May 23, 1997, NPR, EPA also proposed to give limited approval to the State's generic VOC RACT and generic NO_X RACT rules and to approve the I/M provisions for Weber County. In this rulemaking, EPA is giving limited

approval to the VOC and NO_X generic RACT rules and is approving the I/M provisions for Weber County.

EFFECTIVE DATE: August 18, 1997.

ADDRESSES: Copies of the State's redesignation request, maintenance plan and other documents relevant to this action are available for public inspection between 8:00 a.m. and 4:00 p.m., Monday through Friday at the following office: United States Environmental Protection Agency, Region 8, Air Program, 999 18th Street, Suite 500, Denver, Colorado 80202–2466.

Documents that are incorporated by reference are available for public inspection at the: United States Environmental Protection Agency, Air and Radiation Docket and Information Center, 401 M Street, SW, Washington, D.C. 20460 as well as the above address.

FOR FURTHER INFORMATION CONTACT: Tim Russ, Air Program (8P2-A), United States Environmental Protection Agency, Region 8, 999 18th Street, Suite 500, Denver, Colorado 80202–2466; Telephone number: (303) 312–6479.

SUPPLEMENTARY INFORMATION:

I. Background

On November 15, 1990, the Clean Air Act Amendments of 1990 were enacted (Pub. L. 101–549, 104 Stat. 2399, codified at 42 U.S.C. 7401–7671q). Under section 107(d)(1)(C) of the CAA, EPA designated the SLDC area as nonattainment for ozone because the area had been designated as nonattainment before November 15, 1990. The SLDC area was classified as a moderate nonattainment area (see section 181 of the CAA for further information regarding classifications and attainment dates for ozone nonattainment areas).

Under the Clean Air Act (CAA), designations can be changed if sufficient data are available to warrant such changes and if certain other requirements are met. See CAA section 107(d)(3)(D). Section 107(d)(3)(E) of the CAA provides that the Administrator may not promulgate a redesignation of a nonattainment area to attainment unless:

(i) the Administrator determines that the area has attained the national ambient air quality standard;

(ii) the Administrator has fully approved the applicable implementation plan for the area under CAA section 110(k);

(iii) the Administrator determines that the improvement in air quality is due to permanent and enforceable reductions in emissions resulting from implementation of the applicable implementation plan and applicable Federal air pollutant control regulations and other permanent and enforceable reductions;

(iv) the Administrator has fully approved a maintenance plan for the area as meeting the requirements of CAA section 175A; and,

(v) the State containing such area has met all requirements applicable to the area under section 110 and part D of the CAA.

EPA has reviewed the State's redesignation request, maintenance plan, related SIP elements, and the partial NO_X RACT exemption request. EPA has also considered all public comments submitted in response to the NPR for this action (EPA only received one comment letter from the Utah Mining Association which was in support of the NPR). EPA has determined that all required SIP elements, including the maintenance plan, have either been approved previously or will be fully approved with this action, that the area has attained the ozone National Ambient Air Quality Standard (NAAQS), and that the improvement in air quality is due to permanent and enforceable reductions in emissions resulting from the implementation of the applicable implementation plan and applicable Federal air pollutant control regulations and other permanent and enforceable reductions. Thus, the five criteria in section 107(d)(3)(E) of the Clean Air Act (CAA) have been met and approval of the redesignation request is warranted. Detailed descriptions of how the section 107(d)(3)(E) requirements have been met are provided in the May 23, 1997, NPR for this action (62 FR 28396) and will not be repeated here.

In addition to the SIP elements related to the redesignation request, EPA also proposed action in the May 23, 1997, NPR on three unrelated SIP elements. First, EPA proposed to give limited approval to the State's generic VOC and NO_X RACT rules. In the NPR, EPA noted deficiencies in these rules that prevent full approval, and thus, EPA is only giving limited approval to these rules for their strengthening effect, not as meeting the CAA's requirements for VOC and NO_X RACT. Second, EPA proposed to approve I/M provisions for Weber County and is now fully approving these I/M provisions. A detailed description of EPA's rationale for these actions is contained in the May 23, 1997, NPR for this action (62 FR 28396).

II. Final Action

A. In this action, EPA is approving the following:

1. The SLDC redesignation request—EPA is approving the Governor's November 12, 1993, request to redesignate the SLDC ozone nonattainment area to attainment.

2. The SLDC maintenance plan—EPA is approving the maintenance plan that the Governor submitted on February 19, 1997 (''maintenance plan''). EPA notes that a key aspect of the maintenance plan is its implications with respect to the conformity regulations. These regulations require a demonstration that emissions from the transportation plan and Transportation Improvement Program are consistent with the emissions budget in the SIP (40 CFR 93.118 and 93.119). The emissions budget is defined as the level of mobile source emissions relied upon in the attainment or maintenance demonstration to maintain compliance with the NAAQS in the nonattainment area. The rule's requirements and EPA's policy on emissions budgets are found in the Preamble to the transportation conformity rule (58 FR 62193–62196) and in the sections of the rule referenced above.

The maintenance plan defines emissions budgets for each year between 1994 and 2007, and for 2015 and 2020. The 1994–2007 emissions budgets are based on the maintenance plan's emission inventory projections, while the 2015 and 2020 budgets are based on EKMA modeling. The maintenance plan lists budgets for Salt Lake County and Davis County separately, and for the entire nonattainment area (both Counties combined). The plan provides that the metropolitan planning organization (Wasatch Front Regional Council) may demonstrate conformity with the budgets for each County individually or for the entire nonattainment area at its option. The plan also identifies a safety margin (called the ''emissions credit'') for each year, which is the difference between total emissions from all sources in the attainment year and in each future year. The plan provides that this safety margin may be used for conformity purposes if authorized by the Utah Air Quality Board.

3. The 1990 SLDC ozone base year emissions inventory—EPA is approving the 1990 SLDC ozone base year emissions inventory that the Governor submitted on January 13, 1995, (with corrections submitted on April 20, 1995, by Russell Roberts, Director, Utah Division of Air Quality).

4. VOC RACT—EPA is approving the State's VOC RACT requirements as presented in specific sections of the maintenance plan (described below) and

as reflected in the following State Approval Orders (AO):

(a) Hill Air Force Base (HAFB) AO DAQE–163–96 dated February 9, 1996, HAFB AO DAQE–1134–95 dated December 7, 1995, HAFB AO DAQE–860–95 dated September 20, 1995, HAFB AO DAQE–775–95 dated August 30, 1995, HAFB AO DAQE–403–95 dated May 8, 1995, HAFB AO DAQE–067–95 dated January 31, 1995, HAFB AO DAQE–068–95 dated January 30, 1995, HAFB AO DAQE–915–94 dated October 18, 1994, HAFB AO DAQE–824–94 dated September 29, 1994, HAFB AO DAQE–0752–93 dated August 27, 1993, HAFB AO DAQE–0719–93 dated August 20, 1993, HAFB AO DAQE–0103–93 dated February 11, 1993, HAFB AO DAQE–1171–92 dated January 4, 1993, HAFB AO DAQE–416–92 dated April 28, 1992, HAFB AO DAQE–167–92 dated February 19, 1992, HAFB AO DAQE–894–91 dated November 25, 1991, HAFB AO BAQE–039–91 dated February 7, 1991, HAFB AO BAQE–669–88 dated December 20, 1988, HAFB AO BAQE–525–88 dated October 13, 1988, HAFB AO BAQE–353–88 dated July 21, 1988, HAFB AO BAQE–026–88 dated January 20, 1988, HAFB AO for Industrial Wastewater Treatment Facility dated February 20, 1986, HAFB AO for Hydrazine Exhaust Incinerator dated February 5, 1985, HAFB AO for Paint Booth, HVAC Modification, Standby Generators, and Fuel Storage dated July 18, 1983, HAFB AO for Remodeling Base Exchange BX Service Station dated July 12, 1979, HAFB AO for Construction dated June 27, 1978, and the Olympia Sales Company AO DAQE–300–95 dated April 13, 1995.

(b) VOC RACT, as described in the maintenance plan, was addressed for the Amoco, Chevron, Crysen, Flying J, and Phillips refineries through the Governor's submittals of VOC RACT rules on May 4, 1990 and July 25, 1991, as approved by EPA on June 26, 1992 (57 FR 28621).

5. NO_X RACT—EPA is approving the State's NO_X RACT requirements as reflected in the following State Approval Orders (AO):

(a) Pacificorp Gadsby Power Plant—AO: DAQE–0063–94, dated February 3, 1994.

(b) Kennecott Utah Copper Utah Power Plant—AO: DAQE–433–94, dated May 27, 1994.

6. Basic Inspection and Maintenance (I/M) for Salt Lake and Davis Counties—EPA is approving the Basic I/M provisions for Salt Lake and Davis Counties that the Governor submitted on February 19, 1997.

7. Improved I/M for Salt Lake and Davis Counties—EPA is approving the Improved I/M provisions for Salt Lake and Davis Counties that the Governor submitted on February 19, 1997.

8. Partial NO_X RACT Exemption Request—EPA is approving the Partial NO_X RACT Exemption Request for the SLDC area as was submitted by Ursula Trueman, Director, Utah Division of Air Quality on May 2, 1997. It is important to note that EPA is only approving an exemption from the NO_X RACT requirements for those major stationary sources of NO_X in the SLDC nonattainment area other than the Pacificorp Gadsby Power Plant and the Kennecott Utah Copper Utah Power Plant. EPA is not approving an exemption from the NO_X NSR requirements, NO_X conformity requirements, or the motor vehicle I/M requirements related to NO_X. Furthermore, EPA notes that NO_X limits for some or all of the major stationary sources of NO_X other than the Pacificorp Gadsby and Kennecott Utah Copper Utah Power Plants are necessary for the SLDC nonattainment area to demonstrate maintenance of the ozone NAAQS through 2007 (2020 for conformity purposes).

9. Revisions to UACR R307–1–3.3.3.C, a portion of ''Control of Installations'' and revisions to UACR R307–3.5.3.B(1), a portion of ''Emission Statement Inventory,'' both as submitted by the Governor on February 19, 1997.

B. Unrelated to the SLDC ozone redesignation request, EPA is also taking the following actions:

1. EPA is approving the Weber County Basic I/M provisions as submitted by the Governor on February 19, 1997.

2. EPA is granting limited approval of revisions to UACR R307–14–1 ''Requirements for Ozone Nonattainment Areas and Davis and Salt Lake Counties'' as submitted by the Governor on February 6, 1996. UACR R307–14–1 requires RACT for existing major sources of VOC and NO_X for which no specific emission limits or other control requirements have been established in R307–14. This generic RACT rule strengthens the SIP, but does not meet all the CAA requirements for RACT. Thus, EPA is approving this rule for its strengthening effect only. For a full discussion of the reasons EPA is unable to fully approve the revisions to UACR R307–14–1, please refer to the May 23, 1997, NPR for this action (62 FR 28396, 28399–28400, 28404).

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

III. Administrative Requirements

A. Executive Order 12866

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

B. Regulatory Flexibility Act

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

Redesignation of an area to attainment under sections 107(d)(3)(D) and (E) of the CAA does not impose any new requirements on small entities. Redesignation to attainment is an action that affects the status of a geographical area and does not impose any regulatory requirements on sources. Therefore, I certify that the approval of the redesignation request will not affect a substantial number of small entities.

SIP approvals under section 110 and subchapter I, part D of the Clean Air Act do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not impose any new requirements, I certify that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-State relationship under the CAA, preparation of a flexibility analysis would constitute Federal inquiry into the economic reasonableness of State action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S. EPA*, 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2).

Approvals of NO_X exemption requests under section 182(f) of the CAA do not create any new requirements. Therefore, I certify that approval of the State's partial NO_X RACT exemption request will not have a significant impact on any small entities affected.

C. Unfunded Mandates

Under Section 202 of the Unfunded Mandates Reform Act of 1995

(''Unfunded Mandates Act''), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to State, local, or tribal governments in the aggregate, or to the private sector, of $100 million or more. Under Section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the proposed action does not include a Federal mandate that may result in estimated costs of $100 million or more to either State, local, or tribal governments in the aggregate or to the private sector. This Federal action will approve a redesignation to attainment, pre-existing requirements under State or local law, and an exemption from requirements otherwise imposed under the CAA; this action will impose no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, will result from this action.

D. Submission to Congress and the General Accounting Office

Under 5 U.S.C. 801(a)(1)(A) as added by the Small Business Regulatory Enforcement Fairness Act of 1996, EPA submitted a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the General Accounting Office prior to the publication of the rule in today's **Federal Register**. This rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

E. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by September 15, 1997. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects

40 CFR Part 52

Environmental protection, Air pollution control, Carbon Monoxide, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

40 CFR Part 81

Environmental protection, Air pollution control, National parks, Wilderness areas.

Dated: July 2, 1997.

Jack W. McGraw,

Acting Regional Administrator.

Title 40, chapter I, parts 52 and 81 of the Code of Federal Regulations are amended as follows:

PART 52—[AMENDED]

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

Authority: 42 U.S.C. 7401–7671q.

Subpart TT—UTAH

2. Section 52.2320 is amended by adding paragraph (c)(38) to read as follows:

§ 52.2320 Identification of plan.

* * * * *

(c) * * *

(38) Revisions to the Utah State Implementation Plan, Section IX, Control Measures for Area and Point Sources, Part D, Ozone; Section X, Vehicle Inspection and Maintenance Program, Part A, General Requirements and Applicability; Section X, Vehicle Inspection and Maintenance Program, Part B, Davis County; Section X, Vehicle Inspection and Maintenance Program, Part C, Salt Lake County; Section X, Vehicle Inspection and Maintenance Program, Part E, Weber County; UACR R307–1–3.3.3.C., a portion of Control of Installations; UACR R307–1–3.5.3.B.(1), a portion of Emission Statement Inventory; all as submitted by the Governor on February 19, 1997. EPA approved the above provisions. In addition, EPA approved, for the limited purpose of strengthening the SIP, revisions to UACR R307–14, Requirements for Ozone Nonattainment Areas and Davis and Salt Lake Counties, as submitted by the Governor on February 6, 1996.

(i) Incorporation by reference.

(A) UACR R307–2–13 adopted by the Utah Air Quality Board on January 8, 1997, effective March 4, 1997, including Section IX, Part D.2 of the Utah State Implementation Plan (SIP) that such rule incorporates by reference (Ozone Maintenance Provisions for Salt Lake and Davis Counties, adopted by the Utah Air Quality Board on January 8, 1997), and excluding any other provisions that such rule incorporates by reference.

(B) The following State Approval Orders (AO): Pacificorp Gadsby Power Plant AO DAQE–0063–94 dated February 3, 1994, Kennecott Utah Copper Utah Power Plant AO DAQE–433–94 dated May 27, 1994, Hill Air Force Base (HAFB) AO DAQE–163–96 dated February 9, 1996, HAFB AO DAQE–1134–95 dated December 7, 1995, HAFB AO DAQE–860–95 dated September 20, 1995, HAFB AO DAQE–775–95 dated August 30, 1995, HAFB AO DAQE–403–95 dated May 8, 1995, HAFB AO DAQE–067–95 dated January 31, 1995, HAFB AO DAQE–068–95 dated January 30, 1995, HAFB AO DAQE–915–94 dated October 18, 1994, HAFB AO DAQE–824–94 dated September 29, 1994, HAFB AO DAQE–0752–93 dated August 27, 1993, HAFB AO DAQE–0719–93 dated August 20, 1993, HAFB AO DAQE–0103–93 dated February 11, 1993, HAFB AO DAQE–1171–92 dated January 4, 1993, HAFB AO DAQE–416–92 dated April 28, 1992, HAFB AO DAQE–167–92 dated February 19, 1992, HAFB AO DAQE–894–91 dated November 25, 1991, HAFB AO BAQE–039–91 dated February 7, 1991, HAFB AO BAQE–669–88 dated December 20, 1988, HAFB AO BAQE–525–88 dated October 13, 1988, HAFB AO BAQE–353–88 dated July 21, 1988, HAFB AO BAQE–026–88 dated January 20, 1988, HAFB AO for Industrial Wastewater Treatment Facility dated February 20, 1986, HAFB AO for Hydrazine Exhaust Incinerator dated February 5, 1985, HAFB AO for Paint Booth, HVAC Modification, Standby Generators, and Fuel Storage dated July 18, 1983, HAFB AO for Remodeling Base Exchange BX Service Station dated July 12, 1979, HAFB AO for Construction dated June 27, 1978, and the Olympia Sales Company AO DAQE–300–95 dated April 13, 1995.

(C) UACR R307–2–18, adopted by the Utah Air Quality Board on February 5, 1997, effective February 14, 1997. This rule incorporates by reference Section X, Part A of the Utah State Implementation Plan, Vehicle Inspection and Maintenance Program, General Requirements and Applicability.

(D) UACR R307–2–31, adopted by the Utah Air Quality Board on February 5, 1997, effective February 14, 1997. This rule incorporates by reference Section X, Part B of the Utah State Implementation Plan, Vehicle Inspection and Maintenance Program, Davis County.

(E) UACR R307–2–32, adopted by the Utah Air Quality Board on February 5, 1997, effective February 14, 1997. This rule incorporates by reference Section X, Part C of the Utah State Implementation Plan, Vehicle Inspection and Maintenance Program, Salt Lake County.

(F) UACR R307–2–34, adopted by the Utah Air Quality Board on February 5, 1997, effective February 14, 1997. This rule incorporates by reference Section X, Part E of the Utah State Implementation Plan, Vehicle Inspection and Maintenance Program, Weber County.

(G) UACR R307–1–3.3.3.C., a portion of Control of Installations, as adopted by the Utah Air Quality Board on January 8, 1997, effective January 15, 1997.

(H) UACR R307–1–3.5.3.B.(1), a portion of Emission Statement Inventory regulation, as adopted by the Utah Air Quality Board on January 8, 1997, effective January 15, 1997.

(I) UACR R307–14–1, Requirements for Ozone Nonattainment Areas and Davis and Salt Lake Counties, adopted by the Utah Air Quality Board on August 9, 1995, effective on August 15, 1995.

3. New § 52.2350 is added to read as follows:

§ 52.2350 Emission inventories.

The Governor of the State of Utah submitted the 1990 base year emission inventory of ozone precursors, which are volatile organic compounds, nitrogen oxides, and carbon monoxide, for the Salt Lake and Davis Counties ozone nonattainment area on January 13, 1995, as a revision to the State Implementation Plan (SIP). This inventory addresses emissions from point, area, non-road, on-road mobile, and biogenic sources. This Governor's submittal was followed by the submittal of corrections to the inventory, on April 20, 1995, from Russell Roberts, Director, Division of Air Quality, Utah Department of Environmental Quality. The ozone maintenance plan for Salt Lake and Davis Counties that the Governor submitted on February 19, 1997, incorporates by reference the corrected 1990 base year ozone emission inventory as background material. The 1990 ozone base year emission inventory requirement of section 182(a)(1) of the Clean Air Act, as amended in 1990, has been satisfied for the Salt Lake and Davis Counties area.

4. New § 52.2351 is added to read as follows:

§ 52.2351 Area-wide nitrogen oxides (NO_X) exemption.

On May 2, 1997, Ursula Trueman, Director, Division of Air Quality, Utah Department of Environmental Quality, submitted, on behalf of the State of Utah and pursuant to section 182(f)(2)(A) of the Clean Air Act as amended in 1990, a section 182(f)(2) NO_X Reasonably Available Control Technology (RACT) exemption request for major stationary sources of NO_X in the Salt Lake and Davis Counties ozone nonattainment area other than the Pacificorp Gadsby and Kennecott Utah Copper Utah Power Plants. The exemption request was based on ambient air quality monitoring data which demonstrated that the ozone National Ambient Air Quality Standard (NAAQS) had been attained in the Salt Lake and Davis Counties ozone nonattainment area for the years 1990 through 1996. EPA approved this NO_X RACT exemption request on July 2, 1997.

PART 81—[AMENDED]

1. The authority citation for part 81 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

2. In § 81.345, the table entitled ''Utah-Ozone'' is amended by revising the entry for ''Salt Lake City Area'' to read as follows:

§ 81.345 Utah.

* * * * *

UTAH-OZONE

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
Salt Lake City Area:				
Davis County	August 18, 1997	Attainment.		
Salt Lake County	August 18, 1997	Attainment.		

* * * * * * *

[1] This date is November 15, 1990, unless otherwise noted.

* * * * *

[FR Doc. 97–18715 Filed 7–16–97; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

45 CFR Parts 16, 74, 75, and 95

RIN 0991–AA88

Indirect Cost Appeals

AGENCY: Department of Health and Human Services (HHS).

ACTION: Final rule.

SUMMARY: This final rule removes the informal grant appeals procedure for indirect cost rates and other cost issues. The regional HHS Divisions of Cost Allocation have been reorganized into a new Program Support Center and no longer report to the Regional Directors, making the process obsolete. The Department also sees little value in this informal appeals process because it frequently lengthens the time required for appeals. Deletion of this rule will reduce internal management regulations as required by Executive Order 12861. (45 CFR part 75)

DATES: Effective August 18, 1997.

FOR FURTHER INFORMATION CONTACT: Ronald Speck, (202) 401–2751. For the hearing impaired only: TDD (202) 690–6415.

SUPPLEMENTARY INFORMATION: On March 5, 1997, HHS published a Notice of Proposed Rulemaking (62 FR 10009) soliciting public comments on a proposal to remove 45 CFR part 75, ''Informal grant appeals procedures,'' together with all references to it. Part 75 provides for an informal appeals process to the Regional Directors (prior to formal appeals under 45 CFR part 16) for disputes arising from determinations made by a Director, Division of Cost Allocation (DCA) in the Department's regional offices, concerning indirect cost rates and certain other cost allocation plans. The Department's Divisions of Cost Allocation have been reorganized into a New Program Support Center and no longer report to the Regional

Directors. Consequently the procedures in part 75 are obsolete.

In addition, experience has shown that this informal appeals process actually resolves very few of the covered disputes, because most of these informal appeals are subsequently appealed to the Departmental Appeals Board established by 45 CFR part 16. Therefore, this informal appeals process has the effect of lengthening the total time required to finally resolve the subject appeals.

No public comments were received concerning this proposal. Since the Department sees little value in this informal appeals process, and this process is obsolete, we are adopting the proposal to eliminate part 75 as final, thereby reducing internal management regulations as required by Executive Order 12861. (We have corrected an inadvertent omission in the Notice of Proposed Rulemaking's authority citation for 45 CFR part 74.)

Regulatory Impact Analyses

Executive Order 12866

This final rule was reviewed by the Office of Management and Budget.

Regulatory Flexibility Act

The Secretary, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this final rule before publication and, by approving it, certifies that it does not have a significant impact on a substantial number of small entities.

Unfunded Mandates Act

The Department has determined that this final rule is not a significant regulatory action within the meaning of the Unfunded Mandates Reform Act of 1995.

Paperwork Reduction Act

This final rule does not contain information collection requirements requiring clearance under the Paperwork Reduction Act.

List of Subjects in 45 CFR Parts 16, 74, 75, and 95

Accounting, Administrative practice and procedures, Grant programs—health, Grant programs—social programs, Grants administration, Reporting and recordkeeping requirements.

(Catalog of Federal Domestic Assistance Number does not apply)

Dated: July 10, 1997.

Donna E. Shalala,

Secretary.

Accordingly, for the reasons set forth above, title 45 of the Code of Federal Regulations is amended as follows:

PART 16—PROCEDURES OF THE DEPARTMENTAL GRANT APPEALS BOARD

1. Part 16 is amended as follows:

a. The authority citation continues to read as follows:

Authority: 5 U.S.C. 301 and secs. 1, 5, 6, and 7 of Reorganization Plan No. 1 of 1953, 18 FR 2053, 67 Stat. 631 and authorities cited in the Appendix.

§ 16.3 [Amended]

b. Section 16.3(c) is amended by removing the words ''and part 75 of this title for rate determinations and cost allocation plans''.

Appendix A to Part 16 [Amended]

c. Section D. of appendix A is amended by removing the last sentence.

PART 74—UNIFORM ADMINISTRATIVE REQUIREMENTS FOR AWARDS AND SUBAWARDS TO INSTITUTIONS OF HIGHER EDUCATION, HOSPITALS, OTHER NONPROFIT ORGANIZATIONS, AND COMMERCIAL ORGANIZATIONS; AND CERTAIN GRANTS AND AGREEMENTS WITH STATES, LOCAL GOVERNMENTS AND INDIAN TRIBAL GOVERNMENTS

2. Part 74 is amended as follows:

a. The authority citation continues to read as follows:

Authority: 5 U.S.C. 301; OMB Circular A–110; Appendix J is also issued under 31 U.S.C. section 7505.

§ 74.62 [Amended]

b. Section 74.62(b) is amended by removing the numbers ''16, 75,'' and adding, in their place, the number ''16''.

§ 74.90 [Amended]

c. Section 74.90(b) is amended by removing the words ''parts 16 and 75'' and adding, in their place, the words ''part 16''.

PART 75—INFORMAL GRANT APPEALS PROCEDURES [REMOVED]

3. Part 75 is removed.

PART 95—GENERAL ADMINISTRATION—GRANT PROGRAMS (PUBLIC ASSISTANCE AND MEDICAL ASSISTANCE)

4. Part 95 is amended as follows:

a. The authority citation continues to read as follows:

Authority: Sec. 452(a), 83 Stat. 2351, 42 U.S.C. 652(a); sec.1102, 49 Stat. 647, 42 U.S.C. 1302; sec. 7(b), 68 Stat. 658, 29 U.S.C. 37(b); sec. 139, 84 Stat. 1323, 42 U.S.C. 2577b.; sec. 144, 81 Stat. 529, 42 U.S.C. 2678; sec. 1132, 94 Stat. 530, 42 U.S.C. 1320b–2; sec. 306(b), 94 Stat. 530, 42 U.S.C. 1320b–2 note, unless otherwise noted.

§ 95.513 [Removed]

b. Section 95.513 is removed.

§ 95.519 [Amended]

c. Section 95.519(b) is amended by redesignating paragraph (b)(1) as paragraph (b), in newly redesignated paragraph (b) by removing the words ''reconsideration of the determination under 45 CFR part 75'' and adding, in their place, the words ''appeal of the determination under 45 CFR part 16'', and by removing paragraph (b)(2).

[FR Doc. 97–18874 Filed 7–16–97; 8:45 am]

BILLING CODE 4150–04–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 93–270; RM–8323, RM–8339, RM–8428, RM–8429, and RM–8430]

FM Broadcasting Services; Nashville, Cordele, Dawson, Montezuma, and Hawkinsville, GA

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Chief, Allocations Branch, granted the counterproposal (RM–8428) filed by Tifton Broadcasting Corporation, licensee of Station WJYF(FM), Channel 237C3 (95.3 MHz), Nashville, Georgia, to upgrade that station by substituting Channel 237C2 for Channel 237C3 and modifying its license to operate on Channel 237C2. That counterproposal was filed in response to the Notice of Proposed Rule Making, 58 FR 58671, published November 3, 1993, which had set forth two allotment proposals in response to the interrelated petitions for rule making filed by Radio Cordele, Inc. (''RCI'') (RM–8323), licensee of Station WKKN(FM), Cordele, Georgia, and by John F. Tuck and Phonson Donaldson, Bankruptcy Court Appointed Receivers for Dawson Broadcasting Company (''DBC'') (RM–8339), licensee of Station WAZE(FM), Dawson, Georgia. With this action, the proceeding is terminated.

DATES: Effective September 2, 1997. The window period for filing applications for Channel 251A at Dawson, Georgia will open on September 2, 1997, and close on October 3, 1997.

FOR FURTHER INFORMATION CONTACT: J. Bertron Withers, Jr., Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: Channel 237C2 can be allotted at Nashville, Georgia in compliance with the Commission's minimum distance separation requirements at a site restricted to 6.3 kilometers (3.9 miles) northwest of the community at coordinates North Latitude 31–15–18 and West Longitude 83–17–08. RCI's petition was denied and DBC's petition and its later-filed counterproposal (RM–8430) were dismissed because the license for Station WAZE(FM) was canceled, creating a vacant allotment at Dawson, Georgia. Accordingly, a filing window is being opened for Dawson. A counterproposal jointly filed by Tri-County Broadcasting, Inc., licensee of Station WQSY(FM), Hawkinsville, Georgia, and Montezuma Broadcasting, licensee of Station WLML(FM), Montezuma, Georgia (RM–8429), was also dismissed. This is a summary of the Commission's Report and Order, MM Docket No. 93–270 adopted June 25, 1997 and released July 11, 1997. The full text of this Commission decision is available for inspection and copying during normal business hours in Commission's Reference Center (Room 239), 1919 M Street, N.W., Washington, DC 20554. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Services, 2100 M Street, N.W., Suite 140, Washington, DC 20037, (202) 857–3800.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of Title 47 of the Code of Federal Regulations is amended as follows:

PART 73—[AMENDED]

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

Authority: Secs. 303, 48 Stat., as amended, 1082; 47 U.S.C. 154, as amended.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments, under Georgia, is amended by removing Channel 237C3 at Nashville and adding Channel 237C2.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 97–18823 Filed 7–16–97; 8:45 am]

BILLING CODE 6712–01–P

Proposed Rules

Federal Register
Vol. 62, No. 137
Thursday, July 17, 1997

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

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

9 CFR Parts 317 and 381

[Docket No. 94–030P]

RIN 0583–AB98

Labeling of Natural or Regenerated Collagen Sausage Casings

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: The Food Safety and Inspection Service (FSIS) is proposing to require the source labeling of natural sausage casings if they are derived from a different type of livestock or poultry than the meat or poultry in the enclosed sausage. FSIS is also proposing to require source labeling for regenerated collagen casings.

DATES: Comments must be received on or before September 15, 1997.

ADDRESSES: Submit an original and two copies of comments to: FSIS Docket Clerk, DOCKET #94–030P, Room 102, Cotton Annex, 300 C Street, SW, Washington, DC 20250–3700. Reference materials cited in this docket will be available for public inspection in the FSIS Docket Room from 8:30 a.m. to 4:30 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Mr. William Hudnall, Assistant Deputy Administrator, Standards & Methods Review, Office of Policy, Program Development and Evaluation; (202) 205–0495.

SUPPLEMENTARY INFORMATION:

Background

On July 18, 1994, FSIS was petitioned by the Office of the Attorney General of the State of Connecticut to adopt a regulation to require the identification of the origin of natural sausage casings on sausage offered for sale in commerce. The Attorney General was responding to a letter he had received from a Connecticut consumer describing the consumer's difficulty in attempting to ascertain the origin of a natural sausage casing.

The consumer had gone to a local supermarket's butcher shop to purchase chicken and other non-pork sausages ''in packages the butcher shop makes in-house.'' Before purchasing any sausages, however, the consumer asked the butcher whether there was ''even a minuscule bit of pork anywhere in the sausage.'' The consumer was dismayed to learn that the casing surrounding a non-pork sausage could, in fact, be a pork casing and that no law or regulation required the origin of the casing to be on the sausage's label. In her letter to the Attorney General, the consumer observed that the failure of sausage manufacturers to label the origin of natural sausage casings had resulted in the unintended consumption of pork products by persons who, for religious reasons, did not want to consume them. On behalf of this consumer, the Attorney General of the State of Connecticut petitioned FSIS to require the identification of the origin of natural sausage casings. The Attorney General stated that he believes strongly that it is essential for a consumer to be provided with meaningful labeling information as to the nature and content of a sausage's casing, whether based upon dietary, religious or other factors.

On August 25, 1995, the Religious Action Center of Reform Judaism submitted a similar petition to FSIS requesting that the nature of sausage casings (natural or regenerated) be identified on the label, as well as the species origin of the casings. The petitioner stated that religious concerns motivated the request for a more specific ingredient declaration. Referencing the issue raised by the Connecticut consumer, this petitioner stated that current federally-approved labels ''would not warn a religious Jew or Muslim that a sausage with chicken or veal contents is cased with pig collagen.'' This petitioner argued that ''Federally-approved labels must warn consumers of the species of origin of collagen casing—the labels are the only means of preventing consumers from unknowingly consuming prohibited food products and removing uncertainty regarding the origin of food products.'' The petitioner went on to say that federally-approved labels should impart as much information as possible to health-conscious and interested consumers, ''whether such consumers are religious or non-religious.''

Based on its review of these petitions, FSIS concluded that there was merit to the argument that consumers of sausages made with natural casings expect the casings to be derived from the same species as a species indicated on the product label. For example, consumers expect that the natural casing of a sausage labeled ''beef sausage'' to be derived from cattle. Similarly, FSIS believes that consumers of poultry sausage, e.g., chicken franks, expect the sausage to be made from poultry and do not expect the casing to be derived from a red meat source.

However, sausages are not always encased in a casing derived from the same type of livestock or poultry as the meat block. They may be encased in natural casings that derive from a different type of livestock or poultry from that of the sausages. For example, a combination beef-and-lamb sausage may be made with a pork casing. Currently, in such a case, the manufacturer of the beef-and-lamb sausage is not required to disclose that the natural casing is not derived from the same type of livestock species as the sausage itself. (Poultry viscera are not currently used to encase sausages due to their small size.)

FSIS has a broad array of food safety and other consumer protection responsibilities. In particular, FSIS has authority to regulate the processing and distribution of meat and poultry products to prevent the sale of misbranded products in interstate commerce (*see* 21 U.S.C. 601 *et seq.* and 21 U.S.C. 451 *et seq.*). Under the Federal Meat Inspection Act (FMIA), the Poultry Products Inspection Act (PPIA), and the federal meat and poultry products inspection regulations, a meat or poultry product is ''misbranded'' if its labeling is false or misleading in any way.

Having concluded that consumers could incorrectly assume that sausages made with natural casings or regenerated collagen casings are derived from the same species as a species indicated on the product label, the Agency informed the public of its labeling policies regarding those types of sausage casings. On July 31, 1996, FSIS published a ''Notice of Policy Statement'' in the **Federal Register** explaining FSIS's policy on the labeling

of meat or poultry sausages made with natural casings (61 FR 39853; July 31, 1996). That notice clarified FSIS's position that a sausage encased in a natural casing not obtained from the same type of livestock or poultry as the meat inside is misbranded under the FMIA or the PPIA unless the product is properly labeled to show the origin of the natural casing. If the casing is not obtained from the same type of livestock or poultry as the meat inside and the product is not properly labeled, it is misbranded.

On October 9, 1996, the North American Natural Casing Association filed a lawsuit against the U.S. Department of Agriculture alleging in pertinent part that FSIS's July 31, 1996, policy notice violated the rulemaking procedures set forth in § 553 of the Administrative Procedure Act (APA) (5 U.S.C. 553(e)). In response to this lawsuit, FSIS has reassessed the need for notice and comment rulemaking to clarify requirements for casings in the context of misbranding and, therefore, is proposing to codify the labeling requirements for natural and regenerated collagen casings. FSIS is also proposing to require that establishments that manufacture natural or regenerated collagen casings, and establishments that manufacture sausages encased in casings derived from a different type of livestock or poultry than the encased meat(s), keep records identifying the source of the casings. Pending completion of this rulemaking, FSIS is suspending enforcement of the July 1996 policy statement.

Natural Sausage Casings

Natural animal casings have been traditional containers for sausage materials for centuries. Swine, sheep, and cattle are the primary sources for natural casings. Hog casings come from the stomach, the small and large intestines, and the rectum (bung). Cattle casings come from the esophagus (weasand), the small and large intestines, the bung, and the bladder. Sheep casings come only from the intestines. FSIS does not know of any natural casings derived from poultry sources.

The manufacture of natural casings consists typically of washing, scraping, and treating the casings with chemicals to remove solubles and grading them for size and condition. The natural casings are then salted, packaged, and shipped in brine to the point of use. They can easily be detected on the product they encase and are useful because they allow smoke and moisture to permeate the sausage during processing. Natural casings are usually considered edible, and are eaten with the sausage they encase, except for the thicker, larger casings, which, while edible, are not eaten because of their toughness.

Regenerated Collagen Sausage Casings

Sausage casings can also be manufactured from collagen. Manufactured collagen casings are made from collagen extracted from cattle hides or hog skins. A process called regeneration extracts the collagen from the hide. After being extracted, the collagen is dissolved and pushed out into a tube and hardened. It is then washed, swelled with acid, and formed. The final shape is fixed in an alkali bath.

FSIS has tentatively decided to propose to require source labeling of regenerated collagen casings because consumers may be confused about the nature of sausages encased in such casings without that information. All establishments involved in the manufacture and use of regenerated collagen casings, from the facility extracting collagen from the hides to the facility receiving the regenerated collagen casings, plus any other establishments that might be included in the process, would be responsible for knowing the source of the hides from which the ''native'' collagen is removed. All establishments would be required to keep records indicating the livestock or poultry source of the regenerated collagen.

However, the data currently available to the Agency indicates that regenerated collagen casings do not retain any of their original animal character. It is conceivable, therefore, that sausage manufacturers would not be able to determine the source of the regenerated collagen if the facility removing the ''native'' collagen does not itself keep a record of the source of the hides. This, in turn, would make it difficult for an FSIS inspector to verify the source of a regenerated collagen casing to determine if the encased sausage is mislabeled. FSIS believes, however, that all establishments, especially collagen extractors, keep records of this nature as a matter of course. Therefore, the Agency believes that this requirement will not impose a significant or undue burden on the industry.

In light of the technical limits and practical difficulties that may exist in determining the source of regenerated collagen casings, FSIS is seeking comments concerning the feasibility of requiring establishments extracting collagen from hides and sausage manufacturers to identify the source of their regenerated collagen casings and whether imposing such a requirement would benefit consumers. FSIS is also interested in learning if a scientific test that can ascertain the source of a regenerated collagen casing has been or is being developed.

The Proposal

FSIS is proposing to amend the Federal meat and poultry products inspection regulations to require that labels of sausages encased in natural casings or regenerated collagen casings identify the type of livestock or poultry from which the casings were derived, such as beef, swine or sheep, if the casings are derived from a different type of livestock or poultry than any meat or poultry ingredient of the sausage. The manufacturer may place the identity of the sausage casing on the principal display panel or in the ingredient statement. Establishments that produce, manufacture or use natural or regenerated sausage casings would also be required to maintain records identifying the source of the casings.

Executive Order 12988

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. If this proposed rule is adopted: (1) all state and local laws and regulations that are inconsistent with this rule will be preempted; (2) no retroactive effect will be given to this rule; and (3) administrative proceedings will not be required before parties may file suit in court challenging this rule.

Executive Order 12866 and Regulatory Flexibility Act

This proposal has been reviewed under Executive Order 12866. The rule has been determined to be not significant and, therefore, has not been reviewed by the Office of Management and Budget.

In accordance with 5 U.S.C. 603, FSIS has performed an Initial Regulatory Flexibility Act, which is set out below, regarding the impact of the rule on small entities. However, FSIS does not currently have all the data necessary for a comprehensive analysis of the effects of this rule on small entities. Therefore, FSIS is inviting comments concerning potential effects. In particular, FSIS is interested in determining the number, kind and characteristics of small firms that may incur benefits or costs from implementation of this proposed rule.

This proposed rule would require manufacturers of sausages encased in natural or regenerated collagen casings to label the source of those casings if the casings are derived from a different type of livestock or poultry than the encased sausage meat(s). However, FSIS believes

the associated labeling costs would be low. Manufacturers would be able to defer the development of new labels for sausage products in natural and regenerated collagen casings until their existing stocks of labels are exhausted. Moreover, the new labels could be generically approved; manufacturers would not have to prepare and submit FSIS Form 7234–1, ''Application for Labels, Marking, or Device,'' or the new label. Identification of the source of natural sausage casings or regenerated collagen casings could also be a selling point for some manufacturers.

This regulation would be beneficial to consumers because it would reduce confusion about the source of the casings surrounding those sausages and give them additional information with which to make informed choices about the sausages they purchase. Natural casings constitute between 15 and 20 percent of the sausage casing market; regenerated collagen casings constitute approximately 40 percent of that same market.

Paperwork Requirements

Abstract: Under this proposed rule, sausage manufacturers would need to label the source of natural sausage casings or regenerated collagen casings if they are derived from a different type of livestock or poultry than the meat(s) in the enclosed sausage. These establishments would have to develop product labels in accordance with the proposed rule. FSIS would consider these labels to be generically approved in accordance with 9 CFR 317.5 and 381.133. Any burden associated with labeling changes would be approved under OMB number 0583–0092.

Establishments that produce, manufacture or use natural or regenerated sausage casings, or sausages encased in either of those types of casings would also be required to maintain records identifying the source of the casings. FSIS believes, however, that all of these establishments keep records of this nature as a matter of course.

Estimate of Burden: Establishments producing, manufacturing or using natural or regenerated collagen casings, and establishments producing sausages encased in natural or regenerated sausage casings. FSIS estimates that the time associated with collecting the required information would be 15 minutes. FSIS estimates that this recordkeeping would occur once a day.

Respondents: Meat and poultry establishments manufacturing natural or regenerated collagen sausage casings, and meat and poultry establishments manufacturing sausages encased in these types of casings.

Estimated number of Respondents: 40 meat and poultry establishments.

Estimated number of Responses per Respondent: 10,000.

Estimated Total Annual Burden on Respondents: 2,500 hours.

Comments are invited on: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility; (b) the accuracy of the Agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of collection of information on those who are to respond, including through use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. Comments may be sent to Lee Puricelli, Paperwork Specialist, see address above, and Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20253.

List of Subjects

9 CFR Part 317

Food labeling, Food packaging, Meat inspection.

9 CFR Part 381

Food labeling, Poultry and poultry products.

For the reasons discussed in the preamble, FSIS is proposing to amend 9 CFR parts 317 and 381 of the Federal meat and poultry products inspection regulations as follows:

PART 317—LABELING, MARKING DEVICES, AND CONTAINERS

1. The authority citation for part 317 would continue to read as follows:

Authority: 21 U.S.C. 601–695; 7 CFR 2.18, 2.53.

2. Section 317.8 would be amended by adding a new paragraph (b)(37) to read as follows:

§ 317.8 False or misleading labeling or practices generally; specific prohibitions and requirements for labels and containers.

* * * * *

(b) * * *

(37) The labels of sausages encased in natural casings made from livestock or poultry viscera or regenerated collagen casings shall identify the type of livestock or poultry from which the casings were derived, if the casings are from a different type of livestock or poultry than the encased meat(s). The identity of the casing, if required, may be placed on the principal display panel or in the ingredient statement. Establishments producing, manufacturing or using natural or regenerated collagen sausage casings shall maintain records documenting the livestock or poultry source in accordance with § 320.3.

PART 381—POULTRY PRODUCTS INSPECTION REGULATIONS

3. The authority citation for part 381 would continue to read as follows:

Authority: 7 U.S.C. 138f, 450; 21 U.S.C. 451–470; 7 CFR 2.18, 2.53.

4. Section 381.117 would be amended by adding paragraph (f) to read as follows:

§ 381.117 Name of product and other labeling.

* * * * *

(f) The labels of sausages encased in natural casings made from livestock or poultry viscera or regenerated collagen casings shall identify the type of livestock or poultry from which the casings were derived, if the casings are from a different type of livestock or poultry than the encased meat(s). The identity of the casing, if required, may be placed on the principal display panel or in the ingredient statement. Establishments producing, manufacturing or using natural or regenerated collagen sausage casings shall maintain records documenting the livestock or poultry source in accordance with § 381.177.

Done at Washington, DC, on July 9, 1997.

Thomas J. Billy,

Administrator.

[FR Doc. 97–18841 Filed 7–16–97; 8:45 am]

BILLING CODE 3410–DM–P

DEPARTMENT OF ENERGY

Office of Energy Efficiency and Renewable Energy

10 CFR Part 430

[Docket No. EE–RM–97–500]

RIN 1904–AA75

Energy Conservation Program for Consumer Products: Energy Conservation Standards for Fluorescent Lamp Ballasts

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy (DOE).

ACTION: Notice of Availability.

SUMMARY: The Department of Energy (the Department or DOE) today gives notice that copies of the ''Draft Report on Potential Impact of Possible Energy Efficiency Levels for Fluorescent Lamp Ballasts'' are available for review and comment.

DATES: Written comments in response to this notice must be received by September 2, 1997.

ADDRESSES: Copies of the report entitled ''Draft Report on Potential Impact of Possible Energy Efficiency Levels for Fluorescent Lamp Ballasts'' may be obtained from Sandy Beall at: U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, EE–43, 1000 Independence Avenue, SW, Washington, DC 20585–0121, (202) 586–7574. This document may be read at the DOE Freedom of Information Reading Room, U.S. Department of Energy, Room 1E–190, 1000 Independence Avenue, SW, Washington, DC 20585, (202) 586–3142, between the hours of 9:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays.

Written comments are welcomed. Please submit 10 copies to: U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, ''Ballast Docket No. EE-RM–97-500,'' EE–43, Room 1J–018, 1000 Independence Avenue, SW, Washington, DC 20585–0121.

Pursuant to the provisions of Title 10 CFR 1004.11, any person submitting information which he or she believes to be confidential and exempt by law from public disclosure should submit one complete copy of the document and ten (10) copies, if possible, from which the information believed to be confidential has been deleted. The Department of Energy will make its own determination with regard to the confidential status of the information and treat it according to its determination.

FOR FURTHER INFORMATION CONTACT:

Mr. Anthony T. Balducci, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Mail Station EE–43, 1000 Independence Avenue, SW, Washington, DC 20585–0121, Phone: (202) 586–8459, Fax: (202) 586–4617, E-mail: anthony.balducci@hq.doe.gov

Ms. Sandy Beall, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Mail Station EE–43, 1000 Independence Avenue, SW, Washington, DC 20585–0121, Phone: (202) 586–7574, Fax: (202) 586–4617.

SUPPLEMENTARY INFORMATION: The Department of Energy is implementing enhanced procedures for the development and revision of appliance efficiency standards, including the fluorescent lamp ballast standards. See 61 FR 36973 (July 15, 1996). One of the themes of these process improvements is the Department's commitment to share analyses with the public and provide meaningful opportunity for public comment.

As part of our effort to review fluorescent lamp ballast standards, the Department is making the following document available: ''Draft Report on Potential Impact of Possible Energy Efficiency Levels for Fluorescent Lamp Ballasts.'' The report identifies product categories and includes life-cycle cost analyses, engineering analyses, and national benefits of the options being considered as potential standard levels for ballasts. The report is a revision of the February 1996 report. Revisions were based on comments received during the June 1996 workshop and the March 1997 workshop, stakeholder interviews, and a 1996 ballast price survey.

The report provides energy saving impacts for the various efficiency levels analyzed. The energy savings calculated for the period 2000–2030 range from 1.5 quadrillion Btus (Quads) to 5.3 Quads depending on the efficiency level and the base case assumptions. The Department invites the submission of written comments on the report.

Through its interactions with interested parties, the Department has gathered information on the entire ballast market. After examining this information, the Department believes that it is important to distinguish between the characteristics of the T8 and T12 ballast markets. Specifically, the Department requests comments on the following questions relating to the future market of fluorescent lamp ballasts:

1. For the T8 and T12 ballast markets, what percent of each of these markets will be electronic and magnetic in 10 years? In 15 years?

2. How is the magnetic T12 ballast market changing? Is it growing, shrinking, or remaining stable? How large (percent of total) will this market be in 10 years? In 15 years?

3. Is the T12 market changing from T12 magnetic ballasts to T12 electronic ballasts? If it is, at what rate? What will the rate be in 10 years? In 15 years?

4. Is the T12 market changing from T12 magnetic ballasts to T8 electronic ballasts? If it is, at what rate? What will the rate be in 10 years? In 15 years?

Please substantiate your answers with data when available.

Issued in Washington, DC, on July 1, 1997.

Joseph J. Romm,

Acting Assistant Secretary, Energy Efficiency and Renewable Energy.

[FR Doc. 97–18838 Filed 7–16–97; 8:45 am]

BILLING CODE 6450–01–P

FARM CREDIT ADMINISTRATION

12 CFR Parts 611, 614, 620, and 630

RIN 3052–AB67

Organization; Loan Policies and Operations; Disclosure to Shareholders; Disclosure to Investors in Systemwide and Consolidated Bank Debt Obligations of the Farm Credit System; Other Financing Institutions

AGENCY: Farm Credit Administration.

ACTION: Proposed rule.

SUMMARY: The Farm Credit Administration (FCA or Agency), through the FCA Board (Board), issues a proposed rule to amend its regulations in subpart P of part 614 that govern the funding and discount relationship between Farm Credit System (Farm Credit, FCS, or System) banks that operate under title I of the Farm Credit Act of 1971, as amended (Act), and non-System other financing institutions (OFIs). The proposed regulation would substantially expand the opportunities for OFIs, such as commercial banks, trust companies, agricultural credit corporations, incorporated livestock loan companies, savings associations, credit unions, or other financial institutions identified in section 1.7(b)(1)(B) of the Act, to fund or discount loans and leases through a Farm Credit Bank (FCB) or an agricultural credit bank (ACB). FCBs and ACBs can offer financing to OFIs for the purpose of funding short- and intermediate-term loans and leases to parties who are eligible to borrow from FCS associations under section 2.4(a) of the Act. The FCA's proposal would eliminate several non-statutory limits on OFI eligibility. It would also require an FCB or ACB to provide funding and discount services to any creditworthy OFI that is significantly involved in agricultural lending and demonstrates a continuing need for supplementary sources of funds to meet the credit needs of agricultural borrowers. The proposed rule would expand the opportunity for an OFI to seek funding, discount and other similar financial assistance from an FCB or ACB other than the System bank that is chartered to serve its territory under certain circumstances. The proposed rule also implements statutory provisions that

require OFIs to: Invest in the System funding bank; use the funds obtained from FCS banks only to provide short- and intermediate-term financing to eligible borrowers for authorized purposes; adhere to borrower rights on agricultural and aquatic loans; ensure that the FCA has access to the books and records of the OFI; and limit their aggregate liabilities to no more than 10 times their paid-in and unimpaired capital and surplus. Under this proposal, FCBs and ACBs would be required to lend to OFIs only on a fully secured basis and to have full recourse to the OFI's capital as protection against default. The FCA has restructured the regulations in subpart P of part 614 so they are more concise and easier to understand.

DATES: Written comments should be received on or before September 15, 1997.

ADDRESSES: Comments may be mailed or delivered to Patricia W. DiMuzio, Director, Regulation Development Division, Office of Policy Development and Risk Control, Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102–5090 or sent by facsimile transmission to (703) 734–5784. Comments may also be submitted via electronic mail to ''reg-comm@fca.gov.'' Copies of all communications received will be available for review by interested parties in the Office of Policy Development and Risk Control, Farm Credit Administration.

FOR FURTHER INFORMATION CONTACT:

Eric Howard, Policy Analyst, Regulation Development Division, Office of Policy Development and Risk Control, Farm Credit Administration, McLean, VA 22102–5090, (703) 883–4498,

or

Richard A. Katz, Senior Attorney, Regulatory Enforcement Division, Office of General Counsel, Farm Credit Administration, McLean, VA 22102–5090, (703) 883–4020, TDD (703) 883–4444.

SUPPLEMENTARY INFORMATION: On May 17, 1996, the FCA published for public comment an Advance Notice of Proposed Rulemaking (ANPRM) concerning potential revisions to the regulations in subpart P of part 614 that govern the funding and discount relationship between System banks that operate under title I of the Act and non-System OFIs. *See* 61 FR 24907 (May 17, 1996). The comment period expired on July 16, 1996, but the FCA extended the comment period until August 30, 1996, in order to allow interested parties additional time to respond. *See* 61 FR 37230 (July 17, 1996). The FCA received 34 comment letters. Of this total, 18 comments were from commercial banks, 4 from FCS banks, 7 from System associations, 4 from trade associations, and 1 from a non-depository OFI. Four trade associations submitted comments on behalf of their members: American Bankers Association (ABA); the Independent Bankers Association of America (IBAA); the National Livestock Producers Association (NLPA); and the Nebraska Bankers Association.

The comment letters reflected a broad diversity of viewpoints about OFI access to funding and discount services at FCBs and ACBs. Neither System nor non-System commenters offered uniform positions in response to ANPRM questions. The FCA addresses the commenters' concerns about specific substantive issues in those sections of this preamble that explain various provisions of the proposed rule.

The ABA and IBAA have sought legislation that would provide non-System financial institutions greater access to funding, discount and other similar financial assistance at System banks, and most commercial bank commenters asked the FCA to endorse this proposal. Some commercial bank commenters requested that the FCA propose new regulations that advance the joint legislative initiative of the ABA and IBAA. Some FCS associations opined that new OFI regulations could expose them to competitive disadvantages and they asked the FCA not to proceed with this rulemaking until Congress expands the System's lending authorities. The bank for cooperatives asked the FCA to request new legislation so title III banks could also extend credit to OFIs.

Other commenters also requested that the FCA propose new regulations that would exceed current statutory authorities. For example, many commenters requested that the FCA: (1) Authorize OFIs to fund or discount their long-term mortgages with FCBs and ACBs; (2) allow OFIs to elect members to the boards of their System funding banks; (3) exempt non-System lenders from borrower rights requirements; and (4) model the new regulations after provisions in the Federal Home Loan Bank Act, 12 U.S.C. 1421 *et seq.* The current statute prevents the FCA from adopting these suggestions.

The proposed regulations grant title I banks and OFIs greater flexibility to finance agriculture, aquaculture and other specified rural development needs within the confines of the existing statute. The FCA has decided to revise these regulations because of significant changes in the financial and agricultural credit markets since the existing OFI regulations were adopted in 1981. The regulations in subpart P of part 614 have been restructured substantially to conform with the Policy Statement on Regulatory Philosophy of the FCA Board. *See* 60 FR 26034 (May 16, 1995). The proposed regulations interpret and implement the applicable provisions of the statute, and they promote a safe and sound lending relationship between System funding banks and their OFIs. The FCA proposes to repeal those regulatory provisions that prescribe detailed management practices to FCS banks or impose unnecessary costs and burdens on both System institutions and OFIs. The FCA believes that these proposed regulations are more concise and easier to understand.

I. OFI Access to Farm Credit Banks and Agricultural Credit Banks

A. Commenter Concerns

The FCA asked several questions about which OFIs should be allowed to establish a funding and discount relationship with FCBs and ACBs. The Agency requested guidance on criteria that determine whether an OFI: (1) Is ''significantly involved in lending for agricultural or aquatic purposes''; (2) ''demonstrates a continuing need for supplementary sources of funds to meet the credit requirements of its agricultural or aquatic borrowers''; and (3) has ''limited access to national or regional capital markets.'' Additionally, the ANPRM solicited comments about how OFI access to the FCS will be affected by changes to corporate organization and structure and the advent of interstate banking and branching.

Eleven parties responded to one or more of these ANPRM questions. Three System institutions opined that the policies of each title I bank, not FCA regulations, should prescribe specific eligibility criteria for OFIs, while one FCS association suggested that the new regulation should only require OFI applicants to demonstrate an ongoing ''material and significant'' commitment to agriculture. The NLPA recommended that only OFIs that lend exclusively to agriculture should be allowed to borrow from the FCBs and ACBs. The ABA, IBAA, and the ACB suggested that new regulations should permit OFIs access to System funding and discount services if at least 10 percent of their loans are to agricultural or aquatic borrowers. The ABA and the ACB also recommended additional standards, such as a minimum absolute dollar threshold or income level, to measure whether an

OFI is significantly involved in agricultural lending.

The FCA also received comments from the ABA, IBAA, NLPA, and four FCS institutions about OFI needs for other sources of funding to meet the credit requirements of agricultural and aquatic borrowers. The NLPA and the IBAA commented that proposed regulations should grant their respective constituencies (non-depository financial institutions and local community banks) preferential access to FCS funding and discount services because they lack many of the funding sources that are available to other agricultural lenders. Two commercial bank trade associations, an FCB, and a pair of jointly managed System associations advised the FCA to repeal the 60-percent loan-to-deposit ratio in § 614.4550(a)(3) because it: (1) Imposes unnecessary regulatory burdens on both OFIs and their System funding bank; (2) is an asset-liability management measure that is unrelated to the agricultural lending activities of OFIs; and (3) does not accurately reflect an OFI's need for supplemental funds. Two FCBs informed the FCA that the definitions of ''national'' and ''regional'' money markets in § 614.4540(f) and (g) should be repealed because they are obsolete. The IBAA and an FCB commented that the advent of interstate banking and branching has no bearing on whether non-System lenders need supplemental sources of funds to meet the credit requirements of farmers, ranchers, and aquatic producers and harvesters.

These responses indicate that many System and non-System commenters believe that the existing regulations unduly restrict the ability of non-System financial institutions to fund and discount their agricultural or aquatic loans at FCBs and ACBs. Although differences of opinion exist about various details concerning OFI access to the FCS, a consensus exists among these commenters that a new regulatory approach is needed so that title I banks can better fulfill their mission to finance agriculture, aquaculture, and other specified rural credit needs. The FCA shares this view and proposes new regulations that are more closely aligned with the provisions of section 1.7(b) of the Act.

B. New Regulatory Approach for OFI Access

Under existing §§ 614.4545 and 614.4550, only OFIs that satisfy certain criteria are permitted to establish funding or discount relationships with a title I bank. The FCA proposes to repeal these two regulations because they impose restrictions that are not required by the Act. Both section 1.7(b)(1) of the Act and its legislative history indicate that Congress intended that Farm Credit banks act as a funding and liquidity source primarily for small, local OFIs, but it did not exclude other agricultural creditors from funding or discounting loans with title I banks.

The FCA proposes a two-tier approach so that *any* financial institution that has one of the charters specified in section 1.7(b)(1)(B) of the Act may establish a funding and discount relationship with a title I bank, while those OFIs that have at least 15 percent of their loans to agricultural producers and enter into a 2-year funding agreement with an FCB or ACB *are assured access* to the FCS on a preferred basis. From the FCA's perspective, proposed § 614.4540 more closely reflects the statute.

Proposed § 614.4540(a) permits those OFIs that are not assured access to borrow from a title I bank so long as the proceeds are used only to make short- and intermediate-term loans to persons and for purposes eligible for financing by a production credit association (PCA) or agricultural credit association (ACA) under sections 1.10(b) and 2.4 (a) and (b) of the Act. By allowing more financial institutions to fund or discount their loans with FCBs and ACBs, proposed § 614.4540(a) ultimately will provide farmers, ranchers, aquatic producers and harvesters, and other eligible rural residents greater access to credit.

The proposed rule repeals a provision in existing § 614.4550(a)(1) that prohibits title I banks from lending to entities that ''* * * finance the sale of products by its affiliates * * *'' because this restriction is not required by the Act. Two commercial bank trade associations and three System institutions have persuaded the FCA to repeal the loan-to-deposit ratio in existing § 614.4550(a)(3) because it is not a reliable indicator of an OFI's commitment to agriculture, or its need for supplementary funds.

Proposed § 614.4540(b) implements section 1.7(b)(4) of the Act, which assures that the funding, discount and other similar financial assistance of FCBs and ACBs shall be available on a reasonable basis to any creditworthy OFI that: (1) Is significantly involved in lending for agricultural or aquatic purposes; (2) demonstrates a continuing need for supplementary sources of funds to meet the credit requirements of its agricultural or aquatic borrowers; (3) has limited access to national or regional capital markets; and (4) does not use the services of System banks to extend credit to persons and for purposes that cannot be financed by a PCA under title II of the Act. Proposed § 614.4540(b)(1) specifies that an OFI is significantly involved in agricultural or aquatic lending if it has at least 15 percent of its loan portfolio at a seasonal peak in credit extensions to farmers, ranchers, and aquatic producers and harvesters. Although these OFIs are assured access under proposed § 614.4540(b), the regulation specifically permits FCBs and ACBs to decline any funding request that imperils their safety and soundness.

Under this proposal, FCBs and ACBs will not include the loan assets of the OFI's parent, affiliates, and subsidiaries when determining whether the OFI applicant meets the 15-percent criterion. By focusing solely on the applicant, this approach affords more financial institutions access to the FCS, and therefore, increases the flow of credit to farmers, ranchers, aquatic producers and harvesters and other eligible rural residents. Furthermore, the requirement in existing § 614.4545(c) that a title I bank decide whether an OFI applicant should be considered by itself or together with its related entities is not susceptible to consistent and uniform application by the FCS. Additionally, existing § 614.4545(c) does not facilitate prompt consideration of OFI funding requests, and the FCA proposes to repeal it in order to reduce unnecessary regulatory burdens on System funding banks.

The FCA's approach substantially expands OFI access to the FCS. In contrast to the existing regulation, proposed § 614.4540 allows OFIs that have less than 15 percent of their loans in agriculture to borrow from FCBs and ACBs. In addition, creditworthy OFIs are assured access to the FCS if at least 15 percent of their loans are made to farmers, ranchers, and aquatic producers and harvesters. The FCA believes that this 15-percent threshold reasonably reflects an OFI's commitment to agricultural lending, and therefore, it does not adopt any of the alternatives suggested by the commenters.

The NLPA suggested that only OFIs that exclusively finance agricultural production should qualify for the funding or discount services of System banks. This suggestion is more restrictive than the existing regulation, and is incompatible with the mission of title I banks to provide affordable, dependable, and stable credit to eligible farmers, ranchers, aquatic producers and harvesters, and other eligible rural residents through both OFIs and FCS associations. Financial institutions that

have non-agricultural loans in their portfolios may still be ''significantly involved in lending for agricultural or aquatic purposes,'' within the meaning of section 1.7(b)(4)(B)(i) of the Act, and the legislative history to this provision indicates that Congress specifically contemplated that FCA regulations would establish a threshold well below 100 percent.

The FCA has adopted an approach that provides OFIs with greater access to FCBs and ACBs than the recommendation of the ABA, IBAA, and the ACB. As noted earlier, the proposed regulation allows any OFI to fund or discount their short-and intermediate-term agricultural, aquatic, farm-related business, and non-farm rural home loans with an FCB or ACB, while it assures any creditworthy OFI that maintains at least 15 percent of its loan volume in agricultural or aquatic loans access to the FCS. At this time, the FCA does not believe that this percentage should be lowered for OFIs that are assured System access under proposed § 614.4540(b)(1).

Some System commenters suggested that the new regulation authorize funding banks to establish rules of access for OFI applicants. This approach is not compatible with section 1.7(b)(4)(A) of the Act, which requires FCA regulations to establish specific standards that govern OFI access to System banks. Furthermore, this approach is not susceptible to uniform application throughout the FCS.

Proposed § 614.4540(b)(2) requires an OFI applicant to demonstrate a continuing need for supplementary sources of funds by establishing a financing relationship with an FCB or ACB for at least 2 years. This approach is consistent with existing § 614.4560(b)(5), and the FCA believes that this 2-year commitment requirement deters OFIs from making sporadic funding requests to FCBs and ACBs. The FCA proposes to repeal the provision in existing § 614.4560(b)(5) that imposes a specific non-use fee on OFIs that fail to maintain an average daily loan balance of 70 percent of their projected loan volume. The FCA believes that System banks and OFIs should be free to negotiate such fees in whatever manner that meets their business needs. Under the proposed regulation, each FCB and ACB will have the discretion to establish appropriate interest rates and fees for all OFIs on an equitable and objective basis.

The proposed regulation does not establish specific criteria for determining whether OFI applicants have limited access to national or regional money markets. The FCA observes that virtually all financial institutions have greater access to regional, national, and even global money markets today than 16 years ago when the existing regulations were adopted. The FCA's new regulatory approach enables System banks that operate under title I of the Act to finance all eligible OFIs, while it does not disadvantage small, local OFIs or FCS associations. New provisions are proposed that give additional assurances to small, local OFIs that significantly and continually lend to agriculture. The FCA believes that this approach enhances the flow of competitive credit to farmers, ranchers, and aquatic producers and harvesters by opening greater access to the credit markets in rural America—a fundamental public policy purpose of the Farm Credit Act.

C. Denials of OFI Applications

The FCA requested comments about whether the Agency should continue to review all denials of OFI applications. Two System commenters thought that FCA review unnecessarily interjects the Agency in the credit decisions of System banks, while two trade associations believed that such reviews ensure equitable treatment between OFIs and System associations and prevent FCBs and ACBs from denying OFI applications for reasons that are unrelated to safety and soundness.

Proposed § 614.4540(c) requires each FCB and ACB to establish objective loan underwriting policies and procedures for determining the creditworthiness of each OFI applicant. The FCA's proposal prevents FCBs and ACBs from denying the application of any OFI that is assured access under proposed § 614.4540(b) unless the OFI fails to satisfy the funding bank's loan underwriting requirements. Proposed § 614.4540(c) adequately safeguards the interests of OFIs because denials of credit applications must be based on objective loan underwriting standards. The FCA will review denials of OFI funding requests during examinations of FCBs and ACBs. Therefore, the FCA proposes to repeal existing § 614.4555.

II. Place of Discount

The ANPRM sought guidance about whether the FCA should revise restrictions in existing § 614.4660 concerning the place of discount for OFIs. A question in the ANPRM asked under what circumstances an FCB or ACB should be allowed to extend financing to an OFI that does not operate in its chartered territory if the designated System bank does not approve the OFI's application.

Five System institutions, two commercial banks, and four trade associations responded to ANPRM questions regarding the place of discount. One System association opposed any revision to § 614.4660. A PCA advised the FCA not to allow an FCB or ACB to lend to OFIs located outside of the bank's chartered territory unless FCS associations could also seek financing from other FCS banks. All other commenters opined that OFIs should have greater flexibility to fund or discount loans with FCBs and ACBs that are not chartered to serve the territory where such OFIs are located. Three commercial bank trade associations, two commercial banks, and two System institutions commented that the new regulations should not impose any restriction on where OFIs can seek FCS funding and discount services. Six of these commenters advised the FCA that existing § 614.4660 is a significant impediment to the success of the OFI program because it requires OFIs to seek funding from FCBs and ACBs that are owned by their competitors. One System commenter opined that existing § 614.4660 cannot be reconciled with the primary mission of the FCS to extend credit to farmers and ranchers. One System bank suggested that the new regulation authorize FCBs and ACBs to extend financing to OFIs located outside their chartered territory only after the designated System bank has denied their applications. The NLPA recommended that the FCA allow OFIs to seek the funding and discount service of any FCB or ACB, but prohibit such System banks from soliciting OFIs that are located outside of their chartered territory.

The FCA proposes to modify the regulatory requirements governing place of discount to provide OFI applicants with greater flexibility to obtain System financing. Under proposed § 614.4550(a), each FCB or ACB would have the first opportunity to provide financing to OFIs headquartered within its chartered territory. In order to simplify the rules concerning place of discount, the FCA proposes to repeal a provision in existing § 614.4660 that requires an OFI to establish a funding and discount relationship with the title I bank in whose territory more than 50 percent of the OFI's loan volume is concentrated if the OFI's headquarters is located in the territory of another FCB or ACB.

A System bank could provide funding to an OFI whose headquarters is located outside its territory under two conditions. First, the bank could obtain the consent of the System bank in whose territory the OFI's headquarters

is located. It could also serve an OFI that has unsuccessfully sought financing from the designated System bank. Thus, proposed § 614.4550(b) authorizes any FCB or ACB to extend credit to an OFI if the OFI's designated System bank denies the OFI's application or otherwise fails to approve the OFI's funding request within 60 days. The 60-day provision is intended to establish a certain time by which an OFI is free to seek funding from another System bank. It begins upon the bank's receipt of a ''completed application'' as defined by Regulation B of the Board of Governors of the Federal Reserve System, 12 CFR 202.2(f). The FCA notes that Regulation B requires System banks to notify OFIs of the denial of applications for financing and to provide reasons for the adverse decision upon request. For this reason, the FCA believes it is unnecessary for this proposed regulation to include requirements for notification and disclosure of the reasons for denial. This new regulatory approach responds to commenter concerns that FCBs and ACBs might be reluctant to fund OFIs that compete with the PCAs and ACAs that own the bank. It also simultaneously prevents unrestrained competition among title I banks for OFI lending.

III. Requirements for OFI Funding Relationships

Proposed § 614.4560 implements several statutory provisions that govern the funding and discount relationship between OFIs and their System funding banks. The FCA has consolidated various provisions that are currently found throughout the regulations in subpart P of part 614, without substantive change. Proposed § 614.4560(a)(1) requires an OFI to execute a general financing agreement (GFA) with its System funding bank pursuant to the regulations in subpart C of part 614 as a condition precedent for obtaining funding, discount and other similar financial assistance from an FCB or ACB.

Proposed § 614.4560(a)(2) requires each OFI to purchase non-voting stock in its System funding bank pursuant to the bank's bylaws. As discussed in greater detail below, proposed § 614.4590 requires each FCB and ACB to establish appropriate interest rates, fees, and capitalization requirements that promote equitable treatment between direct lender associations that operate under title II of the Act and OFIs. Similarly, the FCB's or ACB's policies and procedures should also address minimum loan amounts, terms, commitment fees, non-use fees, prepayment penalties, and other conditions that may apply to OFIs.

Proposed § 614.4560(b) implements provisions in section 1.7(b)(1) and (b)(4)(B)(iv) of the Act that prohibit OFIs from using the funds that they receive from an FCB or ACB to extend credit to parties and for purposes and terms that are not authorized by sections 1.10(b) and 2.4(a) and (b) of the Act. The FCA has relocated the portfolio limitations in existing § 614.4610 on non-farm rural home loans and certain processing and marketing loans to proposed § 614.4560(c) without substantive amendment. Proposed § 614.4560(d) implements section 4.14A(a)(6)(B) of the Act by subjecting all agricultural and aquatic loans that OFIs fund or discount through an FCB or ACB to statutory and regulatory borrower rights requirements.

Proposed § 614.4560(e) implements section 5.21 of the Act, which enables the FCA to examine non-depository OFIs and obtain examination reports from the State regulators of commercial banks, trust companies, and savings associations. Under this regulatory provision, OFIs are required to execute the applicable consent forms or releases before they obtain financing from an FCB or ACB. Section 5.22 of the Act enables the FCA to receive examination reports directly from other Federal regulatory agencies.

The FCA proposes to repeal existing § 614.4650, which contains five criteria for a System funding bank to revoke or suspend an OFI's line of credit. This regulation neither interprets nor implements the Act, or promotes safety and soundness. The FCA, however, expects each title I bank to incorporate criteria for revoking or suspending its funding relationship with an OFI into its loan underwriting policies and procedures. This issue should be addressed in the GFA between an OFI and its System funding bank.

IV. Recourse and Security Requirements

These new regulations afford OFIs greater and more flexible access to the FCS within the confines of safety and soundness. The FCA's proposal requires FCBs and ACBs to have full recourse to an OFI's capital and to finance OFIs on a fully secured basis. Proposed § 614.4570 addresses these two issues.

The proposed § 614.4570(a) requires an OFI to endorse all obligations that it funds or discounts through an FCB or ACB with full recourse or its unconditional guarantee. For safety and soundness reasons, the FCA believes that FCBs and ACBs must have recourse to the OFI's capital.

Proposed § 614.4570(b)(1) requires that each OFI pledge all notes, drafts, and other obligations that are funded or discounted with the FCB or ACB as collateral for the credit extension, and proposed § 614.4570(b)(2) obligates each FCB or ACB to perfect its security interest in such obligations and the proceeds thereunder in accordance with applicable State law. These provisions would prohibit any FCB or ACB from extending credit to an OFI on an unsecured, or limited or non-recourse basis.

The ANPRM asked under what circumstances, if any, the new regulations should require OFIs to pledge cash and readily marketable securities or other assets as supplemental collateral to their System funding bank. The FCA received comments on this issue from two trade associations and three System institutions. The NLPA advised the FCA that supplemental collateral should be pledged when 1 percent of the OFI's loans under discount fall below ''Acceptable'' and ''Other Assets Especially Mentioned'' classifications. The three System commenters expressed the view that the System funding bank should have the discretion to determine whether supplemental collateral is needed to manage the risk posed by each OFI. The IBAA suggested that the FCA establish supplemental collateral requirements for FCBs and ACBs that are patterned after a provision in the Federal Home Loan Bank Act, 12 U.S.C. 1430, which allows each Federal Home Loan Bank, in its discretion, to take residential mortgages and securities that are issued, insured, or guaranteed by the United States or any of its agencies as security for advances to its members. The System commenters and the IBAA have persuaded the FCA that the new regulations should leave questions about supplemental collateral to the discretion of the System funding bank as a part of its underwriting policies and standards. Accordingly, the FCA does not propose a specific supplemental collateral requirement by regulation. For these reasons, the FCA proposes to repeal §§ 614.4570 and 614.4600(b)(3), which require OFIs to pledge certain liquid collateral to the System funding bank as a condition for obtaining financing.

The IBAA suggested that the new regulations authorize OFIs to pledge *any* rural or agricultural loans as collateral to the System funding bank. The commenter did not specify whether this suggestion pertains to pledges of primary or supplemental collateral. FCBs and ACBs cannot accept long-term

''rural'' loans as primary collateral because section 1.7(b) of the Act requires OFIs to use funds from a title I bank only for the purpose of extending short- and intermediate-term credit to eligible borrowers for authorized purposes under section 2.4(a) and (b) of the Act. Other types of loans could be used as supplemental collateral, but the funding bank must ensure that its funds are used only for loans to eligible borrowers for authorized purposes.

Proposed § 614.4570(c) would require each FCB and ACB to develop policies and procedures that establish uniform and objective standards for determining the need and amount of supplemental collateral or other credit enhancements that each OFI must pledge to its System funding bank as a condition for obtaining credit. The amount, type, and quality of supplemental collateral or other credit enhancements specified by such policies and procedures must be proportional to the level of risk that the OFI poses to its System funding bank. Provisions in the GFA or the security agreement would govern collateral pledged by each OFI to its System funding bank.

V. Limitation on the Extension of Funding, Discount and Other Similar Financial Assistance to an OFI

The FCA proposes to redesignate § 614.4560(b)(3) as new § 614.4580. This regulation derives from section 1.7(b)(3) of the Act, which prohibits a System funding bank from extending credit to an OFI if its aggregate liabilities exceed 10 times its paid-in and unimpaired capital and surplus, or a lesser amount established by the laws of the jurisdiction creating the OFI. Although the FCA proposes to omit the last three sentences of existing § 614.4560(b)(3), System banks may still establish, by policy, a lower liabilities-to-capital ratio for their OFIs. In this context, the FCA expects that each FCB or ACB will establish in its underwriting policies and procedures, as referred to in § 614.4540(c), specific capital standards that address risks posed by its OFIs. A commercial bank trade association asked the FCA to adopt a liabilities-to-capital ratio of 20:1 because this is the standard for members of the Federal Home Loan Bank System. *See* 12 U.S.C. 1430(c). The FCA is unable to adopt the commenter's suggestion because section 1.7(b)(3) of the Act does not provide that flexibility.

VI. Lending Limit to a Single OFI Borrower

The ANPRM requested comments about how the regulations should address concentration risk in an OFI's loan portfolio. More specifically, the FCA asked whether the current 50-percent lending limit in existing § 614.4565 is appropriate or whether the Agency should consider alternative approaches. The FCA received responses to these questions from three trade associations, a commercial bank, an FCB, and a pair of jointly managed FCS associations. The NLPA and the FCB suggested that the FCA retain the existing 50-percent lending limit, while the FCS associations advised the Agency to repeal the regulatory lending limit so that OFIs and their respective FCS funding bank could determine the appropriate lending limit when they negotiate their GFAs. The three commercial bank commenters opined that the OFI lending limits in existing § 614.4565 are overly restrictive and should be raised. These commenters claimed that the 50-percent lending limit enables only OFIs with substantial capital to make loans of a significant size.

The FCA proposes that it will no longer impose a regulatory lending limit on extensions of credit that OFIs make to their borrowers with FCS funds. Some OFIs will remain subject to the lending limits that their primary regulator imposes under applicable Federal or State law. The FCA will rely on the OFI's primary Federal or State regulator where one exists to ensure that an OFI does not lend a disproportionate amount of its capital and surplus to a single credit risk. However, the FCA further expects each FCB or ACB to prudently manage its exposure to risks caused by concentrations in OFI loan portfolios through both its loan underwriting standards and the GFA. During examinations, the FCA will review the controls that each FCB or ACB establishes to address such single-credit risk concentrations in OFI loan portfolios.

The FCA observes that opportunities for FCBs and ACBs to fund OFIs are substantially increased by this proposal. While considering the safety and soundness risks associated with such an expansion the Agency considered alternative approaches for controlling risk exposure to the FCS. Specifically, the FCA is considering whether the final regulation should establish a lending limit on the extension of credit from a Farm Credit bank to each OFI. *See* §§ 614.4350 and 614.4352. The FCA solicits commenters' views as to whether the final rule should contain a lending limit to an OFI as a percent of the funding bank's capital base similar to the approach delineated in § 614.4352, and if so, at what percent should the limit be established. Finally, the FCA welcomes suggestions for other approaches to manage and control risks originating through OFI lending relationships.

VII. Equitable Treatment of OFIs and FCS Associations

The FCA requested comments about how the proposed regulations could ensure that System funding banks accord impartial and equitable treatment to both OFIs and FCS direct lender associations. Three trade associations, three FCS banks, three System associations, two commercial banks, and one non-depository OFI responded to the FCA's questions. The NLPA and one FCS commenter replied that existing § 614.4640 is adequate because it ensures that System banks treat OFIs and FCS direct lender associations equitably. One FCB urged the FCA to repeal § 614.4640 so that title I banks could negotiate interest rates and servicing fees with prospective OFIs. The ACB and the non-depository OFI opined that System funding banks should accord essentially the same treatment to the their direct lender associations and OFIs, but disparity in interest rates and fees could be justified by different levels of risk that such institutions pose to their System funding bank. Two FCS associations suggested that the proposed regulation impose the same capital investment requirement on both OFIs and direct lender associations. One of these associations suggested that if the FCA permits FCBs and ACBs to establish different capital requirements for OFIs and direct lender associations, interest rates should be charged which result in similar levels of overall financial return to the funding bank from all borrowing entities. One pair of jointly managed associations commented that the proposed regulations should require OFIs to contribute to the funding bank's premium to the Farm Credit System Insurance Corporation (FCSIC). Three commercial bank commenters suggested that the FCA encourage FCBs and ACBs to pay dividends to OFIs on their non-voting stock. The IBAA commented that the proposed regulation should require each FCB and ACB to disclose to OFI applicants information about its rates, spreads, and dividends for direct lender associations.

The FCA proposes a new regulatory approach that balances a System funding bank's obligation to accord equitable treatment to both direct lender associations and OFIs with its needs for greater business flexibility to price and structure its credit to all lending institutions. Whereas existing § 614.4640 specifically requires FCBs

and ACBs to charge OFIs and direct lender associations the same rates and fees on the same basis, the proposed regulation would require that the *overall* costs of funds to OFIs and associations be comparable, irrespective of the individual components of credit costs, such as interest rates and fees. Proposed § 614.4590(a) requires each FCB and ACB to apply similar objective loan underwriting standards to both OFIs and direct lender associations, and proposed § 614.4590(b) states that any variation in the overall amounts that OFIs and direct lender associations are charged by the funding bank for capitalization requirements, interest rates, and fees shall be attributed to differences in credit risk and administrative costs to the bank.

The FCA declines suggestions by a System commenter that the proposed regulation establish identical capital investment requirements for both OFIs and direct lender associations. The FCA believes that FCBs and ACBs should have the flexibility to impose different capital requirements because risk levels are different and the Act does not allow OFIs to own voting stock in the FCBs or ACBs. In response to an association's comment about OFI contributions to the premium that its funding bank pays to FCSIC, the FCA notes that the proposed regulation allows the FCB or ACB to take FCSIC premiums into account when they price OFI loans. The proposed regulation does not require FCBs and ACBs to pay dividends to OFIs, as commercial bank commenters requested, because the FCA does not prescribe business practices to FCS institutions in the absence of compelling safety and soundness reasons. From the FCA's perspective, an institution's bylaws best prescribe detailed capitalization requirements, dividend policies, and cooperative principles. The FCA declines the IBAA's request to compel FCBs and ACBs to disclose pricing information about their loans to their affiliated direct lender associations because the regulations can promote impartial and equitable treatment of OFIs and direct lender associations without requiring Farm Credit banks to disclose confidential and proprietary information affecting its other customers.

VIII. Insolvency

The ANPRM inquired how new regulations could safeguard the interests of an FCB or ACB when an OFI is liquidated. An ACB and the IBAA responded that a System bank should maintain a senior security interest in all assets that an OFI pledges as collateral. An FCB and a pair of jointly managed FCS associations opined that liquidation of an OFI should be addressed in the GFA, not FCA regulations.

Under proposed § 614.4600, the System funding bank may take over loans and other assets that the OFI pledged as collateral if the OFI becomes insolvent, is in process of liquidation, or fails to service its loans properly. As a result, the FCB or ACB will have the authority to make additional advances, to grant renewals and extensions, and to take such other actions as may be necessary to collect and service loans to the OFI's borrowers. The System funding bank may also liquidate the OFI's loans and other assets that it has pledged in order to fully realize repayment from the OFI.

In contrast to existing § 614.4630(a), proposed § 614.4600 no longer requires an FCB or ACB to obtain FCA approval before it takes over the loans and other assets of an insolvent OFI. From a safety and soundness perspective, FCBs and ACBs should be able to exercise creditor remedies whenever the OFI defaults on the GFA. The prior-approval requirements in existing § 614.4630(a) were established before the FCA became an arms-length regulator. This approach is consistent with the FCA's general policy of repealing Agency approval requirements that are not imposed by the Act.

The FCA proposes to repeal § 614.4630(b), which prohibits FCBs and ACBs from assigning obligations handled for an insolvent OFI as collateral for bonds without FCA prior approval. The applicable requirements for collateral pledged by FCBs and ACBs for bond obligations are contained in § 615.5050, and FCA approval for each issuance is required by § 615.5101(d) of this chapter. The FCA also proposes to repeal § 614.4630(c), which places restrictions on interest rates that an FCB or ACB can charge borrowers whose loans were taken over from a defaulting OFI. The FCA believes the restrictions in § 614.4630(c) are no longer necessary because the FCA's examinations will assure sufficient controls and monitoring exist in this area.

List of Subjects

12 CFR Part 611

Agriculture, Banks, banking, Rural areas.

12 CFR Part 614

Agriculture, Banks, banking, Flood insurance, Foreign trade, Reporting and recordkeeping requirements, Rural areas.

12 CFR Part 620

Accounting, Agriculture, Banks, banking, Reporting and recordkeeping requirements, Rural areas.

12 CFR Part 630

Accounting, Agriculture, Banks, banking, Credit, Organization and functions (Government agencies), Reporting and recordkeeping requirements, Rural areas.

For the reasons stated in the preamble, parts 611, 614, 620, and 630 of chapter VI, title 12 of the Code of Federal Regulations are proposed to be revised to read as follows:

PART 611—ORGANIZATION

1. The authority citation for part 611 continues to read as follows:

Authority: Secs. 1.3, 1.13, 2.0, 2.10, 3.0, 3.21, 4.12, 4.15, 4.21, 5.9, 5.10, 5.17, 7.0–7.13, 8.5(e) of the Farm Credit Act (12 U.S.C. 2011, 2021, 2071, 2091, 2121, 2142, 2183, 2203, 2209, 2243, 2244, 2252, 2279a–2279f–1, 2279aa–5(e)); secs. 411 and 412 of Pub. L. 100–233, 101 Stat. 1568, 1638; secs. 409 and 414 of Pub. L. 100–399, 102 Stat. 989, 1003, and 1004.

Subpart P—Termination of Farm Credit Status—Associations

2. Section 611.1205 is amended by revising paragraph (c) to read as follows:

§ 611.1205 Definitions.

* * * * *

(c) *OFI* means an other financing institution that has established a funding and discount relationship with a Farm Credit Bank or an agricultural credit bank pursuant to section 1.7(b)(1) of the Act and the regulations in subpart P of part 614.

* * * * *

PART 614—LOAN POLICIES AND OPERATIONS

3. The authority citation for part 614 continues to read as follows:

Authority: 42 U.S.C. 4012a, 4014a, 4104b, 4106, and 4128; secs. 1.3, 1.5, 1.6, 1.7, 1.9, 1.10, 1.11, 2.0, 2.2, 2.3, 2.4, 2.10, 2.12, 2.13, 2.15, 3.0, 3.1, 3.3, 3.7, 3.8, 3.10, 3.20, 3.28, 4.12, 4.12A, 4.13, 4.13B, 4.14, 4.14A, 4.14C, 4.14D, 4.14E, 4.18, 4.18A, 4.19, 4.36, 4.37, 5.9, 5.10, 5.17, 7.0, 7.2, 7.6, 7.7, 7.8, 7.12, 7.13, 8.0, 8.5 of the Farm Credit Act (12 U.S.C. 2011, 2013, 2014, 2015, 2017, 2018, 2019, 2071, 2073, 2074, 2075, 2091, 2093, 2094, 2096, 2121, 2122, 2124, 2128, 2129, 2131, 2141, 2149, 2183, 2184, 2199, 2201, 2202, 2202a, 2202c, 2202d, 2202e, 2206, 2206a, 2207, 2219a, 2219b, 2243, 2244, 2252, 2279a, 2279a–2, 2279b, 2279b–1, 2279b–2, 2279f, 2279f–1, 2279aa, 2279aa–5); sec. 413 of Pub. L. 100–233, 101 Stat. 1568, 1639.

Subpart J—Lending Limits

4. Section 614.4350 is amended by revising paragraph (a) to read as follows:

§ 614.4350 Definitions.

* * * * *

(a) *Borrower* means an individual, partnership, joint venture, trust, corporation, or other business entity (except a Farm Credit System association or other financing institution that complies with the criteria in section 1.7(b) of the Act and the regulations in subpart P of this part) to which an institution has made a loan or a commitment to make a loan either directly or indirectly.

* * * * *

5. Subpart P of part 614 is revised to read as follows:

Subpart P—Farm Credit Bank and Agricultural Credit Bank Financing of Other Financing Institution

Sec.

614.4540 Other financing institution access to Farm Credit Banks and agricultural credit banks for funding, discount, and other similar financial assistance.
614.4550 Place of discount.
614.4560 Requirements for OFI funding relationships.
614.4570 Recourse and security.
614.4580 Limitation on the extension of funding, discount and other similar financial assistance to an OFI.
614.4590 Equitable treatment of OFIs and Farm Credit System associations.
614.4600 Insolvency of an OFI.

§ 614.4540 Other financing institution access to Farm Credit Banks and agricultural credit banks for funding, discount, and other similar financial assistance.

(a) *Basic criteria for access.* Any national bank, State bank, trust company, agricultural credit corporation, incorporated livestock loan company, savings association, credit union, or any association of agricultural producers engaged in the making of loans to farmers and ranchers, and any corporation engaged in the making of loans to producers or harvesters of aquatic products may become an other financing institution (OFI) that funds, discounts, and obtains other similar financial assistance from a Farm Credit Bank or agricultural credit bank in order to extend short-and intermediate-term credit to eligible borrowers for authorized purposes pursuant to sections 1.10(b) and 2.4(a) and (b) of the Act. Each OFI shall be duly organized and qualified to make loans and leases under the laws of each jurisdiction in which it operates.

(b) *Assured access.* Except when an OFI's funding request would adversely affect a Farm Credit bank's ability to achieve and maintain established or projected capital levels, raise funds in the money markets, or would otherwise expose the Farm Credit bank to other safety and soundness risks, each Farm Credit Bank or an agricultural credit bank shall fund, discount, and provide other similar financial assistance to any creditworthy OFI that:

(1) Maintains at least 15 percent of its loan volume at a seasonal peak in loans and leases to farmers, ranchers, aquatic producers and harvesters. The Farm Credit Bank or agricultural credit bank shall not include the loan assets of the OFI's parent, affiliates, or subsidiaries when determining compliance with the requirement of this paragraph; and

(2) Executes a general financing agreement with the Farm Credit Bank or agricultural credit bank that establishes a financing or discount relationship for at least 2 years.

(c) *Denial of OFI access.* Each Farm Credit Bank and agricultural credit bank shall establish objective loan underwriting policies and procedures for determining the creditworthiness of each OFI applicant. No Farm Credit Bank or agricultural credit bank shall deny access to any creditworthy OFI that meets the conditions in paragraph (b) of this section.

§ 614.4550 Place of discount.

(a) A Farm Credit Bank or agricultural credit bank may provide funding, discount, and other similar financial assistance to any OFI whose headquarters is located within the funding bank's chartered territory.

(b) A Farm Credit Bank or agricultural bank may provide funding, discount, and other similar financial assistance to an OFI whose headquarters is not located in the funding bank's chartered territory only if the Farm Credit Bank or agricultural credit bank referred to in paragraph (a) of this section either grants its consent, or denies or otherwise fails to approve such OFI's funding request within 60 days of receipt of a ''completed application'' as defined by 12 CFR 202.2(f).

§ 614.4560 Requirements for OFI funding relationships.

(a) As a condition for extending funding, discount and other similar financial assistance to an OFI, each Farm Credit Bank or agricultural credit bank shall require every OFI to:

(1) Execute a general financing agreement pursuant to the regulations in subpart C of part 614; and

(2) Purchase non-voting stock in its Farm Credit Bank or agricultural credit bank pursuant to the bank's bylaws.

(b) A Farm Credit Bank or agricultural credit bank shall extend funding, discount and other similar financial assistance to an OFI only for purposes and terms authorized under sections 1.10(b) and 2.4(a) and (b) of the Act.

(c) Rural home loans to borrowers who are not *bona fide* farmers, ranchers, and aquatic producers and harvesters are subject to the restrictions in § 613.3030 of this chapter. Loans that an OFI makes to processing and marketing operators who supply less than 20 percent of the throughput shall be included in the calculation that § 613.3010(b)(1) of this chapter establishes for Farm Credit Banks and agricultural credit banks.

(d) The borrower rights requirements in part C of title IV of the Act, and section 4.36 of the Act, and the regulations in subparts K, L, and N of part 614 shall apply to all loans that an OFI funds or discounts through a Farm Credit Bank or agricultural credit bank, unless such loans are subject to the Truth-in-Lending Act, 15 U.S.C. 1601 *et seq.*

(e) As a condition for obtaining funding, discount and other similar financial assistance of a Farm Credit Bank or agricultural credit bank, all State banks, trust companies, or State-chartered savings associations shall execute a written consent that authorizes their State regulators to furnish examination reports to the Farm Credit Administration upon its request. Any OFI that is not a depository institution shall consent in writing to examination by the Farm Credit Administration as a condition precedent for obtaining funding, discount and other similar financial assistance from a Farm Credit Bank or agricultural credit bank, and file such consent with its Farm Credit funding bank.

§ 614.4570 Recourse and security.

(a) *Full recourse and guarantee.* All obligations that are funded or discounted through a Farm Credit Bank or agricultural credit bank shall be endorsed with the full recourse or unconditional guarantee of the OFI.

(b) *General collateral.* (1) Each Farm Credit Bank and agricultural credit bank shall take as collateral all notes, drafts, and other obligations that it funds or discounts for each OFI; and

(2) Each Farm Credit Bank and agricultural credit bank shall perfect, in accordance with State law, a senior security interest in any and all obligations and the proceeds thereunder that the OFI pledges as collateral.

(c) *Supplemental collateral.* (1) Each Farm Credit Bank and agricultural credit bank shall develop underwriting

policies and procedures that establish uniform and objective standards to determine the need and amount of supplemental collateral or other credit enhancements that each OFI shall provide as a condition for obtaining funding, discount and other similar financial assistance from such Farm Credit bank.

(2) The amount, type, and quality of supplemental collateral or other credit enhancements required for each OFI shall be established in the general financing agreement and shall be proportional to the level of risk that the OFI poses to the Farm Credit Bank or agricultural credit bank.

§ 614.4580 Limitation on the extension of funding, discount and other similar financial assistance to an OFI.

(a) No obligation shall be purchased from or discounted for and no loan shall be made or other similar financial assistance extended by a Farm Credit Bank or agricultural credit bank to an OFI if the amount of such obligation added to the aggregate liabilities of such OFI, whether direct or contingent (other than bona fide deposit liabilities), exceeds 10 times the paid-in and unimpaired capital and surplus of such OFI or the amount of such liabilities permitted under the laws of the jurisdiction creating such OFI, whichever is less.

(b) It shall be unlawful for any national bank that is indebted to any Farm Credit Bank or agricultural credit bank, on paper discounted or purchased, to incur any additional indebtedness, if by virtue of such additional indebtedness its aggregate liabilities, direct or contingent, will exceed the limitation described in paragraph (a) of this section.

§ 614.4590 Equitable treatment of OFIs and Farm Credit System associations.

(a) Each Farm Credit Bank and agricultural credit bank shall apply similar objective credit underwriting standards to both OFIs and Farm Credit System direct lender associations.

(b) The total charges that a Farm Credit Bank or agricultural credit bank assesses an OFI through capitalization requirements, interest rates, and fees shall be comparable to the charges that the same Farm Credit bank imposes on its direct lender associations. Any variation between the overall funding costs that OFIs and direct lender associations are charged by the same funding bank shall result from differences in credit risk and administrative costs to the Farm Credit Bank or agricultural credit bank.

§ 614.4600 Insolvency of an OFI.

If an OFI that is indebted to a Farm Credit Bank or agricultural credit bank becomes insolvent, is in process of liquidation, or fails to service its loans properly, the Farm Credit Bank or agricultural credit bank may take over such loans and other assets that the OFI pledged as collateral. Once the Farm Credit Bank or agricultural credit bank exercises its remedies, it shall have the authority to make additional advances, to grant renewals and extensions, and to take such other actions as may be necessary to collect and service loans to the OFI's borrower. The funding Farm Credit bank may also liquidate the OFI's loans and other assets in order to achieve repayment of the debt.

PART 620—DISCLOSURE TO SHAREHOLDERS

6. The authority citation for part 620 continues to read as follows:

Authority: Secs. 5.17, 5.19, 8.11 of the Farm Credit Act (12 U.S.C. 2252, 2254, 2279aa–11); sec. 424 of Pub. L. 100–233, 101 Stat. 1568, 1656.

Subpart B—Annual Report to Shareholders

§ 620.5 [Amended]

7. Section 620.5 is amended by removing the words '', as defined in § 614.4540(e) of this chapter,'' and by removing the word ''financial'' and adding in its place the word ''financing'' in paragraph (a)(8).

PART 630—DISCLOSURE TO INVESTORS IN SYSTEMWIDE AND CONSOLIDATED BANK DEBT OBLIGATIONS OF THE FARM CREDIT SYSTEM

8. The authority citation for part 630 continues to read as follows:

Authority: Secs. 5.17, 5.19 of the Farm Credit Act (12 U.S.C. 2252, 2254).

Subpart B—Annual Report to Investors

§ 630.20 [Amended]

9. Section 630.20 is amended by removing the words '', as defined in § 614.4540(e) of this chapter,'' in paragraph (a)(1)(v).

Dated: July 14, 1997.

Floyd Fithian,

Secretary, Farm Credit Administration Board.

[FR Doc. 97–18827 Filed 7–16–97; 8:45 am]

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 872

[Docket No. 97N–0239]

Dental Devices; Effective Date of Requirement for Premarket Approval; Temporomandibular Joint Prostheses

AGENCY: Food and Drug Administration, HHS.

ACTION: Proposed rule; opportunity to request a change in classification.

SUMMARY: The Food and Drug Administration (FDA) is proposing to require the filing of a premarket approval application (PMA) or a notice of completion of a product development protocol (PDP) for the total temporomandibular joint (TMJ) prosthesis, the glenoid fossa prosthesis, the mandibular condyle prosthesis, and the interarticular disc prosthesis (interpositional implant). The agency is also summarizing its proposed findings regarding the degree of risk of illness or injury intended to be eliminated or reduced by requiring the devices to meet the statute's approval requirements as well as the benefits to the public from the use of the devices. In addition, FDA is announcing the opportunity for interested persons to request the agency to change the classification of the devices based on new information.

DATES: Submit written comments by October 15, 1997; requests for a change in classification by August 1, 1997. FDA intends that if a final rule based on this proposed rule is issued, PMA's or notices of completion of PDP's will be required to be submitted within 90 days of the effective date of the final rule.

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: Mary S. Runner, Center for Devices and Radiological Health (HFZ–480), Food and Drug Administration, 9200 Corporate Blvd., Rockville, MD 20850, 301–827–5283.

SUPPLEMENTARY INFORMATION:

I. Background

Section 513 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360c) requires the classification of medical devices into one of three regulatory classes: Class I (general controls), class II (special controls), and class III (premarket approval).

Generally, devices that were on the market before May 28, 1976, the date of enactment of the Medical Device Amendments of 1976 (the 1976 amendments) (Pub. L. 94–295), and devices marketed on or after that date that are substantially equivalent to such devices, have been classified by FDA. For the sake of convenience, this preamble refers to the devices that were on the market before May 28, 1976, and the substantially equivalent devices that were marketed on or after that date as ''preamendments devices.''

Section 515(b)(1) of the act (21 U.S.C. 360e(b)(1)) establishes the requirement that a preamendments device that FDA has classified into class III is subject to premarket approval. A preamendments class III device may be commercially distributed without an approved PMA or notice of completion of a PDP until 90 days after FDA issues a final rule requiring premarket approval for the device, or 30 months after final classification of the device under section 513 of the act, whichever is later. Also, a preamendments device subject to the rulemaking procedure under section 515(b) of the act, is not required to have an approved investigational device exemption (IDE) (part 812 (21 CFR part 812)) contemporaneous with its interstate distribution until the date identified by FDA in the final rule requiring the submission of a PMA or a PDP for the device. At that time, an IDE must be submitted only if a PMA has not been submitted or a PDP completed.

Section 515(b)(2)(A) of the act provides that a proceeding to issue a final rule to require premarket approval shall be initiated by publication of a notice of proposed findings rulemaking containing: (1) The proposed rule, (2) proposed findings with respect to the degree of risk of illness or injury designed to be eliminated or reduced by requiring the device to have an approved PMA or a declared completed PDP and the benefit to the public from the use of the device, (3) an opportunity for the submission of comments on the proposed rule and the proposed findings, and (4) an opportunity to request a change in the classification of the device based on new information relevant to the classification of the device.

Section 515(b)(2)(B) of the act provides that if FDA receives a request for a change in the classification of the device within 15 days of the publication of the notice, FDA shall, within 60 days of the publication of the notice, consult with the appropriate FDA advisory committee and publish a notice denying the request for change of classification or announcing its intent to initiate a proceeding to reclassify the device under section 513(e) of the act. If FDA does not initiate such a proceeding, section 515(b)(3) of the act provides that FDA shall, after the close of the comment period on the proposed rule and consideration of any comments received, issue a final rule to require premarket approval, or publish a notice terminating the proceeding. If FDA terminates the proceeding, FDA is required to initiate reclassification of the device under section 513(e) of the act, unless the reason for termination is that the device is a banned device under section 516 of the act (21 U.S.C. 360f).

If a proposed rule to require premarket approval for a preamendments device is made final, section 501(f)(2)(B) of the act (21 U.S.C. 351(f)(2)(B)) requires that a PMA or a notice of completion of a PDP for any such device be filed within 90 days of the date of issuance of the final rule or 30 months after final classification of the device under section 513 of the act, whichever is later. If a PMA or a notice of completion of a PDP is not filed by the later of the two dates, commercial distribution of the device is required to cease. The device may, however, be distributed for investigational use if the manufacturer, importer, or other sponsor of the device complies with the IDE regulations. If a PMA or a notice of completion of a PDP is not filed by the later of the two dates, and no IDE is in effect, the device is deemed to be adulterated within the meaning of section 501(f)(1)(A) of the act, and subject to seizure and condemnation under section 304 of the act (21 U.S.C. 334) if its distribution continues. Shipment of the device in interstate commerce will be subject to injunction under section 302 of the act (21 U.S.C. 332), and the individuals responsible for such shipment will be subject to prosecution under section 303 of the act (21 U.S.C. 333). In the past, FDA has requested that manufacturers take action to prevent the further use of devices for which no PMA has been filed and may determine that such a request is appropriate for total TMJ prostheses, glenoid fossa prostheses, mandibular condyle prostheses, and interarticular disc prostheses (interpositional implants).

The act does not permit an extension of the 90–day period after issuance of a final rule within which an application or a notice is required to be filed. The House Report on the amendments states that ''the thirty month 'grace period' afforded after classification of a device into class III * * * is sufficient time for manufacturers and importers to develop the data and conduct the investigations necessary to support an application for premarket approval'' (H. Rept. 94–853; 94th Cong., 2d sess. 42 (1976)).

A. Classification of Total TMJ Prostheses, Glenoid Fossa Prostheses, Mandibular Condyle Prostheses and Interarticular Disc Prostheses (Interpositional Implants)

In the **Federal Register** of December 20, 1994 (59 FR 65475), FDA issued a final rule classifying the total TMJ prosthesis, the glenoid fossa prosthesis, the mandibular condyle prosthesis, and the interarticular disc prosthesis (interpositional implant) into class III. The preamble to the proposal to classify these devices (57 FR 43165, September 18, 1992) included the recommendation of the Dental Products Panel (the Panel), an FDA advisory committee, which met on April 21, 1989, regarding the classification of the devices (Ref. 1), in particular, the total TMJ prosthesis and the interarticular disc prosthesis (interpositional implant). The preamble to the reproposed rule to classify the glenoid fossa prosthesis and the mandibular condyle prosthesis (59 FR 6935, February 14, 1994) included the recommendation of the panel that reconvened on February 11, 1993, (Ref. 2) regarding the classification of these two TMJ prostheses. The Panel recommended at the April 1989 meeting that the total TMJ prosthesis and the interarticular disc prosthesis (interpositional implant), and at the February 1993 meeting that the glenoid fossa prosthesis and the mandibular condyle prosthesis, be classified into class III, and identified certain risks to health presented by the devices. The Panel believed that the devices presented a potential unreasonable risk to health and that insufficient information existed to determine that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the devices or that application of performance standards would provide such assurance.

FDA agreed with the Panel's recommendations and, in the proposal (57 FR 43165) and in the reproposed rule (59 FR 6935), proposed that the total TMJ prosthesis, the glenoid fossa prosthesis, the mandibular condyle prosthesis and the interarticular disc prosthesis (interpositional implant) be classified into class III. The proposal and reproposal stated that FDA believed that general controls, either alone or in combination with the special controls applicable to class II devices, are insufficient to provide reasonable assurance of the safety and effectiveness of the devices. The proposal and

reproposal stated that premarket approval is necessary for the devices because the devices present potential unreasonable risks of illness or injury if there are not adequate data to ensure the safe and effective use of the devices.

The preamble to the final rule (59 FR 65475) classifying the total TMJ prosthesis, the glenoid fossa prosthesis, the mandibular condyle prosthesis and the interarticular disc prosthesis (interpositional implant) into class III advised that the earliest date by which PMA's or notices of completion of PDP's for the devices could be required was June 30, 1997, or 90 days after issuance of a rule requiring premarket approval for the devices. In the **Federal Register** of January 6, 1989 (54 FR 550), FDA published a notice of intent to initiate proceedings to require premarket approval for 31 class III preamendments devices. Among other items, the notice described the factors FDA takes into account in establishing priorities for proceedings under section 515(b) of the act for issuing final rules requiring that preamendments class III devices have approved PMA's or declared completed PDP's. FDA updated its priorities in a preamendments class III strategy notice of availability document published in the **Federal Register** of May 6, 1994 (59 FR 23731). Although the previous TMJ prostheses were not included in the lists of devices identified in the notice and the strategy paper, using the factors set forth in these documents, FDA has recently determined that the total TMJ prosthesis identified in § 872.3940 (21 CFR 872.3940), the glenoid fossa prosthesis identified in § 872.3950 (21 CFR 872.3950), the mandibular condyle prosthesis identified in § 872.3960 (21 CFR 872.3960), and the interarticular disc prosthesis identified in § 872.3970 (21 CFR 872.3970) have a high priority for initiating a proceeding to require premarket approval because the safety and effectiveness of these devices has not been established by valid scientific evidence as defined in § 860.7 (21 CFR 860.7). Moreover, FDA believes that insufficient information exists to identify the proper materials or design for the total TMJ, the glenoid fossa, and the mandibular condyle prostheses. Accordingly, FDA is commencing a proceeding under section 515(b) of the act to require that the previous four TMJ prostheses have an approved PMA or declared completed PDP.

B. Dates New Requirements Apply

In accordance with section 515(b) of the act, FDA is proposing to require that a PMA or a notice of completion of a PDP be filed with the agency for the total TMJ prosthesis, the glenoid fossa prosthesis, the mandibular condyle prosthesis, and the interarticular disc prosthesis (interpositional implant) within 90 days after issuance of any final rule based on this proposal. An applicant whose device was legally in commercial distribution before May 28, 1976, or whose device has been found by FDA to be substantially equivalent to such a device, will be permitted to continue marketing the total TMJ prosthesis, the glenoid fossa prosthesis, the mandibular condyle prosthesis, and the interarticular disc prosthesis (interpositional implant) during FDA's review of the PMA or notice of completion of the PDP. FDA intends to review any PMA for the device within 180 days, and any notice of completion of a PDP for the device within 90 days of the date of filing. FDA cautions that, under section 515(d)(1)(B)(I) of the act, FDA may not enter into an agreement to extend the review period of a PMA beyond 180 days unless the agency finds that '' * * * the continued availability of the device is necessary for the public health.''

FDA intends that, under § 812.2(c)(2), the preamble to any final rule based on this proposal will state that, as of the date on which a PMA or a notice of completion of a PDP is required to be filed, the exemption in § 812.2(c)(1) and (c)(2) from the requirements of the IDE regulations for preamendments class III devices will cease to apply to any total TMJ prosthesis, glenoid fossa prosthesis, mandibular condyle prosthesis, and interarticular disc prosthesis (interpositional implant) which is: (1) Not legally on the market on or before that date; or (2) legally on the market on or before that date but for which a PMA or notice of completion of PDP is not filed by that date, or for which PMA approval has been denied or withdrawn.

If a PMA, notice of completion of a PDP, or an IDE application for the total TMJ prosthesis, glenoid fossa prosthesis, mandibular condyle prosthesis, and interarticular disc prosthesis (interpositional implant) is not submitted to FDA within 90 days after the date of issuance of any final rule requiring premarket approval for the devices, commercial distribution for the devices must cease. FDA, therefore, cautions that for manufacturers not planning to submit a PMA or notice of completion of a PDP immediately, IDE applications should be submitted to FDA, at least 30 days before the end of the 90-day period after the final rule is published to minimize the possibility of interrupting all availability of the device. FDA considers investigations of the total TMJ prosthesis, the glenoid fossa prosthesis, the mandibular condyle prosthesis, and the interarticular disc prosthesis (interpositional implant) to pose a significant risk as defined in the IDE regulation.

C. Description of Devices

A total TMJ prosthesis is a device that is intended to be implanted in the human jaw to replace the mandibular condyle and augment the glenoid fossa to functionally reconstruct the TMJ.

A glenoid fossa prosthesis is a device that is intended to be implanted in the TMJ to augment a glenoid fossa or to provide an articulation surface for the head of a mandibular condyle.

A mandibular condyle prosthesis is a device that is intended to be implanted in the human jaw to replace the mandibular condyle and to articulate within a glenoid fossa.

An interarticular disc prosthesis (interpositional implant) is a device that is intended to be an interface between the natural articulating surface of the mandibular condyle and glenoid fossa.

D. Proposed Findings With Respect to Risks and Benefits

As required by section 515(b) of the act, FDA is publishing its proposed findings regarding: (1) The degree of risk of illness or injury designed to be eliminated or reduced by requiring the total TMJ prosthesis, the glenoid fossa prosthesis, the mandibular condyle prosthesis, and the interarticular disc prosthesis (interpositional implant) to have an approved PMA or a declared completed PDP; and (2) the benefits to the public from the use of the device.

E. Risk Factors

1. Total TMJ Prosthesis (§ 872.3940), Glenoid Fossa Prosthesis (§ 872.3950), and Mandibular Condyle Prosthesis (§ 872.3960)

The total TMJ prostheses, the glenoid fossa prostheses, and the mandibular condyle prostheses are associated with the following risks:

1. Implant loosening or displacement. The screws used to anchor the implant may loosen, resulting in implant loosening or displacement, causing changes in bite, difficulty in chewing, limited joint function and unpredictable wear on implant components (Refs. 3 through 6);

2. Degenerative changes to the natural articulating surfaces. Implant breakdown may result in erosion or resorption of the glenoid fossa, or the head of the mandibular condyle . The erosion or resorption may result in intense pain, changes in bite, difficulty in chewing, limited joint function and,

in the case of glenoid fossa prostheses, perforation into the middle cranial fossa (Refs. 3 through 6);

3. Foreign body reaction. Implant deterioration and migration may result in a foreign body reaction characterized by multinucleated giant cells (Refs. 3 through 6);

4. Infection. If the implant cannot be properly sterilized, infection may result;

5. Loss of implant integrity. If the implant materials are unable to withstand mechanical loading, the implant can be torn, worn, perforated, delaminated, fragmented, fatigued, or fractured, resulting in failure of the devices to function properly (Refs. 3 through 6);

6. Chronic pain. Degenerative changes within the articular surfaces and components of the TMJ due to implant breakdown may result in chronic pain (Refs. 3 through 6);

7. Corrosion. If the implant materials are subject to corrosion, toxic elements may migrate to various parts of the body;

8. Changes to the contralateral joint. Unilateral placement of the implant may result in deleterious effects to the contralateral joint; and

9. Malocclusion. Placement of the device may produce an improper occlusal relationship.

2. Interarticular Disc Prosthesis (Interpositional Implant) (§ 872.3970)

Interarticular disc prostheses (interpositional implants) are associated with the following risks:

1. Loss of implant integrity. If the implant materials are unable to withstand mechanical loading, the implant materials can be torn, perforated, delaminated, or fragmented, resulting in failure of the device to function properly (Refs. 5, 7 through 11, and 13 through 16);

2. Implant migration. Torn, worn, perforated, delaminated, and fragmented implant materials are capable of migrating to surrounding tissues, including the lymph nodes (Refs. 5 and 14);

3. Foreign body reaction. Implant deterioration and migration may result in a foreign body reaction characterized by multinucleated giant cells (Refs. 5 and 7 through 16);

4. Degenerative changes within the articular surfaces and components of the joint. Implant breakdown may result in severe resorption of the head of the mandibular condyle and glenoid fossa. The degenerative changes may result in joint noise, changes in bite, difficulty in breathing, severely limited joint function, erosion or perforation into the middle cranial fossa, crepitus, avascular necrosis and fibrous ankylosis (Refs. 5 and 7 through 15);

5. Implant displacement. Displacement of the implant may result in changes in bite, difficulty in chewing and limited joint function (Refs. 7 through 10, 12, and 13);

6. Infection. If the implant cannot be properly sterilized, infection may result;

7. Chronic pain. Degenerative changes within the articular surfaces and components of the joint due to implant breakdown may result in chronic pain (Refs. 7 through 9 and 12);

8. Calcification. Implant breakdown may result in the formation of scar tissue, leading to calcification (Refs. 11 and 16);

9. Granulomatous reaction. Implant particulate may produce a mass or nodule of chronically inflamed tissue with granulation (Refs. 13 through 16); and

10. Leaching of elements. Toxic elements may be leached from the implant materials and migrate to various parts of the body.

F. Benefits of the Devices

The total TMJ prosthesis, glenoid fossa prosthesis, mandibular condyle prosthesis, and interarticular joint prosthesis (interpositional implant) are implanted devices which are placed in the jaw either to functionally reconstruct the TMJ by replacing the mandibular condyle and augmenting the glenoid fossa; to augment a glenoid fossa, to substitute for the naturally occurring mandibular condyle or to provide an interface between the natural articulating surfaces of the mandibular condyle and glenoid fossa. The potential benefits intended from the use of these four TMJ prostheses are reconstruction of the articulation surface(s) for the restoration of jaw function and stability, and improvement in mastication, speech, esthetics, comfort, and pain relief.

II. PMA Requirements

A PMA for these TMJ prosthetic devices must include the information required by section 515(c)(1) of the act and § 814.20 (21 CFR 814.20) of the procedural regulations for PMA's. Such a PMA should include a detailed discussion of the risks as well as a discussion of the effectiveness of the device for which premarket approval is sought. In addition, a PMA must include all data and information on: (1) Any risks known, or that should be reasonably known to the applicant that have not been identified in the proposal (57 FR 43165) and in the reproposed rule (59 FR 6935); (2) the effectiveness of the specific TMJ prosthesis that is the subject of the application; and (3) full reports of all preclinical and clinical information from investigations on the safety and effectiveness of the device for which premarket approval is sought.

A PMA should include valid scientific evidence as defined in § 860.7 and should be obtained from well-controlled clinical studies, with detailed data, in order to provide reasonable assurance of the safety and effectiveness of the particular TMJ implant for its intended use. In addition to the basic requirements described in § 814.20(b)(6)(ii) for a PMA, it is recommended that such studies employ a protocol that meets the following criteria.

Applicants should submit PMA's in accordance with FDA's guideline entitled ''Guideline for the Arrangement and Content of a PMA Application.'' The guideline is available upon request from FDA, Center for Devices and Radiological Health, Division of Small Manufacturers Assistance (HFZ–220), 1350 Piccard Dr., Rockville, MD 20850.

A. General Protocol Requirements

The total TMJ prosthesis, the glenoid fossa prosthesis, the mandibular condyle prosthesis, and the interarticular disc prosthesis (interpositional implant) should be evaluated in a prospective, randomized, clinical trial that uses adequate controls. The study must attempt to answer all of the questions concerning safety and effectiveness of the devices, including the risk to benefit ratio. The questions should relate to the pathophysiologic effects which the devices produce, as well as the primary and secondary variables analyzed to evaluate safety and effectiveness. Study endpoints and study success must be defined.

Biocompatibility testing for new material and/or the finished devices should be performed according to the Office of Device Evaluation blue book memorandum G95–1 entitled ''Use of International Standard ISO–10993, ''Biological Evaluation of Medical Devices Part–1: Evaluation and Testing.'' This memorandum includes the FDA-modified matrix that designates the type of testing needed for various medical devices. The following tests should be considered:

1. Cytotoxicity
2. Sensitization
3. Irritation or intracutaneous reactivity
4. Acute systemic toxicity
5. Sub-acute toxicity
6. Genotoxicity
7. Implantation
8. Hemocompatibility
9. Chronic toxicity

10. Carcinogenicity

Specific considerations include the following:

1. The selection of materials to be used in device manufacture and their toxicological evaluation should initially take into account a full characterization of the materials, such as chemical composition of components, known and suspected impurities, and processing. Any surface coatings to be applied are to be fully characterized, including materials, physical specifications, and application processes.

2. The materials of manufacture, the final product and possible leachable chemicals or degradation products should be considered for their relevance to the overall toxicological evaluation of the devices.

3. Any in vitro or in vivo experiments or tests must be conducted according to recognized good laboratory practices followed by an evaluation by competent informed persons.

4. Any change in chemical composition, manufacturing process, physical configuration or intended use of the devices must be evaluated with respect to possible changes in toxicological effects and the need for additional testing.

5. The biocompatibility evaluation performed in accordance with the guidance should be considered in conjunction with other information from other nonclinical studies and postmarket experiences for an overall safety assessment.

Examples of questions to be addressed by the clinical studies may include the following:

1. What morbidity (jaw dysfunction or limited range of motion, degenerative changes to the natural articulating surfaces, erosion or resorption of the glenoid fossa or mandibular condyle, intense pain, joint arthritis, perforation into the middle cranial fossa, foreign body or allergic reactions, multinucleated giant cells, infection, chronic pain, changes in the contralateral joint, malocclusion, joint noise, crepitus, avascular necrosis, fibrous ankylosis difficulty in chewing, calcification, granulomatous reaction, facial nerve and muscle weakness, paralysis, hearing problems, or hematoma formation) is associated with the subject device in the patient population and how does this compare to the control?

2. What impact do the devices have on the jaw function?

3. What are the long term effects of the devices on the oral tissue?

4. What changes in physical characteristics of the prostheses can take place over time?

5. What potential problems (such as prosthesis loosening or displacement, wear evidence and debris, cracking, or fracture) may be associated with the use of the devices over time?

6. Do the devices allow sufficient comfort for the user?

7. What criteria are used to select the correct size of TMJ prostheses for individual patients?

8. How is the individual occlusal plane determined to avoid traumatic occlusion?

9. Do the devices allow the patients to be able to masticate food, insofar as oral and psychologic conditions will permit?

10. Does use of the devices result in the individual patient presenting a normal individual appearance that satisfies esthetic requirements?

Statistically valid investigations should include a clear statement of the objectives, method of selection of subjects, nature of the control group, effectiveness and/or safety parameters, method of analysis, and presentation of statistical results of the study. Appropriate rationale, supported by background literature on previous uses of the particular TMJ prosthesis and proposed mechanisms for its effect, should be presented as justification for the questions to be answered, and the definitions of study endpoints and success. Clear study hypotheses should be formulated based on this information.

B. Study Sample Requirements

The subject population should be well defined. Ideally, the study population should be as homogeneous as possible in order to minimize selection bias and reduce variability. Otherwise a large population may be necessary to achieve statistical significance. Independent studies producing comparable results at multiple study sites using identical protocols are necessary to demonstrate repeatability. Justification must be provided for the sample size used to show that a sufficient number of TMJ disorder patients were enrolled to attain statistically and clinically meaningful results. Eligibility criteria for the subject population should include the subject's potential for benefit, the ability to detect a benefit in the subject, the absence of both contraindications and any competing risk and assurance of subject compliance. In a heterogeneous sample, stratification of the patient groups participating in the clinical study may be necessary to analyze homogeneous subgroups and thereby minimize potential bias. All endpoint variables should be identified, and a sufficient number of patients from each subgroup analysis should be included to allow for stratification by pertinent demographic characteristics.

The investigations should include an evaluation of comparability between treatment groups and control groups (including historical controls). Baseline (e.g., age, gender, etc.) and other variables should be measured and compared between the treatment and control groups. The baseline variables should be measured at the time of treatment assignment, not during the course of the study. Other variables should be measured during the study as needed to completely characterize the particular device's safety and effectiveness.

C. Study Design

All potential sources of error, including selection bias, information bias, misclassification bias, comparison bias, or other potential biases should be evaluated and minimized. The study should clearly measure any possible placebo effect. Treatment effects should be based on objective measurements. The validity of these measurement scales should be shown to ensure that the treatment effect being measured reflects the intended uses of the particular device.

Adherence to the protocol by subjects, investigators, and all other individuals involved is essential and requires monitoring to assure compliance by both patients and dental practitioners. Subject exclusion due to dropout or loss to follow up greater than 20 percent may invalidate the study due to bias potential; therefore, initial patient screening and compliance of the final subject population will be needed to minimize the dropout rate. All dropouts must be accounted for and the circumstances and procedures used to ensure patient compliance must be well documented.

Endpoint assessment cannot be based solely on statistical value. Instead, the clinical outcome must be carefully defined to distinguish between the evaluation of the proper function of the device versus its benefit to the subject. Statistical significance and effectiveness of the device must be demonstrated by the statistical results.

Observation of all potential adverse effects must be recorded and monitored throughout the study and the followup period. All adverse effects must be documented and evaluated.

D. Statistical Analysis Plan

The involvement of a biostatistician is recommended to provide proper guidance in the planning, design, conduct, and analysis of a clinical study. There must be sufficient

documentation of the statistical analysis and results including comparison group selection, sample size justification, stated hypothesis test(s), population demographics, study site pooling justification, description of statistical tests applied, clear presentation of data and a clear discussion of the statistical results, and conclusions.

In addition to this generalized guidance, the investigator or sponsor is expected to incorporate additional requirements necessary for a well-controlled scientific study. These additional requirements are dependent on what the investigator or sponsor intends to measure or what the expected treatment effect is based on each device's intended use.

E. Clinical Analysis

The analysis which results from the study should include a complete description of all the statistical procedures employed, including assumption verification, pooling justification, population selection, statistical model selection, etc. If any procedures are uncommon or derived by the investigator or sponsor for the specific analysis, an adequate description must be provided of the procedure for FDA to assess its utility and adequacy. Data analysis and interpretations from the clinical investigation should relate to the medical claims.

F. Monitoring

Rigorous monitoring is required to assure that the study procedures are collected in accordance with the study protocol. Attentive monitors, who have appropriate credentials and who are not aligned with patient management or otherwise biased, contribute prominently to a successful study.

III. Opportunity to Request a Change in Classification

Before requiring the filing of a PMA or a notice of completion of a PDP for a device, FDA is required by section 515(b)(2)(A)(i) through (b)(2)(A)(iv) of the act and 21 CFR 860.132 to provide an opportunity for interested persons to request a change in the classification of the device based on new information relevant to its classification. Any proceeding to reclassify the device will be under the authority of section 513(e) of the act.

A request for a change in the classification of the total TMJ prosthesis, the glenoid fossa prosthesis, the mandibular condyle prosthesis, and the interarticular disc prosthesis (interpositional implant) is to be in the form of a reclassification petition containing the information required by § 860.123 (21 CFR 860.123), including information relevant to the classification of the device, and shall, under section 515(b)(2)(B) of the act, be submitted by August 1, 1997.

The agency advises that, to ensure timely filing of any such petition, any request should be submitted to the Dockets Management Branch (address above) and not to the address provided in § 860.123(b)(1). If a timely request for a change in the classification of the total TMJ prosthesis, the glenoid fossa prosthesis, the mandibular condyle prosthesis or the interarticular disc prosthesis (interpositional implant) is submitted, the agency will, by September 15, 1997, after consultation with the appropriate FDA advisory committee and by an order published in the **Federal Register**, either deny the request or give notice of its intent to initiate a change in the classification of the device in accordance with section 513(e) of the act and 21 CFR 860.130 of the regulations.

IV. References

The following references have been placed on public display in the Dockets Management Branch (address above) and may be seen by interested persons between 9 a.m. and 4 p.m., Monday through Friday.

1. Transcripts of the Dental Products Panel meeting, April 21,1989.

2. Transcripts of the Dental Products Panel meeting, February 11,1993.

3. Fontenot, M. G., and J. N. Kent, ''In-Vitro and In-Vivo Wear Performance of TMJ Implants,'' abstract, International Association of Dental Research, 1991.

4. Kent, J. N., and M. S. Block, ''Comparison of FEP and UPE Glenoid Fossa Prosthesis,'' abstract, International Association of Dental Research, 1991.

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V. Environmental Impact

The agency has determined under 21 CFR 25.24(a)(8) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

VI. Analysis of Impacts

FDA has examined the impacts of the proposed rule under Executive Order 12866 and the Regulatory Flexibility Act (5 U.S.C. 601–612). Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity). The agency believes that this proposed rule is consistent with the regulatory philosophy and principles identified in the Executive Order. In addition, the proposed rule is not a significant regulatory action as defined by the

Executive Order and so is not subject to review under the Executive Order.

The Regulatory Flexibility Act requires agencies to analyze regulatory options that would minimize any significant impact of a rule on small entities. Because the total TMJ prosthesis, the glenoid fossa prosthesis, the mandibular condyle prosthesis and the interarticular disc prosthesis (interpositional implant) have been classified into class III since December 12, 1994, and manufacturers of such TMJ prostheses legally in commercial distribution before May 28, 1976, or found by FDA to be substantially equivalent to such devices, will be permitted to continue marketing during FDA's review of the PMA or notice of completion of the PDP, the Commissioner of Food and Drugs certifies that the proposed rule will not have a significant economic impact on a substantial number of small entities. Therefore, under the Regulatory Flexibility Act, no further analysis is required.

VII. Comments

Interested persons may, on or before October 15, 1997, submit to the Dockets Management Branch (address above) written comments regarding this proposal. Two copies of any comments are to be submitted, except that individuals may submit one copy. Interested persons may, on or before August 1, 1997, submit to the Dockets Management Branch a written request to change the classification of the total TMJ prosthesis, glenoid fossa prosthesis, mandibular condyle prosthesis, or the interarticular disc prosthesis (interpositional implant). Two copies of any request are to be submitted, except that individuals may submit one copy. Comments or requests are to be identified with the docket number found in brackets in the heading of this document. Received comments and requests may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 872

Medical devices.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, it is proposed that 21 CFR part 872 be amended as follows:

PART 872—DENTAL DEVICES

1. The authority citation for 21 CFR part 872 continues to read as follows:

Authority: Secs. 501, 510, 513, 515, 520, 701 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 351, 360, 360c, 360e, 360j, 371).

2. Section 872.3940 is amended by revising paragraph (c) to read as follows:

§ 872.3940 Total temporomandibular joint prosthesis.

* * * * *

(c) Date premarket approval application (PMA) or notice of completion of a product development protocol (PDP) is required. A PMA or a notice of completion of a PDP is required to be filed on or before (date 90 days after the effective date of a final rule based on this proposed rule), for any total temporomandibular joint (TMJ) prosthesis that was in commercial distribution before May 28, 1976, or that has on or before (date 90 days after the effective date of a final rule), been found to be substantially equivalent to a total TMJ prosthesis that was in commercial distribution before May 28, 1976. Any other total TMJ prosthesis shall have an approved PMA or a declared completed PDP in effect before being placed in commercial distribution.

3. Section 872.3950 is amended by revising paragraph (c) to read as follows:

§ 872.3950 Glenoid fossa prosthesis.

* * * * *

(c) Date premarket approval application (PMA) or notice of completion of a product development protocol (PDP) is required. A PMA or a notice of completion of a PDP is required to be filed on or before (date 90 days after the effective date of a final rule based on this proposed rule), for any glenoid fossa prosthesis that was in commercial distribution before May 28, 1976, or that has on or before (date 90 days after the effective date of a final rule), been found to be substantially equivalent to a glenoid fossa prosthesis that was in commercial distribution before May 28, 1976. Any other glenoid fossa prosthesis shall have an approved PMA or a declared completed PDP in effect before being placed in commercial distribution.

4. Section 872.3960 is amended by revising paragraph (c) to read as follows:

§ 872.3960 Mandibular condyle prosthesis.

* * * * *

(c) Date premarket approval application (PMA) or notice of completion of a product development protocol (PDP) is required. A PMA or a notice of completion of a PDP is required to be filed on or before (date 90 days after the effective date of a final rule based on this proposed rule), for any mandibular condyle prosthesis that was in commercial distribution before May 28, 1976, or that has on or before (date 90 days after the effective date of a final rule), been found to be substantially equivalent to a mandibular condyle prosthesis that was in commercial distribution before May 28, 1976. Any other mandibular condyle prosthesis shall have an approved PMA or a declared completed PDP in effect before being placed in commercial distribution.

5. Section 872.3970 is amended by revising paragraph (c) to read as follows:

§ 872.3970 Interarticular disc prosthesis (interpositional implant).

* * * * *

(c) Date premarket approval application (PMA) or notice of completion of a product development protocol (PDP) is required. A PMA or a notice of completion of a PDP is required to be filed on or before (date 90 days after the effective date of a final rule based on this proposed rule), for any interarticular disc prosthesis (interpositional implant) that was in commercial distribution before May 28, 1976, or that has on or before (date 90 days after the effective date of a final rule), been found to be substantially equivalent to an interarticular disc prosthesis (interpositional implant) that was in commercial distribution before May 28, 1976. Any other interarticular disc prosthesis (interpositional implant) shall have a PMA or a declared PDP in effect before being placed in commercial distribution.

Dated: July 3, 1997.

Joseph A. Levitt,

Deputy Director for Regulations Policy, Center for Devices and Radiological Health.

[FR Doc. 97–18831 Filed 7–16–97; 8:45 am]

BILLING CODE 4160–01–F

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 81

[LA–41–1–7342, FRL–5859–3]

Designation of Areas for Air Quality Planning Purposes; State of Louisiana; Correction of the Designation for Lafourche Parish

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed correction.

SUMMARY: This document announces EPA's proposal to correct the designation of Lafourche Parish, Louisiana, to nonattainment for ozone. Subsequent to publication, but prior to the effective date of the approval action in this matter, Lafourche Parish violated the ozone standard. Pursuant to the Clean Air Act (the Act), which allows

EPA to correct its actions, EPA is today proposing to correct the designation of Lafourche Parish to nonattainment for ozone.

DATES: Comments on this proposed action must be received by August 18, 1997.

ADDRESSES: Comments should be mailed to Thomas H. Diggs, Chief, Air Planning Section (6PD–L), EPA, Region 6, 1445 Ross Avenue, Dallas, Texas 75202–2733. Copies of information relevant to this action are available for inspection during normal hours at the following locations: Environmental Protection Agency, Region 6, Air Planning Section (6PD–L), 1445 Ross Avenue, Suite 700, Dallas, Texas 75202–2733.

Anyone wishing to review this proposal at the Region 6 EPA office is asked to contact the person below to schedule an appointment 24 hours in advance.

FOR FURTHER INFORMATION CONTACT: Lt. Mick Cote, Air Planning Section (6PD–L), Environmental Protection Agency, Region VI, 1445 Ross Avenue, Dallas, Texas 75202–2733, telephone (214) 665–7219.

SUPPLEMENTARY INFORMATION:

I. Background

Lafourche Parish was originally designated as nonattainment for ozone on September 11, 1978 (40 CFR 81.319). Under the Act, as amended in 1990, the area retained its designation of nonattainment and was classified as an incomplete data area by operation of law pursuant to sections 107(d) and 181(a) of the Act (56 FR 56694).

On November 18, 1994, the State of Louisiana submitted a maintenance plan and redesignation request for Lafourche Parish to EPA for approval. On August 18, 1995, EPA issued a direct final notice approving Louisiana's redesignation request (60 FR 43020), because it met the maintenance plan and redesignation requirements set forth in the Act. Section 107(d)(1)(A)(ii) of the Act, 42 U.S.C. 7407(d)(1)(A)(ii), provides that an attainment area is one that ''meets'' the National Ambient Air Quality Standards (NAAQS). Section 107(d)(3)(E)(i) of the Act, 42 U.S.C. 7407(d)(3)(E)(i), prohibits EPA from redesignating an area to attainment unless EPA determines that the area ''has attained'' the NAAQS. The EPA's redesignation policy includes language to address how EPA will respond to a monitored violation of the NAAQS prior to the effective date of a redesignation action.

The EPA's redesignation policy is discussed in a guidance memorandum dated September 4, 1992, entitled *Procedures for Processing Requests to Redesignate Areas to Attainment.* This policy memorandum provides that if monitoring data indicates a violation of the NAAQS before the redesignation action is effective, the approval of the redesignation action should be withdrawn or disapproved.

Language in the direct final notice of August 18, 1995, restates this policy as follows: ''If the monitoring data records a violation of the NAAQS before the direct final action is effective, the direct final approval of the redesignation will be withdrawn and a proposed disapproval substituted for the direct final approval'' (60 FR 43021–43022). The ozone monitor in Lafourche Parish recorded a violation (a fourth exceedance of the ozone standard in three years) on August 27, 1995, during the 30-day comment period of EPA's approval action on the redesignation request. The EPA did not withdraw its approval of the redesignation action, and it took effect on October 18, 1995. The fourth exceedance was validated on January 10, 1996.

II. Correction of Error Under Section 110(k)(6)

Section 110(k)(6) of the Act provides that whenever the Regional Administrator determines that the Regional Administrator's action approving, disapproving, or promulgating any plan or plan revision (or part thereof), area designation, redesignation, classification, or reclassification was in error, the Regional Administrator may in the same manner as the approval, disapproval, or promulgation revise such action as appropriate without requiring any further submission from the State. Such determination and the basis thereof shall be provided to the State and public. The EPA interprets this provision to authorize the Agency to make corrections to a promulgation when it is shown to EPA's satisfaction that an error occurred in failing to consider or inappropriately considering information available to EPA at the time of the promulgation, or the information made available at the time of promulgation is subsequently demonstrated to have been clearly inadequate.

The EPA's initial action to redesignate Lafourche Parish to attainment (60 FR 43020), was based on a demonstration that the area met the NAAQS for ozone. Monitoring data recorded during the comment period on the initial action indicate that the area was in violation of the ozone standard, and EPA's action to allow the redesignation to become effective in light of the violation was in conflict with the statute, EPA policy, language contained in the Lafourche approval, and other notices of disapproval published by EPA for areas that had violated the NAAQS while their redesignation requests were pending. These other areas include Richmond, Virginia, (59 FR 22757), the Pittsburgh-Beaver Valley nonattainment area, (61 FR 19193), the Kentucky portion of the Cincinnati-Hamilton nonattainment area, (61 FR 50718), the Ohio portion of the Cincinnati-Hamilton nonattainment area, (62 FR 7194), and Birmingham, Alabama, (62 FR 23421). The EPA is soliciting comment on our proposed correction of this area back to nonattainment for ozone.

III. Proposed Action

In 60 FR 43020, EPA issued a direct final rule promulgating a change to the designation of Lafourche Parish, Louisiana to attainment for ozone, and amended 40 CFR parts 52 and 81 accordingly. In today's action, EPA is proposing to correct an error by changing the designation of Lafourche Parish to an ozone nonattainment area, and classifying it as an ozone nonattainment incomplete data area. Today's action also proposes an amendment to 40 CFR parts 52 and 81 to reflect the change in designation. These actions are proposed in accordance with section 110(k)(6) of the Act.

IV. Administrative Requirements

A. Executive Order (E.O.) 12866

The Office of Management and Budget has exempted this regulatory action from E.O. 12866 review.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA), 5 U.S.C. 600 *et seq.*, requires any federal agency, when it develops a rule, to identify and address the impact of the rule on the small businesses and other small entities that will be subject to the rule (RFA sections 603 and 604). This requirement applies to any rule subject to notice-and-comment rulemaking requirements, unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities (RFA section 605(b)). Besides small businesses, small entities include small governments with jurisdictions of less than 50,000 people and small nonprofit organizations.

Today's action is not subject to notice-and-comment rulemaking requirements. As an action under section 110(k)(6) of the Act, it is governed by section 553 of the Administrative Procedure Act

(APA), 5 U.S.C. 551 *et seq.* That section provides that an agency must provide public notice of, and an opportunity to comment on, a proposed rule unless the agency finds for good cause that providing notice-and-comment procedures for the rule are ''impracticable, unnecessary or contrary to the public interest'' (section 553(b)).

The Agency believes there is good cause for finding public notice and comment procedures unnecessary for this action to correct the designation of Lafourche Parish. As EPA explained in the notice of August 18, 1995, Lafourche Parish could not be designated to attainment if the area experienced a violation of the ozone NAAQS during the period for public comment on the notice. Lafourche Parish in fact experienced a violation during the public comment period, but the Agency did not withdraw its notice approving the redesignation. The Agency is now proposing to correct that error. Since the public had an opportunity to comment on the original notice and the Agency is only correcting a mistake with this action, public notice and comment on today's notice is not legally necessary. The Agency is nonetheless voluntarily using notice-and-comment procedures to make this correction.

As an action not subject to notice-and-comment requirements, this action is also not subject to the RFA requirement to prepare regulatory flexibility analyses. Moreover, this action will not establish any requirements applicable to small entities. It simply corrects the designation of the area by restoring the nonattainment designation that was erroneously changed to attainment. The RFA requires analyses of a rule's requirements as they would apply to small entities. If the rule does not apply to small entities, an RFA analysis is inapplicable.

Further, it is unlikely that this action will result in State imposition of control requirements that are different from those applicable in Lafourche Parish before the erroneous change in designation status. Under Title I of the Act, States are primarily responsible for establishing control requirements needed to attain and the maintain the NAAQS. Louisiana has adopted an implementation plan that includes control requirements that apply to particular sources or categories of sources, depending on a number of factors, including the designation status of the area in which a source is located. As a result of today's action, Louisiana will once again have to apply some of those control programs in Lafourche Parish. Some of those programs may ultimately impose requirements on small entities in the Parish. However, these controls were applicable before the erroneous designation to attainment; correcting that mistake will only put the small entities in that area in the place they were prior to the mistake being made.

Beyond that, the purpose of the RFA is to promote Federal agency efforts to tailor a rule's requirements to the scale of the small entities that will be subject to it. That purpose cannot be served in the case of State control requirements. Some of the control requirements included in States' SIPs are prescribed to some extent by the Act. Even so, the only issue before EPA in actions such as this one is the proper designation of a particular area. The implementation consequences of a designation are beyond the scope of such actions, and indeed, beyond EPA's reach to the extent they are dictated by the Act itself or are left to States' discretion. In light of all the above, if the RFA were applicable to this action, the Agency would certify that it will not have a significant economic impact on a substantial number of small entities.

C. Unfunded Mandates

Under section 202 of the Unfunded Mandates Reform Act of 1995, signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to State, local, or tribal governments in the aggregate; or to private sector, of $100 million or more. Under section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

The EPA has determined that this action does not include a Federal mandate that may result in estimated costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action simply proposes to correct an error in the designation for the reasons described above and does not, in itself, impose any mandates.

List of Subjects

40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Incorporation by reference, Intergovernmental regulations, Ozone, Reporting and recordkeeping, and volatile organic compounds.

40 CFR Part 81

Environmental protection, Air pollution control, National parks and wilderness areas, Designation of areas for air quality planning purposes.

Authority: 42 U.S.C. 7401–7871q.

Dated: July 8, 1997.

Jerry Clifford,

Acting Regional Administrator.

[FR Doc. 97–18858 Filed 7–16–97; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[FRL 5857–6]

National Oil and Hazardous Substances Pollution Contingency Plan National Priorities List

AGENCY: Environmental Protection Agency.

ACTION: Notice of intent to delete the Bruin Lagoon Site from the National Priorities List and request for comments.

SUMMARY: The Environmental Protection Agency (EPA) Region III announces its intent to delete the Bruin Lagoon Site (Site) from the National Priorities List (NPL) and requests public comment on this action. The NPL constitutes Appendix B of 40 CFR part 300 which is the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), which EPA promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), as amended. EPA and the State of Pennsylvania have determined that all appropriate CERCLA response actions have been implemented and that no further cleanup is appropriate. Moreover, EPA and the State have determined that remedial activities conducted at the Site to date have been protective of public health, welfare, and the environment.

DATES: Comments concerning the proposed deletion of this Site from the NPL may be submitted on or before August 18, 1997.

ADDRESSES: Comments may be submitted to Garth Connor, (3HW22), Project Manager, U.S. Environmental Protection Agency, 841 Chestnut Building, Philadelphia, Pennsylvania, 19107, (215) 566–3209.

Comprehensive information on this Site is available through the public docket which is available for viewing at

the Site Information Repositories at the following locations:

U.S. EPA Region III, Hazardous Waste Technical Information Center, 841 Chestnut Building, Philadelphia, PA 19107, (215) 566–5363.

Bruin Borough Fire Hall, 161 Water Street, Bruin, PA 16022, (412) 753–2622.

FOR FURTHER INFORMATION CONTACT: Mr. Garth Connor (3HW22), U.S. EPA Region III, 841 Chestnut Building, Philadelphia, PA, 19107, (215) 566–3209.

SUPPLEMENTARY INFORMATION:

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I. Introduction
II. NPL Deletion Criteria
III. Deletion Procedures
IV. Basis for Intended Site Deletion

I. Introduction

The Environmental Protection Agency (EPA) Region III announces its intent to delete the Bruin Lagoon Site, Bruin Borough, Butler County, Pennsylvania, from the National Priorities List (NPL), Appendix B of the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), and requests comments on this deletion. The EPA identifies sites that appear to present a significant risk to public health, welfare, or the environment and maintains the NPL as the list of those sites. Sites on the NPL may be the subject of remedial actions financed by the Hazardous Substance Superfund Response Trust Fund (Fund). Pursuant to § 300.425(e)(3) of the NCP, any site deleted from the NPL remains eligible for Fund-financed remedial actions if conditions at the site warrant such action.

EPA will accept comments on the proposal to delete this Site from the NPL for thirty calendar days after publication of this document in the **Federal Register**.

Section II of this document explains the criteria for deleting sites from the NPL. Section III discusses procedures that EPA is using for this action. Section IV discusses how the Site meets the deletion criteria.

II. NPL Deletion Criteria

The NCP establishes the criteria that the Agency uses to delete sites from the NPL. In accordance with 40 CFR 300.425(e), sites may be deleted from the NPL where no further response is appropriate. In making this determination, EPA will consider whether any of the following criteria have been met:

(i) EPA, in consultation with the State, has determined that responsible or other parties have implemented all appropriate response actions required; or

(ii) All appropriate Fund-financed responses under CERCLA have been implemented and EPA, in consultation with the State, has determined that no further cleanup by responsible parties is appropriate; or

(iii) Based on a remedial investigation, EPA, in consultation with the State, has determined that the release poses no significant threat to public health or the environment and, therefore, taking of remedial measures is not appropriate.

(iv) In addition to the above, for all remedial actions which result in hazardous substances, pollutants, or contaminants remaining at the site above levels that allow for unlimited use and unrestricted exposure, CERCLA section 121(c), 42 U.S.C. 9621(c), the NCP at 40 CFR 300.430(f)(4)(ii) and EPA policy, OSWER Directive 9320.2–09, dated August 1995, provide that a subsequent review of the site will be conducted at least every five years after the initiation of the first remedial action to ensure that the site remains protective of public health and the environment. In the case of this Site, EPA conducted a ''five year review'' in April, 1993. Based on this review, EPA determined that conditions at the Site remain protective of public health and the environment. As explained below, the Site means the NCP's deletion criteria listed above. Five-year reviews will continue to be conducted at the site until no hazardous substances, pollutants, or contaminants remain above levels that allow for unlimited use and unrestricted exposure. Releases shall not be deleted from the NPL until the state in which the release was located has concurred on the proposed deletion. 40 CFR 300.425(e)(2).

All releases deleted from the NPL are eligible for further Fund-financed remedial actions should future conditions warrant such action. Whenever there is a significant release from a site deleted from the NPL, the site can be restored to the NPL without application of the Hazard Ranking System. 40 CFR 300.425(e)(3).

III. Deletion Procedures

Section 300.425(e)(4) of the NCP sets forth requirements for site deletions to assure public involvement in the decision. During the proposal to delete a site from the NPL, EPA is required to conduct the following activities:

(i) Publish a notice of intent in the Federal Register and solicit comment through a public comment period of a minimum of 30 calendar days;

(ii) Publish a notice of availability of the notice of intent to delete in a major local newspaper of general circulation at or near the site that is proposed for deletion;

(iii) Place copies of information supporting the proposed deletion in the information repository at or near the site proposed; and,

(iv) Respond to each significant comment and any significant new data submitted during the comment period in a Responsiveness Summary.

If appropriate, after consideration of comments received during the public comment period, EPA then publishes a notice of deletion in the **Federal Register** and places the final deletion package, including the Responsiveness Summary, in the Site repositories. Deletion of sites from the NPL does not itself create, alter, or revoke any individual's rights or obligations. As stated in Section II of this document, § 300.425(e)(3) of the NCP provides that the deletion of a site from the NPL does not preclude eligibility for future response.

IV. Basis for Intended Site Deletion

The Bruin Lagoon Site occupies nearly six fenced acres, and is located in Bruin Borough, Butler County, Pennsylvania approximately 45 miles north of Pittsburgh. The Site is partially situated in the 100-year flood plain of the South Branch of Bear Creek, a tributary of the Allegheny River. The Site is bounded on the west by State Route 268 and residential properties, on the north by a residential property, on the east by the South Branch of Bear Creek, and on the south by an unnamed tributary of Bear Creek. A tributary of the Allegheny River.

Operations began at the Site in the 1930s when it was used as a disposal area for petroleum refining wastes. For over forty years, Bruin Lagoon was used for the disposal of sludge from production of white oil (mineral oil), motor oil reclamation wastes, settlings from crude storage tanks, and spent bauxite from white oil filtration. Other wastes which may have been deposited in the lagoon during this period include sodium hydroxide, sodium bicarbonate, refined oils, ash and coal fines.

The Bruin Lagoon Site gained national attention in 1968 when the lagoon overflowed its dike into the adjoining Bear Creek. As a result of the spill, an estimated three million fish were killed in the Bear Creek and the Allegheny River. The Site was proposed to the National Priority List in October, 1981 and was finalized in September, 1983. In June 1981, EPA began a fund-lead Remedial Investigation and

Feasibility Study (RI/FS) at the Site. EPA installed monitoring wells and collected samples from surface water, lagoon sludge, and liquids contained in onsite tanks. A Record of Decision (ROD) was signed in June, 1982 which called for onsite containment and dike stabilization at the Site.

In April, 1984, toxic gases were released from the lagoon when a previously unidentified crust layer was broken during the remedial construction. The gas was found to contain dangerous concentrations of carbon dioxide, sulfuric acid mist and hydrogen sulfide. Based on these findings, EPA suspended the cleanup activity at the Site, and began an immediate removal action to prevent a further release of toxic gas into the nearby residential community. As part of this removal action, the open lagoon was covered, sludges were stabilized, gas monitoring wells were installed, and additional soil and sludge samples were collected for further analysis. The removal action was completed in September, 1984.

In January 1985, EPA began a second RI/FS at the Site. In September 1986, a second ROD for the Site was signed. The remedy in this ROD included onsite stabilization of sludges in the lagoon area, completion of the dike reinforcement, installation of a new monitoring well network and capping the lagoon area with a multi-layer cap. This construction was completed in March, 1992. Approximately 80,000 cubic yards of contaminated waste were stabilized and placed under the multi-layer cap.

A five-year review has been conducted and was completed in April, 1993. The five-year review confirmed that the remedy is in place, the multi-layer cap is working properly, and the ground surface is covered with vegetation. It is therefore apparent that the remedy is still protective of the public health and the environment. The next five-year review must be completed by April 30, 1998. Subsequent five-year reviews will be conducted pursuant to OSWER Directive 9355.7–02. ''Structure and Components of Five-Year Reviews,'' or other applicable guidance where it exists.

Long-term operation and maintenance activities at this Site are performed by the State of Pennsylvania. These activities includes annual inspections of the Site to ensure that erosion control measures are effective, routine mowing of the onsite vegetation, maintenance of the perimeter fence and periodic sampling of the onsite monitoring wells.

The remedies selected for this Site has been implemented in accordance with the two RODs, as modified and expanded in the EPA-approved Remedial Designs. The completion of the cleanup has resulted in the significant reduction of the long-term potential for release of contaminated wastes within the lagoon area to the surrounding environment. Human health threats and potential environmental impacts from the Site have been minimized. EPA and the State of Pennsylvania find that the remedies implemented continue to provide adequate protection of human health and the environment.

EPA, with the concurrence of the State of Pennsylvania, believes that all the criteria for deletion of this Site have been met. Therefore, EPA is proposing deletion of this Site from the NPL.

Dated: June 24, 1997.

W. Michael McCabe,

Regional Administrator, USEPA Region III.

[FR Doc. 97–18405 Filed 7–16–97; 8:45am]

BILLING CODE 6560–50–M

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

45 CFR Chapter XII and Part 1201

Service of Process; Production or Disclosure of Official Material or Information

AGENCY: Corporation for National and Community Service.

ACTION: Notice of proposed rulemaking; Request for public comment.

SUMMARY: The Corporation for National and Community Service (Corporation) proposes to remove its obsolete regulations on standards of conduct which have been superseded by the Office of Government Ethics Uniform Standards of Conduct (5 CFR Part 2635). In place of those obsolete regulations the Corporation seeks to replace Part 1201 with a provision for the disclosure of litigation-related information. The Corporation expects this proposed rule will promote consistency in the Corporation's assertions of privileges and objections, thereby reducing the potential for both inappropriate disclosure of information and wasteful allocation of Corporation resources.

DATES: All comments must be received at the address listed below before August 18, 1997.

ADDRESSES: All comments must be mailed to the attention of Britanya Rapp, Associate General Counsel, Corporation for National and Community Service, 1201 New York Ave, Suite 8200, Washington, DC 20525. Fascimilies will not be accepted.

FOR FURTHER INFORMATION CONTACT: Britanya Rapp, Associate General Counsel, Corporation for National and Community Service at (202) 606–5000, ext. 258.

SUPPLEMENTARY INFORMATION: The Corporation proposes this rulemaking in order to clarify policies, procedures, and responsibilities regarding:

(1) the service of legal process on the Corporation and any individuals connected with the Corporation;

(2) the production of official Corporation information in matters of litigation; and

(3) the appearance of, and testimony by, any individuals connected with the Corporation in matters of litigation.

The Corporation expects this proposed rule will promote consistency in the Corporation's assertions of privileges and objections, thereby reducing the potential for both inappropriate disclosure of information and wasteful allocation of Corporation resources. This rule is intended only to inform the public about Corporation procedures concerning the service of process and responses to demands or requests and is not intended to create any right or benefit, substantive or procedural, enforceable at law by a party against the Corporation or the United States.

The proposed regulations are not subject to the provisions of the Paperwork Reduction Act, the Freedom of Information Act, or the Government in the Sunshine Act because they do not contain any information requirements within the meaning of those Acts. These regulations also do not signify a ''significant regulatory action'' as defined by Executive Order 12866, and thus do not fall within the requirements of that Order. Nothing in this part otherwise permits disclosure of information by the Corporation or any individuals connected to the Corporation except as provided by statute or other applicable law.

List of Subjects in 45 CFR Part 1201

Administrative practice and procedure, Courts, Freedom of information.

The Proposed Regulations

Accordingly, and under the authority of 42 U.S.C. 12501 *et seq.*, the Corporation proposes to amend Chapter XII of title 45 of the Code of Federal Regulations as follows:

1. The heading for Chapter XII is revised to read as follows:

CHAPTER XII—CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

2. Part 1201 is revised to read as follows:

PART 1201—PRODUCTION OR DISCLOSURE OF OFFICIAL INFORMATION IN RESPONSE TO COURT ORDERS, SUBPOENAS, NOTICES OF DEPOSITIONS, REQUESTS FOR ADMISSIONS, INTERROGATORIES, OR IN CONNECTION WITH FEDERAL OR STATE LITIGATION

Sec.
1201.1 Definitions.
1201.2 Scope.
1201.3 Service of summonses and complaints.
1201.4 Service of subpoenas, court orders, and other demands or requests for official information or action.
1201.5 Testimony and production of documents prohibited unless approved by appropriate Corporation officials.
1201.6 Procedure when testimony or production of documents is sought.
1201.7 Procedure when response to demand is required prior to receiving instructions.
1201.8 Procedure in the event of an adverse ruling.
1201.9 Considerations in determining whether the Corporation will comply with a demand or request.
1201.10 Prohibition on providing expert or opinion testimony.
1201.11 Authority.

Authority: 42 U.S.C. 12501 *et seq.*

§ 1201.1 Definitions.

(a) *Employee* means the Chief Executive Officer of the Corporation and all employees, former employees, National Civilian Community Corps Members, and VISTA volunteers who are or were subject to the supervision, jurisdiction, or control of the Chief Executive Officer, except as the Corporation may otherwise determine in a particular case.

(b) *Litigation* encompasses all pre-trial, trial, and post-trial stages of all judicial or administrative actions, hearings, investigations, or similar proceedings before courts, commissions, boards, or other judicial or quasi-judicial bodies or tribunals, whether criminal, civil, or administrative in nature.

(c) *Official information* means all information of any kind, however stored, that is in the custody and control of the Corporation, relates to information in the custody and control of the Corporation, or was acquired by individuals connected with the Corporation as part of their official status within the Corporation while such individuals are employed by or serve on behalf of the Corporation.

§ 1201.2 Scope.

(a) This part states the procedures followed with respect to—

(1) Service of summonses and complaints or other requests or demands directed to the Corporation or to any employee of the Corporation in connection with Federal or State litigation arising out of, or involving the performance of, official activities of the Corporation; and

(2) Oral or written disclosure, in response to subpoenas, orders, or other requests or demands of Federal or State judicial or quasi-judicial authority, whether civil or criminal, or in response to requests for depositions, affidavits, admissions, responses to interrogatories, document production, or other litigation-related matters of—

(i) Any material contained in the files of the Corporation; or

(ii) Any information acquired:

(A) When the subject of the request is currently a Corporation employee or was an employee of the Corporation; or

(B) As part of the performance of the person's duties or by virtue of the person's position.

§ 1201.3 Service of summonses and complaints.

(a) Only the Corporation's General Counsel, or his/her delegate, is authorized to receive and accept summonses or complaints sought to be served upon the Corporations or its employees. All such documents should be delivered or addressed to General Counsel, Corporation for National and Community Service, 1201 New York Avenue, Suite 8200, Washington, DC 20525.

(b) In the event any summons or complaint is delivered to an employee of the Corporation other than in the manner specified in this part, such attempted service shall be ineffective, and the recipient thereof shall either decline to accept the proffered service or return such document under cover of a written communication which directs the person attempting to make service to the procedures set forth in this part.

(c) Except as otherwise provided in § 1201.4(c), the Corporation is not an authorized agent for service of process with respect to civil litigation against Corporation employees, CorpsMembers, or VISTA Members purely in their personal, non-official capacity. Copies of summonses or complaints directed to Corporation employees, CorpsMembers, or VISTA Members in connection with legal proceedings arising out of the performance of official duties may, however, be served upon the Corporation's General Counsel, or his/her delegate.

§ 1201.4 Service of subpoenas, court orders, and other demands or requests for official information or action.

(a) Except in cases in which the Corporation is represented by legal counsel who have entered an appearance or otherwise given notice of their representation, only the Corporation's General Counsel, or his/her delegate, is authorized to receive and accept subpoenas, or other demands or requests directed to any component of the Corporation or its employees, whether civil or criminal in nature, for:

(1) Material, including documents, contained in the files of the Corporation;

(2) Information, including testimony, affidavits, declarations, admissions, response to interrogatories, or informal statements, relating to material contained in the files of the Corporation or which any Corporation employee acquired in the course and scope of the performance of official duties;

(3) Garnishment or attachment of compensation of employees; or

(4) The performance or non-performance of any official Corporation duty.

(b) In the event that any subpoena, demand, or request is sought to be delivered to a Corporation employee other than in the manner prescribed in paragraph (a) of this section, such attempted service shall be ineffective. Such employee shall, after consultation with the Office of the General Counsel, decline to accept the subpoena, and demand or request the return of it under cover of a written communication referring to the procedures prescribed in this part.

(c) Except as otherwise provided in this part, the Corporation is not an agent for service or otherwise authorized to accept on behalf of its employees any subpoenas, show-cause orders, or similar compulsory process of federal or state courts, or requests from private individuals or attorneys, which are not related to the employees official duties except upon the express, written authorization of the individual Corporation employee to whom such demand or request is directed.

(d) Acceptance of such documents by the Corporation's General Counsel, or his/her delegate, does not constitute a waiver of any defenses that might otherwise exist with respect to service under the Federal Rules of Civil or Criminal Procedure (28 U.S.C. appendix, Rules 4–6, or 18 U.S.C. appendix) or other applicable rules.

§ 1201.5 Testimony and production of documents prohibited unless approved by appropriate Corporation officials.

(a) Unless authorized to do so by the Corporation's General Counsel, or his/her delegate, no employee of the Corporation shall, in response to a demand or request in connection with any litigation, whether criminal or civil,

provide oral or written testimony by deposition, declaration, affidavit, or otherwise concerning any information acquired:

(1) While such person was an employee of the Corporation;

(2) As part of the performance of that person's official duties; or

(3) By virtue of that person's official status.

(b) No employee of the Corporation shall, in response to a demand or request in connection with any litigation, produce for use at such proceedings any document or any other material acquired as part of the performance of that individual's duties or by virtue of that individual's official status, unless authorized to do so by the Corporation's General Counsel, or his/her delegate.

§ 1201.6 Procedure when testimony or production of documents is sought.

(a) If official Corporation information is sought, through testimony or otherwise the party seeking such release or testimony must (except as otherwise required by federal law or authorized by the Office of the General Counsel) set forth in writing with as much specificity as possible, the nature and relevance of the official information sought. The party must identify the record or reasonably describe it in terms of date, format, subject matter, the offices originating or receiving the record, and the names of all persons to whom the record is known to relate. Corporation employees may produce, disclose, release, comment upon, or testify concerning only those matters that were specified in writing and properly approved by the Corporation's General Counsel or his/her delegate. The Office of the General Counsel may waive this requirement in appropriate circumstances.

(b) To the extent it deems necessary or appropriate, the Corporation may also require from the party seeking such testimony or documents a plan of all reasonably foreseeable demands, including but not limited to the names of all current and former employees from whom discovery will be sought, areas of inquiry, expected duration of proceedings requiring oral testimony, and identification of potentially relevant documents.

(c) The Corporation's General Counsel, or his/her delegate, will notify the Corporation employee and such other persons as circumstances may warrant of the decision regarding compliance with the request or demand.

(d) The Office of the General Counsel will consult with the Department of Justice regarding legal representation for Corporation employees in appropriate cases.

§ 1201.7 Procedure when response to demand is required prior to receiving instructions.

(a) If a response to a demand is required before the Corporation's General Counsel, or his/her delegate, renders a decision, the Corporation will request that either a Department of Justice attorney or a Corporation attorney designated for the purpose:

(1) Appear, if feasible, with the employee upon whom the demand has been made;

(2) Furnish the court or other authority with a copy of the regulations contained in this part;

(3) Inform the court or other authority that the demand has been or is being, as the case may be, referred for the prompt consideration of the Corporation's General Counsel, or his/her delegate; and

(4) Respectfully request the court or authority to stay the demand pending receipt of the requested instructions.

(b) In the event that an immediate demand for production or disclosure is made in circumstances that would preclude the proper designation or appearance of a Department of Justice or Corporation attorney on behalf of the employee shall respectfully request the demanding court or authority for a reasonable stay of proceedings for the purpose of obtaining instructions from the Corporation.

§ 1201.8 Procedure in the event of an adverse ruling.

If the court or other judicial or quasi-judicial authority declines to stay the effect of the demand in response to a request made pursuant to § 1201.7, or if the court or other authority rules that the demand must be complied with irrespective of the Corporation's instructions not to produce the material or disclose the information sought, the individual upon whom the demand has been made shall respectfully decline to comply with the demand, citing the regulations in this part.

§ 1201.9 Considerations in determining whether the Corporation will comply with a demand or request.

(a) In deciding whether to comply with a demand or request, Corporation officials and attorneys are encouraged to consider:

(1) Whether such compliance would be unduly burdensome or otherwise inappropriate under the applicable rules of discovery or the rules of procedure governing the case or matter in which the demand arose;

(2) Whether compliance is appropriate under the relevant substantive law concerning privilege or disclosure of information;

(3) The public interest;

(4) The need to conserve the time of Corporation employees for the conduct of official business;

(5) The need to avoid spending the time and money of the United States for private purposes;

(6) The need to maintain impartiality between private litigants in cases where a substantial government interest is not implicated;

(7) Whether compliance would have an adverse effect on performance by the Corporation of its mission and duties; and

(8) The need to avoid involving the Corporation in controversial issues not related to its mission.

(b) Among those demands and requests in response to which compliance may not ordinarily be authorized are those when compliance would:

(1) Violate a statute, a rule of procedure, a specific regulation, or an executive order;

(2) Reveal information properly classified in the interest of national security;

(3) Reveal confidential commercial or financial information or trade secrets without the owner's consent;

(4) Reveal the internal deliberative processes of the Executive Branch; or

(5) Potentially impede or prejudice an ongoing law enforcement investigation.

§ 1201.10 Prohibition on providing expert or opinion testimony.

(a) Except as provided in this section, Corporation employees shall not provide opinion or expert testimony based upon information which they acquired in the scope and performance of their official Corporation duties, except on behalf of the United States or a party represented by the Department of Justice.

(b) Upon a showing by the requester of exceptional need or unique circumstances and that the anticipated testimony will not be adverse to the interests of the United States, the Corporation's General Counsel or his/her delegate may, in the exercise of discretion, grant special, written authorization for Corporation employees to appear and testify as expert witnesses at no expense to the United States.

(c) If, despite the final determination of the Corporation's General Counsel, a court of competent jurisdiction or other appropriate authority orders the appearance and expert or opinion testimony of a Corporation employee

such individual shall immediately inform the Office of General Counsel of such order. If the Office of the General Counsel determines that no further legal review of or challenge to the court's order will be made, the Corporation employee, CorpsMember, or VISTA Member shall comply with the order. If so directed by the Office of the General Counsel, however, the individual shall respectfully decline to testify.

§ 1201.11 Authority.

The Corporation receives authority to change its governing regulations from the National and Community Service Act of 1990 as amended (42 U.S.C. 12501 *et seq.*).

Dated: July 10, 1997.

Stewart A. Davis,

Acting General Counsel, Corporation for National and Community Service.

[FR Doc. 97–18518 Filed 7–16–97; 8:45 am]

BILLING CODE 6050–28–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Chapter I

[CC Docket No. 97–146, FCC 97–219]

Complete Detariffing for Competitive Access Providers and Competitive Local Exchange Carriers

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This Notice of Proposed Rulemaking (NPRM) proposes adopting a policy of complete detariffing for all non-ILEC providers of interstate exchange access services because of the public interest benefits from complete detariffing, including eliminating the abuse of the filed rate doctrine, reducing administrative burdens on the Commission, and hindering price coordination afforded by tariffing.

DATES: Comments are due on or before August 18, 1997.

ADDRESSES: Secretary, Federal Communications Commission, Room 222, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: William Bailey, (202) 418–1520.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's NPRM in CC Docket No. 97–146 adopted and released on June 19, 1997. The full text of this NPRM 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. 20037. The complete text may also be obtained through the World Wide Web at http://www.fcc.gov or may be purchased from the Commission's copy contractor, International Transcription Services, Inc. (202) 857–3800, 2100 M Street, N.W., Suite 140, Washington, D.C. 20037.

Regulatory Flexibility Analysis

As required by the Regulatory Flexibility Act, 5 U.S.C. 603, the Commission has prepared the following Initial Regulatory Flexibility Analysis (IRFA) of the expected significant economic impact on small entities by the policies and rules proposed in the NPRM to establish complete detariffing of non-ILEC providers of interstate exchange access services. Written public comments are requested on the IRFA. Comments must be identified as responses to the IRFA and must be filed on or before August 18, 1997.

Need for and Objectives of the Proposed Rule: The Commission, in compliance with Section 10(a) of the Telecommunications Act of 1996, proposes to adopt complete detariffing for non-ILEC providers of interstate exchange access services. Section 10 of the Communications Act of 1934, as amended (Communications Act), requires the Commission to forbear from tariff filing requirement if statutory criteria are met. We anticipate that the proposed rule will: reduce transaction costs and administrative burdens for providers, permit providers to make rapid responses to market conditions, and facilitate entry by new providers.

Legal Basis: As stated above, Section 10 of the Communications Act requires the Commission to forbear from applying a regulation if statutory criteria are met. The Commission has previously determined that complete detariffing is more consistent with the public interest than permissive detariffing in the context of interexchange services. The Commission seeks comment regarding whether this is also true with respect to interstate exchange access services.

Description and Estimate of the Number of Small Entities To Which the Proposed Rule Will Apply: Under the RFA, small entities may include small organizations, small businesses, and small governmental jurisdictions. The RFA generally defines the term ''small business'' as having the same meaning as the term ''small business concern'' under the Small Business Act, 15 U.S.C. 632. 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 SBA. SBA has defined a small business for Standard Industrial Classification (SIC) category 4813 (Telephone Communications, Except Radiotelephone) to be small entities when they have no more than 1500 employees.

Total Number of Telephone Companies Affected: The proposals in the NPRM would have an impact on a substantial number of small telephone companies identified by SBA. The United States Bureau of the Census (''the Census Bureau'') reports that, at the end of 1992, there were 3,497 firms engaged in providing telephone service, as defined therein, for at least one year. This number contains a variety of different category of carriers, including local exchange carriers, interexchange carriers, competitive access providers, cellular carriers, mobile service carriers, operator service providers, pay telephone operators, PCS providers, covered SMR providers, and resellers. It seems certain that some of those 3,497 telephone service firms may not qualify as small entities or small incumbent LECs because they are not independently owned and operated.

Local Exchange Carriers: Neither this agency nor SBA has developed a definition of small providers of local exchange service (LECs). The closest applicable definition under SBA rules is for telephone communications companies other than radiotelephone (wireless) companies. The most reliable source of information regarding the number of LECs nationwide of which we are aware appears to be the data that we collect annually in connection with Telecommunications Relay Service (TRS). According to our most recent data, 1,347 companies reported that they were engaged in the provision of local exchange service. Although it seems certain that some of these carriers are not independently owned and operated, or have more than 1500 employees, we are unable at this time to estimate with greater precision the number of LECs that would qualify as small business concerns under SBA's definition. We conclude that there are fewer than 1,347 small incumbent LECs that may be affected by the proposals in this Report and Order.

Competitive Access Providers: Neither the Commission nor SBA has developed a definition of small entities specifically applicable to providers of competitive access services (CAPs). The closest applicable definition under SBA rules is for telephone communications companies other than radiotelephone (wireless) companies. The most reliable source of information regarding the number of CAPs nationwide of which we are aware appears to be the data that

we collect annually in connection with the TRS. According to our most recent data, 30 companies reported that they were engaged in the provision of competitive access services. Although it seems certain that some of these carriers are not independently owned and operated, or have more than 1,500 employees, we are unable at this time to estimate with greater precision the number of CAPs that would qualify as small business concerns under SBA's definition. Consequently, we estimate that there are fewer than 30 small entity CAPs.

Small Businesses (Workplaces): Workplaces encompass establishments for profit and nonprofit, plus local, state and federal governmental entities. SBA guidelines to the SBREFA state that about 99.7 percent of all firms are small and have fewer than 500 employees and less than $25 million in sales or assets. There are approximately 6.3 million establishments in the SBA database.

Interexchange Carriers: Neither the Commission nor SBA has developed a definition of small entities specifically applicable to providers of interexchange services (IXCs). The closest applicable definition under SBA rules is for telephone communications companies other than radiotelephone (wireless) companies. The most reliable source of information regarding the number of IXCs nationwide of which we are aware appears to be the data that we collect annually in connection with TRS. According to our most recent data, 97 companies reported that they were engaged in the provision of interexchange services. Although it seems certain that some of these carriers are not independently owned and operated, or have more than 1,500 employees, we are unable at this time to estimate with greater precision the number of IXCs that would qualify as small business concerns under SBA's definition. Consequently, we estimate that there are fewer than 97 small entity IXCs that may be affected by the decisions and rules proposed in the NPRM.

Description of Projected Reporting, Recordkeeping and Other Compliance Requirements: The rule which the Commission proposes would reduce substantially reporting and recordkeeping because non-ILEC providers of interstate exchange access services would no longer file tariffs with the Commission.

Steps Taken to Minimize Any Significant Economic Impact on Small Entities, and Significant Alternatives Considered: The Commission has considered, as alternatives, requiring either mandatory tariffing or permissive detariffing. Each of these options, however, would maintain an economic burden on a substantial number of small entities. We believe that this burden would be detrimental to small carriers because they would need to expend resources to file tariffs, and we have tentatively concluded that such filings are no longer in the public interest.

Federal Rules That May Duplicate, Overlap, or Conflict With the Proposed Rules: The Commission is proposing to adopt complete detariffing for the provision of exchange access services by non-ILECs. We are aware of no rules that may duplicate, overlap, or conflict with the proposed rules. We seek comment on this conclusion.

Paperwork Reduction Act

Complete detariffing for non-ILEC providers of interstate access would eliminate requirements that these carriers file tariffs.

Synopsis of Notice of Proposed Rulemaking

The Commission tentatively concludes that complete detariffing for non-ILECs would provide the benefits identified in its June 19, 1997 Memorandum Opinion and Order adopting permissive detariffing: reduction of transaction costs for providers; reduction of administrative burdens for service providers; permitting rapid response to market conditions through elimination of costs on carriers that attempt to make new offerings; and, facilitating entry by new providers. The Commission also tentatively concludes that complete detariffing for those carriers could offer additional public interest benefits beyond those of permissive detariffing. Complete detariffing could preclude carriers from attempting to use the filed rate doctrine to nullify contractual arrangements, and remove uncertainty about the application of the doctrine to tariffed arrangements that are filed on a permissive basis. Complete detariffing could also eliminate any threat of price coordination through tariffing. Complete detariffing could also reduce the administrative burden on the Commission of maintaining the tariff filing program. Although permissive detariffing would cause some reduction in the resources expended for tariff filing, complete detariffing would eliminate administration of all but ILECs' tariffs. The Commission seeks comment on these tentative conclusions and any other potential benefits to be derived from a policy of complete detariffing. The Commission also solicits comment on whether we should require any non-ILEC providers of interstate exchange access services subject to any degree of tariff forbearance to make rates available to the Commission and to interested persons upon request.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 97–18882 Filed 7–16–97; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 89–585; RM–7035, RM–7320]

Radio Broadcasting Services; Sandy Springs, GA; and Anniston and Lineville, AL

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; application for review of denial of counterproposal.

SUMMARY: This document dismisses an Application for Review filed by Sapphire Broadcasting, Inc. (formerly Emerald Broadcasting of the South, Inc.) directed to an earlier *Report and Order* which denied a counterproposal for FM channel allotments to Sandy Springs, Georgia, and Anniston and Lineville, Alabama (56 FR 56490, November 5, 1991). With this action, the proceeding is terminated.

FOR FURTHER INFORMATION CONTACT: Robert Hayne, Mass Media Bureau, (202) 418–2177.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Memorandum Opinion and Order,* MM Docket No. 89–585, adopted June 20, 1997, and released June 27, 1997. The full text of this decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, (202) 857–3800, 2100 M Street, NW, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

(**Authority:** Secs. 303, 48 Stat., as amended, 1082; 47 U.S.C. 154.)

Federal Communications Commission.

Douglas W. Webbink,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 97–17887 Filed 7–16–97; 8:45 am]

BILLING CODE 6712–01–U

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 97–154, RM–9116]

Radio Broadcasting Services; Newaygo, MI

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition filed by Robert R. Moore proposing the allotment of Channel 223A to Newaygo, Michigan, as that community's first local broadcast service. There is a site restriction 7.6 kilometers (4.7 miles) southwest of the community at coordinates 43–22–12 and 85–51–49. Canadian concurrence will be requested for the allotment of Channel 223A at Newaygo.

DATES: Comments must be filed on or before September 2, 1997, and reply comments on or before September 17, 1997.

ADDRESSES: Federal Communications Commission, Washington, DC. 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner's counsel, as follows: Dennis J. Kelly, Law Office of Dennis J. Kelly, Post Office Box 6648, Annapolis, Maryland 21401.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 97–154, adopted July 3, 1997, and released July 17, 1997. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Services, Inc., 2100 M Street, NW., Suite 140, Washington, DC. 20037, (202) 857–3800.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 97–18824 Filed 7–16–97; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 630

[Docket No. 970702161–7161–01; I.D. 041097C]

RIN 0648–AJ93

Atlantic Highly Migratory Species Fisheries; Import Restrictions

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

ACTION: Proposed rule; public hearing; request for comments.

SUMMARY: NMFS proposes to amend the regulations governing the Atlantic highly migratory species (HMS) fisheries to prohibit importation of Atlantic bluefin tuna (ABT) and its products in any form harvested by vessels of Panama, Honduras, and Belize. The proposed amendments are necessary to implement International Commission for the Conservation of Atlantic Tunas (ICCAT) recommendations designed to help achieve the conservation and management objectives for ABT fisheries. NMFS will hold a hearing to receive comments from fishery participants and other members of the public regarding these proposed amendments.

DATES: Comments are invited and must be received on or before August 4, 1997. A public hearing will be held on July 29, 1997, from 1–3 p.m.

ADDRESSES: Comments on the proposed rule should be sent to Rebecca Lent, Chief, Highly Migratory Species Management Division, Office of Sustainable Fisheries (F/SF1), NMFS, 1315 East-West Highway, Silver Spring, MD 20910–3282. The public hearing will be held at NOAA/NMFS, SSMCIV, 1305 East-West Highway, Room IW611, Silver Spring, MD 20910.

FOR FURTHER INFORMATION CONTACT: John Kelly, 301–713–2347.

SUPPLEMENTARY INFORMATION: The Atlantic tuna fisheries are managed under the authority of the Atlantic Tunas Convention Act (ATCA). Section 971d(c)(1) of ATCA authorizes the Secretary of Commerce (Secretary) to issue regulations as may be necessary to carry out the recommendations of ICCAT. The authority to issue regulations has been delegated from the Secretary to the Assistant Administrator for Fisheries, NOAA (AA).

Relation to Proposed Consolidation

The regulatory amendments contained in this proposed rule were written to be consistent with a proposed rule consolidating all regulations pertaining to Atlantic HMS under 50 CFR part 630 (61 FR 57361, November 6, 1996). A final rule consolidating the regulations has not yet been issued. The regulatory amendments contained in this proposed rule, if adopted, would be incorporated into the final consolidated regulations at 50 CFR part 630. Copies of the proposed consolidation rule may be obtained by writing (see **ADDRESSES**) or calling the contact person (see **FOR FURTHER INFORMATION CONTACT**).

Proposed Import Restrictions

In order to conserve and manage ABT, ICCAT adopted two recommendations at its 1996 meeting requiring its Contracting Parties to take the appropriate measures to prohibit the import of ABT and its products in any form from Belize, Honduras, and Panama. With regard to the recommendation on Belize and Honduras, the effective date of import prohibition would be August 4, 1997, concurrent with the entry into force of the ICCAT recommendation. With respect to the recommendation on Panama, ICCAT determined that such import prohibition would begin January 1, 1998, unless ICCAT decides on the basis of documentary evidence, at its 1997 meeting or before, that Panama has brought its fishing practices for ABT into consistency with ICCAT conservation and management measures. The delay in implementation of trade restrictions for Panama recognizes Panama's expressed intent to rectify the improper fishing activities of its vessels.

ICCAT has been concerned about the status of ABT for many years. The most recent scientific stock assessment shows that mid-year spawning biomass (age 8+) of the western management stock in 1995 was estimated to be 13 percent of the 1975 level (which is considered an appropriate proxy for the spawning stock biomass level corresponding to maximum sustainable yield (MSY)).

Eastern ABT is estimated to be at 19 percent of the level that would produce MSY.

Over the years, ICCAT has adopted numerous conservation and management measures aimed at addressing the decline in this resource. These measures have included (1) catch limits and quotas; (2) time and area closures to protect spawning fish; (3) minimum sizes to protect juvenile fish; (4) the Bluefin Tuna Statistical Document (BSD) program to track the trade of bluefin tuna; (5) the Bluefin Tuna Action Plan Resolution that establishes a process to identify non-Contracting Parties whose vessels are fishing in a manner that diminishes the effectiveness of ICCAT's bluefin tuna conservation recommendations, and which, after giving identified countries an opportunity to rectify the activities of their vessels, can lead to a recommendation of trade measures; and (6) measures to enhance Contracting Party compliance with ICCAT's bluefin tuna quotas that can result in quota penalties and, ultimately, trade restrictions.

In making recommendations at its 1996 meeting calling for import prohibitions, ICCAT took into account several factors. ICCAT noted the depleted status of ABT, the need for cooperation by non-Contracting Parties in the successful conservation of this resource and ICCAT's repeated efforts to gain this cooperation, non-Contracting Parties' harvests, and the sacrifices made by ICCAT Contracting Parties in efforts to conserve and manage this resource. ICCAT specifically recognized its repeated but generally unsuccessful efforts to encourage Belize, Honduras, and Panama to cooperate. These efforts included but were not limited to ICCAT's 1995 identification of these countries pursuant to the Bluefin Tuna Action Plan Resolution as nations whose vessels were fishing for bluefin tuna in a manner that diminishes the effectiveness of ICCAT's bluefin tuna conservation measures. Identification was based on trade data and vessel sighting information that indicated that vessels of Belize, Honduras, and Panama were fishing for bluefin tuna in the eastern Atlantic Ocean (in some cases on the Mediterranean spawning grounds during the closed season) but reporting no harvests to ICCAT.

The 1995 identifications began a year of intensified efforts by ICCAT to obtain the cooperation of Belize, Honduras, and Panama. During that year, the three countries were notified that failure to rectify the fishing activities of their vessels could result in the imposition of trade-restrictive measures. Before the 1997 ICCAT meeting, Belize had not responded to any ICCAT requests, and Honduras had provided only a limited response. Panama, on the other hand, responded to ICCAT several times and indicated that it had adopted a national resolution designed to rectify the offending fishing activities of its vessels. At its 1996 meeting, however, ICCAT reviewed additional trade data, vessel sighting information, and port inspection information that indicated that vessels of Belize, Honduras, and Panama continued to fish for bluefin tuna, and ICCAT again determined that these fishing activities were undermining ICCAT conservation efforts.

For the reasons stated above, and under authority of section 971d(c)(1) of ATCA, the United States proposes to prohibit the import of ABT harvested by vessels of Belize, Honduras, and Panama and its products in any form. This action is consistent with the requirement under section 971d(c)(6) of ATCA that NMFS identify those nations whose fishing vessels are fishing, or have fished in the preceding calendar year, in a manner that diminishes the effectiveness of ICCAT conservation recommendations. The effective date for the proposed trade restrictions relating to Belize and Honduras would be August 4, 1997, the date the ICCAT recommendation enters into force. The effective date of import prohibition with respect to Panama would be January 1, 1998. Any ABT harvested by vessels of Panama, Honduras, and Belize and exported after these effective dates would be prohibited from entry into the customs territory of the United States.

Under current regulations, all ABT shipments imported into the United States are required to be accompanied by a BSD. This document identifies the flag nation of the harvesting vessel of the ABT contained in the shipment and would be used to determine compliance with the regulation, if implemented. Using the BSD, U.S. Customs officials would deny entry of shipments of ABT harvested by vessels of Panama, Honduras, and Belize and exported after the effective dates of the trade restrictions. If this proposed rule is implemented, entry would not be denied for any shipment in transit prior to the effective date of trade restrictions.

Upon determination by ICCAT that one or more of these parties (Panama, Honduras, and/or Belize) has brought its fishing practices into consistency with ICCAT conservation and management measures, the Secretary will publish an interim final rule in the **Federal Register** to remove import restrictions for the relevant party. In such case, ABT harvested by Panama, Honduras, and Belize and exported prior to the effective date of the removal of import restrictions would continue to be prohibited from entry.

Public Hearing

NMFS will hold a public hearing to receive comments from fishery participants and other members of the public regarding these proposed amendments on July 29 from 1–3 p.m. (see **ADDRESSES**). This hearing will be physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Chris Rogers at (301) 713–2347 at least 5 days prior to the hearing date.

Classification

This proposed rule is published under the authority of ATCA, (16 U.S.C. 971 *et seq*).. Preliminarily, the AA has determined that the regulations contained in this proposed rule are necessary to implement the recommendations of ICCAT and are necessary for the conservation and management of the ABT fisheries.

The Assistant General Counsel for Legislation and Regulation of the Department of Commerce certified to the Chief of Advocacy of the Small Business Administration that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities as follows:

> The proposed regulatory amendments are necessary to help achieve domestic and international conservation and management objectives. No bluefin tuna were imported by the United States from Belize, Honduras, or Panama during 1979–1996. It is unlikely that any U.S. importers, wholesalers, or freight forwarders have any dependence on bluefin tuna imports from these three countries. Therefore, it is concluded that these proposed amendments, considered separately or in aggregate, would not have a significant impact on a substantial number of small entities. Thus, a regulatory flexibility analysis is not required.

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 (PRA) unless that collection of information displays a currently valid OMB Control Number.

This proposed rule would not result in any new collections of information subject to the PRA because Bluefin Tuna Statistical Documents, approved under OMB Control Number 0648–0040, are currently required for U.S. imports of bluefin tuna and bluefin tuna products.

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

List of Subjects in 50 CFR Part 630

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: July 11, 1997.

David L. Evans,

Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 630 as proposed to be amended at 61 FR 57363, November 6, 1996, is further proposed to be amended as follows:

PART 630—ATLANTIC HIGHLY MIGRATORY SPECIES

1. The authority citation for part 630 continues to read as follows:

Authority: 16 U.S.C. 971 *et seq.* and 16 U.S.C. 1801 *et seq.*

2. In § 630.45, paragraph (d) is added to read as follows:

§ 630.45 Other import restrictions.

* * * * *

(d) *Atlantic bluefin tuna.* (1) Effective August 4, 1997, all shipments of Atlantic bluefin tuna or Atlantic bluefin tuna products in any form harvested by a vessel of Honduras or Belize will be denied entry into the United States, unless a validated Bluefin Statistical Document required under §§ 630.40 through 630.44, shows that a particular shipment of such bluefin tuna was exported prior to [effective date of final rule].

(2) Effective January 1, 1998, all shipments of Atlantic bluefin tuna or Atlantic bluefin tuna products in any form harvested by a vessel of Panama will be denied entry into the United States, unless a validated Bluefin Statistical Document required under §§ 630.40 through 630.44, shows that a particular shipment of such bluefin tuna was exported prior to January 1, 1998.

[FR Doc. 97–18783 Filed 7–14–97; 9:03 am]

BILLING CODE 3510–22–F

Notices

Federal Register
Vol. 62, No. 137
Thursday, July 17, 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

Submission for OMB Review; Comment Request

July 11, 1997.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments regarding (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (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 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 should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Washington, D.C. 20503 *and* to Department Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, D.C. 20250–7602. Comments regarding these information collections are best assured of having their full effect if received within 30 days of this notification. Copies of the submission(s) may be obtained by calling (202) 720–6204 or (202) 720–6746.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

- **Farm Service Agency**

Title: Livestock Indemnity Program (7 CFR 1439).
OMB Control Number: 0560—New.
Summary of Collection: Respondents must present certification of losses and eligibility to receive payment for livestock and poultry due to disaster.
Need and Use of the Information: The information will be used to determine the eligibility and amount of assistance in accordance with published regulations.
Description of Respondents: Farms.
Number of Respondents: 60,000.
Frequency of Responses: Reporting: On occasion.
Total Burden Hours: 120,000.
Emergency Processing of this submission has been requested by July 18, 1997.

- **Animal and Plant Health Inspection Service**

Title: Compensation for Wheat Seed and Straw in the 1995–1996 Crop Season.
OMB Control Number: 0579-New.
Summary of Collection: Information is collected from growers and seed companies concerning wheat produced and sold during the growing season.
Need and Use of the Information: The information is used to compensate growers and seed companies for the loss in value of wheat seed and straw due to Karnal Bunt.
Description of Respondents: Business or other for-profit; Individuals or households; Farms.
Number of Respondents: 70.
Frequency of Responses: Recordkeeping; Reporting: On occasion; Weekly.
Total Burden Hours: 210.

- **Animal and Plant Health Inspection Service**

Title: Karnal Bunt.
OMB Control Number: 0579–0121.
Summary of Collection: The regulations for Karnal Bunt require the use of limited permits, certificates, compliance agreements, and other documents that are needed to inform the public of the requirements.
Need and Use of the Information: The information is used to authorize the interstate movement of regulated articles and help prevent the spread of Karnal Bunt.
Description of Respondents: Business or other for-profit; Individuals or households; Farms.
Number of Respondents: 4,379.
Frequency of Responses: Recordkeeping; Reporting: On occasion; Weekly.
Total Burden Hours: 7,428.

- **Animal and Plant Health Inspection Service**

Title: National Agricultural Pest Information System.
OMB Control Number: 0579–0010.
Summary of Collection: Information is collected concerning insect pests, noxious weeds, and plant diseases.
Need and Use of the Information: The information is used to predict potential pest situations.
Description of Respondents: State, Local or Tribal Government.
Number of Respondents: 50.
Frequency of Responses: Reporting: On occasion; Semi-annually.
Total Burden Hours: 188.

- **Agricultural Marketing Service**

Title: 7 CFR Part 54—Meats, Prepared Meats, and Meat Products (Grading, Certification, and Standards).
OMB Control Number: 0581–0124.
Summary of Collection: Respondents voluntarily request meat grading and certification services.
Need and Use of the Information: The application for meat grading and certification services authorizes USDA employees to perform such services in requesting establishments. The information contained on the application also serves as a legal agreement between parties.
Description of Respondents: Business or other for-profit.
Number of Respondents: 1,154.
Frequency of Responses: Reporting: On occasion.
Total Burden Hours: 504.

- **Animal and Plant Health Inspection Service**

Title: Papaya, Carambola, and Litachi from Hawaii.
OMB Control Number: 0579–New.
Summary of Collection: Certificates and limited permits will be needed to move fruit from Hawaii. Packages must be marked and sealed.
Need and Use of the Information: The information is used to prevent the spread of plant diseases and insect pests throughout the United States.

Description of Respondents: Business or other for-profit.

Number of Respondents: 416.

Frequency of Responses: Recordkeeping; Reporting: On occasion.

Total Burden Hours: 346.

• **Agricultural Research Service**

Title: Use of Facilities of the Performance of Photography/Cinematography at the U.S. National Arboretum.

OMB Control Number: 0518–New.

Summary of Collection: Persons or groups interested in the use of the facilities and grounds of the National Arboretum must make application and submit the required fee.

Need and Use of the Information: The information will be used to determine if the requestor's needs can be met and if the request is consistent with the mission of the National Arboretum.

Description of Respondents: Not-for-profit institutions; Business or other for-profit; Federal Government; State, Local or Tribal Government.

Number of Respondents: 220.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 53.

• **Animal and Plant Health Inspection Service**

Title: 9 CFR 75 Communicable Diseases in Horses.

OMB Control Number: 0579–New.

Summary of Collection: Specific information is collected about horses that owners want tested and if equine infectious is found a complete investigation is done on the farm where the horse resides.

Need and Use of the Information: The information is collected in order to prevent the spread of equine infectious anemia.

Description of Respondents: Individual or households; Business or other for-profit; Farms; State, Local or Tribal Government.

Number of Respondents: 10,053.

Frequency of Responses: Recordkeeping; Reporting: On occasion.

Total Burden Hours: 91,925.

• **Animal and Plant Health Inspection Service**

Title: Asian Long Horned Beetle.

OMB Control Number: 0579–0122.

Summary of Collection: Compliance agreements appeal letters, certificates, inspections, limited permit, container markings, and 48-hour notices will be needed to allow regulated articles to move interstate from guaranteed areas in New York.

Need and Use of the Information: The information is needed to control and monitor the movement of the Asian long horned beetle. The regulations guarantee certain areas within the State of New York.

Description of Respondents: Farms; Individuals or households; Business or other for-profit; State, Local or Tribal Government.

Number of Respondents: 225.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 132.

Donald Hulcher,

Department Clearance Officer.

[FR Doc. 97–18817 Filed 7–16–97; 8:45 am]

BILLING CODE 3410–01–M

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[Docket No. FV97–931–1 NC]

Notice of Request for Extension and Revision of a Currently Approved Information Collection

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), this notice announces the Agricultural Marketing Service's (AMS) intention to request an extension for and revision to a currently approved information collection for Fresh Bartlett Pears Grown in Oregon and Washington, Marketing Order No. 931.

DATES: Comments on this notice must be received September 15, 1997 to be assured of consideration.

ADDITIONAL INFORMATION OR COMMENTS: Contact Tershirra T. Yeager, Marketing Order Administration Branch, F & V, AMS, USDA, P.O. Box 96456, Room 2525–S, Washington, D.C., 20090–6456, or Telephone: (202) 720–2491, Fax (202) 720–5698.

SUPPLEMENTARY INFORMATION:

Title: Fresh Bartlett Pears Grown in Oregon and Washington, Marketing Order No. 931.

OMB Number: 0581–0092.

Expiration Date of Approval: January 31, 1998.

Type of Request: Extension and revision of a currently approved information collection.

Abstract: Marketing order programs provide an opportunity for producers of fresh fruits, vegetables and specialty crops, in a specified production area, to work together to solve marketing problems that cannot be solved individually. Order regulations help ensure adequate supplies of high quality product and adequate returns to producers. Under the Agricultural Marketing Agreement Act of 1937 (AMAA), as amended (7 U.S.C. 601–674), industries enter into marketing order programs. The Secretary of Agriculture is authorized to oversee the order operations and issue regulations recommended by a committee of representatives from each commodity industry.

The information collection requirements in this request are essential to carry out the intent of the AMAA, to provide the respondents the type of service they request, and to administer the fresh Bartlett pear marketing order program, which has been operating since 1966.

The fresh Bartlett pear marketing order authorizes the issuance of quality regulations and inspection requirements. Regulatory provisions apply to fresh Barlettt pears shipped within and outside of the production area, except those specifically exempt. The order also has authority for production and marketing research and development projects, including paid advertising.

The order, and rules and regulations issued thereunder, authorize the Fresh Bartlett Pear Marketing Committee (Committee), the agency responsible for local administration of the order, to require handlers and growers to submit certain information. Much of this information is compiled in aggregate and provided to the industry to assist in marketing decisions.

The Committee has developed forms as a means for persons to file required information with the Committee relating to fresh Bartlett pear supplies, shipments, dispositions, and other information needed to effectively carry out the purpose of the Act and order. Fresh Bartlett pears are harvested from early August through early September and are marketed through December, and these forms are utilized accordingly. A USDA form is used to allow growers to vote on amendments to or continuance of the marketing order. In addition, fresh Bartlett pear growers and handlers who are nominated by their peers to serve as representatives on the Committee must file nomination forms with the Secretary.

The forms covered under this information collection require the minimum information necessary to effectively carry out the requirements of the order, and their use is necessary to fulfill the intent of the Act as expressed in the order.

The information collected is used only by authorized representatives of the USDA, including AMS, Fruit and Vegetable Division regional and headquarters' staff, and authorized employees of the Committee. Authorized Committee employees and the industry are the primary users of the information and AMS is the secondary user.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average .555 hours per response.

Respondents: Fresh Bartlett pear growers and handlers in the designated production areas in Oregon and Washington.

Estimated Number of Respondents: 1,565.

Estimated Number of Responses per Respondent: 1.3546.

Estimated Total Annual Burden on Respondents: 1176.

Comments are invited on: (1) 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) the accuracy of the agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments may be sent to Docket Clerk, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, Room 2525–S, Washington, DC, 20090–6456. Comments should reference the docket number and the date and page number of this issue of the **Federal Register**. All comments received will be available for public inspection during regular business hours at the same address.

All responses to this notice will be summarized and included in the request for OMB approval. All comments will become a matter of public record.

Dated: July 3, 1997.

Sharon Bomer Lauritsen,

Acting Director, Fruit and Vegetable Division.

[FR Doc. 97–18821 Filed 7–16–97; 8:45 am]

BILLING CODE 3410–02–M

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[Docket No. FV97–985–2 NC]

Notice of Request for Extension and Revision of a Currently Approved Information Collection

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), this notice announces the Agricultural Marketing Service's (AMS) intention to request an extension for and revision to a currently approved information collection for the handling of spearmint oil produced in the Far West, Marketing Order No. 985.

DATES: Comments on this notice must be received by September 15, 1997 to be assured of consideration.

ADDITIONAL INFORMATION OR COMMENTS: Contact Caroline C. Thorpe, Marketing Order Administration Branch, F & V, AMS, USDA, P.O. Box 96456, Room 2523–S, Washington, D.C., 20090–6456, telephone: (202) 720–8139 or FAX: (202) 720–5698.

SUPPLEMENTARY INFORMATION:

Title: Spearmint Oil Produced in the Far West, Marketing Order 985.

OMB Number: 0581–0065.

Expiration Date of Approval: January 31, 1998.

Type of Request: Extension and revision of currently approved information collection.

Abstract: Marketing order programs provide an opportunity for producers of fresh fruits, vegetables and specialty crops, in a specified production area, to work together to solve marketing problems that cannot be solved individually. Order regulations help ensure adequate supplies of high quality product and adequate returns to producers. Under the Agricultural Marketing Agreement Act of 1937 (AMAA), as amended (7 U.S.C. 601–674), industries enter into marketing order programs. The Secretary of Agriculture is authorized to oversee the order operations and issue regulations recommended by a committee of representatives from each commodity industry.

The information collection requirements in this request are essential to carry out the intent of the AMAA, to provide the respondents the type of service they request, and to administer the program, which has operated since 1980.

The Far West spearmint oil marketing order regulates the handling of spearmint oil produced in the Far West (Washington, Idaho, Oregon, and designated parts of Nevada and Utah), hereinafter referred to as the ''order.'' The order authorizes the issuance of allotment provisions for producers and regulates the quantities of spearmint oil handled. The order also has research and development authority.

The order, and rules and regulations issued thereunder, authorize the Spearmint Oil Administrative Committee (Committee), the agency responsible for local administration of the order, to require handlers and producers to submit certain information. Much of this information is compiled in aggregate and provided to the industry to assist in marketing decisions.

The Committee has developed forms as a means for persons to file required information with the Committee relating to spearmint oil supplies, shipments, dispositions, and other information needed to effectively carry out the purpose of the AMAA and order. The marketing year for the order is June 1 through May 31, with production occurring in the months of June through September. Forms are utilized throughout the year. A USDA form is used to allow producers to vote on amendments to or continuance of the marketing order. In addition, the Committee is composed of spearmint oil producers, nominated by their peers, and public members nominated by the Committee. Since both groups serve on the Committee, they must file nomination forms with the Secretary.

Formal rulemaking amendments to the order must be approved in referenda conducted by the Secretary. Also, the Secretary may conduct a continuance referendum to determine industry support for continuation of the order. Handlers are asked to sign an agreement to indicate their willingness to abide by the provisions of the order whenever the order is amended. These forms are included in this request.

The forms covered under this information collection require the minimum information necessary to effectively carry out the requirements of the order, and their use is necessary to fulfill the intent of the AMAA as expressed in the order, and the rules and regulations issued under the order.

The information collected is used only by authorized representatives of the USDA, including AMS, Fruit and Vegetable Division regional and headquarter's staff, and authorized employees of the Committee. Authorized Committee employees and the industry are the primary users of the

information and AMS is the secondary user.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 0.120 hours per response.

Respondents: Far West spearmint oil producers and handlers in the designated production area in the States of Idaho, Oregon, Washington, and parts of Nevada and Utah.

Estimated Number of Respondents: 264.

Estimated Number of Responses per Respondent: 6.136.

Estimated Total Annual Burden on Respondents: 195.

Comments: Comments are invited on: (1) Whether the proposed collection of the information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments should reference OMB No. 0581–0065 and the Far West Spearmint Oil Marketing Order No. 985, and be mailed to Docket Clerk, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, Room 2525–S, Washington, D.C., 20090–6456. Comments should reference the docket number and the date and page number of this issue of the **Federal Register**. All comments received will be available for public inspection in the Office of the Docket Clerk during regular USDA business hours at 14th and Independence Ave. S.W., Washington, D.C., room 2525 South Building.

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Dated: July 11, 1997.

Robert C. Keeney,

Director, Fruit and Vegetable Division.

[FR Doc. 97–18822 Filed 7–16–97; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

[Docket No. 97–041N]

Notice of Request for Extension and Revision of a Currently Approved Information Collection

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 and the Office of Management and Budget (OMB) regulations, this notice announces the Food Safety and Inspection Service's (FSIS) intention to request an extension for and revision of a currently approved information collection regarding processing procedures and quality control systems.

DATES: Comments on this notice must be received on or before September 15, 1997.

ADDITIONAL INFORMATION OR COMMENTS: Contact Lee Puricelli, Paperwork Specialist, Food Safety and Inspection Service, USDA, 300 12th Street SW, Washington, DC 20250–3700, (202) 720–0346.

SUPPLEMENTARY INFORMATION:

Title: Processing Procedures and Quality Control Systems.

OMB Number: 0583–0089.

Expiration Date of Approval: October 31, 1997.

Type of Request: Extension and revision of a currently approved information collection.

Abstract: FSIS has been delegated the authority to exercise the functions of the Secretary as provided in the Federal Meat Inspection Act (FMIA) (21 U.S.C. 601 *et seq.*) and the Poultry Products Inspection Act (PPIA) (21 U.S.C. 451, *et seq.*). These statutes mandate that FSIS protects the public by ensuring that meat and poultry products are safe, wholesome, unadulterated, and properly labeled and packaged.

To carry out its responsibility, FSIS has promulgated specific regulations containing requirements for the processing of certain meat and poultry products. FSIS requires that establishments producing cooked beef, roast beef, and corned beef document the time, temperature, and humidity at which the product is cooked and cooled. FSIS program employees review these records no less than three times a week to ensure regulatory compliance.

Establishments canning meat and poultry products must document the date of production; type of product canned; canning process used; size and type of container used; and any time/temperature processing requirements. FSIS program employees review these records no less that three times a week to verify regulatory compliance.

Additionally, FSIS permits establishments to develop total quality control (TQC) systems or partial quality control (PQC) programs which provide establishments with flexibility in meeting FSIS's regulations. TQC systems encompass all aspects of product processing; PQC programs cover only a specific processing operation. Quality control systems/programs incorporate inspection activities contained in FSIS's regulations.

TQC systems and PQC programs must contain detailed information concerning the manner in which the system will function. Such information must include procedures for raw material control; the nature and frequency of tests to be made; the critical check or control points to be addressed; the nature of charts and other records that will be used; the length of time such charts and records will be maintained; the nature of deficiencies the system is designed to identify and control; the parameters or limits that will be used; and the points at which corrective action will occur and the nature of such corrective action—ranging from the least to the most severe. FSIS program employees review TQC and PQC system charts and records. FSIS program employees review these records no less than three times a week to ensure regulatory compliance.

Because of the continued need for these information collection activities, FSIS is requesting OMB extension for and revision of the Information Collection Request covering information collection activities related to these requirements.

Estimate of Burden: The public reporting burden for this collection of information is estimated to average 120 hours per response.

Respondents: Meat and poultry establishments.

Estimated Number of Respondents: 6,186.

Estimated Number of Responses per Respondent: 2,292.

Estimated Total Annual Burden on Respondents: 743,750 hours.

Copies of this information collection assessment and comments can be obtained from Lee Puricelli, Paperwork Specialist, Food Safety and Inspection Service, USDA, 300 12th Street SW, Room 109, Washington, DC 20250–3700, (202) 720–0346.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of FSIS's functions, including whether the information will have practical utility; (b) the accuracy of FSIS' estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through use of appropriate automated, electronic, mechanical, or other technological collection techniques, or other forms of information technology.

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Dated: July 10, 1997.

Thomas J. Billy,

Administrator.

[FR Doc. 97–18842 Filed 7–16–97; 8:45 am]

BILLING CODE 3410–DM–P

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the Iowa Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the Iowa Advisory Committee to the Commission will convene at 10:00 a.m. and adjourn at 1:00 p.m. on August 7, 1997, at the Marriott Hotel, 700 Grand, Des Moines, Iowa 50309. 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, July 9, 1997.

Carol-Lee Hurley,

Chief, Regional Programs Coordination Unit.

[FR Doc. 97–18763 Filed 7–16–97; 8:45 am]

BILLING CODE 6335–01–P

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the Oklahoma 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 Oklahoma Advisory Committee to the Commission will convene at 6:00 p.m. and adjourn at 9:00 p.m. on September 11, 1997, at the Holiday Inn, 2515 West 6th Street, Stillwater, OK 74074. The purpose of the meeting is to plan 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, July 9, 1997.

Carol-Lee Hurley,

Chief, Regional Programs Coordination Unit.

[FR Doc. 97–18762 Filed 7–16–97; 8:45 am]

BILLING CODE 6335–01–P

DEPARTMENT OF COMMERCE

Bureau of the Census

Census 2000 Dress Rehearsal Questions on Race and Hispanic Origin

ACTION: Proposed Cclllection; comment request.

SUMMARY: The Department of Commerce, 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)).

DATES: Written comments must be submitted on or before September 15, 1997.

ADDRESSES: Direct all written comments to Linda Engelmeier, Departmental Forms Clearance Officer, Department of Commerce, Room 5327, 14th and Constitution Avenue, NW., Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to John H. Thompson, Associate Director for Decennial Census, Bureau of the Census, Room 3586, Federal Building 3, Washington, DC 20233–0001, telephone (301) 457–3946.

SUPPLEMENTARY INFORMATION:

I. Abstract

This pre-submission **Federal Register** notice complements the pre-submission notice on ''Census 2000 Dress Rehearsal'' that was published in the **Federal Register** on Friday, May 23, 1997 (Vol. 62, No. 100, pp. 28443–28444). That earlier notice was intended to solicit public comment on the proposed dress rehearsal plan and the questions to be included on the information collection instrument(s), except the questions on race and Hispanic origin, as these questions had not been sufficiently developed at that time. The information collection instrument(s) referenced in the May 23, 1997 notice included the following note concerning questions 5 and 6:

> These questions will ask for information on race and Hispanic origin and possibly ancestry. These specific questions, including the order in which they are asked, will depend partly on the Office of Management and Budget's (OMB) review of Directive No. 15, ''Race and Ethnic Standards for Federal Statistics and Administrative Reporting.'' The OMB plans to announce any revisions to the Directive No. 15 in October 1997.

We have now developed proposed questions on race and Hispanic origin and are soliciting comment on these questions. The proposed questions on race, Hispanic origin, and ancestry for the Census 2000 Dress Rehearsal are consistent with the recommendations of the Interagency Committee for the Review of Racial and Ethnic Standards to OMB. The report and recommendations of the Committee were published for public comment in the **Federal Register** on Wednesday, July 9, 1997 (Vol. 62, No. 131, pp. 36874–36946).

The proposed question on ancestry is unchanged from that shown in question 10 in the information collection instrument(s) referenced in the May 23, 1997 **Federal Register** notice. The proposed questions on race and Hispanic origin are shown for the first time in the information collection instrument(s) referenced in this **Federal Register** notice.

The information collection instrument(s) to be used in the Census 2000 Dress Rehearsal will be submitted soon for OMB review. They will not

contain the questions on race and Hispanic origin that will eventually be included on the instrument(s). Questions on race and Hispanic origin (specifically, questions 5 and 6) will be submitted at a later date for OMB review, after we have gathered public comment on their content.

The information provided below under ''Method of Collection'' and ''Data'' is identical to information provided in the May 23, 1997 notice.

II. Method of Collection

The Census 2000 Dress Rehearsal will conduct a complete census in the three dress rehearsal sites. In areas containing city style addresses, we will mail the following independent mailing pieces: an advance letter, an original questionnaire with postage-paid return envelope, a reminder card, and a replacement questionnaire with postage-paid return envelope. In areas containing non-city style addresses, enumerators will deliver a questionnaire to each household, to be returned in a postage-paid envelope. Households in these areas also will receive an advance letter before questionnaire delivery and a reminder card following questionnaire delivery. In all areas of the sites, we will visit and collect information from a sample of households that did not return a questionnaire by mail or report their census information by other means, such as by telephone. We will also conduct a reinterview of a small portion of respondents during nonresponse follow-up.

III. Data

OMB Number: Not available.
Form Numbers:
Short Form: DX–1,DX–1(S)
Long Form: DX–2,DX–2(S)
Enumerator Forms: DX–1E,DX–2E
Household Follow-up: DX–1(HF)
Be Counted Forms: DX–10,DX–10(S),DX–10(C),DX–10(M),DX–10(V),DX–10(T)
Individual Census Questionnaires: DX–15A, DX–15B,DX–20A,DX–20A(S),DX–20B,DX–20B(S)
Military Census Report: DX–21
Letters/Cards/Notices: DX–5(L),DX–5(L)(S),DX–9,DX–1E(S),DX–2E(S),DX–1F,DX–26,DX–28,DX–31
Reinterview: DX–806
Type of Review: Regular Submission.
Affected Public: Individuals or Households.
Estimated Number of Respondents: 450,000 households (approx.).
(Short Form: 83% Long Form: 17%)
Reinterview: 3,000 households
Estimated Time Per Response:
Short Form: 10 minutes
Long Form: 38 minutes
Reinterview: 5 minutes
Estimated Total Annual Burden Hours:
Short Form: 62,250 hours
Long Form: 48,450 hours
Reinterview: 250 hours
Total: 110,950 hours
Estimated Total Annual Cost: The only cost to respondents is that of their time.
Respondent's Obligation: Mandatory.
Legal Authority: Title 13 U.S.C. Sections 141 and 193.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: July 14, 1997.

Linda Engelmeier,

Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 97–18865 Filed 7–16–97; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

Bureau of Economic Analysis

Survey of Ocean Freight Revenues and Expenses of United States Carriers—BE–30; Survey of U.S. Airline Operators' Foreign Revenues and Expenses—BE–37

ACTION: Extension of collection; comments requested.

SUMMARY: The Department of Commerce, 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, Pub. L. 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before September 15, 1997.

ADDRESSES: Direct all written comments to Linda Engelmeier, Departmental Forms Clearance Officer, Department of Commerce, Room 5327, 14th and Constitution Avenue NW, Washington, DC 20230. Phone number: (202) 482–3272.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to: Michael Mann, Chief, Current Account Services Branch, Room 8018, Bureau of Economic Analysis, U.S. Department of Commerce, Washington, DC 20230; phone: (202) 606–9573; and fax: (202) 606-5314.

SUPPLEMENTARY INFORMATION:

I. Abstract

The Bureau of Economic Analysis is responsible for the computation and publication of the U.S. balance of payments accounts. The information collected in these surveys are an integral part of the ''transportation'' portion of the U.S. balance of payments accounts. The balance of payments accounts, which are published quarterly in the Bureau's monthly publication, the *Survey of Current Business,* are one of the major statistical products of BEA. The accounts provide a statistical summary of U.S. international transactions. They are used by government and private organizations for national and international policy formulation, and analytical studies. Without the information collected in these surveys, an integral component of the transportation account would be omitted. No other Government agency collects comprehensive quarterly data on U.S. ocean carriers' freight revenues and expenses or U.S. airline operators' foreign revenues and expenses.

These surveys request information from U.S. ocean and air carriers engaged in the international transportation of goods and/or passengers. Information is collected on a quarterly basis from U.S. ocean and air carriers with total annual covered revenues and total annual covered expenses, each over $500,000. U.S. ocean and air carriers with total annual covered revenues and expenses below $500,000 are exempt from reporting.

II. Method of Collection

Mandatory reports are received from U.S. ocean and air carriers who provide data regarding their revenues and expenses resulting from international transportation. Submission of the

completed report form, or computer printouts in the format of the report form, are the most expedient and economical methods of reporting the information.

III. Data

OMB Number: 0608–001.

Form Number: BE–30/BE–37.

Type of Review: Extension-regular submission.

Affected Public: U.S. ocean and air carriers.

Estimated Number of Respondents: (BE–30)40 / (BE–37)20.

Estimated Time Per Response: (BE–30)5 hours /(BE–37)4 hours.

Estimated Total Annual Burden Hours: (BE–30)800 / (BE–37)320.

Estimated Total Annual Cost: For the survey of U.S. ocean carriers, the estimated annual cost to the Federal Government is $22,000 and to the public $24,000. For the survey of U.S. airline operators, the estimated annual cost to the Federal Government is $18,000 and to the public $9,600. The estimated annual cost to the public is based on an estimated total annual burden hours and an estimated hourly cost of $30.

Respondent's Obligation: Mandatory.

Legal Authority: The International Investment and Trade in Services Act, 22 U.S.C. 3101–3108.

IV. Request for Comments

Comments are invited on: (a) Whether the continued 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 burden (including hours and cost) of the continued collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: July 14, 1997.

Linda Engelmeier,

Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 97–18866 Filed 7–16–97; 8:45 am]

BILLING CODE 3510–EA–P

DEPARTMENT OF COMMERCE

Bureau of Economic Analysis

Survey of Foreign Ocean Carriers' Expenses in the United States—BE–29

ACTION: Proposed collection; comments requested.

SUMMARY: The Department of Commerce, 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, Pub. L. 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before September 15, 1997.

ADDRESSES: Direct all written comments to Linda Engelmeier, Departmental Forms Clearance Officer, Department of Commerce, Room 5327, 14th and Constitution Avenue NW, Washington, DC 20230. Phone number: (202) 482–3272.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to: Michael Mann, Chief, Current Account Services Branch, Room 8018, Bureau of Economic Analysis, U.S. Department of Commerce, Washington, DC 20230; phone: (202) 606–9573; and fax: (202) 606-5314.

SUPPLEMENTARY INFORMATION:

I. Abstract

The Bureau of Economic Analysis is responsible for the computation and publication of the U.S. balance of payments accounts. The information collected in this survey is an integral part of the ''transportation'' portion of the U.S. balance of payments accounts. The balance of payments accounts, which are published quarterly in the Bureau's monthly publication, the Survey of Current Business, are one of the major statistical products of BEA. The accounts provide a statistical summary of U.S. international transactions. They are used by government and private organizations for national and international policy formulation, and analytical studies. Without the information collected in this survey, an integral component of the transportation account would be omitted. No other Government agency collects comprehensive annual data on foreign ocean carriers' expenses in the United States.

The survey requests information from U.S. agents of foreign ocean carriers. Information is collected on an annual basis from U.S. agents that handle 40 or more port calls by foreign vessels or have annual total covered expenses above $250,000. U.S. agents with less than 40 port calls or with annual total covered expenses below $250,000 are exempt from reporting.

II. Method of Collection

Mandatory reports are received from U.S. shipping agents who provide data regarding the expenses of foreign ocean carriers' in the United States. Submission of the completed report form, or computer printouts in the format of the report form, are the most expedient and economical methods of reporting the information.

III. Data

OMB Number: 0608–0012.

Form Number: BE–29.

Type of Review: Extension-regular submission.

Affected Public: U.S. agents of foreign ocean carriers.

Estimated Number of Respondents: 155.

Estimated Time Per Response: 4 hours.

Estimated Total Annual Burden Hours: 620 hours.

Estimated Total Annual Cost: The estimated annual cost to the Federal Government is $33,000. The estimated annual cost to the public is $18,600 based on an estimated total annual burden hours and an estimated hourly cost of $30.

Respondent's Obligation: Mandatory

Legal Authority: The International Investment and Trade in Services Act, 22 U.S.C. 3101–3108.

IV. Request for Comments

Comments are invited on: (a) Whether the continued 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 burden (including hours and cost) of the continued collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection;

they also will become a matter of public record.

Dated: July 14, 1997.

Linda Engelmeier,

Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 97–18867 Filed 7–16–97; 8:45 am]

BILLING CODE 3510–EA–P

DEPARTMENT OF COMMERCE

Bureau of Economic Analysis

Survey of Foreign Airline Operators' Revenues and Expenses in the United States—BE–36

ACTION: Proposed collection; comments requested.

SUMMARY: The Department of Commerce, 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, Pub. L. 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before September 15, 1997.

ADDRESSES: Direct all written comments to Linda Engelmeier, Departmental Forms Clearance Officer, Department of Commerce, Room 5327, 14th and Constitution Avenue NW, Washington, DC 20230. Phone number: (202) 482–3272.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to: Michael Mann, Chief, Current Account Services Branch, Room 8018, Bureau of Economic Analysis, U.S. Department of Commerce, Washington, DC 20230; phone: (202) 606–9573; and fax: (202) 606-5314.

SUPPLEMENTARY INFORMATION:

I. Abstract

The Bureau of Economic Analysis is responsible for the computation and publication of the U.S. balance of payments accounts. The information collected in this survey is an integral part of the ''transportation'' portion of the U.S. balance of payments accounts. The balance of payments accounts, which are published quarterly in the Bureau's monthly publication, the *Survey of Current Business,* are one of the major statistical products of BEA. The accounts provide a statistical summary of U.S. international transactions. They are used by government and private organizations for national and international policy formulation, and analytical studies. Without the information collected in this survey, an integral component of the transportation account would be omitted. No other Government agency collects comprehensive annual data on foreign airline operators' revenues and expenses in the United States.

The survey requests information from foreign air carriers operating in the United States. Information is collected on an annual basis from foreign air carriers with total annual covered revenues and total annual covered expenses incurred in the U.S., each over $500,000. Foreign air carriers with total annual covered revenues and expenses below $500,000 are exempt from reporting.

II. Method of Collection

Mandatory reports are received from foreign air carriers who provide data regarding their revenues and expenses in the United States. Submission of the completed report form, or computer printouts in the format of the report form, are the most expedient and economical methods of reporting the information.

III. Data

OMB Number: 0608–0013.

Form Number: BE–36.

Type of Review: Extension-regular submission.

Affected Public: Foreign air carriers.

Estimated Number of Respondents: 70.

Estimated Time Per Response: 5 hours.

Estimated Total Annual Burden Hours: 350 hours.

Estimated Total Annual Cost: The estimated annual cost to the Federal Government is $18,000. The estimated annual cost to the public is $10,500 based on an estimated total annual burden hours and an estimated hourly cost of $30.

Respondent's Obligation: Mandatory.

Legal Authority: The International Investment and Trade in Services Act, 22 U.S.C. 3101–3108.

IV. Request for Comments

Comments are invited on: (a) Whether the continued 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 burden (including hours and cost) of the continued collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: July 14, 1997.

Linda Engelmeier,

Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 97–18868 Filed 7–16–97; 8:45 am]

BILLING CODE 3510–EA–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–428–602]

Brass Sheet and Strip From Germany; Amended Final Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Final Court Decision and Amended Final Results of Administrative Review.

SUMMARY: On February 13, 1997, the Court of International Trade (CIT) affirmed the Department of Commerce's (the Department's) final remand results affecting final assessment rates for the administrative review of the antidumping duty order on brass sheet and strip from Germany for the period October 22, 1986 through February 29, 1988. As there is now a final and conclusive court decision in this action, we are amending our final results of review and we will subsequently instruct the U.S. Customs Service to liquidate entries subject to this review.

EFFECTIVE DATE: February 23, 1997.

FOR FURTHER INFORMATION CONTACT: Dave Dirstine or Richard Rimlinger, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone (202) 482–4733.

SUPPLEMENTARY INFORMATION:

Background

On November 27, 1991, the Department published in the **Federal Register** (56 FR 60087) the final results of its administrative review of the

antidumping duty order on brass sheet and strip from Germany for the period August 22, 1986 through February 29, 1988, *amended by* 57 FR 276, January 3, 1992 (*Brass 1*). We reviewed imports of Weiland-Werke AG and its wholly owned subsidiaries, Langenberg Kupfer- und Messingwerke GmbH KG and Metallwerke Schwarzwald GmbH (collectively, the Wieland Group). Subsequently, a domestic producer, Hussey Copper, Ltd., challenged the final results. In the course of the litigation, the CIT issued a number of orders and opinions of which the following have resulted in changes to the antidumping margins initially calculated in *Brass 1: Hussey Copper Ltd. et al.* v. *United States,* Consol. Ct. No. 91–12–00919, Slip Op. 93–179 dated September 10, 1993, Slip Op. 94–81 dated May 16, 1994, and Slip Op. 95–145 dated August 11, 1995.

Specifically, the CIT ordered the Department, inter alia,: (1) to determine the most similar home market (HM) merchandise based upon physical characteristics and to make any adjustments, including those for production costs, after selection of the most similar HM products; (2) to match specific-alloy United States sales with specific-alloy HM sales; (3) to match United States sales with contemporaneous HM sales involving the same alloy and correct any coding errors.

On February 13, 1997, the CIT affirmed the final remand results of the Department for the above-cited case (Slip Op. 97–25) and ordered this case dismissed.

No party appealed this decision to the U.S. Court of Appeals for the Federal Circuit. As there is now a final and conclusive court decision in this action, we are amending our final results of review in this matter and we will subsequently instruct the U.S. Customs Service to liquidate the appropriate entries.

Amendment To Final Determination

Pursuant to 19 U.S.C. 1516a(e), we are now amending the final results of administrative review of the antidumping duty order on brass sheet and strip from Germany for the period August 22, 1986 through February 29, 1988. The revised weighted-average dumping margin for the Wieland Group is 14.65 percent.

Accordingly, the Department will determine and the Customs Service will assess appropriate antidumping duties on entries of the subject merchandise made by firms covered by this review of the period August 22, 1986 through February 29, 1988. Individual differences between United States price and foreign market value may vary from the percentage listed above. The Department will issue appraisement instructions directly to the Customs Service.

Dated: July 10, 1997.

Robert S. LaRussa,

Acting Assistant Secretary for Import Administration.

[FR Doc. 97–18869 Filed 7–16–97; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–122–826, A–428–822, A–274–802, and A–307–813]

Notice of Postponement of Preliminary Antidumping Duty Determinations: Steel Wire Rod From Canada, Germany, Trinidad and Tobago, and Venezuela

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: July 17, 1997.

FOR FURTHER INFORMATION CONTACT: Alexander Braier (Canada and Trinidad and Tobago), at (202) 482–3818; Judith Wey Rudman (Germany), at (202) 482–0192; or David J. Goldberger (Venezuela), at (202) 482–4136, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230.

POSTPONEMENT OF PRELIMINARY DETERMINATIONS: On March 18, 1997, the Department of Commerce (the Department) initiated antidumping duty investigations of imports of steel wire rod from Canada, Germany, Trinidad and Tobago, and Venezuela (62 FR 13854, March 24, 1997). The notice of initiation stated that unless extended, we would issue our preliminary determinations not later than August 5, 1997.

On July 3, 1997, petitioners, Connecticut Steel Corp., Co-Steel Raritan, GS Industries, Inc., Keystone Steel & Wire Co., North Star Steel Texas, Inc., and Northwestern Steel & Wire Co., made a timely request for a postponement of the preliminary determinations in these investigations to 190 days after initiation, or September 24, 1997. This request was made pursuant to section 733(c)(1) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 353.15(c) of the Department's regulations. Petitioners requested a postponement to ensure that the Department has adequate time to analyze the responses in these complex investigations. Therefore, for the reasons identified by the petitioners and absent any compelling reasons to deny the request, the Department is postponing the date of the preliminary determinations in these investigations until no later than September 24, 1997.

This notice is published pursuant to section 733(c)(2) of the Act, and 19 CFR 353.15(d).

Dated: July 11, 1997.

Jeffrey P. Bialos,

Principal Deputy Assistant Secretary for Import Administration.

[FR Doc. 97–18870 Filed 7–16–97; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–357–005]

Cold-Rolled Carbon Steel Flat-Rolled Products From Argentina; Preliminary Results of Countervailing Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of preliminary results of countervailing duty administrative review.

SUMMARY: The Department of Commerce (the Department) is conducting an administrative review of the countervailing duty order on cold-rolled carbon steel flat-rolled products from Argentina. For information on the net subsidy, see the Preliminary Results of Review section of this notice. If the final results remain the same as these preliminary results of administrative review, we will instruct the U.S. Customs Service to assess countervailing duties as indicated in the Preliminary Results of Review section of this notice. Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: July 17, 1997.

FOR FURTHER INFORMATION CONTACT: Richard Herring, Office of CVD/AD Enforcement VI, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 482–2786.

SUPPLEMENTARY INFORMATION:

Background

On April 26, 1984, the Department published in the **Federal Register** (49 FR 18006) the countervailing duty order

on cold-rolled carbon steel flat-rolled products from Argentina. On May 6, 1992, the Department published a notice of ''Opportunity to Request an Administrative Review'' (57 FR 19412) of this countervailing duty order. We received a timely request for review from U.S. Steel Group, a unit of USX Corporation.

We initiated the review, covering the period January 1, 1991 through December 31, 1991, on June 18, 1992 (57 FR 27212). The review covers two producers/exporters of the subject merchandise, Sociedad Mixta Siderurgica Argentina (SOMISA) and Propulsora Siderurgica, S.A.I.C. (Propulsora), which account for all exports of the subject merchandise from Argentina, and 20 programs.

On September 17, 1993, petitioners brought timely new allegations to the Department concerning the provision of tax concessions and preferential natural gas and electricity tariff rates to steel producers. Petitioners cited alleged tax concessions provided to the steel industry under Paragraph 8 of the April 11, 1991 Steel Agreement between the Government of Argentina (GOA) and Argentine steel producers, and preferential natural gas and electricity rates provided under Paragraph 6 of the Steel Agreement. On November 15, 1993, the Department requested information from the GOA on these alleged subsidy programs.

On January 1, 1995, the effective date of the Uruguay Round Agreements Act of 1994 (the URAA), certain countervailing duty orders involving World Trade Organization (WTO) signatories which had been issued without an injury determination by the International Trade Commission (ITC) became entitled to an ITC injury determination under section 753 of the URAA. The order on cold-rolled carbon steel flat-rolled products did not receive an ITC injury investigation and Argentina was a member of the WTO. On May 26, 1995, the Department published a notice allowing domestic parties an opportunity to seek an injury test regarding this and other countervailing duty orders. See Countervailing Duty Order; Opportunity to Request a Section 753 Injury Investigation, 60 FR 27963. For this order on cold-rolled carbon steel flat-rolled products from Argentina, no domestic interested parties requested an injury investigation. As such, the ITC made a negative injury determination with respect to this order, pursuant to section 753(b)(4) of the URAA. Thus, the Department revoked this countervailing duty order, effective January 1, 1995, pursuant to section 753(b)(3)(B) of the URAA. See, Revocation of Countervailing Duty Orders, 60 FR 40568 (August 9, 1995).

The Ceramica Decision by the Court of Appeals for the Federal Circuit

On September 6, 1995, the Court of Appeals for the Federal Circuit, in a case involving imports of Mexican ceramic tile, ruled that, absent an injury determination by the ITC, the Department may not assess countervailing duties under 19 USC 1303(a)(1) (1988, repealed 1994) on entries of dutiable merchandise after April 23, 1985, the date Mexico became ''a country under the Agreement.'' *Ceramica Regiomontana S.A.* v. *U.S.*, 64 F.3d 1579 (Fed. Cir., 1995) (Ceramica).

Argentina attained the status of ''a country under the Agreement'' on September 20, 1991. Therefore, in consideration of the Ceramica decision, the Department, on April 2, 1996, initiated changed circumstances administrative reviews of the countervailing duty orders on Leather, Wool, Oil Country Tubular Goods (OCTG), and Cold-Rolled Carbon Steel Flat-Rolled Products (Cold-Rolled Steel) from Argentina, which were in effect when Argentina became a country under the Agreement. See Initiation of Changed Circumstances Countervailing Duty Administrative Reviews: Leather from Argentina, Wool from Argentina, Oil Country Tubular Goods from Argentina, and Cold-Rolled Carbon Steel Flat Products from Argentina, 61 FR 14553 (April 2, 1996). These reviews focused on the legal effect, if any, of Argentina's status as a ''country under the Agreement,'' and whether the Department has the authority to assess countervailing duties on these orders. Because we had ongoing administrative reviews of the orders on OCTG and Cold-Rolled Steel that covered review periods on or after September 20, 1991, we also had to determine whether the Department had the authority to assess countervailing duties on unliquidated entries of subject merchandise occurring on or after September 20, 1991, when Argentina became a ''country under the Agreement'' and before January 1, 1995, the date that Argentina became a ''Subsidies Agreement country'' within the meaning of section 701(b) of the URAA.

On April 29, 1997, the Department determined that it lacked the authority to assess countervailing duties on entries of OCTG and Cold-Rolled Steel from Argentina made on or after September 20, 1991 and before January 1, 1995 (62 FR 24639; May 6, 1997). As a result, we terminated the pending administrative reviews of the countervailing duty order on OCTG covering 1992, 1993, and 1994, as well as the pending administrative reviews of the countervailing duty order on Cold-Rolled Steel covering 1992 and 1993.

However, because the 1991 review covers a period before Argentina became a ''country under the Agreement,'' we must continue the 1991 administrative review to determine the amount of countervailing duties to be assessed on entries made between January 1, 1991 and September 19, 1991. Entries of subject merchandise made on or after September 20, 1991 will be liquidated without regard to countervailing duties.

Applicable Statute

The Department is conducting this administrative review in accordance with section 751(a) of the Tariff Act of 1930, as amended (the Act). Unless otherwise indicated, all citations to the statute are in reference to the provisions as they existed on December 31, 1994.

Scope of the Review

Imports covered by the review are shipments of Argentine cold-rolled carbon steel flat-rolled products, whether or not corrugated or crimped; whether or not painted or varnished and whether or not pickled; not cut, not pressed, and not stamped to non-rectangular shape; not coated or plated with metal; over 12 inches in width and under 0.1875 inches in thickness whether or not in coils; as currently provided for under the following item numbers of the Harmonized Tariff Schedule (HTS):

7209.11.00, 7209.12.00, 7209.13.00, 7209.14.00, 7209.21.00, 7209.22.00, 7209.23.00, 7209.24.00, 7209.31.00, 7209.32.00, 7209.33.00, 7209.34.00, 7209.41.00, 7209.42.00, 7209.43.00, 7209.44.00, 7209.90.00, 7210.70.00, 7211.30.50, 7211.41.70, 7211.49.50, 7211.90.00, 7212.40.50

The HTS item numbers are provided for convenience and Customs purposes. The written description remains dispositive.

Calculation Methodology for Assessment and Cash Deposit Purposes

We calculated the net subsidy on a country-wide basis by first calculating the subsidy rate for each company subject to the administrative review. We then weight-averaged the rates received by each company using as the weight each companies share of total Argentine exports to the United States of subject merchandise, including all companies, even those with *de minimis* and zero rates. We then summed the weight-averaged rates to determine the subsidy rate from all programs benefitting

exports of subject merchandise to the United States.

Since the country-wide rate calculated using this methodology was above *de minimis*, as defined by 19 CFR § 355.7 (1994), we proceeded to the next step and examined the net subsidy rate calculated for each company to determine whether individual company rates differed significantly from the weighted-average country-wide rate, pursuant to 19 CFR § 355.22(d)(3). Propulsora had a significantly different net subsidy rate during the review period pursuant to 19 CFR § 355.22(d)(3). Therefore, this company is treated separately for assessment purposes. All other companies are assigned the country-wide rate.

Analysis of Programs

I. Programs Conferring Subsidies

A. Programs Previously Determined to Confer Subsidies

1. Rebate of Indirect Taxes (Reembolso/Reintegro)

The Reembolso program provides a cumulative rebate of indirect taxes paid upon export and is calculated as a percentage of the f.o.b. invoice price of the exported merchandise. The Department will find that the entire amount of any such rebate is countervailable unless the following conditions are met: (1) The program operates for the purpose of rebating prior stage cumulative indirect taxes and/or import charges; (2) the government accurately ascertained the level of the rebate; and (3) the government reexamines its schedules periodically to reflect the amount of actual indirect taxes and/or import charges paid. In prior investigations and administrative reviews of the Argentine Reembolso program, the Department determined that these conditions have been met, and, as such, the entire amount of the rebate has not been countervailed (see, e.g., Cold Rolled Carbon Steel Flat-rolled Products from Argentina, Final Results of Countervailing Duty Administrative Review (56 FR 28527; June 21, 1991); Oil Country Tubular Goods from Argentina, Final Results of Countervailing Duty Administrative Review (56 FR 64493; December 10, 1991).

However, once a rebate program meets this threshold, the Department must still determine in each case whether there is an overrebate; that is, the Department must still analyze whether the rebate exceeds the total amount of indirect taxes and import duties borne by inputs that are physically incorporated into the exported product. If the rebate exceeds the amount of allowable indirect taxes and import duties on physically incorporated inputs, the Department will find a countervailable benefit equal to the difference between the Reembolso rebate rate and the allowable rate determined by the Department (*i.e.*, the overrebate).

To determine whether there was an overrebate during the review period, the Department requested the GOA to provide information on any changes to the Reembolso program for cold-rolled steel. According to the information provided, the program continued to be governed by Decree 1555/86, which modified the Reembolso program and set precise guidelines to implement the refund of indirect taxes and import charges. The decree established three broad rebate levels covering all products and industry sectors. The rates for levels I, II and III were 10 percent, 12.5 percent, and 15 percent, respectively. Based on the GOA's 1986 calculation of the tax incidence in the cold-rolled carbon steel industry, this industry was classified in level I.

In April 1989, the GOA suspended cash payment of rebates under the Reembolso program. Pursuant to the Emergency Economic Law dated September 25, 1989 (Law 23,697), the suspension of cash payments was continued for an additional 180 days. Rebates accrued during the suspension period were to be paid in export credit bonds. On March 4, 1990, the entire program was suspended for 90 days by Decree 435/90. Decree 1930/90 suspended payments of the reembolso for an additional 12-month period.

Decree 612/91 dated April 10, 1991, reinstated cash payments of the indirect tax rebates and import charges and reduced the rate for the cold-rolled carbon steel industry from 10 percent to 6.7 percent. Therefore, during the period of review, rebates were suspended from January through April 10, 1991, and the rebate rate was 6.7 percent from April 11 through December 31, 1991.

Using the information provided in the questionnaire response, we calculated the allowable tax incidence for the subject merchandise based on an updated study which SOMISA provided to the GOA in 1991. We found that the rebate of taxes did not exceed the total amount of allowable cumulative indirect taxes and/or import charges paid on physically incorporated inputs, and prior stage indirect taxes levied on the exported product at the final stage of production. Therefore, we preliminarily determine that there was no benefit from this program during the review period.

2. Equity Infusions

In our final determination in the investigation (see Certain Cold-Rolled Carbon Steel Flat-Rolled Products from Argentina; Final Affirmative Countervailing Duty Determination and Countervailing Duty Order (49 FR 18006; 1984), we found that the GOA provided a series of countervailable equity infusions to SOMISA under Decree 2887/78. This decree authorized government reimbursement of debt expenditure, including payment of interest, commissions and other fees, in exchange for equity in SOMISA. SOMISA was also found to be unequityworthy from 1978 through 1983.

In our Final Results for the 1987 review (see Certain Cold-Rolled Carbon Steel Flat-Rolled Products from Argentina; Final Results of Countervailing Duty Administrative Review (56 FR 120; June 21, 1991), we found that the Argentine Treasury continued to provide equity infusions to SOMISA from 1984 through 1987 pursuant to Decree 2887/78, and that SOMISA continued to be unequityworthy throughout this period. No new information or evidence of changed circumstances has been submitted in this proceeding to warrant reconsideration of this determination.

We have reviewed SOMISA's financial statements for the years 1988 through 1990, and have determined that the Argentine Treasury provided additional equity infusions pursuant to Decree 2887/78 through 1990. In order to determine whether SOMISA was equityworthy during this period, we applied the analysis described in the General Issues Appendix attached to the Final Affirmative Countervailing Duty Determination: Certain Steel Products From Austria (GIA) (58 FR 37225; July 9, 1993). The results of this analysis have been filed on the official record of this review. See Memorandum to Barbara E. Tillman, Director Office of CVD/AD Enforcement VI, Regarding Certain Cold-Rolled Carbon Steel Flat-Rolled Products from Argentina: Equityworthiness of Somisa During 1988, 1989 and 1990 dated April 4, 1997 on file in the Central Records Unit, Room B099 of the Main Commerce Building. Based on this evaluation of the financial statements, SOMISA continued to be unequityworthy throughout this period.

We have determined that these equity infusions are nonrecurring benefits and have allocated them over time. See GIA (58 FR 37226–27). Also, consistent with

our equity methodology as stated in the GIA at 58 FR 27239–44, we have treated these infusions as grants in order to determine the subsidy conferred from these infusions. The benefit from each of the equity infusions was then calculated using the declining balance methodology as described in the GIA at 58 FR 37227, and used in prior investigations and reviews.

In addition, consistent with the prior administrative review of this order, we have converted the equity infusions into U.S. dollars because of the periods of hyperinflation in Argentina and the changes in the Argentine currency during this time period. This methodology has also been used in other countries where hyperinflation and changes in currency were an issue. See, e.g., Final Affirmative Countervailing Duty Determination: Certain Steel Products from Brazil, 58 FR 37295 (July 9, 1993). Because we have converted the equity infusions into dollars to account for hyperinflation and changes in national currency, we must use a long-term discount rate in dollars. For our discount rates, we have used the interest rates for long-term U.S. dollar lending in Argentina for private creditors as published in the World Bank Debt Tables: External Debt of Developing Countries. Long-term U.S. dollar rates were also used from this World Bank source in Certain Steel Products from Brazil.

When this review was initiated and until recently, our allocation periods were determined by using the average useful life of a firm's renewable physical assets as set forth in the U.S. Internal Revenue Service's 1977 Class Life Asset Depreciation Range System. Based on this IRS table, the average useful life of assets in the steel industry is 15 years. However, based on a recent decision by the Court of International Trade, we have modified our policy and we now base the allocation period on company-specific average useful life of assets (AUL). See *British Steel et al.* vs. *United States et al.*, 929 F. Supp. 426, (1996 CIT). Therefore, we provided SOMISA an opportunity to submit its company-specific AUL. SOMISA stated that due to the difficulty in calculating a company-specific AUL due to the periods of hyperinflation, it requested that the 15 year period specified in the IRS tables be used as the allocation period. In light of the periods of hyperinflation, we find that it would be unduly burdensome to require the company to submit actual AUL data. Therefore, in circumstances such as here where company-specific AUL is not reasonably available, we are basing the allocation period on the 15 year AUL listed in the IRS tax tables for this administrative review.

Using the above-described methodology, we determined the benefit to SOMISA from each of these equity infusions during the review period. We totaled these amounts to arrive at the total benefit received by SOMISA from all of these infusions during the review period. We then divided this amount by total sales during 1991 to calculate a subsidy of 1.54 percent *ad valorem* for the review period for all companies except Propulsora which had a significantly different net subsidy rate for the review period pursuant to 19 CFR 355.22(d)(3). The program-specific rate for Propulsora under this program is 0.00 percent.

B. New Program Preliminarily Found to Confer Subsidies

Regional Tariff Zones for Natural Gas

While investigating the allegation of preferential natural gas rates to the steel industry, we discovered that companies located in different regions of the country paid different prices for natural gas. During the period of review, Argentina was divided into nine tariff zones for the purposes of determining the actual price of natural gas paid by the consumer. Within each zone, a separate coefficient was established to reflect the costs of transportation of natural gas within the country. This coefficient was applied against the published tariff rates to determine the actual price of natural gas for the consumer. For example, in Zone I which covers Buenos Aires and the surrounding countryside, the coefficient was 100 percent. Therefore, a consumer of natural gas in Zone I paid 100 percent of the published tariff rate for natural gas, while in Zone IX, the coefficient was 45 percent; therefore, a consumer located in Zone IX paid 45 percent of the published tariff rate.

As noted above, these zones were established to take into account the costs of transportation of natural gas within the country. Thus, zones located further from the natural gas fields would have a higher coefficient and, therefore, would have paid a higher price for natural gas than those located closer to the natural gas fields. Propulsora was located in Zone I, therefore, it paid 100 percent of the published tariff rate, while SOMISA was located in Zone II and paid 95 percent of the published tariff rate.

These tariff zones were established during 1981 and 1982 and were based upon a study conducted by Gas del Estado (GdE), the state-owned utility company. There was no follow-up to the original study and the zones have remained consistent since that time except for some slight modifications in two of the zones. We verified this program during our concurrent 1991 administrative review of OCTG, which covered the same allegations of preferential pricing of natural gas to the steel industry. During verification, we requested to review the original study which led to the creation of the zones and the coefficients. We were informed by GdE officials that because of the age of the study and the fact that it contained only historical data, the study was no longer available. (See the report of the Verification of the Government of Argentina's Response in the 1991 Administrative Review of Oil Country Tubular Goods from Argentina (public version), which has been put in the public file for the instant review, and can be found in the Central Records Unit, Room B099 of the Main Commerce Building.)

Under longstanding Department practice, programs which provide subsidies on a regional basis are countervailable. See, e.g., Final Affirmative Countervailing Duty Determination: Fresh and Chilled Atlantic Salmon from Norway, 56 FR 7678 (February 25, 1991) and Final Affirmative Countervailing Duty Determination; Certain Fresh Atlantic Groundfish from Canada, 51 FR 10041 (March 24, 1986). Because the original study establishing the tariff zones in Argentina was done 10 years prior to our period of review, was never subsequently up-dated, and because the GOA could not document the criteria used to establish these tariff zones, we preliminarily determine that the lower rates charged in zones other than Zone I constitute regional subsidies.

Because Propulsora was located in Zone I and paid the full 100 percent of the published rate, we find that it did not benefit from this program. SOMISA was located in Zone II and paid only 95 percent of the established tariff rate for natural gas, therefore, we preliminarily determine that it received a countervailable benefit under this program. To determine the amount of the benefit received by SOMISA during this review period, we calculated the amount the company would have paid during 1991 for natural gas if it were required to pay the full 100 percent of the published natural gas tariff rates. We then deducted from this amount the amount for natural gas that it actually did pay during 1991. We then divided the difference by total sales in 1991, and calculated a subsidy of 0.30 percent ad valorem for the review period for all companies, except Propulsora which

had a significantly different net subsidy rate for the review period pursuant to 19 CFR 355.22(d)(3). The program-specific rate for Propulsora under this program is 0.00 percent.

II. Program Preliminarily Found Not to Confer Subsidies

Preferential Natural Gas Tariffs Under Resolution 192/91

At the end of 1990, Argentina was emerging from an extended period of hyperinflation. The GOA believed that deregulating and privatizing the large, state-owned utility companies would lead to price stability by introducing competition in the market. The beginning of this deregulation can be found with the passage of Decree 633. Also, within this context, the GOA entered into sectoral agreements with Argentine industries in order to secure commitments from industries that they would hold down prices charged to their customers in order to stabilize the inflation rate within the economy. In exchange for this commitment, the GOA committed itself to broad based economic reforms, including the maintenance of stable energy prices.

In early 1991, the GOA began the first steps toward deregulating the natural gas market in Argentina. Up until April 1991, the GOA set and regulated the tariff rates for natural gas in the country. Prices for natural gas could not deviate from those prices set by the Economy Minister. In April 1991, with the enactment of Decree 633, two separate markets for natural gas were created. The first market was the wholesale market which covered transactions between producers and distributors as well as between producers and large users of natural gas. The other market created by Decree 633 was the retail market which covered sales to residential and other commercial consumers. Under Decree 633, companies in the wholesale market were permitted to engage in negotiations and to enter into individual contracts for natural gas.

In April 1991, while the GOA was deregulating the prices of natural gas in the wholesale market, the GOA also began to reduce the tariff rates for natural gas in the retail market with the passage of Resolution 192/91. Resolution 192/91 established new tariff rates which were approximately 20 percent lower than the prior published rates in Resolution 29/91. The rates established under Resolution 192/91 were effective from April 1, 1991 through December 31, 1992. We were informed by the GOA during the verification of the concurrent 1991 administrative review of OCTG, that not all companies in Argentina received the reduced rates under Resolution 192/91. (See the report of the Verification of the Government of Argentina's Response in the 1991 Administrative Review of Oil Country Tubular Goods from Argentina (Public Version), which has been put in the public file for the instant review, and can be found in the Central Records Unit, Room B099 of the Main Commerce Building.) The tariff rates for natural gas in Argentina were announced in resolutions published by the Economy Minister. In order to qualify for the reduced rates, certain companies had to provide documentation to the government that they voluntarily avoided price increases and thus contributed to the avoidance of inflation and currency devaluation in the country. These companies were listed in Resolution 71/91.

By April of 1991, companies in Argentina could seek to obtain reduced natural gas prices by two means. If the company qualified as a large consumer of natural gas, it could seek to negotiate its own rate with the utility company, or it could seek to qualify for the reduced rates which were published in Resolution 192/91. Neither SOMISA nor Propulsora negotiated individual contracts for natural gas during the period. In addition, SOMISA did not qualify for the reduced tariff rates published under Resolution 192/91, and it continued to pay the higher tariff rates established under Resolution 29/91 for the rest of 1991. Propulsora did qualify for the reduced rates under Resolution 192/91 and it paid the reduced tariffs from April 1991 through December 31, 1991. Therefore, we must determine whether the reduced tariffs under Resolution 192/91 provided Propulsora with a countervailable benefit.

On March 27, 1991, the Ministry of Economy published Resolution 192/91, which set the new tariff rates for natural gas. These new rates became effective on April 1, 1991. These revised rates under Resolution 192/91 applied to both home and non-home consumption of natural gas. Under Section 4 of Resolution 192/91, the tariff rate listed in Annex V applied to businesses, official agencies, and industries. However, Section 17 of Resolution 192/91 stated that in order to be entitled to the tariff rates listed in the resolution, corporations listed in Resolution 71/91 had to submit evidence that they met the obligations listed in Resolution 71/91. Companies listed in Resolution 71/91 had to get a certification in order to qualify for the tariff rates published in Resolution 192/91. A certification meant that the company was assisting in maintaining price stability in the country by holding down prices. Companies not listed in Resolution 71/91 automatically qualified for the revised tariff rates published in Resolution 192/91.

Resolution 71/91 was published by the Ministry of Economy on February 22, 1991. In the period leading up to the publication of Resolution 71/91, there was high wholesale and retail inflation in Argentina. According to the GOA, it was, therefore, necessary to implement a policy for the domestic market to assist in price stabilization to deal with the self-perpetuating hedging based on the future expectation of inflation. In this environment, companies would raise prices in expectation of the next month's inflation. Resolution 71/91 was published in order to dampen this price escalation.

The list of companies published in Resolution 71/91 was compiled using three sources: (1) Large taxpayers as determined by the Direccion General Impositiva, the Argentine tax collection agency; (2) price setting enterprises as determined by the Commerce Secretary; and (3) companies known by the Banco Nacional de la Republica Argentina to have a significant amount of indebtedness. There were a total of 1,566 companies listed in Resolution 71/91. Companies named in this list had to provide the GOA with information that they ''voluntarily avoided price increases'' during the months of February and March 1991, thereby contributing to the avoidance of price inflation and currency devaluation.

If companies listed in Resolution 71/91 demonstrated to the government that they ''voluntarily avoided price increases,'' they were provided with a certificate from the Ministry of Economy which could be presented to GdE. With the presentation of this certificate, GdE would then allow the company to use the reduced tariff rates for natural gas published in Resolution 192/91.

Propulsora was listed in Resolution 71/91 and had to provide evidence demonstrating that it ''voluntarily avoided price increases.'' Based on the information it provided to the government, it was provided with a certification which made it eligible for the reduced tariff rates under Resolution 192/91. Effective April 1, 1991, Propulsora's natural gas tariff rates were based on those set in Resolution 192/91. SOMISA did not receive a certification and, therefore, was not eligible for the reduced tariff rates. It continued to pay the higher tariff rates from the previous tariff schedule under Resolution 29/91. In order to determine whether the tariff rates announced in Resolution 192/91

provided a countervailable benefit to Propulsora, we must first determine whether the rates provided in that resolution are limited to a specific enterprise or industry, or to a group of enterprises or industries as required under section 771(5) of the Act.

Under Resolution 192/91, all companies and businesses are automatically eligible for tariff rates set forth in this Resolution unless the company or business is listed in Resolution 71/91. Companies listed in Resolution 71/91 had to be certified by the government to qualify for the reduced tariffs in Resolution 192/91. Eighty-five percent of the companies that applied for certification for the tariffs in Resolution 192/91 (462 companies) were approved for the reduced natural gas rates. In deciding whether to approve an application, the GOA uniformly applied the criteria specified in Resolution 71/91 to each applicant.

All companies and businesses in Argentina that were not listed in Resolution 71/91, and 462 companies and businesses listed in Resolution 71/91 which received certifications paid the Resolution 192/91 tariff rate for natural gas. These companies and businesses represent virtually all industries in Argentina. Therefore, we preliminarily determine that the published tariff rates listed in Resolution 192/91 are not limited, by law, or in fact, to an enterprise or industry or to a group of enterprises or industries as required under section 771(5) of the Act. As such, we preliminarily determine the rates under Resolution 192/91 to be non-countervailable.

III. Programs Preliminarily Found Not To Be Used

We examined the following programs and preliminarily find that the producers and/or exporters of the subject merchandise did not apply for or receive benefits under these programs during the period of review:

• *Preferential Electricity Tariff Rates*

Until April 1991, the tariff rates for electricity were set by the government. On April 17, 1991, the GOA published Decree 634/91, which provided for the deregulation of the electricity industry in Argentina. This decree created two market levels for electricity in Argentina, the wholesale market and the retail market. The wholesale market was comprised of the producers, generators, and distributors of electricity as well as the large individual consumers of electricity. Under Decree 634, the producers and generators would sell electricity through a central dispatch agency. The distributors would then purchase the electricity from this central dispatch agency for delivery to the individual consumer. In order to encourage competition within the wholesale market, a large individual consumer could negotiate a contract with any utility company within the country. Although large consumers could negotiate contracts for electricity in the wholesale market, the tariff rates charged to individual consumers in the retail market were still set by the government.

During the review period, both SOMISA and Propulsora continued to purchase electricity at the published tariff rates for businesses and companies in Argentina, and they did not negotiate individual contracts with utility companies. Therefore, we preliminarily determine that this program was not used during the period of review and need not reach the issue of whether the program is otherwise countervailable.

• *Privatization Assistance Under Law 23696 and Decree 1144/92*

In 1989, the GOA embarked upon a reform program designed to restructure the economy, stabilize the currency, refinance the public debt and reduce the public sector. A central element of this program was the privatization of large public enterprises. The general privatization law, Chapter II of Law 23696, published on August 17, 1989, established procedures for the transfer of state assets to the private sector. Among other provisions, it provides that the Executive Branch may (1) decide which assets will be privatized; (2) reorganize going concerns and transfer assets and liabilities from those concerns prior to privatization; and (3) assume the debt of public enterprises undergoing privatization.

Law 23696 requires that before an entity may be privatized, the Executive Branch must declare it subject to privatization and an Act of Congress must be promulgated. SOMISA was one of twenty-six companies under the aegis of the Ministry of Defense that were declared subject to privatization on July 23, 1990. Congress ratified that declaration in Act 24045 on December 31, 1991. As stated above, Law 23696 allows the GOA to reorganize state-owned companies which are to be privatized and to also assume the debt of state-owned companies undergoing privatization. Although SOMISA was not privatized until November 1992, we must examine whether SOMISA received any countervailable benefits under this GOA program during 1991, our period of review. Propulsora is a privately-held company and, therefore, did not fall under the purview of Law 23696.

In order to qualify for the treatment of debt specified under Law 23696, a company must be partially or wholly-owned by the government, and be the subject of either privatization or liquidation. Under Law 23696, any type of liability, whether derived from labor or social security obligations, customs duties, lawsuits, contract disputes, fines or penalties, or liabilities that arose from the normal functioning of business could be assumed directly by the government. Under Law 23696, SOMISA's public sector debt acquired before April 1, 1991, was eligible for consolidation and assumption by the GOA. Although the debt acquired by SOMISA before April 1, 1991 was covered under Law 23696, the actual assumption of SOMISA's debt by the government was not authorized until 1992, under Decree 1144/92. Decree 1144/92, which was enacted July 15, 1992, also (1) canceled all of SOMISA's debt acquired from April 1, 1991 until January 1, 1992; (2) exempted SOMISA from the stamp tax and from other taxes which are imposed on the transfer of assets and land; and (3) stated that the GOA would assume SOMISA's labor-related obligations incurred prior to its privatization.

Decree 1144/92, which authorized SOMISA's debt consolidation and assumption was not enacted until after the period of review and there was no debt assumption or forgiveness during the period of review. Therefore, we preliminarily determine that SOMISA did not receive any benefits during the period of review from the debt consolidation and assumption under Law 23696, nor did it receive benefits under Decree 1144/92 during the period of review.

The following programs also were not used during the review period:

• Medium- and Long-Term Loans.
• Capital Grants.
• Income and Capital Tax Exemptions.
• Government Trade Promotion Programs.
• Exemption from Stamp Taxes Under Decree 186/74.
• Incentives for Trade (Stamp Tax Exemption Under Decree 716).
• Incentive for Export.
• Export Financing Under OPRAC 1, Circular RF–21.
• Pre-Financing of Exports Under Circular RF–153.
• Loan Guarantees.
• Post-Export Financing Under OPRAC 1–9.
• Debt Forgiveness.

• Tax Deduction Under Decree 173/85.

IV. Program Preliminarily Found Not to Exist

1. Tax Concessions for the Steel Industry

Petitioners alleged that, under Paragraph 8 of the April 11, 1991 Steel Agreement between the GOA and Argentine steel producers, the GOA provides the steel industry with tax concessions. According to the response of the GOA, Paragraph 8 of the Steel Agreement does not provide tax concessions to the steel industry but merely states that the industry's Reembolso level will be studied taking into account the tax incidence of steel producers. For information on the Reembolso/Reintegro program, *see* the section ''Rebate of Indirect Taxes,'' above. Therefore, we preliminarily determine that there were no new tax concessions provided to the steel industry under the Steel Agreement.

Preliminary Results of Review

For the period January 1, 1991 through December 31, 1991, we preliminarily determine the net subsidy to be 0.00 percent *ad valorem* for Propulsora and 1.84 percent *ad valorem* for all other companies.

If the final results of this review remain the same as these preliminary results, the Department intends to instruct the U.S. Customs Service to assess the following countervailing duties:

Manufacturer/exporter	Rate (percent)
Propulsora	0.00
All Other Companies	1.84

The Department also intends to instruct the U.S. Customs Service to assess these countervailing duties on entries of the subject merchandise covered by this administrative review for the period January 1, 1991 through September 19, 1991, and to liquidate all entries made on or after September 20, 1991, without regard to countervailing duties. This countervailing duty order was revoked effective January 1, 1995. As such, no further instructions will be sent to Customs regarding cash deposits.

Parties to the proceeding may request disclosure of the calculation methodology and interested parties may request a hearing no later than 10 days after the date of publication of this notice. Interested parties may submit written arguments in case briefs on these preliminary results within 30 days of the date of publication. Rebuttal briefs, limited to arguments raised in case briefs, may be submitted seven days after the time limit for filing the case brief. Parties who submit argument in this proceeding are requested to submit with the argument (1) a statement of the issue and (2) a brief summary of the argument. Any hearing, if requested, will be held seven days after the scheduled date for submission of rebuttal briefs. Copies of case briefs and rebuttal briefs must be served on interested parties in accordance with 19 CFR 355.38(e).

Representatives of parties to the proceeding may request disclosure of proprietary information under administrative protective order no later than 10 days after the representative's client or employer becomes a party to the proceeding, but in no event later than the date the case briefs, under section 355.38(c), are due.

The Department will publish the final results of this administrative review including the results of its analysis of issues raised in any case or rebuttal brief or at a hearing.

This administrative review and notice are in accordance with section 751(a)(1) of the Act (19 U.S.C. 1675(a)(1)) and 19 CFR 355.22.

Dated: July 10, 1997.

Robert S. LaRussa,

Acting Assistant Secretary for Import Administration.

[FR Doc. 97–18871 Filed 7–16–97; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 062597B]

Taking and Importing of Marine Mammals; Offshore Seismic Activities in the Beaufort Sea

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

ACTION: Notice of issuance of an incidental harassment authorization.

SUMMARY: In accordance with provisions of the Marine Mammal Protection Act (MMPA) as amended, notification is hereby given that an Incidental Harassment Authorization (IHA) to take small numbers of bowhead whales and other marine mammals by harassment incidental to conducting seismic surveys in the Western Beaufort Sea in state and federal waters has been issued to BP Exploration (Alaska) (BPXA).

EFFECTIVE DATE: This authorization is effective from July 11, 1997, until November 1, 1997, unless extended.

ADDRESSES: The application, authorization, monitoring plan, and 1996 environmental assessment (EA) are available by writing to the Chief, Marine Mammal Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Silver Spring, MD 20910–3225, 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 (Secretary) 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 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, 900 East Benson Boulevard, Anchorage, AK 99519, 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 in the Western Beaufort Sea between approximately 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**).

Comments and Responses

A notice of receipt of the application and proposed authorization was published on April 22, 1997 (62 FR 19553), and a 30-day public comment period was provided on the application and proposed authorization. During the comment period, comments received were from the Marine Mammal Commission (MMC), LGL Limited on behalf of BPXA, the Alaska Eskimo Whaling Commission (AEWC) and Greenpeace Alaska (Greenpeace). Some of LGL's comments pertained to minor corrections to the proposed authorization notice and are not discussed below, others are discussed. Information on the activity and authorization request that are not subject to reviewer comments can be found in the proposed authorization notice and is not repeated here.

General concerns

Comment 1: LGL requested clarification that the proposed seismic area extends east and west of the Northstar Unit proper.

Response: NMFS notes that the application refers to a primary survey area that includes the Northstar area and other waters west of 148° W long. However, ice conditions could preclude seismic operations in that area at some times. As a result, BPXA has selected other locations of interest in order to allow more options for operations to continue in areas of open water. Essentially the areas of interest to BPXA lie between Harrison Bay and Flaxman Island in the Western Beaufort Sea. These areas were noted in Figure 3 of the application.

Comment 2: LGL notes that the closest point of approach of the planned seismic area to places where Kaktovik whalers are known to have taken bowhead whales is about 32 mi (51 km).

Response: NMFS notes that Flaxman Island is located at approximately 146° W long., while Figure 3 of the BPXA application (BPXA 1997) indicates the seismic survey area continues east of Flaxman to approximately 145° 30'W. The location of the westernmost Kaktovik whaling location is 144° 11'W (BPXA 1997). Therefore, the last sentence in 62 FR 19555, third column, third to last paragraph (April 22, 1997), was incorrect.

Comment 3: LGL requested clarification between NMFS' statements in the proposed authorization notice where NMFS stated: ''An incidental harassment take is presumed to occur when marine mammals * * *react to the generated sounds or visual cues.'' and statements found in 61 FR 64338 (December 4, 1996):

> ''Until new policy is implemented, NMFS' working definition is that incidental harassment has not taken place (sufficient to warrant an incidental small take authorization) if the marine mammal indicates simple alert, startle, or dive reaction in response to a single noise event. For airborne events, only if marine mammals move away from the noise or other harassment source, either towards the water if on land, or an obvious directional change seaward if already in the surf zone, does NMFS consider a harassment event to have taken place.''

Response: NMFS is presently reviewing the issue of noise in marine waters and its effect on marine mammals. Based upon that review, NMFS expects to propose policy and guidance on what does and what does not constitute a take by harassment and thereby subject to authorization under the MMPA. Until such time, NMFS recommends potential applicants take a conservative interpretation of the statutory definition of harassment (e.g., has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering).

Marine mammal concerns

Comment 4: Greenpeace believes that there is an increasing amount of scientific literature which illustrates that seismic testing significantly impacts marine mammals and other species, such as fish. Greenpeace states that it is well known that marine mammals communicate by using sound and that it is clear that many species are extremely sensitive to both sound and physical disturbance. Based on the precautionary principle therefore, Greenpeace believes that when there is evidence to indicate that there could be harm, an activity should not be carried out. Greenpeace provides a reference (i.e., Chapter 6 in *Greenpeace: Oil in Arctic Waters: The Untold Story of Offshore Drilling in Alaska*) as evidence contrary to the applicant's scientific evidence of negligible impact.

Response: One of the primary concerns with marine seismic surveys in Arctic waters is for those animals that might be within close proximity of the source when it is powered up. While permanent hearing damage is not expected to occur as a result of the project, to reduce the potential for any ear injury to the greatest extent practicable, BPXA will be required, as a condition of the IHA, 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).

At the above referenced distances, the seismic source will be powered down whenever pinnipeds or cetaceans could be exposed to sound pressure levels equal to or greater than 190 dB and 180 dB (re 1 μPa), respectively. These distances are considered conservative (e.g., give greater protection to marine mammals) in comparison to mitigation required on other seismic surveys holding small take authorizations (see for example 60 FR 53753, October 17, 1995). For additional discussion on this issue, please refer to BPXA's 1996 application (61 FR 26501, May 28, 1996)).

In addition, BPXA will 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. This will allow sufficient opportunity for any unseen marine mammals to move away from the source before being exposed to sounds from the full seismic array.

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).

It should be noted that masking effects on marine mammal calls and other natural sounds are expected to be limited in the case of bowhead and gray whales, given the fact that seismic sounds are short pulses occurring for less than 1 sec every 6–12 sec. Bowheads are known to continue calling in the presence of seismic pulses; their calls can be heard between the 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 the airgun sounds.

The best scientific information available indicates that fish will often react to sounds, especially strong and/or intermittent sounds of low frequency (BPXA 1997). Sound pulses at received levels of 160 dB (re 1 μPa) may cause subtle changes in behavior. Pulses at levels of 180 dB may cause noticeable changes in behavior (Chapman and Hawkins 1969, Pearson *et al.* 1992, Skalski *et al.* 1992). It also appears that fish often habituate to repeated strong sounds rather rapidly, on time scales of minutes to an hour. However, the habituation does not endure, and resumption of the disturbing activity may again elicit disturbance responses from the same fish (BPXA 1997). Therefore, fish near the airguns are likely to dive to the bottom or exhibit some other kind of behavioral response. This would likely have little or no impact on marine mammal feeding.

Zooplankters that are very close to the source may react to the seismic shock wave. Little, if any, mortality is expected. Bowheads feed on concentrations of zooplankton (Thomson and Richardson 1987). A reaction by zooplankton to a seismic impulse would only be relevant to bowheads if it caused a concentration of zooplankton to scatter. Pressure changes of sufficient magnitude to cause this type of reaction would probably occur only very close to the source. Impacts on zooplankton behavior are predicted to be negligible and this would translate into negligible impacts on feeding bowheads.

Subsistence concerns

Comment 5: LGL notes that Inupiat whalers believe that avoidance reactions by bowhead whales can extend to longer distances, at least for actively migrating whales. Greenpeace notes that the whaling captains have presented compelling evidence that the (bowhead) whales are displaced from their migratory route and feeding areas by seismic and drilling operations and quote NSB whalers testimony that the zone of influence of seismic operations on the bowhead whale as much greater than that documented by visiting scientists. Greenpeace claims NMFS ignores the whaling captains' discussion of subtle behavioral effects on the bowhead whale (e.g., spookiness). The AEWC notes that hunters, at the March 5, 1997, Minerals Management Service's (MMS) Barrow, AK seismic workshop, stressed repeatedly that seismic noise causes Fall migrating bowheads to begin to deflect from their path at great distances (up to 35 miles (mi)).

Response: A primary focus for monitoring marine seismic surveys in Arctic waters is to determine the zone of influence for seismic noise on marine mammals, especially as it may affect the subsistence hunting of 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 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).

Analysis of the results from BPXA's 1996 seismic monitoring program has not provided conclusive evidence about the radius of avoidance of bowheads to the seismic program. In that year, the peak number of bowhead sightings was 6.2–12.3 mi (10–20 km) 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). One of the objectives of the 1997 proposed monitoring plan (LGL 1997) will be to continue this investigation.

While the location of the proposed seismic activity is south of the main westward migration route of bowhead whales, whalers believe that some migrating bowheads are deflected by seismic operations at distances greater than those documented by scientific studies done to date (MMS 1997). Scientists believe 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) (BPXA 1997).

It is recognized that it is difficult to determine the maximum distance at which reactions occur (Moore and Clark 1992). As a result, BPXA is developing a CAA with the whalers (see response to comment 8 below) 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. This will be subject for review and discussion at the monitoring peer review workshop on July 16 and 17, 1997.

Monitoring concerns

Comment 6: Greenpeace believes that BPXA's 1996 and 1997 monitoring plans are not scientifically sufficient to determine impacts to Arctic pinniped and cetacean species. If the application is approved (against Greenpeace's recommendation), Greenpeace wants NMFS to require a comprehensive monitoring plan that is fully subjected to independent peer design and review. The AEWC also recommends that if the seismic survey continues after September 1 the monitoring plan must be (1) as comprehensive as that done during 1996; (2) peer-reviewed and revised as necessary in response to the peer-review; and (3) account for material presented at the March 5, 1997, MMS seismic workshop held in Barrow, Alaska.

Response: Section 101(a)(5)(D)(ii)(II) of the MMPA requires authorizations issued under this section to prescribe, where applicable, requirements pertaining to the monitoring and reporting of such taking by harassment, including requirements for independent peer review of proposed monitoring

plans or other research proposals where the proposed activity may affect the availability of a species or stock for taking for subsistence purposes.

A draft monitoring plan for BPXA's 1996 seismic survey was reviewed by NMFS, AEWC and other scientists in conjunction with a workshop held in Seattle, WA on May 20 and 21, 1996. An amended monitoring plan was prepared by BPXA in June 1996 and submitted to NMFS for approval. Subsequently, NMFS issued an IHA to BPXA on July 18, 1996, and BPXA implemented its monitoring plan for that year.

On March 15, 1997, BPXA submitted a draft monitoring plan to NMFS for the seismic survey in 1997. This document supplemented the information contained in section XIII of BPXA's March 5, 1997 application. Both documents were subsequently provided to reviewers beginning on April 22, 1997, at the start of the public comment period. The draft report on the 1996 monitoring and research program and the draft monitoring program for 1997 will be reviewed by NMFS, AEWC and independent scientists at a workshop to be held in Seattle, WA on July 16 and 17, 1997. As required in their IHA, an amended monitoring plan will need to be prepared by BPXA and submitted to NMFS for review and approval prior to August 20, 1997, in order for the IHA's period of validity to be extended after September 1, 1997.

Comment 7: The AEWC recommends (1) that NMFS should not approve any monitoring plan or issue an IHA until the results of the 1996 monitoring study have been peer-reviewed. A major aspect of the peer-review should be to determine the extent to which the 1996 monitoring effort met the objectives of the 1996 monitoring plan.

Response: NMFS agrees in part. However, because of the delay in completing a Plan of Cooperation (Conflict and Avoidance Agreement) between BPXA and the AEWC, and the effect of this delay on determining the appropriate monitoring for assessing whether the survey would have an unmitigable adverse impacts on native subsistence needs, a workshop for peer-reviewing the monitoring plan has been delayed. As a result, NMFS will not delay the issuance of the IHA until completion of a review of the 1997 monitoring plan, or the results of the 1996 monitoring plan, but will require both to be completed to the satisfaction of NMFS prior to the beginning of the bowhead whale migration and the start of the Western Beaufort Sea subsistence harvest (e.g., September 1, 1997).

Comment 8: Greenpeace also believes (1) the monitoring plan must be designed to substantiate the ''zone of influence,'' however distant; (2) operations must cease well before the fall bowhead migration and not continue during the fall bowhead hunt; and (3) no seismic operations should be allowed to continue east of Cross Island after the end of August. The MMC recommends that NMFS be satisfied that the proposed monitoring program is adequate to verify that only small numbers of marine mammals are taken, that the taking is by harassment only, and that the impacts on the affected species/stocks are negligible.

Response: Recognizing that Greenpeace recommendations (2) and (3) are mitigation recommendations and not monitoring recommendations, NMFS notes that both are presently subject to negotiations between BPXA and the AEWC/NSB. Resolution of these measures will be contained in a Conflict and Avoidance Agreement (CAA) signed by these parties. A signed CAA supports NMFS determination that there are no unmitigable adverse impacts for subsistence needs.

While implementation of these mitigation measures would be expected to reduce the number of harassment takes on bowhead whales, it would also significantly reduce the limited time available in the Western Beaufort Sea for survey work.

As mentioned above, the requirements and design of the monitoring plan will be the subject of the peer-review workshop this month. A task of that workshop will be to ensure that the monitoring program can, to the extent practicable, make the findings necessary to support the determinations made herein.

Comment 9: The MMC recommends that the plan be reviewed to take into account appropriate comments provided by the peer review panel on the 1997 monitoring plan. The panel should review the report to assure that the objectives are met and, if they are not, that the monitoring program for 1997 is revised accordingly.

Response: Thank you for this recommendation.

Cumulative impacts concerns

Comment 10: Greenpeace believes NMFS is ignoring cumulative impacts from oil exploration and development in the Arctic, including global warming and climate change perpetuated by the continued production and burning of fossil fuels.

Response: NMFS would like to clarify that it does not authorize the activity (i.e., conducting the seismic survey); such authorization is provided by the MMS and is not within the jurisdiction of the Secretary. NMFS' responsibility is limited to issuance or denial of an authorization for the short-term, incidental harassment of a small number of marine mammals by BPXA while conducting a seismic survey within an authorized lease sale area.

Furthermore, 3–D seismic surveys do not involve any oil drilling or production activities. The survey would provide subsurface data that would enable BPXA to more accurately assess the oil-bearing strata to more efficiently develop the Northstar field. Geological and geophysical work to gather seismic data is authorized by BPXA's lease.

National Environmental Policy Act (NEPA) concerns

Comment 11: Greenpeace notes that the proposed action would have significant and unmitigable impacts to subsistence communities and the Arctic marine environment and therefore NMFS fails to meet NEPA standards for making a Finding of No Significant Impact (FONSI). Greenpeace urges NMFS to prepare a full environmental impact statement (EIS) that considers the comprehensive environmental and human impacts of BPXA's seismic operations in the Beaufort Sea in the context of other present and future oil industry exploration and development activities in the region.

Response: In conjunction with the 1996 notice of proposed authorization for BPXA's application (61 FR 26501, May 28, 1996), NMFS released an EA that addressed the impacts on the human environment from issuance of an IHA to BPXA to conduct a seismic survey in the Western Beaufort Sea, and the alternatives to that 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. This year's activity is a continuation of the seismic work conducted in 1996. For BPXA's 1997 application, NMFS has conducted a review of the impacts expected from the issuance of an IHA in comparison to those evaluated in 1996. As described in detail herein, NMFS has again determined that there will be no more than a negligible impact on marine mammals from the issuance of the harassment authorization and that there will not be any unmitigable impacts to

subsistence communities provided the mitigation measures required under the authorization are implemented. Because the activity is the same conducted in 1996, and no new impacts on the environment have been identified, a new EA is not warranted and therefore, the preparation of an EIS 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**).

NMFS notes that the responsibility for reviewing an activity under NEPA belongs primarily to the responsible Federal agency, if that activity is Federal, federally-funded, or federally-permitted. The MMS of the U.S. Department of the Interior has responsibility for leasing and subsequent exploration and development activities under the Outer Continental Shelf Lands Act. As a result, MMS published draft and final EISs under NEPA regarding leasing of offshore oil and gas exploration in this area (Lease Sale Area 144). Seismic surveys are covered under those documents. In addition, a multi-agency NEPA document is currently under development by the Corps of Engineers. This document will analyze the proposal for oil and gas development at Northstar and the alternatives to that proposal. A notice of NEPA scoping was published for public comment in November 1995; a draft EIS is planned for release later this year. Presumably, an analysis of concerns regarding potential future oil and gas industry and other environmental issues will be found in this document.

Consultation

Under section 7 of the Endangered Species Act, NMFS has completed consultations on the issuance of this authorization.

Conclusions

NMFS has determined that the short-term impact of conducting seismic surveys in the Western 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. 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 (see 62 FR 19553, April 22, 1997 for potential levels of take). 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 described in the authorization.

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 September 1, 1997, BPXA will initiate aerial survey flights for bowhead whale assessments, and take other actions to avoid having an unmitigable adverse impact on subsistence uses. Appropriate mitigation measures to avoid an unmitigable adverse impact on the availability of bowhead whales for subsistence needs is the subject of consultation between BPXA and subsistence users. As a result of discussions between the two parties, a Conflict and Avoidance Agreement is, at this time, near completion. This Agreement consists of three main components: (1) Communications, (2) conflict avoidance, and (3) dispute resolution.

Summer seismic exploration in and near the Northstar Unit has a small potential to influence seal hunting activities by residents of Nuiqsut. However, NMFS believes that 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 beluga and seals is fairly small, the 1997 BPXA seismic survey will not have an unmitigable adverse impact on the availability of these stocks for subsistence uses.

Since NMFS is assured that the taking will not result in more than the incidental harassment (as defined by the MMPA Amendments of 1994) of small numbers of certain species of marine mammals, would have only a negligible impact on these stocks, will not have an unmitigable adverse impact on the availability of these stocks for subsistence uses, and would result in the least practicable impact on the stocks, NMFS has determined that the requirements of section 101(a)(5)(D) have been met and the authorization can be issued.

Authorization

Accordingly, NMFS has issued an IHA to BPXA for the above described seismic survey during the 1997 open water season provided the mitigation, monitoring and reporting requirements described in the authorization are undertaken.

Dated: July 11, 1997.

Patricia A. Montanio,

Deputy Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 97–18862 Filed 7–16–97; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 071097E]

Caribbean Fishery Management Council; Public Meeting

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

ACTION: Notice of public meeting.

SUMMARY: The Caribbean Fishery Management Council (Council) and its Administrative Committee will hold meetings.

DATES: The meetings will be held on August 11–13, 1997.

ADDRESSES: All meetings will be held at the Caravelle Hotel, in Christiansted, St. Croix, U.S. Virgin Islands.

Council Address: Caribbean Fishery Management Council, 268 Muñoz Rivera Avenue, Suite 1108, San Juan, PR 00918–2577.

FOR FURTHER INFORMATION CONTACT: Caribbean Fishery Management Council; telephone: (787) 766–5926.

SUPPLEMENTARY INFORMATION: The Council will hold its 92nd regular public meeting to discuss the First Amendment to the Coral Fish Fishery Management Plan, among other topics.

The Council will convene on August 12, 1997, from 9:00 a.m. to 5:00 p.m., through August 13, 1997, from 9:00 a.m. to noon, approximately.

The Administrative Committee will meet on August 11, 1997, from 1:00 p.m. to 5:00 p.m., to discuss administrative matters regarding Council operation.

The meetings are open to the public, and will be conducted in English. Fishers and other interested persons are invited to attend and participate with oral or written statements regarding agenda issues.

Special Accommodations

These meetings are physically accessible to people with disabilities. For more information or requests for sign language interpretation and/or other auxiliary aids please contact Mr. Miguel A. Rolón, Executive Director, (see **ADDRESSES**) at least 5 days prior to the meeting date.

Dated: July 11, 1997.

Bruce C. Morehead,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 97–18864 Filed 7–16–97; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 071097D]

Western Pacific Fishery Management Council; Public Meeting

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

ACTION: Notice of public meeting.

SUMMARY: The Western Pacific Fishery Management Council's (Council) Scientific and Statistical Committee (SSC) will hold its 66th meeting.

DATES: The meeting will be held August 5–7, 1997, from 8:00 a.m. to 5:00 p.m., each day.

ADDRESSES: The meeting will be held at the King Kamehameha Hotel, Kailua-Kona, HI; telephone: (808) 329–2911.

Council address: Western Pacific Fishery Management Council, 1164 Bishop St., Suite 1405, Honolulu, HI 96813.

FOR FURTHER INFORMATION CONTACT: Kitty M. Simonds, Executive Director; telephone: (808) 522–8220.

SUPPLEMENTARY INFORMATION: The SSC will discuss and may make recommendations to the Council on the following agenda items:

1. Pelagic fishery issues, including:
a. Status of the fishery;
b. Pelagic fisheries research;
c. Management issues for the western central Pacific Ocean;
d. Bycatch/incidental take issues (albatross, turtles, sharks), marine mammal interactions with Hawaii pelagic fisheries; and
e. Small pelagic fisheries catch data and the impact of ocean recreation activities on akule and opelu;
2. Lobster management, including:
a. Report on 1997 lobster season guidelines, observer program, NMFS annual research cruise, and mandatory Vessel Monitoring System for data transmission and catch reporting,
b. Regulatory inconsistencies with Main Hawaiian Islands; and
c. Discussion of areas not included in the fishery management plan (Northern Mariana Islands, Palmyra, Johnston, Kingman);
3. Precious Corals management including:
a. Status of the fishery at Makapuu; and
b. Draft amendment for framework process;
4. Report on Western Pacific Sustainable Fisheries Fund;
5. Hawaii bottomfish issues, including:
a. Status of the fishery and the State of Hawaii's plan for dealer reporting,
b. Status report on Department of Land and Natural Resources' regulations for overfished Main Hawaiian Islands onaga and ehu fisheries and Federal considerations,
c. Northwestern Hawaiian Islands bottomfish management system including draft amendment for Mau Zone limited entry, Task Force report, and status of new entry into the Hoomalu Zone; and
d. Hawaii Bottomfish Plan Team/Advisory Panel recommendations;
6. Ecosystem and Habitat issues, including:
a. Final region-wide coral reef assessment,
b. Report on progress with draft amendments for Essential Fish Habitat,
c. Bathymetric mapping of Pacific Insular Areas,
d. Summary of recent activities in Hawaii, Guam and Commonwealth of Northern Mariana Islands; and
e. Advisory Panel recommendations;
7. Progress on Magnuson-Stevens Act requirements, including draft amendments to fisheries management plans regarding:
a. Essential Fish Habitat,
b. Bycatch;
c. Overfishing;
d. Fishing sectors; and
e. Fishing communities; and
8. Other business as required.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Kitty M. Simonds, (808) 522–8220 (voice) or (808) 522–8226 (fax), at least 5 days prior to meeting date.

Dated: July 11, 1997.

Bruce C. Morehead,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 97–18806 Filed 7–16–97; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 070997B]

Western Pacific Fishery Management Council; Public Meeting

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

ACTION: Notice of public meeting.

SUMMARY: The Western Pacific Fishery Management Council (Council) will hold a meeting of its Native and Indigenous Rights Advisory Panel.

DATES: The meeting will be held on August 14–15, 1997, from 8:30 a.m. to 5:00 p.m.

ADDRESSES: The meeting will be held at the Pakalana/Anthurium Room, Ala Moana Hotel, 410 Atkinson Drive, Honolulu, HI: telephone: 808–955–4811.

Council address: Western Pacific Fishery Management Council, 1164 Bishop St., Suite 1405, Honolulu, HI 96813.

FOR FURTHER INFORMATION CONTACT: Kitty M. Simonds, Executive Director; telephone: 808–522–8220.

SUPPLEMENTARY INFORMATION: The Council's Native and Indigenous Rights Advisory Panel will hold a meeting to discuss the history and characteristics of the Alaska Community Development Quota Program, recent Federal legislation authorizing the establishment of a Western Pacific Community Development Program and other issues related to indigenous fishing rights and practices in the Council's area of jurisdiction.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Kitty M. Simonds, 808–522–8220 (voice) or 808–522–8226 (fax), at least 5 days prior to meeting date.

Dated: July 11, 1997.

Bruce C. Morehead,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 97–18863 Filed 7–16–97; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 071197C]

Marine Mammals; Scientific Research Permit (PHF# 875–1401)

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

ACTION: Receipt of application.

SUMMARY: Notice is hereby given that Dr. Christopher W. Clark, Cornell University, Ithaca, New York 14850, has applied in due form for a permit to take blue whales (*Balaenoptera musculus*) and fin whales (*Balaenoptera physalus*) for purposes of scientific research.

DATES: Written comments must be received on or before August 18, 1997.

ADDRESSES: The application and related documents, including a draft environmental assessment (EA) that examines the environmental consequences of issuing the requested permit, are available for review upon written request or by appointment in the following office(s):

Permits Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13130, Silver Spring, MD 20910 (301/713–2289);

Regional Administrator, Southwest Region, 501 West Ocean Boulevard, Suite 4200, Long Beach, CA 90802-4213 (310/980-4001).

Written data or views, or requests for a public hearing on this request, should be submitted to the Director, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13130, Silver Spring, MD 20910. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this application would be appropriate.

Concurrent with the publication of this notice in the **Federal Register**, NMFS is forwarding copies of this application to the Marine Mammal Commission and its Committee of Scientific Advisors.

SUPPLEMENTARY INFORMATION: The subject permit is requested under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216), the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*), and the regulations governing the taking, importing, and exporting of endangered fish and wildlife (50 CFR part 222.23).

The purpose of the proposed research is to study the effects of low-frequency sound produced by the Navy's Surface Towed Array Surveillance System Low Frequency Active (SURTASS LFA) system on the behavior of blue and fin whales feeding in the Southern California Bight during September/October of 1997 and/or 1998. Individuals of several other species of cetaceans and pinnipeds may be taken (*i.e.*, by harassment or auditory temporary threshold shift) incidentally during the proposed experiments.

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), a draft EA examining the environmental consequences of issuing the requested permit has been prepared. Based upon this draft EA, NMFS has preliminarily concluded that issuance of the requested permit will not have a significant effect on the human environment.

Dated: July 11, 1997.

Ann D. Terbush,

Chief, Permits and Documentation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 97–18805 Filed 7–16–97; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF DEFENSE

Office of the Secretary

Submission for OMB Review; Comment Request

ACTION: Notice.

The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Title, Associated Form, and OMB Number: Application for correction of Military Records Under the Provisions of Title 10 U.S.C., Section 1552; DD Form 149; OMB Number 0704–0003.

Type of Request: Reinstatement.

Number of Respondents: 31,425.

Responses Per Respondent: 1.

Annual Responses: 31,425.

Average Burden Per Response: 30 minutes.

Annual Burden Hours: 15,713.

Needs and Uses: Under 10 U.S.C. 1552, the Secretary of a Military Department may correct any military record within their Department when the Secretary considers it necessary to correct an error or remove an injustice. The DD Form 149, ''Application for Correction of Military Records Under the Provisions of Title 10 U.S. Code, Section 1552,'' allows an applicant to request correction of a military record. The form provides an avenue for active duty Service members and former Service personnel who believe an error is contained in their military records and/or they have suffered an injustice to request relief.

Affected Public: Individuals or households.

Frequency: On occasion.

Respondent's Obligation: Required to obtain or retain benefits.

OMB Desk Officer: Mr. Edward C. Springer.

Written comments and recommendations on the proposed information collection should be sent to Mr. Springer at the Office of Management and Budget, Desk Officer for DoD, Room 10236, New Executive Office Building, Washington, DC 20503.

DoD Clearance Officer: Mr. Robert Cushing.

Written requests for copies of the information collection proposal should be sent to Mr. Cushing, WHS/DIOR, 1215 Jefferson Davis Highway, Suite 1204, Arlington, VA 22202–4302.

Dated: July 11, 1997.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 97–18779 Filed 7–16–97; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Submission for OMB Review; Comment Request

AGENCY: Notice.

The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Title, Associated Form, and OMB Number: Application for Review of Discharge or Dismissal from the Armed Forces of the United States; DD Form 293; OMB Number 0704–0004.

Type of Request: Reinstatement.

Number of Respondents: 13,100.

Responses Per Respondent: 1

Annual Responses: 13,100.

Average Burden Per Response: 45 minutes.

Annual Burden Hours: 9,825.

Needs and Uses: Former members of the Armed Forces who received an administrative discharge have the right to appeal the characterization or reason for separation. Title 10 U.S.C., Section 1553 and Department of Defense Directive 1332.28, established a Board

of Review consisting of five members to review appeals of former members of the Armed Forces. The DD Form 293, ''Application for Review of Discharge or Separation from the Armed Forces of the United States,'' provides the respondent a vehicle to present to the Board their reasons/justification for a discharge upgrade as well as providing the Services the basic data needed to process the appeal.

Affected Public: Individuals or households.

Frequency: On occasion.

Respondent's Obligation: Required to obtain or retain benefits.

OMB Desk Officer: Mr. Edward C. Springer.

Written comments and recommendations on the proposed information collection should be sent to Mr. Springer at the Office of Management and Budget, Desk Officer for DoD, Room 10236, New Executive Office Building, Washington, DC 20503.

DoD Clearance Officer: Mr. Robert Cushing.

Written requests for copies of the information collection proposal should be sent to Mr. Cushing, WHS/DIOR, 1215 Jefferson Davis Highway, Suite 1204, Arlington, VA 22202–4302.

Dated: July 11, 1997.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 97–18782 Filed 7–16–97; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF DEFENSE

Office of the Secretary of Defense

Department of Defense Wage Committee; Notice of Closed Meetings

Pursuant to the provisions of section 10 of Pub. L. 92–463, the Federal Advisory Committee Act, notice is hereby given that closed meetings of the Department of Defense Wage Committee will be held on August 5, 1997; August 12, 1997; August 19, 1997; and August 26, 1997; at 10:00 a.m. in Room A105, The Nash Building, 1400 Key Boulevard, Rosslyn, Virginia.

Under the provisions of section 10(d) of Pub. L. 92–463, the Department of Defense has determined that the meetings meet the criteria to close meetings to the public because the matters to be considered are related to internal rules and practices of the Department of Defense and the detailed wage data to be considered were obtained from officials of private establishments with a guarantee that the data will be held in confidence.

However, members of the public who may wish to do so are invited to submit material in writing to the chairman concerning matters believed to be deserving of the Committee's attention.

Additional information concerning the meetings may be obtained by writing to the Chairman, Department of Defense Wage Committee, 4000 Defense Pentagon, Washington, DC 20301–4000.

Dated: July 11, 1997.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 97–18781 Filed 7–16–97; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF DEFENSE

Finding of No Significant Impact for the Defense Logistics Distribution Depot Restructuring

AGENCY: Defense Logistics Agency (DLA).

ACTION: Notice.

SUMMARY: An environmental assessment on the consolidation of the DLA distribution management function was prepared pursuant to the National Environmental Policy Act (NEPA) as amended (42 U.S.C. 4321 *et seq.*) and the Council on Environmental Quality Guidelines (40 CFR Part 1500–1508). The environmental assessment concluded that there will be no significant impact on the environment and that preparation of an Environmental Impact Statement will not be necessary. Interested parties may submit comments to the address listed below for a 30-day period from the date of this notice.

EFFECTIVE DATE: 17 July 1997.

FOR FURTHER INFORMATION CONTACT: Ms. Kathy Stephens, Public Affairs Office (CAAV), Defense Logistics Agency, 8725 John J. Kingman Rd., Ft. Belvoir, VA 22060–6221, (703) 767–6200.

SUPPLEMENTARY INFORMATION: Reduced workload, budget reductions, and good management practice has compelled the Defense Logistics Agency (DLA) to develop a strategy to restructure its distribution depot system while maintaining readiness and affordability of its services. As a designated Combat Support Agency, distribution of military equipment and supplies is one of DLA's primary business areas. A reliable and robust distribution system is critical to military readiness and sustainability, but it must be affordable. DLA has been reducing its distribution costs commensurate with the decline in military force structure for several years and has significantly reduced many of the direct costs of operations. The proposed action is intended to adjust the management overhead and reduce overall distribution infrastructure to recognize the changing way in which DLA has to do business to provide its military customers responsive and affordable support.

An environmental assessment has been prepared to address the proposed restructuring, possible alternative approaches, and environmental consequences of the proposed action. This environmental assessment has been prepared by DLA in accordance with Council on Environmental Quality (CEQ) regulations and DLA implementing regulation 1000.22, Environmental Considerations in DLA Actions in the United States.

The proposed action concerns the consolidation of the defense distribution depot management function with a loss of management and support positions. The management function is currently exercised from two regional offices: Defense Distribution Region East located in New Cumberland, PA, and Defense Distribution Region West in Stockton, CA. The proposed action will consolidate the management function into a single Defense Distribution Center located at one of the two sites. The result of the action will be that the site not selected for the Defense Distribution Center will lose up to 500 employees and the selected site will experience a lesser decrease in staff.

The environmental assessment considered environmental and socioeconomic impacts of the alternatives to implement the proposed action and the no-action alternative. The conclusion of the assessment is that the consolidation of the distribution management is not considered a major action significantly affecting the quality of the human environment or requiring the development of an Environmental Impact Statement.

A public comment period regarding the environmental assessment will begin at the time of publication of this notice and will conclude 30 days following. Copies of the environmental assessment are available for inspection at the DLA Public Affairs Office and at the addresses listed below. Interested parties may also contact the DLA Public Affairs Office at commercial telephone (703) 767–6200.

Doug Imberi (ASCW–WP), Defense Distribution Region West, Office of Public Affairs, 700 East Roth Road, Bldg. S1, Stockton, CA 95296–0010, Tel: (209) 982–2839.

Keith Beebe (DDRE–CB), Defense Distribution Region East, Office of Command Affairs, 14 Dedication Drive, Suite 2, New Cumberland, PA 17070–5001, Tel: (717) 770–7209/6223.

Dennis J. Lillo,

Director, Environmental Quality, (Environmental and Safety Policy).

[FR Doc. 97–18851 Filed 7–16–97; 8:45 am]

BILLING CODE 3620–01–M

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

AGENCY: Department of Education.

ACTION: Submission for OMB review; comment request.

SUMMARY: The Director, Information Resources Management Group, invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before August 18, 1997.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Dan Chenok, Desk Officer, Department of Education, Office of Management and Budget, 725 17th Street, NW., Room 10235, New Executive Office Building, Washington, DC 20503. Requests for copies of the proposed information collection requests should be addressed to Patrick J. Sherrill, Department of Education, 600 Independence Avenue, S.W., Room 5624, Regional Office Building 3, Washington, DC 20202–4651.

FOR FURTHER INFORMATION CONTACT: Patrick J. Sherrill (202) 708–8196. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Director of the Information Resources Management Group publishes this notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g., new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment at the address specified above. Copies of the requests are available from Patrick J. Sherrill at the address specified above.

Dated: July 10, 1997.

Gloria Parker,

Director, Information Resources Management Group.

Office of Postsecondary Education

Title: Economic Hardship Deferment Request Form.

Frequency: On occasion.

Affected Public: Individuals or households; businesses or other for-profits; Not-for-profit institutions.

Annual Reporting and Recordkeeping Hour Burden:

Responses: 1,148,818.

Burden Hours: 183,811.

Abstract: This form is the means by which a borrower applies for a deferment of repayment of the principal balance on a loan for reasons of economic hardship and by which the lender or loan servicer determines whether a borrower is entitled to the postponement of payments.

[FR Doc. 97–18801 Filed 7–16–97; 8:45 am]

BILLING CODE 4000–01–U

DEPARTMENT OF EDUCATION

National Assessment Governing Board; meeting

AGENCY: National Assessment Governing Board; Education.

ACTION: Notice of Meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the Design and Methodology Committee of the National Assessment Governing Board. This notice also describes the functions of the Board. Notice of this meeting is required under Section 10(a)(2) of the Federal Advisory Committee Act. This document is intended to notify the general public of their opportunity to attend.

Date: July 21, 1997.

Time: 9:00 a.m.–3:00 p.m. (open).

Location: O'Hare Hilton Hotel, O'Hare International Airport, Terminal #2, Chicago, Illinois, 60666.

FOR FURTHER INFORMATION CONTACT: Mary Ann Wilmer, Operations Officer, National Assessment Governing Board, Suite 825, 800 North Capitol Street, N.W., Washington, D.C., 20002–4233, Telephone: (202) 357–6938.

SUPPLEMENTARY INFORMATION: The National Assessment Governing Board is established under Section 412 of the National Education Statistics Act of 1994 (Title IV of the Improving America's Schools Act of 1994), (Pub. L. 103–382).

The Board is established to formulate policy guidelines for the National Assessment of Educational Progress. The Board is responsible for selecting subject areas to be assessed, developing assessment objectives, identifying appropriate achievement goals for each grade and subject tested, and establishing standards and procedures for interstate and national comparisons.

The public is being given less than fifteen days notice of this meeting because of summer schedules which made it difficult to find a date mutually agreeable to a quorum of the Committee.

On July 21, 1997 between the hours of 9:00 A.M. to 3:00 P.M. the Design and Methodology Committee will meet to review the draft versions of the commissioned papers and planning grants submitted in response to the NAEP Redesign competition. The Committee will then formulate final recommendations for the Board to consider regarding redesign issues that are critical to the drafting of the NAEP operations RFP. Also, the Committee will discuss the development of cost estimates for the NAEP redesign proposals.

Summaries of these activities and related matters, which are informative to the public and consistent with the policy of section 5 U.S.C. 553b(c), will be available to the public within 14 days of the meeting.

Records are kept of all Board proceedings and are available for public inspection at the U.S. Department of Education, National Assessment Governing Board, Suite 825, 800 North Capitol Street, N.W., Washington, D.C., from 8:30 a.m. to 5:00 p.m.

Dated: July 15, 1997.

Roy Truby,

Executive Director, National Assessment Governing Board.

[FR Doc. 97–18965 Filed 7–16–97; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Office of Civilian Radioactive Waste Management; Safe Transportation and Emergency Response Training; Technical Assistance and Funding

AGENCY: Office of Civilian Radioactive Waste Management, Department of Energy.

ACTION: Notice of Revised Proposed Policy and Procedures.

SUMMARY: The Department of Energy (the Department or DOE) publishes for public comment a revised proposed policy statement setting forth its plans for implementing technical and financial assistance to States for training public safety officials of appropriate units of local governments and Indian tribes through whose jurisdiction the Department plans to transport spent nuclear fuel or high-level radioactive waste (Section 180(c) program). The training would cover both safe routine transportation procedures and emergency response procedures.

DATES: Written comments should be sent to the Office of Civilian Radioactive Waste Management (OCRWM) of the Department and must be received on or before September 15, 1997 to ensure consideration by OCRWM.

ADDRESSES: Written comments should be directed to: Corinne Macaluso, U.S. Department of Energy, c/o Lois Smith, TRW Environmental Safety Systems, Inc., 600 Maryland Avenue, SW., Suite 695, Washington, DC 20024, Attn: Section 180(c) Comments.

Persons submitting comments should include their names and addresses. Receipt of comments in response to this Notice will be acknowledged if a stamped, self-addressed postal card or envelope is enclosed.

FOR FURTHER INFORMATION CONTACT: For further information on the transportation of spent nuclear fuel and high-level radioactive waste under the Nuclear Waste Policy Act, please contact: Ms. Corinne Macaluso, Waste Acceptance and Transportation Division, Office of Civilian Radioactive Waste Management, (RW–44), U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585, Telephone: 202–586–2837.

Information packets are available for interested persons who want background information about the Office of Civilian Radioactive Waste Management transportation planning and the Section 180(c) program prior to providing comments. To receive an information packet, please call 1–800–225-NWPA (or call 202–488–6720 in Washington, DC.) or write to the OCRWM National Information Center, 600 Maryland Avenue, SW., Suite 695, Washington, DC 20024.

Copies of comments received will be available for examination and may be photocopied at the Department's Public Reading Room at 1000 Independence Avenue, SW., Room 1E–190.

SUPPLEMENTARY INFORMATION:

I. Purpose and Need for Agency Action

Under the Nuclear Waste Policy Act of 1982, as amended (42 U.S.C. 10101 *et seq.*) (NWPA or ''the Act''), the Department of Energy is responsible for the disposal of high-level radioactive waste and civilian spent nuclear fuel in a deep geologic repository. Additionally, the Department is responsible for transportation of spent nuclear fuel and high-level radioactive waste to a Federal storage or disposal site. The Director of the Office of Civilian Radioactive Waste Management is responsible to the Secretary of Energy to carry out these responsibilities. The Department is required to implement Section 180(c) of the Act. Section 180(c) of the Act requires the Department to provide technical assistance and funds to States for training public safety officials of appropriate units of local government and Indian tribes through whose jurisdiction the Secretary plans to transport spent nuclear fuel or high-level radioactive waste to NWPA authorized Federal storage and disposal facilities. Section 180(c) further provides that training cover procedures required for safe routine transportation of these materials, as well as procedures for dealing with emergency response situations. Section 180(c) identifies the Nuclear Waste Fund under the Act as the source of funds for work carried out under this subsection (42 U.S.C. 10175).

II. Section 180(c) History

OCRWM issued a Notice of Inquiry in the **Federal Register** on January 3, 1995 (60 FR 99), which briefly described various options to delineate policies and procedures for implementing Section 180(c) of the Nuclear Waste Policy Act. Members of the public were invited to submit comments on the Notice of Inquiry. In the March 14, 1995, **Federal Register** (60 FR 13715) OCRWM extended the deadline for comments to May 18, 1995 (60 FR 36793). In response to requests for additional information, OCRWM issued another, more detailed Notice of Inquiry in the **Federal Register** on July 18, 1995 (60 FR 36793). Members of the public were again invited to submit comments on the Notice of Inquiry. Next, on May 16, 1996, OCRWM published a Notice of Proposed Policy and Procedures (61 FR 24772) describing the OCRWM's proposed approach to implementing Section 180(c) of the Nuclear Waste Policy Act and responding to public comments received from the two prior Notices. The public was again invited to submit comments on the Proposed Policy and Procedures. In response to these comments, and based on further research conducted by OCRWM, OCRWM has decided to make changes significant enough to warrant publishing this Revised Proposed Policy and Procedures. Included in this Notice is a summary of the comments received on the Proposed Policy and Procedures and OCRWM's response to those comments. OCRWM welcomes comments in response to this **Federal Register** Notice on the Revised Proposed Policy and Procedures for implementation of Section 180(c).

OCRWM plans to publish, in early 1998, a Notice of Final Policy and Procedures which OCRWM intends to follow in implementing Section 180(c) of the NWPA. Section 180(c) provides for assistance when the Department ships spent nuclear fuel and high-level radioactive waste to a geologic repository or a storage facility pursuant to the NWPA.

In addition to the draft publications discussed above, OCRWM's work to date on the Section 180(c) policy and implementation procedures has been discussed extensively in Transportation Coordination Group meetings, the Transportation External Coordination (TEC) Working Group meetings, and the cooperative agreement group meetings. The TEC Working Group comprises organizations representing state, tribal, local, professional, technical, and industry associations and will continue to meet periodically to identify and discuss issues related to the transport of radioactive materials. In addition, OCRWM has nine cooperative agreements with national and regional organizations representing various constituencies to provide information and solicit input regarding the planned transportation activities of the Office of Civilian Radioactive Waste Management program, including Section 180(c) issues. The cooperative agreement groups are the Southern States Energy Board, the Western Interstate Energy Board, the Council of State Governments Midwestern Office and Eastern Regional Conference, the Commercial Vehicle Safety Alliance, the Conference of Radiation Control Program Directors, the National Conference of State Legislatures, the National Congress of American Indians,

and the National Association of Regulatory Utility Commissioners.

OCRWM also has released two documents that discuss Section 180(c) policy and implementation. These two documents are the Strategy for OCRWM to Provide Training Assistance to State, Tribal, and Local Governments (November 1992, DOE/RW–0374P) (the Strategy document), and the Preliminary Draft Options for Providing Technical Assistance and Funding Under Section 180(c) of the Nuclear Waste Policy Act, as Amended (November 1992) (the Options paper). These documents are available by requesting the information packet from the OCRWM National Information Center.

III. Revised Proposed Policy and Procedures

Introduction

OCRWM has made significant changes to the May 16, 1996, Section 180(c) Notice of Proposed Policy and Procedures. These changes are based on information gained by studying industry standards and practices and stakeholder comments. These changes and the supporting reasoning are described below.

The revised proposed policy and procedures are divided into seven subject areas: the policy statement, objectives, proposed funding mechanism, basis for cost estimate/funding allocation, definitions of key terms, eligibility and timing of the grants, and allowable activities. Policy Statement describes OCRWM's policy towards providing Section 180(c) assistance. Objectives describes OCRWM's objectives in providing Section 180(c) assistance. Funding Mechanism describes the method by which funds would be disbursed to states and Federally recognized tribes. Basis for Cost Estimate/Funding Allocation describes the basis for the base and variable amount of funding. Definition of Key Terms defines of safe routine transportation and technical assistance for the purposes of the Section 180(c) program. Eligibility and Timing of the Grants Program describes when states and tribes are eligible and the timing of the grants process. Allowable Activities for Funding describes the types of activities for which the funding could be used. When OCRWM issues the final policy and procedures, it may differ based on comments received, and any new legislation.

The Appendix of this Notice provides the definitions of terms used in this proposed Section 180(c) policy and procedures and footnoted in the text.

Policy Statement

It is OCRWM's policy that each responsible jurisdiction [1] will have the training necessary for safe routine transportation of spent nuclear fuel or high-level waste and to respond to NWPA transportation incidents or accidents. OCRWM will provide funding and technical assistance, subject to annual appropriations, to assist states and tribes to obtain access to the increment of training necessary to prepare for NWPA shipments. This increment of training will include procedures for emergency response and safe routine transportation. The Department will take into consideration the states' and tribes' determination of their needs when preparing its budget for the Civilian Radioactive Waste Management Program. If Congress does not fully appropriate the funds requested, the funding to eligible jurisdictions will be decreased accordingly.

With respect to safe routine transportation of spent nuclear fuel and high-level waste, it is OCRWM's view that strict compliance with Department of Transportation (DOT) and Nuclear Regulatory Commission (NRC) regulations and applicable state, tribal, and local laws and regulations combined with state and tribal safety and enforcement inspections of NWPA highway shipments and continuous satellite tracking of all shipments will provide for safe routine transportation. DOT regulations include requirements for routing; hazardous materials placarding, marking, and documentation; and rail inspections. NRC has established regulations for protection of the public health and safety of radioactive material shipments. These regulations include requirements for package certification, loading, materials control and accountability, safeguards and security, notification of shipments, quality assurance and tracking. OCRWM has notified NRC that it intends to provide tribal notification of shipments and state and tribal access to satellite tracking information. The NRC regulations for radioactive material package certification requires maintenance of criticality control and radioactive material containment under credible accident scenarios.

For safe routine transportation of spent nuclear fuel and high-level waste, it is proposed that OCRWM's policy include the provision to each eligible state and tribe the funding and technical assistance to prepare for safety and enforcement inspections of NWPA highway shipments and for access to satellite tracking information.

With respect to responding to a spent nuclear fuel or high-level radioactive waste transportation accident or incident, it is OCRWM's view that with implementation of the provisions for safe routine transportation as stated in the previous paragraph the risk of an accident resulting in a radioactive materials release is extremely low. Further, if an accident were to occur, the risk of any significant material release or harmful increase in radiation levels is also extremely low. If an accident should occur, with or without a radioactive materials release, state and tribal governments have a responsibility to respond and to protect the public health and safety and the environment in their jurisdiction. The Federal government and, in particular, the Department have radiological emergency response assets available. Federal government assistance is regionally based and can be mobilized in a few hours, although it may take up to forty-eight hours to be fully functional. The first responder [2] is typically a local police or fire official. This official must be capable of identifying the shipment as a radiological materials shipment and notifying the proper radiological emergency response authorities. It is desirable for some of the state and tribal responders to have received higher levels of hazardous materials training.

Therefore, for responding to a spent nuclear fuel or high-level radioactive waste transportation accident or incident, it is proposed that OCRWM's policy include the provision of funds and technical assistance to states and tribes necessary to address the incremental training requirements resulting from the NWPA shipments, in particular, to obtain and maintain awareness-level training for all local response jurisdictions in the increment specific to radioactive materials shipments. In addition, to the extent funds are available, the assistance could be used to obtain an enhanced level of emergency response capability. This enhanced level could include operations level training, technician level training, and operations level and technician level refresher training in an increment specific to radioactive materials shipments.

Objectives

It is OCRWM's objective to provide a base grant to every eligible state and tribe to aid in planning and coordination activities for training in a timely manner. These activities could include funding the salary of personnel in safe routine transportation and emergency response agencies,

determining a jurisdiction's training needs, and coordinating with local jurisdictions or neighboring states and tribes. A variable amount of funding and technical assistance would be available depending on the amount of assistance each applicant needs to obtain the incremental training requirements resulting from the NWPA shipments, in particular, specific to radioactive materials shipments for the inspection training, and awareness level training.[3] The assistance could be used to obtain awareness level refresher training, awareness level train-the-trainer training,[5] or a module to insert into existing awareness level training programs. And, depending on available funds, additional amounts of funding and technical assistance would be available to obtain the increment of training to prepare for radioactive materials shipments for the operations level,[4] and/or technician level[6] and refresher training.

OCRWM will base its evaluation of the grant applications on several factors. First, the three-year plan section of the application package demonstrates how this assistance corresponds to the applicant's existing safe routine and emergency response structure. The application must explain how these functions are currently structured and how the Section 180(c) assistance will provide an additional increment of preparedness onto this existing structure. Second, the grant applications must indicate how the requested assistance is consistent with the Occupational Safety and Health Administration (OSHA) training standards or the National Fire Protection Association (NFPA) training standards and reasonable standards for inspector training, such as that offered by the Commercial Vehicle Safety Alliance (CVSA). In addition, OCRWM will adopt, to the extent practicable, any future Department-wide standardization of assistance to states and tribes for the Department's radioactive materials shipments. This could include standardization of funding mechanisms, training standards, equipment purchases, and the definition of technical assistance.

It is the objective of OCRWM to provide to each eligible state and tribe financial and technical assistance to train or otherwise prepare for safety and enforcement inspections of NWPA truck shipments such as those described in the CVSA Enhanced North American Standards. Rail inspections are not included because the Federal Railroad Administration (FRA) conducts inspections of rail cars and tracks used to ship radioactive materials.

OCRWM proposes to fund or make available a first responder's awareness level videotape, consistent with OSHA requirements 10 CFR 1910.120(q), or a module, specific to radioactive materials shipments, to insert into an existing awareness level training program, for states and tribes to distribute to local public safety officials along the shipment routes.

OCRWM also plans to provide financial and technical assistance to allow train-the-trainer classes for those states and tribes that wish to provide the radioactive materials information in their existing awareness level training programs. OCRWM plans to provide funds for the cost of the trainers' travel within the jurisdiction.

As discussed in the Policy Statement section, OCRWM believes that the combination of the Federal radiological emergency response capability and a program that accomplishes the above 180(c) related objectives will provide the nation an adequate basis to respond to any potential transportation emergency that may result from NWPA shipments. Nonetheless, to the extent that funds appropriated for Section 180(c) are available, OCRWM will also support an enhanced level of emergency response capability. The enhanced level of emergency response capability could include access to training or training materials specific to responding to a radioactive materials transportation accident at the operations level, technician level, and refresher training. This training should be in accordance with OSHA or NFPA training standards.

Funding Mechanism

The Department intends to implement Section 180(c) through an OCRWM grants program. Funding would be provided every year beginning approximately three years prior to the first shipment through state or tribal reservation boundaries. The grants would be specific to OCRWM's Section 180(c) program and would not be combined with any other Department-sponsored transportation preparedness or training programs, although coordination by jurisdictions would be encouraged. The grant program may be combined with a Department-wide grant program in the future if one is developed and is practicable, and consistent with existing law.

The grants program would be administered in accordance with the DOE Financial Assistance rules (10 CFR part 600), which implement applicable Office of Management and Budget (OMB) circulars. In order to preserve flexibility, the Department does not presently plan to codify the policy and procedures in this notice as substantive regulations.

Basis for Cost Estimate/Funding Allocation

The total program cost and the allocation of funds among eligible states and tribes would be based on a predetermined base amount, and a variable amount determined through the application process. The base grant would cover costs associated with planning for NWPA shipments, and is based on a salary estimate for planning such shipments. In 1994, a Conference of Radiation Control Program Directors' (CRCPD) survey found the average salary of a state health physicist was $35,000. The Department has doubled that figure and adjusted for inflation during 1995 and 1996 to reach the $74,152 base grant. This figure was doubled to allow states and tribes to pay the salary of one person each to carry out safe routine transportation and emergency response planning.

The variable grant amount would be based on two parts of the application package process. The first part would ask the applicant to determine the amount of financial assistance needed to obtain the appropriate increment of awareness level training and to prepare for safe routine transportation inspections of NWPA shipments. The second part would ask the applicant to determine the amount of financial assistance needed to obtain the appropriate increment of operations and/or technician level training for emergency response to prepare for NWPA shipments. A state or tribe would not be authorized to use Section 180(c) funds for purposes not related to NWPA shipments such as development of a broad-based *non*-NWPA emergency response program. In cases where basic emergency response capabilities are lacking, OCRWM recognizes the need to assist jurisdictions through technical assistance and increased financial assistance.

Definition of Key Terms

The definition of safe routine transportation for the purposes of determining eligibility or allowable activities under the Section 180(c) program would be as follows:

- Safe routine transportation means the shipment of spent nuclear fuel and high-level radioactive waste to a repository or a Monitored Retrievable Storage facility pursuant to the NWPA through state, tribal, and local jurisdictions in a manner compliant with applicable Federal, state, tribal, and local laws and regulations. Safe routine highway transportation is

characterized by adequate vehicle, driver, and package inspection and enforcement of the Federal Motor Carrier Safety Regulations and the Hazardous Materials Regulations. Safe routine rail and barge transport is characterized by compliance with rail and barge transportation regulations including Federal Railroad Administration, Coast Guard regulations, and the Hazardous Materials Regulations.

The definition of technical assistance for the purposes of the Section 180(c) program would be as follows:

• Technical assistance means assistance, other than financial assistance, that the Secretary of Energy can provide that is unique to the Department to aid training that will cover procedures for the safe, routine transportation and emergency response situations during the transport of spent nuclear fuel and high-level radioactive waste to a repository or MRS pursuant to the NWPA, including, but not be limited to, the provision of training materials, the provision of public information materials, and access to individuals involved in the shipments.

Technical assistance, as defined, would include access to the Department's regional and headquarters representatives involved in the planning and operation of NWPA transportation or emergency preparedness, provision of information packets that include information about the OCRWM program and shipments, and provision of information to insert into curricula. Recognizing the Federal Government's government-to-government relationship with and Trust responsibility toward tribal nations, and in response to comments about the lack of hazardous materials response capability on some tribal lands, the Department will consider making additional technical assistance available to tribes upon request.

Eligibility and Timing of the Grants Program

OCRWM intends to provide grants and technical assistance to those states and tribes through whose jurisdiction the Secretary of Energy plans to transport spent nuclear fuel and high-level radioactive waste pursuant to the NWPA. States and tribes having cross-deputization or mutual aid agreements with a jurisdiction that does have shipments, even though no shipments may occur within the borders of the responding state or tribe, may receive funding from the jurisdiction that will receive shipments. Additionally, in cases where a route constitutes the border between two states, a state and a tribe, or two Indian tribes, jurisdictions on both sides of the route would be eligible for Section 180(c) assistance.

OCRWM intends that the application process for grants begin approximately four years prior to transportation (about one year for the application process, about three years to implement the program) through the applicant's jurisdiction. OCRWM intends to notify the governor or tribal leader of the jurisdiction with a letter, information packet, and application package.

The governor or tribal leader would be requested to select one agency or representative within the jurisdiction to apply for and administer the Section 180(c) grant. The administering agency or representative would indicate in the application how it intends to use the funds. If funding needs to be provided to other agencies (for example, from the emergency services agency to the highway patrol to pay for inspector training), the transfer of funds would be the responsibility of the recipient state or tribe. DOE would require information regarding the ultimate recipient of the funds to be provided in the application.

Eligible states and tribes would submit a grant application to the Department. The application would include a three-year plan detailing how the funds would be spent each year. Funding would be disbursed annually based on the applicant's three-year plan. Each eligible state and tribe would receive a base amount of funding for each year of eligibility. A variable amount of funding, based on the applicant's determination of its needs to attain an adequate level of training and the enhanced level of capability, would be available after the first year of eligibility.

Local governments would not be eligible to apply for Section 180(c) grants directly. However, states, and tribes if they have subjurisdictions, would be required to coordinate their planning with local jurisdictions, indicating in the application that the needs of local public safety officials have been considered and how the financial assistance will be distributed to local and any other jurisdictions and their appropriate public safety officials. The awareness level training would be made available to all local public safety officials. OCRWM expects the inspection and enforcement training to be provided to state-level and tribal employees since they generally have inspection and enforcement authority. The operations and technician level training, to the extent they are funded, would be provided to appropriate public safety officials at the grantee's discretion.

OCRWM anticipates knowing three to four years prior to shipment through which states or tribal lands the shipments will likely travel, even if specific routes have not been selected. Using this information, OCRWM would notify these states and tribes about their potential eligibility for the Section 180(c) program. Two years prior to the shipments going through a state or tribe, the OCRWM would announce proposed routes within that state or tribal jurisdiction.

Within the first year of eligibility to receive funding (Transportation Year [defined as the year shipments will commence] minus 3 or TY–3), the base grant will be available. Within the second year of eligibility (Transportation Year minus 2 or TY–2), a base grant and a variable amount of financial assistance for those jurisdictions that qualify would be available.

Within the third year of eligibility (Transportation Year minus 1 or TY–1), a base grant and a variable amount of financial assistance for those jurisdictions that qualify would be available.

In the year transportation commences, Transportation Year grants (base plus variable) will be made available. A state or tribe would continue to be eligible for and receive Transportation Year grants and technical assistance as long as NWPA shipments go through its jurisdiction each year. If there is a lapse of NWPA shipments for three or more years, the state or tribe would receive no funds for those years and would regain eligibility three years prior to another NWPA shipment through its jurisdiction. Three years prior to the resumption of shipments through its borders, a state or tribe may again apply for TY–3 grants. If the lapse is of two years or less between shipments, the Transportation Year grants would continue as if shipments had been traversing that jurisdiction during the lapse.

After a suitable period of Section 180(c) implementation, an evaluation may be conducted by OCRWM to determine if some adjustment to the base amount needs to be made because the need for planning and coordination activities associated with NWPA shipments will be reduced. For example, perhaps only one person in a state agency will be handling both safe routine transportation and emergency response functions or half a person will be needed for each of these functions and the available funds might be more effectively applied to training.

The Section 180(c) program would include the following contingency plan for schedule and route changes: in general, eligible states and tribes may receive an additional amount of financial assistance if asked to complete activities in shorter amounts of time, i.e., a state may receive TY–1 and TY–2 funding in the same year. If the route for a shipment is definitized too close to the start of the shipment to allow for Section 180(c) implementation or for any reason the responsible jurisdictions along a definitized route lack adequate training, OCRWM may use escorts with more training and equipment than those currently used for the purpose of security until a reasonable time period for training has expired.

Allowable Activities for Funding

This section describes the type of activities that would be allowed under this proposal. This is not meant to be a comprehensive list, but merely a guide to the types of activities an applicant jurisdiction might consider to be eligible for 180(c) funding.

For the most part, it would be the grantee's decision in consultation with the local governments and first responders along the routes to select who gets trained and the organization that administers the training. Grantees would describe in their three-year plan how they plan to assess their incremental training needs, where the training would be obtained, any exercises they propose to conduct, whether the training curriculum needs any input from OCRWM about NWPA shipments, what equipment and supplies they propose to purchase, and what technical assistance from DOE they anticipate requesting. The grantee would specify how this assistance augments their current infrastructure for safe routine transportation procedures and emergency response.

Specifically, a grantee would be able to budget, for TY–2 and TY–1, 25 percent of each year's total Section 180(c) funds to purchase appropriate (i.e., training-related) equipment and supplies. Such equipment may also be used for responding to emergencies. After TY–1, the applicant would be able to budget up to 10 percent of each year's Section 180(c) funds to purchase appropriate equipment and supplies. The equipment and supplies to be purchased must be identified in the application and the need for the equipment justified. The purchase of equipment related to the satellite tracking system for NWPA shipments could be included in these percentage caps. The title to equipment would be vested in the grantee in accordance with the property provisions at 10 CFR 600.232.

The base grant may be used to pay for staff, travel, and other costs associated with conducting an assessment of incremental training needs, and the planning and coordination activities associated with interacting with local jurisdictions and neighboring jurisdictions. The variable amount of funding may be used to pay for travel and tuition costs for those receiving training, including exercises and drills, and training on the satellite tracking system used for NWPA shipments.

It would be the state's or tribe's choice, in consultation with the local governments and first responders along the route and within their annual budget, to determine who receives refresher training and with what frequency. It also would be the state's or tribe's choice in consultation with the local governments and first responders along the route and within their annual budget, to determine which new personnel receive training and the location of that training.

IV. Discussion of Comments Received on the Notice of Proposed Policy and Procedures

The Department received 43 comments in response to the May 16, 1996, Notice of Proposed Policy and Procedures. Comments were received from the Emergency Nurses Association; Western Governors' Association; Council of State Governments-Midwestern Office; National Conference of State Legislatures; Churchill County, Nevada Administration Office; Lincoln City, Nevada Board of County Commissioners; League of Women Voters Education Fund; County of Inyo, California Planning Department; Office of the Governor, Pueblo of Acoma; Lander, Nevada County Board of Commissioners; Nye County, Nevada; Western Interstate Energy Board; Nevada Nuclear Waste Task Force; Commercial Vehicle Safety Alliance; Nevada Agency for Nuclear Projects; Nuclear Waste Project Office; Portland General Electric Trojan Nuclear Plant; Oregon Nuclear Safety Division; Shoshone-Bannock Tribes; Nuclear Waste Citizens Coalition; Southern States Energy Board; International Association of Fire Fighters; Council of State Governments/Eastern Regional Conference; Michigan Department of the Attorney General; Nuclear Waste Strategy Coalition; National Association of Regulatory Utility Commissioners; State of Idaho's Idaho National Engineering and Environmental Laboratory Oversight Program; National Congress of American Indians; New Mexico Energy, Minerals and Natural Resources Department; Nuclear Information and Resource Service; Governor of Nebraska; Eureka County, Nevada; U.S. Department of Agriculture; Nuclear Energy Institute; Prairie Island Indian Community; MCT Industries Inc.; New York State Emergency Management Office; Yakama Indian Nation; and the International Association of Fire Chiefs, and a summary of comments made at the July 1996 TEC meeting in Pittsburgh, Pennsylvania. Some commenters provided more than one set of comments.

The following section discusses general categories and summarizes major points of the comments and the Department's response.

Major Issues

A. Section 180(c) Policy

General Themes

The Department received opposing comments on the philosophy of providing only the incremental amount of assistance needed for jurisdictions to respond appropriately to an NWPA transportation accident or incident. Comments ranged from stating the proposal was unacceptable because individual applicant's needs were not sufficiently considered, to praising the proposal for taking into the account the shipments' low risk. Several western states wrote to support the Western Interstate Energy Board's and the Western Governors' Association's comment that the proposal is unacceptable because it does not incorporate the position of western governors on radioactive materials transportation, does not consider individual applicant's planning and preparedness needs, and therefore, does not protect the public's health and safety. Critics argued that the policy would not fully cover the cost of preparing for NWPA shipments, thereby creating an unfunded mandate for the states. Others argued the policy is not flexible or generous enough to adequately prepare rural and tribal jurisdictions where public safety measures may be lacking. Another commenter argued the incremental approach discounts the radiological risk of an NWPA transportation accident.

Other commenters argued that incremental assistance was sufficiently protective of health and safety given the low risk of the shipments and the efforts made to involve stakeholders in the policy development. The National Association of Regulatory Utility Commissioners and others encouraged the incremental approach as long as the

program builds on existing knowledge about transporting spent nuclear fuel and high-level radioactive waste. Another commenter approved of the incremental approach provided the needs of the least prepared communities were considered. Similarly, the National Congress of American Indians and the Pueblo of Acoma commented that while the incremental approach was reasonable, it should incorporate some element of a needs assessment as a means to determine a supportable Section 180(c) budget and to satisfy the Department's Trust responsibility toward tribal nations.

Several commenters from a variety of organizations raised issues of public acceptance in the NWPA transportation program. Commenters stated that a successful transportation program requires public acceptance of the risk. To achieve that acceptance they urged the Department to communicate shipment risks (including updating the risk analysis conducted in NUREG/CR–2225), security and accident prevention measures, and emergency response capabilities. The Council of State Governments-Midwestern Office asked the Department to consider what else can be done, within the scope of the Section 180(c) program, to increase stakeholder confidence and make the transportation program more workable. The Prairie Island Indian Community pointed out that the lack of tribal participation in emergency response activities associated with the nearby Northern States Power Prairie Island Nuclear Power Plant has increased public fear of the site and that participation in developing safety precautions is an effective counter to these fears. The National Congress of American Indians pointed out that perceived risk may be higher on tribal lands because Indian peoples' attachment to the land is strong and moving away from a perceived risk is not an option. The Shoshone-Bannock tribes pointed out that public acceptance of risk is influenced by the degree to which tribal members believe true preparedness has been achieved. Several commenters pointed out that trained local responders are a very effective means to calm public fears.

The Council of State Governments-Midwestern Office and several other commenters urged the Department to limit or prohibit shipments until jurisdictions have received funding in time to fully train and equip their public safety personnel. Specifically, the Western Interstate Energy Board said routes must be named and funding provided at least three years prior to shipment through a jurisdiction. These commenters urged the Department to begin Section 180(c) assistance as soon as possible in case Congress passes legislation that mandates the siting of an interim storage facility and shipping begins within the four-year time frame scheduled for Section 180(c) implementation. Several related comments stated the position that the Department has an obligation to begin accepting waste in 1998, and argued that Section 180(c) should be implemented quickly so as to meet the acceptance date.

Several states and state organizations again encouraged the Department to begin as soon as possible the process of route selection, in cooperation with the states. They argued that jurisdictions need sufficient time to assess risk levels and training needs in case shipment occurs within the next few years.

In other comments, the Department was encouraged to increase coordination among its related transportation training programs, thereby reducing costs and building a more efficient assistance program. Nye County, Nevada said additional provisions should be available for the host community, including clarification of emergency response roles and responsibilities across federal lands. Some suggested that assistance should apply to all waste destined for geologic disposal, not just spent nuclear fuel and high-level radioactive waste. One commenter questioned the wisdom of centralized storage and opposed the program on the grounds that the Ruby Valley Treaty invalidates Federal ownership of the land. Another commenter urged the Department to post a bond to insure future funding for Section 180(c). And another commenter asked the Department to clarify whether a Department contractor would be subject to the registration requirements of 49 USC 5108(a) through (h).

Response

It is OCRWM's position that the purpose of a Section 180(c) program is to provide jurisdictions with financial and technical assistance in an increment above their current level of preparedness rather than to supply complete emergency response or safe routine transportation capabilities along NWPA transportation routes. Other federal agencies such as the Federal Emergency Management Agency (FEMA) and the Department of Transportation (DOT), as part of their respective missions, assist states and tribes in the creation of more comprehensive emergency response and safe routine transportation capabilities. Therefore, this proposal is designed to provide incremental assistance, above what currently exists, to help jurisdictions prepare for NWPA shipments. This program, in combination with the Department's existing emergency response capabilities, will help jurisdictions prepare for these shipments. At the same time, OCRWM recognizes that the amount will vary by jurisdiction, depending on their current preparedness level. Therefore, the revised proposed policy and procedures for the grant application process requires that the applicant determine the assistance needed to obtain the training objectives. This more flexible determination of the assistance level will take into account the varied preparedness levels of applicants. At the same time, it is OCRWM's position that the safety measures such as the robustness of the casks and the Department's existing emergency response capabilities make these shipments extraordinarily safe, presenting minimal risk to public health and safety.

OCRWM recognizes the crucial role of communications and public acceptance in developing a workable transportation program. OCRWM intends to provide public information to jurisdictions along the routes and to make Departmental representatives, whether federal employees or contract employees, available to communities as budgets permit. The training objectives in this proposal were developed with the crucial role of local responders in communicating risk and preparedness in mind.

Regarding the concern that shipments may occur with less than three years' preparation, this proposed policy includes a contingency plan should OCRWM have to ship spent fuel through a jurisdiction with less than three years notice. In addition, OCRWM will work with jurisdictions on a case-by-case basis to meet the intent of Section 180(c) prior to any shipments through a jurisdiction that occur on a contingency basis. With the contingency plan in place, OCRWM sees no public health or safety reason to limit or prohibit shipments through a jurisdiction until all training is completed.

This proposal allows sufficient flexibility for states and tribes to conduct route and risk assessments if they choose. Applicants may request technical assistance to aid in their efforts.

In response to the comments regarding better coordination among the Department's transportation programs, OCRWM continues to work with the Transportation External Coordination

(TEC) Working Group and other internal channels to increase coordination among the Department's various programs. Regarding Nye County, Nevada's request, OCRWM believes that discussions about roles and responsibilities and any unique needs of Nye County can be addressed through Nevada's grant and technical assistance application process. Regarding including all waste destined for geological disposal under the Section 180(c) program, the language of Section 180(c) is clear that assistance is intended for the transport of spent nuclear fuel and high-level radioactive waste. However, the Department continues its effort to provide training assistance for its other radioactive materials shipping campaigns even when Section 180(c) is not the appropriate avenue for assistance. Regarding opposition to the program and the statement that the Treaty of Ruby Valley invalidates Federal ownership of the land, those comments are noted but are beyond the scope of Section 180(c) policy development. With regard to posting a bond to ensure future Section 180(c) funding, the Department intends to provide funds for the Section 180(c) program through the appropriations process as required of all Federal agencies. Lastly, OCRWM's transportation contractors will be subject to all applicable federal, state, and local regulations.

Safe Routine Transportation

Several comments were received stating that the definition of safe routine transportation was too narrow and should follow more closely the definition developed by TEC. An expanded definition was encouraged to allow assistance for salaries, equipment and supplies, planning activities, activities related to state escorts, record-keeping, compliance audits, development and application of bad weather procedures, identification and use of safe parking procedures, prenotification and monitoring of shipments, alternate route analysis and designation, infrastructure improvements, and public information and involvement efforts. The Commercial Vehicle Safety Alliance (CVSA) recommended designation of a CVSA subcontractor as the central inspection data collection agency in order to keep the Out-of-Service criteria up-to-date. Their comments also encouraged the Department to adopt the Waste Isolation Pilot Plant's (WIPP) stringent driver qualification and inspection standards, including requiring that transportation occur under the North American enhanced inspection standards. Regarding rail issues, the Southern States Energy Board said the lack of rail inspection standards creates a negative public perception about the Department's efforts to ensure rail transport safety.

Response

The definition of safe routine transportation in this notice combines part of the TEC definition and the Strategy document definition. The complete TEC definition was not used because it is very broad and does not specifically indicate what training for safe routine transportation procedures would be covered by Section 180(c) assistance. Many activities suggested in the comments are already required of the shipper or carrier such as developing operating protocols and using escorts. This negates the need to include the activities in the definition of safe routine transportation for the purposes of providing Section 180(c) assistance. Some requested activities, such as alternate route analysis and record-keeping audits, are outside the realm of training for safe transport of NWPA shipments, and therefore not included in the definition. The revised proposed policy and procedures allow for other activities to occur using the base grants.

Regarding CVSA's comment about funding a subcontractor, such activities may be funded through a cooperative agreement, but would be outside the scope of Section 180(c) which requires that funding and technical assistance be used for training. Compliance with the North American enhanced inspection standards would not be required although the Department anticipates states will abide by these standards once adopted by the full CVSA membership.

Regarding the comments that the Department's lack of rail inspection standards creates a negative public perception, both the rail companies and the Department of Transportation's Federal Railroad Administration have stringent standards for the transportation of spent nuclear fuel and high-level nuclear waste. Focusing more communications efforts on rail safety measures may help address concerns about rail transport.

Technical Assistance and Equipment

Technical assistance and equipment were frequently mentioned together in the comments. Both state and tribal commenters stated that equipment and infrastructure improvements should be available as part of technical assistance. With regard to tribes, the Department was requested to clarify why equipment would not be included under the definition of technical assistance since supplying equipment would be part of the government's Trust responsibility to tribes. In some cases, commenters encouraged the Department to expand the definition of technical assistance to include the purchase, calibration, and maintenance of equipment. A couple of commenters asked the Department to clarify what was meant by the phrase ''unique to the Department'' used in the definition and whether access to Department representatives meant access to contractor personnel as well as Departmental employees.

Many commenters disagreed with the 10 percent cap of total funding to purchase equipment. Instead, they suggested allowing applicants to assess their own equipment needs and include it in the application package. Other commenters stated the 10 percent cap might work for most applicants but suggested allowing the cap to be waived in some instances, or create a sliding scale that allowed more funding for equipment in the early years of training when more equipment would be needed. Portland General Electric and the International Association of Fire Chiefs suggested 10 percent was an insufficient cap and should be increased to 25 percent. The Nuclear Energy Institute stated the 10 percent cap was appropriate because it ensured the majority of the funding will be used for training purposes. Another commenter said the 10 percent cap was sufficient as long as the Department assisted jurisdictions in interpreting federal requirements related to federally-purchased equipment. Several commenters made the point that restricting equipment purchases to ''training-related'' equipment would create an unfunded mandate because jurisdictions could purchase equipment to train but not have it available to them during an actual emergency response or inspection situation. One comment recommended that inspection equipment specifically be an allowable expense. A couple of local governments argued that equipment should be provided directly to local responders. One commenter requested clarification on whether the cap pertained to the total annual Section 180(c) budget allocation to a state or tribe, or to the assistance passed on to each local jurisdiction. They also asked for clarification on what should be done with equipment provided along routes not ultimately used.

Response

The definition of technical assistance proposed in this Notice combines parts of the Strategy definition and TEC

definition. Some activities, such as infrastructure improvements are far outside the scope of assistance for training and therefore not covered by the Section 180(c) program. OCRWM will allow states and tribes to use a percentage of each years's grant budget for the purchase of equipment. OCRWM cannot include equipment in the definition of technical assistance. This is consistent with the Departmental and Government-wide policy which clearly delineates what is financial assistance and what is technical assistance. In 10 CFR 600.202 Definitions, the term ''grant'' means an award of financial assistance, including cooperative agreements, in the form of money, or property in lieu of money, by the Federal Government to an eligible grantee. The term does not include technical assistance which provides services instead of money * * *''. The phrase in the definition ''unique to the Department'' was not meant to limit the Department's technical assistance, but to recognize that some jurisdictions may not be familiar with the NWPA shipments' regulatory structure, safety measures, or other issues specific to these shipments. The access to Department representatives was intended to mean access to both federal employees and contractor personnel.

Regarding equipment issues, equipment purchases, calibration, and maintenance are not specifically allowed under the definition of technical assistance although such activities may be allowable under a recipient's grant. OCRWM anticipates that the provision of technical assistance may include, if the applicant requests it, advice on appropriate equipment and the appropriate training for use of the equipment. In response to the arguments against the 10 percent cap on equipment purchases, OCRWM has changed the policy to allow up to 25 percent of each applicant's annual Section 180(c) funding in TY–2 and TY–1 to purchase equipment. Ten percent of each recipient's annual Section 180(c) funding may be used to purchase equipment in the transportation years after TY–1. Allowable types of equipment would include communications equipment, basic emergency response equipment, and radiological detection equipment. A percentage cap remains in place, albeit a higher cap, to ensure that the majority of Section 180(c) funding is used for training first responders for NWPA shipments while giving grant recipients the flexibility to target their funding from year to year. The ''training-related'' phrase was retained in the policy. However, as previously stated, such equipment may also be used during actual emergency responses, not just for training. Equipment is not being provided directly to local governments because the Section 180(c) language and legislative history clearly indicate that assistance should be provided to states. In addition, it is within the states' authority, not the federal government's, to determine the public safety structure within their state. In response to the questions posed, the cap pertains to the total annual Section 180(c) budget allocation to a state or tribe. For equipment that is supplied along routes not ultimately used for NWPA shipments, the Department would advise the state or tribe on requirements related to equipment acquired under the grant, and the appropriate disposition of the equipment. Inspection equipment is not specifically mentioned in the policy because it will be the grant recipient's choice as to whether to purchase emergency response or inspection equipment.

Training Standards

Comments on training standards were fairly consistent. Commenters requested the Department to define more clearly the roles and responsibilities of local and state emergency responders and the training goals for each level of emergency response. Several commenters encouraged the Department to set training goals for local responders by defining what ''adequate'' training means and by defining the specific tasks required to respond to an NWPA transportation incident or accident. They requested the Department to fund training to a level consistent with the defined roles and responsibilities, allowing the grant recipients to decide how best to meet those goals. The Southern States Energy Board said that awareness level training for local responders was not sufficient. The International Association of Fire Chiefs, on the other hand, said local responders are already overburdened with training and that two to four hours, possibly in a video format, would be sufficient. They also recommended not using the Occupational Safety and Health Administration's 1910.120(q) regulations as they were too great a burden. Another commenter requested that the Department's training standards include Attachment H, ''Recommended Sequence of Radiological Training,'' of FEMA TD–100, ''Management Plan for Radiological Training Series.'' Another commenter said the standards in the proposed policy were inadequate and encouraged the Department to look at NUREG/CR–2225 (1981) ''An Unconstrained Overview of the Critical Elements in a Model State System for Emergency Response to Radiological Transportation Incidents.''

Several commenters wanted the Department to work more cooperatively to define the interface between the federal and state or tribal levels of public safety officials. A few commenters recommended using the transportation programs for the Waste Isolation Pilot Plant in New Mexico and the Department's Cesium shipments as models for this cooperation. The Western Interstate Energy Board again requested the Department to write a transportation plan that provides a basis for interaction among the various governmental levels regarding routing, training, operations, and other transportation matters. They also reiterated their desire for the Department to establish Regional Training Advisory Teams and a National Training Advisory Committee. To support program flexibility, one state requested that the Department allow states to prioritize training assistance along the routes.

The Commercial Vehicle Safety Alliance requested that the Department increase efficiency and consistency regarding inspection and enforcement training by funding CVSA to conduct the training, and requiring grant recipients to attend CVSA's North American Enhanced Inspection Standard training and refresher training. They based their argument on the fact that they are the only organization in North America that offers standardized inspection training across North America for radiological materials transportation, and that requiring participation in the CVSA enhanced inspection program, where participating states agree not to reinspect shipments already inspected by another participating state, would limit the number of inspections and increase the transportation program's efficiency.

In other comments, the League of Women Voters Education Fund recommended developing training modules and information packets in conjunction with TEC and emergency response personnel. A county supported modular training formats and distance learning as well as preserving the training resources at the Department's Nevada Test Site. The Nuclear Waste Citizen's Coalition stated that the Department should mandate attention to antiterrorism training and the development of potential terrorist scenarios and provide the carrier with a list of emergency response contact numbers at each jurisdiction along the route. The Emergency Nurses

Association stated that hospitals need access to information about available training and that they should qualify for the same training as other public safety personnel.

Response

This revised policy addresses many of the commenters' concerns. OCRWM has stated in this revised policy what it views as adequate training for safe routine transportation and emergency response capabilities along NWPA routes. The states and tribes have the right and responsibility to determine how best to apply this training and to determine how best to protect the health, safety, and welfare of their citizens. The powers and responsibilities of local governments depend on the state constitution under which they operate. In order to receive Section 180(c) funds, OCRWM will require that the states (and tribes if they have subjurisdictions within their government) consult with the first responders and local governments regarding awareness level training in order to determine the level of assistance needed to meet OCRWM's training goals. OCRWM has stated its objective that, at a minimum, all local response jurisdictions have awareness level training in order to recognize an NWPA shipment, know its contents, its associated risk, and what authorities to notify in case of an accident or incident. Coordinating Section 180(c) assistance with FEMA training programs or other training programs that a grant recipient may already be using is encouraged, however, OCRWM sees no need to limit all grant recipients to Attachment H of FEMA's Management Plan for Radiological Training Series. In addition, the NUREG/CR–2225 document is a useful document for planning in a model scenario. However, the text states that the study is an unconstrained view of the critical elements in a state program for radiological emergency response, presuming no bounds of manpower, funding, development time, or other real-world constraints. In addition, the model does not specify the type of radioactive material, therefore, it does not take into account the packaging used for NWPA shipments and the low risk of these shipments.

OCRWM decided to rely on the OSHA 1910.120(q) regulations as those most relevant to providing emergency response training for spent fuel shipments since these are the regulations applicable to employers whose employees respond to hazardous materials emergencies and spent nuclear fuel is a class of hazardous materials. These requirements can be addressed through the use of the NFPA training standards or other implementing guidelines.

The Department recognizes the need for clear lines of responsibility and communication during a transportation emergency and anticipates working with grant recipients on these matters through the provision of technical assistance and, as budget allows, by conducting drills and exercises. Grant recipients may use their funds to coordinate their emergency response planning with other grant recipients if they wish; however, OCRWM believes establishing regional and national training advisory teams would drain financial assistance away from grant recipients. The Department has not yet prepared an OCRWM transportation plan because these types of plans require knowledge of a level of detail that has not yet been determined. For example, included in the plan would be points-of-contacts along the routes, origins and destinations of shipments, and shipment schedules. This does not preclude OCRWM from developing a transportation plan in the future, when these open issues are resolved.

The policy does not specifically require states and tribes to take CVSA training; however, since CVSA is the only organization in North America that offers standardized motor-carrier inspection training and 49 states participate in CVSA, OCRWM anticipates that jurisdictions will abide by the CVSA reciprocal inspection standards program.

In response to the other comments, the Department's Transportation Emergency Preparedness Program has an ongoing effort to coordinate and make available training curricula to the stakeholders. The focus of this program is the consolidation and enhancement of ongoing training into a flexible, modular format for incorporation into federal, state, tribal, and local training programs. A key element of this program is coordination via public forums, surveys, and pilot testing by public groups such as TEC, and professional and volunteer emergency response officials. A current effort is the final pilot test of the Radiation Materials Emergency Response: Awareness Level module due for final release this fall. Regarding terrorist concerns, the NRC requires that the security plan for the shipments consider terrorist scenarios. It should be noted that the formidable containers and nonvolatile nature of the contents, which enhance survival, even in severe accidents, would likewise minimize the affect of terrorist attack. While not required by federal statute, the drivers of other DOE shipments have had access to an emergency response contact list for the jurisdictions they pass through. The Department finds no reason to discontinue this practice. This proposal does not include the training of hospital personnel as an objective, but grant recipients may use their funds for this purpose if they believe they have met the policy's other training objectives. OCRWM will provide, for public information and as part of awareness training, information about Oak Ridge National Laboratory's Radiological Emergency Assistance Center and Training Site and its 24-hour on-call assistance.

Timing and Eligibility

For the most part, commenters supported the eligibility requirements proposed in the last notice. Several Nevada counties recommended that local governments, since in most cases their public safety officials will respond first to an accident or incident, be directly eligible for assistance. Nye County requested the Department take into account the unique position of the host community and define their eligibility and funding assistance differently than jurisdictions along the routes. Other commenters suggested that jurisdictions be eligible when they have emergency response authority over a route, regardless of whether the shipment travels through their jurisdiction, i.e., when a mutual aid agreement exists between two jurisdictions although the responding jurisdiction may not have any NWPA shipments through its borders. Another commenter suggested that all potentially affected jurisdictions should be eligible regardless of whether they have an emergency response role over the route. Several tribes and the National Congress of American Indians urged the Department to consider the rights some tribes have over culturally significant lands. The comments stated that tribes should be eligible when they have an interest in protecting and preserving these areas even though they may not have emergency response authority over those lands. The Commercial Vehicle Safety Alliance stated that the state agency responsible for on-highway enforcement of motor carrier regulations should be specified as the agency designated to receive funds for safe routine transportation procedures, ensuring that training assistance reaches the personnel responsible for motor carrier regulation.

Comments received on the timing of the assistance ranged from one statement that a four-year process is too long to another statement that the WIPP

experience shows four years is the minimum time required given the number of applicants and the slow process of application review. The governor of Oregon stated that the application process should be streamlined to less than a year and the Council of State Governments-Midwestern Office stated that the assistance should be provided one to two years prior to shipment. A couple of commenters suggested the program would be more flexible if assistance were allowed to begin more than fours years prior to shipment for jurisdictions that need extra preparation. The National Congress of American Indians argued that tribes, when they lack infrastructure and emergency response preparedness, need assistance to begin now. The emergency preparedness workshops the National Congress of American Indians conducted in the last three years has indicated that a critical lack of trained people and infrastructure exist on most Indian lands. In addition, the Council of State Governments—Midwestern Office stated that to prepare sufficiently and to target resources, the Department must announce the queue, the routes, the modes, and the process of interaction with the private transportation contractors. Several western states argued that routes should be announced and assistance should begin three to five years prior to shipment to allow for alternate routing and to assess training and related needs.

Others expressed concern about the possibility of a Congressionally mandated interim storage site resulting in transportation across their jurisdictions in less than the four-year time frame. The governor of Nebraska, the National Congress of American Indians, and the Nevada Nuclear Waste Task Force said that current preparations for these shipments are not sufficient for public safety and expressed concern that delaying Section 180(c) implementation now risked having less than four years to prepare should Congress site an interim storage facility. The Southern States Energy Board stated the four-year time frame is irrelevant since the Department is scheduled to begin shipping spent nuclear fuel within two years.

Commenters offered several suggestions on the contingency plan which called for more highly trained and equipped escorts in some cases and to provide funding and assistance in a shorter time frame in other cases. While no comments were strongly critical of the contingency plan, one state organization requested that the Department detail the potential contingencies the Department envisions, and reiterated their position that contingency escorts would be acceptable for only limited numbers of shipments and any large-scale movement of spent nuclear fuel would require sufficient assistance and time to prepare. Similarly, another state organization warned that contingency plans do not compensate for sufficient planning and preparations. The Nuclear Information and Resource Service stated that escorts must be highly trained to handle accident conditions. The Nuclear Energy Institute encouraged the flexibility of contingency plans in order that transportation not be interrupted by bad weather, road maintenance, noncompliance by grant recipients, or other potential delays. The Southern States Energy Board pointed out that the contingency plan only deals with emergency response procedures and not safe routine transportation procedures. They questioned whether the level of assistance to train inspectors would allow states to move inspectors quickly within a state should a route be changed suddenly.

One commenter said escorts must be trained in the incident command system and be prepared to provide radiological information to a local incident commander. Another commenter said the Nuclear Regulatory Commission's (NRC) regulations on escorts were not sufficient in rural areas because the escort would be nothing more than a replacement driver.

Response

The Department based its proposed requirements for eligibility on the statutory language of the NWPA and OCRWM's prior discussions with stakeholders about beginning assistance three to five years prior to commencement of shipping through a jurisdiction. Eligibility was expanded to permit states and tribes to transfer funds to those jurisdictions with mutual aid or cross-deputization agreements for emergency response and to include both jurisdictions in those cases where a route constitutes the border between two jurisdictions. These changes allow all parties with authority over an accident or incident to receive training assistance for NWPA shipments. Local governments are not eligible for direct assistance because the language in the statute provides that state governments allocate the assistance to local jurisdictions. For a tribe, in those instances where a tribe has rights to culturally significant lands, OCRWM anticipates working with the tribal government through the provision of technical assistance. Regarding CVSA's request that the state agency responsible for on-highway enforcement of motor carrier regulations be eligible for direct funding, OCRWM believes it is the role of the state governor to determine what agency is responsible for the Section 180(c) program.

OCRWM would have to use contingency plans for Section 180(c) if the Department were directed to ship prior to full implementation of Section 180(c), which means with a preparation period of less than approximately four years. OCRWM did not make any changes to the timing of the grants process because the current proposed four-year time frame provides sufficient flexibility. Should shipment have to occur within less than the time frame planned, the contingency plan will assist jurisdictions in preparing for the shipments at no risk to shipment safety. Under the Department's current Civilian Radioactive Waste Management Program Plan, the earliest transportation could begin is 2004. If Congress mandates an interim storage site, the contingency plan can accommodate early shipment. Similarly, if routes are announced two years prior to shipment, grant recipients should have ample time to consider alternate routes and interact with the private transportation contractors. Information is available about the queue through documents such as DOE/RW–0457 ''Acceptance Priority Ranking and Annual Capacity Report.'' Regarding the preparedness concerns of tribal governments, this proposal does expand the application of technical assistance to be responsive to these concerns where warranted. OCRWM has tried to correct the lack of safe routine transportation contingency plans by allowing grant recipients to determine the number of inspectors to train. When escorts are part of the contingency plan, OCRWM has stated the escorts would be more highly trained and equipped than those routinely used for the purposes of safeguards and security.

Regarding the comments on escorts, OCRWM anticipates that escorts used on a contingency basis would have significant training in the radiological emergency response procedures and be fully versed in issues of federal, state, tribal, and local jurisdictional authority under accident or incident conditions. There is no safety reason to increase the number of escorts beyond the Nuclear Regulatory Commission's regulatory requirements.

Funding Allocation Formula

The funding allocation formula, presented in the appendix to the May 16, 1996, Proposed Policy and Procedures, was roundly criticized.

Almost all the commenters said the measures used to determine funding levels, for example, the numbers of people trained and the route miles as a basis for the variable funding, were an arbitrary determination by the Department and did not correspond to real training needs in the jurisdictions. Many commenters objected to the Department's determining the funding level and not discussing with eligible jurisdictions the planning issues that impact training needs such as the routes, the number of shipments, and the shipment schedules. A frequent recommendation was that the number of people trained and the number of trainers should be negotiated. Similar recommendations included basing funding on the training and equipment needs of local responders, and using the Western Governors' Association straw man regulations. Commenters frequently mentioned that if the Department failed to use a needs-based system for the funding allocation, the policy would be viewed as an unfunded mandate.

Recommendations on how the funding allocation should occur were varied but generally included some level of needs assessment as determined by the eligible state or tribe. Comments on the role of population in determining funding levels ranged from the International Association of Fire Fighters and the Council of State Governments/Eastern Regional Conference stating that higher population levels require the training of more public safety personnel to Nye County, Nevada stating that population should be used as an inverse funding variable since rural areas tend to be less prepared and need more assistance. Several tribal commenters encouraged the Department not to use population at all as a factor because low population on tribal lands tends to limit the assistance available to tribes.

Others recommended using shipment miles, not route miles as part of the allocation basis. Another commenter recommended including accident rates along routes as the allocation basis. The Commercial Vehicle Safety Alliance recommended that funding for inspector training be based on a combination of population, number of inspectors, number of inspections, and the number of points of entry for each eligible jurisdiction, similar to the present policy in calculating the U.S. DOT's hazardous materials registration program, 49 CFR 107–601.

The Council of State Governments-Midwestern Office and the Eastern Regional Conference both requested that the Department inform the governors of the annual funding projections for their state and work to keep funding levels constant to assist states with their planning and budgeting cycles.

Response

OCRWM has fundamentally changed the funding allocation formula in this revised proposed policy. The formulaic approach has been dropped and a more needs-based approach developed. The new approach, while limited by OCRWM's training objectives, will allow more flexibility for grant recipients to determine how much assistance they need to be prepared for NWPA shipments. Instead of using population or other variables to determine funding levels, the level of preparedness will factor into the funding allocation. The needs-based approach would apply both to safe routine transportation training and emergency response training, negating the need for a specific funding formula for either type of procedures. The comments about projected funding and consistent funding levels are noted.

Allowable Use of Funds

Comments on the allowable use of funds tended to overlap with comments on training standards and overall program policy. Commenters, including the National Association of Regulatory Utility Commissioners, the International Association of Fire Fighters, a couple of counties, and most states encouraged the Department to fund some form of route and risk assessments. Route and risk assessments, it was argued, are the first steps in preparing for NWPA shipments, assisting jurisdictions to identify specific hazards, write an effective emergency response plan, more efficiently deploy Section 180(c) resources, and take specific accident prevention measures. The Department was encouraged to conduct early route selection in cooperation with states and tribes as an initial step in defining the appropriate increment of assistance, and to reduce confusion and antagonism in jurisdictions along the routes. The point was made that a cooperative approach to route and risk analysis and related planning activities would take more than two years or the Department would risk inadequate planning involving stakeholders. Defining the interface among the federal government, private contractors, and involved jurisdictions was suggested as part of an overall cooperative approach. One commenter suggested that the Department should make technical assistance available to assist jurisdictions in conducting risk assessments even if financial assistance is not available. One commenter asked why states' ability to determine the appropriate use of funds was inconsistent with tribal governments' ability.

A variety of commenters encouraged the Department to allow funds to pay for administrative costs such as salaries and record-keeping. Lincoln County, Nevada suggested the Department pay for 75 percent of a person's salary in each local jurisdiction, while a few states commented that states should receive funding for one person each to carry out safe routine transportation and emergency response planning activities. One commenter asked whether states would have to cover the cost of Federal employees participating in public meetings. Commenters also requested clarification on the use of funds to train state personnel as well as local personnel given that Section 180(c) states assistance is for ''public safety officials of appropriate units of local government. * * *'' On the subject of pass-through requirements, a few commenters requested the proposal require a pass-through of funds to the local level. One suggested 75 percent of funds be passed-through while another said even if funds are not passed through, the majority of training assistance should reach the local level.

By far the most frequent comment was an expression of disagreement with the Department's decision not to allow drills and exercises as part of training. Almost every commenter made the point that exercises and drills are an essential part of the learning process. One commenter suggested funding a percentage of a jurisdiction's cost for drills and exercises saying it would be more effective and less costly for the Department to fund state and local level drills and exercises than to conduct large-scale joint federal, state, and tribal exercises. An alternative suggestion was to fund a fixed number of multi-jurisdictional exercises each year.

A mix of views was expressed on the Department's statement encouraging grant recipients to coordinate their training for NWPA shipments with other training programs such as FEMA's radiological training. One commenter said it would be illegal to use other federal programs to pay for NWPA training. The State of New Mexico and the Nuclear Energy Institute both encouraged coordination with other training programs to provide states flexibility in obtaining training and maximizing the effectiveness of Section 180(c) funds. On a slightly different note, commenters cautioned the Department not to rely on other federal programs to provide more elementary emergency response and safe routine

transportation capabilities because cutbacks in federal spending have jeopardized programs such as FEMA's equipment calibration laboratories.

Response

The revised proposed policy and procedures increase the types of activities that Section 180(c) funds may cover. While the base grant was derived from a salary estimate, it could be used to offset the cost of salaries, to conduct planning activities such as route and risk assessments, to coordinate with neighboring grant recipients and local jurisdictions, or interact with the private transportation contractors or federal employees. The base amount of funding doubled the original salary estimate to allow states and tribes to pay the salary of one person each to carry out safe routine and emergency response procedures planning, if that is what the state or tribe chooses to do. The proposed policy and procedures did not differentiate between a state's authority to determine the best use of funds within their jurisdiction from a tribal government's authority to determine the best use of funds within their jurisdiction. This policy intends to give equal treatment to state and tribal governments with regard to eligibility, use of funds, and other policy matters. The policy will have to make allowances for different governmental structures of state and tribes, since for example, tribes seldom have subjurisdictions with which to coordinate and plan.

The prescriptive pass-through of funds to the local level is not required because it is unclear that such a pass-through would result in the most efficient use of training resources. Training for safe routine transportation procedures, as defined for the Section 180(c) program, would occur at the state level since state-level employees have motor-carrier inspection and enforcement powers. OCRWM anticipates that local public safety officials will receive increased training benefits under this proposed policy because of the increased requirement to ensure planning and coordination at the local level and to ensure that local responders will be the recipients of the awareness level training. The recipient state (or tribe if they have subjurisdictions) will determine whether local salaries are offset.

Federal representatives' attendance at public meetings will be funded by OCRWM, not out of grant recipients' funds. OCRWM plans to allow grant applicants to factor in the cost of drills and exercises as part of their grant applications.

Regarding the coordination of Section 180(c) assistance with other training programs, the Department retains its position of encouraging grant recipients to detail in their three-year plans how this assistance will enhance their current efforts to prepare for radiological materials shipments. For example, if a grant recipient already relies on FEMA training classes to prepare their first responders, then they would be encouraged to use Section 180(c) assistance to send additional responders to those classes. Or if a state or tribe conducts its own awareness level training, they could use the assistance to offset the costs of sending first responders to that training, or updating their curricula to include information about NWPA shipments.

Concerns of Local, Rural, and Tribal Governments

Many of the comments on the concerns of local, rural and tribal governments have already been summarized in the previous sections. The following summarizes the comments specific to these jurisdictional levels.

Several counties expressed their view that the proposed policy diminishes the role of local governments in preparing for NWPA shipments. They expressed dissatisfaction that local governments did not have a more guaranteed role in the planning and needs assessment stages of the application process, that notification of eligibility would go to the state and tribal governments only, that training and guidance were not directly available to local governments, and that insufficient attention was given to establishing basic infrastructure where needed. The point was made that the Department should have an oversight and enforcement mechanism to ensure wise use of funds and readiness at the local level. Other commenters said clear training standards for the local level are needed to minimize the role of state politics in distributing funds and to guarantee readiness. Commenters also stated that local governments should have direct access to Departmental personnel to communicate concerns and obtain direct assistance if the local government has a dispute with the state. The Department was encouraged to consider the needs of rural volunteer emergency responders who lack the funding and the time to attend extensive training classes by providing distance learning and other flexible, low cost training alternatives. Another commenter said local governments must be invited to consider mechanisms to limit exposure to the public and get assistance to reduce radiation exposure from shipping casks. Nye County, Nevada stated that local governments and rail carriers should be involved in developing policy for best practices and new technology for rail shipments and that the states should immediately pass on to local governments the information provided by the Department.

Tribal concerns centered on the issue of how to implement Section 180(c) in a manner consistent with the government-to-government relationship and Trust responsibility of the Federal government toward tribal governments. Commenters stated that the Trust responsibility requires the Federal government and agencies to take proper care to protect the rights and interests of each tribal government. Actions suggested to properly meet the Trust responsibility included increasing assistance to the National Congress of American Indians to reach out to tribal governments about this program, consulting directly with tribal governments to resolve issues related to NWPA transportation, and acting as an advocate of tribal interests with other federal agencies as stated in the Department's American Indian Policy. The commenters felt the proposed policy failed to analyze the requirements of the Trust responsibility.

Response

OCRWM recognizes that there is a lack of infrastructure and trained personnel on many tribal lands and in many rural counties across the nation. Typically, these areas may rely more heavily on technical assistance than other grant recipients. In recognition of these concerns, OCRWM has increased the requirement on states to consult and involve local jurisdictions in the planning and training activities. Under the new training objectives, in those states where local governments have significant emergency response authority, most of the assistance should flow to the local emergency response agencies. Regarding oversight and enforcement of training readiness, the OSHA standards are very clear that verifying training is the employer's responsibility. It is not the role of the federal government to set requirements on local governments, circumventing the state/local government relationship. OCRWM has and will continue to consider the financial and time constraints of volunteer and rural responders in the development and distribution of training materials. With regard to local governments involvement in the reduction of radiation exposure, the radiation exposures from the shipping casks will be within the levels for routine safe

shipments as defined by the competent regulatory authorities. The local governments may, consistent with the DOT routing guidelines, work with state routing agencies to define preferred routes that limit population exposure. In addition, current safeguards and security regulations prevent the release of information about the time of shipments through a particular route. Regarding local governments' involvement in the development of rail practices, this is an issue that may need to be addressed with the Department, but is beyond the scope of the Section 180(c) policy development process.

OCRWM has agreed to work directly with tribal governments unless requested otherwise by the applicant. OCRWM will continue to work through the mechanism of its cooperative agreement with the National Congress of American Indians to reach out to tribes across the nation and encourage their participation in the program.

B. Section 180(c) Procedures

Funding Mechanism

The comments on the funding mechanism were almost unanimously supportive of the grants program directed to states and tribes. There were a couple of states that encouraged the Department to combine Section 180(c) funding with existing federal programs that offer training for emergency response and safe routine transportation training and one of them requested the funding be provided as an up-front distribution instead of reimbursement for costs. A couple of states that supported the grants mechanism requested the Department provide for coordination of the assistance with other state, tribal, and federally-supported training programs for emergency response and safe routine transportation procedures, even if the funding mechanisms were not combined. The State of Idaho supported combining Section 180(c) funding with other training assistance programs within the Department in order to make the Department's training assistance less campaign-specific. Several tribal government commenters favorably noted the equal treatment between states and tribes. The International Association of Fire Fighters stated that the grant mechanism would place too heavy a burden on the states for planning, administration, and needs assessment and could require the creation of state-level offices analogous to the Department's Office of Civilian Radioactive Waste Management.

Response

OCRWM made no changes to the funding mechanism in this revised proposed policy and procedures, in part because states and tribal commenters did not find the grant mechanism to be overly burdensome, particularly if staff and administrative costs are offset. This new proposal does note that in the event there is a Department-wide funding mechanism for training assistance, the Section 180(c) program would be combined with it to the extent practicable. OCRWM finds combining the Section 180(c) funding mechanism with a federal program outside the Department would increase administrative costs and reduce program flexibility. As discussed in the allowable use of funds section, grant recipients will be encouraged to coordinate their training under the Section 180(c) program with their existing training efforts to the extent practicable.

C. Applicability of Section 180(c) to Private Shipments

Many states and state organizations urged that Section 180(c) assistance should apply to all spent nuclear fuel or defense high-level radioactive waste shipments ultimately destined for an NWPA facility, whether or not those shipments are transported to and stored on an interim basis at a private facility. Commenters cited that transportation to a private facility would only be necessary if the Department fails to site an interim or permanent storage facility according to statutory obligations.

Response

The Department is currently authorized to implement the Section 180(c) program of financial and technical assistance only for shipments to a repository or MRS constructed under the NWPA. However, the many comments on this issue have been noted.

D. Policy Development Process

A few commenters again questioned the Department's plans to issue a Notice of Policy and Procedures rather than promulgate regulations. They voiced concern that implementation of Section 180(c) through regulations is necessary to ensure stability through changes of leadership within the Department and that an interpretation of policy and procedures is more easily changed. An expedited rulemaking was suggested to accommodate time constraints.

Response

OCRWM is developing the Revised Policy and Procedures after receipt and consideration of extensive public comments. At some future date, OCRWM may decide to promulgate regulations. At this time, however, it is OCRWM's intent to remain flexible in order to work through unforeseen circumstances without committing to binding regulations.

V. Conclusion and Request for Submission

This notice has presented the OCRWM's revised proposal for a policy and procedures for the Section 180(c) program. It also has presented OCRWM's summarization of and response to comments received on the prior Notice of Proposed Policy and Procedures. Relevant comments on this proposal will be given careful consideration and responses will be included in the Notice of Final Policy and Procedures, which OCRWM intends to publish in 1998. The purpose of this notice has been to share with stakeholders the progress to date on developing Section 180(c) policy and procedures and to request additional comments from interested parties. The final policy and procedures may reflect changes as a result of comments, new Statutory direction, and any policy changes caused by the new Statutory direction.

OCRWM solicits comments from the public on this revised proposal to issue Section 180(c) policy and procedures.

Issued in Washington, D.C., on July 11, 1997.

Ronald A. Milner,

Acting Deputy Director, Office of Civilian Radioactive Waste Management.

Appendix—Definition of Terms As Used in the Revised Proposed Policy and Procedures

1. Responsible Jurisdiction means a governmental entity at any level of government, whether state, tribal, or any of their subjurisdictions, that has the authority to conduct part or all of an emergency response to a radiological materials transportation accident or incident.

2. First Responders are generally those emergency response personnel who (1) assess the risk level of the emergency, (2) take defensive action to secure an accident scene, and (3) notify additional authorities if needed.

3. Awareness level training means training for individuals who are likely to witness or discover a hazardous substance release and who have been trained to initiate an emergency response sequence by notifying the authorities of the release. First responders awareness level training shall provide sufficient training to ensure that first responders objectively demonstrate competency in the following areas:

(A) Understand what hazardous substances are, and the risks associated with them in an incident.

(B) Understand the potential outcomes associated with an emergency created when hazardous substances are present.

(C) Recognize the presence of hazardous substances in an emergency.

(D) Identify the hazardous substance, if possible.

(E) Understand the role of the first responder awareness individual in the employer's emergency response plan including site security and control and the U.S. Department of Transportation's Emergency Response Guidebook.

(F) Realize the need for additional resources, and to make appropriate notifications to the communications center.

(29 CFR 1910.120(q)(6)(I)(A)).

4. First responder operations level hazardous materials training means training that provides for individuals who respond to releases or potential releases of hazardous substances as part of the initial response to the site for the purpose of protecting nearby persons, property, or the environment from the effects of the release to be able to respond in a defensive fashion without actually trying to stop the release. Their function is to contain the release from a safe distance, keep it from spreading, and prevent exposures. First responders at the operations level shall have received at least eight hours of training and have had sufficient experience to objectively demonstrate competency in the following areas in addition to those listed for the awareness level, and the employer shall so certify:

(A) Know the basic hazard and risk assessment techniques.

(B) Know how to select and use proper personal protective equipment provided to the first responder operational level.

(C) Understand basic hazardous materials terms.

(D) Know how to perform basic control, containment and/or confinement operations within the capabilities of the resources and personal protective equipment available with their unit.

(E) Know how to implement basic decontamination procedures.

(F) Understand the relevant standard operating procedures and termination procedures.

(29 CFR 1910.120(q)(6)(ii)(A)).

5. Train-the-Trainer training means training for individuals so that they can teach other emergency responders to respond to a particular level of competency.

6. Hazardous materials technician level training is training for individuals who respond to releases or potential releases for the purpose of stopping the release. They assume a more aggressive role than a first responder at the operations level in that they will approach the point of release in order to plug, patch or otherwise stop the release of a hazardous substance. Hazardous materials technicians shall have received at least 24 hours of training equal to the first responder operations level and in addition have competency in the following areas, and the employer shall so certify:

(A) Know how to implement the employer's emergency response plan.

(B) Know the classification, identification and verification of known and unknown materials by using field survey instruments and equipment.

(C) Be able to function within an assigned role in the Incident Command System.

(D) Know how to select and use proper specialized chemical personal protective equipment provided to the hazardous materials technician.

(E) Understand hazard and risk assessment techniques.

(F) Be able to perform advance control, containment, and/or confinement operations within the capabilities of the resources and personal protective equipment available with the unit.

(G) Understand and implement decontamination procedures.

(H) Understand termination procedures.

(I) Understand basic chemical and toxicological terminology and behavior.

(29 CFR 1910.120(q)(6)(iii)(A)).

[FR Doc. 97–18840 Filed 7–16–97; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP97–615–-000]

Florida Gas Transmission Company; Notice of Request Under Blanket Authorization

July 11, 1997.

Take notice that on July 1, 1997, Florida Gas Transmission Company (FGT), 1400 Smith Street, Houston, Texas 77002, filed in Docket No. CP97–615–000 a request pursuant to Sections 157.205 and 157.212 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.212) for authorization to construct and operate a delivery point in Hillsborough County, Florida under FGT's blanket certificate issued in Docket No. CP82–553–000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

FGT proposes to construct, operate and own an additional delivery point for Chesapeake Utilities Corporation (Chesapeake) at or near mile post 19.1 on its existing St. Petersburg/Sarasota Connector in Hillsborough County, Florida. FGT states that the subject delivery point will include a tap, minor connecting pipe, electronic flow measurement equipment, and any other related appurtenant facilities necessary for FGT to deliver up to 1,000 MMBtu per hour to Chesapeake. Chesapeake will reimburse FGT for the $67,000 estimated construction costs. FGT further states that Chesapeake will construct, own, and operate the meter and regulation station.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 97–18769 Filed 7–16–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP97–613–000]

Koch Gateway Pipeline Company; Notice of Request Under Blanket Authorization

July 11, 1997.

Take notice that on July 1, 1997, Koch Gateway Pipeline Company (Koch Gateway), P.O. Box 1478, Houston, TX 77251–1478, filed in Docket No. CP97–613–000 a request pursuant to Sections 157.205 and 157.211 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.211) for authorization to operate as a jurisdictional facility, a 2-inch tap placed in service under Section 311 of the Natural Gas Policy Act and Section 284.3(c) of the Commission's regulations. Koch Gateway makes such request under Koch Gateway's blanket certificate issued in Docket No. CP82–430–000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

Koch Gateway states that the proposed certification of facilities will enable Koch Gateway to provide transportation services under its blanket transportation certificate through a tap serving Trans-Louisiana Gas Company, an intrastate pipeline company, in Lafayette Parish, Louisiana.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 97–18768 Filed 7–16–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP97–623–000]

Natural Gas Pipeline Company of America; Notice of Application

July 11, 1997.

Take notice that on July 8, 1997, Natural Gas Pipeline Company of America (Applicant), 701 East 22nd Street, Lombard, Illinois 60148, filed an application pursuant to Section 7(b) of the Natural Gas Act (NGA) and Part 157 of the Commission's Regulations thereunder for an order granting permission and approval to abandon, in place, by sale to Timberland Gathering and Processing Company, Inc. (Timberland), certain facilities located near the town of Hooker, Texas County, Oklahoma, all as more fully set forth in the application on file with the Commission and open to public inspection.

Applicant proposes to abandon its Compressor Station No. 101, 2,948 feet or 20/26-inch lateral, 4,748 feet of 20-inch lateral, and various other facilities within its Hooker Gathering System. The facilities for which Applicant is seeking abandonment authority, along with many uncertificated facilities, make up what is generally described as Applicant's Hooker Gathering System. Applicant has agreed to sell the entire gathering system to Timberland, which will continue to perform gathering service for the few customers now being served on the system by Applicant, or alternatively, purchase the production from wells along the system.

Applicant states that the regulatory status of the Hooker Gathering System was thoroughly reviewed by the Commission in its order issued in Docket No. CP93–500–000.[1] In that order, the Commission also stated that Applicant must apply for abandonment authority if it seeks to sell its certificated facilities at a future time.

Any person desiring to be heard or to make any protest with reference to said application should on or before August 1, 1997, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a petition 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 petition 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 petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave 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 provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 97–18770 Filed 7–16–97; 8:45 am]

BILLING CODE 6717–01–M

[1] *See*, 68 FERC ¶ 61,339 at 62,359 (''The record in this case supports a conclusion that the facilities (certificated and uncertificated) continue to function primarily as gathering facilities.'')

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER97–2128–001]

Ohio Valley Electric Corporation; Notice of Filing

July 9, 1997.

Take notice that Ohio Valley Electric Corporation on June 16, 1997, tendered for filing its refund report in the above-referenced docket.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, 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 July 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. 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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 97–18778 Filed 7–16–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. QF92–156–003]

Pasco Cogen, Ltd.; Notice of Application for Commission Recertification of Qualifying Status of a Cogeneration Facility

July 11, 1997.

On July 2, 1997, Pasco Cogen, Ltd. (Pasco), P.O. Box 111, Tampa, Florida 33601 submitted for filing an application for Commission recertification as a qualifying cogeneration facility (QF) pursuant to section 292.207(b) of the Commission's Regulations. No determination has been made that the submittal constitutes a complete filing.

According to the applicant, the 109 MW, natural gas-fired combined-cycle cogeneration facility is located in Dade City, Florida. Steam recovered from the facility is used in the production of fruit juice concentrate by Lykes Pasco, Inc. Power from the facility was certified as a QF Docket No. QF92–156–000 [60

FERC ¶ 62,247 (1992)], and recertified in Docket QF92–156–001 [70 FERC ¶ 62,100 (1995)]. Pasco filed a notice of self recertification in Docket No. QF92–156–002. According to the applicant, the instant recertification is requested in contemplation of changes in the ownership of the facility.

Any person who wishes to be heard or to object to granting qualifying status should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NW., Washington, DC 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. A motion or protest must be filed within 15 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. A person who wishes to become a party must file a motion to intervene. Copies of these filings are on file with the Commission and are available for public inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 97–18777 Filed 7–16–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER97–3350–000]

PECO Energy Company; Notice of Filing

July 10, 1997.

Take notice that on June 16, 1997, PECO Energy Company (PECO) filed an executed Service Agreement dated February 26, 1997 with Florida Power Corporation (FPC) under PECO's FERC Electric Tariff Original Volume No. 1 (Tariff). The service Agreement replaces an unexecuted Service Agreement accepted for filing in Docket No. ER97–316–000.

PECO requests an effective date of January 1, 1997, for the Service Agreement.

PECO states that copies of this filing have been supplied to FPC and to the Pennsylvania Public Utility Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, 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 July 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. 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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 97–18767 Filed 7–16–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

FEDERAL ENERGY REGULATORY COMMISSION

[Docket No. ER97–137–001, et al.]

Deseret Generation & Transmission Cooperative, et al., Electric Rate and Corporate Regulation Filings

July 10, 1997.

Take notice that the following filings have been made with the Commission:

1. Deseret Generation & Transmission Cooperative

[Docket No. ER97–137–001]

Take notice that Deseret Generation & Transmission Cooperative (Deseret) on June 27, 1997, filed substitute copies of its Power Marketing and Resource Management Service Agreement Between Deseret Generation & Transmission Cooperative and PacifiCorp.

Comment date: July 24, 1997, in accordance with Standard Paragraph E at the end of this notice.

2. PEC Energy Marketing, Inc.

[Docket No. ER97–1431–001]

Take notice that on June 25, 1997, in compliance with Ordering Paragraph A of the Federal Energy Regulatory Commission's Order Conditionally Accepting for Filing Proposed Market-Based Rates dated June 12, 1997, PEC Energy Marketing, Inc. (PEC) tendered for filing a Revised Code of Conduct Regarding the Relationship Between GPU, Inc. and Its Affiliates and Polsky Energy Corporation and Its Affiliates.

Comment date: July 24, 1997, in accordance with Standard Paragraph E at the end of this notice.

3. DePere Energy Marketing, Inc.

[Docket No. ER97–1432–001]

Take notice that on June 25, 1997, in compliance with Ordering Para-graph A of the Federal Energy Regulatory Commission's Order Conditionally Accepting for Filing Proposed Market-Based Rates dated June 12, 1997, DePere Energy Marketing, Inc. (DePere) tendered for filing, pursuant to Rule 1907, 18 CFR 385.1907, a revised Code of Conduct Regarding the Relationship between GPU, Inc. and its Affiliates and Polsky Energy Corporation and its Affiliates.

Comment date: July 24, 1997, in accordance with Standard Paragraph E at the end of this notice.

4. New York State Electric & Gas Corporation

[Docket No. ER97–2935–000]

Take notice that New York State Electric & Gas Corporation (NYSEG) on July 1, 1997 tendered for filing pursuant to Part 35 of the Federal Energy Regulatory Commission's Rules of Practice and Procedure, 18 CFR 35, an amendment (Amendment) to service agreements under which NYSEG will provide capacity and/or energy to Aquila Power Corporation (Aquila), Maine Public Service Company (MPS), North American Energy Conservation, Inc. (North American), and Southern Energy Trading and Marketing, Inc. (Southern) in accordance with the NYSEG market-based, power sales tariff (Tariff). The Tariff was accepted by the Commission on June 9, 1997 in docket ER97–2518–000. The service agreements were filed on May 14, 1997 with a request that the service agreements with Aquila, MPS, and North American be given effective dates of May 15, 1997 and the service agreement with Southern be given an effective date of April 30, 1997. Article 1, Section 1.3, of the service agreements contains an errant reference to a provision of the Tariff. The Amendment, which is comprised of a revised Article 1, Section 1.3 of the service agreement, corrects that reference.

NYSEG continues to request an effective date of May 15, 1997, for the service agreements with Aquila, MPS, and North American and an effective date of April 30, 1997, for the service agreement with Southern. NYSEG served copies of the filing upon the New York State Public Service Commission, Aquila, MPS, North American and Southern.

Comment date: July 24, 1997, in accordance with Standard Paragraph E at the end of this notice.

5. New York State Electric & Gas Corporation

[Docket No. ER97–3203–000]

Take notice that New York State Electric & Gas Corporation (NYSEG) on

July 1, 1997 tendered for filing pursuant to Part 35 of the Federal Energy Regulatory Commission's Rules of Practice and Procedure, 18 CFR 35, an amendment (Amendment) to a service agreement under which NYSEG will provide capacity and/or energy to Engelhard Power Marketing, Inc. (Engelhard) in accordance with the NYSEG market-based, power sales tariff (Tariff). The Tariff was accepted by the Commission on June 9, 1997 in docket ER97–2518–000. The service agreement was filed on June 4, 1997 with a request that it be given an effective date of June 5, 1997. Article 1, Section 1.3, of the service agreement contains an errant reference to a provision of the Tariff. The Amendment, which is comprised of a revised Article 1, Section 1.3 of the service agreement, corrects that reference.

NYSEG continues to request an effective date of June 5, 1997 for the service agreement. NYSEG served copies of the filing upon the New York State Public Service Commission and Engelhard.

Comment date: July 24, 1997, in accordance with Standard Paragraph E at the end of this notice.

6. Niagara Mohawk Power Corporation

[Docket No. ER97–3402–000]

Take notice that on June 23, 1997, Niagara Mohawk Power Corporation (NMPC), tendered for filing with the Federal Energy Regulatory Commission an executed Transmission Service Agreement between NMPC and ProMark Energy, Inc. This Transmission Service Agreement specifies that ProMark Energy, Inc., has signed on to and has agreed to the terms and conditions of NMPC's Open Access Transmission Tariff as filed in Docket No. OA96–194–000. This Tariff, filed with FERC on July 9, 1996, will allow NMPC and ProMark Energy, Inc., to enter into separately scheduled transactions under which NMPC will provide transmission service for ProMark Energy, Inc., as the parties may mutually agree.

NMPC requests an effective date of June 18, 1997. NMPC has requested waiver of the notice requirements for good cause shown.

NMPC has served copies of the filing upon the New York State Public Service Commission and ProMark Energy, Inc.

Comment date: July 24, 1997, in accordance with Standard Paragraph E at the end of this notice.

7. Maine Public Service Company

[Docket No. ER97–3403–000]

Take notice that on June 23, 1997, Maine Public Service Company (Maine Public), filed an executed Service Agreement with Northeast Energy Services Inc (NORESCO).

Comment date: July 24, 1997, in accordance with Standard Paragraph E at the end of this notice.

8. PECO Energy Company

[Docket No. ER97–3404–000]

Take notice that on June 23, 1997, PECO Energy Company (PECO) filed a Service Agreement dated June 10, 1997, with Edison Source (EDISON) under PECO's FERC Electric Tariff Original Volume No. 1 (Tariff). The Service Agreement adds EDISON as a customer under the Tariff.

PECO requests an effective date of June 10, 1997, for the Service Agreement.

PECO states that copies of this filing have been supplied to EDISON and to the Pennsylvania Public Utility Commission.

Comment date: July 24, 1997, in accordance with Standard Paragraph E at the end of this notice.

9. Central Hudson Gas & Electric Corporation

[Docket No. ER97–3405–000]

Take notice that on June 23, 1997, Central Hudson Gas & Electric Corporation (CHG&E), tendered for filing pursuant to § 35.12 of the Federal Energy Regulatory Commission's (Commission) Regulations in 18 CFR a Service Agreement between CHG&E and PECO Energy Company. The terms and conditions of service under this Agreement are made pursuant to CHG&E's FERC Open Access Schedule, Original Volume No. 1 (Transmission Tariff) filed in compliance with the Commission's Order No. 888 in Docket No. RM95–8–000 and RM94–7–001. CHG&E also has requested waiver of the 60-day notice provision pursuant to 18 CFR 35.11.

A copy of this filing has been served on the Public Service Commission of the State of New York.

Comment date: July 24, 1997, in accordance with Standard Paragraph E at the end of this notice.

10. Central Hudson Gas & Electric Corporation

[Docket No. ER97–3406–000]

Take notice that on June 23, 1997, Central Hudson Gas & Electric Corporation (CHG&E), tendered for filing pursuant to § 35.12 of the Federal Energy Regulatory Commission's (Commission) Regulations in 18 CFR a Service Agreement between CHG&E and Entergy Power Marketing Corp. The terms and conditions of service under this Agreement are made pursuant to CHG&E's FERC Open Access Schedule, Original Volume No. 1 (Transmission Tariff) filed in compliance with the Commission's Order No. 888 in Docket No. RM95–8–000 and RM94–7–001. CHG&E also has requested waiver of the 60-day notice provision pursuant to 18 CFR 35.11.

A copy of this filing has been served on the Public Service Commission of the State of New York.

Comment date: July 24, 1997, in accordance with Standard Paragraph E at the end of this notice.

11. Entergy Services, Inc.

[Docket No. ER97–3407–000]

Take notice that on June 23, 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. (collectively, the Entergy Operating Companies), tendered for filing a Non-Firm Point-To-Point Transmission Service Agreement between Entergy Services, as agent for the Entergy Operating Companies, and Aquila Power Corporation.

Comment date: July 24, 1997, in accordance with Standard Paragraph E at the end of this notice.

12. Entergy Services, Inc.

[Docket No. ER97–3408–000]

Take notice that on June 23, 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. (collectively, the Entergy Operating Companies), tendered for filing a Non-Firm Point-To-Point Transmission Service Agreement between Entergy Services, as agent for the Entergy Operating Companies, and NIPSCO Energy Services, Inc.

Comment date: July 24, 1997, in accordance with Standard Paragraph E at the end of this notice.

13. Entergy Services, Inc.

[Docket No. ER97–3409–000]

Take notice that on June 23, 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. (collectively, the Entergy Operating Companies), tendered for filing a Non-Firm Point-To-Point Transmission Service Agreement between Entergy Services, as agent for the Entergy Operating Companies, and PECO Energy Company—Power Team.

Comment date: July 24, 1997, in accordance with Standard Paragraph E at the end of this notice.

14. Entergy Services, Inc.

[Docket No. ER97–3410–000]

Take notice that on June 23, 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. (collectively, the Entergy Operating Companies), tendered for filing a Non-Firm Point-To-Point Transmission Service Agreement between Entergy Services, as agent for the Entergy Operating Companies, and ConAgra Energy Services, Inc.

Comment date: July 24, 1997, in accordance with Standard Paragraph E at the end of this notice.

15. Madison Gas and Electric Company

[Docket No. ER97–3411–000]

Take notice that on June 24, 1997, Madison Gas and Electric Company (MGE), tendered for filing a service agreement with Aquila Power Corporation, Duke/Louis Dreyfus L.L.C., and Illinois Power Company under MGE's Power Sales Tariff. MGE requests an effective date 60 days from the filing date.

Comment date: July 24, 1997, in accordance with Standard Paragraph E at the end of this notice.

16. Madison Gas and Electric Company

[Docket No. ER97–3412–000]

Take notice that on June 24, 1997, Madison Gas and Electric Company (MGE), tendered for filing a service agreement with Sonat Power Marketing L.P. under MGE's Power Sales Tariff. MGE requests an effective date 60 days from the filing date.

Comment date: July 24, 1997, in accordance with Standard Paragraph E at the end of this notice.

17. Central Illinois Public Service Company

[Docket No. ER97–3413–000]

Take notice that on June 24, 1997, Central Illinois Public Service Commission (CIPS), tendered for filing revised tariff sheets to provide a rate decrease to Norris Electric Cooperative (Norris).

CIPS requests that the tariff sheets be accepted to become effective July 1, 1997. Accordingly, CIPS asks for waiver of the Commission's notice requirements. Copies of the filing were served upon Norris and the Illinois Commerce Commission.

Comment date: July 24, 1997, in accordance with Standard Paragraph E at the end of this notice.

18. Cinergy Services, Inc.

[Docket No. ER97–3414–000]

Take notice that on June 24, 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 LG&E Power Marketing, Inc. (LG&E).

Cinergy and LG&E are requesting an Effective date of June 1, 1997.

Comment date: July 24, 1997, in accordance with Standard Paragraph E at the end of this notice.

19. Additional Signatory to PJM Interconnection, L.L.C. Operating Agreement

[Docket No. ER97–3415–000]

Take notice that on June 24, 1997, the PJM Interconnection, L.L.C. (PJM) filed, on behalf of the Members of the LLC, membership application of LG&E Power Marketing Inc. PJM requests an effective date of June 24, 1997.

Comment date: July 24, 1997, in accordance with Standard Paragraph E at the end of this notice.

20. Global Energy and Technology, Inc.

[Docket No. ER97–3416–000]

Take notice that on June 24, 1997, Global Energy and Technology, Inc. tendered for filing a Petition for Acceptance of Initial Rate Schedule, Waivers and Blanket Authority.

Comment date: July 24, 1997, in accordance with Standard Paragraph E at the end of this notice.

21. Orange and Rockland Utilities, Inc.

[Docket No. ER97–3417–000]

Take notice that on June 24, 1997, Orange and Rockland Utilities, Inc. (Orange and Rockland) filed Service Agreements between Orange and Rockland and the Electric Commodity Marketing Department of Orange and Rockland Utilities, Inc. and the Energy Resources Department of Orange and Rockland Utilities, Inc. (Customers). These Service Agreements specify that the Customers have agreed to the rates, terms and conditions of Orange and Rockland Open Access Transmission Tariff filed on July 9, 1996 in Docket No. OA96–210–000.

Orange and Rockland requests waiver of the Commission's sixty-day notice requirements and an effective date of May 1, 1997 for the Service Agreements. Orange and Rockland has served copies of the filing on The New York State Public Service Commission and on the Customers.

Comment date: July 24, 1997, in accordance with Standard Paragraph E at the end of this notice.

22. LG&E Energy Marketing, Inc.

[Docket No. ER97–3418–000]

Take notice that on June 24, 1997, LG&E Energy Marketing, Inc. tendered for filing a letter stating that effective June 24, 1997, LG&E Power Marketing, Inc. has changed its name to LG&E Energy Marketing, Inc.

Comment date: July 24, 1997, in accordance with Standard Paragraph E at the end of this notice.

23. Northern States Power Company (Minnesota Company)

[Docket No. ER97–3419–000]

Take notice that on June 24, 1997, Northern States Power Company (Minnesota) (NSP), tendered for filing Amendment #1 to the Interconnection and Interchange Agreement between Minnesota Municipal Power Agency (MMPA) and Northern States Power Company (Minnesota) (NSP). This amendment incorporates the new point of interconnection, point of interchange and the metering for the new Shakopee South Substation, which will go into service on June 27, 1997.

NSP requests that the Commission accept the agreement effective June 25, 1997, and requests waiver of the Commission's notice requirements in order for the revisions to be accepted for filing on the date requested.

Comment date: July 24, 1997, in accordance with Standard Paragraph E at the end of this notice.

24. Florida Power & Light Company

[Docket No. ER97–3420–000]

Take notice that on June 24, 1997, Florida Power & Light Company (FPL), tendered for filing proposed service agreements with Vitol Gas & Electric LLC for Short-Term Firm and Non-Firm transmission service under FPL's Open Access Transmission Tariff.

FPL requests that the proposed service agreements be permitted to become effective on July 1, 1997.

FPL states that this filing is in accordance with Part 35 of the Commission's Regulations.

Comment date: July 24, 1997, in accordance with Standard Paragraph E at the end of this notice.

25. Tucson Electric Power Company

[Docket No. ER97–3486–000]

Take notice that on June 27, 1997, Tucson Electric Power Company (TEP) tendered for filing the following agreements for the provision of electric service to the Navajo Tribal Utility Authority (NTUA).

1. Amended and Restated Wholesale Power Supply Agreement between TEP and NTUA dated June 25, 1997 (Power Supply Agreement).

2. Service Agreement for Network Integration Transmission Service.

3. Network Operating Agreement.

TEP requests waiver of notice to permit all of the agreements to become effective as of July 1, 1997.

Comment date: July 24, 1997, in accordance with Standard Paragraph E at the end of this notice.

26. California Power Services

[Docket No. ER97–3525–000]

Take notice that on June 27, 1997, California Power Services tendered for filing an application for order approving initial rate schedule and granting certain waivers and blanket authority.

Comment date: July 24, 1997, in accordance with Standard Paragraph E at the end of this notice.

27. PJM Interconnection, L.L.C.

[Docket No. ER97–3531–000]

Take notice that on June 27, 1997, PJM Interconnection, L.L.C. (PJM) tendered for filing an Emergency Reliability Service Agreement between PJM and the New England Power Pool (NEPOOL). PJM requests an effective date of June 28, 1997.

Copies of this filing were served upon NEPOOL and the state commissions in the NEPOOL and PJM regions.

Comment date: July 24, 1997, in accordance with Standard Paragraph E at the end of this notice.

28. Sierra Pacific Power Company

[Docket No. OA97–605–000]

Take notice that on June 25, 1997, Sierra Pacific Power Company (Sierra Pacific) filed revised open-access tariff sheets required to conform Sierra Pacific's open-access tariff (FERC Original Vol. No. 3) with Order 888–A. In accordance with Order No. 888–A, Sierra Pacific proposes an effective date of May 13, 1997 for these revised tariff sheets.

Comment date: July 30, 1997, in accordance with Standard Paragraph E at the end of this notice.

29. PacifiCorp

[Docket No. OA97–607–000]

Take notice that PacifiCorp on June 30, 1997, tendered for filing in accordance with 18 CFR 35 of the Commission's Rules and Regulations, PacifiCorp's FERC Electric Tariff, First Revised Volume No. 11, Pro Forma Open Access Transmission Tariff, incorporating the revisions required by the Commission's Order No. 888–A and a modification to the form of service agreement for firm point-to-point transmission service.

Copies of this filing were supplied to the Washington Utilities and Transportation Commission and the Public Utility Commission of Oregon.

A copy of this filing may be obtained from PacifiCorp's Regulatory Administration Department's Bulletin Board System through a personal computer by calling (503) 464–6122 (9600 baud, 8 bits, no parity, 1 stop bit).

Comment date: July 30, 1997, in accordance with Standard Paragraph E at the end of this notice.

30. Texas-New Mexico Power Company

[Docket No. OA97–609–000]

Take notice that on July 3, 1997, Texas-New Mexico Power Company tendered for filing certain revised tariff sheets in compliance with the Commission's Order No. 888–A.

Comment date: August 1, 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, 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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 97–18766 Filed 7–16–97; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 5572–006]

Joseph Hydro Company, Inc.; Notice of Availability of Environmental Assessment

July 11, 1997.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission (Commission) regulations, 18 CFR Part 380 (Order 486, 52 FR 47897), the Office of Hydropower Licensing has reviewed an exemption surrender application for the Canal Creek Project, FERC No. 5572–006. The Canal Creek Project is located on the Wallowa Valley Improvement District irrigation canal in Wallowa County, Oregon. An Environmental Assessment (EA) was prepared for the application. The EA finds that approving the application would not constitute a major federal action significantly affecting the quality of the human environment.

Copies of the EA are available for review in the Commission Reference and Information Center, Room 2–A, 888 First Street NE., Washington, DC 20426. Additional information can be obtained by calling Jim Hastreiter at (503) 326–5858, ext. 225.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 97–18772 Filed 7–16–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Project No. 5573–006

Joseph Hydro Company, Inc.; Notice of Availability of Environmental Assessment

July 11, 1997.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission (Commission) regulations, 18 CFR Part 380 (Order 486, 52 FR 47897), the Office of Hydropower Licensing has reviewed an exemption surrender application for the Upper Little Sheep Creek Project, FERC No. 5573–006. Upper Little Sheep Creek Project is located on Big Sheep Creek, Little Sheep Creek, and the Wallowa Valley Improvement District irrigation canal in Wallowa County, Oregon. An Environmental Assessment (EA) was prepared for the application. The EA finds that approving the application would not constitute a major federal action significantly affecting the quality of the human environment.

Copies of the EA are available for review in the Commission Reference and Information Center, Room 2–A, 888 First Street NE., Washington, DC 20426. Additional information can be obtained

by calling Jim Hastreiter at (503) 326–5858, ext. 225.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 97–18773 Filed 7–16–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 6621–006]

Joseph Hydro Company, Inc.; Notice of Availability of Environmental Assessment

July 11, 1997.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission (Commission) regulations, 18 CFR Part 380 (Order 486, 52 FR 47897), the Office of Hydropower Licensing has reviewed an exemption surrender application for the Ferguson Ridge Project, FERC No. 6621–006. The Ferguson Ridge Project is located on the Wallowa Valley Improvement District irrigation canal in Wallowa County, Oregon. An Environmental Assessment (EA) was prepared for the application. The EA finds that approving the application would not constitute a major federal action significantly affecting the quality of the human environment.

Copies of the EA are available for review in the Commission Reference and Information Center, Room 2–A, 888 First Street NE., Washington, DC 20426.

Please submit any comments within 15 days from the date of this notice. Any comments, conclusions, or recommendations that draw upon studies, reports or other working papers or substance should be supported by appropriate documentation.

Comments should be addressed to Lois D. Cashell, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Please affix Project No. 6621–006 to all comments. Further information can be obtained by calling Jim Hastreiter at (503) 326–5858, ext. 225.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 97–18774 Filed 7–16–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Non-Project Use of Project Lands and Waters

July 11, 1997.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Non-Project Use of Project Lands and Waters.

b. *Project Name:* Catawba-Wateree Project.

c. *Project No.:* FERC Project No. 2232–347.

d. *Date Filed:* June 3, 1997.

e. *Applicant:* Duke Power Company.

f. *Location:* Mecklenburg County, North Carolina, Sawyer Cove Subdivision, Lake Norman near Cornelius, N.C.

g. *Filed pursuant to:* Federal Power Act, 16 U.S.C. § 791(a) 825(r).

h. *Applicant Contact:* Mr. E.M. Oakley, Duke Power Company, P.O. Box 1006 (EC12Y), Charlotte, NC 28201–1006, (704) 382–5778.

i. *FERC Contact:* Brian Romanek, (202) 219–3076.

j. *Comment Date:* September 2, 1997.

k. *Description of the filing:* Duke Power Company proposes to grant an easement of 0.37 acre of project land to the Sawyer's Cove Boat Slip Association to dredge and construct a private residential marina. The proposed marina would provide access to the reservoir for residents of the Sawyer Cove Subdivision and would consist of one access ramp and 12 floating boat slips. The slips would be anchored by using self-driving piles. To improve water depth for boat access at this facility, approximately 5,000 cubic yards of sediment would be dredged from a 20,000 square foot area.

1. This notice also consists of the following standard paragraphs: B, C1, D2.

B. Comments, Protests, or Motions To Intervene

Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

C1. Filing and Service of Responsive Documents

Any filings must bear in all capital letters the title ''COMMENTS'', ''RECOMMENDATIONS FOR TERMS AND CONDITIONS'', ''PROTEST'', OR ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

D2. Agency Comments

Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 97–18771 Filed 7–16–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application for Preliminary Permit

July 11, 1997.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 11602–000.

c. *Date filed:* March 24, 1996.

d. *Applicant:* Bitterroot Management Corporation.

e. *Name of Project;* Sherman Project.

f. *Location:* On the Columbia River, in Sherman County, Oregon.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. Mark C. Steinly, Bitterroot Management Corporation, 501 North 900 East, Provo, Utah 84606, (801) 374–8709.

i. *FERC Contact:* Mr. Robert Bell, (202) 219–2806.

j. *Comment Date:* September 10, 1997.

k. *Description of Project:* The proposed project, utilizing the existing U.S. Army Corps of Engineers John Day Lock and Dam, would consist of: (1) Intake structure located on the screened excess pipe of the John Day Juvenile Fish Sampling and Monitoring Facility; (2) a powerhouse containing a generating unit having an installed capacity of 3.6 MW; (3) a tailrace; (4) a 13.2-kV transmission line connecting the project to the distribution system of a local utility; and (6) other appurtenances.

l. *This notice also consists of the following standard paragraphs:* A5, A7, A9, A10, B, C, and D2.

A5. Preliminary Permit—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

A7. Preliminary Permit—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

A9. Notice of Intent—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

A10. Proposed Scope of Studies under Permit—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

B. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

C. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS'', ''NOTICE OF INTENT TO FILE COMPETING APPLICATION'', ''COMPETING APPLICATION'', ''PROTEST'', ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. An additional copy must be sent to Director, Division of Project Review, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

D2. Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 97–18775 Filed 7–16–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application for Preliminary Permit

July 11, 1997.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 11604–000.

c. *Date filed:* May 1, 1997.

d. *Applicant:* San Diego County Water Authority.

e. *Name of Project:* Olivenhain/Lake Hodges Pumped-Storage Project.

f. *Location:* Lake Hodges on the San Dieguito River, in San Diego County, CA.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r),

h. *Applicant Contact:* Mr. Kenneth A. Steele, San Diego County Authority, 3211 Fifth Avenue, San Diego, CA 84606, (619) 682–4135.

i. *FERC Contact:* Mr. Robert Bell, (202) 219–2806.

j. *Comment Date:* September 10, 1997.

k. *Description of Project:* The proposed pumped storage project would consist of: (1) The 320-foot-high Olivenhain Dam forming a 200-acre upper reservoir; (2) a 4,000-foot-long water conveyance system, including tunnels, penstocks, and a vertical shaft; (3) a powerhouse containing four generating units with a total installed capacity of 500 MW; (4) the City of San Diego's existing 130-foot-high Lake Hodges Dam and 1,200-acre Lake Hodges Reservoir serving as a lower reservoir; (5) a 3.3-mile-long transmission line and (6) appurtenant facilities.

1. *This notice also consists of the following standard paragraphs:* A5, A7, A9, A10, B, C, and D2.

A5. Preliminary Permit—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36).

Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

A7. Preliminary Permit—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

A9. Notice of intent—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

A10. Proposed Scope of Studies under Permit preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

B. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

C. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS'', ''NOTICE OF INTENT TO FILE COMPETING APPLICATION'', ''COMPETING APPLICATION'', ''PROTEST'', ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. An additional copy must be sent to Director, Division of Project Review, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

D2. Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Linwood A. Watson, Jr.

Acting Secretary.

[FR Doc. 97–18776 Filed 7–16–97; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5859–2]

Availability of FY 96 Grant Performance Reports for Alabama, Florida, Kentucky, Mississippi, North Carolina, South Carolina, and Tennessee

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability of grantee performance evaluation reports.

SUMMARY: EPA's grant regulations (40 CFR 35.150) require the Agency to evaluate the performance of agencies which receive grants. EPA's regulations for regional consistency (40 CFR 56.7) require that the Agency notify the public of the availability of the reports of such evaluations. EPA recently performed end-of-year evaluations of seven state air pollution control programs (Alabama Department of Environmental Management, Florida Department of Environmental Protection, Kentucky Department for Environmental Protection, Mississippi Bureau of Pollution Control, North Carolina Department of Environment, Health, and Natural Resources, South Carolina Department of Health and Environmental Control and Tennessee Department of Conservation and Environment), and 16 local programs (Knox County Department of Air Pollution Control, Tn—Chattanooga-Hamilton County Air Pollution Control Bureau, Tn—Memphis-Shelby County Health Department, Tn—Nashville-Davidson County Metropolitan Health Department, Tn—Jefferson County Air Pollution Control District, Ky—Western North Carolina Regional Air Pollution Control Agency, NC—Mecklenburg County Department of Environmental Protection, NC—Forsyth County Environmental Affairs Department, NC—Palm Beach County Public Health Unit, Fl—Hillsborough County Environmental Protection Commission, Fl—Dade County Environmental Resources Management, Fl—Jacksonville Air Quality Division, Fl—Broward County Environmental Quality Control Board, Fl—Pinellas County Department of Environmental Management, Fl—City of Huntsville Department of Natural Resources, Al—Jefferson County Department of Health, Al). The State of Georgia's evaluation will be made available for public review at a later date. These audits were conducted to assess the agencies' performance under the grants made to them by EPA pursuant to section 105 of the Clean Air Act. EPA Region 4, has prepared reports for the twenty-three agencies identified above and these 105 reports are now available for public inspection.

ADDRESSES: The reports may be examined at the EPA's Region 4 office, 61 Forsyth Street, SW, Atlanta, Georgia 30303, in the Air, Pesticides, and Toxics Management Division.

FOR FURTHER INFORMATION CONTACT: Linda Thomas, (404) 562–9064, at the above Region 4 address, for information concerning States of Alabama, Florida, Mississippi, Georgia, and local agencies. Vera Bowers, (404) 562–9053, at the above Region 4 address, for information concerning the States of Kentucky, North Carolina, South Carolina, Tennessee and local agencies.

Dated: July 9, 1997.

Michael V. Peyton,

Acting Regional Administrator.

[FR Doc. 97–18859 Filed 7–16–97; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission

July 10, 1997.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s), as required by the Paperwork Reduction Act of 1995, Pub. L. 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written comments should be submitted on or before September 15,1997. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all comments to Judy Boley, Federal Communications Commission, Room 234, 1919 M St., N.W., Washington, DC 20554 or via internet to jboley@fcc.gov.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collections contact Judy Boley at 202–418–0214 or via internet at jboley@fcc.gov.

SUPPLEMENTARY INFORMATION:

OMB Approval No.: 3060–0370.

Title: Part 32—Uniform System of Accounts for Telecommunications Companies.

Form No.: N/A.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit entities.

Number of Respondents: 239 respondents.

Estimated Hour Per Response: 12,685 hours per recordkeeper/response.

Frequency of Response: On occasion reporting and recordkeeping requirement.

Estimated Total Annual Burden: 3,031,838 hours.

Needs and Uses: The Uniform System of Accounts is a historical financial accounting system which reports the results of operational and financial events in a manner which enables both management and regulators to assess these results within a specified accounting period. Subject respondents are telecommunications companies. Entities having annual revenues from regulated telecommunications operations of less than $100 million are designated as Class B companies and are subject to a less detailed accounting system than those designated as Class A companies. Part 32 imposes essentially recordkeeping requirements. The reporting requirements contained in the rulepart are sporadic or initiated by the carriers. Part 32 has been revised. For example, in CC Docket 96–60, the Commission raised the expense limit in Section 32.20000(a)(4) from $500 to $2,000, with one exception related to personal computers recorded in Account 2121, General purpose computers.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 97–18826 Filed 7–16–97; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Public Information Collections Approved by Office of Management and Budget

July 11, 1997.

The Federal Communications Commission (FCC) has received Office of Management and Budget (OMB) approval for the following public information collections pursuant to the Paperwork Reduction Act of 1995, Pub. L. 104–13. An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid control number. For further information contact Shoko B. Hair, Federal Communications Commission, (202) 418–1379.

Federal Communications Commission

OMB Control No.: 3060–0704.

Expiration Date: 06/30/2000.

Title: Policy and Rules Concerning the Interstate, Interexchange Marketplace; Implementation of Section 254(g) of the Communications Act of 1934, as amended—CC Docket No. 96–61.

Form No.: N/A.

Estimated Annual Burden: 519 respondents; 266.2 hours per response (avg.); 138,175 total annual burden hours for all collections.

Estimated Annual Reporting and Recordkeeping Cost Burden: $435,000.00.

Frequency of Response: On occasion; one-time requirement.

Description: In the *Second Report and Order* (Order) issued in CC Docket No. 96–61, the Commission eliminated the requirement that nondominant interexchange carriers file tariffs for interstate, domestic, interexchange telecommunications services. In order to facilitate enforcement of such carriers' statutory obligation to geographically average and integrate their rates, and to make it easier for customers to compare carriers' service offerings, the Order requires affected carriers to maintain, and to make available to the public in at least one location, information concerning their rates, terms and conditions for all of their interstate, domestic interexchange services. The information collected under the tariff cancellation requirement must be disclosed to the Commission, and will be used to implement the Commission's detariffing policy. The information collected under the recordkeeping and certification requirements will be used by the Commission to ensure that affected interexchange carriers fulfill their obligations under the Communications Act, as amended. The information collected under the information disclosure requirement must be provided to third parties, and will be used to ensure that such parties have adequate information to bring to the Commission's attention any violations of the geographic rate averaging and rate integration requirements of Section 254(g) of the Communications Act, as amended. Response is mandatory.

Requirement	No. of respondents	Hours per response	Total hours
a. Tariff Cancellation	519	143.7	74,598
b. Information Disclosure	519	120	62,280
c. Recordkeeping	519	2	1,038
d. Certification	519	1/2	259.5

OMB Control No.: 3060–0463.

Expiration Date: 07/31/2000.

Title: Telecommunications Services for Individuals with Hearing and Speech Disabilities and the Americans with Disabilities Act of 1990—CC Docket No. 90–571.

Form No.: N/A.

Estimated Annual Burden: 72 respondents; 112.6 hours per response (avg.); 8,110 total annual burden for all collections.

Estimated Annual Reporting and Recordkeeping Cost Burden: $0.

Frequency of Response: On occasion; every five years.

Description: Section 225 of the Communications Act of 1934, as amended, 47 U.S.C. Section 225, enacted in 1990 as Title IV of the Americans with Disabilities Act, Pub. L. 101–336, requires the Commission to promulgate regulations that require all common carriers to provide telecommunications relay services (TRS) for callers with hearing and speech disabilities throughout their service areas, by July 26, 1993. Accordingly, the Commission adopted regulations for the provision of TRS at 47 CFR Sections 64.601–605. These regulations contain operational, technical and functional standards required of all telecommunications relay services (TRS) providers, set up an interstate funding mechanism (TRS Fund) for the recovery of interstate TRS costs, and also set forth the procedures for state certification and for filing complaints involving TRS. 47 CFR Section 64.605 describes the state TRS certification procedures. State documentation must: (1) establish that the State meets or exceed all operational, technical and functional minimum standards contained in Section 64.604; (2) establish that the program makes available adequate procedures and remedies for enforcing the requirements of the state program; and (3) establish that its program in no way conflicts with federal law, where a state program exceeds the mandatory minimum standards. See 47 CFR Section 65.605(b). State certification remains in effect for five years, unless the certification is suspended or revoked (see 47 CFR Section 64.605(c) and (e)). One year prior to the expiration of certification, a state may apply for renewal of its certification, and such renewal process will proceed in the same manner as the original certification. Current state TRS certifications will expire on July 26, 1998, and beginning July 26, 1997, states will be allowed to apply for renewal. 47 CFR Section 64.604(c)(5) also establishes complaint procedures for TRS. Information submitted in response to the state certification program will be used to determine whether the program is certifiable under federal requirements. Information submitted by complainants will be used to determine the merits of the complaints, and to attempt resolution. Your response is required to obtain or retain benefits.

Requirement	No. of respondents	Hours per response	Total hours
a. State Certification/Recertification	50	160	8000
b. Complaint Process	22	5	110

Public reporting burden for the collections of information is as noted above. Send comments regarding the burden estimate or any other aspect of the collections of information, including suggestions for reducing the burden to Performance Evaluation and Records Management, Washington, D.C. 20554.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 97–18884 Filed 7–16–97; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[PR Docket No. 92–235]

Petitions for Reconsideration and Clarification

AGENCY: Federal Communications Commission.

ACTION: Notice: correction.

FOR FURTHER INFORMATION CONTACT: Charles Alston (202) 418–0270.

SUMMARY: This document corrects Report No. 2200 regarding petitions for reconsideration and clarification published in the **Federal Register** on June 4, 1997, (FR Doc 97–14472). On page 30587, column one, the number of petitions filed is corrected to read 14 instead of 13.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 97–18825 Filed 7–16–97; 8:45 am]

BILLING CODE 6712–01–M

FEDERAL ELECTION COMMISSION

Sunshine Act Meeting

AGENCY: Federal Election Commission.

DATE AND TIME: Tuesday, July 22, 1997 at 10:00 a.m.

PLACE: 999 E Street, N.W., Washington, D.C.

STATUS: This meeting will be closed to the public.

ITEMS TO BE DISCUSSED:

Compliance matters pursuant to 2 U.S.C. § 437g.

Audits conducted pursuant to 2 U.S.C. § 437g, § 438(b), and Title 26, U.S.C.

Matters concerning participation in civil actions or proceedings or arbitration.

Internal personnel rules and procedures or matters affecting a particular employee.

DATE AND TIME: Thursday, July 24, 1997 at 10:00 a.m.

PLACE: 999 E Street, N.W. Washington, D.C. (ninth floor).

STATUS: This meeting will be open to the public.

ITEMS TO BE DISCUSSED:

Correction and Approval of Minutes.

Report of the Audit Division on Pete Wilson for President Committee (originally scheduled for the meeting of July 17, 1997).

Advisory Opinion 1997–11: Representative Lucille Roybal-Allard.

Advisory Opinion 1997–12: Representative Jerry Costello by counsel, Jeffrey D. Colman.

Administrative Matters.

PERSON TO CONTACT FOR INFORMATION: Mr. Ron Harris, Press Officer, Telephone: (202) 219–4155.

Marjorie W. Emmons,

Secretary of the Commission.

[FR Doc. 97–18956 Filed 7–15–97; 10:56 am]

BILLING CODE 6715–01–M

FEDERAL HOUSING FINANCE BOARD

[No. 97–N–4]

Federal Home Loan Bank Members Selected for Community Support Review

AGENCY: Federal Housing Finance Board.

ACTION: Notice.

SUMMARY: The Federal Housing Finance Board (Finance Board) is announcing the Federal Home Loan Bank (FHLBank) members it has selected for the 1996–97 sixth quarter review cycle under the Finance Board's community support requirement regulation. This notice also prescribes the deadline by which FHLBank members selected for review must submit Community Support Statements to the Finance Board.

DATES: FHLBank members selected for the 1996–97 sixth quarter review cycle under the Finance Board's community support requirement regulation must submit completed Community Support Statements to the Finance Board on or before September 2, 1997.

ADDRESSES: FHLBank members selected for the 1996–97 sixth quarter review cycle under the Finance Board's community support requirement regulation must submit completed Community Support Statements to the Finance Board either by regular mail: Office of Supervision, Federal Housing Finance Board, 1777 F Street, N.W., Washington, D.C. 20006; or by electronic mail: COMSUP@FHFB.GOV.

FOR FURTHER INFORMATION CONTACT: Penny S. Bates, Program Analyst, Office of Supervision, at 202/408–2574; at the following electronic mail address: COMSUP@FHFB.GOV; or at the Federal Housing Finance Board, 1777 F Street, N.W., Washington, D.C. 20006. A telecommunications device for deaf persons (TDD) is available at 202/408–2579.

SUPPLEMENTARY INFORMATION:

I. Selection for Community Support Review

Section 10(g)(1) of the Federal Home Loan Bank Act (Bank Act) requires the Finance Board to promulgate regulations establishing standards of community investment or service that FHLBank members must meet in order to maintain access to long-term advances. *See* 12 U.S.C. 1430(g)(1). The regulations promulgated by the Finance Board must take into account factors such as the FHLBank member's performance under the Community Reinvestment Act of 1977 (CRA), 12 U.S.C. 2901 *et seq.*, and record of lending to first-time homebuyers. *See* 12 U.S.C. 1430(g)(2). Pursuant to the requirements of section 10(g) of the Bank Act, the Finance Board amended its community support requirement regulation effective June 30, 1997. *See* 62 FR 28983 (May 29, 1997), *codified at* 12 CFR part 936.

As amended, the community support requirement regulation establishes standards a FHLBank member must meet in order to maintain access to long-term advances, and the review criteria the Finance Board must apply in evaluating a member's community support performance. *See* 12 CFR 936.3. The regulation includes standards and criteria for the two statutory factors—CRA performance and record of lending to first-time homebuyers. *Id.* Only members subject to the CRA must meet the CRA standard. *Id.* § 936.3(b). All members, including those not subject to CRA, must meet the first-time homebuyer standard. *Id.* § 936.3(c).

Under the rule, the Finance Board selects approximately one-eighth of the members in each FHLBank district for community support review each calendar quarter. *Id.* § 936.2(a). The Finance Board will not review an institution's community support performance until it has been a FHLBank member for at least one year. Selection for review is not, nor should it be construed as, any indication of either the financial condition or the community support performance of the member.

Each FHLBank member selected for review must complete a Community Support Statement and submit it to the Finance Board by the September 2, 1997 deadline prescribed in this notice. *Id.* § 936.2(b)(ii), (c). On or before August 1, 1997, each FHLBank will notify the members in its district that have been selected for the 1996–97 sixth quarter community support review cycle that they must complete and submit to the Finance Board by the deadline a Community Support Statement. *Id.* § 936.2(b)(2)(i). The member's FHLBank will provide a blank Community Support Statement Form, which also is available on the Finance Board's web site: WWW.FHFB.GOV. Upon request, the member's FHLBank also will provide assistance in completing the Community Support Statement.

The Finance Board has selected the following members for the 1996–97 sixth quarter community support review cycle:

Member	City	State
Federal Home Loan Bank of Boston—District 1		
Charter Oak Federal Credit Union	Groton	CT
Salisbury Bank and Trust Company	Lakeville	CT
New Milford Bank and Trust Company	New Milford	CT
Chelsea Groton Savings Bank	Norwich	CT
Dime Savings Bank of Norwich	Norwich	CT
Savings Bank of Rockville	Rockville	CT
Bank of South Windsor	South Windsor	CT
Thomaston Savings Bank	Thomaston	CT
North American Bank and Trust Company	Waterbury	CT
Wilton Bank	Wilton	CT
Asian American Bank and Trust Company	Boston	MA
Community Bank	Brockton	MA
Bay State Federal Savings Bank	Brookline	MA

Member	City	State
Chicopee Savings Bank	Chicopee	MA
Weymouth Co-operative Bank	East Weymouth	MA
Dukes County Savings Bank	Edgartown	MA
Foxborough Savings Bank	Foxboro	MA
MetroWest Bank	Framingham	MA
Gloucester Bank & Trust Company	Gloucester	MA
Hudson Savings Bank	Hudson	MA
Lee Bank	Lee	MA
Lenox Savings Bank	Lenox	MA
Washington Savings Bank	Lowell	MA
Community Credit Union of Lynn	Lynn	MA
Eastern Bank	Lynn	MA
National Grand Bank of Marblehead	Marblehead	MA
Summit Bank	Medway	MA
Nantucket Bank	Nantucket	MA
Middlesex Savings Bank	Natick	MA
First and Ocean National Bank	Newburyport	MA
Newburyport Five Cents Savings Bank	Newburyport	MA
North Easton Savings Bank	North Easton	MA
Norwood Co-operative Bank	Norwood	MA
Seamen's Bank	Provincetown	MA
Hibernia Savings Bank	Quincy	MA
Granite Savings Bank	Rockport	MA
Rockport National Bank	Rockport	MA
Roslindale Co-operative Bank	Roslindale	MA
Somerset Savings Bank	Somerville	MA
Bank of Western Massachusetts	Springfield	MA
Watertown Savings Bank	Watertown	MA
Kennebec Savings Bank	Augusta	ME
Bath Savings Institution	Bath	ME
Barco Federal Credit Union	Hampden	ME
Kingfield Bank	Kingfield	ME
Androscoggin Savings Bank	Lewiston	ME
Livermore Falls Trust Company	Livermore Falls	ME
Key Bank of Maine	Portland	ME
Saco and Biddeford Savings Institution	Saco	ME
Sanford Institution for Savings	Sanford	ME
Atlantic Bank National Association	South Portland	ME
First Colebrook Bank	Colebrook	NH
New Hampshire Federal Credit Union	Concord	NH
Laconia Savings Bank	Laconia	NH
Granite Savings Bank and Trust Company	Barre	VT
Federal Home Loan Bank of New York—District 2		
Haddon Savings and Loan Association	Haddon Heights	NJ
Monarch Savings Bank, FSB	Kearny	NJ
Trenton Savings Bank	Lawrenceville	NJ
New Community Federal Credit Union	Newark	NJ
Midland Bank and Trust Company	Paramus	NJ
Rahway Savings Institution	Rahway	NJ
Interchange State Bank	Saddle Brook	NJ
Minotola National Bank	Vineland	NJ
Albion Federal Savings & Loan Association	Albion	NY
Bath National Bank	Bath	NY
Flatbush FS&LA of Brooklyn	Brooklyn	NY
Manufacturers and Traders Trust Company	Buffalo	NY
Landmark Community Bank	Canajoharie	NY
Ontario National Bank of Clifton Springs	Clifton Springs	NY
First National Bank of Cortland	Cortland	NY
Champlain National Bank	Elizabethtown	NY
Fairport Savings & Loan Association	Fairport	NY
Highland Falls FS&LA	Highland Falls	NY
Steuben Trust Company	Hornell	NY
Ulster Savings Bank	Kingston	NY
Suffolk Federal Credit Union	Medford	NY
Atlantic Bank of New York	New York	NY
European American Bank	New York	NY
Habib American Bank	New York	NY
Merchants Bank	New York	NY
Sterling National Bank and Trust Company	New York	NY
Sleepy Hollow National	N. Tarrytown	NY
Bank of Richmondville	Richmondville	NY
Rome Savings Bank	Rome	NY

Member	City	State
Trustco Bank N.A.	Schenectady	NY
Solvay Bank	Solvay	NY
Troy Savings Bank	Troy	NY
Walden Savings Bank	Walden	NY
Banco Popular de Puerto Rico	San Juan	PR
Federal Home Loan Bank of Pittsburgh—District 3		
Apollo Trust Company	Apollo	PA
Farmers and Merchants Trust Company	Chambersburg	PA
Cambria County FS&LA	Cresson	PA
Premier Bank	Doylestown	PA
Elderton State Bank	Elderton	PA
East Penn Bank	Emmaus	PA
PFC Bank	Ford City	PA
First National Bank of Fredericksburg	Fredericksburg	PA
PeoplesBank, a Codurus Valley Company	Glen Rock	PA
Gratz National Bank	Gratz	PA
Harleysville National Bank & Trust Company	Harleysville	PA
Dauphin Deposit Bank and Trust Company	Harrisburg	PA
Harris Savings Bank	Harrisburg	PA
Irwin Bank and Trust Company	Irwin	PA
Farmers National Bank	Kittanning	PA
LA Bank, N.A.	Lake Ariel	PA
Bank of Landisburg	Landisburg	PA
First National Bank of Liverpool	Liverpool	PA
Miners Bank of Lykens	Lykens	PA
Mars National Bank	Mars	PA
Fulton County National Bank & Trust Company	McConnellsburg	PA
Union National Bank of Mount Carmel	Mount Carmel	PA
Nazareth National Bank and Trust Company	Nazareth	PA
First Federal Savings Bank of New Castle	New Castle	PA
New Tripoli National Bank	New Tripoli	PA
National Bank of North East	North East	PA
NBO National Bank	Olyphant	PA
Jefferson Bank	Philadelphia	PA
Police and Fire Federal Credit Union	Philadelphia	PA
Reliance Standard Life Insurance Company	Philadelphia	PA
St. Edmond's Federal Savings Bank	Philadelphia	PA
Phoenixville FS&LA	Phoenixville	PA
PNC Mortgage Bank, N.A.	Pittsburgh	PA
Portage National Bank	Portage	PA
Security National Bank	Pottstown	PA
Sun Bank	Selinsgrove	PA
Guaranty Bank, N.A.	Shamokin	PA
Orrstown Bank	Shippensburg	PA
Bucktail Bank and Trust Company	Williamsport	PA
Jersey Shore State Bank	Williamsport	PA
Progressive Bank, N.A.—Buckhannon	Buckhannon	WV
First Exchange Bank	Mannington	WV
One Valley Bank—North, Inc.	Moundsville	WV
First Community Bank of Mercer County, Inc.	Princeton	WV
F&M Bank-Blakeley	Ranson	WV
First National Bank of Romney	Romney	WV
Ameribank	Welch	WV
Federal Home Loan Bank of Atlanta—District 4		
AuburnBank	Auburn	AL
Bank of the South	Dothan	AL
First Commercial Bank of Huntsville	Huntsville	AL
Peachtree Bank	Maplesville	AL
North Jackson Bank	Stevenson	AL
National Bank of the South	Tuscaloosa	AL
Liberty National Bank	Bradenton	FL
Riverside National Bank	Fort Pierce	FL
First City Bank of Fort Walton	Ft. Walton Beach	FL
First National Bank and Trust	Ft. Walton Beach	FL
First Northwest Florida Bank	Ft. Walton Beach	FL
Dadeland Bank	Miami	FL
PineBank	Miami	FL
SunTrust Bank, Miami, N.A.	Miami	FL
First National Bank of Florida	Milton	FL
Palm Beach National Bank and Trust Company	N. Palm Beach	FL

Member	City	State
Horizon Bank of Florida	Pensacola	FL
Citizens Federal Savings Bank of Port St. Joe	Port St. Joe	FL
Enterprise National Bank of Sarasota	Sarasota	FL
Seminole Bank	Seminole	FL
Bank of Tampa	Tampa	FL
First Commercial Bank of Tampa	Tampa	FL
Indian River National Bank	Vero Beach	FL
First National Bank of South Georgia, N.A.	Albany	GA
First American Bank and Trust Company	Athens	GA
First National Bank of Union County	Blairsville	GA
Fannin County Bank, N.A.	Blue Ridge	GA
First National Bank of Grady County	Cairo	GA
Bank of Covington	Covington	GA
First State Bank of Randolph County	Cuthbert	GA
Fairburn Banking Company	Fairburn	GA
First Citizens Bank of Fayette County	Fayetteville	GA
Georgia First Bank	Gainesville	GA
Central and Southern Bank of Greensboro	Greensboro	GA
Farmers and Merchants Bank	Lakeland	GA
Bank of Madison	Madison	GA
Premier Bank	Marietta	GA
Southwest Georgia Bank	Moultrie	GA
First Citizens Bank	Newnan	GA
Carver State Bank	Savannah	GA
Smyrna Bank and Trust Company	Smyrna	GA
First State Bank	Stockbridge	GA
Bank of Upson	Thomaston	GA
Farmers Bank of Maryland	Annapolis	MD
Kopernik Federal Savings Association	Baltimore	MD
Liberty Federal Savings & Loan Association	Baltimore	MD
Slavie Federal Savings & Loan Association	Baltimore	MD
Rushmore Trust and Savings, F.S.B.	Bethesda	MD
Chesapeake Bank and Trust Company	Chestertown	MD
Chestertown Bank of Maryland	Chestertown	MD
American Trust Bank	Cumberland	MD
FCNB	Frederick	MD
First Bank of Frederick	Frederick	MD
Hagerstown Trust Company	Hagerstown	MD
Lafayette Federal Credit Union	Kensington	MD
First United National Bank and Trust	Oakland	MD
National Bank of Rising Sun	Rising Sun	MD
Taneytown Bank and Trust Company	Taneytown	MD
Bank of Stanly	Albemarle	NC
Home Savings Bank of Albemarle, SSB	Albemarle	NC
Bank of Mecklenburg	Charlotte	NC
Self-Help Credit Union	Durham	NC
Gibsonville Community Savings Bank, SSB	Gibsonville	NC
Farmers and Merchants Bank	Granite Quarry	NC
Mocksville Savings Bank, SSB	Mocksville	NC
Central Community Bank	Murphy	NC
Randleman Savings Bank, S.S.B.	Randleman	NC
Carolina State Bank	Shelby	NC
First National Bank of Shelby	Shelby	NC
Bank of Charleston, N.A.	Charleston	SC
Investors Savings Bank of South Carolina	Florence	SC
Farmers & Merchants Bank of South Carolina	Holly Hill	SC
Pee Dee State Bank	Timmonsville	SC
Poinsett Bank, F.S.B.	Travelers Rest	SC
Bank of Northern Virginia	Arlington	VA
Telebank	Arlington	VA
American National Bank and Trust Company	Danville	VA
George Mason Bank	Fairfax	VA
Bank of Ferrum	Ferrum	VA
Premier Bank-Central, N.A.	Honaker	VA
Marshall National Bank and Trust Company	Marshall	VA
Middleburg Bank	Middleburg	VA
First Sentinel Bank	Richlands	VA
First Bank	Strasburg	VA
Bank of Essex	Tappahannock	VA
Princess Anne Bank	Virginia Beach	VA
F&M Bank-Peoples	Warrenton	VA
Northern Neck State Bank, Inc.	Warsaw	VA
Premier Bank, Inc.	Wytheville	VA

Member	City	State
Federal Home Loan Bank of Cincinnati—District 5		
Nelson County Federal Savings and Loan	Bardstown	KY
Bedford Loan and Deposit Bank	Bedford	KY
Berea National Bank	Berea	KY
South Central Bank of Bowling Green	Bowling Green	KY
Meade County Bank	Brandenburg	KY
Campbellsville National Bank	Campbellsville	KY
First National Bank of Carlisle	Carlisle	KY
Edmonton State Bank	Edmonton	KY
Fifth Third Bank of Northern Kentucky, Inc.	Florence	KY
First Security Bank and Trust, McLean	Island	KY
Lawrenceburg National Bank	Lawrenceburk	KY
Farmers National Bank	Lebanon	KY
Fifth Third Bank of Kentucky, Inc.	Louisville	KY
Jefferson Banking Company	Louisville	KY
Community First Bank	Mount Olivet	KY
Princeton FS&LA	Princeton	KY
Citizens National Bank	Russellville	KY
Bank of McCreary County	Whitley City	KY
Williamsburg National Bank	Williamsburg	KY
Pioneer Federal Savings Bank	Winchester	KY
Graves CoBank	Wingo	KY
First National Bank of Ohio	Akron	OH
Bellevue Fed. C.U.	Bellevue	OH
Bethel Building and Loan Company	Bethel	OH
Equitable Savings and Loan Company	Cadiz	OH
United National Bank and Trust Company	Canton	OH
Harvest Home Savings Bank	Cheviot	OH
Cin Fed Employees Federal Credit Union	Cincinnati	OH
Lenox Savings Bank	Cincinnati	OH
Mt. Washington Savings & Loan Company	Cincinnati	OH
PNC Bank, Ohio, N.A.	Cincinnati	OH
Star Bank, N.A.	Cincinnati	OH
Shore Bank and Trust Company	Cleveland	OH
Premier Bank and Trust	Elyria	OH
Community First Bank, N.A.	Forest	OH
First Ohio Credit Union, Inc.	Fostoria	OH
Galion Building and Loan Association	Galion	OH
Greenville National Bank	Greenville	OH
Second National Bank	Greenville	OH
Citizens Loan & Savings Company	London	OH
First FS&LA of Lorain	Lorain	OH
Dime Bank	Marietta	OH
Daymon Federal Credit Union	Miamisburg	OH
New Richmond National Bank	New Richmond	OH
Citizens National Bank of Norwalk	Norwalk	OH
Ripley Federal Savings and Loan Association	Ripley	OH
Ripley National Bank	Ripley	OH
First National Bank of Shelby	Shelby	OH
Strasburg Savings and Loan	Strasburg	OH
Century Savings Bank	Upper Arlington	OH
Peoples Savings Bank	Urbana	OH
First Federal Savings and Loan Association	Van Wert	OH
Van Wert National Bank	Van Wert	OH
Second National Bank of Warren	Warren	OH
Trumbull Savings and Loan Company	Warren	OH
Perpetual Savings Bank	Wellsville	OH
Peoples Savings Bank	Xenia	OH
First Federal Savings Bank of Eastern Ohio	Zanesville	OH
Citizens National Bank	Athens	TN
Heritage Bank	Clarksville	TN
Bank of Putnam County	Cookeville	TN
Farmer's Bank	Cornersville	TN
First National Bank of Crossville	Crossville	TN
First Federal Savings Bank	Dickson	TN
Carter County Bank of Elizabethton	Elizabethton	TN
Union Planters Bank	Erin	TN
Jackson County Bank	Gainesboro	TN
Gates Banking and Trust Company	Gates	TN
Tennessee State Bank	Gatlinburg	TN
Bank of Goodlettsville	Goodlettsville	TN
Greene County Bank	Greeneville	TN
Bank of Halls	Halls	TN

Member	City	State
Commercial Bank	Harrogate	TN
CommunityFirst Bank	Hartsville	TN
Volunteer Bank	Jackson	TN
Union Bank	Jamestown	TN
Bank of Tennessee	Kingsport	TN
Central State Bank	Lexington	TN
First Bank	Lexington	TN
Enterprise National Bank	Memphis	TN
Tennessee Bank and Trust	Memphis	TN
Bank of Milan	Milan	TN
Cavalry Banking, FSB	Murfreesboro	TN
Commercial Bank and Trust Company	Paris	TN
Farmers Bank	Portland	TN
Central Bank	Savannah	TN
First Community Bank of Bedford County	Shelbyville	TN
Farmers and Merchants Bank	Trezevant	TN
American City Bank of Tullahoma	Tullahoma	TN
Reelfoot Bank	Union City	TN
Bank of Commerce	Woodbury	TN
Federal Home Loan Bank of Indianapolis—District 6		
Workingmens ONB Bank	Bloomington	IN
First National Bank	Cloverdale	IN
First Federal Bank, a F.S.B.	Corydon	IN
CSB Bank	Cynthiana	IN
Blue River Federal Savings Bank	Edinburgh	IN
Bright National Bank	Flora	IN
Grabill Bank	Grabill	IN
Fifth Third Bank of Central Indiana	Indianapolis	IN
First of America Bank-Indiana	Indianapolis	IN
Investors Life Insurance Company	Indianapolis	IN
Landmark Savings Bank, F.S.B	Indianapolis	IN
Meridian Mutual Insurance Company	Indianapolis	IN
Meridian Security Insurance Company	Indianapolis	IN
Peoples Bank and Trust Company	Indianapolis	IN
Union Federal Savings Bank of Indianapolis	Indianapolis	IN
Vernon Fire and Casualty Insurance Company	Indianapolis	IN
First FS&LA of Clark County	Jeffersonville	IN
Lafayette Savings Bank, F.S.B	Lafayette	IN
Peoples Savings & Loan Association	Monticello	IN
First State Bank	Morgantown	IN
New Washington State Bank	New Washington	IN
First Citizens State Bank	Newport	IN
Citizens State Bank of Petersburg	Petersburg	IN
United Southwest Bank	Washington	IN
Bank of Alma	Alma	MI
Great Lakes Bancorp, a FSB	Ann Arbor	MI
Signature Bank	Bad Axe	MI
Lake-Osceola State Bank	Baldwin	MI
Central State Bank	Beulah	MI
Community Bank	Caro	MI
Eastern Michigan Bank	Croswell	MI
Home Federal Savings Bank	Detroit	MI
Northern Michigan Savings Bank	Escanaba	MI
State Bank of Ewen	Ewen	MI
Oakland Commerce Bank	Farmington Hills	MI
Grand Bank	Grand Rapids	MI
National Bank of Hastings	Hastings	MI
Valley Ridge Bank	Kent City	MI
FMB—Security Bank	Manistee	MI
Firstbank	Mount Pleasant	MI
First National Bank of Norway	Norway	MI
League Life Insurance Company	Southfield	MI
Sterling Bank and Trust, FSB	Southfield	MI
Macomb Federal Savings Bank	St. Clair Shores	MI
SJS Federal Savings Bank	St. Joseph	MI
The Empire National Bank of Traverse	Traverse City	MI
Federal Home Loan Bank of Chicago—District 7		
Amcore Bank Aledo	Aledo	IL
Merchants National Bank	Aurora	IL
National Bank of Commerce	Berkeley	IL

Member	City	State
Prairie Bank and Trust Company	Bridgeview	IL
Downstate National Bank	Brookport	IL
Cerro Gordo Building and Loan, s.b	Cerro Gordo	IL
First Commercial Bank	Chicago	IL
Firstar Bank Illinois	Chicago	IL
Marquette National Bank	Chicago	IL
South Shore Bank	Chicago	IL
Sterling Savings Bank	Chicago	IL
Resource Bank, N.A	DeKalb	IL
Du Quoin State Bank	Du Quoin	IL
Crossroads Bank	Effingham	IL
Midwest Bank and Trust Company	Elmwood Park	IL
Peoples National Bank	Grayville	IL
Heartland National Bank	Herrin	IL
Midwest Bank of Hinsdale	Hinsdale	IL
Jacksonville Savings Bank	Jacksonville	IL
Kankakee Federal Savings Bank	Kankakee	IL
Union Federal Savings and Loan Association	Kewanee	IL
Brickyard Bank	Lincolnwood	IL
Citizens National Bank of Macomb	Macomb	IL
First State Bank Maple Park	Maple Park	IL
Central National Bank of Mattoon	Mattoon	IL
Heartland Savings Bank	Mattoon	IL
First Suburban National Bank	Maywood	IL
Community National Bank of Metropolis	Metropolis	IL
Morris Building and Loan, S.B.	Morris	IL
Smith Trust and Savings Bank	Morrison	IL
Nokomis Savings Bank	Nokomis	IL
First Bank of Illinois	O'Fallon	IL
Orangeville Community Bank	Orangeville	IL
First National Bank of Pana	Pana	IL
First State Bank of Red Bud	Red Bud	IL
Capaha Bank	Tamms	IL
Bank of Illinois in DuPage	Villa Park	IL
North Shore Trust and Savings	Waukegan	IL
Waukegan Savings & Loan Association	Waukegan	IL
First FS&LA of Westchester	Westchester	IL
Prospect Federal Savings Bank	Worth	IL
First National Bank of Xenia	Xenia	IL
State Bank of Arcadia	Arcadia	WI
State Bank of Argyle	Argyle	WI
First National Bank of Barron	Barron	WI
Blackhawk State Bank	Beloit	WI
First National Bank of Berlin	Berlin	WI
Badger State Bank	Cassville	WI
State Bank of Chilton	Chilton	WI
Citizens State Bank	Clinton	WI
American Bank	Eau Claire	WI
F&M Bank—Fennimore	Fennimore	WI
American Bank of Fond du Lac	Fond du Lac	WI
Franklin State Bank	Franklin	WI
State Financial Bank	Hales Corners	WI
Peoples National Bank	Hayward	WI
Horicon State Bank	Horicon	WI
Farmers and Merchants Bank of Jefferson	Jefferson	WI
F&M Bank—Kaukauna	Kaukauna	WI
Farmers State Bank	Markesan	WI
Mid-Wisconsin Bank	Medford	WI
Lincoln State Bank	Milwaukee	WI
Mitchell Bank	Milwaukee	WI
Montello State Bank	Montello	WI
Bank of Monticello	Monticello	WI
Bank of New Glarus	New Glarus	WI
First National Bank of New Richmond	New Richmond	WI
The River Bank	Osceola	WI
F&M Bank—Potosi	Potosi	WI
Bank of Poynette	Poynette	WI
Heritage Bank and Trust	Racine	WI
Citizens Bank, N.A.	Shawano	WI
Shell Lake State Bank	Shell Lake	WI
First National Bank of St. Croix Falls	St. Croix Falls	WI
State Bank of Stockbridge	Stockbridge	WI
Westland Savings Bank, S.A.	Tomah	WI
The Equitable Bank, S.S.B.	Wauwatosa	WI

Member	City	State
ALLCO Credit Union	West Allis	WI
Fortress Bank of Westby	Westby	WI
Westby Co-op Credit Union	Westby	WI
Federal Home Loan Bank of Des Moines—District 8		
Ackley State Bank	Ackley	IA
Exchange State Bank	Adair	IA
First State Bank	Belmond	IA
Iowa State Savings Bank	Clinton	IA
Iowa State Savings Bank	Creston	IA
Security Bank and Trust Company	Decorah	IA
Allied Life Insurance Company	Des Moines	IA
Allied Mutual Insurance Company	Des Moines	IA
Amco Insurance Company	Des Moines	IA
AmerUS Life Insurance Company	Des Moines	IA
Norwest Bank Iowa, N.A.	Des Moines	IA
Liberty Bank and Trust	Forest City	IA
Grundy National Bank of Grundy Center	Grundy Center	IA
Hartwick State Bank	Hartwick	IA
Green Belt Bank and Trust	Iowa Falls	IA
First National Bank in LeMars	Le Mars	IA
First National Bank of Muscatine	Muscatine	IA
Citizens State Bank	Oakland	IA
First Bank and Trust Company	Rock Rapids	IA
First National Bank of Sioux Center	Sioux Center	IA
Security National Bank of Sioux City	Sioux City	IA
Citizens First National Bank of Storm Lake	Storm Lake	IA
First National Bank of Waverly	Waverly	IA
Peoples Savings Bank	Wellsburg	IA
Farm Bureau Life Insurance Company	West Des Moines	IA
Farm Bureau Mutual Insurance Company	West Des Moines	IA
State Bank	Worthington	IA
Atwater State Bank	Atwater	MN
Border State Bank	Badger	MN
First National Bank of Brewster	Brewster	MN
City-County Federal Credit Union	Brooklyn Center	MN
Buffalo National Bank	Buffalo	MN
Peoples Bank of Commerce	Cambridge	MN
First National Bank	Chisholm	MN
First State Bank of Eden Prairie	Eden Prairie	MN
Eitzen State Bank	Eitzen	MN
Marquette Bank, N.A.	Golden Valley	MN
First Security Bank—Hendricks	Hendricks	MN
First National Bank of Henning	Henning	MN
Jackson Federal Savings and Loan Association	Jackson	MN
Janesville State Bank	Janesville	MN
Citizens State Bank of Kelliher	Kelliher	MN
Security State Bank of Kenyon	Kenyon	MN
First Security Bank—Lake Benton	Lake Benton	MN
State Bank of Long Lake	Long Lake	MN
Lake County State Bank	Long Prairie	MN
United Prairie Bank	Madison	MN
Bank of Maple Plain	Maple Plain	MN
Superior Guaranty Insurance Company	Minneapolis	MN
First National Bank in Montevideo	Montevideo	MN
Mountain Iron First State Bank	Mountain Iron	MN
Citizens Bank of New Ulm	New Ulm	MN
State Bank and Trust Company of New Ulm	New Ulm	MN
Community National Bank	Northfield	MN
Minnwest Bank Ortonville	Ortonville	MN
Pine River State Bank	Pine River	MN
First Security Bank—Sanborn	Sanborn	MN
First American Bank, N.A.	St. Cloud	MN
Zapp National Bank of St. Cloud	St. Cloud	MN
Western Bank	St. Paul	MN
First State Bank of Wabasha	Wabasha	MN
Heritage Bank N.A.	Willmar	MN
Merchants National Bank of Winona	Winona	MN
First State Bank of Wyoming	Wyoming	MN
Bank of Zumbrota	Zumbrota	MN
Jefferson Savings and Loan Association	Ballwin	MO
Farmers and Traders Bank	California	MO
Boone County National Bank	Columbia	MO

Member	City	State
Tri County State Bank	El Dorado Springs	MO
Commercial Trust Company	Fayette	MO
Home Exchange Bank of Jamesport	Jamesport	MO
Jefferson Bank of Missouri	Jefferson City	MO
Central Bank of Kansas City	Kansas City	MO
Kearney Trust Company	Kearney	MO
Lawson Bank	Lawson	MO
United State Bank	Lewistown	MO
State Bank of Slater	Slater	MO
Citizens Bank of Sparta	Sparta	MO
Heritage Bank of St. Joseph	St. Joseph	MO
Southwest Bank of St. Louis	St. Louis	MO
First Community Bank	Windsor	MO
Security State Bank of Edgeley	Edgeley	ND
First American Bank, N.A.	Grand Forks	ND
Stutsman County State Bank	Jamestown	ND
Bank of Steele	Steele	ND
First National Bank of Valley City	Valley City	ND
Peoples State Bank	Westhope	ND
Security State Bank	Wishek	ND
Dakota State Bank	Blunt	SD
Security State Bank	Madison	SD
BankWest, Inc.	Pierre	SD
American Memorial Life Insurance Company	Rapid City	SD
Bank of South Dakota	Watertown	SD
First National Bank of White	White	SD
First Dakota National Bank	Yankton	SD
Federal Home Loan Bank of Dallas—District 9		
Bank of Cave City	Cave City	AR
First National Bank of Crossett	Crossett	AR
Farmers and Merchants Bank	Des Arc	AR
Simmons First National Bank of Dumas	Dumas	AR
National Bank of Commerce	El Dorado	AR
Bank of Arkansas	Fayetteville	AR
Greers Ferry Lake State Bank	Heber Springs	AR
First National Bank of Phillips County	Helena	AR
First Bank of Arkansas	Jonesboro	AR
Malvern National Bank	Malvern	AR
Merchants and Planters Bank	Manila	AR
McGehee Bank	McGehee	AR
Citizens National Bank	Nashville	AR
Merchants and Planters' Bank	Newport	AR
Farmers and Merchants Bank	Prairie Grove	AR
First United Bank	Stuttgart	AR
Commercial National Bank of Texarkana	Texarkana	AR
American Founders Life Insurance Company	Phoenix	AZ
Union Planters Bank of Louisiana	Baton Rouge	LA
Kaplan State Bank	Kaplan	LA
Sabine State Bank and Trust Company	Many	LA
Minden Bank and Trust Company	Minden	LA
Exchange Bank and Trust Company	Natchitoches	LA
Liberty Bank and Trust Company	New Orleans	LA
American Bank of Ruston, N.A.	Ruston	LA
Sicily Island State Bank	Sicily Island	LA
St. Martin Bank and Trust Company	St. Martinville	LA
Concordia Bank and Trust Company	Vidalia	LA
Evangeline Bank and Trust Company	Ville Platte	LA
Progressive State Bank and Trust Company	Winnsboro	LA
First Security Bank	Batesville	MS
Bank of the South	Crystal Springs	MS
Commercial Bank of DeKalb	DeKalb	MS
Community Bank of Mississippi	Forest	MS
Union Planters Bank of Southern Mississippi	Hattiesburg	MS
Community Bank	Indianola	MS
Lamar Life Insurance Company	Jackson	MS
Bank of Lucedale	Lucedale	MS
Great Southern National Bank	Meridian	MS
Newton County Bank	Newton	MS
First National Bank of Oxford	Oxford	MS
Citizens Bank	Philadelphia	MS
Peoples Bank and Trust Company	Tupelo	MS
Bank of Belen	Belen	NM

Member	City	State
Carlsbad National Bank	Carlsbad	NM
Community Bank	Espanola	NM
First National Bank of Farmington	Farmington	NM
Western Bank	Lordsburg	NM
Peoples Bank	Ranchos de Taos	NM
Centinel Bank of Taos	Taos	NM
Zia New Mexico Bank	Tucumcari	NM
First Community Bank, N.A.	Alice	TX
Amarillo National Bank	Amarillo	TX
First National Bank of Bastrop	Bastrop	TX
Burleson State Bank	Burleson	TX
National Bank of Daingerfield	Daingerfield	TX
Town North National Bank	Dallas	TX
First National Bank	Edinburg	TX
First National Bank	Fabens	TX
First National Bank	Fairfield	TX
Central Bank and Trust	Fort Worth	TX
First National Bank	Graham	TX
First State Bank	Granger	TX
First Bank	Houston	TX
First Community Credit Union	Houston	TX
First National Bank of Huntsville	Huntsville	TX
Norwest Bank Texas, Kerrville, N.A.	Kerrville	TX
Community Bank	Kirbyville	TX
Laredo National Bank	Laredo	TX
First State Bank of Livingston	Livingston	TX
First National Bank in Lockney	Lockney	TX
Franklin National Bank	Mount Vernon	TX
Norwest Bank Texas	New Braunfels	TX
San Antonio Federal Credit Union	San Antonio	TX
First National Bank of Sudan	Sudan	TX
State First National Bank	Texarkana	TX
Citizens National Bank	Victoria	TX
American Bank, N.A.	Waco	TX
Union Square Federal Credit Union	Wichita Falls	TX
Federal Home Loan Bank of Topeka—District 10		
FirstBank of Arvada, N.A.	Arvada	CO
FirstBank of Aurora, N.A.	Aurora	CO
FirstBank of Douglas County, N.A.	Castle Rock	CO
Western National Bank of Colorado	Colorado Springs	CO
Dove Creek State Bank	Dove Creek	CO
Bank Colorado Western Slope	Grand Junction	CO
First National Bank of Greeley	Greeley	CO
FirstBank of Lakewood, N.A.	Lakewood	CO
First Bank of Littleton, N.A.	Littleton	CO
Community Bank of Parker	Parker	CO
FirstBank of Silverthorne, N.A.	Silverthorne	CO
First National Bank of Colorado	Steamboat Springs	CO
First National Bank of Strasburg	Strasburg	CO
First National Bank	Telluride	CO
Weststar Bank	Vail	CO
FirstBank of Wheat Ridge, N.A.	Wheat Ridge	CO
First State Bank of Burlingame	Burlingame	KS
Farmers State Bank	Circleville	KS
Emporia State Bank and Trust Company	Emporia	KS
Home State Bank	Erie	KS
Union State Bank of Everest	Everest	KS
Emprise Bank, N.A.	Hillsboro	KS
First Community Bank	Kansas City	KS
Guaranty Bank and Trust	Kansas City	KS
Linn County Bank	La Cygne	KS
First National Bank & Trust Company in Larned	Larned	KS
Neodesha Savings and Loan Association, FSA	Neodesha	KS
The Bank	Oberlin	KS
Heritage Bank of Olathe	Olathe	KS
First National Bank of Onaga	Onaga	KS
First National Bank and Trust Company	Parsons	KS
First State Bank and Trust	Tonganoxie	KS
Capital City State Bank and Trust Company	Topeka	KS
Commerce Bank and Trust	Topeka	KS
Security Benefit Life Insurance Company	Topeka	KS
Boeing Wichita Employees Credit Union	Wichita	KS

Member	City	State
First National Bank and Trust Company	Beatrice	NE
Exchange Bank	Gibbon	NE
West Gate Bank	Lincoln	NE
Home State Bank	Louisville	NE
Bank of Mead	Mead	NE
Farmers and Merchants Bank	Milford	NE
Norwest Bank Nebraska, N.A.	Omaha	NE
First State Bank	Scottsbluff	NE
Cattle National Bank	Seward	NE
First National Bank of Unadilla	Unadilla	NE
First National Bank of Valentine	Valentine	NE
Charter West National Bank	West Point	NE
WestStar Bank	Bartlesville	OK
First National Bank of Chelsea	Chelsea	OK
Alfalfa County Bank	Cherokee	OK
Grand Federal Savings Bank	Grove	OK
Green Country FS&LA	Miami	OK
American Fidelity Assurance Company	Oklahoma City	OK
Liberty Bank and Trust of Oklahoma City, N.A.	Oklahoma City	OK
Weokie Credit Union	Oklahoma City	OK
American National Bank and Trust Company	Shawnee	OK
Liberty Bank and Trust Company of Tulsa, N.A.	Tulsa	OK
First National Bank & Trust Company	Weatherford	OK
First National Bank in Wewoka	Wewoka	OK
Federal Home Loan Bank of San Francisco—District 11		
Heritage Bank	Phoenix	AZ
Norwest Bank Arizona, N.A.	Phoenix	AZ
Western Sierra National Bank	Cameron Park	CA
First Central Bank, N.A.	Cerritos	CA
First Pacific National Bank	Escondido	CA
EurekaBank, a FSB	Foster City	CA
Farmers and Merchants Bank Central California	Lodi	CA
Southern Pacific Thrift & Loan Association	Los Angeles	CA
Western Bank	Los Angeles	CA
County Bank	Merced	CA
Standard Pacific Savings, F.A.	Newport Beach	CA
CivicBank of Commerce	Oakland	CA
Redlands Federal Bank	Redlands	CA
Bay Area Bank	Redwood City	CA
Culver National Bank	Riverside	CA
Central Sierra Bank	San Andreas	CA
Bank of San Francisco	San Francisco	CA
Sequoia National Bank	San Francisco	CA
Santa Barbara Bank and Trust	Santa Barbara	CA
Coast Commercial Bank	Santa Cruz	CA
Del Amo Savings Bank, FSB	Torrance	CA
Comstock Bank	Reno	NV
Federal Home Loan Bank of Seattle—District 12		
Honolulu City & County Employees FCU	Honolulu	HI
Valley Bank of Belgrade	Belgrade	MT
Citizens Bank and Trust Company	Big Timber	MT
Rocky Mountain Bank	Billings	MT
Blackfeet National Bank	Browning	MT
Citizens State Bank of Choteau	Choteau	MT
Mountain West Bank of Helena, N.A.	Helena	MT
First Security Bank of Kalispell	Kalispell	MT
Bitterroot Valley Bank	Lolo	MT
Glacier National Bank	Whitefish	MT
Western Bank of Wolf Pointe	Wolf Pointe	MT
First National Bank of Layton	Layton	UT
Orem Community Bank	Orem	UT
Anchor Mutual Savings Bank	Aberdeen	WA
The Bank of Grays Harbor	Aberdeen	WA
Cascade Community Bank	Auburn	WA
Whatcom Educational Credit Union	Bellingham	WA
Security State Bank	Centralia	WA
North Cascades National Bank	Chelan	WA
Bank of Whitman	Colfax	WA
Islanders Bank	Friday Harbor	WA
Bank of Latah	Latah	WA

Member	City	State
Bank of the Pacific	Long Beach	WA
Washington Credit Union	Lynnwood	WA
First National Bank of Port Orchard	Port Orchard	WA
Credit Union of the Pacific	Seattle	WA
North Star Bank	Seattle	WA
WM Life Insurance Company	Seattle	WA
Home Security Bank	Sunnyside	WA
Bank of the West	Walla Walla	WA
Yakima Valley Credit Union	Yakima	WA
First National Bank of Wyoming	Laramie	WY
Bank of Lovell, N.A.	Lovell	WY
Rawlins National Bank	Rawlins	WY
First State Bank of Wheatland	Wheatland	WY

II. Public Comments

To encourage the submission of public comments on the community support performance of FHLBank members, on or before August 1, 1997, each FHLBank will notify its Advisory Council and nonprofit housing developers, community groups, and other interested parties in its district of the members selected for community support review in the 1996–97 sixth quarter review cycle. 12 CFR 936.2(b)(2)(ii). In reviewing a member for community support compliance, the Finance Board will consider any public comments it has received concerning the member. *Id.* § 936.2(d). To ensure consideration by the Finance Board, comments concerning the community support performance of members selected for the 1996–97 sixth quarter review cycle must be delivered to the Finance Board on or before the September 2, 1997 deadline for submission of Community Support Statements.

Date: July 9, 1997.

By the Federal Housing Finance Board.

William W. Ginsberg,

Managing Director.

[FR Doc. 97–18480 Filed 7–16–97; 8:45 am]

BILLING CODE 6725–01–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than August 1, 1997.

A. Federal Reserve Bank of Atlanta (Lois Berthaume, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303-2713:

1. Harold Edwin McGlasson, Karen Jane Veilon McGlasson, and Voorhies & Labbe Profit Sharing Plan, all of Lafayette, Louisiana; each to acquire an additional 8.62 percent, for a total of 32.35 percent each of the voting shares of Tri-Parish Bancshares, Ltd., Eunice, Louisiana, and thereby indirectly acquire Tri-Parish Bank, Eunice, Louisiana.

B. Federal Reserve Bank of Chicago (Philip Jackson, Applications Officer) 230 South LaSalle Street, Chicago, Illinois 60690-1413:

1. Jackson Boulevard Fund, Ltd., Chicago, Illinois; to acquire a total of 11.20 percent of the voting shares of Damen Financial Corporation, Schaumburg, Illinois, and thereby indirectly acquire Damen National Bank, Schaumburg, Illinois.

Board of Governors of the Federal Reserve System, July 14, 1997.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 97–18876 Filed 7–16–97; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Formations of, Acquisitions by, and Mergers of Bank Holding Companies; Correction

This notice corrects a notice (FR Doc. 97-18099) published on page 37057 of the issue for Thursday, July 10, 1997.

Under the Federal Reserve Bank of Kansas City heading, the entry for RBC Holding Company, Claremore, Oklahoma, is revised to read as follows:

A. Federal Reserve Bank of Kansas City (D. Michael Manies, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198-0001:

1. RCB Holding Company, Claremore, Oklahoma; to acquire 100 percent of the voting shares of Northeastern Oklahoma Bancshares, Inc., Inola, Oklahoma, and thereby indirectly acquire Bank of Inola, Inola, Oklahoma.

Comments on this application must be received by July 25, 1997.

Board of Governors of the Federal Reserve System, July 14, 1997.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 97–18877 Filed 7–16–97; 8:45 am]

BILLING CODE 6210–01–F

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. The application also will 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 August 11, 1997.

A. Federal Reserve Bank of Atlanta (Lois Berthaume, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303-2713:

1. Peoples Community Bancshares, Inc., Colquitt, Georgia; to acquire 100 percent of the voting shares of Farmers Bank of Malone, Malone, Florida.

B. Federal Reserve Bank of Minneapolis (Karen L. Grandstrand, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480-2171:

1. Marquette Bancshares, Inc., Minneapolis, Minnesota; to acquire 100 percent of the voting shares of Marquette Bank Rochester, N.A., Rochester, Minnesota.

Board of Governors of the Federal Reserve System, July 14, 1997.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 97–18878 Filed 7–16–97; 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 § 225.28 of Regulation Y (12 CFR 225.28) 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. The notice also will 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 August 1, 1997.

A. Federal Reserve Bank of Cleveland (Jeffery Hirsch, Banking Supervisor) 1455 East Sixth Street, Cleveland, Ohio 44101-2566:

1. KeyCorp, Cleveland, Ohio; to acquire Key Capital Markets, Inc., Cleveland, Ohio and thereby engage in underwriting and dealing in all types of debt and equity securities (other than ownership interests in open-end investment companies) on a limited basis and to provide such services as are a necessary incident thereto; *See J.P. Morgan & Co., Inc., The Chase Manhattan Corp., Bankers Trust New York Corp, Citicorp and Security Pacific Corp.*, 75 Fed. Res. Bull. 192 (1989); and in providing certain financial and investment advisory services, providing certain agency transactional services for customer investments and engaging in certain investment transactions and principal, pursuant to §§ 225.28(b)(6), (7), and (8) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, July 14, 1997.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 97–18879 Filed 7–16–97; 8:45 am]

BILLING CODE 6210–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Announcement Number 787]

Research and Demonstration Programs in Surveillance, Prevention, and Control of Healthcare-Associated Infections and Antimicrobial Resistant Infections at Children's Hospitals

Introduction

The Centers for Disease Control and Prevention (CDC) announces the availability of funds in fiscal year (FY) 1997 for a cooperative agreement program to develop research and demonstration programs in the surveillance, prevention, and control of healthcare-associated infections, antimicrobial resistant infections, and outcomes research at children's hospitals.

CDC is committed to achieving the health promotion and disease prevention objectives of Healthy People 2000, a national activity to reduce morbidity and mortality and improve the quality of life. This announcement is related to the priority area of Immunization and Infectious Diseases. (For ordering a copy of Healthy People 2000, see the section Where To Obtain Additional Information.)

Authority

This program is authorized under Sections 301(a), and 317(k)(2) of the Public Health Service Act, as amended [42 U.S.C. 241(a) and 247b(k)(2)]. Applicable program regulations are found in 42 CFR Parts 51b and 52, Grants for Preventive Health Service and Grants for Research Projects.

Smoke-Free Workplace

CDC strongly encourages all grant recipients to provide a smoke-free workplace and to promote the nonuse of all tobacco products, and Public Law 103–227, the Pro-Children Act of 1994, prohibits smoking in certain facilities that receive Federal funds in which education, library, day care, health care, and early childhood development services are provided to children.

Eligible Applicants

Assistance will be provided only to public and private nonprofit organizations whose members include representatives of children's hospitals that have an interest in infection control, hospital epidemiology, antimicrobial use and resistance, and development and evaluation of benchmark or outcome measurements for patients at children's hospitals. These organizations must include members involved with hospitals, health systems, academic medical centers, and other entities which provide both hospital-based medical care and ambulatory care to a defined pediatric population.

Applicants should demonstrate that they have a close relationship with a large number (N>40) of children's hospitals and that infection control personnel at these member hospitals are interested in participating in collaborative research studies to improve infection control programs in children's hospitals. Documentation of eligibility status including 501(c)(3) certification and listing of 10 or more relationships with children's hospitals must appear in the Abstract or Background and Need sections of Application Content.

Note: Effective January 1, 1996, Public Law 104–65 states that an organization described in section 501(c)(4) of the Internal Revenue Code of 1986 which engages in Lobbying activities shall not be eligible for the receipt of Federal funds constituting an award, grant

(cooperative agreement), contract, loan, or any other form.

Availability of Funds

Approximately $200,000 will be available in FY 1997 to fund one award. It is expected that the award will begin on or about September 30, 1997, for a 12-month budget period within a project period of up to 3 years. Funding estimate may vary and is subject to change.

Continuation awards within the project period will be made on the basis of satisfactory progress and the availability of funds. There are no matching or cost participation requirements; however, the applicant's anticipated contribution to the overall program costs, if any, should be provided on the application.

Use of Funds

Restrictions on Lobbying

Applicants should be aware of restrictions on the use of Department of Health and Human Services (HHS) funds for lobbying of Federal or State legislative bodies. Under the provisions of 31 U.S.C. Section 1352 (which has been in effect since December 23, 1989), recipients (and their subtier contractors) are prohibited from using appropriated Federal funds (other than profits from a Federal contract) for lobbying Congress or any Federal agency in connection with the award of a particular contract, grant, cooperative agreement, or loan. This includes grants/cooperative agreements that, in whole or in part, involve conferences for which Federal funds cannot be used directly or indirectly to encourage participants to lobby or to instruct participants on how to lobby.

In addition, the FY 1997 Departments of Labor, HHS, and Education, and Related Agencies Appropriations Act, which became effective October 1, 1996, expressly prohibits the use of 1997 appropriated funds for indirect or ''grass roots'' lobbying efforts that are designed to support or defeat legislation pending before State legislatures. Section 503 of this new law, as enacted by the Omnibus Consolidated Appropriations Act, 1997, Division A, Title I, Section 101(e), Pub. L. No. 104–208 (September 30, 1996), provides as follows:

Sec. 503(a). No part of any appropriation contained in this Act shall be used, other than for normal and recognized executive-legislative relationships, for publicity or propaganda purposes, for the preparation, distribution, or use of any kit, pamphlet, booklet, publication, radio, television, or video presentation designed to support or defeat legislation pending before the Congress, * * * except in presentation to the Congress or any State legislative body itself.

(b) No part of any appropriation contained in this Act shall be used to pay the salary or expenses of any grant or contract recipient, or agent acting for such recipient, related to any activity designed to influence legislation or appropriations pending before the Congress or any State legislature.

Background

Children's hospitals serve a unique population which have very special needs. The patient populations served by children's hospitals range in age from birth to adulthood and have a variety of underlying diseases which are very different from those seen in adult populations. Furthermore, the infectious diseases which this population acquire and the distribution of antimicrobials which they receive differ from that seen in adult populations. Thus, the infections control, infectious disease, and quality assurance needs of children's hospitals differ from those of general acute care facilities, whose patients are primarily adults.

The epidemiology of nosocomial infections in children differ from adults in both the distribution of infections by site and by pathogen. Furthermore, the risk factors for nosocomial infection differ in children from adults because of the different types of exposures which children have which adults may not have. For instance, neonates in intensive care units frequently have umbilical artery or venous catheters but seldom have urinary catheters whereas adults often have urinary catheters and never have umbilical catheters. Despite the unique and special needs of children's hospital personnel, most infection control guideline recommendations, the national infection control surveillance system, recommendations for antimicrobial use, and quality of care benchmarks have either been developed in or written for general acute care facilities and their patient populations which are mostly adults.

Because of the differences in the epidemiology of nosocomial infections, types of care given, infectious disease which occur, and antimicrobials which these patients receive, there is an urgent need for the establishment of a pediatric network so that children's hospital infection control and quality assurance personnel can develop children-specific infection surveillance and control programs, identify cost-effective infection control prevention interventions, design systems to improve antimicrobial use, and develop national benchmarking programs so that standards can be developed and used to assess the adequacy of infection control and patient care programs at children's hospitals.

One of the major challenges to infectious disease and infection control personnel at children's hospitals is the increase in antimicrobial resistant pathogens and the increasing widespread use of antimicrobials. One of the patient populations with the greatest antimicrobial exposure is the pediatric age group, particularly infants and young children. In some reports, over 50 percent of the antimicrobials used in this population are inappropriate. Others have reported that ≤50 percent of infants and children with viral syndromes receive antimicrobials. Concomitant with this widespread use (and misuse) of antimicrobials have been increasing reports of the emergence of antimicrobial resistance in bacterial pathogens colonizing/infecting this population. In hospitalized children, methicillin-resistant *Staphylococcus aureus* (MRSA), penicillin-resistant *Streptococcus pneumoniae* (PRP), and vancomycin-resistant enterococcus (VRE) colonizations/infections are increasing and nosocomial outbreaks have been reported. For all of these pathogens, antimicrobial use has been a risk factor for colonization/infection. Furthermore, the emergence of antimicrobial resistant pathogens in the hospitalized pediatric patient can lead to further transmission (and vice versa) in the community, particularly day care centers.

Despite the fact that antimicrobial use is a risk factor for colonization/infection with resistant bacteria, virtually no studies have been conducted assessing the appropriateness of antimicrobial use in the pediatric inpatient setting. Such an assessment could lead to targeted intervention programs to reduce inappropriate antimicrobial use and reduce the pressure for emergence of antimicrobial pathogens in this population. Conduct of such projects in a group of children's hospitals will lesson the pressure to misuse such antimicrobials at any one institution and provide a program for all other children's hospitals to follow.

Currently, there is no multicenter pediatric hospital study or surveillance system to monitor the use of antimicrobials, determine the prevalence of antimicrobial resistant pathogens, evaluate the risk factors for colonization/infection with these organisms, or develop, implement, or assess the efficacy of preventive interventions in reducing the emergence and transmission of these pathogens in pediatric settings. Although there has been a great interest in the pediatric infectious diseases, infection control,

and quality assurance community for such a network, sufficient financial support for such a project has been lacking and there has been the need for strong technical assistance from those with expertise in pediatric infectious diseases, infection control and quality assurance. A variety of pediatric infectious diseases groups have urged the Hospital Infections Program (HIP) of CDC to provide the technical support for the establishment of such a network. Such a network would be very beneficial to the children's hospital community, pediatric infectious diseases and infection control personnel and patients receiving care in these facilities.

Such a network would have a major influence on pediatric infectious diseases, infection control, and quality assurance at all hospitals providing care for large numbers of pediatric patients. For the first time, through coordination of multiple children's hospitals, recommendations could be made to personnel at all facilities where pediatric patients receive care. These recommendations would include: (1) methods for surveillance, 2) clinical practices which improve patient care and reduce adverse outcomes, and (3) appropriate antimicrobial use. These national benchmark rates will permit accurate and reliable inter-and intra-hospital comparisons; also, those facilities which are outliers can evaluate differences in practices which may lead to elevated rates of adverse events. Such a network would have an enormous impact on improving pediatric patient care in the United States. Current pediatric organizations which are very interested in initiating such a network require the technical expertise of the HIP of CDC in surveillance, benchmark development, analytic epidemiology and antimicrobial use evaluation. Through partnership between the HIP and a group of children's hospitals, where the interest in developing specific standards and prevention interventions for pediatric patients exists, this cooperative agreement can have a major impact on reducing morbidity and mortality in children at these hospitals and in providing this community with pediatric-specific surveillance methods, antimicrobial use guidelines, benchmarks, and prevention interventions. This would be the first and only network established specifically for the benefit of children's hospitals and their special population.

Purpose

The purpose of this cooperative agreement is to provide assistance in establishing a center for research and demonstration to improve the surveillance, prevention, and control of healthcare-associated infections and antimicrobial resistant infections in children's hospitals.

Program Requirements

In conducting activities to achieve the purpose of this program, the recipients will be responsible for conducting activities under Item A., below, and CDC will be responsible for conducting activities under Item B., below:

A. Recipient Activities

1. Establish a surveillance system for antimicrobial resistant pathogens at children's hospitals.
2. Assess the relationship between antimicrobial use and the emergence of antimicrobial resistance, develop prevention interventions, and assess the efficacy of these interventions.
3. Develop and administer educational programs to decrease misuse and improve the appropriateness of antimicrobial use by clinicians.
4. Analyze and publish research findings.

Activities listed below are *optional*:

5. Assess the relationship between health care worker (i.e., nursing, physician, infection control, etc.) staffing levels and nosocomial infection risk.
6. Conduct cost, cost efficacy and cost-benefit studies to identify the most useful infection control measures.
7. Develop nosocomial infection outcome benchmark measurement methods to permit valid interhospital comparison of infection rates.
8. Determine risk factors for nosocomial infection, develop prevention interventions, introduce the interventions, and assess their efficacy.
9. Study the effectiveness of traditional hospital-based infection control methods and practice in integrated health care delivery systems.
10. Develop and study innovative approaches to infection surveillance, prevention, and control that will maximize effectiveness.
11. Develop and study improved evaluation methodologies to assess the effectiveness of prevention and control methods for healthcare-associated infections and antimicrobial resistant infections.

B. CDC Activities

1. Provide technical assistance in the design and conduct of research activities, in the design and implementation of innovative approaches to hospital epidemiologic and infection control practice and in the design of educational and training strategies and the dissemination of educational and training materials.
2. Provide assistance to recipients regarding development of study protocols, data collection methods, and analyses as necessary.
3. Assist in the development of data management processes and protocols.
4. Assist in the analysis of research information and dissemination of research findings.

Technical Reporting Requirements

An original and two copies of an annual performance report and financial status report are required no later than 90 days after the end of each budget period. A final performance report and financial status report are due no later than 90 days after the end of the project period. Please send all reports and other correspondence to: Sharron P. Orum, Grants Management Officer, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), 255 East Paces Ferry Road, NE., Mailstop E–18, Room 300, Atlanta, Georgia 30305.

Application Process

Intent Letter

In order to assist CDC in planning for and executing the evaluation of applications submitted under this Program Announcement, all parties intending to submit an application are requested to inform CDC of their intention to do so at their earliest convenience prior to the application due date. Notification should include: (1) Name and address of institution and (2) name, address, and telephone number of contact person. Notification should be provided by facsimile, postal mail, or Email to Sharron Orum, Grants Management Officer, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), 255 East Paces Ferry Road, NE., Mailstop E–18, Room 300, Atlanta, Georgia 30305, facsimile (404) 842–6513.

Application Content

All applicants must develop their applications in accordance with the PHS Form 5161–1 (OMB Number 0937–0189), information contained in this announcement, and the instructions outlined below.

General Instructions

1. All pages must be clearly numbered.
2. A complete index to the application and its appendixes must be included.
3. The original and two copies of the application must be submitted unstapled and unbound. No bound materials will be accepted.

4. All materials must be typewritten, single spaced, and in unreduced type (no smaller than font size 12) on 8½″ by 11″ white paper, with at least 1″ margins, headers, and footers.

5. All pages must be printed on one side only.

Specific Instructions

The application narrative must not exceed 10 pages (excluding budget and appendices). Unless indicated otherwise, all information requested below must appear in the narrative. Materials or information that should be part of the narrative will not be accepted if placed in the appendices. The application narrative must contain the following sections in the order presented below:

1. Abstract: Provide a brief (two pages maximum) abstract of the project including documentation of eligibility status. State the length of the project period (maximum is 3 years) for which assistance is being requested (see the section Availability of Funds for additional information).

2. Background and Need: Discuss the background and need for the proposed project. Demonstrate a clear understanding of the purpose and objectives of this cooperative agreement program. Illustrate and justify the need for the proposed project that is consistent with the purpose and objectives of this cooperative agreement program.

3. Capacity and Personnel: Describe applicant's past experience in conducting projects/studies similar to that being proposed. Describe applicants resources, facilities, and professional personnel that will be involved in conducting the project. Include in an appendix curriculum vitae for all professional personnel involved with the project. Describe plans for administration of the project and identify administrative resources/personnel that will be assigned to the project. Provide in an appendix letters of support from all key participating non-applicant organizations, individuals, etc., which clearly indicate their commitment to participate as described in the operational plans. Do not include letters of support from CDC personnel. Letters of support from CDC will not be accepted in the application.

4. Objectives and Technical Approach: Describe specific objectives for the proposed project which are measurable and time-phased and are consistent with the purpose and goals of this cooperative agreement. Present a detailed operational plan for initiating and conducting the project which clearly and appropriately addresses Recipient Activities (1–4) and any optional Activities (if proposing a multi-year project, provide a detailed description of first-year activities and a brief overview of activities in subsequent years. Clearly state the proposed length of the project period.) Clearly identify specific assigned responsibilities for all key professional personnel. Include a clear description of applicant's technical approach/methods which are directly relevant to the study objectives. Describe specific study protocols or plans for the development of study protocols. Describe the nature and extent of collaboration with CDC and/or others during various phases of the project. Describe in detail a plan for evaluating study results and for evaluating progress toward achieving project objectives.

5. Budget: Provide in an appendix a budget and accompanying detailed justification for the first year of the project that is consistent with the purpose and objectives of this program. Also, provide estimated total budget for each subsequent year. If requesting funds for any contracts, provide the following information for each proposed contract: (a) Name of proposed contractor, (b) breakdown and justification for estimated costs, (c) description and scope of activities to be performed by contractor, (d) period of performance, and (e) method of contractor selection (e.g., sole-source or competitive solicitation).

6. Human Subjects: Whether or not exempt from Department of Health and Human Services (DHHS) regulations, if the proposed project involves human subjects, describe in an appendix adequate procedures for the protection of human subjects. Also, ensure that women, racial and ethnic minority populations are appropriately represented in applications for research involving human beings.

Evaluation Criteria

The applications will be reviewed and evaluated according to the following criteria: (Total 100 points)

1. Background and Need (20 points): Extent to which applicant's discussion of the background for the proposed project demonstrates a clear understanding of the purpose and objectives of this cooperative agreement program. Extent to which applicant illustrates and justifies the need for the proposed project that is consistent with the purpose and objectives of this cooperative agreement program.

2. Capacity (40 points total): a. Extent to which applicant describes adequate resources and facilities (both technical and administrative) for conducting the project. (10 points)

b. Extent to which applicant documents that professional personnel involved in the project are qualified and have past experience and achievements in research related to that proposed as evidenced by curriculum vitae, publications, etc. (20 points)

c. Extent to which applicant includes letters of support from non-applicant organizations, individuals, etc. Extent to which the letters clearly indicate the author's commitment to participate as described in the operational plan. (10 points).

3. Objectives and Technical Approach (40 points total): a. Extent to which applicant describes specific objectives of the proposed project which are consistent with the purpose and goals of this cooperative agreement program and which are measurable and time-phased. (10 points)

b. Extent to which applicant presents a detailed operational plan for initiating and conducting the project, which clearly and appropriately addresses all Recipient Activities. Extent to which applicant clearly identifies specific assigned responsibilities for all key professional personnel. Extent to which the plan clearly describes applicant's technical approach/methods for conducting the proposed studies and extent to which the plan is adequate to accomplish the objectives. Extent to which applicant describes specific study protocols or plans for the development of study protocols that are appropriate for achieving project objectives. The degree to which the applicant has met the CDC policy requirements regarding the inclusion of women, ethnic, and racial groups in proposed research. This includes: (1) The proposed plan for the inclusion of both sexes and racial and ethnic minority populations for appropriate representation; (2) the proposed justification when representation is limited or absent; (3) a statement as to whether the design of the study is adequate to measure differences when warranted; and (4) documentation of plans for recruitment and outreach for study participants that includes the process of establishing partnerships with community(ies) and recognition of mutual benefits. (15 points)

c. Extent to which applicant describes adequate and appropriate collaboration with CDC and/or others during various phases of the project. (10 points)

d. Extent to which applicant provides a detailed and adequate plan for evaluating study results and for evaluating progress toward achieving project objectives. (5 points)

4. Budget (not scored): Extent to which the proposed budget is reasonable, clearly justifiable, and consistent with the intended use of cooperative agreement funds.

5. Human Subjects Research (not scored): If the proposed project involves human subjects, whether or not exempt from the DHHS regulations, the extent to which adequate procedures are described for the protection of human subjects. Note: Objective Review Group (ORG) recommendations on the adequacy of protections include: (a) protections appear adequate and there are no comments to make or concerns to raise, (b) protections appear adequate, but there are comments regarding the protocol, (c) protections appear inadequate and the ORG has concerns related to human subjects, (d) disapproval of the application is recommended because the research risks are sufficiently serious and protection against the risks are inadequate as to make the entire application unacceptable.

Executive Order 12372 Review

This program is not subject to review by Executive Order 12372.

Public Health System Reporting Requirement

This program is not subject to the Public Health System Reporting Requirement.

Catalog of Federal Domestic Assistance Number

The Catalog of Federal Domestic Assistance Number is 93.283.

Other Requirements

Paperwork Reduction Act

Projects that involve the collection of information from ten or more individuals and funded by the cooperative agreement will be subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act.

Human Subjects

If the proposed project involves research on human subjects, the applicant must comply with the Department of Health and Human Services Regulations (45 CFR Part 46) regarding the protection of human subjects. Assurance must be provided to demonstrate that the project will be subject to initial and continuing review by an appropriate institutional review committee. The applicant will be responsible for providing evidence of this assurance in accordance with the appropriate guidelines and form provided in the application kit.

Women, Racial and Ethnic Minorities

It is the policy of the Centers for Disease Control and Prevention (CDC) and the Agency for Toxic Substances and Disease Registry (ATSDR) to ensure that individuals of both sexes and the various racial and ethnic groups will be included in CDC/ATSDR-supported research projects involving human subjects, whenever feasible and appropriate. Racial and ethnic groups are those defined in OMB Directive No. 15 and include American Indian, Alaskan Native, Asian, Pacific Islander, Black and Hispanic. Applicants shall ensure that women, racial and ethnic minority populations are appropriately represented in applications for research involving human subjects. Where clear and compelling rationale exist that inclusion is inappropriate or not feasible, this situation must be explained as part of the application. This policy does not apply to research studies when the investigator cannot control the race, ethnicity and/or sex of subjects. Further guidance to this policy is contained in the **Federal Register**, Vol. 60, No. 179, pages 47947–47951, dated Friday, September 15, 1995.

Application Submission and Deadline

The original and two copies of the application Form PHS–5161–1 (OMB Number 0937–0189) must be submitted to Sharron P. Orum, Grants Management Officer, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), 255 East Paces Ferry Road, NE., Mailstop E–18, Atlanta, Georgia 30305, on or before August 22, 1997.

1. *Deadline:* Applications will be considered to meet the deadline if they are either:

a. Received on or before the deadline date; or,

b. Sent on or before the deadline date and received in time for submission to the independent review group. (Applicants must request a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or the U.S. Postal Service. Private metered postmarks will not be acceptable proof of timely mailing.)

2. *Late Applications:* Applications which do not meet the criteria in 1.a. or 1.b. above, will be considered late applications. Late applications will not be considered and will be returned to the applicant.

Where To Obtain Additional Information

To receive additional written information call (404) 332–4561. You will be asked to leave your name, address, and telephone number and will need to refer to Announcement Number 787. You will receive a complete program description, information on application procedures, and application forms.

If you have questions after reviewing the contents of all documents, business management technical assistance may be obtained from Locke Thompson, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), 255 East Paces Ferry Road, NE., Mailstop E–18, Room 300, Atlanta, Georgia 30305, telephone (404) 842–6595 or through the Internet or CDC WONDER electronic mail at: lxt1@cdc.gov. Programmatic technical assistance may be obtained from William R. Jarvis, M.D., Hospital Infections Program, National Center for Infectious Diseases, Centers for Disease Control and Prevention (CDC), 1600 Clifton Road, Mailstop A–07, Atlanta, Georgia 30333, telephone (404) 639–6413.

You may obtain this and other CDC announcements from one of two Internet sites on the actual publication date: CDC's homepage at http://www.cdc.gov or at the Government Printing Office homepage (including free on-line access to the **Federal Register** at http://www.access.gpo.gov).

Please refer to Program Announcement Number 787 when requesting information and submitting an application on the Request for Assistance.

Potential applicants may obtain a copy of Healthy People 2000 (Full Report, Stock No. 017–001–00474–0) or Healthy People 2000 (Summary Report, Stock No. 017–001–00473–1) referenced in the Introduction through the Superintendent of Documents, Government Printing Office, Washington, DC 20402–9325, telephone (202) 512-1800.

Dated: July 11, 1997.

Joseph R. Carter,

Acting Associate Director for Management and Operations, Centers for Disease Control and Prevention (CDC).

[FR Doc. 97–18819 Filed 7–16–97; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Agency Recordkeeping/Reporting Requirements Under Emergency Review by the Office of Management and Budget (OMB)

Title: Provision of service in Federal Tax Refund Offset and Federal Administrative offset Program (TROP/ADOP) and Federal Passport Denial Program.

OMB No.: New Request.

Description: The Tax Refund Offset Program helps the States recoup outstanding child support incurred in welfare cases and assists the States in recovering arrearage for custodial parents in non-welfare cases by offsetting the absent parent's federal income tax return and applying the amount offset to the outstanding arrearage or debt. This year Administrative offsets will enhance this collection activity by offsetting other federal payments, such as federal salary payments, vendor payments, federal retirement payments, miscellaneous payments, etc. This system is a partnership with the Office of Child Support Enforcement, the IRS and Financial Management Service, and state child support agencies and matches their payment certification records with records of persons delinquent in child support payments.

Respondents: States, Puerto Rico, Guam, Virgin Islands and the District of Columbia.

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
Transmission	54	30	2	3,240

Estimated Total Annual Burden Hours: 3,240.

Additional Information: ACF is requesting that OMB grant a 180-day approval for this information collection under procedures for emergency processing by July 15, 1997. A copy of this information collection, with applicable supporting documentation, may be obtained by calling the Administration for Children and Families, Reports Clearance Officer, Robert Driscoll (202) 401–9313.

Comments and questions about the information collection described above should be directed to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for ACF, Office of Management and Budget, Paperwork Reduction Project, 725 17th Street NW., Washington, DC 20503, (202) 395–7316.

Dated: July 14, 1997.

Robert Driscoll,

Reports Clearance Officer.

[FR Doc. 97–18872 Filed 7–16–97; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Submission for OMB Review; Comment Request

Title: Child Care and Development Fund Quarterly Financial Report.

OMB No.: New Request.

Description: The form provides specific data regarding claims and provides a mechanism for States to request grant awards and certify the availability of State matching funds. Failure to collect this data would seriously compromise ACF's ability to monitor expenditures. This information is also used to estimate outlays and may be used to prepare ACF budget submissions to Congress.

Respondents: State, Local or Tribal Government Columbia.

Annual Burden Estimates:

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
ACF–696	54	4	8	1,728

Estimated Total Annual Burden Hours: 1,728.

Additional Information: Copies of the proposed collection may be obtained by writing to The Administration for Children and Families, Office of Information Services, Division of Information Resource Management Services, 370 L'Enfant Promenade, SW., Washington, DC. 20447, Attn: ACF Reports Clearance Officer.

OMB Comment: OMB is required to make a decision concerning the collection of information between 30 and 60 days after publication of this document in the **Federal Register.** Therefore, a comment is best assured of having its full effect if OMB receives it within 30 days of publication. Written comments and recommendations for the proposed information collection should be sent directly to the following: Office of Management and Budget, Paperwork Reduction Project, 725 17th Street, NW., Washington, DC 20503, Attn: Ms. Wendy Taylor.

Dated: July 14, 1997.

Robert Driscoll,

Reports Clearance Officer.

[FR Doc. 97–18873 Filed 7–16–97; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[Document Identifier: HCFA–1541 A/B]

Agency Information Collection Activities: Proposed Collection; Comment Request

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, is publishing the following summary of proposed

collections for public comment. Interested persons are invited to send comments regarding the burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Type of Information Collection Request: Extension of a currently approved collection; *Title of Information Collection:* Examination and Treatment for Emergency Medical Conditions and Woman in Labor and Supporting Regulations 42 CFR 489.24; *Form No.:* HCFA–1541–A/B (OMB# 0938–0663); *Use:* This form is used as a tool to monitor compliance with 42 CFR 489.24 and Section 1867 of the Social Security Act. This form ensures that all participating hospitals: (1) Maintain the medical and other records for 5 years of individuals transferred to other medical facilities, (2) maintain a list of physicians who are on call for duty after initial examination to provide stabilizing treatment, (3) conspicuously post signs in emergency departments specifying the rights of individuals with respect to examination and treatment for emergency medical conditions and women in labor, and also informing whether the hospital participates in the Medicaid program; *Frequency:* On Occasion; *Affected Public:* State, Local or Tribal Government, Individuals or Households, Business or other for-profit, Not-for-profit institutions, Federal Government; *Number of Respondents:* 350; *Total Annual Responses:* 350; *Total Annual Hours:* 87.5.

To obtain copies of the supporting statement for the proposed paperwork collections referenced above, access HCFA's WEB SITE ADDRESS at http://www.hcfa.gov/regs/prdact95.htm, or to obtain 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 collections must be mailed within 60 days of this notice directly to the HCFA Paperwork Clearance Officer designated at the following address:

HCFA, Office of Information Services, Information Technology Investment Management Group, Division of HCFA Enterprise Standards, Attention: John Rudolph, Room C2–26–17, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

Dated: July 11, 1997.

John P. Burke III,

HCFA Reports Clearance Officer, Division of HCFA Enterprise Standards, Health Care Financing Administration.

[FR Doc. 97–18836 Filed 7–16–97; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[ORD–101–N]

New and Pending Demonstration Project Proposals Submitted Pursuant to Section 1115(a) of the Social Security Act: May 1997

AGENCY: Health Care Financing Administration (HCFA).

ACTION: Notice.

SUMMARY: One new proposal for a Medicaid demonstration project was submitted to the Department of Health and Human Services during the month of May 1997 under the authority of section 1115 of the Social Security Act. No proposals were approved, disapproved, or withdrawn during that time period. (This notice can be accessed on the Internet at http://www.hcfa.gov/ord/sect1115.htm.)

COMMENTS: We will accept written comments on this proposal. We will, if feasible, acknowledge receipt of all comments, but we will not provide written responses to comments. We will, however, neither approve nor disapprove any new proposal for at least 30 days after the date of this notice to allow time to receive and consider comments. Direct comments as indicated below.

ADDRESSES: Mail correspondence to: Susan Anderson, Office of Research and Demonstrations, Health Care Financing Administration, Mail Stop C3–11–07, 7500 Security Boulevard, Baltimore, MD 21244–1850.

FOR FURTHER INFORMATION CONTACT: Susan Anderson, (410) 786–3996.

SUPPLEMENTARY INFORMATION:

I. Background

Under section 1115 of the Social Security Act (the Act), the Department of Health and Human Services (HHS) may consider and approve research and demonstration proposals with a broad range of policy objectives. These demonstrations can lead to improvements in achieving the purposes of the Act.

In exercising her discretionary authority, the Secretary has developed a number of policies and procedures for reviewing proposals. On September 27, 1994, we published a notice in the **Federal Register** (59 FR 49249) that specified (1) the principles that we ordinarily will consider when approving or disapproving demonstration projects under the authority in section 1115(a) of the Act; (2) the procedures we expect States to use in involving the public in the development of proposed demonstration projects under section 1115; and (3) the procedures we ordinarily will follow in reviewing demonstration proposals. We are committed to a thorough and expeditious review of State requests to conduct such demonstrations.

As part of our procedures, we publish a notice in the **Federal Register** with a monthly listing of all new submissions, pending proposals, approvals, disapprovals, and withdrawn proposals. Proposals submitted in response to a grant solicitation or other competitive process are reported as received during the month that grant or bid is awarded, so as to prevent interference with the awards process.

II. Listing of New, Pending, Approved, Disapproved, and Withdrawn Proposals for the Month of May 1997

A. Comprehensive Health Reform Programs

1. New Proposals

The following new proposal was received during the month of May.

Demonstration Title/State: ARKids First Program—Arkansas Description: The State is proposing to expand Medicaid eligibility and access to health care services for children age 18 and under with gross family income at or below 200 percent of the Federal poverty level. The intent of the waiver is to cover all children not otherwise Medicaid eligible at this income level statewide and to expand access to preventative health care.

Date Received: May 16, 1997.

State Contact: Binnie Alberius, Arkansas Department of Human Services, Division of Medical Services, Donaghey Plaza South, P.O. Box 1437, Little Rock, AK 72203–1437, (501) 682–8361.

Federal Project Officer: Joan Peterson, Ph.D., Health Care Financing Administration, Office of Research and Demonstrations, Office of State Health Reform Demonstrations, Mail Stop C3–18–26, 7500 Security Boulevard, Baltimore, MD 21244–1850.

2. Pending Proposals

Pending proposals for the month of April 1997 referenced in the **Federal Register** of June 4, 1997 (62 FR 30604) remain unchanged.

3. Approved Conceptual Proposals (Award of Waivers Pending)

No conceptual proposals were approved during the month of May.

4. Approved, Disapproved, and Withdrawn Proposals

No proposals were approved, disapproved, or withdrawn during the month of May.

B. Other Section 1115 Demonstration Proposals

1. New, Pending, Approved, Disapproved, and Withdrawn Proposals

No proposals were received, approved, disapproved, or withdrawn during the month of May.

Pending proposals for the month of April 1997 found in the **Federal Register** of June 4, 1997 (62 FR 30604) remain unchanged.

III. Requests for Copies of a Proposal

Requests for copies of a specific Medicaid proposal should be made to the State contact listed for the specific proposal. If further help or information is needed, inquiries should be directed to HCFA at the address above.

(Catalog of Federal Domestic Assistance Program, No. 93.779; Health Financing Research, Demonstrations, and Experiments)

Dated: July 8, 1997.

Barbara Cooper,

Acting Director, Office of Research and Demonstrations.

[FR Doc. 97–18875 Filed 7–16–97; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Mental Health; Notice of Closed Meetings

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings of the National Institute of Mental Health Special Emphasis Panel:

Agenda/Purpose: To review and evaluate grant applications.

Committee Name: National Institute of Mental Health Special Emphasis Panel.

Date: July 22, 1997.

Time: 2 p.m.

Place: Parklawn, Room 9C–26, 5600 Fishers Lane, Rockville, MD 20857.

Contact Person: Sheri L. Schwartzback, Parklawn, Room 9C–26, 5600 Fishers Lane, Rockville, MD 20857, Telephone: 301, 443–4843.

Committee Name: National Institute of Mental Health Special Emphasis Panel.

Date: July 23, 1997.

Time: 2 p.m..

Place: Parklawn, Room 9C–26, 5600 Fishers Lane, Rockville, MD 20857.

Contact Person: Sheri L. Schwartzback, Parklawn, Room 9C–26, 5600 Fishers Lane, Rockville, MD 20857, Telephone: 301, 443–4843.

The meetings will be closed in accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

This notice is being published less than fifteen days prior to the meetings due to the urgent need to meet timing limitations imposed by the review and funding cycle.

(Catalog of Federal Domestic Assistance Program Numbers 93.242, 93.281, 93.282)

Dated: July 10, 1997.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 97–18791 Filed 7–16–97; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; Notice of Closed Meetings

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel meetings:

Name of SEP: Diabetes Research Training Center (DRTC) Review.

Date: August 13–14, 1997.

Time: 8:00 a.m.

Place: Crystal City Marriott Hotel, 1999 Jefferson Davis Highway, Arlington, Virginia 22202.

Contact Person: Dan Matsumoto, Ph.D., Scientific Review Administrator, Review Branch, NIDDK, Natcher Building, Room 6as–37B, National Institutes of Health, Bethesda, Maryland 20892–6600, Phone: (301) 594–8894.

Purpose/Agenda: To review and evaluate grant applications.

Name of SEP: Diabetes Endocrinology Research Center (DERC) Review.

Date: August 14–15, 1997.

Time: 12:00 p.m.

Place: Crystal City Marriott Hotel, 1999 Jefferson Davis Highway, Arlington, Virginia 22202.

Contact Person: Dan Matsumoto, Ph.D., Scientific Review Administrator, Review Branch, NIDDK, Natcher Building, Room 6as–37B, National Institutes of Health, Bethesda, Maryland 20892–6600, Phone: (301) 594–8894.

Purpose/Agenda: To review and evaluate grant applications.

These meetings will be closed in accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5 U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Program No. 93.847–849, Diabetes, Endocrine and Metabolic Diseases; Digestive Diseases and Nutrition; and Kidney Diseases, Urology and Hematology Research, National Institutes of Health)

Dated: July 10, 1997.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 97–18792 Filed 7–16–97; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; Notice of Closed Meeting

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel meeting:

Name of SEP: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel.

Date: August 8, 1997.

Time: 8:30 a.m.

Place: Holiday Inn, 5520 Wisconsin Avenue, Chevy Chase, Maryland 20815.

Contact Person: Lakshmanan Sankaran, Ph.D., Scientific Review Administrator, Review Branch, NIDDK, Natcher Building, Room 6as-25F, National Institutes of Health, Bethesda, Maryland 20892–6600, Phone: (301) 594-7799.

Purpose/Agenda: To review and evaluate grant applications.

The meeting will be closed in accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information

concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Program No. 93.847-849, Diabetes, Endocrine and Metabolic Diseases; Digestive Diseases and Nutrition; and Kidney Diseases, Urology and Hematology Research, National Institutes of Health)

Dated: July 10, 1997.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 97–18793 Filed 7–16–97; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Child Health and Human Development; Notice of Closed Meetings

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following National Institute of Child Health and Human Development Special Emphasis Panel (SEP) meetings:

Name of SEP: Neurobiology and Genetics of Autism.

Date: July 20–21, 1997.

Time: July 20—7:00 p.m.–10:00 p.m., July 21—8:00 a.m.–adjournment.

Place: Doubletree Hotel-Anaheim, 100 The City Drive, Orange, California 92868.

Contact Person: Norman Chang, Ph.D., Scientific Review Administrator, 6100 Executive Boulevard, 6100 Building, Room 5E03, Rockville, Maryland 20852, Telephone: 301–496–1485.

This notice is being published less than 15 days prior to the above meeting due to the urgent need to meet timing limitations imposed by the review and funding cycle.

Name of SEP: Somatic Cell Genetic Studies of Down Syndrome.

Date: August 3–4, 1997.

Time: August 3—7:00 p.m.–10:00 p.m., August 4—8:00 a.m.–adjournment.

Place: Loews Giorgio Hotel, 4150 East Mississippi Avenue, Denver, Colorado 80222.

Contact Person: Norman Chang, Ph.D., Scientific Review Administrator, NICHD, 6100 Executive Boulevard, 6100 Building, Room 5E01, Rockville, Maryland 20852, Telephone: 301–496–1485.

Purpose: To evaluate and review grant applications.

These meetings will be closed in accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. The discussions of these applications could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Program Nos. [93.864, Population and No. 93.865, Research for Mothers and Children], National Institutes of Health)

Dated: July 10, 1997.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 97–18794 Filed 7–16–97; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Aging; Notice of Closed Meetings

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings:

Name of SEP: National Institute on Aging Special Emphasis Panel, TSOU—Aging and Retinoid Receptors, (Telephone conference).

Date of Meeting: July 22, 1997.

Time of Meeting: 11:00 a.m. to adjournment.

Place of Meeting: Gateway Building, Room 2C212, 7201 Wisconsin Avenue, Bethesda, Maryland 20892.

Purpose/Agenda: To review an amended K01 application.

Contact Person: Dr.James P. Harwood, Scientific Review Administrator, Gateway Building, Room 2C212, National Institutes of Health, Bethesda, Maryland 20892–9205, (301) 496–9666.

This notice is being published less than 15 days prior to the above meeting due to the urgent need to meet timing limitations imposed by the review and funding cycle.

Name of SEP: National Institute on Aging Special Emphasis Panel, Effect of Calcium and Vitamin D on Bone Loss (Telephone conference).

Date of Meeting: August 29, 1997.

Time of Meeting: 1:00 p.m. to adjournment.

Place of Meeting: Gateway Building, Room 2C212, 7201 Wisconsin Avenue, Bethesda, Maryland 20892.

Purpose/Agenda: To review a supplement to an existing STOP/IT grant (U01) to study calcium and vitamin D effects on hip bone loss.

Contact Person: Dr. Paul H. Lenz, Scientific Review Administrator, Gateway Building, Room 2C212, National Institutes of Health, Bethesda, Maryland 20892–9205, (301) 496–9666.

The meetings will be closed in accordance with the provisions set forth in secs. 552b(c)(4) and 552(b)(c)(6), Title 5, U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Program No 93.866, Aging Research, National Institutes of Health)

Dated: July 10, 1997.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 97–18795 Filed 7–16–97; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of General Medical Sciences; Notice of Closed Meeting

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following advisory committee meeting of the National Institute of General Medical Sciences:

Committee Name: Special Emphasis Panel—Pharmacology.

Date: August 1, 1997.

Time: 12 Noon—until conclusion.

Place: Telephone Conference, Natcher Building—Room 1AS–119K, 45 Center Drive, Bethesda, MD 20892–6200.

Contact Person: Bruce K. Wetzel, Ph.D., Scientific Review Administrator, NIGMS, Office of Scientific Review, 45 Center Drive, Room 1AS–19K, Bethesda, MD 20892–6200, 301–594–3907.

Purpose: To review institutional research training grant applications.

This meeting will be closed in accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5 U.S.C. The discussions of these applications could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Program Nos. 93.821, Biophysics and Physiological Sciences; 93.859, Pharmacological Sciences; 93.862, Genetics Research; 93.863, Cellular and Molecular Basis of Disease Research; 93.880, Minority Access Research Careers [MARC]; and 93.375, Minority Biomedical Research Support [MBRS].)

Dated: July 10, 1997.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 97–18797 Filed 7–16–97; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of General Medical Sciences; Notice of Closed Meeting

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following advisory committee meeting of the National Institute of General Medical Sciences:

Committee Name: Minority Biomedical Research Support Subcommittee (MBRS) Special Emphasis Panel.
Date: July 21, 1997.
Time: 3:00 p.m.-until conclusion.
Place: Telephone Conference, Natcher Building—Room 1 AS–13, 45 Center Drive, Bethesda, Maryland 20892–6200.
Contact Person: Helen R. Sunshine, Ph.D., Scientific Review Administrator, NIGMS, Office of Scientific Review, 45 Center Drive, Room 1AS–13, Bethesda, MD 20892–6200, 301–594–2881.
Purpose: To review institutional research training grant applications.

This notice is being published less than 15 days prior to the above meeting due to the urgent need to meet timing limitations imposed by the review and funding cycle.

This meeting will be closed in accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5 U.S.C. The discussions of these applications could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Program Nos. 93.821, Biophysics and Physiological Sciences; 93.859, Pharmacological Sciences; 93.862, Genetics Research; 93.863, Cellular and Molecular Basis of Disease Research; 93.880, Minority Access Research Careers [MARC]; and 93.375, Minority Biomedical Research Support [MBRS])

Dated: July 10, 1997.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 97–18798 Filed 7–16–97; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Child Health and Human Development; Notice of Closed Meeting

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following National Institute of Child Health and Human Development Special Emphasis Panel (SEP) meeting:

Name of SEP: Specialized Cooperative Centers Program in Reproduction Research.
Date: July 23–25, 1997.
Time: July 23—6:00 p.m.–10:00 p.m.; July 24—8:30 a.m.–5:00 p.m.; July 25—8:30 a.m.–adjournment.
Place: Hyatt Regency Hotel, One Bethesda Metro Center, Bethesda, Maryland 20814.
Contact Person: A.T. Gregoire, Ph.D., Scientific Review Administrator, NICHD, 6100 Executive Boulevard, 6100 Building, Room 5E01, Rockville, Maryland 20852, Telephone: 301–496–1485.
Purpose: To evaluate and review grant applications.

This meeting will be closed in accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. The discussions of these applications could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

This notice is being published less than 15 days prior to the meeting due to the urgent need to meet timing limitations imposed by the review and funding cycle.

(Catalog of Federal Domestic Assistance Program Nos. [93.864, Population Research and No. 93.865, Research for Mothers and Children], National Institutes of Health)

Dated: July 10, 1997.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 97–18799 Filed 7–16–97; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Division of Research Grants; Notice of Closed Meetings

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following Division of Research Grants Special Emphasis Panel (SEP) meetings:

Purpose/Agenda: To review individual grant applications.
Name of SEP: Clinical Sciences.
Date: July 17, 1997.
Time: 1:00 p.m.
Place: NIH, Rockledge 2, Room 4104, Telephone Conference.
Contact Person: Dr. Priscilla Chen, Scientific Review Administrator, 6701 Rockledge Drive, Room 4104, Bethesda, Maryland 20892, (301) 435–1787.

Name of SEP: Multidisciplinary Sciences.
Date: July 21, 1997.
Time: 1:00 p.m.
Place: NIH, Rockledge 2, Room 5114, Telephone Conference.
Contact Person: Dr. Gerald Becker, Scientific Review Administrator, 6701 Rockledge Drive, Room 5114, Bethesda, Maryland 20892, (301) 435–1170.

Name of SEP: Biological and Physiological Sciences.
Date: July 22, 1997.
Time: 12:00 p.m.
Place: Dupont Plaza Hotel, Washington, DC.
Contact Person: Dr. Anita Miller-Sostek, Scientific Review Administrator, 6701 Rockledge Drive, Room 5202, Bethesda, Maryland 20892, (301) 435–1260.

Name of SEP: Behavioral and Neurosciences.
Date: July 24, 1997.
Time: 8:30 a.m.
Place: Governor's House Hotel, Washington, DC.
Contact Person: Dr. Kenneth Newrock, Scientific Review Administrator, 6701 Rockledge Drive, Room 5186, Bethesda, Maryland 20892, (301) 435–1252.

Name of SEP: Biological and Physiological Sciences.
Date: July 25, 1997.
Time: 2:00 p.m.
Place: NIH, Rockledge 2, Room 4208, Telephone Conference.
Contact Person: Dr. Anita Weinblatt, Scientific Review Administrator, 6701 Rockledge Drive, Room 4208, Bethesda, Maryland 20892, (301) 435–1224.

Name of SEP: Clinical Sciences.
Date: July 29, 1997.
Time: 1:00 p.m.
Place: NIH, Rockledge 2, Room 4104, Telephone Conference.
Contact Person: Dr. Priscilla Chen, Scientific Review Administrator, 6701 Rockledge Drive, Room 4104, Bethesda, Maryland 20892, (301) 435–1786.

Name of SEP: Biological and Physiological Sciences.
Date: July 30–August 1, 1997.
Time: 9:00 a.m.
Place: Hyatt Regency Hotel, Bethesda, Maryland.
Contact Person: Dr. Cheryl Corsaro, Scientific Review Administrator, 6701 Rockledge Drive, Room 6172, Bethesda, Maryland 20892, (301) 435–1045.

Name of SEP: Biological and Physiological Sciences.
Date: July 30, 1997.
Time: 2:00 p.m.
Place: NIH, Rockledge 2, Room 4208, Telephone Conference.
Contact Person: Dr. Anita Weinblatt, Scientific Review Administrator, 6701 Rockledge Drive, Room 4208, Bethesda, Maryland 20892, (301) 435–1224.

Name of SEP: Microbiological and Immunological Sciences.
Date: July 30, 1997.
Time: 2:30 p.m.
Place: NIH, Rockledge 2, Room 4186, Telephone Conference.
Contact Person: Dr. Gerald Liddel, Scientific Review Administrator, 6701 Rockledge Drive, Room 4186, Bethesda, Maryland 20892, (301) 435–1150.

Name of SEP: Clinical Sciences.
Date: July 31, 1997.
Time: 11:00 a.m.
Place: NIH, Rockledge 2, Room 4140, Telephone Conference.
Contact Person: Dr. Larry Pinkus, Scientific Review Administrator, 6701 Rockledge Drive, Room 4140, Bethesda, Maryland 20892, (301) 435–1214.

Name of SEP: Clinical Sciences.
Date: July 31, 1997.
Time: 12:00 p.m.
Place: NIH, Rockledge 2, Room 4112, Telephone Conference.
Contact Person: Dr. Gopal Sharma, Scientific Review Administrator, 6701 Rockledge Drive, Room 4112, Bethesda, Maryland 20892, (301) 435–1783.

Name of SEP: Microbiological and Immunological Sciences.
Date: July 31, 1997.
Time: 2:00 p.m.
Place: NIH, Rockledge 2, Room 4186, Telephone Conference.
Contact Person: Dr. Gerald Liddel, Scientific Review Administrator, 6701 Rockledge Drive, Room 4186, Bethesda, Maryland 20892, (301) 435–1150.

Name of SEP: Microbiological and Immunological Sciences.
Date: July 31, 1997.
Time: 2:30 p.m.
Place: NIH, Rockledge 2, Room 4198, Telephone Conference.
Contact Person: Dr. Mohindar Poonian, Scientific Review Administrator, 6701 Rockledge Drive, Room 4198, Bethesda, Maryland 20892, (301) 435–1218.

Name of SEP: Biological and Physiological Sciences.
Date: August 1, 1997.
Time: 1:00 p.m.
Place: NIH, Rockledge 2, Room 4208, Telephone Conference.
Contact Person: Dr. Anita Weinblatt, Scientific Review Administrator, 6701 Rockledge Drive, Room 4208, Bethesda, Maryland 20892, (301) 435–1224.

Name of SEP: Clinical Sciences.
Date: August 4, 1997.
Time: 10:00 a.m.
Place: NIH, Rockledge 2, Room 4126, Telephone Conference.
Contact Person: Dr. Harold Davidson, Scientific Review Administrator, 6701 Rockledge Drive, Room 4216, Bethesda, Maryland 20892, (301) 435–1776.

Name of SEP: Biological and Physiological Sciences.
Date: August 4, 1997.
Time: 1:00 p.m.
Place: NIH, Rockledge 2, Room 5200, Telephone Conference.
Contact Person: Dr. Bob Weller, Scientific Review Administrator, 6701 Rockledge Drive, Room 5200, Bethesda, Maryland 20892, (301) 435–1259.

Name of SEP: Clinical Sciences.
Date: August 5, 1997.
Time: 8:00 a.m.
Place: Holiday Inn, Chevy Chase, MD.
Contact Person: Dr. Gopal Sharma, Scientific Review Administrator, 6701 Rockledge Drive, Room 4112, Bethesda, Maryland 20892, (301) 435–1783.

Name of SEP: Biological and Physiological Sciences.
Date: August 7, 1997.
Time: 1:00 p.m.
Place: NIH, Rockledge 2, Room 5200, Telephone Conference.
Contact Person: Dr. Bob Weller, Scientific Review Administrator, 6701 Rockledge Drive, Room 5200, Bethesda, Maryland 20892, (301) 435–1259.

Name of SEP: Chemistry and Related Sciences.
Date: August 7, 1997.
Time: 2:15 p.m.
Place: NIH, Rockledge 2, Room 5104, Telephone Conference.
Contact Person: Dr. Donald Schneider, Scientific Review Administrator, 6701 Rockledge Drive, Room 5104, Bethesda, Maryland 20892, (301) 435–1165.

Purpose/Agenda: To review Small Business Innovation Research.

Name of SEP: Microbiological and Immunological Sciences.
Date: July 23–24, 1997.
Time: 8:30 a.m.
Place: Doubletree Hotel, Rockville, MD.
Contact Person: Dr. William Branche, Jr., Scientific Review Administrator, 6701 Rockledge Drive, Room 4182, Bethesda, Maryland 20892, (301) 435–1148.

This notice is being published less than 15 days prior to the above meeting due to the urgent need to meet timing limitations imposed by the grant review and funding cycle.

Name of SEP: Microbiological and Immunological Sciences.
Date: July 30, 1997.
Time: 1:00 p.m.
Place: NIH, Rockledge 2, Room 4198, Telephone Conference.
Contact Person: Dr. Mohindar Poonian, Scientific Review Administrator, 6701 Rockledge Drive, Room 4198, Bethesda, Maryland 20892, (301) 435–1218.

The meetings will be closed in accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), title 5, U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Program Nos. 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.892, 93,893, National Institutes of Health, HHS)

Dated: July 10, 1997.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 97–18796 Filed 7–16–97; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4196–C–03]

Combined Notices of Funding Availability for FY 1997 for the Public and Indian Housing Economic Development and Supportive Services Program and the Tenant Opportunities Program Correction

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Notice of Funding Availability (NOFA); correction.

SUMMARY: This notice corrects and clarifies information that was provided in the notice of funding availability (NOFA) for fiscal year (FY) 1997 for applicants under the Economic Development and Supportive Services Program (ED/SS), published in the **Federal Register** on June 6, 1997 (62 FR 31272). Specifically, this notice (1) announces a set-aside to an Indian Housing Authority not funded under the FY 1996 NOFA because of a technical computation error, (2) corrects the Maximum Grant Amounts for Elderly and Disabled Supportive Services, and (3) clarifies ineligible activities/cost items under the FY 1997 ED/SS program.

DATES: This notice does not affect the deadline date provided in the June 6, 1997 NOFA. Applications must still be received on or before the due date of August 18, 1997, at the correct local HUD Field Office or Area Office of Native American Programs (AONAP) having jurisdiction over the applicant by 3 p.m. (local time).

FOR FURTHER INFORMATION CONTACT: Maria Queen, Office of Community Relations and Involvement (OCRI), Room 4106, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone number, (202) 708–4214. (This is not a toll-free number).

Tracy Outlaw, National ONAP, 1999 Broadway, Suite 3390, Denver, CO 80302; telephone number, (303) 675–1600. (This is not a toll-free number.) Hearing or speech-impaired persons may use the Telecommunications Devises for the Deaf (TDD) by contacting the Federal Information Relay Services on 1–800–877–TDDY (1–800–877–8339) or 202–708–9300 (not a toll-free number) for information on the program.

SUPPLEMENTARY INFORMATION: On June 6, 1997 (62 FR 31272), HUD published in the **Federal Register** the Combined Notices of Funding Availability for

Fiscal Year 1997 for the Public and Indian Housing Economic Development and Supportive Services Program and the Tenant Opportunities Program. The NOFA announced the availability of a total of $62.225 million in grant funds for the two programs and set forth the application requirements and procedures. This notice amends the June 6, 1997 NOFA for the following reasons:

(1) To announce a set-aside to for the Seminole Tribe of Florida because it was not funded under the FY 1996 NOFA for this program because of a technical computation error.

(2) To make a correction to the Maximum Grant Amounts section of the NOFA for Elderly and Disabled Supportive Services category in order to remain consistent with the Family Economic Development and Supportive Services Category.

(3) To clarify what are ineligible activities/cost items under the FY 1997 ED/SS program.

Accordingly, FR Doc. 97–14812, the Combined Notices of Funding Availability for Fiscal Year 1997 for the Public and Indian Housing Economic Development and Supportive Services Program and the Tenant Opportunities Program, published in the **Federal Register** on June 6, 1997 (62 FR 31272), is amended as follows:

1. On page 31278, first column, under Section VI, paragraph (a), Purpose and Description, subparagraph (2) ''Funding Available'' is revised to add at the end the following sentence:

''Of the $42.25 million total current funds, $1,000,000 has been set-aside for the Seminole Tribe of Florida, which was not funded in the FY 1996 funding cycle because of a technical computation error, and up to $41.25 million is being made available under this NOFA.''

2. On page 31278, middle column, under Section VI, subparagraph (d)(2) is revised to read as follows:

''(2) For Elderly or Disabled Supportive Services category—no more than $250 per unit up to the below listed maximums:

(i) For HAs with 1 to 217 units occupied by elderly residents or persons with disabilities, the maximum grant award is $54,250.

(ii) For HAs with 218 to 1,155 units occupied by Elderly residents or persons with disabilities, the maximum grant award is $200,000.

(iii) For HAs with 1,156 or more units occupied by elderly residents or persons with disabilities, the maximum grant award is $300,000.

3. On page 31283, third column, under Section VI, add a new paragraph (k) to read as follows:

''(k) Ineligible Activities. Program funds may not be used for the following:

(1) Purchase or rental of land or buildings or any improvements to land or buildings.

(2) Building materials and construction costs.

(3) Payment of wages and/or salaries to participants receiving supportive services and/or training programs, except that grant funds may be used to hire a resident(s) to coordinate/provide services (i.e., Service Coordinators, Counselors, etc.) and or to coordinate/provide training program activities.''

Dated: July 14, 1997.

Kevin Emanuel Marchman,

Acting Assistant Secretary for Public and Indian Housing.

[FR Doc. 97–18953 Filed 7–15–97; 10:51 am]

BILLING CODE 4210–33–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket Nos. FR–4202–C–02 and 4231–C–02]

Notice of Funding Availability (NOFA) for Supportive Housing for the Elderly and Notice of Funding Availability for Supportive Housing for Persons With Disabilities; Clarification and Correction

AGENCY: Office of the Assistant Secretary for Housing-Federal Housing Commissioner, HUD.

ACTION: Notices of funding availability (NOFAs) for Fiscal Year (FY) 1997; Clarification and Correction.

SUMMARY: The Department published NOFAs in the **Federal Register** of May 27, 1997 concerning, respectively, supportive housing for the elderly and supportive housing for persons with disabilities. This notice provides additional guidance for applicants that experience difficulty in obtaining letters from State Historic Preservation Officers. It also makes two corrections to each of these NOFAs. It corrects the address for the HUD Connecticut State Office. It instructs applicants proposing projects within Washington State to submit their applications to the Oregon State Office, which will be conducting the review and selection process on behalf of the Washington State Office.

FOR FURTHER INFORMATION CONTACT: Georgia Yeck, Acting Director, New Products Division, Office of Multifamily Housing Development, Department of Housing and Urban Development, 451 Seventh Street, SW, Room 6142, Washington, DC 20410; telephone number (202) 708–2300 x2651. (This number is not toll-free.)

SUPPLEMENTARY INFORMATION: *State Historic Preservation Officer Letters.* The Department published the NOFA for Supportive Housing for the Elderly and NOFA for Supportive Housing for Persons with Disabilities on May 27, 1997 at 62 FR 28762 and 28776, respectively. Under each NOFA, sponsors are required to submit with their applications a letter from the State Historic Preservation Officer (SHPO) indicating whether their proposed site(s) may involve or affect historic properties. This was a good faith effort and attempt on the part of the Department to assist all parties concerned in expediting the historic preservation review and determination portion of the environmental clearance process. Some State Historic Preservation Officers have indicated that they will not participate in this early alert and identification endeavor. In those instances, sponsors must include a letter with their applications explaining that they attempted to get the required letter but the SHPO would not honor or recognize their request for information and attach a copy of their letter request to the SHPO. If available, a copy of the SHPO's letter responding to the Sponsor's request should also be included in the submission. In such cases, the Field Office must process the application in accordance with the standard environmental review procedures in place prior to the NOFA publication (i.e., file with the SHPO, allow time for a response from the SHPO and then make the appropriate finding, which must be received prior to convening of the Rating Panel).

Correction

In the notice FR Doc. 97–13728 (NOFA for Supportive Housing for the Elderly), beginning on page 28762 in the issue of May 27, 1997, make the following corrections:

1. On page 28762, first column, under the **ADDRESSES** caption, correct the first sentence to read as follows: ''Applications must be delivered to the Director of the Multifamily Housing Division in the HUD Office for your jurisdiction, except for projects proposed to be located within the jurisdiction of the Washington State Office, you must submit your application to the Oregon State Office.'';

2. On page 28773, second column, in Appendix B—HUD Offices, correct the address of the Connecticut State Office to read as follows:

''CONNECTICUT STATE OFFICE

One Corporate Center, 19th Floor, Hartford, CT 06103, (860) 240–4800''; and

3. On page 28774, third column, under Appendix B—HUD Office, remove the heading, address and phone number for the Washington State Office.

In the notice FR Doc. 97–13729 (NOFA for Supportive Housing for Persons with Disabilities), beginning on page 28776 in the issue of May 27, 1997, make the following corrections:

4. On page 28776, first column, under the **ADDRESSES** caption, correct the first sentence to read as follows: ''Applications must be delivered to the Director of the Multifamily Housing Division in the HUD Office for your jurisdiction, except for projects proposed to be located within the jurisdiction of the Washington State Office, you must submit your application to the Oregon State Office.'';

5. On page 28788, second column, in Appendix B—HUD Offices, correct the address of the Connecticut State Office to read as follows:

''CONNECTICUT STATE OFFICE

One Corporate Center, 19th Floor, Hartford, CT 06103, (860) 240–4800''; and

6. On page 28789, third column, under Appendix B—HUD Office, remove the heading, address and phone number for the Washington State Office.

Authority: Section 202, Housing Act of 1959, as amended (12 U.S.C. 1701q); Section 811, National Affordable Housing Act, as amended (42 U.S.C. 1803); and Section 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

Dated: July 14, 1997.

Nicolas P. Retsinas,

Assistant Secretary for Housing-Federal Housing Commissioner.

[FR Doc. 97–18945 Filed 7–15–97; 9:23 am]

BILLING CODE 4210–27–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Receipt of Applications for Permit

The following applicants have applied for a permit to conduct certain activities with endangered species. This notice is provided pursuant to Section 10(c) of the Endangered Species Act of 1973, as *amended* (16 U.S.C. 1531, *et seq.*):

PRT–831500

Applicant: Jack Sites, Bringham Young University, Provo, UT.

The applicant requests a permit to re-import from Australia tissue samples of Tartaruga (*Podocnemis expansa*), collected in Brazil, for the purposes of scientific research.

PRT–831912

Applicant: Michael Webster, State University at Buffalo, Buffalo, NY.

The applicant requests a permit to import hair, bone, teeth, skin, and tissue samples of Argali (*Ovis ammon*) salvaged from animals that died from natural causes or from hunting trophies in China, for the purposes of scientific research.

PRT–824210

Applicant: Don Melnick, Columbia University, New York, NY.

The applicant requests a permit to import blood, tissue, hair and fecal samples collected from endangered and threatened primates held in captivity in Malaysia, and Indonesia, for the purposes of scientific research.

The public is invited to comment on the following application(s) for permits to conduct certain activities with marine mammals. The application(s) was/were submitted to satisfy requirements of the Marine Mammal Protection Act of 1972, *as amended* (16 U.S.C. 1361 *et seq.*) and the regulations governing marine mammals (50 CFR 18).

PRT–831922

Applicant: Sea Research Foundation, Mystic CT.

Type of Permit: Import for Scientific Research.

Name and Number of Animals: polar bear (Ursus maritimus), 200 samples.

Summary of Activity to be Authorized: The applicant has requested a permit for import of up to 200 serum samples previously obtained by Canadian researchers, for the purposes of scientific research related to morbillivirus infection.

Source of Marine Mammals for Research: Canada as described above.

Period of Activity: five years from issuance date of the permit, if issued.

Concurrent with the publication of this notice in the **Federal Register**, the Office of Management Authority is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors for their review.

The following applicants have each requested a permit to import a sport-hunted polar bear (*Ursus maritimus*) from the Northwest Territories, Canada for personal use.

Applicant/ address	Population	PRT–
Brinton Jones, Grand Forks, ND.	McClintock Channel.	831715
Jan Seski, Murrysville, PA.	.....do	830808
Christopher Harvey, Ormond Beach, FL.	Southern Beaufort.	829688
Luis Bacardi, Coral Gable, FL.	.....do	831868
Robert Killett, Sykesville, MD.	Foxe Basin	831926

Written data or comments, requests for copies of the complete applications, or requests for a public hearing on any of these applications for marine mammal permits should be sent to the U.S. Fish and Wildlife Service, Office of Management Authority, 4401 N. Fairfax Drive, Room 430, Arlington, Virginia 22203, telephone 703/358–2104 or fax 703/358–2281 and must be received within 30 days of the date of publication of this notice. Anyone requesting a hearing should give specific reasons why a hearing would be appropriate. The holding of such hearing is at the discretion of the Director.

Documents and other information submitted with all of the applications listed in this notice are available for review, *subject to the requirements of the Privacy Act and Freedom of Information Act,* by any party who submits a written request for a copy of such documents within 30 days of the date of publication of this notice at the above address.

Dated: July 11, 1997.

Karen Anderson,

Acting Chief, Branch of Permits, Office of Management Authority.

[FR Doc. 97–18803 Filed 7–16–97; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF INTERIOR

Fish and Wildlife Service

Issuance of Permits for Marine Mammals

On May 15, 1997, a notice was published in the **Federal Register**, Vol. 62, No. 94, Page 26813, that an application had been filed with the Fish and Wildlife Service by the following individual for a permit to import a sport-hunted polar bear (*Ursus maritimus*) from Canada for personal use.

Applicant/ address	Population	PRT–
Ronald Baetens, Waterford, CT.	Northern Beaufort.	829285
Ken Johnson, Menomonee Falls, WI.	Southern Beaufort 829284.	

On May 23, 1997, a notice was published in the **Federal Register**, Vol. 62, No. 100, Page 28493, that an application had been filed with the Fish and Wildlife Service by the following individual for a permit to import a sport-hunted polar bear (*Ursus maritimus*) from Canada for personal use.

Applicant/ address	Population	PRT–
Gary Yackel/Hemlock, MI.	Northern Beaufort.	829152
Robert Nancarrow, Frankenmuth, MI.	.....do	829155
Everett Pannkuk, Jr., Raleigh, NC.	McClintock Channel.	828866

Notice is hereby given that on July 2, 1997 and July 3, 1997, as authorized by the provisions of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*) the Fish and Wildlife Service authorized the requested permits subject to certain conditions set forth therein.

Documents and other information submitted for these applications are available for review by any party who submits a written request to the U.S. Fish and Wildlife Service, Office of Management Authority, 4401 North Fairfax Drive, Rm 430, Arlington, Virginia 22203. Phone (703) 358–2104 or Fax (703) 358–2281.

Dated: July 11, 1997.

Karen Anderson,

Acting Chief, Branch of Permits, Office of Management Authority.

[FR Doc. 97–18802 Filed 7–16–97; 8:45 am]

BILLING CODE 4310–55–U

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CO–010–07–1060–00]

Notice of Public Hearing

AGENCY: White River Resource Area, Bureau of Land Management, DOI.

ACTION: Notice of Public Hearing.

SUMMARY: A public hearing on the use of helicopters in wild horse roundup activities in 1997 in Colorado, will be held at the White River Resource Area, Bureau of Land Management office.

DATE: August 22, 1997; 7:00 p.m.

FOR FURTHER INFORMATION CONTACT: Valerie Dobrich, Natural Resource Specialist, telephone (970) 878–3601, (FTS) 700–386–5539.

Dated: July 11, 1997.

Robert W. Schneider,

Associate District Manager.

[FR Doc. 97–18856 Filed 7–16–97; 8:45 am]

BILLING CODE 4310–JB–P–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AZ–020–97–1430–01; AZA–29074]

Arizona, Notice of Application for Conveyance of Federally-Owned Mineral Interests, Segregation Extended

AGENCY: Bureau of Land Management.

ACTION: Segregation Extension.

SUMMARY: AZA–29074. Pursuant to section 209 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1719), the segregation on the following lands is extended for W.J. and Betty Lo Wells, for the mineral estate described as follows:

Gila and Salt River Meridian, Arizona

T. 16 N., R. 1 E.,
Sec. 7, lots 4–14, N½NE¼, SE¼NE¼, E½SE¼.
T. 17 N., R. 1 W.,
Sec. 7, lots 9 and 10.
Sec. 8, lot 3, SW¼NW¼, SW¼.
Sec. 17, W½.
Sec. 18, lots 1–4, E½, E½W½.
Sec. 19, lots 1–4, E½, E½W½.
Sec. 20, NW¼, W½SW¼.
T. 17 N., R. 2 W.,
Sec. 13, E½, E½W½, NW¼NW¼.
Sec. 23, SW¼NE¼, S½NW¼, SW¼, W½SE¼, SE¼SE¼.
Sec. 24, E½, E½W½, W½SW¼.
Sec. 25, All.
Sec. 26, N½N½, SE¼NE¼, SE¼SW¼, SE¼SE¼SE¼.
Sec. 35, NE¼, E½NW¼, SW¼SW¼, N½SE¼, SE¼SE¼.

Upon publication of this notice in the **Federal Register**, the mineral interest described above will be segregated from the mining and mineral leasing laws. The segregation shall terminate upon issuance of a patent, upon final rejection of the application, or two years from the publication date, whichever occurs first.

FOR FURTHER INFORMATION CONTACT: Vivian Reid, Land Law Examiner, Phoenix Field Office, 2015 West Deer Valley Road, Phoenix, Arizona 85027, (602) 780–8090.

Dated: July 11, 1997.

Ken R. Drew,

Acting Field Manager, Phoenix Field Office.

[FR Doc. 97–18931 Filed 7–16–97; 8:45 am]

BILLING CODE 4310–32–P

DEPARTMENT OF JUSTICE

Civil Rights Division

Agency Information Collection Activities: Extension of Existing Collection; Comment Request

ACTION: Notice of Information Collection Under Review; Procedures for the Administration of Section 5 of the Voting Rights Act of 1965.

Office of Management and Budget (OMB) approval is being sought for the information collection listed below. This proposed information collection was previously published in the **Federal Register,** and 60 days for public comment were allowed.

The purpose of this notice is to allow an additional 30 days for public comments, until August 18, 1997. This process is conducted in accordance with 5 CFR Part 1320.10. Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Department of Justice Desk Officer, Washington, DC, 20503. Additionally, comments may be submitted to OMB via facsimile to 202–395–7285. Comments may also be submitted to the Department of Justice (DOJ), Justice Management Division, Information Management and Security Staff, Attention: Department Clearance Officer, Suite 850, 1001 G Street, NW, Washington, DC, 20530. Additionally, comments may be submitted to DOJ via facsimile to 202–514–1534. Written comments and suggestions from the public and affected agencies should address one or more of the following points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency/component, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's/component's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of this information collection:

(1) *Type of Information Collection:* Extension of a currently approved collection.

(2) *Title of the Form/Collection:* Procedures for the Administration of Section 5 of the Voting Rights Act of 1965, 28 CFR Part 51.

(3) Agency form number, if any, and the applicable component of the Department sponsoring the collection: No form; Voting Section, Civil Rights Division.

(4) Affected public who will be asked or required to respond, as well as a brief abstract: Primary: State or Local Government. Other: None. Jurisdictions specially covered under the Voting Rights Act are required to obtain preclearance from the Attorney General before instituting changes affecting voting. They must convince the Attorney General that voting changes are not racially discriminatory. The Procedures facilitate the provision of information that will enable the Attorney General to make the required determination.

(5) An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond: 4,727 responses per year (10,103 respondents making an average of 0.47 responses per year), with the average response requiring 10.02 hours.

(6) An estimate of the total public burden (in hours) associated with the collection: 47,365 burden hours.

Public comment on this proposed information collection is strongly encouraged.

Dated: July 14, 1997.

Robert B. Briggs,

Department Clearance Officer, United States Department of Justice.

[FR Doc. 97–18816 Filed 7–16–97; 8:45 am]

BILLING CODE 4410–13–M

DEPARTMENT OF JUSTICE

Extension of Comment Period for Comments Regarding the Lodging of a Consent Decree Pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (''CERCLA''), 42 U.S.C. § 9601 et seq.

Notice is hereby given that a proposed First Amendment to Consent Decree in *United States* v. *Westinghouse Electric Corporation*, Civil Action Nos. IP 83–9–C and IP 81–448–C, was lodged on June 3, 1997, with the United States District Court for the Southern District of Indiana.

The proposed amendment to consent decree provides for the performance of a removal action with respect to the sludge drying beds and sludge digesters at the Winston-Thomas Wastewater Treatment Facility, located in Bloomington, Indiana. The proposed amendment leaves all other portions of the consent decree, originally lodged with the Court on August 22, 1985, unchanged.

On June 9, 1997, The Department of Justice commenced a thirty day period to receive comments relating to the proposed consent decree. This period will be extended, and the Department of Justice will review comments that are received by the Department on or before July 25, 1997. Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States* v. *Westinghouse Electric Corporation*, DOJ Ref. #90–7–1–212A.

The proposed amendment to consent decree may be examined at the office of the United States Attorney, Southern District of Indiana, U.S. Courthouse, 46 East Ohio St., 5th Floor, Indianapolis, Indiana 46204–1986; the Region 5 Office of the Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604; the Monroe County Library, 303 East Kirkwood Ave., Bloomington, Indiana 47408; and at the Consent Decree Library, 1120 G Street, N.W., 4th Floor, Washington, D.C. 20005, (202) 624–0892. A copy of the proposed amendment to consent decree may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, N.W., 4th Floor, Washington, D.C. 20005. In requesting a copy please refer to the referenced case and enclose a check in the amount of $2.50 (25 cents per page reproduction costs), payable to the Consent Decree Library.

Bruce S. Gelber,

Deputy Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 97–18800 Filed 7–16–97; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

Agency Information Collection Activities: Proposed Collection; Comment Request

ACTION: Request OMB Approve an Emergency Extension; Application to File Declaration of Intention.

The Department of Justice, Immigration and Naturalization Service has submitted the following information collection request utilizing emergency review procedures, to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995. OMB approval has been requested by July 31, 1997. If granted, the emergency approval is only valid for 90 days. Comments should be directed to OMB, Office of Information and Regulatory Affairs, Attention: Ms. Debra Bond, 202–395–7316, Department of Justice Desk Officer, Washington, DC 20503.

During the first 60 days of this same period a regular review of this information collection is also being undertaken. Comments are encouraged and will be accepted until September 15, 1997. Written comments and suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points.

(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 agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or

other forms of information technology, e.g., permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Extension of currently approved information collection.

(2) *Title of the Form/Collection:* Application to File Declaration of Intention.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* For N–300. Adjudications Division, Immigration and Naturalization Service.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Individuals or Households. This collection is used by the Service to determine eligibility for a declaration of intention to become a citizen of the United States.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 1,015 respondents at 45 minutes (.75) hours per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 761 annual burden hours.

If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions, or additional information, please contact Mr. Richard A. Sloan, 202–616–7600, Director, Policy Directives and Instructions Branch, Immigration and Naturalization Service, U.S. Department of Justice, Room 5307, 425 I Street, NW., Washington, DC 20536.

If additional information is required contact: Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, Suite 850, Washington Center, 1001 G Street, NW., Washington, DC 20530.

Dated: July 14, 1997.

Robert B. Briggs,

Department Clearance Officer, United States Department of Justice.

[FR Doc. 97–18809 Filed 7–16–97; 8:45 am]

BILLING CODE 4410–18–M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

Agency Information Collection Activities: Proposed Collection; Comment Request

ACTION: Request OMB Approve an Emergency Extension; Petition to Remove the Conditions on Residence.

The Department of Justice, Immigration and Naturalization Service hassubmitted the following information collection request utilizing emergency review procedures, to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995. OMB approval has been requested by July 31, 1997. If granted, the emergency approval is only valid for 90 days. Comments should be directed to OMB, Office of Information and Regulatory Affairs, Attention: Ms. Debra Bond, 202–395–7316, Department of Justice Desk Officer, Washington, DC 20503.

During the first 60 days of this same period a regular review of this information collection is also being undertaken. Comments are encourage and will be accepted until September 15, 1997. Written comments and suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points.

(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 agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses,

Overview of This Information Collection

(1) *Tye of Information Collection:* Extension of currently approved information collection.

(2) *Title of the Form/Collection:* Petition to Remove the Conditions on Residence.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form I–751. Adjudications Division, Immigration and Naturalization Service.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Individuals or Households. Aliens granted conditional residence through marriage to a United States citizen or permanent resident use this information collection to petition for the removal of those conditions.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 128,889 respondents at 80 minutes (1.33) hours per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 171,422 annual burden hours.

If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions, or additional information, please contact Mr. Richard A. Sloan, 202–616–7600, Director, Policy Directives and Instructions Branch, Immigration and Naturalization Service, U.S. Department of Justice, Room 5307, 425 I Street, NW., Washington, DC 20536.

If additional information is required contact: Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, Suite 850, Washington Center, 1001 G Street, NW., Washington, DC 20530.

Dated: July 14, 1997.

Robert B. Briggs,

Department Clearance Officer, United States Department of Justice.

[FR Doc. 97–18810 Filed 7–16–97; 8:45 am]

BILLING CODE 4410–18–M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

Agency Information Collection Activities: Proposed Collection; Comment Request

ACTION: Request OMB approve an emergency extension; application for action on an approved application or petition.

The Department of Justice, Immigration and Naturalization Service has submitted the following information

collection request utilizing emergency review procedures, to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction act of 1995. OMB approval has been requested by July 31, 1997. If granted, the emergency approval is only valid for 90 days. Comments should be directed to OMB, Office of Information and Regulatory Affairs, Attention: Ms. Debra Bond, 202–395–7316, Department of Justice Desk Officer, Washington, DC 20503.

During the first 60 days of this same period a regular review of this information collection is also being undertaken. Comments are encouraged and will be accepted until September 15, 1997. Written comments and suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points.

(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 agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Extension of currently approved information collection.

(2) *Title of the Form/Collection:* Application for Action on an Approved Application or Petition.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form I–824. Adjudications Division, Immigration and Naturalization Service.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Individuals or Households. This form is used to request a duplicate approval notice, to notify the U.S. Consulate that a person has been adjusted to permanent resident status so family members can apply for derivative immigrant visa and to request another U.S. Consulate be notified that a petition has been approved.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 43,772 respondents at 25 minutes (.416) hours per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 18,209 annual burden hours.

If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions, or additional information, please contact Mr. Richard A. Sloan, 202–616–7600, Director, Policy Directives and Instructions Branch, Immigration and Naturalization Service, U.S. Department of Justice, Room 5307, 425 I Street, NW., Washington DC 20536.

If additional information is required contact: Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, Suite 850, Washington Center, 1001 G Street, NW., Washington, DC 20530.

Dated: July 14, 1997.

Robert B. Briggs,

Department Clearance Officer, United States Department of Justice.

[FR Doc. 97–18811 Filed 7–16–97; 8:45 am]

BILLING CODE 4410–18–M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

Agency Information Collection Activities: Proposed Collection; Comment Request

ACTION: Request OMB To approve an emergency extension; application for replacement/Initial nonimmigrant arrival-departure document.

The Department of Justice, Immigration and Naturalization Service has submitted the following information collection request utilizing emergency review procedures, to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995. OMB approval has been requested by July 31, 1997. If granted, the emergency approval is only valid for 90 days. Comments should be directed to OMB, Office of Information and Regulatory Affairs, Attention: Ms. Debra Bond, 202–395–7316, Department of Justice Desk Officer, Washington, DC 20503.

During the first 60 days of this same period a regulator review of this information collection is also being undertaken. Comments are encouraged and will be accepted until September 15, 1997. Written comments and suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points.

(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 agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collection; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Extension of currently approved information collection.

(2) *Title of the Form/Collection:* Application for Replacement/Initial Nonimmigration Arrival-Departure Document.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form I–102. Adjudications Division, Immigration and Naturalization Service.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Individuals or Households. The form is used by an alien temporarily residing in the United States whose evidence of registration has been lost, mutilated or destroyed. This form will be used by an alien to request a replacement of his or her arrival evidence; and by the Immigration and Naturalization Service to verify status and to determine eligibility of an applicant for said replacement.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 20,000 respondents at 25 minutes (.416) hours per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 8,320 annual burden hours.

If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions, or additional information, please contact Mr. Richard A. Sloan, 202–616–7600, Director, Policy Directives and Instructions Branch, Immigration and Naturalization Service, U.S. Department of Justice, Room 5307, 425 I Street, NW., Washington, DC 20536.

If additional information is required contact: Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, Suite 850, Washington Center, 1001 G Street, NW., Washington, DC 20530.

Dated: July 14, 1997.

Robert B. Briggs,

Department Clearance Officer, United States Department of Justice.

[FR Doc. 97–18812 Filed 7–16–97; 8:45 am]

BILLING CODE 4410–18–M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

Agency Information Collection Activities: Proposed Collection; Comment Request

ACTION: Request OMB Approve an Emergency Extension; Application for Replacement Naturalization/Citizenship Document.

The Department of Justice, Immigration and Naturalization Service has submitted the following information collection request utilizing emergency review procedures, to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995. OMB approval has been requested by July 31, 1997. If granted, the emergency approval is only valid for 90 days. Comments should be directed to OMB, Office of Information and Regulatory Affairs, Attention: Ms. Debra Bond, 202–395–7316, Department of Justice Desk Officer, Washington, DC 20503.

During the first 60 days of this same period a regular review of this information collection is also being undertaken. Comments are encouraged and will be accepted until September 15, 1997. Written comments and suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points.

(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 agencies' estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Extension of currently approved information collection.

(2) *Title of the Form/Collection:* Application for Replacement Naturalization/Citizenship Document.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form N–565. Adjudications Division, Immigration and Naturalization Service.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Individuals or Households. This form is used to apply for a replacement of a Declaration of Intention, Naturalization Certificate, Certificate of Citizenship or Repatriation Certificate, or to apply for a special certificate of naturalization recognized by a foreign country.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 18,000 respondents at 55 minutes (.916) hours per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 16,488 annual burden hours.

If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions, or additional information, please contact Mr. Richard A. Sloan, 202–616–7600, Director, Policy Directives and Instructions Branch, Immigration and Naturalization Service, U.S. Department of Justice, Room 5307, 425 I Street, NW., Washington, DC 20536.

If additional information is required contact: Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, Suite 850, Washington Center, 1001 G Street, NW., Washington, DC 20530.

Dated: July 14, 1997.

Robert B. Briggs,

Department Clearance Officer, United States Department of Justice.

[FR Doc. 97–18813 Filed 7–16–97; 8:45 am]

BILLING CODE 4410–18–M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

Agency Information Collection Activities: Proposed Collection; Comment Request

ACTION: Request OMB Approve an Emergency Extension; Application for Issuance or Replacement of Northern Mariana Card.

The Department of Justice, Immigration and Naturalization Service has submitted the following information collection request utilizing emergency review procedures, to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995. OMB approval has been requested by July 31, 1997. If granted, the emergency approval is only valid for 90 days. Comments should be directed to OMB, Office of Information and Regulatory Affairs, Attention: Ms. Debra Bond, 202–395–7316, Department of Justice Desk Officer, Washington, DC 20503.

During the first 60 days of this same period a regular review of this information collection is also being undertaken. Comments are encourage and will be accepted until September 15, 1997. Written comments and suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points.

(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 agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Extension of currently approved information collection.

(2) *Title of the Form/Collection:* Application for Issuance or Replacement of Northern Mariana Card.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form I–777. Adjudications Division, Immigration and Naturalization Service.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Individuals or Households. Applicants may apply for a Northern Mariana identification card if they received United States citizenship pursuant to Pub. L. 94–241 (Covenant to Establish a Commonwealth of the Northern Mariana Island).

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 100 respondents at 30 minutes (.5) hours per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 50 annual burden hours.

If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions, or additional information, please contact Mr. Richard A. Sloan, 202–616–7600, director, Policy Directives and Instructions Branch, Immigration and naturalization Service, U.S. Department of Justice, Room 5307, 425 I Street, NW., Washington, DC 20536.

If additional information is required contact: Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, Suite 850, Washington Center, 1001 G Street, NW., Washington, DC 20530.

Dated: July 14, 1997.

Robert B. Briggs,

Department Clearance Officer, United States Department of Justice.

[FR Doc. 97–18814 Filed 7–16–97; 8:45 am]

BILLING CODE 4410–18–M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

Agency Information Collection Activities: Extension of Existing Collection; Comment Request

ACTION: Notice of Information Collection Under Review; Certificate of Eligibility for Nonimmigrant Student (F–1/M–1); Status for Academic, Language, and Vocational Students (Pilot).

Office of Management and Budget (OMB) approval is being sought for the information collection listed below. This proposed information collection was previously published in the **Federal Register** on February 11, 1997 at 62 FR 6271, allowing for an emergency review with a 60-day public comment period. One public comment was received by the Immigration and Naturalization Service (INS). The INS has responded to those comments. The purpose of this notice is to allow an additional 30 days for public comments from the date listed at the top of this page in the **Federal Register.** This process is conducted in accordance with 5 CFR Part 1320.10.

Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the Office of Management and Budget, Office of Regulatory Affairs, Attention: Department of Justice Desk Officer, Washington, DC 20530. Additionally, comments may be submitted to OMB via facsimile to 202–395–7285. Comments may also be submitted to the Department of Justice (DOJ), Justice Management Division, Information Management and Security Staff, Attention: Department Clearance Officer, Suite 850, 1001 G Street, NW., Washington, DC 20530. Additionally, comments may be submitted to DOJ via facsimile to 202–514–1534.

Written comments and suggestions from the public and affected agencies should address one or more of the following points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency/component, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies/components estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of information collection:* Extension of a currently approved collection.

(2) *The title of the form/collection:* Certificate of Eligibility for Nonimmigrant Student F–1–M–1); Status for Academic, Language, and Vocational Students (Pilot).

(3) *The agency form number, if any, and the applicable component of the Department sponsoring the collection:* Form I–20P, Adjudications Division, Immigration and Naturalization Service.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Not-for-profit institutions, Business or other for profit. The information collection is used by the INS to electronically collect and submit information in a limited pilot environment, from nonimmigrant students attending schools in the U.S. in order that INS can monitor the student's immigration status and ensure that the students maintain the conditions imposed by their nonimmigrant status while attending school.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 20,000 responses at 50 minutes (.833 hours) per response.

(6) *an estimate of the total public burden (in hours) associated with the collection:* 16,600 annual burden hours.

If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions, or additional information, please contact Richard A. Sloan, Director, Policy Directives and Instructions Branch, Immigration and Naturalization Service, U.S. Department of Justice, 425 I Street, NW., Room 5307, Washington, DC 20536 (202–514–3291). Additionally, comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time may also be directed to Mr. Richard A. Sloan.

If additional information is required contact: Mr. Robert Briggs, Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management

Division, Suite 850, Washington Center, 1001 G Street, NW., Washington, DC 20530.

Dated: July 14, 1997.

Robert B. Briggs,

Deparment Clearance Officer, United States Department of Justice.

[FR Doc. 97–18815 Filed 7–16–97; 8:45 am]

BILLING CODE 4410–18–M

DEPARTMENT OF LABOR

Labor Advisory Committee for Trade Negotiations and Trade Policy; Meeting Notice

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463 as amended), notice is hereby given of a meeting of the Steering Subcommittee of the Labor Advisory Committee for Trade Negotiations and Trade Policy.

Date, time and place: July 23, 1997, 10:00 am., U.S. Department of Labor, Room S–1011, 200 Constitution Ave., NW, Washington, D.C. 20210.

Purpose: The meeting will include a review and discussion of current issues which influence U.S. trade policy. Potential U.S. negotiating objectives and bargaining positions in current and anticipated trade negotiations will be discussed. Pursuant to section 9(B) of the Government in the Sunshine Act, 5 U.S.C. 552b(c)(9)(B) it has been determined that the meeting will be concerned with matters the disclosure of which would seriously compromise the Government's negotiating objectives or bargaining positions. Accordingly, the meeting will be closed to the public.

For further information, contact: Jorge Perez-Lopez, Director, Office of International Economic Affairs, Phone: (202) 219–7597.

Signed at Washington, D.C. this 11th day of July 1997.

Andrew J. Samet,

Acting Deputy Under Secretary, International Affairs.

[FR Doc. 97–18839 Filed 7–16–97; 8:45 am]

BILLING CODE 4510–28–M

DEPARTMENT OF LABOR

Office of the Secretary

Bureau of International Labor Affairs; U.S. National Administrative Office; North American Agreement on Labor Cooperation; Notice of Determination Regarding Review of Submission #9701

AGENCY: Office of the Secretary, Labor.

ACTION: Notice.

SUMMARY: The U.S. National Administrative Office (NAO) gives notice that on July 14, 1997, Submission #9701 was accepted for review. The submission was filed with the NAO on May 16, 1997, by Human Rights Watch (HRW), the International Labor Rights Fund (ILRF), and the National Association of Democratic Lawyers (ANAD) of Mexico and raises issues of discrimination against women workers and women job applicants in Mexico.

Article 16(3) of the North American Agreement on Labor Cooperation (NAALC) provides for the review of labor law matters in Canada and Mexico by the NAO. The objectives of the review of the submission will be to gather information to assist the NAO to better understand and publicly report on the Government of Mexico's compliance with the obligations set forth in Articles 3 and 4 of the NAALC.

EFFECTIVE DATE: July 14, 1997.

FOR FURTHER INFORMATION CONTACT: Irasema T. Garza, Secretary, U.S. National Administrative Office, Department of Labor, 200 Constitution Avenue, N.W., Room C–4327, Washington, D.C. 20210. Telephone: (202) 501–6653 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: On May 16, 1997, HRW, the ILRF, and ANAD filed a submission with the NAO concerning allegations involving discrimination against women workers and women job applicants in Mexico's export processing (*maquiladora*) sector. The submission contains information that women are required to undergo pre and post employment pregnancy screening as a condition of employment and that pregnant women are denied employment or pressured into resigning from their jobs.

The procedural guidelines for the NAO, published in the **Federal Register** on April 7, 1994, 59 FR 16660, specify that, in general, the Secretary of the NAO shall accept a submission for review if it raises issues relevant to labor law matters in Canada or Mexico and if a review would further the objectives of the NAALC. The guidelines permit the NAO to decline to review a submission if, inter alia, the submission is not sufficiently specific to determine the nature of the request and permit an appropriate review.

Submission #9701 relates to labor law matters. A review would appear to further the objectives of the NAALC, as set out in Article 1, which includes improving working conditions and living standards in each Party's territory; promoting, to the maximum extent possible, the labor principles set out in Annex 1 of the NAALC, among them the elimination of employment discrimination on the basis of race, religion, age, sex or other grounds; and promoting compliance with, and effective enforcement by each Party, of its labor law.

Accordingly, the submission has been accepted for review. The NAO's decision is not intended to indicate any determination as to the validity or accuracy of the Allegations contained in the submission.

The objectives of the review will be to gather information to assist the NAO to better understand and publicly report on the Government of Mexico's compliance with the obligations agreed to under Articles 3 and 4 of the NAALC. The review will focus on compliance with, and effective enforcement of, labor laws that provide protection against employment discrimination. The review will also focus on the access to the appropriate tribunals or other government bodies by workers who believe they have been discriminated against. The review will be completed, and a public report issued, within 120 days, or 180 days if circumstances require an extension of time, as set out in the procedural guidelines of the NAO.

Signed at Washington, D.C. on July 14, 1997.

Irasema T. Garza,

Secretary, U.S. National Administrative Office.

[FR Doc. 97–18837 Filed 7–16–97; 8:45 am]

BILLING CODE 4510–28–M

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Records Schedules; Availability and Request for Comments

AGENCY: National Archives and Records Administration, Office of Records Services.

ACTION: Notice of availability of proposed records schedules; request for comments.

SUMMARY: The National Archives and Records Administration (NARA) publishes notice at least once monthly of certain Federal agency requests for records disposition authority (records schedules). Records schedules identify records of sufficient value to warrant preservation in the National Archives of the United States. Schedules also authorize agencies after a specified period to dispose of records lacking administrative, legal, research, or other value. Notice is published for records schedules that propose the destruction of records not previously authorized for disposal, or reduce the retention period for records already authorized for disposal. NARA invites public

comments on such schedules, as required by 44 U.S.C. 3303a(a).

DATES: Requests for copies must be received in writing on or before September 2, 1997. Once the appraisal of the records is completed, NARA will send a copy of the schedule. The requester will be given 30 days to submit comments.

ADDRESSES: Address requests for single copies of schedules identified in this notice to the Civilian Appraisal Staff (NWRC), National Archives and Records Administration, 8601 Adelphi Road College Park, MD 20740–6001. Requesters must cite the control number assigned to each schedule when requesting a copy. The control number appears in the parentheses immediately after the name of the requesting agency.

FOR FURTHER INFORMATION CONTACT: Michael L. Miller, Director, Records Management Programs, National Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740–6001, telephone (301) 713–7110.

SUPPLEMENTARY INFORMATION: Each year U.S. Government agencies create billions of records on paper, film, magnetic tape, and other media. In order to control this accumulation, agency records managers prepare records schedules specifying when the agency no longer needs the records and what happens to the records after this period. Some schedules are comprehensive and cover all the records of an agency or one of its major subdivisions. These comprehensive schedules provide for the eventual transfer to the National Archives of historically valuable records and authorize the disposal of all other records. Most schedules, however, cover records of only one office or program or a few series of records, and many are updates of previously approved schedules. Such schedules also may include records that are designated for permanent retention.

Destruction of records requires the approval of the Archivist of the United States. This approval is granted after a thorough study of the records that takes into account their administrative use by the agency of origin, the rights of the Government and of private persons directly affected by the Government's activities, and historical or other value.

This public notice identifies the Federal agencies and their subdivisions requesting disposition authority, includes the control number assigned to each schedule, and briefly describes the records proposed for disposal. The records schedule contains additional information about the records and their disposition. Further information about the disposition process will be fur nished to each requester.

Schedules Pending

1. Department of Agriculture, Grain Inspection, Packers and Stockyards Administration (N1–463–97–1). Grain elevator monitoring records produced by automated weighing systems and closed circuit television systems.
2. Department of Health and Human Services, Working Group on Welfare Reform, Family Support and Independence (N1–220–97–10). Administrative records, reference files, and some public correspondence (substantive program records are designated for permanent retention).
3. Department of Housing and Urban Development (N1–207–97–3). Applications and supporting documents for J–1 waiver recommendation files.
4. Department of Justice, Immigration and Naturalization Service (N1–85–97–3). Field office records of the Employer Sanction Program.
5. Department of the Treasury, United States Secret Service (N1–87–96–2). Records relating to commission books issued to Secret Service agents on their retirement.
6. Panama Canal Commission (N1–185–97–13). Health, Safety, and Sanitation records.
7. Panama Canal Commission (N1–185–97–16). Stores, Plant, and Cost Accounting records.

Dated: July 8, 1997.

Geraldine Phillips,

Acting Assistant Archivist for Record Services—Washington, DC.

[FR Doc. 97–18808 Filed 7–16–97; 8:45 am]

BILLING CODE 7515–01–P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Renewal of Advisory Committee on Preservation

This notice is published in accordance with the provisions of Section 9(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., App.) and advises of the renewal of the National Archives and Records Administration's (NARA) Advisory Committee on Preservation for a two-year period. In accordance with the Office of Management and Budget (OMB) Circular A–135, OMB has approved the inclusion of the Advisory Committee on Preservation in NARA's ceiling of discretionary advisory committees. The Committee Management Secretariat, General Services Administration, has also concurred with the renewal of the Advisory Committee on Preservation in correspondence dated May 16, 1997.

The Archivist of the United States has determined that the renewal of the Advisory Committee on Preservation is in the public interest due to the expertise and valuable advice the committee members provide on technical preservation issues affecting Federal records of all types of media. NARA uses the Committee's recommendations in NARA's implementation of strategies for preserving the permanently valuable records of the Federal Government.

Dated: July 10, 1997.

John W. Carlin,

Archivist of the United States.

[FR Doc. 97–18807 Filed 7–16–97; 8:45 am]

BILLING CODE 7515–01–P

NATIONAL FOUNDATION ON THE ARTS AND HUMANITIES

Institute of Museum and Library Services, Office of Library Services Submission for OMB Review; Comment Request

July 9, 1997.

AGENCY: Institute of Museum and Library Services.

SUMMARY: The Institute of Museum and Library Services has submitted the following public information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). Copies of these individual ICRs, with applicable support documentation, may be obtained by calling the Institute of Museum and Library Services Public Information Officer, Tania Said (202) 606–4646. Individuals who use a telecommunications device for the deaf (TTY/TTD) may call (202) 606–8636 between 8:30 a.m. and 6:00 p.m. Eastern time, Monday through Friday.

Comments should be sent to Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for Institute of Museum and Library Services, Office of Management and Budget, Room 10235, Washington, DC 20503 (202) 395–7316, within (30 days from the date of this publication in the **Federal Register**).

The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

• Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used;

• Enhance the quality, utility and clarity of the information to be collected; and

• Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g. permitting electronic submissions of responses.

Agency: Institute of Museum and Library Services.

Title: Library Services and Technology Act Five-Year Plan.

OMB Number: 3137–0034.

Agency Number: 3137.

Frequency: Once every one to five years.

Affected Public: State Library Administrative Agency.

Number of Respondents: 55.

Estimated Time Per Respondent: 90 hours.

Total Burden House: 4,950.

Total Annualized Capital/Startup Costs: 0

Total Annual Costs: 0

Description: This State plan is needed to assist in determining each State's compliance with the enabling statute, the Museum and Library Services Act of 1996, Pub. L. 104–208.

FOR FURTHER INFORMATION CONTACT: Tania Said, Public Information Officer, Institute of Museum and Library Services, 1100 Pennsylvania Avenue, NW., Washington, DC 20506, telephone (202) 606–4646.

Tania Said,

Public Information Officer.

[FR Doc. 97–18834 Filed 7–16–97; 8:45 am]

BILLING CODE 7036–01–M

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–275 and 50–323

Pacific Gas and Electric Company; Diablo Canyon Nuclear Power Plant, Unit Nos. 1 and 2 Notice of Withdrawal of Application for Amendment to Facility Operating License

The United States Nuclear Regulatory Commission (the Commission) has granted the request of Pacific Gas and Electric Company (the licensee) to withdraw its February 15, 1996, application for proposed amendment to Facility Operating License Nos. DPR–80 and DPR–82 for the Diablo Canyon Nuclear Power Plant, Unit Nos. 1 and 2, located in San Luis Obispo County, California.

The proposed amendment would have revised Technical Specification (TS) 3.5.2, ''ECCS Subsystems—Tavg Greater Than or Equal to 350°F,'' to change the allowed outage time (AOT) for any one safety injection (SI) pump from 72 hours to 7 days. The specific TS change proposed added a new footnote that increases the AOT for one SI pump from 72 hours to 7 days for performance of non-routine, emergent maintenance and required review by the Plant Staff Review Committee (PSRC), and Plant Manager approval prior to exceeding 72 hours.

The Commission had previously issued a Notice of Consideration of Issuance of Amendment published in the **Federal Register** on June 5, 1996 (61 FR 28619). However, by letter dated July 2, 1997, the licensee withdrew the proposed change.

For further details with respect to this action, see the application for amendment dated February 15, 1996, and the licensee's letter dated July 2, 1997, which withdrew the application for license amendment. 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 the local public document room located at California Polytechnic State University, Robert E. Kennedy Library, Government Documents and Maps Department, San Luis Obispo, California 93407.

Dated at Rockville, Maryland this 10th day of July 1997.

For The Nuclear Regulatory Commission.

Steven D. Bloom,

Project Manager, Project Directorate IV–2, Division of Reactor Projects III/IV, Office of Nuclear Reactor Regulation.

[FR Doc. 97–18829 Filed 7–16–97; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–346]

In the Matter of Toledo Edison Company, Centerior Service Company The Cleveland Electric Illuminating Company (Davis-Besse Nuclear Power Station, Unit 1); Exemption

I

The Toledo Edison Company, Centerior Service Company, and The Cleveland Electric Illuminating Company (the licensees) are the holders of Facility Operating License No. NPF–3, which authorizes operation of the Davis-Besse Nuclear Power Station (DBNPS), Unit 1 (the facility). The license provides, among other things, that the facility is subject to all the rules, regulations, and orders of the U.S. Nuclear Regulatory Commission (the Commission) now or hereafter in effect.

The facility is a pressurized-water reactor located at the licensees' site in Ottawa County, Ohio.

II

In 10 CFR 73.55, ''Requirements for Physical Protection of Licensed Activities in Nuclear Power Reactors Against Radiological Sabotage,'' paragraph (a) states, in part, that ''The licensee shall establish and maintain an onsite physical protection system and security organization which will have as its objective to provide high assurance that activities involving special nuclear material are not inimical to the common defense and security and do not constitute an unreasonable risk to the public health and safety.''

In 10 CFR 73.55(d), ''Access Requirements,'' paragraph (1), it is specified that ''The licensee shall control all points of personnel and vehicle access into a protected area.'' Also, 10 CFR 73.55(d)(5) requires that ''A numbered picture badge identification system shall be used for all individuals who are authorized access to protected areas without escort.'' It further states that individuals not employed by the licensees (for example, contractors) may be authorized access to protected areas without escort provided that the individual ''receives a picture badge upon entrance into the protected area which must be returned upon exit from the protected area * * *''

By letter dated January 20, 1997, the licensees requested an exemption from certain requirements of 10 CFR 73.55. The licensees propose to implement an alternative unescorted access system that would eliminate the need to issue and retrieve picture badges at the entrance location to the protected area and would allow all individuals authorized for unescorted access, including contractors, to keep their picture badges in their possession when departing DBNPS.

III

Pursuant to 10 CFR 73.5, ''Specific Exemptions,'' the Commission may, upon application of any interested person or upon its own initiative, grant such exemptions from the requirements of the regulations in this part as it determines are authorized by law and will not endanger life or property or the

common defense and security, and are otherwise in the public interest.

Currently, unescorted access into the protected area of DBNPS for both employee and contractor personnel is controlled through the use of picture badges. Positive identification of personnel who are authorized and request access into the protected area is established by security personnel making a visual comparison of the individual requesting access and that individual's picture badge. In accordance with 10 CFR 73.55(d)(5), contractor personnel are not allowed to take their picture badges offsite. In accordance with the plant's physical security plan, the licensees' employees are also not allowed to take their picture badges offsite.

The proposed system will require that all individuals with authorized unescorted access have the physical characteristics of their hand (hand geometry) registered with their picture badge number in a computerized access control system. Therefore, all authorized individuals must not only have their picture badge to gain access to the protected area, they must also have their hand geometry confirmed. All individuals, including contractors, who have authorized unescorted access into the protected area will be allowed to keep their picture badges in their possession when departing DBNPS.

All other access processes, including search function capability and access revocation, will remain the same. A security officer responsible for access control will continue to be positioned within a bullet-resistant structure. It should also be noted that the proposed system is only for individuals with authorized unescorted access and will not be used for those individuals requiring escorts.

Sandia National Laboratories conducted testing which demonstrated that the hand geometry equipment possesses strong performance characteristics. Details of the testing performed are in the Sandia report, ''A Performance Evaluation of Biometric Identification Devices,'' SAND91—0276 UC—906, Unlimited Release, June 1991. On the basis of the Sandia report and the licensees' experience using the current photo picture identification system, the false acceptance rate for the proposed hand geometry system would be at least equivalent to that of the current system. To ensure that the proposed system will continue to meet the general performance requirements of 10 CFR 73.55, the licensees will implement a process for testing the system. The site security plans will also be revised to allow implementation of the hand geometry system and to allow employees and contractors with unescorted access to keep their picture badges in their possession when leaving DBNPS.

IV

For the foregoing reasons, the NRC staff has determined that the proposed alternative measures for protection against radiological sabotage meet the high assurance objective and the general performance requirements of 10 CFR 73.55. In addition, the staff has determined that the overall level of the proposed system's performance will provide protection against radiological sabotage equivalent to that which is provided by the current system in accordance with 10 CFR 73.55.

Accordingly, the Commission has determined that, pursuant to 10 CFR 73.5, this exemption is authorized by law, will not endanger life or property or common defense and security, and is otherwise in the public interest. Therefore, the Commission hereby grants the following exemption:

The requirement of 10 CFR 73.55(d)(5) that individuals who have been granted unescorted access and are not employed by the licensees are to return their picture badges upon exit from the protected area is no longer necessary. Thus, these individuals may keep their picture badges in their possession upon leaving Davis-Besse Nuclear Power Station. This exemption is granted on the condition that the licensee implements a system testing process and revises the site security plan as discussed in Section III above.

Pursuant to 10 CFR 51.32, the Commission has determined that the granting of this exemption will not result in any significant adverse environmental impact (62 FR 30627).

Dated at Rockville, Maryland, this 10th day of July 1997.

For The Nuclear Regulatory Commission.

Samuel J. Collins,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. 97–18830 Filed 7–16–97; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–397]

Washington Public Power Supply System; Notice of Partial Withdrawal of Application for Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has granted the request of Washington Public Power Supply System (the licensee) to partially withdraw its May 20, 1997, application, as supplemented by letters dated June 6, 1997, and July 3, 1997, for proposed amendment to Facility Operating License NPF–21 for the Washington Nuclear Project No. 2, located in Benton County, Washington.

The proposed change modifies the Technical Specifications (TS) for the minimum critical power ratio (MCPR) safety limit in TS 2.1.1.2 for ATRIUM 9X9 fuel. In addition, a new reference would have been added to TS Section 5.6.5, ''Core Operating Limits Report.'' The licensee's June 6, 1997, letter, in addition to specifying that the proposed license amendment change would only be in effect for Cycle 13, withdrew the addition of this new reference.

The Commission had previously issued a Notice of Consideration of Issuance of Amendment published in the **Federal Register** on May 29, 1997 (62 FR 29160). However, by letter dated June 6, 1997, the licensee partially withdrew the proposed change.

For further details with respect to this action, see the application for amendment dated May 20, 1997, as supplemented by letters dated June 6, 1997, which partially withdrew the application for license amendment, and July 3, 1997. The above documents are available for public inspection at the Commission's Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Richland Public Library, 955 Northgate Street, Richland, Washington 99352.

Dated at Rockville, Maryland, this 3rd day of July 1997.

For The Nuclear Regulatory Commission.

Timothy G. Colburn,

Senior Project Manager, Project Directorate IV–2, Division of Reactor Projects—III/IV, Office of Nuclear Reactor Regulation.

[FR Doc. 97–18828 Filed 7–16–97; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards Subcommittee Meeting on Thermal Hydraulic Phenomena; Notice of Meeting

The ACRS Subcommittee on Thermal Hydraulic Phenomena will hold a meeting on July 29–30, 1997, Room T–2B3, 11545 Rockville Pike, Rockville, Maryland.

Most of the meeting will be closed to public attendance to discuss Westinghouse Electric Corporation proprietary information pursuant to 5 U.S.C. 552b(c)(4).

The agenda for the subject meeting shall be as follows:

Tuesday, July 29, 1997—8:30 a.m. until the conclusion of business

Wednesday, July 30, 1997—8:30 a.m. until the conclusion of business

The Subcommittee will continue its review of the results of the Westinghouse Test and Analysis Program being conducted in support of the AP600 design certification. Specifically, the Subcommittee will review the Final Validation Report for use of the NOTRUMP small-break LOCA code for AP600 accident analyses. The purpose of this meeting is to gather information, analyze relevant issues and facts, and to formulate proposed positions and actions, as appropriate, for deliberation by the full Committee.

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairman; written statements will be accepted and made available to the Committee. Electronic recordings will be permitted only during those portions of the meeting that are open to the public, and questions may be asked only by members of the Subcommittee, its consultants, and staff. Persons desiring to make oral statements should notify the cognizant ACRS staff engineer named below five days prior to the meeting, if possible, so that appropriate arrangements can be made.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by an hold discussions with representatives of the Westinghouse Electric Corporation, the NRC staff, their consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the scheduling of sessions which are open to the public, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by contacting the cognizant ACRS staff engineer, Mr. Paul A. Boehnert (telephone 301/415–8065) between 7:30 a.m. and 4:15 p.m. (EDT). Persons planning to attend this meeting are urged to contact the above named individual one or two working days prior to the meeting to be advised of any potential changes to the agenda, etc., that may have occurred.

Dated: July 11, 1997.

Sam Duraiswamy,

Chief, Nuclear Reactors Branch.

[FR Doc. 97–18760 Filed 7–16–97; 8:45 am]

BILLING CODE 7590–01–P–M

POSTAL SERVICE BOARD OF GOVERNORS

Sunshine Acting Meeting

TIMES AND DATES: 4:00 p.m., Sunday, August 3, 1997; 10:00 a.m., Monday, August 4, 1997; 8:30 a.m., Tuesday, August 5, 1997.

PLACE: Minneapolis, Minnesota, at the Minneapolis Hilton Hotel, 1001 Marquette Avenue South, in Ballroom C.

STATUS: August 3 (Closed); August 4 (Closed); August 5 (Open).

MATTERS TO BE CONSIDERED:

Sunday, August 3—4:00 p.m. (Closed)

1. The Five-Year Strategic Plan.
2. Status Report on Legislative Reform.

Monday, August 4—10:00 a.m. Closed

1. Officer Compensation.
2. Status Report on the Tray Management System.
3. Development Real Estate.
4. Inspector General and Inspection Service Budgets.

Tuesday, August 5—8:30 a.m. (Open)

1. Minutes of the Previous Meeting, July 30–July 1, 1997.
2. Remarks of the Postmaster General/Chief Executive Officer.
3. Amendments to BOG Bylaws.
4. Capital Investments.
   a. 46 Small Parcel and Bundle Sorters.
   b. International/Military Service Centers.
5. Quarterly Report on Service Performance.
6. Quarterly Report on Financial Results.
7. Report on the Midwest Area. (Mr. McComb).
8. Tentative Agenda for the September 8–9, meeting in Washington, DC.

CONTACT PERSON FOR MORE INFORMATION: Thomas J. Koerber, Secretary of the Board, U.S. Postal Service, 475 L'Enfant Plaza, SW., Washington, DC 20260–1000. Telephone (202) 268–4800.

Thomas J. Koerber,

Secretary.

[FR Doc. 97–18939 Filed 7–14–97; 4:48 pm]

BILLING CODE 7710–12–M

SECURITIES AND EXCHANGE COMMISSION

Proposed Collection; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549.

Extension:

Rule 206(4)–2—SEC File No. 270–217, OMB Control No. 3235–0241

Rule 02 and Forms 4–R, 5–R, 6–R, and 7–R—SEC File No. 270–214, OMB Control No. 3235–0240

Rule 203–2, and Form ADV–W—SEC File No. 270–40, OMB Control No. 3235–0313.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.), the Securities an Exchange Commission (''Commission'') is soliciting comments on the collections of information summarized below. The Commission plans to submit these existing collections of information to the Office of Management and Budget for extension and approval.

Rule 206(4)–2 governs the custody or possession of funds or securities by Commission-registered investment advisers. Rule 206(4)–2 makes it a fraudulent, deceptive or manipulative act, practice or course of business for any investment adviser who has custody or possession of funds or securities of its clients to do any act or take any action with respect to any such funds or securities unless (1) The securities are properly segregated and safely kept; (2) the funds are held in one or more specially designated client accounts with the adviser named as trustee; (3) the advisor promptly notifies the client as to the place and manner of safekeeping; (4) the adviser sends a detailed written statement to each client at least once every three months; and (5) at least once each year, on an unannounced basis, an independent public accountant verifies by actual examination the clients' funds and securities and files a certificate with the Commission describing the examination. The rule does not apply to an investment adviser that is also registered as a broker-dealer under the Securities Exchange Act of 1934 (''Exchange Act''), provided the adviser is in compliance with Rule 15c3–1 under the Exchange Act, or, if a member of an exchange, in compliance with exchange requirements with respect to financial responsibility and the segregation of funds or securities carried for the account of the customer.

The information required by Rule 206(4)–2 is used by the Commission in connection with its investment adviser inspection program to ensure that advisers are in compliance with Rule 206(4)–2. The information required by paragraphs (3) and (4) of the rule is also used by clients. Without the information collected under the rule, the Commission would be less efficient and effective in its inspection program and clients would not have information valuable for monitoring the adviser's handling of their accounts.

The Commission recently adopted amendments to the rule to restrict the application of the rule to those advisers registered with the Commission. The likely respondents to this information collection are those investment advisers that are registered with the Commission after July 8, 1997, are not also registered as broker-dealers, and have custody of clients' funds or securities. The Commission estimates that 111 advisers would be subject to Rule 206(4)–2. The number of responses under Rule 206(4)–2 will vary considerably depending on the number of clients for which an adviser has custody or possession of funds or securities. It is estimated that an adviser subject to this rule would be required to provide an average of 250 responses annually at an average of .5 hours per response. The total annual burden for each respondent is estimated to be 125 hours. The total annual aggregate burden for all respondents is estimated to be 13,875 hours.

Rule O–2 requires certain non-resident persons to furnish to the Commission a written irrevocable consent and power of attorney that designates the Commission as an agent for service of process, and that stipulates and agrees that any civil suit or action against such person may be commenced by service of process on the Commission. Regulation 279.4, 279.5, 279.6, and 279.7 [17 CFR 279.4, 279.5, 279.6, and 279.7] designate Forms 4–R, 5–R, 6–R, and 7–R as the irrevocable appointments of agent for service of process, pleadings and other papers to be filed by an individual non-resident adviser or an unincorporated nonresident investment adviser, a partnership nonresident investment adviser, or a nonresident general partner of an investment adviser or a nonresident ''managing agent'' of an unincorporated investment adviser, respectively, which is registered or applying for registration with the Commission as an investment adviser.

It is necessary to obtain the appropriate consent to ensure that the Commission and other persons can institute injunctive actions against nonresident investment advisers and non-resident partners or managers of investment advisers in cases involving violation of the Investment Advisers Act of 1940 (''Advisers Act'') that may result in civil liabilities.

The Commission estimates that there may be an increase in the number of non-resident registered investment advisers, which may be offset by those non-resident general partners or non-resident managing agents of investment advisers that would not register or be registered with the Commission after July 8, 1997 who would not be subject to the Rule 0–2 or the forms.[1] Therefore, non-resident general partners or non-resident managing agents of investment advisers that would be registered with the states after the July 8, 1997 effective date would no longer be subject to Rule 0–2 or be required to file the forms.

The Commission estimates that there would be approximately 300 registrants subject to Rule 0–2. An adviser subject to this rule would be required to file only once, and the Commission estimates that the preparation and filing of any of the forms designated for use pursuant to Rule 0–2 would require approximately one hour of the registrant's time. The total annual burden would be 300 hours.

Rule 203–2 governs withdrawal from registration under the Advisers Act and Form ADV–W is the form for withdrawing registration under the Advisers Act.

To enforce the registration provisions of the Advisers Act and to fulfill its responsibilities under Section 203(h), the Commission must obtain certain information from persons seeking to withdraw from registration. The information required by Form ADV–W enables the Commission to satisfy itself that the activities of person seeking to withdraw from registration do not require such person to be registered and to determine whether terms and conditions should be imposed upon a registrant's withdrawal. Such terms and conditions might include the making of appropriate arrangements with respect to the transfer to clients of client funds and securities in the custody and possession of the adviser or the return to clients of prepaid advisory fees.

After July 8, 1997 (effective date of the Coordination Act), the Commission estimates that only 28 percent of investment advisers currently registered with the Commission will remain eligible for Commission registration. It is estimated that approximately 616 advisers will be withdrawing their registration from the Commission by filing Form ADV–W. The total annual burden for each respondent is estimated to be one hour. The annual aggregate burden for all respondents is estimated to be 616 hours.

The estimated average burden hours are made solely for the purposes of Paperwork Reduction Act and are not derived from a comprehensive or even representative survey or study of the cost of Commission rules and forms.

Written comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will 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 collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

Please direct your written comments to Michael E. Bartell, Associate Executive Director, Office of Information Technology, Securities and Exchange Commission, 450 5th Street, NW., Washington, DC 20549.

Dated: July 10, 1997.

Jonathan G. Katz,

Secretary.

[FR Doc. 97–18832 Filed 7–16–97; 8:45 am]

BILLING CODE 8010–01–M

[1] On October 11, 1996, President Clinton signed into law the National Securities Markets Improvement Act of 1996 (''1996 Act''). Title III of the 1996 Act, the Investment Advisers Supervision Coordination Act (''Coordination Act''), amended the Investment Advisers Act of 1940 to, among other things, reallocate the responsibilities for regulating investment advisers between the Commission and the securities regulatory authorities of the states.

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–38823; File No. SR–NASD–97–01]

Self-Regulatory Organizations; National Association of Securities Dealers, Inc.; Notice of Order Amending Effective Date of Proposed Rule Change Relating to Entry and Cancellation of SelectNet Broadcast Orders

July 8, 1997.

I. Introduction

On June 30, 1997, the Securities and Exchange Commission (''Commission''

or ''SEC'') approved a rule proposal by the National Association of Securities Dealers, Inc. (''NASD'' or ''Association'') filed pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] clarifying the obligations of NASD members regarding the use of the SelectNet Service. The proposed rule change was published for comment in Securities Exchange Act Release No. 38149 (January 10, 1996), 62 FR 1942 (January 14, 1997) (''Notice of Proposed Rule Change''). The Commission subsequently approved a portion of this proposed rule change on a temporary basis.[3] No comments were received on the Notice of Proposed Rule Change. The Commission thereafter approved the proposed rule change in its entirety on a permanent basis.[4]

II. Discussion

The Commission approved new conduct rule, rule 3380, to prohibit members from cancelling or attempting to cancel a broadcast or preferenced order entered into Nasdaq's SelectNet Service (''SelectNet'') until a minimum period of ten seconds has elapsed (''10-second rule'').[5] The 10-second rule with respect to SelectNet preferenced orders became temporarily effective on January 21, 1997 and was permanently approved on June 30, 1997.[6] For SelectNet broadcast orders, however, the 10-second rule was permanently approved with an effective date of July 7, 1997.[7]

The NASD has requested that the effective date for the 10-second rule for SelectNet broadcast orders be revised to permit market participants adequate time to adapt computer systems to the new requirements.[8] The Commission, therefore, has determined to revise the effective date from July 7, 1997 to a date no later than October 6, 1997. This should afford market participants the time needed to prepare for compliance with the 10-second rule with respect to SelectNet broadcast orders. The NASD will provide notice to its membership of the definitive effective date for the 10-second rule for SelectNet broadcast orders by way of an informational facsimile.

III. Conclusion

It is therefore Ordered, pursuant to Section 19(b)(2) of the Act,[9] that the effective date of the proposed rule change (NASD–97–01) with respect to SelectNet broadcast orders be, and hereby is, revised to a date no later than October 6, 1997.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[10]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–18765 Filed 7–16–97; 8:45 am]

BILLING CODE 8010–01–M

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 38185 (January 21, 1997), 62 FR 3935 (January 27, 1997), approving until July 1, 1997, a new conduct rule to prohibit members from cancelling or attempting to cancel a preferenced order entered into SelectNet until a minimum period of ten seconds has elapsed and from entering conditional orders preferenced to electronic communications networks.

[4] *See* Securities Exchange Act Release No. 38794 (June 30, 1997).

[5] Conduct rule 3380(a) is proposed to read: Cancellation of a SelectNet Order: No member shall cancel or attempt to cancel an order, whether preferenced to a specific market maker or electronic communications network, or broadcast to all available members, until a minimum time period of ten seconds has expired after the order to be cancelled was entered. Such ten second time period shall be measured by the Nasdaq processing system processing the SelectNet order.

[6] *See* Securities Exchange Act Release No. 38185 (January 21, 1997), 62 FR 3935 (January 27, 1997), approving the 10-second rule for SelectNet preferenced orders until July 1, 1997. *See* also Securities Exchange Act Release No. 38794 (June 30, 1997), approving the rule on a permanent basis.

[7] *See* Securities Exchange Act Release No. 38794 (June 30, 1997).

[8] Telephone conference between J. Patrick Campbell, Executive Vice President, The Nasaq Stock Market, Inc., and Howard L. Kramer, Senior Associate Director, Division of Market Regulation, SEC, July 3, 1997.

[9] 15 U.S.C. 78s(b)(2).

[10] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

Release No. 34–38833; File No. SR–NASD–97–45]

Self-Regulatory Organizations; National Association of Securities Dealers, Inc., Notice of Proposed Rule Change Relating to Modifications to the Definition of Qualified Independent Underwriter

July 11, 1997.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on June 26, 1997, the National Association of Securities Dealers Regulation, Inc. (''NASD Regulation'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by NASD Regulation. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

NASD Regulation is proposing to amend Rule 2720 of the Conduct Rules of the National Association of Securities Dealers, Inc. (''NASD'' or ''Association''), that regulates the conduct of offerings by members of their own securities, those of the member's parent, or an affiliate, and other offerings in which a member has a conflict of interest. NASD Regulation proposes deleting the requirement that a qualified independent underwriter has had net income from operations of the broker/dealer entity or from the pro forma combined operations of predecessor broker/dealer entities, exclusive of extraordinary items, as computed in accordance with generally accepted accounting principles, in at least three of the five years immediately preceding the filing of the registration statement.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, NASD Regulation included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. NASD Regulation has prepared summaries, set forth in Sections (A), (B), and (C) below, of the most significant, aspects of such statements.[2]

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

NASD Regulation is proposing to delete the eligibility criteria contained in the definition of ''qualified independent underwriter'' in NASD Rule 2720 that requires a member to have recorded net income in three of the five years immediately preceding the offering.

When a member proposes to participate in the distribution of a public offering of its own or an affiliate's securities, or of securities of a company with which it otherwise has a conflict of interest, NASD Rule 2720 requires that the price at which an equity issue or the yield at which a debt issue is to be distributed to the public

[1] 15 U.S.C. 78s(b)(1).

[2] The text of the proposed rule change is available for review at the principal office of NASD Regulation and in the Commission's Public Reference Room.

must be established at a price no higher or a yield no lower than that recommended by a member acting as a ''qualified independent underwriter.'' The qualified independent underwriter must also participate in the preparation of the offering document and is expected to exercise the usual standards of due diligence in respect thereto. The participation of a qualified independent underwriter is intended to assure the public of the independence of the pricing and due diligence functions in a situation where a member is participating in an offering where the member has a conflict of interest.

Because of the important investor protections provided by qualified independent underwriters, they must meet certain standards as prescribed in Rule 2720 of the Conduct Rules. Qualified independent underwriters must have a certain level of experience, demonstrated by having been engaged in the investment banking and securities business for at least five years, by recording net income in three of the five years immediately preceding the offering, by a majority of directors (or general partners) having been actively engaged in the investment banking and securities business for five years, and by acting as manager or co-manager in the underwriting of offerings of a similar size and type for a five-year period prior to the offering.[3]

The net income requirement was adopted in 1972 as part of the original adoption of Rule 2720. At that time, this requirement was viewed as a gauge for monitoring a member's ability to act in such capacity. In the ensuing years, however, amendments to the definition of qualified independent underwriter have imposed more specific requirements that the NASD Regulation believes are more pertinent to ensuring that members have the experience and ability to be effective qualified independent underwriters.

In 1988, the definition of qualified independent underwriter was amended to preclude a member from acting as a qualified independent underwriter if any of its associated persons having supervisory responsibility for organizing, structuring, or performing due diligence with respect to corporate public offerings of securities had within the previous five-year period been convicted, enjoined, suspended, barred, or otherwise subject to disciplinary action by the NASD, SEC or other self-regulatory organizations for violation of the anti-fraud provisions of the federal or state securities laws for distribution-related activities.[4] In addition, the amendments required a qualified independent underwriter to have experience in managing or co-managing public offerings of a size and type similar to the proposed offering. NASD Regulation believes the latter requirement is the most pertinent, because it most directly measures the member's experience in performing the duties and responsibilities necessary of a qualified independent underwriter.

Finally, the amendments restricted the qualified independent underwriter's beneficial ownership of the issuer's voting equity securities to less than 5%. Later amendments in 1994 extended these ownership restrictions to non-voting equity securities, preferred equity and subordinated debt.[5] NASD Regulation believes the amendments to the definition of qualified independent underwriter have significantly improved confidence in the ability, quality, and independence of qualified independent underwriters.

NASD Regulation believes that the net income requirement operates as an arbitrary standard for assessing the abilities of potential qualified independent underwriters, particularly where certain members (that may nonetheless meet high net capital requirements) intentionally avoid experiencing net income for tax reasons. This occurs where a member is organized as either a sole proprietorship, partnership, or subchapter S corporation that routinely distributes its net income to the owner, partners, or shareholders to minimize taxes. NASD Regulation believes the application of the net income requirement is not appropriate in these cases as the legal structure of the member is a business decision within the discretion of the member, and unrelated to the firm's underwriting activities.

NASD Regulation believes a lack of net income also may not be directly connected to the profitability of the member's underwriting activities and thus, not a reliable indicia of underwriting experience, because the overall profitability of a member can be affected by the performance of other business lines within multi-functional members. NASD Regulation believes that losses in one or more departments of a member can unnecessarily disqualify a firm from acting as a qualified independent underwriter.[6] Moreover, they believe lack of net income can reflect accounting anomalies related to infrequent events that result in charges against earnings for mergers, consolidations, restructuring, or divestitures. NASD Regulations believes the lack of net income is also subject to the vagaries of the market, when a decline in income will be attributable to trading activities rather than underwriting.[7] According to NASD Regulation, this was apparent during the five-year periods following the market breaks that occurred in October 1987 and October 1989, when half of members' requests for relief from the net income requirement occurred.[8]

In light of the foregoing, NASD Regulation believes that the net income requirement may operate as an unfair barrier or restraint that disqualifies otherwise qualified firms from acting as qualified independent underwriters. NASD Regulation is therefore proposing to amend rule 2720 to eliminate the net income requirement due to its unreliability as an indicator of a members' ability to act as a qualified independent underwriter. NASD Regulation believes the elimination of the net income requirement will allow the staff to focus on these more substantive requirements when

[3] In addition, qualified independent underwriters may not be an affiliate or own more than 5% of certain securities of the issuing company, are subject to provisions ensuring that associated persons of the member have not been convicted, suspended, barred or otherwise disciplined for actions related to an offering, and must agree to accept the legal responsibilities and liabilities of an underwriter under Section 11 of the Securities Act of 1933.

[4] *See* Securities Exchange Act Release No. 26214 (October 24, 1988), 53 FR 43957 (order approving proposed rule change relating to amendment to definition of qualified independent underwriter); and NASD Notice to Members 88–89 (November 1988).

[5] *See* Securities Exchange Act Release No. 34031 (May 10, 1994), 59 FR 25510 (order approving proposed rule change relating to conflicts of interest in distribution of securities).

[6] For example, one national broker/dealer failed the net income requirement due to its settlement of sales practice abuses in connection with the distribution of non-corporate securities, an activity totally unrelated to its corporate underwriting activities.

[7] The Corporate Financing Committee found that the net income requirement has the potential for increasing costs for issuers when the manager, co-manager, or other distribution participant is ineligible to act as the qualified independent underwriter due to the net income requirement. This will dictate the engagement of another member to act in that capacity for a fee instead of a portion of the gross spread, the cost of which may be passed on to the issuer. This impact is particularly felt by small issuers that may already be charged proportionally higher amounts of underwriting compensation than larger issuers by the qualified independent underwriter.

[8] Hearing Subcommittees of the Corporate Financing Committee have reviewed fourteen requests for exemption from proposed qualified independent underwriters not meeting the net income requirement. From 1984 to the present, Hearing Subcommittees provided thirteen exceptions from the net income requirement, relying on members' extensive underwriting experience managing or co-managing public offerings to compensate for any lack of ongoing profitability.

approving members to be qualified independent underwriters.

NASD Regulation believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act.[9] in that the deletion of the net income requirement for qualified independent underwriters will eliminate a possible burden on competition that is not necessary in furtherance of the purposes of the Act and will allow the staff to focus on the more substantive requirements for a qualified independent underwriter in the interest of the public and the protection of investors.

(B) Self-Regulatory Organization's Statement on Burden on Competition

NASD Regulation does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

A. by order approve such proposed rule change, or

B. institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to File No. SR–NASD–97–45, and should be submitted by August 7, 1997.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[10]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–18833 Filed 7–16–97; 8:45 am]

BILLING CODE 8010–01–M

[9] 15 U.S.C. 780–3.

[10] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–38830; File No. SR–PCX–97–26]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Public Exchange, Inc. Relating to the Member Surcharge in Arbitration Proceedings

July 10, 1997.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4[2] thereunder, notice is hereby given that on June 27, 1997, the Pacific Exchange, Inc. (''PCX'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'' or ''SEC'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange.[3] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange submits this proposed rule change to amend Rule 12.32 of the Rules of the Board of Governors of the Exchange relating to the member surcharge in arbitration proceedings. Additions are italicized; deletions are bracketed.

Member Surcharge

Rule 12.32(a) Each member, member organization, or associated person who is named a party to an arbitration proceeding, whether in a Claim, Counterclaim, Third-Party Claim, or Crossclaim shall be assessed a [$200] non-refundable surcharge pursuant to the schedule in Rule 12.32(c) when the Arbitration Department perfects service of the claim naming the member, member organization or associated person on any party to the proceeding. For each associated person who is named, the surcharge shall be assessed against the member(s) or member organization(s) which employed the associated person at the time of the events which gave rise to the dispute, claim or controversy. No member or member organization shall be assessed more than a single surcharge in any arbitration proceeding. The surcharge shall not be subject to reimbursement under Rule 12.31.

(b) For purposes of this Rule, service is perfected when the Arbitration Department properly serves the Respondent(s) to the arbitration proceeding under Rule 12.13(c).

(c) Schedule of Surcharge Rates:

Amount in dispute	*Surcharge*
$.01–$10,000	*$100*
$10,000.01–$50,000	*200*
$50,000.01–$100,000	*300*
$100,000.01–$500,000	*350*
Over $500,000	*500*

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In 1994, the PCX added Rule 12.32 which required any member named as a party to an arbitration proceeding to be assessed a non-refundable, flat $200 surcharge. The surcharge was instituted to help offset the increased resourcing needs resulting from a number of factors, including case growth, more complex cases being filed and arbitrator training. The flat surcharge currently applies to all cases regardless of the dollar amount in controversy. As a result, a member against whom a $500 claim had been filed would be required

[1] 15 U.S.C. § 78s(b)(1) (1988).

[2] 17 CFR 240.19b–4 (1991).

[3] This proposed rule change replaces SR–PCX–97–20, which has been withdrawn. Letter from Rosemary A. MacGuinness, Director of Arbitration, PCX, to Ivette Lopez, Assistant Director, SEC, dated June 26, 1997.

to pay the same $200 fee as a member against whom a $3,000,000 claim had been filed. Typically, however, a claim for a greater dollar amount expends greater administrative resources and requires a greater expenditure of staff time to process the case, manage the case record and database and provide information on the arbitration service to the customer. In other words, there is generally a correlation between the dollar amount of the claim and the amount of resources the PCX is required to expend to bring the claim to a conclusion. The proposed surcharge is designed to reflect this relationship between the dollar amount of the claim brought against the member and the expenditure of PCX resources. As a result, the PCX proposes to replace the flat surcharge of $200 in Rule 12.32 with a graduated surcharge based on the amount of the claim. Under the proposed surcharge, members against whom claims of $10,000 or less are filed would pay a $100 fee, as opposed to a $200 fee. Claims between $10,000 and $50,000 would require a $200 fee, claims between $50,000 and $100,000 would require a $300 fee, claims between $100,000 and $500,000 would require a $350 fee and claims over $500,000 would require a $500 fee.

PCX believes that the proposed rule change is consistent with the provisions of Section 6(b)(4) of the Act which require that the rules of the Exchange provide for the equitable allocation of reasonable dues, fees and other charges among members in that the proposed rule fairly adjusts the surcharge on members for new cases to more closely reflect the costs associated with resolving controversies involving varying amounts in dispute.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments on the proposed rule change were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has designated this proposal as establishing or changing a due, fee or other charge under Section 19(b)(3)(A) of the Act[4] and subparagraph (e) of the Rule 19b–4,[5] which renders the proposed rule change effective on June 27, 1997, the date of receipt of this filing by the Commission.

At any time within sixty days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written date, views, and arguments concerning the foregoing. People making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. § 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of the filing will also be available for inspection and copying at the PCX's principal offices. All submissions should refer to File No. SR–PCX–97–26 and should be submitted by August 7, 1997.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[6]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–18764 Filed 7–16–97; 8:45 am]

BILLING CODE 8010–01–M

[4] 15 U.S.C. § 78s(b)(3)(A).

[5] 17 CFR 240.19b–4(e).

[6] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

Advisory Committee on Veterans' Business Affairs Public Meeting

The Advisory Committee on Veterans' Business Affairs of the U.S. Small Business Administration will hold a public meeting at 10:00 am on Wednesday, July 30, 1997, at the headquarters office of the U.S. Small Business Administration, located at 409 Third Street, SW., Washington, DC, to discuss the SBA's Veterans' program and other such related matters as may be presented.

For further information write or call Leon J. Bechet, Assistant Administrator for Veterans' Affairs, U.S. Small Business Administration, 409 Third Street, S.W., Washington, DC 20416, (202) 205–6773.

Dated: July 10, 1997.

Michael P. Novelli,

Director, National Advisory Council.

[FR Doc. 97–18855 Filed 7–16–97; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

Region V—Advisory Council Meeting; Public Meeting

The U.S. Small Business Administration—Region V—Wisconsin State Advisory Council, located in the geographical area of Milwaukee, Wisconsin, will hold a public meeting from 12:00 p.m. to 1:00 p.m., on Monday, July 28, 1997, at Metro Milwaukee Area Chamber (MMAC) Association of Commerce Building, 756 North Milwaukee Street, Fourth Floor—The Milwaukee Room, Milwaukee, Wisconsin, to discuss such business as may be presented by members, the staff of the U.S. Small Business Administration, and others attending. For further information, write or call Kimberly R. West, at the U.S. Small Business Administration, 310 W. Wisconsin Ave., Room 400, Milwaukee, Wisconsin 53029, telephone (414) 297–1092.

Dated: July 10, 1997.

Michael P. Novelli,

Director, Office of Advisory Councils.

[FR Doc. 97–18854 Filed 7–16–97; 8:45 am]

BILLING CODE 8025–01–P–M

SOCIAL SECURITY ADMINISTRATION

Agency Information Collection Activities: Request for Emergency Review by the Office of Management and Budget

The Social Security Administration publishes a list of information collection packages that will require clearance by OMB in compliance with Pub. L. 104–13 effective October 1, 1995, The Paperwork Reduction Act of 1995. The information collection listed below has been submitted to OMB for emergency clearance. OMB approval has been requested by July 25, 1997:

0960–NEW. The information collected on form SSA–6233 will be used by the

Social Security Administration to determine whether the payments certified to the representative payee have been used for the beneficiary's current maintenance and personal needs and whether the representative payee continues to be concerned with the beneficiary's welfare. The information is also used to determine if the items and/or services purchased with funds from dedicated accounts are permitted expenditures and if funds are commingled and should count as resources. The respondents are individuals and organizations serving as representative payees who are required by law to establish a separate dedicated account in a financial institution, on behalf of SSI beneficiaries, for certain past-due SSI monthly benefits.

Number of Respondents: 30,000.

Frequency of Response: Annually.

Average Burden Per Response: 20 minutes.

Estimated Annual Burden: 10,000 hours.

Social Security Administration

To receive a copy of the form or clearance packages, call the SSA Reports Clearance Officer on (410) 965–4125 or write to him at the address listed below. Written comments and recommendations regarding the information collection(s) should be directed to the OMB Desk Officer and SSA Reports Clearance Officer at the following addresses:

(OMB)

Office of Management and Budget, OIRA, Attn: Laura Oliven, New Executive Office Building, Room 10230, 725 17th St., NW, Washington, D.C. 20503.

(SSA)

Social Security Administration, DCFAM, Attn: Nicholas E. Tagliareni, 6401 Security Blvd, 1-A–21 Operations Bldg., Baltimore, MD 21235.

Dated: July 11, 1997.

Frederick W. Brickenkamp,

Forms Management Officer, Social Security Administration.

[FR Doc. 97–18853 Filed 7–16–97; 8:45 am]

BILLING CODE 4190–29–P

DEPARTMENT OF STATE

Bureau of Oceans and International Environmental and Scientific Affairs

[Public Notice 2570]

Government Activities on International Harmonization of Chemical Classification and Labeling Systems; Public Meeting

AGENCY: Bureau of Oceans and International Environmental and Scientific Affairs (OES), Department of State.

ACTION: Notice of a public meeting.

SUMMARY: This public meeting will provide an update of current activities related to international harmonization since the previous public meeting, conducted June 5, 1997 (See Department of State Public Notice 2544, on page 27102 of the **Federal Register** of May 16, 1997.) The meeting will also offer interested organizations and individuals the opportunity to provide information and views for consideration in the development of U.S. government policy positions. For more complete information on the harmonization process, please refer to State Department Public Notice 2526, pages 15951–15957 of the **Federal Register** of April 3, 1997.

The meeting will take place from 10 am until noon on July30 in Room N3437ABC, U.S. Department of Labor, 200 Constitution Avenue NW, Washington, DC. Attendees should use the entrance at C and Third Streets NW. To facilitate entry, please have a picture ID available and/or a U.S. government building pass if applicable.

FOR FURTHER INFORMATION CONTACT: For further information or to submit written comments or information, please contact Mary Frances Lowe, U.S. Department of State, OES/ENV, Room 4325, 2201 C street NW., Washington DC 20520. Phone (202) 647–8772, fax (202) 647–5947.

SUPPLEMENTARY INFORMATION: The Department of State is announcing a public meeting of the interagency committee concerned with the international harmonization of chemical hazard classification and labeling systems. The purpose of the meeting is to provide interested groups and individuals with an update on activities since the June 5 public meeting, a preview of key upcoming international meetings, and an opportunity to submit additional information and comments for consideration in developing U.S. government positions. Representatives of the following agencies will attend the meeting: the Department of State, the Environmental Protection Agency, The Department of Transportation, the Occupational Safety and Health Administration, the Consumer Product Safety Commission, the Food and Drug Administration, the Department of Commerce, the Department of Agriculture, the Office of the U.S. Trade Representative, and the National Institute of Environmental Health Sciences.

The Agenda of the public meeting will include:

1. Introduction.
2. Reports on recent international meetings.
   - Meeting of the Coordinating Group for the Harmonization of Chemical Classification Systems (CG/HCCS), June 26–27, 1997, in Geneva, Switzerland.
   - Meeting of the United Nations' Sub-Committee of Experts on the Transport of Dangerous Goods, July 7–17, 1997, in Geneva, Switzerland.
3. Preparation for upcoming meetings.
   - Meeting of the Organization for Economic Cooperation and Development (OECD) Advisory Group on Harmonization, September 3–5, 1997, in Paris, France.
   - Meeting of the GC/HCCS, November 24–26, 1997, in Toronto, Canada.
4. Public Comments.
5. Concluding Remarks.

Participants in the meeting may submit written comments as well as speak on topics relating to harmonization of chemical classification and labeling systems. All written comments will be placed in the public docket (OSHA docket H–022H, Exhibit 4). The docket is open from 10 am until 4 pm, Monday through Friday, and is located at the Department of labor, Room 2625, 200 Constitution Avenue NW., Washington, DC. (Telephone: 202–219–7894; Fax: 202–219–5046). The public may also consult the docket to review previous **Federal Register** notices, comments received to date, and a working document of the CG/HCCS on the scope of the harmonization effort.

Dated: July 9, 1997.

Michael Metelits,

Director, Office of Environmental Policy, Bureau of Oceans and International Environmental and Scientific Affairs.

[FR Doc. 97–18681 Filed 7–16–97; 8:45 am]

BILLING CODE 4710–09–M

STATE JUSTICE INSTITUTE

Sunshine Act Meeting

AGENCY: State Justice Institute.

DATE AND TIME: Saturday, July 26, 1997, 9:00 a.m.–5:00 p.m. Sunday, July 27, 1997, 9:00 a.m.–12:00 p.m.

PLACE: Ritz-Carlton Hotel, 1515 West Third Street, Cleveland, OH 44113.

MATTERS TO BE CONSIDERED: FY 1997 grant requests, FY 1998 Grant Guideline, and internal Institute business.

PORTIONS OPEN TO THE PUBLIC: All matters other than those noted as closed below.

PORTIONS CLOSED TO THE PUBLIC: Internal personnel matters and Board of Directors' committee meetings.

CONTACT PERSON FOR MORE INFORMATION: David I. Tevelin, Executive Director, State Justice Institute, 1650 King Street, Suite 600, Alexandria, VA 22314, (703) 684–6100.

David I. Tevelin,

Executive Director.

[FR Doc. 97–18949 Filed 7–15–97; 10:18 am]

BILLING CODE 6820–SC–M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Reports, Form and Recordkeeping Requirements Agency Information Collection Activity Under OMB Review

AGENCY: Office of The Secretary, DOT.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (44 USC Chapter 3501, *et seq.*), this notice announces that the Information Collection Requests (ICRs) abstracted below have been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICRs describe the nature of the information collections and their expected burden. The **Federal Register** notice with a 60-day comment period soliciting comments on collection of information number 2138–0040 was published on April 18, 1997 (62 FR 19169–19171) and on number 2138–0016 was published on April 23, 1997 (62 FR 19855).

DATES: Comments must be submitted on or before August 18, 1997.

FOR FURTHER INFORMATION CONTACT: Bernie Stankus, Office of Airline Information, K–25, Bureau of Transportation Statistics, 400 7th Street, SW., Room 3430, Washington, DC 20590 (202) 366–4387.

SUPPLEMENTARY INFORMATION:

Bureau of Transportation Statistics (BTS)

Title: Report of Traffic and Capacity Statistics—The T–100 System.

Type of Request: Revision of a Currently Approved Collection.

OMB Control Number: 2138–0040.

Form No.: Schedule T–100 and Schedule T–100(f).

Affected Entities: U.S. Certificated and Foreign Air Carriers.

Abstract: This information collection is mandatory, 14 CFR 241.19–5. The DOT collects nonstop-segment and on-flight market capacity and passenger data to administer its various programs including International bilateral agreements, carrier selection for foreign routes, disbursement of airport funds, etc.

Need: Air services between the United States and most foreign countries are governed by bilateral aviation agreements. Evaluations of existing bilateral agreements and proposed changes to such agreements are based on a determination of the traffic and revenues between the United States and foreign countries for scheduled passenger and cargo flights as well as charter services. In order to determine conditions of reciprocity and the overall balance of trade, DOT conducts similar analyses for countries with which the United States does not have bilateral aviation agreements. Information used in these analyses includes traffic volume by countries and by city-pairs for passenger and cargo services and the corresponding traffic yields. Data such as passenger and cargo load factors, aircraft seating configurations, cargo capacities, and aircraft unit costs are also used.

Estimated Annual Burden Hours: 14,472 hours.

Number of Respondents: 255.

Title: Report of Extension of Credit to Political Candidates.

Type of Request: Extension of a Currently Approved Information Collection.

OMB Control Number: 2138–0016.

Form No.: 183.

Affected Entities: Certificated Air Carriers.

Abstract: BTS collects reports from air carriers on the aggregated indebtedness balance of a political candidate or party for Federal office. The reports are required when the aggregated indebtedness is over $5,000 on the last day of the month.

Estimated Annual Burden Hours: 14 hours.

Number of Respondents: 4.

Need: The DOT uses this form as the means to fulfill its obligations under the Federal Election Campaign Act to collect data on the extension of unsecured credit to candidates for Federal Office.

ADDRESSES: Send comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street, NW., Washington, DC 20503, ATTN: DOT/BTS Desk Officer. Comments are invited on: Whether the proposed collections of information are necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimates of the burden of the proposed information collections; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collections of information on respondents, including the use of automated collection techniques or other forms of information technology.

Issued in Washington, DC on July 11, 1997.

Vanester M. Williams,

Clearance Officer, United States Department of Transportation.

[FR Doc. 97–18758 Filed 7–16–97; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Advisory Circular; Manufacturing Process of Premium Quality Titanium Alloy Rotating Engine Components

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of availability of Proposed Advisory Circular (AC), AC No. 33.15–1, request for comments.

SUMMARY: This notice announces the availability of requests comments on a proposed AC, No. 33–15–1, Manufacturing Process of Premium Quality Titanium Alloy rotating Engine Components. The AC provides information and guidance concerning an acceptable method, but not the only method, pertaining to the materials suitability and durability requirements of § 33.15, as applicable to the manufacture of titanium alloy high energy rotating parts of aircraft engines.

DATES: Comments must be received on or before September 15, 1997.

ADDRESSES: Send all comments on the proposed AC to the Federal Aviation Administration, Attention: Engine & Propeller Directorate, Aircraft Certification Service, Engine & Propeller Standards Staff, ANE–110, 12 New England Executive Park, Burlington, Massachusetts 01803.

FOR FURTHER INFORMATION CONTACT: Tim Mouzakis, Engine and Propeller Standards Staff, ANE–110, 12 New England Executive Park, Burlington,

MA, 01803, telephone (617) 238–7114, fax (617) 238–7199.

SUPPLEMENTARY INFORMATION:

Comments Invited

A copy of the subject AC may be obtained by contacting the person named above under **FOR FURTHER INFORMATION CONTACT.** Interested persons are invited to comment on the proposed AC, and to submit such written data, views, or arguments as they may desire. Commenters must identify the subject of the AC and submit comments in duplicate to the address specified above. All communications received on or before the closing date for comments will be considered by the New England Region Engine & Propeller Directorate, Aircraft Certification Service, before issuing the final AC.

Background

The Federal Aviation Administration (FAA) established the Titanium Rotating Components Review Team (TRCRT) to review the adequacy of current efforts within the engine industry, and address the safety of titanium alloy high energy rotating components of turbine engines.

In May of 1991, the TRCRT held a public meeting and presented a report consisting of recommendations and an implementation plan. In response to the TRCRT implementation plan, in 1991, the American Industries Association (AIA) Materials and Structures Committee was formed (AIA Project P341–2) to assist the FAA in developing an advisory circular to address the processing of titanium material used in critical rotating components of aircraft engines.

The AIA Materials and Structures Committee found that existing AC's provide a means to obtain and maintain production approvals, however, these documents do not fully cover the manufacturing process used in the manufacture of premium quality titanium alloy forged rotating components for type certificated turbine establishment. This proposed AC therefore, provides supplemental guidance for the establishment of a manufacturing process, in-process material and component inspections, and finished component inspections, for manufacture of premium quality titanium alloy forged rotating components, such as disks, spacers, hubs, shafts, spools and impellers, but not blades.

This proposed advisory circular provides guidance and information for compliance pertaining to the materials suitability and durability requirements, as applicable, to the manufacture of titanium alloy high energy rotating parts of aircraft engines.

Issued in Burlington, Massachusetts, on July 7, 1997.

James C. Jones,

Acting Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 97–18787 Filed 7–16–97; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Agency Information Collection Activity Under OMB Review

AGENCY: Department of Transportation, Federal Aviation Administration (DOT/FAA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.) this notice announces that the information collection request described below has been forwarded to the Office of Management and Budget (OMB) for review. The FAA is requesting an emergency clearance by August 8, 1997, in accordance with 5 CFR § 1320.13. The following information describes the nature of the information collection and its expected burden.

DATES: Submit any comments to OMB and FAA by September 15, 1997.

SUPPLEMENTARY INFORMATION:

Title: Overflight Billing and Collection Customer Information Form

Need: The customer information form is needed in order to request and obtain proper billing information from carriers as well as properly identify Tail numbers as commercial or general aviation in order that carriers are charged the correct rate.

Respondents: 600.

Frequency: One time per respondent unless there is a change to the billing address.

Burden: 50 hours.

FOR FURTHER INFORMATION CONTACT: or to obtain a copy of the request for clearance submitted to OMB, you may contact Ms. Judith Street at the: Federal Aviation Administration, Corporate Information Division, ABC–100, 800 Independence Avenue, SW, Washington, DC 20591. Comments may be submitted to the agency at the address above and to: Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10202, Attention FAA Desk Officer, 725 17th Street, NW, Washington, DC 20503.

Issued in Washington, DC on July 11, 1997.

Patricia W. Carter,

Acting, Manager, Corporate Information Division, ABC–100.

[FR Doc. 97–18843 Filed 7–16–97; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Index of Administrator's Decisions and Orders in Civil Penalty Actions; Publication

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of publication.

SUMMARY: This notice constitutes the required quarterly publication of an index of the Administrator's decisions and orders in civil penalty cases. The FAA is publishing an index by order number, an index by subject matter, and case digests containing identifying information about the final decisions and orders issued by the Administrator. Publication of these indexes and digests is intended to increase the public's awareness of the Administrator's decisions and orders. Also, the publication of these indexes and digests should assist litigants and practitioners in their research and review of decisions and orders that may have precedential value in a particular civil penalty action. Publication of these indexes ensures that the agency is in compliance with statutory indexing requirements.

FOR FURTHER INFORMATION CONTACT: James S. Dillman, Assistant Chief Counsel for Litigation (AGC–400), Federal Aviation Administration, 400 7th Street, SW., Suite PL 200–A, Washington, DC 20590: telephone (202) 366–4118.

SUPPLEMENTARY INFORMATION: The Administrative Procedure Act requires Federal agencies to maintain and make available for public inspection and copying current indexes containing identifying information regarding materials required to be made available or published. 5 U.S.C. 552(a)(2). In a notice issued on July 11, 1990, and published in the **Federal Register** (55 FR 29148; July 17, 1990), the FAA announced the public availability of several indexes and summaries that provide identifying information about the decisions and orders issued by the Administrator under the FAA's civil penalty assessment authority and the rules of practice governing hearings and

appeals of civil penalty actions. 14 CFR Part 13, Subpart G.

The FAA maintains an index of the Administrator's decisions and orders in civil penalty actions organized by order number and containing identifying information about each decision or order. The FAA also maintains a cumulative subject-matter index and digests organized by order number.

The indexes are published on a quarterly basis (i.e., January, April, July, and October.) This publication represents the quarter ending on June 30, 1997.

The FAA first published these indexes and digests for all decisions and orders issued by the Administrator through September 30, 1990. 55 FR 45984; October 31, 1990. The FAA announced in that notice that only the subject-matter index would be published cumulatively and that the order number index would be non-cumulative. The FAA announced in a later notice that the order number indexes published in January would reflect all of the civil penalty decisions for the previous year. 58 FR 5044; 1/19/93.

The previous quarterly publications of the indexes of the Administrator's decisions and orders in civil penalty cases have appeared in the **Federal Register** as follows:

Dates of quarter	Federal Register publication
11/1/89–9/30/90	55 FR 45984; 10/31/90
10/1/90–12/31/90	56 FR 44886; 2/6/91
1/1/91–3/31/91	56 FR 20250; 5/2/91
4/1/91–6/30/91	56 FR 31984; 7/12/91
7/1/91–9/30/91	56 FR 51735; 10/15/91
10/1/91–12/31/91	57 FR 2299; 1/21/92
1/1/92–3/31/92	57 FR 12359; 4/9/92
4/1/92–6/30/92	57 FR 32825; 7/23/92
7/1/92–9/30/92	57 FR 48255; 10/22/92
10/1/92–12/31/92	58 FR 5044; 1/19/93
1/1/93–3/31/93	58 FR 21199; 4/19/93
4/1/93–6/30/93	58 FR 42120; 8/6/93
7/1/93–9/30/93	58 FR 58218; 10/29/93
10/1/93–12/31/93	59 FR 5466; 2/4/94
1/1/94–3/31/94	59 FR 22196; 4/29/94
4/1/94–6/30/94	59 FR 39618; 8/3/94
7/1/94–12/31/94	60 FR 4454; 1/23/95
1/1/95–3/31/95	60 FR 19318; 4/17/95
4/1/95–6/30/95	60 FR 36854; 7/18/95
7/1/95–9/30/95	60 FR 53228; 10/12/95
10/1/95–12/31/95	61 FR 1972; 1/24/96
1/1/96–3/31/96	61 FR 16955; 4/18/96
4/1/96–6/30/96	61 FR 37526; 7/18/96
7/1/96–9/30/96	61 FR 54833; 10/22/96
10/1/96–12/31/96	62 FR 2434; 1/16/97
1/1/97–3/31/97	62 FR 24533; 5/2/97

The civil penalty decisions and orders, and the indexes and digests are available in FAA offices. In addition, the Administrator's civil penalty decisions have been published by commercial publishers (Hawkins Publishing Company and Clark Boardman Callahan) and are available on computer on-line services (Westlaw, LEXIS, Compuserve and FedWorld). (The addresses of FAA offices where the civil penalty decisions may be reviewed and information regarding these commercial publications and computer databases is provided at the end of this notice.)

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[This index includes all decisions and orders issued by the Administrator from April 1, 1997, to June 30, 1997.]

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5/2/97	CP95WP0049.
97–15	Ray Randall Houston and Johnson County Aerial Services, Inc.
5/8/97	CP95SO0182, CP94SO0101.
97–16	Mauna Kea Helicopters.
5/23/97	CP94WP0005, CP95WP0021, CP94WP0022.
97–17	Ronald V. Stallings.
5/23/97	CP96WP0083.
97–18	Pierre A. Robinson.
5/23/97	CP96EA0268.
97–19	Donald M. Missirlian.
5/23/97	CP95WP0282.
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5/23/97	CP96WP0066.
97–21	Delta Air Lines, Inc.
5/28/97	CP95WP0129.
97–22	Sanford Air, Inc.
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121.153	92–48 & 92–70 USAir; 95–11 Horizon; 96–3 America West Airlines; 96–24 Horizon; 96–25 USAir; 97–21 Delta.
121.317	92–37 Giuffrida; 94–18 Luxemburg.
121.318	92–37 Giuffrida.
121.367	Continental Airlines; 96–25 USAir.
121.571	92–37 Giuffrida.
121.589	97–12 Mayer.
121.628	95–11 Horizon; 97–21 Delta.
135.1	95–8 Charter Airlines; 95–25 Conquest.
135.5	94–3 Valley Air; 94–20 Conquest Helicopters; 95–25 Conquest; 95–27 Valley Air; 96–15 Valley Air.
135.25	92–10 Flight Unlimited; 94–3 Valley Air; 95–27 Valley Air; 96–15 Valley Air.
135.63	94–40 Polynesian Airways; 95–17 Larry's Flying Service; 95–28 Atlantic; 96–4 South Aero.
135.87	90–21 Carroll.
135.95	95–17 Larry's Flying Service.
135.179	97–11 Hampton.
135.185	94–40 Polynesian Airways.
135.263	95–9 Charter Airlines; 96–4 South Aero.
135.267	95–8 Charter Airlines; 95–17 Larry's Flying Service; 96–4 South Aero.
135.293	95–17 Larry's Flying Service; 96–4 South Aero.
135.343	95–17 Larry's Flying Service.
135.411	97–11 Hampton..
135.413	94–3 Valley Air; 96–15 Valley Air; 97–8 Pacific Av. d/b/a Inter-Island Helicopters; 97–16 Mauna Kea.
135.421	93–36 Valley Air; 94–3 Valley Air; 96–15 Valley Air.
135.437	94–3 Valley Air; 96–15 Valley Air.
145.1	97–10 Alphin.
145.3	97–10 Alphin.
145.25	97–10 Alphin.
145.45	97–10 Alphin.
145.47	97–10 Alphin.
145.49	97–10 Alphin.
145.53	97–11 Thunderbird Accessories.
145.57	94–2 Woodhouse; 97–9 Alphin.
145.61	90–11 Thunderbird Accessories.
191	90–12 & 90–19 Continental Airlines; 90–37 Northwest Airlines.
298.1	92–10 Flight Unlimited.
302.8	90–22 USAir.
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1.47	92–76 Safety Equipment.
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171.2	92–77 TCI; 94–28 Toyota; 94–31 Smalling; 95–16 Mulhall; 96–26 Midtown.
171.8	92–77 TCI.
172.101	92–77 TCI; 94–28 Toyota; 94–31 Smalling; 96–26 Midtown.

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[Current as of June 30, 1997]

172.200	92–77 TCI; 94–28 Toyota; 95–16 Mulhall; 96–26 Midtown.
172.202	92–77 TCI; 94–28 Toyota; 94–31 Smalling; 95–16 Mulhall.
172.203	94–28 Toyota.
172.204	92–77 TCI; 94–28 Toyota; 94–31 Smalling; 95–16 Mulhall.
172.300	94–31 Smalling; 95–16 Mulhall; 96–26 Midtown.
172.301	94–31 Smalling; 95–16 Mulhall.
172.304	92–77 TCI; 94–31 Smalling; 95–16 Mulhall.
172.400	92–77 TCI; 94–28 Toyota; 94–31 Smalling; 95–16 Mulhall.
172.402	94.28 Toyota.
172.406	92–77 TCI.
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173.24	94–28 Toyota; 95–16 Mulhall.
173.25	94–28 Toyota.
173.27	92–77 TCI.
173.115	92–77 TCI.
173.240	92–77 TCI.
173.243	94–28 Toyota.
173.260	94–28 Toyota.
173.266	94–28 Toyota; 94–31 Smalling.
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191.5	97–13 Westair Commuter.
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552	90–12, 90–18 & 90–19 Continental Airlines; 93–10 Costello.
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2412	93–10 Costello; 96–22 Woodhouse.
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44701	96–6 Ignatov; 96–17 Fenner.
44704	96–3 America West Airlines; 96–15 Valley Air.
46110	96–22 Woodhouse; 97–1 Midtown Neon Sign.
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46303	97–7 Stalling.
49 U.S.C. App.:	
1301(31) (operate)	93–18 Westair Commuter.
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1356	90–18 & 90–19, 91–2 Continental Airlines.
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1421	92–10 Flight Unlimited; 92–48 USAir; 92–70 USAir; 93–9 Wendt.
1429	92–73 Wyatt.
1471	89–5 Schultz; 90–10 Webb; 90–20 Degenhardt; 90–12, 90–18 & 90–19 Continental Airlines; 90–23 Broyles; 90–26 & 90–43 Waddell; 90–33 Cato; 90–37 Northwest Airlines; 90–39 Hart; 91–2 Continental Airlines; 91–3 Lewis; 91–18 [Airport Operator]; 91–53 Koller; 92–5 Delta Airlines; 92–10 Flight Unlimited; 92–46 Sutton-Sautter; 92–51 Koblick; 92–74 Wendt; 92–76 Safety Equipment; 94–20 Conquest Helicopters; 94–40 Polynesian Airways; 96–6 Ignatov; 97–7 Stalling.
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[Current as of June 30, 1997]

1486	90–21 Carroll; 96–22 Woodhouse.
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Civil Penalty Actions—Orders Issued by the Administrator Digests

(Current as of June 30, 1997)

The digests of the Administrator's final decisions and orders are arranged by order number, and briefly summarize key points of the decision. The following compilation of digests includes all final decisions and orders issued by the Administrator from April 1, 1997, to June 30, 1997. The FAA will publish noncumulative supplements to this compilation on a quarterly basis (*e.g.*, April, July, October, and January of each year).

These digests do not constitute legal authority, and should not be cited or relied upon as such. The digests are not intended to serve as a substitute for proper legal research. Parties, attorneys, and other interested persons should always consult the full text of the Administrator's decisions before citing them in any context.

In the Matter of Pacific Aviation International d/b/a Inter-Island Helicopters

Order No. 97–14 (5/2/97)

Petition for Reconsideration Dismissed. Inter-Island's petition for reconsideration is dismissed because it was filed late under 14 CFR 13.234(a) and good cause for the delay was not shown.

In the Matter of Ray Randall Houston and Johnson County Aerial Services, Inc.

Order No. 97–15 (5/8/97)

Appeal Dismissed. Respondents' appeal is dismissed for failure to perfect under 14 CFR 13.233(d)(2).

In the Matter of Mauna Kea Helicopters

Order No. 97–16 (5/23/97)

Appeal Denied. The Administrator finds that he does, contrary to Mauna Kea's argument, have jurisdiction over the appeal. The Administrator rejects Mauna Kea's argument that it was denied due process because it did not receive an initial decision from the law judge in one of the three consolidated cases. The Administrator finds that the record supports the law judge's assessment of the testimony of a Mauna Kea witness as weak, vacillating, vague and uncorroborated, and upholds the law judge's finding that Mauna Kea did not prove financial hardship. In certain exceptional cases it is possible that the testimony of a credible, independent witness could suffice to prove financial hardship, even without supporting documentary evidence; however the uncorroborated testimony in this case was too weak to prove financial hardship. The Administrator affirms the penalties assessed by the law judge in each case involving violations of 14 CFR 91.7(a), 91.405(a) and 135.413(a): $10,000 in Docket No. CP94WP0005; $15,000 in Docket No. CP94WP0021; $30,000 in Docket No. CP94WP0022. The argument that the penalties are excessive in light of ''remedial action'' taken by Mauna Kea is rejected.

In the Matter of Ronald V. Stallings

Order No. 97–17 (5/23/97)

Appeal Dismissed. The notice of appeal is dismissed because Mr. Stallings failed to file a brief (see FAA Order No. 97–7 (2/20/97.) The penalty is reduced from $2,000 to $500 to bring the penalty into line with current agency policy regarding similar violations of 14 CFR 107.21(a)(1) and 49 U.S.C. 46303(a).

In the Matter of Pierre A. Robinson

FAA Order No. 97–18 (5/23/97)

Case Remanded to Office of Hearings. Case remanded to the law judge to give Mr. Robinson an opportunity to demonstrate good cause for failure to file an answer to the complaint within the timeframe set forth in 14 CFR 13.209. This decision quotes *In the Matter of Atlantic World Airways,* FAA Order No. 95–28 (12/19/95), for the proposition that the ''Rules of Practice do not grant law judges the authority to extend the deadline for filing an answer without a showing of good cause.''

In the Matter of Donald M. Missirlian

FAA Order No. 97–19 (5/23/97)

Dismissal of Request for Hearing Affirmed. The Administrator affirms the law judge's dismissal of the request for hearing due to Mr. Misserlian's failure to file an answer to the complaint. The Administrator finds that Mr. Misserlian failed to demonstrate good cause for failing to file the answer. This decision cites *In the Matter of Barnhill,* FAA Order No. 92–32 (5/5/92) for the proposition that pre-complaint writings, including responses to notices of proposed civil penalty, do not satisfy the requirement for an answer. Also the Administrator notes that if Mr. Misserlian had wanted to rely upon pre-complaint correspondence, he should have re-filed that correspondence as the answer within the timeframe of 14 CFR 13.209(a). The law judge's assessment of a $1,000 civil penalty for a violation of 14 CFR 107.20 is affirmed.

In the Matter of Nicholas Werle

FAA Order No. 97–20 (5/23/97)

Appeal Denied. The Administrator affirms the law judge's finding that Mr. Werle bypassed x-ray screening at an airport security checkpoint in violation of 14 CFR 107.20. The Administrator rejects the arguments regarding Complainant's alleged failure to send him a Notice of Proposed Civil Penalty, finding that the Notice had indeed been sent, and even if it had not, Mr. Werle had timely notice of the allegations. The Administrator cites *In the Matter of Park,* FAA Order No. 92–3 (1/9/92) for the proposition that a law judge's credibility findings will not be disturbed on review based upon minor inconsistencies in the evidence. The Administrator affirms the law judge's determination that the witnesses' identification of Mr. Werle was reliable, holding that under the totality of the circumstances, the absence of a line-up did not render this identification unreliable. Also, the Administrator affirmed the assessment of a $1,000 civil penalty for the violation of 14 CFR 107.20.

In the Matter of Delta Air Lines, Inc.

FAA Order No. 97–21 (5/28/97)

Appeal Granted. The law judge held that Complainant failed to prove that an inoperative number 2 bus galley power switch indicator light in the cockpit of a Lockheed L–1011 aircraft rendered the aircraft unairworthy. The Administrator reverses the law judge's finding that Delta did not violate 14 CFR 121.153(a)(2) and assesses a $4,000 civil penalty.

Airworthiness. The Administrator notes that air carriers may not take off with an inoperable instruments or equipment unless an approved

Minimum Equipment List (MEL) exists that so permits, citing 14 CFR 121.628. It is the agency's position that without an applicable MEL provision, an inoperable instrument or piece of equipment renders the aircraft's airworthiness certificate ineffective.

It is held that a light in the cockpit, indicating to the flight crew whether power is going to the galley is neither galley equipment nor a passenger convenience item. Hence, the MEL did not allow the aircraft to operate with that cockpit indicator light inoperative, and the aircraft did not conform to its type design. Also, the evidence indicated that the inoperative indicator light reduced the margin of safety that conformity with the type design is intended to provide. The Administrator finds that the aircraft was unairworthy under both prongs of the test for airworthiness. See e.g., *In the Matter of Valley Air Services,* FAA Order No. 96–15 (5/3/96); *In the Matter of Watts Agricultural Aviation, Inc.,* FAA Order No. 91–8 (4/11/91).

Administrator distinguishes this case from *Administrator* v. *Calavaero,* 5 NTSB 1099 (1986).

In the Matter of Sanford Air, Inc.

FAA Order No. 97–22 (5/28/97)

Additional Written Argument Allowed. Sanford Air's request to file an additional brief is granted. It is possible that Sanford Air's claim that there are factual errors in Complainant's reply brief has merit. Additional brief should be limited to alleged factual errors.

In the Matter of Detroit-Metropolitan Wayne County Airport

FAA Order No. 97–23 (6/5/97)

Appeal Denied. The Administrator reiterates that 14 CFR 107.13(a) does not impose absolute liability on airport operators, citing *In the Matter of [Airport Operator*], FAA Order No. 96–1 (1/4/96). The Administrator finds that the law judge was correct in finding a violation in this case because airport personnel failed to stop and challenge the unauthorized individual who had entered and crossed the restricted area. The airport operator had not properly implemented its airport security program. The Administrator affirms the $1,000 civil penalty.

Commercial Reporting Services of the Administrator's Civil Penalty Decisions and Orders

1. *Commercial Publications:* The Administrator's decisions and orders in civil penalty cases are available in the following commercial publications:

Civil Penalty Cases Digest Service, published by Hawkins Publishing Company, Inc., P.O. Box 480, Mayo, MD, 21106, (410) 798–1677;

Federal Aviation Decisions, Clark Boardman Callaghan, a subsidiary of West Information Publishing Company, 50 Broad Street East, Rochester, NY 14694, 1–800–221–9428.

2. *CD–ROM.* the Administrator's orders and decisions are available on CD–ROM through Aeroflight Publications, P.O. Box 854, 433 Main Street, Gruver, TX 79040, (806) 733–2483.

3. *On-Line Services.* The Administrator's decisions and orders in civil penalty cases are available through the following on-line services:

- Westlaw (the Database ID is FTRAN–FAA).
- LEXIS [Transportation (TRANS) Library, FAA file].
- Compuserve.
- FedWorld.

FAA Offices

The Administrator's decisions and orders, indexes, and digests are available for public inspection and copying at the following location in FAA headquarters: FAA Hearing Docket, Federal Aviation Administration, 800 Independence Avenue, SW., Room 924A, Washington, DC 20591; (202) 267–3641.

These materials are also available at all FAA regional and center legal offices at the following locations:

Office of the Assistant Chief Counsel for the Aeronautical Center (AMC–7), Mike Monroney Aeronautical Center, 6500 South MacArthur Blvd., Oklahoma City, OK 73125; (405) 954–3296.

Office of the Assistant Chief Counsel for the Alaskan Region (AAL–7), Alaskan Region Headquarters, 222 West 7th Avenue, Anchorage, AK 99513; (907) 271–5269.

Office of the Assistant Chief Counsel for the Central Region (ACE–7), Central Region Headquarters, 601 East 12th Street, Federal Building, Kansas City, MO 64106; (816) 426–5446.

Office of the Assistant Chief Counsel for the Eastern Region (ACE–7), Eastern Region Headquarters, JFK International Airport, Federal Building, Jamaica, NY 11430; (718) 553–3285.

Office of the Assistant Chief Counsel for the Great Lakes Region (AGL–7), 2300 East Devon Avenue, Suite 419, Des Plaines, IL 60018; (708) 294–7108.

Office of the Assistant Chief Counsel for the New England Region (ANE–7), New England Region Headquarters, 12 New England Executive Park, Room 401, Burlington, MA 01803–5299; (617) 238–7050.

Office of the Assistant Chief Counsel for the Northwest Mountain Region (ANW–7), Northwest Mountain Region Headquarters, 1601 Lind Avenue, SW, Renton, WA 98055–4556; (206) 227–2007.

Office of the Assistant Chief Counsel for the Southern Region (ASO–7), Southern Region Headquarters, 1701 Columbia Avenue, College Park, GA 30337; (404) 305–5200.

Office of the Assistant Chief Counsel for the Southwest Region (ASW–7), Southwest Regional Headquarters, 2601 Meacham Blvd., Fort Worth, TX 76137–4298; (817) 222–5087.

Office of the Assistant Chief Counsel for the Technical Center (ACT–7), Federal Aviation Administration Technical Center, Atlantic City International Airport, Atlantic City, NJ 08405; (609) 485–7087.

Office of the Assistant Chief Counsel for the Western-Pacific Region (AWP–7), Western-Pacific Regional Headquarters, 15000 Aviation Boulevard, Lawndale, Ca 90261; (310) 725–7100.

Issued in Washington, DC on July 10, 1997.

James S. Dillman,

Assistant Chief Counsel for Litigation.

[FR Doc. 97–18757 Filed 7–16–97; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Intent to Rule on Application to Impose a Passenger Facility Charge (PFC) at Chicago O'Hare International Airport, Chicago, Illinois and Use PFC Revenue at Gary Regional Airport, Gary, Indiana

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 a PFC at Chicago O'Hare International Airport and use the revenue from a PFC at Gary Regional Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

DATES: Comments must be received on or before August 18, 1997.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following

address: Federal Aviation Administration, Chicago Airports District Office, 2300 East Devon Avenue, Room 201, Des Plaines, Illinois 60018.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Ms. Mary Rose Loney, Commissioner, of the City of Chicago Department of Aviation at the following address: Chicago O'Hare International Airport, P.O. Box 66142, Chicago, Illinois 60666.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the City of Chicago Department of Aviation under section 158.23 of Part 158.

FOR FURTHER INFORMATION CONTACT: Mr. Louis H. Yates, Manager, Chicago Airports District Office, 2300 East Devon Avenue, Room 201, Des Plaines, Illinois 60018, (847) 294–7335. 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 a PFC at Chicago O'Hare International Airport and use the revenue from a PFC at Gary Regional Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

On June 24, 1997, the FAA determined that the application to impose and use the revenue from a PFC submitted by City of Chicago Department of Aviation 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 October 16, 1997.

The following is a brief overview of the application.

PFC application number: 97–06–C–00–ORD.

Level of the proposed PFC: $3.00.

Original charge effective date: September 1, 1993.

Revised proposed charge expiration date: June 1, 2004.

Total estimated PFC revenue: $1,470,500.

Brief description of proposed projects:

a. Terminal Renovations Program.

b. Automated Weather Observation Station.

c. General Aviation Apron Overlay/Expansion.

Class or classes of air carriers which the public agency has requested not be required to collect PFCs: Air Taxi operators.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT.**

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the City of Chicago Department of Aviation.

Issued in Des Plaines, Illinois on July 9, 1997.

Benito De Leon,

Manager, Planning/Programming Branch, Airports Division, Great Lakes Region.

[FR Doc. 97–18789 Filed 7–16–97; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on Application (97–01–C–00–ROC) To Impose and Use The Revenue From a Passenger Facility Charge (PFC) at Greater Rochester International Airport, Rochester, New York

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 Greater Rochester International Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

DATES: Comments must be received on or before August 18, 1997.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Mr. Philip Brito, Manager, New York Airports District Office, 600 Old County Road, Suite 446, Garden City, New York 11530.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Terrence G. Slaybaugh, Director of Aviation, for the County of Monroe at the following address Greater Rochester International Airport, 1200 Brooks Avenue, Rochester, New York 14624.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the County of Monroe under section 158.23 of Part 158.

FOR FURTHER INFORMATION CONTACT: Mr. Philip Brito, Manager, New York Airports District Office, 600 Old County Road, Suite 446, Garden City, New York 11530 (Telephone 516–227–3800). 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 Greater Rochester International 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 July 1, 1997, the FAA determined that the application to impose and use the revenue from a PFC submitted by the County of Monroe 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 September 20, 1997.

The following is a brief overview of the application.

Application number: 97–01–C–00–ROC.

Level of the proposed PFC: $3.00.

Proposed charge effective date: December 1, 1997.

Proposed charge expiration date: April 1, 2001.

Total estimated PFC revenue: $10,050,000.

Brief description of proposed projects:

—Taxiway ''C'' Rehabilitation.
—Terminal Apron Improvements (Including Bond Financing & Interest).
—Purchase Snow Removal Equipment.
—Construct Snow Removal Equipment Storage Building.

Class or classes of air carriers which the public agency has requested not be required to collect PFCs: None.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT** and at the FAA regional Airports office located at: Fitzgerald Federal Building, John F. Kennedy International Airport, Jamaica, New York 11430.

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the office of the Monroe County Director of Aviation at Greater Rochester International Airport.

Issued in Jamaica, New York on July 9, 1997.

Thomas Felix,

Grant-In-Aids Program Manager, Airports Division, Eastern Region.

[FR Doc. 97–18786 Filed 7–16–97; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on Application To Impose and Use the revenue From a Passenger Facility Charge (PFC) at Mobile International Airport, Mobile, Alabama

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 Mobile Regional Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

DATES: Comments must be received on or before August 15, 1997.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: FAA/Airports District Office, 120 North Hangar Drive, Suite B, Jackson, Mississippi 39208–2306.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Roger Engstrom, Director of Aviation of the Mobile Airport Authority at the following address: Mobile Airport Authority, Post Office Box 88004, Mobile, AL 36608–0004.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the Mobile Airport Authority under section 158.23 of Part 158.

FOR FURTHER INFORMATION CONTACT: Keafur Grimes, Project Manager, FAA Airports District Office, 120 North Hangar Drive, Suite B, Jackson, Mississippi 39208–2306, telephone number 601–965–4628. 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 Mobile Regional Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

On July 2, 1997, the FAA determined that the application to impose and use the revenue from a PFC submitted by Mobile Airport Authority 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 October 16, 1997.

The following is a brief overview of the application.

PFC Application Number: 97–1–C–00–MOB.

Level of the proposed PFC: $3.00.

Proposed charge effective date: 12–1–97.

Proposed charge expiration date: 09–30–99.

Total estimated PFC revenue: $1,677,000.00.

Brief description of proposed project(s): Land Acquisition; ARFF Vehicle; and Ramp Expansion. Class or classes of air carriers which the public agency has requested not be required to collect PFCs: Air taxi/commercial operators (ATCO) that file FAA Form 1800–31.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT**. In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Mobile Airport Authority.

Issued in Jackson, Mississippi, on July 2, 1997.

Rans Black,

Acting Manager, Airports District Office Southern Region, Jackson, Mississippi.

[FR Doc. 97–18790 Filed 7–16–97; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on Application To Impose and Use the Revenue From a Passenger Facility Charge (PFC) at Pellston Regional Airport of Emmet County, Pellston, Michigan

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 Pellston Regional Airport of Emmet County, Pellston, Michigan, under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

DATES: Comments must be received on or before August 18, 1997.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Federal Aviation Administration, Detroit Airports District Office, Willow Run Airport, East, 8820 Beck Road Belleville, MI 48111.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Raymond Thompson, Airport Manager of the County of Emmet at the following address: Pellston Regional Airport of Emmet County, U.S. Highway 31 North, Pellston, MI 49769.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the County of Emmet under section 158.23 of Part 158.

FOR FURTHER INFORMATION CONTACT: Mr. Jon Gilbert, Program Manager, Federal Aviation Administration, Detroit Airports District Office, Willow Run Airport, East, 8820 Beck Road, Belleville, Michigan 48111 (313–487–7281). 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 Pellston Regional Airport of Emmet County under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

On June 26, 1997, the FAA determined that the application to impose and use the revenue from a PFC submitted by the County of Emmet 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 September 30, 1997.

The following is a brief overview of the application.

PFC Application No.: 97–06–C–00–PLN.

Level of the proposed PFC: $3.00.

Proposed charge effective date: September 1, 1997.

Proposed charge expiration date: April 30, 1998.

Total estimated PFC revenue: $52,000.00.

Brief description of proposed project: Rehabilitate Runway 5/23.

Class or classes of air carriers which the public agency has requested not be required to collect PFC's: FAR Part 135 operators who file FAA Form 1800–31.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT.**

In addition, any person may, upon request, inspect the application, notice, and other document germane to the application in person at the County of Emmet.

Issued in Des Plaines, Illinois, on July 9, 1997.

Benito De Leon,

Manager, Planning/Programming Branch, Airports Division, Great Lakes Region.

[FR Doc. 97–18788 Filed 7–16–97; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on Application (97–02–U–OO–RDG) To use the Revenue From a Passenger Facility Charge (PFC) at the Reading Regional Airport, Reading, Pennsylvania

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 use the revenue from a PFC at the Reading Regional Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

DATES: Comments must be received on or before August 18, 1997.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Mr. Lawrence W. Walsh, Manager, Harrisburg Airports District Office, 3911 Hartzdale Dr., suite 1, Camp Hill, PA 17011.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Rick Sokol, Executive Director of the Reading Regional Airport Authority at the following address: Reading Regional airport, 2501 Bernville Road, Reading, Pennsylvania 19605.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the Reading Regional Airport Authority under section 158.23 of Part 158.

FOR FURTHER INFORMATION CONTACT: L.W. Walsh, Manager Harrisburg Airports District Office, 3911 Hartzdale Dr., suite 1, Camp Hill, PA 17011. 717–782–4548. 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 use the revenue from a PFC at the Reading Regional Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) Pub. L. 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

On July 9, 1997, the FAA determined that the application to use the revenue from a PFC submitted by the Reading Regional Airport Authority 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 October 9, 1996.

The following is a brief overview of the application.

Application number: 97–02–U–OO–RDG.

Level of the proposed PFC: $3.00.

Proposed charge effective date: December 1, 1994.

Proposed charge expiration date: January 1, 1998.

Total estimated PFC revenue: $392,000.

Brief description of proposed project:

—Construct Terminal Access Road, Phase 2.

Class of classes of air carriers which the public agency has requested not be required to collect PFCs: Part 135 on-demand Air Taxi/Commercial Operators.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT** and at the FAA regional Airports office located at: Fitzgerald Federal Building, John F. Kennedy International Airport, Jamaica, New York, 11430.

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Reading Regional Airport Authority.

Issued in Jamaica, New York on July 9, 1997.

Thomas Felix,

Grant-In-Aids Program Manager.

[FR Doc. 97–18785 Filed 7–16–97; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

[Docket No. RSPA–97–2346; Notice 2]

Pipeline Safety: Liquefied Natural Gas Facilities Grant of Waiver; Northern Eclipse, Inc

Northern Eclipse, Inc. (NE) petitioned the Research and Special Programs Administration (RSPA) for a waiver from compliance with 49 CFR Part 193, Liquefied Natural Gas (LNG) Facilities: Federal Safety Standards. The petition applies to the Northern Eclipse's proposed Gas Treating and Liquefaction (GTL) unit to be located 20 miles north of Anchorage, Alaska. NE ensures that an equivalent level of safety will be achieved through compliance with alternative safety requirements for portable LNG facilities and with the siting requirements for liquefaction units. The alternative requirements for portable LNG facilities and siting requirements for liquefaction units are described in the applicable sections of the National Fire Protection Association Standard (NFPA) 59A, Standard for Production, Storage, and Handling of Liquefied Natural Gas (1996).

The petitioner requested the waiver from compliance with Part 193 based on the following reasons:

1. The NE GTL unit will be supplied with gas from the Beluga-Anchorage pipeline through 2,500 feet, a privately-owned service pipeline installed by NE downstream of the sales meter.
2. The NE GTL unit will have minimal LNG surge capacity, and there will be no storage at the NE GTL facility.
3. The NE GTL unit's output will be trucked from the GTL unit to end users, including one or more local distribution companies.
4. The NE GTL unit will not be used by the Beluga-Anchorage pipeline in any way to transport gas on NE's behalf.
5. DOT does not assert similar jurisdiction over liquefiers connected to the local distribution companies' (LDCs) fueling motor vehicles. The GTL unit would fulfil essentially the same function.
6. The NE GTL unit will be no different from other consumers of gas. For example, chemical plants, power plants, and other end users are not regulated even though they are supplied with gas from a pipeline.
7. The NE GTL unit would be exempt under Section 193.2001(b)(2) because it would be a natural gas treatment facility without any storage.
8. The NE GTL unit will be a transportable unit mounted on skids.

In view of the above, NE alleges that an extension of Part 193 jurisdiction to the proposed facility would be inconsistent with the language and purpose of the regulation. However, NE proposes to ensure equivalent safety through compliance with the alternative safety provisions for portable LNG facilities and with the siting requirements for liquefaction units as described in the applicable sections of the NFPA 59A.

After reviewing the petition, the Research and Special Programs Administration (RSPA) published a notice inviting interested persons to comment on whether a waiver should be granted (Notice 1)(62 FR 24157; May 2, 1997). In the notice, RSPA explained that the 2,500 foot, NE-installed gas pipeline supplying gas to the NE GTL facility (a large volume customer) is a transmission line. Therefore, the gas pipeline is subject to 49 CFR Part 192, Transportation of Natural and Other Gas by Pipeline: Minimum Federal Safety Standards. Recent revision of the definition of Transmission pipeline in Section 192.3 (61 FR 28783; June 6, 1996) includes pipelines transporting gas to a large volume customer. In addition, RSPA explained that the proposed NE GTL facility is subject to Part 193 regulation because it receives gas from a Part 192 regulated pipeline. In general, Part 192 applies to the pipeline transportation of gas between producers and consumers. Although the LNG is transported by truck after liquefaction, RSPA believes that the NE GTL facility nonetheless is part of the overall operation of transporting gas, in this case from the Beluga-Anchorage transmission line to LDCs and other users at Fairbanks.

Nevertheless, RSPA considered granting the requested waiver because of the unusual features at the proposed NE GTL facility, including its remote location, lack of a storage tank, and skid-mounted transportable liquefaction unit, which, RSPA believes, poses low risk to public safety. RSPA also stated the operator must comply with alternative requirements for portable LNG facilities and meet the siting requirements for the liquefaction unit described in the applicable sections of the NFPA Standard 59A. RSPA received two comments in response to the notice, both of which were subsequently withdrawn.

RSPA, for the reasons explained above and in Notice 1, finds that the requested waiver of 49 CFR 193 is appropriate and is consistent with pipeline safety, as long as the operator complies with alternative requirements for portable LNG facilities and meets the siting requirements for the liquefaction units described in the applicable sections of the NFPA Standard 59A. Therefore, Northern Eclipse's petition for waiver from compliance with 49 CFR 193 is granted, effective July 17, 1997.

Authority: 49 App. U.S.C. 2002(h) and 2015; and 49 CFR 1.53.

Issued in Washington, D.C. on July 14, 1997.

Cesar DeLeon,

Deputy Associate Administrator for Pipeline Safety.

[FR Doc. 97–18852 Filed 7–16–97; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 33423]

Pickens Railway Company—Acquisition and Operation Exemption—Norfolk Southern Railway Company

Pickens Railway Company, a Class III rail common carrier, has filed a notice of exemption under 49 CFR 1150.41 to acquire and operate 18.47 miles of rail line in Anderson County, SC, from Norfolk Southern Railway Company from milepost V–109.5, near Honea Path, to milepost V–117.77, near Belton, and from milepost Z–0.0, near Belton, to milepost Z–10.2, near Anderson.

The transaction was expected to be consummated on or after July 8, 1997.

If the notice contains false or misleading information, the exemption is void ab initio. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke does not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 33423, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, N.W., Washington, DC 20423–0001. In addition, a copy of each pleading must be served on Jo A. DeRoche, Esq., Weiner, Brodsky, Sidman & Kider, P.C., 1350 New York Avenue, N.W., Suite 800, Washington, DC 20005–4797.

Decided: July 10, 1997.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 97–18861 Filed 7–16–97; 8:45 am]

BILLING CODE 4915–00–P

Corrections

Federal Register

Vol. 62, No. 137

Thursday, July 17, 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 ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97-414-000]

Florida Gas Transmission Company; Notice of Proposed Changes in FERC Gas Tariff

Correction

In notice document 97–18313 beginning on page 37577 in the issue of Monday, July 14, 1997 the docket number should read as set forth above.

BILLING CODE 1505-01-D

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP96-200-023]

NorAm Gas Transmission Company; Notice of Proposed Changes in FERC Gas Tariff

Correction

In notice document 97–18322 appearing on page 37579 in the issue of Monday, July 14, 1997 the docket number should read as set forth above.

BILLING CODE 1505-01-D

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. 97-2]

Gilbert J. Elian, M.D.; Revocation of Registration

Correction

In notice document 97–17656 beginning on page 36574 in the issue of Tuesday, July 8, 1997 make the following correction:

On page 36575, in the first column, in the third full paragraph, in the third line ''21 CFR 131.67'' should read ''21 CFR 1316.67''.

BILLING CODE 1505-01-D

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-38760; File No. SR-CHX-97-16]

Self-Regulatory Organizations; Notice of Filing of and Order Granting Temporary Accelerated Approval to a Proposed Rule Change by the Chicago Stock Exchange, Incorporated Relating to Trading Variations

Correction

In notice document 97–17253 beginning on page 35864 in the issue of Wednesday, July 2, 1997, make the following correction:

1. On page 35864, in the second column, under the subject heading, insert ''June 23, 1997''.

2. On page 35865, in the third column, the authorizing signature should read:

Margaret H. McFarland,

Deputy Secretary.

BILLING CODE 1505-01-D

federal register

Thursday
July 17, 1997

Part II

Department of Transportation

Federal Aviation Administration

14 CFR Part 121, et al.

Revisions to Digital Flight Data Recorder Rules; Final Rule

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 121, 125, 129, 135

[Docket No. 28109; Amendment No. 121–266, 125–30, 129–27, 135–69]

RIN 2120–AF76

Revisions to Digital Flight Data Recorder Rules

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This document revises and updates the Federal Aviation Regulations to require that certain airplanes be equipped to accommodate additional digital flight data recorder (DFDR) parameters. These revisions follow a series of safety recommendations issued by the National Transportation Safety Board (NTSB), and the Federal Aviation Administration's (FAA) decision that the DFDR rules should be revised to upgrade recorder capabilities in most transport airplanes. These revisions will require additional information to be collected to enable more thorough accident or incident investigation and to enable industry to predict certain trends and make necessary modifications before an accident or incident occurs.

DATES: *Effective date:* August 18, 1997. Comments on the Paperwork Reduction Act issues presented in this document must be received by September 15, 1997.

ADDRESSES: Comments on this notice should be mailed, in triplicate to: Federal Aviation Administration, Office of Chief Counsel, Attention: Rules Docket (AGC–200), Docket No. 28109, 800 Independence Avenue SW., Washington, DC 20591. Comments delivered must be marked Docket No. 28109. Comments may also be submitted electronically to the following Internet address: 9–nprm–cmts@faa.dot.gov. Comments may be examined in Room 915G weekdays, except on Federal holidays, between 8:30 a.m. and 5 p.m.

FOR FURTHER INFORMATION CONTACT:

Gary E. Davis, Air Carrier Operations Branch (AFS–220), Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, telephone (202) 267–8096.

SUPPLEMENTARY INFORMATION:

Background

Statement of the Problem

The NTSB submitted recommendations to the FAA to require the recordation of additional parameters on certain fight data recorders. These recommendations were submitted in response to accidents involving two Boeing 737 aircraft that were operated by two different air carriers. Both airplanes were equipped with flight data recorders (FDR's), but in neither case did the FDR provide sufficient information about airplane motion and flight control surface positions during the accident sequence to enable the NTSB to determine a probable cause for either accident.

The history of aircraft accidents and the lack of information that has inhibited proper investigation of their causes is much broader than recent experience with the Boeing 737. Historical records of airplane incidents suggest that additional, reliable data for the entire fleet of transport category airplanes is necessary to identify causes of these incidents before accidents occur. This rule will expand the data collection requirements to include all parameters that can cost-effectively be collected.

History of This Regulatory Action

NTSB Recommendations

On February 22, 1995, the NTSB submitted to the FAA recommendations A–95–25, A–95–26, and A–95–27, which recommended that the FAA require upgrades of the flight data recorders installed on certain airplanes to record certain additional parameters not required by the current regulations.

The following recommendations were submitted by the NTSB to the Federal Aviation Administration:

I. Require that each Boeing 737 airplane operated under 14 CFR part 121 or 125 be equipped, by December 31, 1995, with a flight data recorder system that records, as a minimum, the parameters required by current regulations applicable to that airplane plus the following parameters: lateral acceleration, flight control inputs for pitch, roll, and yaw, and primary flight control surface positions for pitch, roll, and yaw. (Classified as Class I, Urgent Action) (Recommendation No. A–95–25)

II. Amend, by December 31, 1995, 14 CFR §§ 121.343, 125.225, and 135.152 to require that Boeing 727 airplanes, Lockheed L–1011 airplanes, and all transport category airplanes operated under 14 CFR parts 121, 125, or 135 whose type certificates apply to airplanes still in production, be equipped to record on a flight data recorder system, as a minimum, the parameters listed in ''Proposed Minimum FDR Parameter Requirements for Airplanes in Service'' plus any other parameters required by current regulations applicable to each individual airplane. Specify that the airplanes be so equipped by January 1, 1998, or by the later date when they meet Stage 3 noise requirements but, regardless of Stage 3 compliance status, no later than December 31, 1999. (Classified as Class II, Priority Action) (Recommendation No. A–95–26)

III. Amend, by December 31, 1995, 14 CFR 121.343, 125.225, and 135.152 to require that all airplanes operated under 14 CFR parts 121, 125, or 135, having 10 or more seats and for which an original airworthiness certificate is received after December 31, 1996, record the parameters listed in ''Proposed FDR Enhancements for Newly Manufactured Airplanes'' on a flight data recorder having at least a 25-hour recording capacity. (Classified as Class II, Priority Action) (Recommendation No. A–95–27).

FAA Response to the NTSB Recommendations

On March 14, 1995, the FAA published in the **Federal Register** a notice of a public hearing, and solicited public comment concerning the NTSB recommendations. On April 20, 1995, the public hearing was held in Washington D.C. Eight speakers from the aviation community made presentations. Copies of the presentations have been placed in the docket for this rulemaking.

After considering the information obtained through the public forum, the FAA responded to the NTSB recommendations. A summary of that response was published in Notice No. 96–7, and is summarized here:

In response to Safety Recommendation A–95–25, the FAA stated that it agrees that Boeing 737 airplanes that operate under 14 CFR part 121 or 125 should be equipped with flight data recorders that include, as a minimum, the parameters referenced in this safety recommendation. This proposed rule would require all Boeing 737 airplanes as well as certain other airplanes operated under 14 CFR parts 121, 125, or 135 having 10 or more seats to be equipped to record the parameters that were specified by the NTSB.

The FAA received enough valid information from the public to determine that the schedule for retrofit completion by December 31, 1995,

could not be met. The proposed date would have imposed an extremely aggressive retrofit schedule that, if it were physically possible, would have resulted in substantial airplane groundings and very high associated costs. Furthermore, if operators had been required to retrofit all Boeing 737 airplanes before the end of 1995, each of these airplanes might have had to undergo a second retrofit to meet the expanded requirements that were proposed in response to NTSB Recommendations A–95–26 and –27

In response to NTSB recommendation A–95–26, the FAA agrees that airplanes still in production should be required to be equipped with DFDR's that record, as a minimum, the parameters listed in the NTSB recommendation.

In response to NTSB recommendation A–95–27, the FAA agrees that airplanes operated under parts 121, 125, or 135 having 10 or more seats for which an original airworthiness certificate is received after December 31, 1996, should record the parameters listed in ''proposed FDR Enhancements for Newly Manufactured Airplanes'' on a flight data recorder having at least a 25-hour recording capacity.

Aviation Rulemaking Advisory Committee Participation

After reviewing the comments submitted pursuant to the NTSB recommendations and listening to the presentations, the FAA determined that it would be beneficial to have aviation industry personnel assist in any related rulemaking efforts. On June 27, 1995, the FAA published a notice in the **Federal Register** that the Aviation Rulemaking Advisory Committee (ARAC) established the Flight Data Recorder Working Group (60 FR 33247), which included members representing the Air Transport Association, Aerospace Industries Association of America, General Aviation Manufacturers Association, Regional Airline Association, Air Line Pilots Association, and the FAA. The NTSB was invited to participate in working group efforts in an advisory capacity. The working group's task was to recommend to ARAC rulemaking proposals or other alternatives that would satisfactorily address the NTSB recommendations. The ARAC could then make one or more recommendations to the FAA, and the FAA would determine whether to issue a proposal based on the ARAC recommendation.

The DFDR Working Group met over the course of several months. While many of the issues concerning flight data recorder upgrades were settled, no formal recommendation was forwarded to the FAA by the ARAC. A full discussion of the issues considered by the working group was included in Notice 96–7.

NPRM No. 96–7

On July 16, 1996, the FAA published an NPRM addressing revisions to digital flight data recorder rules and solicited public comment to the proposed amendments. The proposals were based on meetings attended by FAA, ARAC, and NTSB personnel. Twenty-six commenters responded, each addressing multiple issues. Their comments have been placed in the docket. Although numbered comments in the docket indicate 28 commenters responded, several submittals were duplicates. Comments to the NPRM are discussed in detail in the ''Discussion of Comments to the NPRM'' section of this document.

Supplemental Notice of Proposed Rulemaking, SNPRM No. 96–7A

As a result of some comments received and further analysis within the FAA, the FAA determined that some issues not included in the NPRM, but related to the proposal, should have been included. These issues included: (1) Applicability of the requirements to airplanes placed on the operations specifications of a U.S. operator after a certain date; (2) a compliance date for certain aircraft that must be retrofitted with DFDR equipment as a result of a change in policy announced in notice 96–7; (3) information regarding airplanes that should be exempted from the requirements proposed in notice 96–7; and (4) a requirement to use a 25-hour recorder, which is the industry standard, rather than the 8-hour recorder currently required. Because three of the issues were not included in the initial proposal, and because the FAA needed more information to make a determination regarding all four of the issues, the agency published a supplemental proposal on December 10, 1996 (61 FR 65142), and solicited public comment. Six comments were received; they are discussed in detail in the ''Discussion of Comments to the SNPRM'' section in this document. After analysis of all comments received, the FAA has adopted final rule language that includes items proposed in the SNPRM.

Discussion of Comments to the NPRM

Flight Systems Engineering, Inc., comments on the requirement for recordation of lateral acceleration on airplanes with one or two engines. It states that to the best of its knowledge, the ''trade-in'' program to upgrade from dual to tri-axial accelerometers was considered, but is not currently available and it doubts it will ever be. The commenter estimates the cost of the tri-axial accelerometer to be $3,000 per aircraft plus associated engineering and installation costs. The commenter believes that the accelerometer information can be obtained through analysis of other available data. In addition, the commenter states that to require a sampling rate of twice per second (rather than the current once per second) as proposed for certain parameters may generate costs to industry that the commenter does not consider to be cost beneficial.

FAA Response: The FAA acknowledges that this rule will place some economic burdens on operators. According to information received by the FAA, however, the $3,000 per aircraft for a tri-axial accelerometer is a maximum cost for a new unit, which, in practice, the FAA maintains will not be installed in all cases. Rather, modified units will be used wherever possible. The FAA does not agree that the commenter's proposed method of obtaining the information through analysis is a reasonable alternative that would satisfy the NTSB recommendation. No changes have been made as a result of this comment.

Patriot Sensors and Controls Corporation (Patriot) comments that it would cost approximately $2000 in 1997/1998 dollars to upgrade the lateral acceleration sensor from a dual axis to a tri-axial configuration. Patriot emphasizes that to accomplish the upgrade in a timely manner, upgrades of its units should be scheduled as soon as possible after issuance of the final rule. It emphasizes that it can not guarantee timely accomplishment for any order received later than 18 months prior to the final date of compliance.

FAA Response: The FAA appreciates the comment from Patriot; the FAA notes that the costs for modification of existing units presented by the commenter are approximately one third less than those presented by the operators for new units. Further discussion of other comments concerning the economic impact of this rule are contained in the Regulatory Evaluation section of this preamble.

AVRO International Aerospace comments that the proposed list of parameters appears to have been developed to address a specific type of airplane that has experienced a small number of accidents, and that the proposed list of parameters may not be the most appropriate for general application. AVRO also states that the

European codes have been formalized for adoption through JAR Ops and that it considers the FAA's action to extend requirements beyond the EUROCAE ED–55 standards (ED–55) without a full consultation with JAA authorities to be contrary to the spirit of the JAR/FAR Harmonization program.

FAA Response: The FAA acknowledges that the requirements proposed in the NPRM could appear to have been developed to address a specific type of airplane, and expanded to merely include all airplanes. However, the parameters proposed to be recorded involve functions of all airplanes, and may provide data over a wide range of incidents and accidents. Accordingly, in response to the NTSB recommendation, the FAA has included all transport category airplanes in this rulemaking action. The FAA disagrees that extended U.S. requirements require full consultation with JAA authorities. The ARAC working group considered current international standards where they exist, and realized that restricting the upgrades to ED–55 standards would not satisfy the NTSB recommendation. The standards proposed are harmonized with the current JAR-Ops, which are based on the ED–55 standards; the additional U.S. requirements have no JAR counterpart with which to harmonize. No changes were made as a result of this comment.

Aerospace Industries Association (AIA) submits technical comments and editorial comments regarding typographical errors. For parameter 88, all cockpit flight control input forces (control wheel, control column, rudder pedal), AIA comments that the force sensor accuracy in the appendix should be changed from ''+/−5%'' to ''+/−5% or +/−15% of actual, whichever is greater or as installed.'' AIA also comments that the accuracy values in the appendix for the Force Sensor Range for Wheel, Column, and Pedal ranges of parameter 88 should be changed to include the words ''or as installed'' after the numerical values. Also for parameter 88, AIA suggests the following language be added to the remarks column: ''Force Sensor Range requirements are based on FAR 25.143(c).'' Finally, AIA suggests that the Force Sensor requirements in the Accuracy column for parameter 88 should be moved from the Accuracy column to the Range Column.

FAA Response: During ARAC working group meetings, NTSB representatives made it clear that the NTSB needs the full range control forces to be recorded as outlined in the NPRM with no exceptions. Force Sensor Range requirements in this rule are not based on the requirements in § 25.143(c) because slightly stricter requirements are needed to yield the desired information for accident and incident investigation.

The FAA agrees that the Force Sensor requirements for parameter 88 should be moved from the Accuracy column to the Range Column in the appendices; the change is reflected in this final rule.

AIA also commented that the following should be added to the Remarks column in the appendices for parameters 82, Cockpit trim control input position—pitch, 83, Cockpit trim control input position—roll, and 84, Cockpit trim control input position—yaw: ''Where mechanical means for control inputs are not available, Cockpit Display Trim Positions should be recorded.'' Its rationale for the change is that modern transport aircraft do not always use mechanical trim controls.

FAA Response: The FAA concurs and the language in the Remarks column in the appendices for parameters 82, 83, and 84 has been revised.

Finally, AIA comments that the language in the Remarks column in the appendices for parameter 32, Angle of attack (if measured directly), is incomplete and should be changed to read as follows: ''If left and right sensors are available, each may be recorded at 4 or 1 second intervals as appropriate so as to give a data point at 2 seconds or 0.5 seconds as required.''

FAA Response: The FAA concurs and the language in the Remarks column in the appendices for parameter 32 has been changed. Also, all typographical errors noted in AIA's comments have been corrected in this final rule.

Embraer comments on the technical aspects of several proposed items; the commenter states that airplanes fitted with conventional mechanical flight controls should be allowed to record either the flight control input or the control surface position. The commenter further states that derived information for control input and control movement can be demonstrated for its aircraft. Embraer also comments that due to technical constraints such as sensor reliability, low level signal treatment, and aircraft installation, plus cost restraints and the low priority given to cockpit flight controls forces (as evidenced by their location in the order of the parameter list), it considers the recording of these parameters unnecessary. Embraer also comments that to be able to accommodate 88 parameters, it will be necessary to replace existing recorders that record 64 to 128 words per second (wps) with a new one capable of recording 256 wps, which is not presently available on the market. Embraer also submits cost figures for updating its software and hardware.

FAA Response: The NTSB recommendations on which this rulemaking action is based indicate that both control input and surface position are necessary for both conventional mechanical flight controls and fly-by wire controls. Past accident investigations support the need for this data. Further, although the NTSB has used derived information in support of some findings in accident investigation, the NTSB has noted that derived information may include too many variables to support the determination of probable cause of an accident.

The FAA acknowledges that some technical constraints regarding force sensors may currently exist. The recordation of the associated parameter, however, is not required until 5 years from the effective date of the final rule, and the FAA anticipates that within the next 5 years, these technical constraints will be overcome. Also, with regard to the ability to record 256 wps, the FAA maintains that there are recorders available today that include this technology, and expects them to be more readily available within 5 years, when newly manufactured airplanes must have recorders capable of recording all 88 parameters.

The FAA acknowledges that the DFDR enhancements proposed by this rule are expensive and that a recognized safety return may not immediately be recognized. However, the FAA maintains that the information collected will aid in accident and incident investigations and will help detect trends so that corrective measures can be taken before an accident occurs, and that collection of this data is in the public interest.

The FAA notes that the additional cost information submitted by Embraer is consistent with information submitted by ARAC working group members during development of the NPRM. Further discussion of other comments concerning economic issues can be found in this preamble under the section ''Regulatory Evaluation.'' No changes were made to the proposal as a result of Embraer's comment.

Sheehan Consultants comments that the acceleration resolutions need to be upgraded in the final rule from 0.01g to 0.004g's to be consistent with the requirements in ED–55. It states that the change would have no impact on current recorders because they already meet the ED–55 requirements. The commenter states that accident investigators need very fine resolution to observe an airplane bouncing on the

joints of a runway during taxi, takeoff, and landing, as well as other quick flight path changes, structural breakup, and explosions.

FAA Response: The FAA agrees that the resolution for all three acceleration parameters in parts 121, 125, and 135 should be changed to harmonize with the EUROCAE document ED–55. The final rule reflects the change in the resolution column of the appendices for parameters 5, 11, and 18 to read 0.004g's.

Aerospatiale and Alenia (ATR), manufacturers of ATR airplanes, comment that compliance with the primary flight control and master warning recording requirements would involve significant software modification and hardware modification of the flight data acquisition units (FDAU's), plus additional wiring. The two manufacturers state that the design changes would cost $100,000 per aircraft for U.S. operators for parts and labor, in addition to down time associated with completing the modifications. ATR requests that some flexibility be introduced into the requirements that would take into account certain design features such as flight control characteristics or aircraft weight. In addition, ATR states that harmonization with the EUROCAE ED–55 requirements should be considered for the retrofit requirements.

FAA Response: The FAA acknowledges that there may be alternatives to obtaining data other than direct recordation. However, the proposed sampling rates, resolution readouts, and parameter list in the NPRM represent contributions from all members of the ARAC working group. The ARAC working group made every effort to match the requirements in the proposal to both the requirements in ED–55 and the NTSB recommendations, and the FAA has determined that the differences are insignificant for U.S. operators. No changes were made as a result of this comment.

Airbus Industrie agrees with the statement in the preamble of Notice 96–7 that more flight data yields better results when investigative authorities are trying to determine the cause of an accident or incident. It suggests, however, that requirements for recording stick shaker/stick pusher, yaw or sideslip angle, and hydraulic pressure are not necessary because the information can be derived from other data, or because the information is not relevant to the understanding of system operation. Airbus Industrie also suggests that the rule should retain the current language that would allow the proposed terms ''record'' and ''recorded'' to be replaced respectively with the terms ''determine'' and ''able to be determined.'' In addition, Airbus Industrie comments that it has always installed advanced recording systems on its aircraft, but that aircraft already equipped to record 88 or more parameters may not be recording all of those proposed in the NPRM. Airbus Industrie suggests that the FAA require recordation of only those parameters included in EUROCAE ED–55, and states that anything else would constitute disharmony with European regulations. The commenter does not oppose the recordation of additional data, but would like to see more international involvement to determine what addition data should be included, and suggests that the effort be addressed within the ICAO and within the FAA/JAA Harmonization Work Program under the ARAC process before additional parameters beyond ED–55 are added.

Airbus Industrie also suggests that proposed §§ 121.344 and 125.226 be revised so that current FDR's that already record the necessary parameters, but not at the specific sampling or resolution readouts listed in Appendix K (corrected to read Appendix M), not be required to incur retrofit costs simply to meet those Appendix M values. Airbus Industrie believes that the introduction of this flexibility would result in significant cost savings to industry without jeopardizing the capability of investigating events.

FAA Response: The FAA acknowledges that there may be alternatives to obtain data other than direct recordation. However, the proposed sampling rates, resolution readouts, and parameter list in the NPRM represent contributions from industry representatives, the FAA, and the NTSB. During ARAC working group meetings, the NTSB argued that information gathered from interpretation was not as reliable as direct recordations, as discussed above. Some industry representatives did not agree. After further discussion, the working group decided that, to respond to the NTSB recommendations on which this rulemaking is based, the rule would be written with a requirement for direct recordation of the parameters listed. Although Airbus Industrie presents an alternative to obtaining information directly from a flight data recorder, the FAA has determined that justification provided by Airbus Industrie is not sufficient to overcome the NTSB's arguments that information gathered from interpretation is not as reliable as direct recordation. Accordingly, there was no change to the proposal as a result of this comment.

As previously stated, the FAA disagrees that international disharmony occurs as a result of this final rule. The ARAC working group made every effort to make the proposal identical, where applicable, to the requirements of ED–55. However, the FAA has determined that those requirements alone are insufficient for U.S. operators or U.S.-registered airplanes, and in fact would not satisfy the intent of the NTSB recommendations. Accordingly, the FAA proposed the additional requirements. The FAA disagrees with the suggestion that more international involvement is needed to develop U.S. regulations that govern U.S. operators and U.S.-registered airplanes. No changes were made as a result of this comment.

Fairchild Aircraft, Inc. (Fairchild), opposes the requirement for newly manufactured 10–19 seat airplanes to record 57 parameters effective 3 years after the effective date of the rule, and 88 parameters effective 5 years after the effective date of the rule. As proposed, the rule would require that these airplanes include a flight data acquisition unit (FDAU), plus the sensory devices and associated wiring for each (additional) parameter. Fairchild states that compliance with current § 135.152 and implementation of the proposed § 121.344a(a) is more than adequate for the size and complexity of any airplane in the 10–19 seat category. It is the commenter's understanding that the goal of this rule-making is to provide information regarding accidents and incidents as they occur, and it notes that 10–19 seat aircraft have no history of accidents of undetermined cause.

Fairchild believes that the money needed to comply with the proposed regulations could be better spent improving overall operations. It states that an FDR will not increase the level of safety in the 19-seat airplane, and will probably diminish the level of safety, because funds will be diverted to comply with something of no value versus something of positive value. Fairchild also states that, if adopted, the proposal would have a significant negative impact on the competitiveness of current operators and airplanes made in the United States that are sold on the international market. Fairchild believes the proposed changes would increase operating costs and thus negatively affect future sales in both the United States and foreign markets, particularly to customers in developing nations. Finally, Fairchild submits some cost

information, as well as the following technical comments:

Fairchild recommends deletion of § 121.344a (b) and (c), which would require newly manufactured airplanes with 10 to 19 seats to install enhanced DFDR's. Fairchild also notes that in § 121.344a(a)(1)(iv), a typographical error occurs; the second reference to Appendix B should instead be a reference to Appendix M.

Fairchild points out that the FH227 listed in parts 121 and 125 does not belong to Fairchild Aircraft, Inc., as stated in the proposal.

Fairchild requests that the following airplane types be added to the list of airplanes that need not comply with the requirements in § 121.344a, but continue to comply with the requirements in § 135.152: SA227–AC, SA227–TT, SA227–AT, and SA227–BC. As justification, Fairchild submits that these airplanes were manufactured prior to October 11, 1991, and are not commuter category airplanes.

FAA Response: As stated in the NPRM, when the NTSB made its recommendations in February 1995, the FAA has not yet issued its rule that requires most airplanes that have 10–19 seats that were formerly operated under part 135 to operate pursuant to the requirements of part 121 beginning in March 1997. Because the purpose of that rulemaking action was to establish ''one level of safety,'' the NPRM associated with this final rule, and all rules developed from this point forward, reflect that agency policy. Recognizing the differences between larger airplanes operating under part 121 and those designed to carry 10–19 passengers, the FAA developed a special section in the NPRM to specifically address the flight data recorder requirements for these airplanes. The ARAC working group discussed and decided that the intent of the NTSB recommendations was to capture all airplanes regularly used in commercial service, including those that began operating under part 121 beginning in March 1997.

The FAA disagrees with the suggestion to delete § 121.344a (b) and (c) for newly manufactured airplanes. The suggestion is inconsistent with the NTSB recommendations, and no alternative to satisfy the recommendation was suggested. No change was made as a result of this comment.

The FAA agrees that the second reference to Appendix B in § 121.344a(a)(1)(iv) is an error; ''Appendix B'' should read ''Appendix M.'' The rule has been revised accordingly.

The FAA finds that insufficient information was submitted to justify the addition of the following planes to the list of airplanes that need not comply with the requirements in § 121.344a, but continue to comply with the requirements in § 135.152: SA227–AC, SA227.TT, SA227–AT, and SA227–BC. The fact that airplanes were manufactured before October 11, 1991, is not considered sufficient to justify their exclusion. No change was made as a result of this comment.

The FAA agrees that the FH227 does not belong to Fairchild Aircraft, Inc., and the final rule has been revised to reflect the aircraft is a product of Fairchild Industries.

All typographical errors noted by the commenter have been corrected in this final rule.

Southwest Airlines (SWA) comments that the language proposed in § 121.344(b)(3) be changed to remove reference to installation no later than the next heavy maintenance check that occurs after two years after the effective date of the final rule. The commenter believes the final rule should only require compliance by the final date of the rule and should not include any milestones or restrictions. In addition, SWA comments that the sampling rates given in Appendix M have been increased from the rates initially proposed by ARAC working group members, and that the higher sampling rates may require additional modifications and expense.

FAA Response: The issue addressing the earliest possible compliance time was discussed in the preamble to the NPRM. In that document, the FAA stated that that ''heavy maintenance check'' provision was added to prevent operators from waiting until the last minute to install upgrades, causing a logjam in scheduling and equipment availability. The proposed sampling rates reflect those needed by the NTSB to aid in accident and incident investigations. No changes were made as a result of this comment.

Airborne Express comments that lateral acceleration cannot be recorded at the specified recording intervals using the Loral F800 flight data recorder. Airborne Express states that 70% of its fleet is fitted with the Loral F800, and to replace these recorders would constitute an undue burden. The commenter suggests that language be changed to reflect that, except for the Boeing 737, lateral acceleration should not be required to be recorded unless sufficient capacity is available on the existing recorder to record that parameter and that the recording ranges, accuracies, and recording intervals be limited to those specified in current Appendix B to part 121. In addition, Airborne Express asks for clarification of the term ''capacity'' as it is used in proposed § 121.344(b)(1)(i) so it can determine whether it can comply with the proposed rule language.

FAA Response: According to Loral, the manufacturer of the F800 recorder, lateral acceleration can be recorded for the Airborne Express installation if a nonrequired parameter is removed from the input to the recorder, and the existing spare channels are used. The term ''capacity'' refers to the design of a recorder to be able to record a certain number of parameters and store them for 25 hours. For example, a recorder may have a capacity to record 32 wps for 25 hours, 64 wps for 25 hours, 128 wps for 25 hours, etc. No changes to the rule were made as a result of this comment.

Piedmont Airlines (Piedmont) comments that although it agrees with the NTSB in the importance of information retrieved from FDR's, it believes ''the one size fits all'' approach to rulemaking is not an efficient or cost effective method. Piedmont believes the primary reason for the rule is two unresolved accidents that were due to loss of control. However, they do not agree that those accidents justify the proposal to obtain directly recorded data as opposed to obtaining information through alternative methods. Piedmont submits examples of two airplanes that will have to undergo some retrofit to comply with the rule as proposed. Piedmont believes that those airplanes are clear examples that existing recorded data is adequate for accident prevention and investigation, and that the proposed requirement will result in a costly retrofit for the purpose of a data-gathering exercise that is not justified by any benefit/cost comparison. Piedmont believes it would be cost beneficial to require recording up to 17 parameters but it disagrees that, other than for powered flight controls, both the control surface and the input need be recorded.

FAA Response: The FAA realizes that this rulemaking action may appear to be intended for certain airplanes that have been involved in accidents, the cause of which has not been determined. As stated in the NPRM, the FAA has determined that since the cause of these accidents is unknown, it is possible that similar incidents may occur on other airplane types. Therefore, the FAA finds that the need to record additional flight data is applicable to all airplanes covered by the final rule. The FAA recognizes that DFDR's do not in and of themselves prevent accidents; they are

used as an investigative tool when accidents or incidents occur. However, the FAA does not agree that continuing the current level of data collection is acceptable for future accident investigation. The FAA recognized in the NPRM that additional flight data can be collected cost-effectively, particularly in light of the NTSB recommendations. No changes were made as a result of these comments.

Twin Otter International, Ltd. (TOIL) and its affiliate by ownership, Grand Canyon Airlines, Inc. (GCA) comments that its members use deHavilland DHC–6–300 airplanes in their operations. This airplane type went out of production before October 11, 1991. TOIL claims that the DHC–6–300 was not designed to accommodate flight data recorders, and that installation would require extensive redesign and would be prohibitively expensive. In addition, the manufacturer is not interested in participating in the cost of certifying and retrofitting the airplanes for flight data recorder installation and no other airworthiness authority worldwide requires a DFDR in the DHC–6–300. TOIL states that no DHC–6–300 has ever been equipped with a DFDR.

The commenter states that the reversal of the policy determination addressed in Notice 96–7 would create a regulatory inconsistency because 12 of its DHC–6–300 airplanes would be required to be retrofitted, while 26 others owned by the companies would not. It states that the same airplane type brought onto the register after October 11, 1991, is no less safe than one brought on before that date, and recommends that in lieu of reversing the policy determination, the FAA should revise proposed § 121.344a to read ''manufactured after October 11, 1991,'' in lieu of ''brought onto the U.S. register after * * *'' that date. Further, the commenter points out, airplanes of foreign registration (not required to comply with U.S. DFDR requirements) may be allowed to be operated in the United States by a U.S. air carrier without being on the register, and would have an economic advantage over U.S.-registered airplanes.

FAA Response: Twin Otter International, Ltd. presented significant evidence why the DHC–6 airplane (Twin Otter) should be exempted from the flight data recorder upgrade requirements proposed in the NPRM, and the final rule includes an exemption for the DHC–6, whether the airplanes are operated under part 121 or part 135.

The FAA fully considered the popularity of this aircraft model in the sightseeing industry, and determined that the exemption is still appropriate. The FAA does not agree with TOIL's characterization of the effect of the policy change announced in notice 96–7, nor that the policy announced in Flight Standards Information Bulletin 92–09 should be codified. The revised policy states that airplanes previously registered in the United States that were removed and brought back on the register after October 11, 1991 are not ''grandfathered'' and must install flight data recorders. This interpretation is consistent with both the language and the intent of the current rule. While the FAA acknowledges that the October 11, 1991 date creates two classes of airplanes that are otherwise the same, any other method of distinguishing airplanes that must be retrofitted would have an equally bifurcated effect. TOIL's proposed solution to use October 11, 1991 as a date of manufacture to distinguish those airplanes to be retrofitted is a solution only for aircraft out of production; airplanes in production would continue to be separated into two classes by the date regardless of how identical two airplanes were when they came off the production line. The 1991 ''brought on the U.S. register'' date was adopted in 1988, and a well-defined class of airplanes was established. The FAA has no reason to now disrupt the applicability of the flight data recorder requirements by changing from one date to another when it would not solve the problem described by the commenter. Nor does the FAA agree with the commenter that, as a class, airplanes that are no longer being produced should be categorically exempted from the DFDR requirements.

In a comment to the NPRM, Twin Otter International, Ltd. (TOIL) comments that two classes of airplanes are created by the ''brought on the U.S. register'' language because foreign registered airplanes may be operated in the United States. This issue was raised by the FAA in the SNPRM to this rule, and the agency proposed that the applicability of the regulation be changed to include airplanes brought onto the U.S. register or airplanes that are foreign registered and added to an operator's U.S. operations specification after October 11, 1991. As explained in the preamble to the SNPRM, the original language was adopted to minimize costs and to deter the importation of older, non-DFDR equipped airplanes. The fact that the language created a separate standard for non-U.S. registered airplanes was unintentional; the FAA always intended to cover all of the airplanes operating domestically. TOIL did not comment on the change proposed in the SNPRM. Based on the comment of TOIL, the final rule language includes an exemption for the Twin Otter. No other changes were made based on this comment.

The Regional Airlines Association (RAA) comments that it supports the enhancement of FDR recording parameters where the benefits can be shown to justify the costs, and suggests that the compliance period be extended to 6 years. RAA supports the proposed rule as it applies to newly manufactured aircraft. However, RAA states that many of the proposed requirements to retrofit new recording parameters into existing airplanes have not been shown to provide a direct safety improvement or to be cost effective, and that requiring installation will impose a severe economic burden on affected operators, resulting in increased costs of travel to the public, and thus should be eliminated.

FAA Response: The FAA recognizes that the DFDR enhancements proposed by this rule may be costly and may not provide immediately recognized benefits. However, cost alone cannot justify ignoring the potential safety gain represented by the improvements required by this rule. The FAA has determined that this final rule should be promulgated as in the public interest, and RAA has not submitted sufficient justification to show that it is not in the public interest. No changes were made as a result of this comment.

The Air Line Pilots Association (ALPA) agrees with the proposal except for the proposed compliance period, and suggests that the FAA contact FDR and FDAU manufacturers directly to validate the economic information supplied in the NPRM. The commenter believes that the four year compliance period outlined in the proposed rule for the retrofit of FDR's is too long, and that three years is more appropriate.

FAA Response: The FAA relied heavily on the industry members of the ARAC working group to supply accurate economic information, including costs of parts, labor, and aircraft down time. The information was provided in aggregate form based on major cost components, not in detail. Therefore, contacting the manufacturers of specific parts such as the FDR's and FDAU's would not yield useful additional economic information. During development of the proposal, the ARAC working group discussed extensively the most appropriate compliance period—one that would be practical both technologically and economically. Manufacturers and operators argued that four years is necessary to redesign any

affected areas, and to incorporate any needed retrofits into a regular maintenance schedule in order to minimize the down time required for installation of DFDR enhancements. The FAA also notes that the required upgrades may be accomplished sooner than the prescribed four years; the final rule requires the installation of the DFDR no later than the next heavy maintenance check, or equivalent, after two years after the effective date of the final rule. No changes were made as a result of this comment.

General Aviation Manufacturers Association (GAMA) comments that the FAA has gone beyond the scope of the NTSB recommendations by including 10 to 19 passenger airplanes in the NPRM. GAMA also states that it considers the requirements proposed not to be cost beneficial, and thus a final rule should not be published. GAMA indicates that requiring enhanced DFDR's would not support the theory of eventual zero unexplained accidents per year simply by increasing the number of parameters being monitored. The commenter states that a regulatory analysis is not provided for newly manufactured airplanes and feels this is necessary by law and is essential. GAMA also disagrees with the FAA's conclusion that the cost of developing a 256 word per second recorder is insignificant. It cites the requirement to develop standards through committees, and the issue of possible import design and data correlation as additional cost burdens. GAMA comments that the FAA highlights the benefits of the NPRM and downplays costs, and that the proposal does not adequately quantify the benefits. The FAA should be required to conduct a full and complete cost analysis of the total NPRM impact prior to issuing a final rule. GAMA further maintains that although the FAA states that no disharmony is created in the proposal, it disagrees, and lists areas of possible conflict as parameters 40, 41, 42, and 44.

GAMA also comments that the NPRM should include rule language that would exclude retrofit requirements for existing airplanes operated under part 135 for on-demand service, and would exclude those newly manufactured airplanes to be operated under part 135 for on-demand service. Likewise, the commenter states that the proposed amendments should include language that the amendments would not apply to any airplane type certificated for nine or fewer passenger seats or any rotorcraft.

GAMA also comments that several of the parameters' names or corresponding remarks are ambiguous and need to be further clarified. It further comments that the rule language should be changed to include in the rule text the appendix remarks concerning flight control breakaway capability; suggests that the dual coverage requirement for conventional axes be deleted; and suggests that the requirement for recordation apply to only aircraft axes that are augmented.

For newly manufactured airplanes, GAMA believes there are differences between parameters that some operators have chosen to record and proposed parameters 58–88. GAMA asks whether operators must cease recording parameters of choice or those required in the JAR-Ops and/or ED–55, and instead record the proposed extended parameters. GAMA believes clarification is needed regarding these issues.

FAA Response: As explained in the NPRM, when the NTSB made its recommendations in February 1995, the FAA had not yet issued its rule that requires most airplanes that have 10–19 seats that formerly operated under part 135 to comply with the requirements of part 121 beginning in March 1997. Because the purpose of that rulemaking action was to establish ''one level of safety,'' the NPRM associated with this final rule, and all rules developed from this point forward, reflect that agency policy. Recognizing the differences between larger airplanes operating under part 121 and those designed to carry 10–19 passengers, the FAA developed a special section in the NPRM to specifically address the flight data recorder requirements for these airplanes. The ARAC working group discussed and decided that the intent of the NTSB recommendations was to capture all airplanes regularly used in commercial service, including those 10–19 seat airplanes that began operating under part 121 in March 1997.

The FAA recognizes that increasing the number of recorded parameters may not realize an immediate safety return, but maintains that the information collected will aid in accident and incident investigations, and will help detect trends so corrective measures can be taken before an accident occurs. The FAA also maintains that as more information is recorded, the occurrence of unexplained accidents and incidents will decrease.

Regarding the commenters statements addressing the cost/benefit analysis, an analysis for newly manufactured airplanes, costs associated with developing a 256 word per second recorder, and other cost burdens: these and other comments concerning economic impact are discussed further in the Regulatory Evaluation section of this preamble.

The FAA disagrees that disharmony is created in the proposal, and notes that harmonization does not mean identicality. The final rule is as similar as practicable with international standards, where they exist, and goes beyond international standards only to accommodate the NTSB recommendation, which is the original basis for this rulemaking action.

The FAA disagrees that the proposed rule language should be changed to exclude retrofit requirements for existing airplanes operated under part 135 for on-demand service. As proposed, the rule is not applicable to these airplanes. Only those part 135 airplanes that operate scheduled, commuter operations that have transferred to part 121 as of March 1997 will be subject to retrofit requirements in this rule. The FAA also disagrees that the proposed rule language should be changed to exclude newly manufactured airplanes that will be operated in on-demand service. For reasons stated in the preamble to the NPRM, the FAA finds that all airplanes affected should comply with the new regulations, regardless of the nature of their operation. The FAA disagrees with the commenter's suggestion that language be added to exclude airplanes certificated for nine or fewer passenger seats and all rotorcraft. Section 135.152 does not apply to airplanes with nine or fewer passenger seats, and the proposed language in § 135.152(f) applies only to airplanes that would be required to be equipped in accordance with §§ 135.152 (a) or (b), as appropriate.

With respect to the commenter that some of the parameter name and corresponding remarks are ambiguous, the FAA notes that the names and remarks have evolved over time and are generally accepted by industry. The names and remarks were discussed during the ARAC working group meetings in which GAMA participated. No technical concerns over the names of the parameters were raised by the commenter at the time or subsequently by any other commenter. The nature of the commenter's questions concerning specific parameter names will be considered in preparation of the Advisory Circular already under development.

The FAA disagrees that the text contained in the appendix ''Remarks'' column should be incorporated into the rule language for flight control breakaway capability parameter. The FAA has determined that this addition would be confusing for a single parameter and that the text should

remain in the ''Remarks'' column of the appendix.

The FAA disagrees that the dual coverage requirement for conventional axes should be deleted and that the requirement for recordation should apply to only aircraft axes that are augmented. The FAA finds that both of these requirements are needed to meet the NTSB recommendations.

Regarding the issue of recording required parameters rather than recording parameters of choice (or those required in the JAR-Ops and/or ED–55), the final rule states the parameters that must be recorded in each appropriate section. An operator may choose to record parameters beyond those required, but must record the required parameters. The FAA acknowledges that some operators may have to change the parameters currently being recorded, unless an operator chooses to replace its equipment for that with greater capacity.

The National Air Transportation Association (NATA) comments that proposed § 135.152 should be revised in the final rule to differentiate the applicability of the new requirements by ''kind of operation'' in which a 10 to 30 seat airplane is used. It also comments that the final rule language should be clarified concerning its applicability to 10 to 30 seat airplanes used in part 135 on-demand operations. The FAA is unable to understand clearly NATA's comment regarding proposed regulations for airplanes brought onto the U.S. register on or before October 11, 1991. The FAA concludes that NATA is suggesting that affected commuter airplanes operated under § 121.344a that are brought onto the U.S. register after October 11, 1991, should be required to meet only existing part 135 requirements. NATA appears to believe that there is no justification in requiring two sets of regulations for the same airplane type simply because of registration date, and suggests that the October 11, 1991, date be deleted and that the date of manufacture be used instead. NATA agrees with the exclusion of rotorcraft and airplanes certificated with nine or fewer passenger seats from the regulations, but feels that the term ''multiengine,'' which is included in current § 135.152 (a) and (b), should be included in proposed §§ 135.152 (i) and (j).

FAA Response: The FAA appreciates the NATA comment but it does not agree that applicability is an issue for this final rule. The FAA recently promulgated new part 119, which determines the type of operation that is applicable to an on-demand or commuter operation. When using the definitions of part 119, it is clear that § 135.152 applies to on-demand operators of the 10–30 seat airplanes, and that § 121.344a applies to scheduled commuter operators. The FAA acknowledges that DFDR's do not in and of themselves prevent accidents; they are used as an investigative tool when accidents or incidents occur. However, it does not agree that continuing to obtain the current level of information required to be recorded by § 135.152 without obtaining any new information is acceptable for future accident investigation. Similarly, the FAA does not agree with NATA that the term ''multiengine'' should be included in the new §§ 135.152 (i) and (j) for certain newly manufactured airplanes. In its deliberations, the FAA decided that a new, single-engine, turbine-powered airplane capable of carrying 10 to 30 passengers should meet the same standard as the multiengine airplane carrying the same number of passengers. Since NATA has not submitted any additional justification that would warrant different treatment of these airplanes, no changes were made as a result of this comment.

The Air Transport Association (ATA) generally supports the proposed rule, but expresses disagreement in the following areas. ATA comments that because the FAA proposes more parameters than are included in the JAR-Ops, harmonization is not achieved, and suggests that the FAA should restrict its list of parameters to those required by European standards, even if it means keeping the number of newly manufactured airplane DFDR parameters at 57. ATA also comments that increasing sampling rates in newer generation aircraft is not cost effective and recommends that several parameters be recorded at a sampling rate of once per second rather than twice per second as proposed. (The specific parameters will be addressed in the FAA reply.) In addition, ATA requests clarification regarding those aircrafts that fall under the requirements of Appendix B and have the flight control breakaway capability that allows either pilot to operate the controls independently.

ATA comments that the Lockheed Aircraft Corporation Electra L–188 should be included on the list of airplanes that would not have to comply with the new proposal. The L–188 is out of production but remains in service. ATA also comments that the Loral 800 FDR does not have the capacity to record lateral acceleration at the rate of 4 words per second, as proposed. A two-engine airplane equipped with the Loral F800 is only capable of recording this parameter at a rate of 1 wps. ATA recommends that Appendix B be revised to allow a recording rate of 1 wps for lateral acceleration for airplanes equipped with 32 wps recorders.

Also, ATA comments that the NPRM does not take into account aircraft with specialized data acquisition that may be capable, for example, of recording primary axis controls, either by pilot inputs or by surface position, but is not capable of recording both. ATA maintains that software to support this unique system is not available, which would result in the need to install extensive rewiring and expensive hardware.

ATA also comments that some of the accuracies listed in the NPRM for certain parameter sources differ from the accuracy as defined by the aircraft manufacturer, and suggests that when this happens, the manufacturer's accuracy should apply over the affected range.

ATA comments that some operators have established their DFDR Maintenance Programs using the current Appendix B parameter numbers for tracking and compliance purposes. ATA recommends that the final rule allow those operators that have a parameter-number-based FDR maintenance program to add the new parameters (numbers) to the original list, their maintenance manuals, and word cards.

ATA states that the FAA's time frame for compliance is more reasonable than that proposed in the NTSB recommendations, but still maintains there will be a tremendous burden on manufacturers, operators, and suppliers, as well as the FAA. Although FAA rejected ATA's earlier recommendation to establish a phased compliance schedule, ATA now suggests the FAA should survey operators annually after the effective date of the rule to determine the status of operator retrofit programs.

ATA states that with a few exceptions, its cost estimates generally agree with the data presented by the FAA in the proposed rule. It states, however, that some costs were not addressed in the NPRM, and consequently, ATA feels the FAA's cost estimates underestimate the total program costs.

FAA Response: The FAA disagrees that disharmony occurs as a result of this final rule. The ARAC working group made every effort to make the proposal identical, where applicable, to the requirements of ED–55. However, the FAA has determined that those requirements are insufficient to satisfy NTSB recommendations for U.S. operators, and has thus provided some

additional requirements. The FAA recognizes that there may be other alternatives to obtain data, but no comprehensive alternative that would meet the NTSB recommendations has been presented, nor cost data submitted for comparison. The proposed sampling rates, resolution readouts, and parameter list in the NPRM were developed with input from industry representatives, the FAA, and the NTSB. The FAA has determined that justification provided by ATA is not sufficient to change the proposal.

The FAA agrees that the Lockheed Aircraft Corporation Electra L–188 should be included in the list of airplanes that need not comply with these amendments, and the applicable sections have been revised in the final rule.

The FAA does not agree that the Loral F800 is incapable of recording 4 samples per second (the FAA assumes ATA misquoted the NPRM when it said 4 words per second), as proposed. According to the manufacturer of the F800 recorder, lateral acceleration can be recorded at 4 samples per second if a nonrequired parameter is removed from the input to the recorder, and the existing spare channels are used.

Regarding specialized equipment configurations, the FAA requested for specific comment from TWA and other operators that may find themselves in unique circumstances. Although the ATA comment points out a unique problem with specialized FDAU's, the limitations are of recording system capacity caused by out-of-date software. The FAA is not inclined to revise the proposed rule in such a way to encourage the continued use of old, insufficient software. The FAA does acknowledge that extenuating circumstances may occur, and so may consider exemptions requesting relief from the recordation of specific parameters if an operator can show that all efforts to rearrange nonrequired parameters and software ''fix'' solutions have been exhausted, and that the only solution would be an expensive equipment upgrade.

The FAA acknowledges that some of the accuracies listed are not the same as those listed by the manufacturers, but maintains that to achieve the minimum level of safety prescribed by the rule, and to maintain the continuity of recorded data, the FAA must establish the standards, not the individual manufacturers.

The comment concerning operator maintenance programs is not a flight data recorder issue, and is beyond the scope of this rulemaking action. The current rule does not prohibit, and the NPRM did not propose to prohibit those operators with a parameter-number-based FDR maintenance program from adding new parameters (by number) to the original list, their maintenance manuals, or word cards.

Regarding the commenter's suggestion to survey operators annually after the effective date of the rule to determine the status of operator retrofit programs, the FAA finds that the exercise would serve no useful purpose and would require additional resources and paperwork. Operators may submit their DFDR retrofit status at any time on a voluntary basis. During working group discussions, it was decided that a phased-in compliance schedule would not be necessary because affected airplanes could be retrofitted with any newly required equipment at the time of a heavy maintenance check. A separate DFDR retrofit schedule could conflict with other established maintenance schedules and increase costs.

Discussion of economic comments can be found in the Regulatory Evaluation section of this preamble. Except where noted above, no changes were made as a result of this comment.

The National Transportation Safety Board disagrees with the FAA's proposed compliance dates for newly manufactured and existing aircraft, and with the minimum parameter requirements for existing aircraft. It also disagrees with the FAA's decision not to require more expeditious flight control parameter upgrades for Boeing 737 airplanes, as required by the Board in its Recommendation A–95–25, and now suggests a December 1997 compliance date for retrofit of these airplanes.

In addition, for newly manufactured airplanes, the NTSB comments that most of the 88 parameters included in the FAA's proposal are currently being recorded, or are capable of being recorded with little cost, by existing FDR systems. Therefore, the NTSB believes that there does not appear to be a justifiable technical or economic reason for not requiring a full 88-parameter installation on newly manufactured aircraft by 3 years after the date of the final rule.

The NTSB also comments that the parameter ''Overspeed Warning'' should be added to the parameter list for newly manufactured airplanes, and that the final date should explain in greater detail the significance of the Appendices Header, which reads ''The recorded values must meet the designated range, resolution and accuracy requirements during dynamic and static conditions. All data recorded must correlate in time to within one second.'' The NPRM does not make it clear that this statement may have a significant impact on some existing airplanes with FDR parameters that do not reflect the actual condition of the aircraft during certain dynamic conditions. Certain data may not be recorded accurately due to filtering that takes place prior to recording.

The NTSB would like the FAA to change the proposed language to require non-FDAU equipped aircraft to be equipped with FDAU's and believes that the benefit would justify the additional $50,000 per aircraft cost of this retrofit. Adding a FDAU enables the recording of all the FDR parameters recommended by the Board in Recommendation 95–26. It would also provide reserve capacity for future FDR parameter needs that may become necessary in the future as a result of accident investigations and/or technology advancements.

In addition to the 1997 compliance date for Boeing 73 retrofits and the 3-year compliance date for newly manufactured airplanes, the NTSB suggests that industry should be able to retrofit the affected existing fleet within 2 years from the issuance of the final rule, rather than the 4 years proposed in Notice 96–7.

FAA Response: The FAA has fully explored with ARAC the NTSB recommendations concerning the Boeing 737 and a 2-year versus 4-year compliance date. During the course of the ARAC working group deliberations, the aircraft manufacturers presented and justified arguments that they would need more than 3 years to incorporate the engineering designs necessary to accommodate the proposed parameters that are beyond those listed in ED–55. The FAA published the result of those deliberations in the NPRM, which provided the rationale for these proposals and the retrofit of the existing fleet. The aviation industry provided information that indicated a 2-year retrofit schedule would be prohibitively costly, and that it may be technologically impossible to complete a fleet retrofit in less than 4 years. In addition, a mandatory 2-year retrofit schedule would have had a major effect on the traveling public due to unscheduled groundings of airplanes that would be necessary to meet the requirement. During ARAC discussions, industry and the FAA found that a 2-year retrofit would be burdensome, and discussed whether a faster retrofit would result in expenditures that would undermine separate attempts to find the cause of incidents and accidents. Finally, the FAA determined that a 4-year compliance time would permit the operators to schedule DFDR retrofits during a major maintenance check, e.g.,

a ''D'' check, while the aircraft is at a maintenance facility that has the equipment and technical capability to perform the installation and the modifications to the airframe. The NTSB has presented no new persuasive arguments that would justify changing the proposal.

Since the Pittsburgh (Aliquippa) Boeing 737 accident, Boeing has concentrated its efforts on using the available actual data and derived data to better understand the possible causes of this accident. Boeing has recently introduced changes in the Boeing 737 rudder system that it believes will prevent future rudder-induced rollover accidents. The FAA acknowledges the merits of the Boeing program and notes that such activities could be cut short if time and resources had to be directed toward meeting an accelerated DRDR retrofit schedule. At best, the recording of additional parameters may highlight where a problem exists. The rudder redesign efforts of Boeing, however, are a positive action that might prevent future accidents, and care must be taken not to inhibit such actions unnecessarily.

At the 1995 public hearing on flight data recorder upgrades, the FAA stated that it hoped that airlines would not wait for a government mandate before upgrading recorders. The FAA has received information that at least one major operator of Boeing 737 airplanes has already made a substantial commitment to upgrading its airplanes before the compliance date mandated in this rule. The FAA applauds this dedication to an important safety initiative and encourages equally aggressive compliance schedules from other operators.

The Board's suggestion to add to the parameter list of ''Overspeed Warning'' was not raised during the NTSB's participation in the ARAC working group. The FAA is not including in the final rule in an effort to maintain consistency with the proposed rule and the substantial cost analyses done by industry for the parameters already proposed. The FAA will consider adding the parameter in future rulemaking.

The NTSB requests a more detailed explanation of the Appendices Header that, as proposed, reads: ''The recorded values must meet the designated range, resolution and accuracy requirements during dynamic and static conditions. All data recorded must correlate in time to within one second:.'' The FAA added the requirement for a dynamic test condition to ensure accurate dynamic recording of aircraft performance. This requirement was necessary to preclude the presumption that information that may be obtained from filtered or modified signals. Correlation must be within one second between recorded data and actual performance. The FAA agrees that further explanation of these tests is needed, and intends to address the test procedures in an upcoming Advisory Circular to clarify the recording of dynamic and static conditions, and other acceptable means of compliance with the rule.

The original NTSB recommendations did not fully recognize the considerable constraints of DFDR retrofit of older airplanes that are out of production and are not equipped with flight data acquisition units (FDAU's), and for transport category airplanes whose type certificates apply to airplanes still in production. The NTSB did not recommend that 88-parameter recorders be installed in those airplanes. The ARAC team discussed the differences between FDAU-equipped and non-FDAU-equipped airplanes and recognized that the NTSB recommendation could not be fully accommodated without a FDAU retrofit of older airplanes. However, the costs related to redesign and retrofit were found to be excessive when compared to the benefits gained in older, less complex airplanes. Therefore, the ARAC team recommended different retrofit requirements for three different categories of airplanes, depending on their age and equipment already installed. Those categories and requirements were discussed in Notice No. 96–7, and are summarized in a chart printed in this preamble. The FAA has fully debated this issue and disagrees with the NTSB comment concerning FDAU retrofit of older airplanes, including that an additional $50,000 cost per older aircraft is justified. The FAA finds that the NTSB has submitted no new information that either was not considered by the FAA or that would justify developing a supplemental notice to incorporate this comment. No changes have been made as a result of the NTSB comment.

Several members on staff at the West Virginia University (WVU) comment that a virtual flight data recorder that they have been developing is capable of achieving the same result that an actual flight data recorder can, at much lower costs to industry. Congressman Nick J. Rahall II and Senator John D. Rockefeller IV, both of West Virginia, and the Air Transport Association (ATA) submitted comments in support of the WVU comment. The ATA states that the FAA and the NTSB should fund this technology.

FAA Response: The information presented in this comment is beyond the scope of this rulemaking action. It is ultimately the responsibility of the NTSB to determine whether this technology would be a useful accident investigation tool and provide the necessary funding for future research. The commenter's suggested methods of obtaining information from ''virtual'' flight data recorders in lieu of the proposed expanded flight data recorders, while interesting, would not satisfy the NTSB recommendations being addressed in this final rule, especially considering the NTSB's expressed need for directly recorded data. No change was made as a result of this comment.

An individual comments that the FAA does not provide a cost benefit analysis in the NPRM. In addition, the commenter believes the proposed rule is unnecessary and will not automatically improve aviation safety. He presents a number of hypothetical probable causes for accidents discussed in the preamble of the NPRM and suggests that improved inspection, maintenance, and training would better serve to prevent similar accidents. The commenter also states that it is necessary to record both pilots' inputs (force and displacement) as well as the control surface positions.

FAA Response: The NPRM contains a summary of a cost-benefit comparison. A more complete analysis is contained in the docket. The FAA disagrees that the proposed rule is unnecessary, although the immediate safety benefits may not be readily apparent. Currently, DFDR's are being used to aid accident investigation. Furthermore, the FAA is convinced that the enhanced data collection required by this rule will improve the accuracy and completeness of accident and incident investigations through the collection and analysis of more information. In addition, the FAA finds that the enhanced data collection required by this rule, and other voluntary measures being implemented by the air carriers, will provide enough data to recognize trends that may adversely affect flight operations in certain airplanes. Manufacturers and operators can analyze these trends and take corrective measures, if necessary, to avoid potential accidents or incidents.

The FAA agrees that improved inspection, maintenance, and training are important elements of preventing accidents, but that there is no acceptable substitute for the additional data that will be gathered as a result of this rule.

Regarding the comment on the requirement for recording from the pilot and the copilot both force and displacement, the FAA maintains that

the rule provides for the recording of both pilots' inputs. For clarification, the information in the ''Remarks'' column has been revised in the final rule.

An individual comments that he would like to see another item added to the NPRM in light of the recent crashes of ValuJet and TWA. Specifically, he suggests that the rule require an independent, lightweight, stand-by power supply to the CVR and FDR in the event of main bus power failure. He believes that power source should be available for 5 to 10 minutes. He believes that the NTSB agrees with his comment and asks for consideration in future rules if this comment cannot be included in this rulemaking.

FAA Response: The commenter did not present enough information to support the idea that a stand-by power supply would be useful during a catastrophic failure in which the recording sensors are disabled or destroyed. Since power sources for flight data recorder equipment were not part of the notice, the comment is beyond the scope of the rule, and no changes were made as a result of this comment.

Discussion of Comments to Proposals for Part 129

Airbus Industrie comments that it believes the most recent international standards, as established by ICAO, should be sufficient to meet the intent of the NTSB recommendations, and believes that to require additional standards for non-U.S. operators would impose heavy retrofit costs. The commenter believes that most parameters proposed can, with currently installed equipment, be either recorded directly or reliably determined from other data, and requests that more flexibility be allowed to derive certain parameters from other data as an alternative to direct recording.

FAA Response: The ARAC working group made every effort to make the proposal identical, where applicable, to the requirements of ED–55. However, the FAA has determined that those requirements alone are insufficient to satisfy the NTSB recommendations for U.S.-registered airplanes. Also, the FAA recognizes that there may be alternative methods available to obtain information, other than direct recording, but has determined that direct recordation is the most reliable method, and the best one to accomplish the needs of the NTSB. The NTSB has investigated a number of proposals wherein the proposed parameters were derived; however, the NTSB was not convinced that the methodology demonstrated was as accurate as direct recordation. No changes were made as a result of this comment.

Lufthansa German Airlines comments that a four-year compliance time is not sufficient to modify its fleet and maintains that, at a minimum, six years would be needed.

FAA Response: The commenter did not indicate the size of its fleet that would be subject to the retrofit requirements; however, the FAA would like to point out that the part 129 requirements apply only to U.S.-registered airplanes, not to the commenter's entire fleet. The FAA maintains that extending the compliance time would not significantly reduce the cost or down time involved per airplane. Since the commenter provided no further information regarding maintenance schedules or why the commenter could not meet a 4-year compliance date, no changes were made as a result of this comment.

Japan Airlines Company, Ltd. (JAL) comments that its Aircraft Integrated Monitoring System (AIMS) FDAU is almost fully occupied by parameters that JAL uses for monitoring on-board and ground-based operations. JAL maintains that requiring the recordation of additional parameters or increasing sampling rates would require modifications (including reviewing and rearranging all of the word slot assignments in its FDAU's) that would cost several million dollars and would require several months to accomplish. JAL requests that the FAA exempt from the final rule those airlines that are currently operating with AIMS, or to exempt those airlines from the proposed increased sampling rates for DFDR parameters.

FAA Response: As stated previously, the FAA acknowledges that some operators may have to change their preferred programming to accommodate recordation of the required parameters. The categories of aircraft retrofit created by this rule were chosen carefully to account for the majority of aircraft of a certain age and equipment installations. The requirements were set so as to not require overall equipment replacement for minimal gains. Accordingly, the FAA cannot exempt any aircraft simply because it is part of an AIMS-type system, as suggested by the commenter, without ignoring the carefully established categories. Moreover, JAL states that ''most of the newly-requested parameters are already recorded in (JAL's) DFDR,'' and that compliance would require a rearrangement of word slot assignments. JAL has not shown that this presents an undue regulatory burden or one that was not already considered by the FAA in this rulemaking.

The FAA again acknowledges that this rule will place some economic burdens on operators. Discussion of comments on economic issues can be found in the Regulatory Evaluation section of this preamble.

No other comments were received pursuant to these proposals. In the absence of sufficient, persuasive justification that is necessary to change the proposed regulations, they are adopted as proposed.

Discussion of Comments to the SNPRM

Two commenters stated that they support the proposals in the SNPRM.

TOIL submitted further comment to justify exemption of the DHC–6–300 from the DFDR retrofit requirements. The commenter's main concern is with ''the proposed reversal of policy established by Flight Standards Information Bulletin 92–09'' and again urges the FAA to adopt its previous policy interpretation regarding airplanes brought onto the register after October 11, 1991, and to codify that previous policy. TOIL did not offer comments on the proposals in the SNPRM.

FAA Response: The commenter seems to have misunderstood that the change in policy announced in the NPRM was a ''proposed'' reversal of policy. The change in policy was a determination already made; the NPRM was merely a conduit for announcing the change since the subject matter was relevant to the NPRM and the affected parties would be notified more efficiently using that document. As stated in the NPRM and the SNPRM, the previous policy interpretation was found to be inconsistent with the text of the rule. The FAA cannot, in good faith, allow operators to continue to operate without complying with the rule and has made no changes to the rule addressing the change of policy. Further explanation is provided in this preamble in the section, ''Discussion of Policy Change'' below.

One individual commented that the rule should address alternate methods of powering recording devices, stating that sometimes the busses powering the recorders are turned off for isolation purposes in the event of an emergency that involves fire or smoke.

FAA Response: The FAA acknowledges the merit of this comment; however, the issue it addresses is outside the scope of this rulemaking; it may be considered in a future rulemaking action. No changes were made as a result of this comment.

RAA comments that neither the NPRM nor the SNPRM have provided

data to suggest that adoption of the proposals will result in a reduction of accidents, and therefore the final rule should not be applicable for aircraft where it is shown that disproportionate economic hardship would result. The commenter feels that aircraft with 10 to 19 passenger seats should be affected only if they are newly manufactured after October 11, 1991 (as opposed to being brought onto the U.S. register, as the rule currently states). RAA comments that if the FAA does insist on adopting the rule as proposed, the 2 year compliance time stated in the SNPRM should be revised to 4 years, stating that it doesn't make sense to propose a 2 year compliance time for some airplanes and 4 years for others.

FAA Response: The FAA acknowledges that immediate benefits from this rule may not be readily recognized in terms of reducing accidents, and that DFDR's themselves can prevent accidents. However, to respond to the NTSB recommendations to provide better investigative tools for accidents and incidents, the FAA undertook this rulemaking action. Aviation industry representatives supplied the FAA with figures for the economic evaluation that was presented in the NPRM. The cost figures that the RAA submits in this comment refer only to the DHC–6–300, an airplane with a unique combination of cost factors. The FAA has determined that the DHC–6 will not have to comply with the DFDR requirements. Other operators that can justify why their airplanes should also be exempt, discussing the criteria outlined in the preamble of the NPRM and the SNPRM, may petition to have their airplanes added to the exemption paragraph in part 135.

The FAA agrees that the 2-year compliance time for airplanes of operators that ''thought their aircraft were grandfathered to meet the current requirements of part 135, not for installation of an upgrade'' should be revised to read 4 years, and those affected airplanes will have 4 years to come into compliance. The compliance time language that was included in the SNPRM has been removed to avoid any confusion in compliance times. Affected operators have four years to comply, whether operating under part 135 or part 121. Further explanation is provided in this preamble in the section, ''Discussion of Policy Change'' below.

The NTSB agrees with the intent of the SNPRM, but comments that specific language is needed to prevent part 121 operators from operating foreign-registered aircraft fitted with FDR's that have as few as five parameters. The commenter also states that the language intended to correct the policy decision discussed in the NPRM and SNPRM is somewhat confusing. The commenter feels that exemptions to § 135.152 should be handled through the exemption process on a case-by-case basis rather being addressed in rule language, and agrees that the ''out of production'' argument is not a sufficient reason for exclusion. The NTSB agrees that the increase in the minimum FDR recording duration for part 135 aircraft from 8 to 25 hours is an appropriate and timely change.

FAA Response: The language proposed in the SNPRM, that the flight data recorder requirements of § 135.152 apply to aircraft registered outside the United States but placed on the U.S. operations specifications of an operator, is included in the final rule. In its comment, the NTSB indicates that specific language should also be added to part 121 requirements to ensure that all aircraft operated in part 121 service, including those under foreign registration, are operated in accordance with the flight data recorder requirements of that part. The NTSB indicates that § 121.153 would permit the use of foreign-registered aircraft that record only 5 parameters of flight data. The FAA disagrees with the NTSB's reading of § 121.153. Paragraph (c)(2) of that section requires that foreign-registered aircraft operated under part 121 must meet all of the requirements ''of this chapter (14 CFR Chapter 1),'' which includes all of the part 121 requirements. Thus, any foreign-registered airplane operated under part 121 must meet the FDR requirements as though the aircraft were registered in the United States.

However, after further consideration, the FAA has decided that § 121.344a should contain the same language as § 135.152 concerning aircraft placed on the operations specifications of an operator. The ''brought on the U.S. register'' language of § 135.152 was repeated in new § 121.344a(a), and the correction proposed for § 135.152(a) in the SNPRM also applies to § 121.344a(a). The language is included in the final rule for clarity and parallelism between the two sections. The FAA does not want to cause confusion in the applicability of § 121.344a for airplanes that are subject to it beginning in March 1997.

The FAA agrees that the simple fact that airplanes are out of production is not sufficient justification for their exclusion from the DFDR requirements. The number of out of production airplanes still operating is significant, and many airplanes have too much economic life remaining to allow them to operate with no or limited flight data recorders. The FAA disagrees that any exception to this rule be handled as exemptions on a case-by-case basis. The FAA does not grant blanket permanent exemptions, and use of that process would necessitate the reapplication of affected parties every two years. The FAA does not anticipate that circumstances would change so as to justify later the retrofit of the airplanes listed in this final rule as exempt. Further, because these exceptions are listed for aircraft types, it is more efficient to list them as part of the rule rather than having individual operators apply on behalf of themselves and all affected operators of a certain airplane type design.

Discussion of Policy Change

In the preamble to Notice No. 96–7, the FAA announced a change in policy regarding certain airplanes that were brought on the U.S. register after October 11, 1991 (61 FR 37154, July 16, 1996). The language of current § 135.152 is clear that any aircraft subject to that section that was brought onto the U.S. register after that date would have to meet the flight data recorder requirements of that section. As explained in that Notice, there has been at least one previous policy determination that certain airplanes—those that were on the register before October 11, 1991, were taken off, and were added to the register again after October 11, 1991—do not have to meet the DFDR requirements because of their previous registration. As noted, this policy is inconsistent with the clear language of the rule, and with the recently adopted rules making part 135 scheduled commuter airplanes subject to part 121 beginning in March 1997.

Comments to the NPRM and SNPRM, and telephone inquiries by operators, indicate to the FAA that some commenters thought that this is a proposed policy change. Commenters also took the opportunity to suggest alternative policies to cover these airplanes, including a change in § 135.152 to make it applicable only to airplanes manufactured after October 11, 1991. (See response at discussion of TOIL's comments, above.) Further, the NPRM did not contain any proposed compliance time for aircraft affected by the policy change, nor did it specifically indicate that the policy change affects all aircraft—airplanes and rotorcraft—subject to § 135.152.

In the SNPRM, the FAA proposed to give operators that had been operating under the old policy two years to comply with the regulation. The

commenters note, however, that this places a burden on some operators, and could cause operators of certain airplanes that are now subject to part 121 requirements to possibly undergo a second retrofit—first to meet § 135.152 because of the policy change and again to meet § 121.344a.

The FAA agrees that the proposed compliance time of two years may be short, and understands the confusion that resulted from the change in policy being announced in the NPRM and discussed again in the SNPRM. Accordingly, the policy change is effective on the effective date of this final rule. Operators of airplanes or rotorcraft that were operating pursuant to the old policy will have four years from the effective date of this rule in which to comply with § 135.152. Affected operators should note, however, that there is no change to the rule language of § 135.152 to indicate that this compliance period exists. The FAA found that a change in the rule language could be interpreted to apply to all operators, rather than those affected by the policy change; the compliance date proposed in the supplemental notice is not adopted in this final rule.

Changes Adopted in the Final Rule

As a result of comments to the NPRM, the following changes were made:

(1) The Lockhead Aircraft Corporation Electra L–188 airplane was added to the list of airplanes that need not comply with proposed §§ 121.344 and 125.226, but must continue to comply with § 121.343 or 125.225, whichever is appropriate:

(2) The reference to Fairchild Aircraft, Inc. FH 227 was corrected to reflect the manufacturer of the FH 227 is Fairchild Industries;

(3) In all appendices, the following comment was added to the Remarks column for Parameter #88: For airplanes that have a flight control break away capability that allows either pilot to operate the controls independently, record both control force inputs. The control force inputs may be samples alternatively once per 2 seconds to produce the sampling interval of 1;

(4) Technical changes to the appendices, including sampling rates; and

(5) Typographical errors were corrected and minor editorial changes were incorporated.

As a result of the SNPRM and comments to the SNPRM, the following changes were made:

(1) Proposed § 121.344a(a) and comment § 135.152(a) were revised to include turbine-engine-powered airplanes having a passenger seating configuration, excluding any required crewmember seat, of 10 to 19 seats, that were brought onto the U.S. register after, or that were registered outside the United States and added to the operator's U.S. operation specifications after, October 11, 1991;

(2) Section 135.152(k) was added to state that the deHavilland DHC-6 (The Twin Otter) airplane need not comply with DFDR rules. Parts 121 and 125 already included exception paragraphs; the DHC-6 was the only part 135 airplane for which justification was shown to grant noncompliance;

(3) References in part 135 to 8 hours of recorded aircraft operation were revised to read 25 hours, which reflects the current industry standard; and

(4) The rule language proposed in the SNPRM to allow a 2 year compliance time for airplanes currently not in compliance was not adopted in the final rule. These aircraft were operating without DFDR's based on a previous policy interpretation, the reversal of which was announced in the preamble of the NPRM. The policy interpretation was changed to be consistent with the current rule language, and no change in the rule language is necessary.

(5) Each of the exemption paragraphs has been revised to indicate that the exemption applies only to aircraft manufactured before the effective date of this final rule.

FLIGHT DATA RECORDER UPGRADE REQUIREMENTS

Category 1 No FDAU*, mfd on or before 10/11/91	Category 2 FDAU, mfd on or before 10/11/91	Category 3 FDAU, mfd after 10/11/91	Category 4 FDAU, mfd 3 (or 5) years after final rule
CURRENT PARAMETERS			
11 parameters	17 parameters	Up to 29 parameters	29 parameters
PROPOSED PARAMETERS			
17/18 parameters	17–22 parameters	34 parameters	57 parameters (3 years) 88 parameters (5 years)
AIRPLANES			
1929 airplanes over 30 seats; 727, 737, DC–8, DC–9, F–28	1360 airplanes over 30 seats 704 turboprops A–320, 737, 747, 757, 767, DC–10, F–28, MD–80, ATR–42, EMB–120, SAAB 340, DHC–8, L–1011	1036 airplanes over 30 seats 673 airplanes 10–19 seats 277 airplanes 20–30 seats 737, 747, 757, 767, 777, F–100, MD–11, MD–80, MD–88, MD–90, ATR–72	All newly manufactured airplanes Existing derivatives and any new type certificates

* FDAU=Flight Data Acquisition Unit

International Compatibility

The FAA has reviewed corresponding International Civil Aviation Organization regulations and Joint Aviation Authority regulations, where they exist. Any differences between those documents and these regulations are of a minor, technical nature, and are deemed insignificant. As noted in the discussion of comments, the review included the technical material for parameters numbered 1 through 57. Beyond parameter 57, no international standards exist. The differences noted above will not adversely affect harmonization.

Paperwork Reduction Act

This final rule contains information collections which are subject to review by OMB under the Paperwork Reduction Act of 1995 (Pub. L. 104–13). The title, description, and respondent description of the annual burden are shown below.

Title: Revisions to Digital Flight Data Recorders Rules.

Description: This regulation revises and updates the Federal Aviation Regulations to require that certain airplanes be equipped to accommodate additional digital flight data recorder (DFDR) parameters. These revisions follow a series of safety recommendations issued by the National Transportation Safety Board (NTSB), and the Federal Aviation Administration's (FAA) decision that the DFDR rules should be revised to upgrade recorder capabilities in most transport airplanes. These revisions will require additional information to be collected to enable more thorough accident or incident investigation and to enable industry to predict certain trends and make necessary modifications before an accident or incident occurs.

Description of Respondents: Businesses or other for profit organizations.

There are no annual reporting or recordkeeping burdens associated with this rule. The information is collected automatically, electronically. It is retained for only 25 hours, and is overwritten on a continuing basis. In the event of an accident or incident, the information is downloaded by the NTSB as a part of its statutory mission. The airplane operators are not required to keep the information, nor to report it.

Cost estimates shown here are aggregates for the entire 4-year compliance time frame. In determining capital and start-up costs to the airline industry, the FAA has assumed that in determining the figures, commercial airline operators took into account the annualized expected useful life of the equipment to be installed in their aircraft. Total capital investment costs, as detailed in the Regulatory Evaluation are estimated at $155.4 million ($131.6 million discounted), and engineering costs are estimated at $3.2 million ($2.7 million discounted). Other costs, which include recurrent and nonrecurrent maintenance costs and costs associated with retrieving information from DFDR units following an accident or incident, are estimated at $16.4 million ($11.4 million discounted).

The agency solicits public comment on the information collection requirements in order 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, including the validity of the methodology and assumptions used; (3) enhance the quality, utility, and clarity of the information to be collected; and (4) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Individuals and organizations may submit comments on the information collection requirements by September 15, 1997, and should direct them to the address listed in the **ADDRESSES** section of this document. Comments should also be submitted to the Office of Information and Regulatory Affairs, OMB, New Executive Office Bldg., Room 10202, 725 17th St. NW, Washington, DC 20503, Attention, Desk Officer for FAA.

Persons are not required to respond to a collection of information unless it displays a currently valid OMB control number. The burden associated with this final rule has been submitted to OMB for review. The FAA will publish a notice in the **Federal Register** notifying the public of the approval numbers and expiration date.

Regulatory Evaluation Summary

Changes to Federal regulations must undergo several economic analyses. First, Executive Order 12866 directs that each Federal agency shall propose or adopt a regulation only upon a reasoned determination that the benefits of the intended regulation justify its costs. Second, the Regulatory Flexibility Act of 1980 requires agencies to analyze the economic effect of regulatory changes on small entities. Third, the Office of Management and Budget directs agencies to assess the effect of regulatory changes on international trade.

With regard to Executive Order 12866, the FAA determined that this rulemaking is significant because of the substantial public interest in obtaining flight data and the NTSB's ability to conduct full investigations. Accordingly, the FAA evaluated two alternative approaches. In consideration of these alternatives, the FAA has concluded that (1) shortening the compliance time frame to two years as analyzed in the NPRM, would increase the cost of this rulemaking by as much as $170.6 million, discounted; and (2) adopting a simulator methodology to obtain more DFDR parametric detail, although less costly, would not measure all parameters specified in this final rule, nor satisfactorily meet the needs of the NTSB. Hence, the FAA has rejected both of these alternative approaches.

With regard to the Regulatory Flexibility Act of 1980, the FAA has determined that a substantial number of small entities will not be significantly affected economically by this final rule. With regard to the OMB directive, the FAA has concluded that this final rule could have a potential, but insignificant, indirect affect on international trade. A full regulatory evaluation of the final rule providing a detailed discussion of the costs and benefits summarized in this section is available in the docket for this rulemaking action.

Costs

To obtain representative and comprehensive information from which to develop the industry costs of this final rule, the FAA relied on the responses of the Air Transport Association (ATA) and the Regional Airline Association (RAA) members to an air carrier cost survey developed by the ARAC working group. (The FAA augmented this information with adjusted cost analyses from the recently effectively commuter rule). The principle aggregate costs detailed in the cost survey were (1) equipment and inventory/spares; (2) engineering, installation, and other costs, inclusive of recurrent maintenance costs; and (3) aircraft out-of-service costs, which reflect net operating revenue losses resulting from unscheduled aircraft downtime.

The FAA estimates that total costs for air carriers operating turbojets under part 121 would equal $308.9 million ($259.1 million, discounted) within the 4-year compliance time frame of this rulemaking. The equivalent total turboprop fleet costs for air carriers operating under part 121 are estimated to be $30.4 million ($25.8 million, discounted) under the same 4-year compliance time frame. Estimates of the total 4-year compliance time frame costs for part 135, 10–19 seat aircraft required to operate under part 121 as of March 1997 are $26.4 million ($22.3 million, discounted) and for part 135, 20–30 seat aircraft, are $10.9 million ($9.2 million, discounted). Total part 135 costs are $37.3 million ($31.5 million, discounted). Thus, the estimated total 4-year compliance time frame discounted costs for the retrofits required under this final rule are $316.3 million.

The costs associated with upgrading the industry's turbojet fleet with the new DFDR requirements are in excess of 80 percent of the total air carrier industry costs (turbojets, turboprops and part 135 airplanes required to begin operating under part 121 in 1997). Just over 20 percent of the total turbojet fleet costs ($70.1 million; $59.4 million,

discounted) are out-of-service costs or lost net operating revenues that result from this rulemaking. No similar estimates of the out-of-service costs were provided to the FAA for either the turboprop fleet or part 135 carriers that will now be required to operate under part 121. Proportionately however, the FAA does not expect these to be significantly different than those estimated for the turbojet fleet.

Benefits

The FAA finds that the benefits that will result from this final rule can be considered as two interrelated areas. First, there are inherent, non-measurable benefits that evolve from increasing the volume of detailed accident and incident information from which the aviation industry as a whole can draw upon as an added resource. Second, there are the direct, measurable benefits that would result from potentially averting an accident as a result of the DFDR enhancements.

In the first instance, this final rule supports the recent voluntary efforts of those air carriers that have introduced data acquisition enhancements into their newer model airplanes. This subset of new airplanes with upgraded DFDR's has provided certain air carriers with ''quick access'' capability and allowed for the development of integrated maintenance and training programs predicated on the additional information being collected. It has also allowed for more rapid and comprehensive detail to be obtained by the FAA and NTSB in certain recent airplane accidents. The inherent benefits resulting from this rulemaking will evolve as all commercial air carriers adopt the required DFDR enhancements in their airplanes.

Although DFDR's do not in and of themselves prevent accidents, through their use as an investigative tool when accidents or incidents do occur, trends that may adversely affect flight operations in certain airplanes can be determined. Accident investigators in obtaining a greater understanding of the accident dynamics from the DFDR information, can, in turn, be used to more easily determine the probable causes of accidents and incidents. With this knowledge, a ''fix'' can be developed to reduce the chance of a similar occurrence in the future.

In the second instance noted above, although the FAA is not able to quantify precisely the likely benefits that will ultimately result from this rulemaking, the FAA anticipates that the DFDR enhancements required by this final rule will lead to a reduction in accidents and a saving of lives. As a result of analyzing incidents involving aircraft with DFDR enhancements in place, the FAA finds that there is a reasonable prospect that as many as 1.43 accidents could be prevented over the next 20 years. This could save up to 143 lives. The FAA anticipates that, particularly in light of the NTSB recommendations, information concerning enhanced parameters can be collected cost-effectively; it is also expected that the FAA will be able to use incident information to reduce accidents of the nature that are currently of undetermined cause.

Benefit Cost Comparison

The FAA cautions that the cost analysis detailed in the preceding sections is not necessarily exhaustive. The purpose of this rulemaking is to require the installation of DFDR's that record more flight information. This in turn, will allow industry to recognize certain trends in order to make any necessary modifications to avoid future accidents or incidents. Thus, the FAA presumes that, as a result of this rulemaking, the quantity and quality of information will increase. To the extent that NTSB is able to make findings of probable cause in the event of accidents or incidents, the FAA will be able to determine what, if any, appropriate additional action is needed to prevent a recurrence of those kinds of accidents or incidents.

Future FAA actions could take the form of Advisory Circulars, Airworthiness Directives, or possibly, additional rulemaking. The costs of these follow-on FAA actions could vary from negligible costs to considerable costs of some unknown amount. While the costs of such future follow-on actions by the FAA might be considered part of the costs of this rulemaking, the FAA cannot estimate the costs of these unknown future actions. The FAA acknowledges that, to the extent that the costs of any follow-on actions are more than negligible, the current cost estimates would tend to underestimate the total cost of this rulemaking.

Public Comments on Economic Issues in the NPRM

The FAA received comments from twenty-six parties in response to the published DFDR NPRM. Most of the comments concerned engineering and other technical detail germane to the reconfiguration requirements; fewer comments presented any detailed economic considerations of the proposed rule. This was expected since the regulatory evaluation and economic analysis were derived from the airline-specific cost information as provided through the ATA and RAA, both of which participated in the ARAC process. The comments containing more specific economic content are summarized below.

Several commenters addressed specific issues with regard to airplanes currently operating under part 135. Piedmont Airlines notes that the recorders currently used in its ATR–72 record 98 parameters and those used in its SAAB 340 record 128 parameters. In both cases, certain of the parameters specified by this rulemaking are not currently being recorded but could be derived; the cost however, to retrofit these airplanes to be in compliance would be about $100,000 per aircraft. Similarly, Aerospatiale and Alenia (ATR), manufacturers of ATR airplanes, suggest some requirements flexibility should be introduced for those airplanes such as the ATR 42/72 with recorder requirements that are essentially in harmonization with EUROCAE ED–55 requirements.

Comments submitted by the RAA include statements by RAA members that question the rationale of including for retrofit certain aircraft that currently have demonstrably effective recorder systems. In addition to the above noted ATR 42, ATR 73 and SAAB 340, the RAA, in an attachment submitted by Atlantic Southeast Airlines, Inc. (ASA), objects to the retrofit of BAe 146 and EMB–120 aircraft. ASA also cites a previous estimate submitted by Aerospatiale to retrofit the ATR 72 as costing $30,000 and 20 man-hours per aircraft, and a previous estimate submitted by AVRO to retrofit the BAe 146 as costing $110,000, 1200 man-hours, and 2.5 weeks downtime per aircraft.

In another statement submitted with the RAA comment, Comair believes the recorder capabilities currently employed on its in-service fleet far exceed those of the rulemaking's ''target aircraft'', e.g., older 737's and DC–9's. Comair also provided retrofit cost data for its fleet of 40 Embraer EMB 120 aircraft ($51,450 and 6 days downtime per aircraft) and its fleet of 70 Canadair CL600–2B19 regional jets ($136,600 and 6 days downtime per aircraft). Although not part of the RAA comment and attachments, Embraer also provided detailed cost information for the retrofitting of the EMB–120 aircraft under each of the categories specified in the rule. Embraer's retrofit cost estimates are more in line with those presented in the NPRM and considerably less than those cited above.

A statement from USAir Express notes that the cost data submitted by the RAA

were primarily for aircraft operated by RAA members under part 121, not part 135 as estimated in the regulatory evaluation; only the EMB–120 is operated exclusively under part 135. As a consequence, RAA/USAir Express suggest that the FAA cost estimates for retrofitting aircraft operating under part 121 are from 5 percent to 10 percent low.

Finally, Twin Otter International (TOIL) contends that the DHC–6–300, which is no longer in production, was not designed for FDR's and no engineering data exists to support an FDR installation. TOIL estimates the costs to redesign the DHC–6–300 aircraft systems and recertify would be in excess of $130,000, and deHavilland, the Twin Otter manufacturer, has no interest in participating in the cost of certifying/retrofitting the DHC–6–300. TOIL concludes that application of the rule would inhibit the ability of U.S. operators to purchase additional aircraft, particularly since the majority of available Twin Otters are registered outside the U.S.

FAA Response: The FAA appreciates the additional cost detail regarding aircraft operating under part 135 as provided in these comments, as well as the clarification of the cost detail as provided by the RAA. The FAA relied heavily on ARAC working group members to supply accurate and timely cost detail and economic information. This reliance also assumed that the cost detail supplied clearly delineated the retrofit costs associated with aircraft operating under part 135 from those operating under part 121.

With regard to the so-called ''requirements flexibility'' or possible exemption of certain aircraft, this is not a matter for consideration in the regulatory evaluation. It should be noted that the ARAC working group, with significant industry input, concluded that the differences between the NTSB recommendations and ED–55 would be insignificant for U.S. operators. Finally, with regard to the DHC–6–300 airplane (the Twin Otter) the FAA received sufficient information to support the exemption of these aircraft operated under part 135. Section 135.152(k) was added to provide that exemption.

Several comments were received regarding the 88 parameter list for airplanes in category V (those that will be manufactured five years after the effective date of this rule), most of which noted the absence of a detailed cost/benefit analysis specific to this requirement for future newly manufactured aircraft. Airbus Industrie notes an inexact match between the 88 or more parameters currently being recorded by some European manufacturers of FDRs and those on the NTSB list. This is also true of the currently operational A300–600/310 and A319/320/321 aircraft which can record up to 270 parameters and the A330/A340 models which can record up to 400 parameters.

The Air Line Pilots Association (ALPA) notes that the cost data supplied by ATA and RAA was inclusive only up to 57 parameters (category IV), but contends that there is no justifiable technical or economic reason not to include 88 parameters 3 years (not 5 years) after the promulgation of the final rule as is the case with the 57 parameter group. Fairchild Aircraft disagrees with the position that newly manufactured 10–19 seat airplanes should be required to have either 57 parameters within 3 to 5 years after issuance of the final rule or 88 parameters 5 years after issuance of the final rule. Fairchild Aircraft also maintains that compliance with § 135.152 is more than adequate for airplanes operating under part 135. Fairchild Aircraft, one of two U.S. manufacturers of commuter category airplanes also included aggregate recurring and non-recurring cost estimates for retrofitting its Metro 23 airplane to be in compliance with final rule's 57 and 88 parameter requirements. The General Aviation Manufacturers Association (GAMA) notes that under all scenarios, the cost of this rule exceed the benefits and faults the FAA with not having developed separate cost/benefit analysis for newly manufactured aircraft (57 or 88 parameters); GAMA believes this to be required under the law. Finally, ATA contends that the disharmony arising over the 31 parameter discrepancy (88 vs. 57 parameters) would affect sales/transfers of airplanes between European airlines/carriers and U.S. airlines/carriers.

FAA Response: The FAA notes that no cost detail for the 88 parameter list was included in the information provided by ATA or RAA for analysis in the NPRM, and the detail that was provided for the 57 parameter list was incomplete and essentially unusable. In both cases, this was due to the lack of adequate vendor cost detail for products which may not even be on the market as yet, and the generally speculative nature that would be required or air carriers in developing macro cost breakouts for newly manufactured airplanes in the future. These impediments were recognized by the ARAC working group, and, as a consequence, no request for this information was tendered.

With regard to the remaining issues noted above concerning the parameter requirements of newly manufactured airplanes, the potential cost burden, and the apparent excessive cost/benefit ratio, Federal regulations in general, require only that the complete rule be subjected to a cost/benefit analysis, not its component parts. Furthermore, although the cost information provided by ATA and RAA allowed detailed analysis of the first three aircraft categories, an analysis of the benefits cannot be estimated in similar manner; benefits therefore, were determined for the overall rule. Finally, as noted in the preamble, cost alone cannot justify ignoring the recognized potential safety gains inherent in this rule, the inclusion of certain airplanes now operating under part 135 to comply with the requirements of part 121 is a result of the commuter or ''one level of safety'' rule.

With regard to parts vendors and the disaggregation of materials costs, comments were received from two suppliers (Flight Systems Engineering, Inc. and Patriot Sensors and Controls Corporation) and one trade association (Airlines Pilot Association (ALPA)). The vendors' comments addressed the costs of specific equipment components and the lead time required to meet orders. A portion of ALPA's comments focused on the need for a more extensive review of cost data and recommended contacting individual manufacturers of FDRs and FDAUs.

FAA Response: The FAA appreciates the logistics information regarding vendor lead times which are well within the 4-year compliance time of this final rule. The FAA however, notes that the cost data developed for this rulemaking was provided by ATA and RAA at the aggregate level; it does not lend itself to the micro detail of specific retrofit components. No changes to the regulatory evaluation or the rule were made in response to these comments.

Finally, a comment was submitted by the Department of Civil and Environmental Engineering of the University of West Virginia (WVU) proposing an alternative approach to the retrofitting requirements of this rule based on Artificial Intelligence, or more specifically, Neural Network theory. Relying on an alternate set of assumptions, the WVU team estimates the cost of the DFDR final rule at $1.046 billion, or more than three times the FAA estimate, and offers their software-based system, the Virtual Flight Data Recorder (VFDR), as a low-cost alternative. Utilizing the data taken from an existing conventional 11-parameter FDR, the VFDR, according to the WVU

team, would accurately ''reconstruct'' most of the additional parameters detailed in the final rule via a Neural Network mapping process at a cost of about $800–$1,000 per aircraft, or about 1 percent of their cost estimate for this final rule. The WVU comment concludes that the opportunity cost of the hard retrofit is lost savings which could be invested in a variety of safety enhancements.

FAA Response: The FAA appreciates the efforts of the WVU team in presenting an innovative, low-cost ''simulator'' alternative to the hardware retrofits that will be required by this rule. However, the rulemaking is concerned with expanding the number of parameters to be recorded as requested by the NTSB, not with revising the means by which additional data can be collected. The NTSB has made it clear that its requirements must be met by direct parametric measurement via recorder, and has not supported industry comments with respect to parameter redundancy or inference from parameters already recorded. The FAA supports the continued efforts on the part of the WVU team to disseminate VFDR information to the NTSB, FAA Research Office and airline industry. The FAA, through this rulemaking, takes no position at this time on the VFDR or the commenter's measurement of the opportunity costs of this final rule.

Final Regulatory Flexibility Determination

The Regulatory Flexibility Act of 1980 (RFA) was enacted by Congress to ensure that small entities are not unnecessarily or disproportionately burdened by Federal regulations. The RFA requires regulatory agencies to review rules which may have ''a significant economic impact on a substantial number of small entities.'' For this final rulemaking, a ''small entity'' is an operator of aircraft for hire that owns, but does not necessarily operate, nine (9) aircraft or fewer. A ''substantial number of small entities'', as defined in FAA order 2100.14A—Regulatory Flexibility Criteria and Guidance, is a number (in this instance, the number of operators) that is not fewer than eleven and is more than one-third of the small entities subject to final rule.

A ''significant economic impact'' or cost threshold, is defined as an annualized net compliance cost level that exceeds (1) $122,400 (1995 dollars) in the case of scheduled operators of aircraft for hire whose entire fleet has a seating capacity in excess of 60 seats; (2) $69,800 (1995 dollars) in the case of scheduled operators of aircraft for hire for which the entire fleet has a seating capacity less than or equal to 60 seats; and (3) $4,900 (1995 dollars) in the case of unscheduled operators of aircraft for hire.

The FAA has determined the annualized costs (20 years) for scheduled operators of large aircraft to be $5,611 per aircraft. Multiplying this estimate by 9 (the upper bound of the small entity criteria) yields a result of $50,501. This estimate is significantly below the minimum compliance cost criteria of $122,400 for scheduled operators of large aircraft.

The FAA has also determined the annualized costs (20 years) for scheduled operators of small aircraft to be $3,067 per aircraft. The upper bound costs for consideration within the small entity (9 aircraft) criteria are $27,603, which is well below the minimum compliance cost of $69,800. Thus, the FAA has determined that a substantial number of small entities will not be significantly affected by this final rule.

International Trade Impact Assessment

The FAA anticipates that revisions to digital flight data recorder rules could have some indirect affect on international trade. The FAA finds that while the final rule will not effect non-U.S. operators of foreign aircraft operating outside the United States, it could affect the suppliers of materials required for retrofitting the affected aircraft in the domestic fleet. Domestic sources of the required retrofit components may not be able to meet all of the increased demand of the domestic air carriers for DFDR's as these air carriers increase their orders to meet the compliance time frame for these regulations. Foreign producers may benefit by supplying the unfilled orders.

Conclusion

For the reasons discussed in the preamble, and based on the findings in the Regulatory Flexibility Determination and the International Trade Impact Analysis, the FAA has determined that this final rule is a significant regulatory action under Executive Order 12866. In addition, the FAA certifies that this rule will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. This rule is considered significant under Department of Transportation Order 2100.5, Policies and Procedures for Simplification, Analysis, and Review of Regulations. A regulatory evaluation of the rule, including a Regulatory Flexibility Determination and International Trade Impact Analysis, has been placed in the docket. A copy may be obtained by contacting the person identified under the heading **FOR FURTHER INFORMATION CONTACT.**

List of Subjects

14 CFR Part 121

Air carriers, Aviation safety, Reporting and recordkeeping requirements, Transportation.

14 CFR Part 125 and Part 129

Aviation safety, Reporting and recordkeeping requirements.

14 CFR Part 135

Aviation safety, Reporting and recordkeeping requirements.

The Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR parts 121, 125, 129 and 135 of the Federal Aviation Regulations as follows:

PART 121—OPERATING REQUIREMENTS: DOMESTIC, FLAG, AND SUPPLEMENTAL OPERATIONS

1. The authority citation for part 121 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 40119, 44101, 44701–44702, 44705, 44709–44711, 44713, 44716–44717, 44722, 44901, 44903–44904, 44912, 46105.

2. Section 121.344 is revised to read as follows:

§ 121.344 Digital flight data recorders for transport category airplanes.

(a) Except as provided in paragraph (1) of this section, no person may operate under this part a turbine-engine-powered transport category airplane unless it is equipped with one or more approved flight recorders that use a digital method of recording and storing data and a method of readily retrieving that data from the storage medium. The operational parameters required to be recorded by digital flight data recorders required by this section are as follows: the phrase ''when an information source is installed'' following a parameter indicates that recording of that parameter is not intended to require a change in installed equipment:

(1) Time;

(2) Pressure altitude;

(3) Indicated airspeed;

(4) Heading—primary flight crew reference (if selectable, record discrete, true or magnetic);

(5) Normal acceleration (Vertical);

(6) Pitch attitude;

(7) Roll attitude;

(8) Manual radio transmitter keying, or CVR/DFDR synchronization reference;
(9) Thrust/power of each engine—primary flight crew reference;
(10) Autopilot engagement status;
(11) Longitudinal acceleration;
(12) Pitch control input;
(13) Lateral control input;
(14) Rudder pedal input;
(15) Primary pitch control surface position;
(16) Primary lateral control surface position;
(17) Primary yaw control surface position;
(18) Lateral acceleration;
(19) Pitch trim surface position or parameters of paragraph (a)(82) of this section if currently recorded;
(20) Trailing edge flap or cockpit flap control selection (except when parameters of paragraph (a)(85) of this section apply);
(21) Leading edge flap or cockpit flap control selection (except when parameters of paragraph (a)(86) of this section apply);
(22) Each Thrust reverser position (or equivalent for propeller airplane);
(23) Ground spoiler position or speed brake selection (except when parameters of paragraph (a)(87) of this section apply);
(24) Outside or total air temperature;
(25) Automatic Flight Control System (AFCS) modes and engagement status, including autothrottle;
(26) Radio altitude (when an information source is installed);
(27) Localizer deviation, MLS Azimuth;
(28) Glideslope deviation, MLS Elevation;
(29) Marker beacon passage;
(30) Master warning;
(31) Air/ground sensor (primary airplane system reference nose or main gear);
(32) Angle of attack (when information source is installed);
(33) Hydraulic pressure low (each system);
(34) Ground speed (when an information source is installed);
(35) Ground proximity warning system;
(36) Landing gear position or landing gear cockpit control selection;
(37) Drift angle (when an information source is installed);
(38) Wind speed and direction (when an information source is installed);
(39) Latitude and longitude (when an information source is installed);
(40) Stick shaker/pusher (when an information source is installed);
(41) Windshear (when an information source is installed);
(42) Throttle/power lever position;
(43) Additional engine parameters (as designated in Appendix M of this part);
(44) Traffic alert and collision avoidance system;
(45) DME 1 and 2 distances;
(46) Nav 1 and 2 selected frequency;
(47) Selected barometric setting (when an information source is installed);
(48) Selected altitude (when an information source is installed);
(49) Selected speed (when an information source is installed);
(50) Selected mach (when an information source is installed);
(51) Selected vertical speed (when an information source is installed);
(52) Selected heading (when an information source is installed);
(53) Selected flight path (when an information source is installed);
(54) Selected decision height (when an information source is installed);
(55) EFIS display format;
(56) Multi-function/engine/alerts display format;
(57) Thrust command (when an information source is installed);
(58) Thrust target (when an information source is installed);
(59) Fuel quantity in CG trim tank (when an information source is installed);
(60) Primary Navigation System Reference;
(61) Icing (when an information source is installed);
(62) Engine warning each engine vibration (when an information source is installed);
(63) Engine warning each engine over temp. (when an information source is installed);
(64) Engine warning each engine oil pressure low (when an information source is installed);
(65) Engine warning each engine over speed (when an information source is installed);
(66) Yaw trim surface position;
(67) Roll trim surface position;
(68) Brake pressure (selected system);
(69) Brake pedal application (left and right);
(70) Yaw or sideslip angle (when an information source is installed);
(71) Engine bleed valve position (when an information source is installed);
(72) De-icing or anti-icing system selection (when an information source is installed);
(73) Computed center of gravity (when an information source is installed);
(74) AC electrical bus status;
(75) DC electrical bus status;
(76) APU bleed valve position (when an information source is installed);
(77) Hydraulic pressure (each system);
(78) Loss of cabin pressure;
(79) Computer failure;
(80) Heads-up display (when an information source is installed);
(81) Para-visual display (when an information source is installed);
(82) Cockpit trim control input position—pitch;
(83) Cockpit trim control input position—roll;
(84) Cockpit trim control input position—yaw;
(85) Trailing edge flap and cockpit flap control position;
(86) Leading edge flap and cockpit flap control position;
(87) Ground spoiler position and speed brake selection; and
(88) All cockpit flight control input forces (control wheel, control column, rudder pedal).

(b) For all turbine-engine powered transport category airplanes manufactured on or before October 11, 1991, by August 20, 2001.

(1) For airplanes not equipped as of July 16, 1996, with a flight data acquisition unit (FDAU), the parameters listed in paragraphs (a)(1) through (a)(18) of this section must be recorded within the ranges and accuracies specified in Appendix B of this part, and—

(i) For airplanes with more than two engines, the parameter described in paragraph (a)(18) is not required unless sufficient capacity is available on the existing recorder to record that parameter;

(ii) Parameters listed in paragraphs (a)(12) through (a)(17) each may be recorded from a single source.

(2) For airplanes that were equipped as of July 16, 1996, with a flight data acquisition unit (FDAU), the parameters listed in paragraphs (a)(1) through (a)(22) of this section must be recorded within the ranges, accuracies, and recording intervals specified in Appendix M of this part. Parameters listed in paragraphs (a)(12) through (a)(17) each may be recorded from a single source.

(3) The approved flight recorder required by this section must be installed at the earliest time practicable, but no later than the next heavy maintenance check after August 18, 1999 and no later than August 20, 1997. A heavy maintenance check is considered to be any time an airplane is scheduled to be out of service for 4 or more days and is scheduled to include access to major structural components.

(c) For all turbine-engine powered transport category airplanes manufactured on or before October 11, 1991—

(1) That were equipped as of July 16, 1996, with one or more digital data bus(es) and an ARINC 717 digital flight data acquisition unit (DFDAU) or equivalent, the parameters specified in paragraphs (a)(1) through (a)(22) of this section must be recorded within the ranges, accuracies, resolutions, and sampling intervals specified in Appendix M of this part by August 18, 2001. Parameters listed in paragraphs (a)(12) through (a)(14) each may be recorded from a single source.

(2) Commensurate with the capacity of the recording system (DFDAU or equivalent and the DFDR), all additional parameters for which information sources are installed and which are connected to the recording system must be recorded within the ranges, accuracies, resolutions, and sampling intervals specified in Appendix M of this part by August 18, 2001.

(3) That were subject to § 121.343(e) of this part, all conditions of § 121.343(e) must continue to be met until compliance with paragraph (c)(1) of this section is accomplished.

(d) For all turbine-engine-powered transport category airplanes that were manufactured after October 11, 1991—

(1) The parameters listed in paragraph (a)(1) through (a)(34) of this section must be recorded within the ranges, accuracies, resolutions, and recording intervals specified in Appendix M of this part by August 20, 2001. Parameters listed in paragraphs (a)(12) through (a)(14) each may be recorded from a single source.

(2) Commensurate with the capacity of the recording system, all additional parameters for which information sources are installed and which are connected to the recording system must be recorded within the ranges, accuracies, resolutions, and sampling intervals specified in Appendix M of this part by August 20, 2001.

(e) For all turbine-engine-powered transport category airplanes that are manufactured after August 18, 2000—

(1) The parameters listed in paragraph (a)(1) through (57) of this section must be recorded within the ranges, accuracies, resolutions, and recording intervals specified in Appendix M of this part.

(2) Commensurate with the capacity of the recording system, all additional parameters for which information sources are installed and which are connected to the recording system, must be recorded within the ranges, accuracies, resolutions, and sampling intervals specified in Appendix M of this part.

(f) For all turbine-engine-powered transport category airplanes that are manufactured after August 19, 2002 the parameters listed in paragraph (a)(1) through (a)(88) of this section must be recorded within the ranges, accuracies, resolutions, and recording intervals specified in Appendix M of this part.

(g) Whenever a flight data recorder required by this section is installed, it must be operated continuously from the instant the airplane begins its takeoff roll until it has completed its landing roll.

(h) Except as provided in paragraph (i) of this section, and except for recorded data erased as authorized in this paragraph, each certificate holder shall keep the recorded data prescribed by this section, as appropriate, until the airplane has been operated for at least 25 hours of the operating time specified in § 121.359(a) of this part. A total of 1 hour of recorded data may be erased for the purpose of testing the flight recorder or the flight recorder system. Any erasure made in accordance with this paragraph must be of the oldest recorded data accumulated at the time of testing. Except as provided in paragraph (i) of this section, no record need be kept more than 60 days.

(i) In the event of an accident or occurrence that requires immediate notification of the National Transportation Safety Board under 49 CFR 830 of its regulations and that results in termination of the flight, the certificate holder shall remove the recorder from the airplane and keep the recorder data prescribed by this section, as appropriate, for at least 60 days or for a longer period upon the request of the Board or the Administrator.

(j) Each flight data recorder system required by this section must be installed in accordance with the requirements of § 25.1459 (a), (b), (d), and (e) of this chapter. A correlation must be established between the values recorded by the flight data recorder and the corresponding values being measured. The correlation must contain a sufficient number of correlation points to accurately establish the conversion from the recorded values to engineering units or discrete state over the full operating range of the parameter. Except for airplanes having separate altitude and airspeed sensors that are an integral part of the flight data recorder system, a single correlation may be established for any group of airplanes—

(1) That are of the same type;

(2) On which the flight recorder system and its installation are the same; and

(3) On which there is no difference in the type design with respect to the installation of those sensors associated with the flight data recorder system. Documentation sufficient to convert recorded data into the engineering units and discrete values specified in the applicable appendix must be maintained by the certificate holder.

(k) Each flight data recorder required by this section must have an approved device to assist in locating that recorder under water.

(l) The following airplanes that were manufactured before August 18, 1997 need not comply with this section, but must continue to comply with applicable paragraphs of § 121.343 of this chapter, as appropriate:

(1) Airplanes that meet the State 2 noise levels of part 36 of this chapter and are subject to § 91.801(c) of this chapter, until January 1, 2000. On and after January 1, 2000, any Stage 2 airplane otherwise allowed to be operated under Part 91 of this chapter must comply with the applicable flight data recorder requirements of this section for that airplane.

(2) General Dynamics Convair 580, General Dynamics Convair 600, General Dynamics Convair 640, deHavilland Aircraft Company Ltd. DHC–7, Fairchild Industries FH 227, Fokker F–27 (except Mark 50), F–28 Mark 1000 and Mark 4000, Gulfstream Aerospace G–159, Lockheed Aircraft Corporation Electra 10–A, Lockheed Aircraft Corporation Electra 10–B, Lockheed Aircraft Corporation Electra 10–E, Lockheed Aircraft Corporation Electra L–188, Maryland Air Industries, Inc. F27, Mitsubishi Heavy Industries, Ltd. YS–11, Short Bros. Limited SD3–30, Short Bros. Limited SD3–60.

3. Section 121.344a is added to read as follows:

§ 121.344a Digital flight data recorders for 10–19 seat airplanes.

(a) Except as provided in paragraph (f) of this section, no person may operate under this part a turbine-engine-powered airplane having a passenger seating configuration, excluding any required crewmember seat, of 10 to 19 seats, that was brought onto the U.S. register after, or was registered outside the United States and added to the operator's U.S. operations specifications after, October 11, 1991, unless it is equipped with one or more approved flight recorders that use a digital method of recording and storing data and a method of readily retrieving that data from the storage medium. On or before August 18, 2001, airplanes brought onto the U.S. register after October 11, 1991, must comply with either the requirements in this section or the applicable paragraphs in § 135.152 of this chapter. In addition, by August 18, 2001.

(1) The parameters listed in §§ 121.344(a)(1) through 121.344(a)(11) of this part must be recorded with the ranges, accuracies, and resolutions specified in Appendix B of part 135 of this chapter, except that—

(i) Either the parameter listed in § 121.344 (a)(12) or (a)(15) of this part must be recorded; either the parameters listed in § 121.344(a)(13) or (a)(16) of this part must be recorded; and either the parameter listed in § 121.344(a)(14) or (a)(17) of this part must be recorded.

(ii) For airplanes with more than two engines, the parameter described in § 121.344(a)(18) of this part must also be recorded if sufficient capacity is available on the existing recorder to record that parameter;

(iii) Parameters listed in §§ 121.344(a)(12) through 121.344(a)(17) of this part each may be recorded from a single source;

(iv) Any parameter for which no value is contained in Appendix B of part 135 of this chapter must be recorded within the ranges, accuracies, and resolutions specified in Appendix M of this part.

(2) Commensurate with the capacity of the recording system (FDAU or equivalent and the DFDR), the parameters listed in §§ 121.344(a)(19) through 121.344(a)(22) of this part also must be recorded within the ranges, accuracies, resolutions, and recording intervals specified in Appendix B of part 135 of this chapter.

(3) The approved flight recorder required by this section must be installed as soon as practicable, but no later than the next heavy maintenance check or equivalent after August 18, 1999. A heavy maintenance check is considered to be any time an airplane is scheduled to be out of service for 4 more days and is scheduled to include access to major structural components.

(b) For a turbine-engine-powered airplanes having a passenger seating configuration, excluding any required crewmember seat, of 10 to 19 seats, that are manufactured after August 18, 2000.

(1) The parameters listed in §§ 121.344(a)(1) through 121.344(a)(57) of this part, must be recorded within the ranges, accuracies, resolutions, and recording intervals specified in Appendix M of this part.

(2) Commensurate with the capacity of the recording system, all additional parameters listed in § 121.344(a) of this part for which information sources are installed and which are connected to the recording system, must be recorded within the ranges, accuracies, resolutions, and sampling intervals specified in Appendix M of this part by August 18, 2001.

(c) For all turbine-engine-powered airplanes having a passenger seating configuration, excluding any required crewmember seats, of 10 to 19 seats, that are manufactured after August 19, 2002, the parameters listed in § 121.344(a)(1) through (a)(88) of this part must be recorded within the ranges, accuracies, resolutions, and recording intervals specified in Appendix M of this part.

(d) Each flight data recorder system required by this section must be installed in accordance with the requirements of § 23.1459 (a), (b), (d), and (e) of this chapter. A correlation must be established between the values recorded by the flight data recorder and the corresponding values being measured. The correlation must contain a sufficient number of correlation points to accurately establish the conversion from the recorded values to engineering units or discrete state over the full operating range of the parameter. A single correlation may be established for any group of airplanes—

(1) That are of the same type;

(2) On which the flight recorder system and its installation are the same; and

(3) On which there is no difference in the type design with respect to the installation of those sensors associated with the flight data recorder system. Correlation documentation must be maintained by the certificate holder.

(e) All airplanes subject to this section are also subject to the requirements and exceptions stated in §§ 121.344(g) through 121.344(k) of this part.

(f) For airplanes that were manufactured before July 17, 1997, the following airplane types need not comply with this section, but must continue to comply with applicable paragraphs of § 135.152 of this chapter, as appropriate: Beech Aircraft–99 Series, Beech Aircraft 1300, Beech Aircraft 1900C, Construcciones Aeronauticas, S.A. (CASA) C–212, deHavilland DHC–6, Dornier 228, HS–748, Embraer EMB 110, Jetstream 3101, Jetstream 3201, Fairchild Aircraft SA–226.

4. Appendix M to part 121 is added to read as follows:

Appendix M to Part 121—Airplane Flight Recorder Specification

The recorded values must meet the designated range, resolution, and accuracy requirements during dynamic and static conditions. All data recorded must be correlated in time to within one second.

Parameters	Range	Accuracy (sensor input)	Seconds per sampling interval	Resolution	Remarks
1. Time or Relative Times Counts.	24 Hrs, 0 to 4095	+/−0.125% Per Hour	4	1 sec	UTC time preferred when available. County increments each 4 seconds of system operation.
2. Pressure Altitude	−1000 ft to max certificated altitude of aircraft. +5000 ft.	+/−100 to +/−700 ft (see table, TSO C124a or TSO C51a).	1	5′ to 35′	Data should be obtained from the air data computer when practicable.
3. Indicated airspeed or Calibrated airspeed.	50 KIAS or minimum value to Max V_{so} and V_{so} to 1.2 V_D.	+/−5% and +/−3%	1	1 kt	Data should be obtained from the air data computer when practicable.
4. Heading (Primary flight crew reference).	0–360° and Discrete ''true'' or ''mag''.	+/−2°	1	0.5°	When true or magnetic heading can be selected as the primary heading reference, a discrete indicating selection must be recorded.
5. Normal Acceleration (Vertical).	−3g to +6g	+/−1% of max range excluding datum error of +/−5%.	0.125	0.004g	
6. Pitch Attitude	+/−7°	+/−2°	1 or 0.25 for airplanes operated under §121.344(f).	0.5°	A sampling rate of 0.25 is recommended.
7. Roll Attitude	+/−180°	+/−2°	1 or 0.5 for airplanes operated under §121.344(f).	0.5°	A sampling rate of 0.5 is recommended.
8. Manual Radio Transmitter Keying or CVR/DFDR synchronization reference.	On-Off (Discrete) None		1		Preferably each crew member but one discrete acceptable for all transmission provided the CVR/FDR system complies with TSO C124a CVR synchronization requirements (paragraph 4.2.1 ED–55).
9. Thrust/Power on Each Engine—primary flight crew reference.	Full Range Forward	+/−2%	1 (per engine)	0.2% of full range	Sufficient parameters (e.g. EPR, N1 or Torque, NP) as appropriate to the particular engine be recorded to determine power in forward and reverse thrust, including potential overspeed conditions.
10. Autopilot Engagement	Discrete ''on'' or ''off''		1		
11. Longitudinal Acceleration.	+/−1g	+/−1.5% max. range excluding datum error of +/−5%.	0.25	0.004g	
12a. Pitch Control(s) position (non-fly-by-wire systems.	Full Range	+/−2% Unless Higher Accuracy Uniquely Required.	0.5 or 0.25 for airplanes operated under §121.344(f).	0.2% of full range	For airplanes that have a flight control break away capability that allows either pilot to operate the controls independently, record both control inputs. The control inputs may be sampled alternately once per second to produce the sampling interval of 0.5 or 0.25, as applicable.
12b. Pitch Control(s) position (fly-by-wire systems).	Full Range	+/−2° Unless Higher Accuracy Uniquely Required.	0.5 or 0.25 for airplanes operated under §121.344(f).	0.2% of full range	
13a. Lateral Control position(s) (non-fly-by-wire).	Full Range	+/−2° Unless Higher Accuracy Uniquely Required.	0.5 or 0.25 for airplanes operated under §121.344(f).	0.2% of full range	For airplanes that have a flight control break away capability that allows either pilot to operate the controls independently, record both control inputs. The control inputs may be sampled alternately once per second to produce the sampling interval of 0.5 or 0.25, as applicable.
13b. Lateral Control position(s) (fly-by-wire).	Full Range	+/−2° Unless Higher Accuracy Uniquely Required.	0.5 or 0.25 for airplanes operated under §121.344(f).	0.2% of full range	

14a. Yaw Control position(s) (non-fly-by-wire).	Full Range	+/−2° Unless Higher Accuracy Uniquely Required.	0.5	0.2% of full range	For airplanes that have a flight control break away capability that allows either pilot to operate the controls independently, record both control inputs. The control inputs may be sampled alternately once per second to produce the sampling interval of 0.5.
14b. Yaw Control position(s) (fly-by-wire).	Full Range	+/−2° Unless Higher Accuracy Uniquely Required.	0.5	0.2% of full range.	
15. Pitch Control Surface(s) Position.	Full Range	+/−2° Unless Higher Accuracy Uniquely Required.	0.5 or 0.25 for airplanes operated under §121.344(f).	0.2% of full range	For airplanes fitted with multiple or split surfaces, a suitable combination of inputs is acceptable in lieu or recording each surface separately. The control surfaces may be sampled alternately to produce the sampling interval of 0.5 or 0.25.
16. Lateral Control Surface(s) Position.	Full Range	+/−2° Unless Higher Accuracy Uniquely Required.	0.5 or 0.25 for airplanes operated under §121.344(f).	0.2% of full range	A suitable combination of surface position sensors is acceptable in lieu of recording each surface separately. The control surfaces may be sampled alternately to produce the sampling interval of 0.5 or 0.25.
17. Yaw Control Surface(s) Position.	Full Range	+/−2° Unless Higher Accuracy Uniquely Required.	0.5	0.2% of full range	For airplanes with multiple or split surfaces, a suitable combination of surface position sensors is acceptable in lieu of recording each surface separately. The control surfaces may be sampled alternately to produce the sampling interval of 0.5.
18. Lateral Acceleration	+/−lg	+/−1.5% max. range excluding datum error of +/−5%.	0.25	0.004g	
19. Pitch Trim Surface Position.	Full Range	+/−3% Unless Higher Accuracy Uniquely Required.	1	0.3% of full range	
20. Trailing Edge Flap or Cockpit Control Selection.	Full Range or Each Position (discrete).	+/−3° or as Pilot's indicator.	2	0.5% of full range	Flap position and cockpit control may each be sampled alternately at 4 second intervals, to give a data point every 2 seconds.
21. Leading Edge Flap or Cockpit Control Selection.	Full Range or Each Discrete Position.	+/−3° or as Pilot's indicator and sufficient to determine each discrete position.	2	0.5% of full range	Left and right sides, or flap position and cockpit control may each be sampled at 4 second intervals, so as to give a data point every 2 seconds.
22. Each Thrust Reverser Position (or equivalent for propeller airplane).	Stowed, In Transit, and Reverse (Discrete).		1 (per engine)		Turbo-jet—2 discretes enable the 3 states to be determined. Turbo-prop—discrete.
23. Ground Spoiler Position or Speed Brake Selection.	Full Range or Each Position (discrete).	+/−2° Unless Higher Accuracy Uniquely Required.	1 or 0.5 for airplanes operated under §121.344(f).	0.2% of full range	
24. Outside Air Temperature or Total Air Temperature.	−50°C to +90°C	+/−2°C	2	0.3°C	
25. Autopilot/Autothrottle/AFCS Mode and Engagement Status.	A suitable combination of discretes.		1		Discretes should show which systems are engaged and which primary modes are controlling the flight path and speed of the aircraft.
26. Radio Altitude	−20 ft to 2,500 ft	+/−2 ft or +/−3% Whichever is Greater Below 500 ft and +/−5% Above 500 ft.	1	1 ft + 5% above 500 ft	For autoland/category 3 operations. Each radio altimeter should be recorded, but arranged so that at least one is recorded each second.

Appendix M to Part 121—Airplane Flight Recorder Specification—Continued

The recorded values must meet the designated range, resolution, and accuracy requirements during dynamic and static conditions. All data recorded must be correlated in time to within one second.

Parameters	Range	Accuracy (sensor input)	Seconds per sampling interval	Resolution	Remarks
27. Localizer Deviation, MLS Azimuth, or GPS Latitude Deviation.	+/−400 Microamps or available sensor range as installed. +/−62°	As installed +/−3% recommended.	1	0.3% of full range	For autoland/category 3 operations. Each system should be recorded but arranged so that at least one is recorded each second. It is not necessary to record ILS and MLS at the same time, only the approach aid in use need be recorded.
28. Glideslope Deviation, MLS Elevation, or GPS Vertical Deviation.	+/−400 Microamps or available sensor range as installed 0.9 to +30°	As installed +/3−3% recommended.	1	0.3% of full range	For autoland/category 3 operations. Each system should be recorded by arranged so that at least one is recorded each second. It is not necessary to record ILS and MLS at the same time, only the approach aid in use need be recorded.
29. Marker Beacon Passage.	Discrete ''on'' or ''off''		1		A single discrete is acceptable for all markers.
30. Master Warning	Discrete		1		Record the master warning and record each ''red'' warning that cannot be determined from other parameters or from the cockpit voice recorder.
31. Air/ground sensor (primary airplane system reference nose or main gear).	Discrete ''air'' or ''ground''.		1 (0.25 recommended).		
32. Angle of Attack (If measured directly).	As installed	As installed	2 or 0.5 for airplanes operated under §121.344(f).	0.3% of full range	If left and right sensors are available, each may be recorded at 4 or 1 second intervals, as appropriate, so as to give a data point at 2 seconds or 0.5 second, as required.
33. Hydraulic Pressure Low, Each System.	Discrete or available sensor range, ''low'' or ''normal''.	+/−5%	2	0.5% of full range.	
34. Groundspeed	As Installed	Most Accurate Systems Installed.	1	0.2% of full range.	
35. GPWS (ground proximity warning system).	Discrete ''warning'' or ''off''.		1		A suitable combination of discretes unless recorder capacity is limited in which case a single discrete for all modes is acceptable.
36. Landing Gear Position or Landing gear cockpit control selection.	Discrete		4		A suitable combination of discretes should be recorded.
37. Drift Angle	As installed	As installed	4	0.1°.	
38. Wind Speed and Direction.	As installed	As installed	4	1 knot, and 1.0°.	
39. Latitude and Longitude	As installed	As installed	4	0.002°, or as installed	Provided by the Primary Navigation System Reference. Where capacity permits Latitude/longitude resolution should be 0.0002°.
40. Stick shaker and pusher activation.	Discrete(s) ''on'' or ''off''		1		A suitable combination of discretes to determine activation.
41. Windshear Detection	Discrete ''warning'' or ''off''.		1.		
42. Throttle/power lever position.	Full Range	+/−2%	1 for each lever	2% of full range	For airplanes with non-mechanically linked cockpit engine controls.
43. Additional Engine Parameters.	As installed	As installed	Each engine each second.	2% of full range	Where capacity permits, the preferred priority is indicated vibration level, N2, EGT, Fuel Flow, Fuel Cut-off lever position and N3, unless engine manufacturer recommends otherwise.

44. Traffic Alert and Collision Avoidance System (TCAS).	Discretes	As installed	1		A suitable combination of discretes should be recorded to determine the status of—Combined Control, Vertical Control, Up Advisory, and Down Advisory. (ref. ARINC Characteristic 735 Attachment 6E, TCAS VERTICAL RA DATA OUTPUT WORD.)
45. DME 1 and 2 Distance	0–200 NM	As installed	4	1 NM	1 mile
46. Nav 1 and 2 Selected Frequency.	Full Range	As installed	4		Sufficient to determine selected frequency
47. Selected barometric setting.	Full Range	+/−5%	(1 per 64 sec.)	0.2% of full range	
48. Selected Altitude	Full Range	+/−5%	1	100 ft	
49. Selected speed	Full Range	+/−5%	1	1 knot	
50. Selected Mach	Full Range	+/−5%	1	.01	
51. Selected vertical speed	Full Range	+/−5%	1	100 ft/min	
52. Selected heading	Full Range	+/−5%	1	1°	
53. Selected flight path	Full Range	+/−5%	1	1°	
54. Selected decision height.	Full Range	+/−5%	64	1 ft	
55. EFIS display format	Discrete(s)		4		Discretes should show the display system status (e.g., off, normal, fail, composite, sector, plan, nav aids, weather radar, range, copy.
56. Multi-function/Engine Alerts Display format.	Discrete(s)		4		Discretes should show the display system status (e.g., off, normal, fail, and the identity of display pages for emergency procedures, need not be recorded.
57. Thrust command	Full Range	+/−2%	2	2% of full range	
58. Thrust target	Full Range	+/−2%	4	2% of full range	
59. Fuel quantity in CG trim tank.	Full Range	+/−5%	(1 per 64 sec.)	1% of full range	
60. Primary Navigation System Reference.	Discrete GPS, INS, VOR/DME, MLS, Loran C, Omega, Localizer Glideslope.		4		A suitable combination of discretes to determine the Primary Navigation System reference.
61. Ice Detection	Discrete ''ice'' or ''no ice''.		4		
62. Engine warning each engine vibration.	Discrete		1		
63. Engine warning each engine over temp.	Discrete		1		
64. Engine warning each engine oil pressure low.	Discrete		1		
65. Engine warning each engine over speed.	Discrete		1		
66. Yaw Trim Surface Position.	Full Range	+/−3% Unless Higher Accuracy Uniquely Required.	2	0.3% of full range	
67. Roll Trim Surface Position.	Full Range	+/−3% Unless Higher Accuracy Uniquely Required.	2	0.3% of full range	
68. Brake Pressure (left and right).	As installed	+/−5%	1		To determine braking effort applied by pilots or by autobrakes.
69. Brake Pedal Application (left and right).	Discrete or Analog ''applied'' or ''off''.	+/−5% (Analog)	1		To determine braking applied by pilots.
70. Yaw or sideslip angle	Full Range	+/−5%	1	0.5°	
71. Engine bleed valve position.	Discrete ''open'' or ''closed''.		4		

Appendix M to Part 121—Airplane Flight Recorder Specification—Continued

The recorded values must meet the designated range, resolution, and accuracy requirements during dynamic and static conditions. All data recorded must be correlated in time to within one second.

Parameters	Range	Accuracy (sensor input)	Seconds per sampling interval	Resolution	Remarks
72. De-icing or anti-icing system selection.	Discrete ''on'' or ''off''		4		
73. Computed center of gravity.	Full Range	+/−5%	(1 per 64 sec.)	1% of full range	
74. AC electrical bus status	Discrete ''power'' or ''off''		4		Each bus.
75. DC electrical bus status.	Discrete ''power'' or ''off''		4		Each bus.
76 APU bleed valve position.	Discrete ''open'' or ''closed''.		4		
77. Hydraulic Pressure (each system).	Full range	+/−5%	2	100 psi	
78. Loss of cabin pressure	Discrete ''loss'' or ''normal''.		1		
79. Computer failure (critical flight and engine control systems).	Discrete ''fail'' or ''normal''.		4		
80. Heads-up display (when an information source is installed).	Discrete(s) ''on'' or ''off''		4		
81. Para-visual display (when an information source is installed).	Discrete(s) ''on'' or ''off''				
82. Cockpit trim control input position—pitch.	Full Range	+/−5%	1	0.2% of full range	Where mechanical means for control inputs are not available, cockpit display trim positions should be recorded.
83. Cockpit trim control input position—roll.	Full Range	+/−5%	1	0.2% of full range	Where mechanical means for control inputs are not available, cockpit display trim positions should be recorded.
84. Cockpit trim control input position—yaw.	Full Range	+/−5%	1	0.2% of full range	Where mechanical means for control inputs are not available, cockpit display trim positions should be recorded.
85. Trailing edge flap and cockpit flap control position.	Full Range	+/−5%	2	0.5% of full range	Trailing edge flaps and cockpit flap control position may each be sampled alternately at 4 second intervals to provide a sample each 0.5 second.
86. Leading edge flap and cockpit flap control position.	Full Range or Discrete	+/−5%	1	0.5% of full range	
87. Ground spoiler position and speed brake selection.	Full Range or Discrete	+/−5%	0.5	0.2% of full range	
88. All cockpit flight control input forces (control wheel, control column, rudder pedal).	Full Range Control wheel +/−70 lbs Control Column +/−85 lbs Rudder pedal +/−165 lbs	+/−5%	1	0.2% of full range	For fly-by-wire flight control systems, where flight control surface position is a function of the displacement of the control input device only, it is not necessary to record this parameter. For airplanes that have a flight control break away capability that allows either pilot to operate the control independently, record both control force inputs. The control force inputs may be sampled alternately once per 2 seconds to produce the sampling interval of 1.

PART 125–CERTIFICATION AND OPERATIONS: AIRPLANES HAVING A SEATING CAPACITY OF 20 OR MORE PASSENGERS OR A MAXIMUM PAYLOAD CAPACITY OF 6,000 POUNDS OR MORE

5. The authority citation for part 125 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701–44702, 44705, 44710–44711, 44713, 44716–44717, 44722.

6. Section 125.226 is added to read as follows:

§ 125.226 Digital flight data recorders.

(a) Except as provided in paragraph (1) of this section, no person may operate under this part a turbine-engine-powered transport category airplane unless it is equipped with one or more approved flight recorders that use a digital method of recording and storing data and a method of readily retrieving that data from the storage medium. The operational parameters required to be recorded by digital flight data recorders required by this section are as follows: the phrase ''when an information source is installed'' following a parameter indicates that recording of that parameter is not intended to require a change in installed equipment:

(1) Time;
(2) Pressure altitude;
(3) Indicated airspeed;
(4) Heading—primary flight crew reference (if selectable, record discrete, true or magnetic);
(5) Normal acceleration (Vertical);
(6) Pitch attitude;
(7) Roll attitude;
(8) Manual radio transmitter keying, or CVR/DFDR synchronization reference;
(9) Thrust/power of each engine—primary flight crew reference;
(10) Autopilot engagement status;
(11) Longitudinal acceleration;
(12) Pitch control input;
(13) Lateral control input;
(14) Rudder pedal input;
(15) Primary pitch control surface position;
(16) Primary lateral control surface position;
(17) Primary yaw control surface position;
(18) Lateral acceleration;
(19) Pitch trim surface position or parameters of paragraph (a)(82) of this section if currently recorded;
(20) Trailing edge flap or cockpit flap control selection (except when parameters of paragraph (a)(85) of this section apply);
(21) Leading edge flap or cockpit flap control selection (except when parameters of paragraph (a)(86) of this section apply);
(22) Each Thrust reverser position (or equivalent for propeller airplane);
(23) Ground spoiler position or speed brake selection (except when parameters of paragraph (a)(87) of this section apply);
(24) Outside or total air temperature;
(25) Automatic Flight Control System (AFCS) modes and engagement status, including autothrottle;
(26) Radio altitude (when an information source is installed);
(27) Localizer deviation, MLS Azimuth;
(28) Glideslope deviation, MLS Elevation;
(29) Marker beacon passage;
(30) Master warning;
(31) Air/ground sensor (primary airplane system reference nose or main gear);
(32) Angle of attack (when information source is installed);
(33) Hydraulic pressure low (each system);
(34) Ground speed (when an information source is installed);
(35) Ground proximity warning system;
(36) Landing gear position or landing gear cockpit control selection;
(37) Drift angle (when an information source is installed);
(36) Wind speed and direction (when an information source is installed);
(39) Latitude and longitude (when an information source is installed);
(40) Stick shaker/pusher (when an information source is installed);
(41) Windshear (when an information source is installed);
(42) Throttle/power lever position;
(43) Additional engine parameters (as designed in appendix E of this part);
(44) Traffic alert and collision avoidance system;
(45) DME 1 and 2 distances;
(46) Nav 1 and 2 selected frequency;
(47) Selected barometric setting (when an information source is installed);
(48) Selected altitude (when an information source is installed);
(49) Selected speed (when an information source is installed);
(50) Selected mach (when an information source is installed);
(51) Selected vertical speed (when an information source is installed);
(52) Selected heading (when an information source is installed);
(53) Selected flight path (when an information source is installed);
(54) Selected decision height (when an information source is installed);
(55) EFIS display format;
(56) Multi-function/engine/alerts display format;
(57) Thrust command (when an information source is installed);
(58) Thrust target (when an information source is installed);
(59) Fuel quantity in CG trim tank (when an information source is installed);
(60) Primary Navigation System Reference;
(61) Icing (when an information source is installed);
(62) Engine warning each engine vibration (when an information source is installed);
(63) Engine warning each engine over temp. (when an information source is installed);
(64) Engine warning each engine oil pressure low (when an information source is installed);
(65) Engine warning each engine over speed (when an information source is installed);
(66) Yaw trim surface position;
(67) Roll trim surface position;
(68) Brake pressure (selected system);
(69) Brake pedal application (left and right);
(70) Yaw of sideslip angle (when an information source is installed);
(71) Engine bleed valve position (when an information source is installed);
(72) De-icing and anti-icing system selection (when an information source is installed);
(73) Computed center of gravity (when an information source is installed);
(74) AC electrical bus status;
(75) DC electrical bus status;
(76) APU bleed valve position (when an information source is installed);
(77) Hydraulic pressure (each system);
(78) Loss of cabin pressure;
(79) Computer failure;
(80) Heads-up display (when an information source is installed);
(81) Para-visual display (when an information source is installed);
(82) Cockpit trim control input position-pitch;
(83) Cockpit trim control input position—roll;
(84) Cockpit trim control input position—yaw;
(85) Trailing edge flap and cockpit flap control position;
(86) Leading edge flap and cockpit flap control position;
(87) Ground spoiler position and speed brake selection; and
(88) All cockpit flight control input forces (control wheel, control column, rudder pedal).

(b) For all turbine-engine powered transport category airplanes manufactured on or before October 11, 1991, by August 18, 2001—

(1) For airplanes not equipped as of July 16, 1996, with a flight data

acquisition unit (FDAU), the parameters listed in paragraphs (a)(1) through (a)(18) of this section must be recorded within the ranges and accuracies specified in Appendix D of this part, and—

(i) For airplanes with more than two engines, the parameter described in paragraph (a)(18) is not required unless sufficient capacity is available on the existing recorder to record that parameter.

(ii) Parameters listed in paragraphs (a)(12) through (a)(17) each may be recorded from a single source.

(2) For airplanes that were equipped as of July 16, 1996, with a flight data acquisition unit (FDAU), the parameters listed in paragraphs (a)(1) through (a)(22) of this section must be recorded within the ranges, accuracies, and recording intervals specified in Appendix E of this part. Parameters listed in paragraphs (a)(12) through (a)(17) each may be recorded from a single source.

(3) The approved flight recorder required by this section must be installed at the earliest time practicable, but no later than the next heavy maintenance check after August 18, 1999 and no later than August 18, 2001. A heavy maintenance check is considered to be any time an airplane is scheduled to be out of service for 4 or more days and is scheduled to include access to major structural components.

(c) For all turbine-engine-powered transport category airplanes manufactured on or before October 11, 1991—

(1) That were equipped as of July 16, 1996, with one or more digital data bus(es) and an ARINC 717 digital flight data acquisition unit (DFDAU) or equivalent, the parameters specified in paragraphs (a)(1) through (a)(22) of this section must be recorded within the ranges, accuracies, resolutions, and sampling intervals specified in Appendix E of this part by August 18, 2001. Parameters listed in paragraphs (a)(12) through (a)(14) each may be recorded from a single source.

(2) Commensurate with the capacity of the recording system (DFDAU or equivalent and the DFDR), all additional parameters for which information sources are installed and which are connected to the recording system must be recorded within the ranges, accuracies, resolutions, and sampling intervals specified in Appendix E of this part by August 18, 2001.

(3) That were subject to § 125.225(e) of this part, all conditions of § 125.225(c) must continue to be met until compliance with paragraph (c)(1) of this section is accomplished.

(d) For all turbine-engine-powered transport category airplanes that were manufactured after October 11, 1991—

(1) The parameters listed in paragraphs (a)(1) through (a)(34) of this section must be recorded within the ranges, accuracies, resolutions, and recording intervals specified in Appendix E of this part by August 18, 2001. Paramaters listed in paragraphs (a)(12) through (a)(14) each may be recorded from a single source.

(2) Commensurate with the capacity of the recording system, all additional parameters for which information sources are installed and which are connected to the recording system, must be recorded within the ranges, accuracies, resolutions, and sampling intervals specified in Appendix E of this part by August 18, 2001.

(e) For all turbine-engine-powered transport category airplanes that are manufactured after August 18, 2000—

(1) The parameters listed in paragraph (a) (1) through (57) of this section must be recorded within the ranges, accuracies, resolutions, and recording intervals specified in Appendix E of this part.

(2) Commensurate with the capacity of the recording system, all additional parameters for which information sources are installed and which are connected to the recording system, must be recorded within the ranges, accuracies, resolutions, and sampling intervals specified in Appendix E of this part.

(f) For all turbine-engine-powered transport category airplanes that are manufactured after August 19, 2002 parameters listed in paragraph (a)(1) through (a)(88) of this section must be recorded within the ranges, accuracies, resolutions, and recording intervals specified in Appendix E of this part.

(g) Whenever a flight data recorder required by this section is installed, it must be operated continuously from the instant the airplane begins its takeoff roll until it has completed its landing roll.

(h) Except as provided in paragraph (i) of this section, and except for recorded data erased as authorized in this paragraph, each certificate holder shall keep the recorded data prescribed by this section, as appropriate, until the airplane has been operated for at least 25 hours of the operating time specified in § 121.359(a) of this part. A total of 1 hour of recorded data may be erased for the purpose of testing the flight recorder or the flight recorder system. Any erasure made in accordance with this paragraph must be of the oldest recorded data accumulated at the time of testing. Except as provided in paragraph (i) of this section, no record need to be kept more than 60 days.

(i) In the event of an accident or occurrence that requires immediate notification of the National Transportation Safety Board under 49 CFR 830 of its regulations and that results in termination of the flight, the certificate holder shall remove the recorder from the airplane and keep the recorder data prescribed by this section, as appropriate, for at least 60 days or for a longer period upon the request of the Board or the Administrator.

(j) Each flight data recorder system required by this section must be installed in accordance with the requirements of § 25.1459 (a), (b), (d), and (e) of this chapter. A correlation must be established between the values recorded by the flight data recorder and the corresponding values being measured. The correlation must contain a sufficient number of correlation points to accurately establish the conversion from the recorded values to engineering units or discrete state over the full operating range of the parameter. Except for airplanes having separate altitude and airspeed sensors that are an integral part of the flight data recorder system, a single correlation may be established for any group of airplanes—

(1) That are of the same type;

(2) On which the flight recorder system and its installation are the same; and

(3) On which there is no difference in the type design with respect to the installation of those sensors associated with the flight data recorder system. Documentation sufficient to convert recorded data into the engineering units and discrete values specified in the applicable appendix must be maintained by the certificate holder.

(k) Each flight data recorder required by this section must have an approved device to assist in locating that recorder under water.

(l) The following airplanes that were manufactured before August 18, 1997 need not comply with this section, but must continue to comply with applicable paragraphs of § 125.225 of this chapter, as appropriate:

(1) Airplanes that meet the Stage 2 noise levels of part 36 of this chapter and are subject to § 91.801(c) of this chapter, until January 1, 2000. On and after January 1, 2000, any Stage 2 airplane otherwise allowed to be operated under Part 91 of this chapter must comply with the applicable flight data recorder requirements of this section for that airplane.

(2) General Dynamics Convair 580, General Dynamics Convair 600, General Dynamics Convair 640, deHavilland

Aircraft Company Ltd. DHC–7, Fairchild Industries FH 227, Fokker F–27 (except Mark 50), F–28 Mark 1000 and Mark 4000, Gulfstream Aerospace G–159, Lockheed Aircraft Corporation Electra 10–A, Lockheed Aircraft Corporation Electra 10–B, Lockheed Aircraft Corporation Electra 10–E, Lockheed Aircraft Corporation L–188, Maryland Air Industries, Inc. F27, Mitsubishi Heavy Industries, Ltd. YS–11, Short Bros. Limited SD3–30, Short Bros, Limited SD3–60.

7. Appendix E to part 125 is added to read as follows:

Appendix E to Part 125—Airplane Flight Recorder Specification

The recorded values must meet the designated range, resolution, and accuracy requirements during dynamic and static conditions. All data recorded must be correlated in time to within one second.

Parameters	Range	Accuracy (sensor input)	Seconds per sampling interval	Resolution	Remarks
1. Time or Relative Time Counts.	24 Hrs, 0 to 4095	+/−0.125% Per Hour	4	1 sec	UTC time preferred when available. Counter increments each 4 seconds of system operation.
2. Pressure Altitude	−1000 ft to max certificated altitude of aircraft. +5000 ft.	+/−100 to +/−700 ft (see table, TSO C124a or TSO C51a).	1	5′ to 35′	Data should be obtained from the air data computer when practicable.
3. Indicated airspeed or Calibrated airspeed.	50 KIAS or minimum value to Max V_{so}, and V_{so} to 1.2 V_D.	+/−5% and +/−3%	1	1 kt	Data should be obtained from the air data computer when practicable.
4, Heading (Primary flight crew reference).	0–360° and Discrete ''true'' or ''mag''.	+/−2°	1	0.5°	When true or magnetic heading can be selected as the primary heading reference, a discrete indicating selection must be recorded.
5. Normal Acceleration (Vertical).	−3g to +6g	+/−1% of max range excluding datum error of +/−5%.	0.125.	0.004g.	
6. Pitch Attitude	+/−75°	+/−2°	1 or 0.25 for airplanes operated under §125.226(f).	0.5°	A sampling rate of 0.25 is recommended.
7. Roll Attitude	+/−180°	+/−2°	1 or 0.5 for airplanes operated under §125.226(f).	0.5°	A sampling rate of 0.5 is recommended.
8. Manual Radio Transmitter Keying or CVR/DFDR synchronization reference	On-Off (Discrete) None.		1		Preferably each crew member but one discrete acceptable for all transmission provided the CVR/FDR system complies with TSO C124a CVR synchronization requirements (paragraph 4.2.1 ED–55).
9. Thrust/Power on Each Engine—primary flight crew reference.	Full Range Forward	+/−2%	1 (per engine)	0.2% of full range	Sufficient parameters (e.g. EPR, N1 or Torque, NP) as appropriate to the particular engine be recorded to determine power in forward and reverse thrust, including potential overspeed conditions.
10. Autopilot Engagement	Discrete ''on'' or ''off''		1.		
11. Longitudinal Acceleration.	+/−1g	+/−1.5% max. range excluding datum error of +/−5%.	0.25	0.004g.	
12a. Pitch Control(s) position (non-fly-by-wire systems.	Full Range	+/−2° Unless Higher Accuracy Uniquely Required.	0.5 or 0.25 for airplanes operated under §125.226(f).	0.2% of full range	For airplanes that have a flight control break away capability that allows either pilot to operate the controls independently, record both control inputs. The control inputs may be sampled alternately once per second to produce the sampling interval of 0.5 or 0.25, as applicable.
12b. Pitch Control(s) position (fly-by-wire systems).	Full Range	+/−2° Unless Higher Accuracy Uniquely Required.	0.5 or 0.25 for airplanes operated under §125.226(f).	0.2% of full range	
13a. Lateral Control position(s) (non-fly-by-wire).	Full Range	+/−2° Unless Higher Accuracy Uniquely Required.	0.5 or 0.25 for airplanes operated under §125.226(f).	0.2% of full range	For airplanes that have a flight control break away capability that allows either pilot to operate the controls independently, record both control inputs. The control inputs may be sampled alternately once per second to produce the sampling interval of 0.5 or 0.25, as applicable.
13b. Lateral Control position(s) (fly-by-wire).	Full Range	+/−2° Unless Higher Accuracy Uniquely Required.	0.5 or 0.25 for airplanes operated under §125.226(f).	0.2% of full range.	

14a. Yaw Control position(s) (non-fly-by-wire).	Full Range	+/−2° Unless Higher Accuracy Uniquely Required.	0.5	0.2% of full range	For airplanes that have a flight control break away capability that allows either pilot to operate the controls independently, record both control inputs. The control inputs may be sampled alternately once per second to produce the sampling interval of 0.5.
14b. Yaw Control position(s) (fly-by-wire).	Full Range	+/−2° Unless Higher Accuracy Uniquely Required.	0.5	0.2% of full range.	
15. Pitch Control Surface(s) Position.	Full Range	+/−2° Unless Higher Accuracy Uniquely Required.	0.5 or 0.25 for airplanes operated under §125.226(f).	0.2% of full range	For airplanes fitted with multiple or split surfaces, a suitable combination of inputs is acceptable in lieu of recording each surface separately. The control surfaces may be sampled alternately to produce the sampling interval of 0.5 or 0.25.
16. Lateral Control Surface(s) Position.	Full Range	+/−2° Unless Higher Accuracy Uniquely Required.	0.5 or 0.25 for airplanes operated under §125.226(f).	0.2% of full range	A suitable combination of surface position sensors is acceptable in lieu of recoding each surface separately. The control surfaces may be sampled alternately to produce the sampling interval of 0.5 or 0.25.
17. Yaw Control Surface(s) Position.	Full Range	+/−2° Unless Higher Accuracy Uniquely Required.	0.5	0.2% of full range	For airplanes with multiple or split surfaces, a suitable combination of surface position sensors is acceptable in lieu of recording each surface separately. The control surfaces may be sampled alternately to produce the sampling interval of 0.5.
18. Lateral Acceleration	+/−1g	+/−1.5% max. range excluding datum error of +/−5%.	0.25	0.004g.	
19. Pitch Trim Surface Position.	Full Range	+/−3% Unless Higher Accuracy Uniquely Required.	1	0.3% of full range.	
20. Trailing Edge Flap or Cockpit Control Selection.	Full Range or Each Position (discrete).	+/−3° or as Pilot's indicator.	2	0.5% of full range	Flap position and cockpit control may each be sampled alternately at 4 second intervals, to give a data point every 2 seconds.
21. Leading Edge Flap or Cockpit Control Selection.	Full Range or Each Discrete Position.	+/−3° or as Pilot's indicator and sufficient to determine each discrete position..	2	0.5% of full range	Left and right sides, or flap position and cockpit control may each be sampled at 4 second intervals, so as to give a data point every 2 seconds.
22. Each Thrust Reverser Position (or equivalent for propeller airplane).	Stowed, In Transit, and Reverse (Discrete).		1 (per engine).		Turbo-jet—2 discretes enable the 3 states to be determined. Turbo-prop—1 discrete.
23. Ground Spoiler Position or Speed Brake Selection.	Full Range or Each Position (discrete).	+/−2° Unless Higher Accuracy Uniquely Required.	1 or 0.5 for airplanes operated under §125.226(f).	0.2% of full range.	
24. Outside Air Temperature or Total Air Temperature.	−50°C to −90°C	+/−2 °C	2	0.3 °C.	
25. Autopilot/Autothrottle/AFCS Mode and Engagement Status.	A suitable combination of discretes.		1		Discretes should show which systems are engaged and which primary modes are controlling the flight path and speed of the aircraft.
26. Radio Altitude	−20 ft to 2,500 ft	+/−2 ft or +/−3% Whichever is Greater Below 500 ft and +/−5% Above 500 ft..	1	1 ft +5% above 500 ft	For autoland/category 3 operations, each radio altimeter should be recorded, but arranged so that at least one is recorded each second.

Appendix E to Part 125—Airplane Flight Recorder Specification—Continued

The recorded values must meet the designated range, resolution, and accuracy requirements during dynamic and static conditions. All data recorded must be correlated in time to within one second.

Parameters	Range	Accuracy (sensor input)	Seconds per sampling interval	Resolution	Remarks
27. Localizer Deviation, MLS Azimuth, or GPS Lateral Deviation.	+/−400 Microamps or available sensor range as installed +/−62°.	As installed. +/−3% recommended..	1	0.3% of full range	For autoland/category 3 operations. each system should be recorded but arranged so that at least one is recorded each second. It is not necessary to record ILS and MLS at the same time, only the approach aid in use need be recorded.
28. Glideslope Deviation, MLS Elevation, or GPS Vertical Deviation.	+/−400 Microamps or available sensor range as installed. 0.9 to + 30°	As installed +/−3% recommended	1	0.3% of full range	For autoland/category 3 operations. each system should be recorded but arranged so that at least one is recorded each second. It is not necessary to record ILS and MLS at the same time, only the approach aid in use need be recorded.
29. Marker Beacon Passage.	Discrete ''on'' or ''off''		1		A single discrete is acceptable for all markers.
30. Master Warning	Discrete		1		Record the master warning and record each 'red' warning that cannot be determined from other parameters or from the cockpit voice recorder.
31. Air/ground sensor (primary airplane system reference nose or main gear).	Discrete ''air'' or ''ground''.		1 (0.25 recommended).		
32. Angle of Attack (If measured directly).	As installed	As Installed	2 or 0.5 for airplanes operated under §125.226(f).	0.3% of full range	If left and right sensors are available, each may be recorded at 4 or 1 second intervals, as appropriate, so as to give a data point at 2 seconds or 0.5 second, as required.
33. Hydraulic Pressure Low, Each System.	Discrete or available sensor range, ''low'' or ''normal''.	+/−5%	2	0.5% of full range.	
34. Groundspeed	As Installed	Most Accurate Systems Installed.	1	0.2% of full range.	
35. GPWS (ground proximity warning system).	Discrete ''warning'' or ''off''.		1		A suitable combination of discretes unless recorder capacity is limited in which case a single discrete for all modes is acceptable.
36. Landing Gear Position or Landing gear cockpit control selection.	Discrete		4		A suitable combination of discretes should be recorded.
37. Drift Angle	As installed	As installed	4	0.1°.	
38. Wind Speed and Direction.	As installed	As installed	4	1 knot, and 1.0°.	
39. Latitude and Longitude	As installed	As installed	4	0.002°, or as installed	Provided by the Primary Navigation System Reference. Where capacity permits Latitude/longtitude resolution should be 0.0002°.
40. Stick shaker and pusher activation.	Discrete(s) ''on'' or ''off''		1		A suitable combination of discretes to determine activation.
41. WIndshear Detection	Discrete ''warning'' or ''off''.		1		
42. Throttle/power lever position.	Full Range	+/−2%	1 for each lever	2% of full range	For airplanes with non-mechanically linked cockpit engine controls.
43. Additional Engine Parameters.	As installed	As installed	Each engine each second.	2% of full range	Where capacity permits, the preferred priority is indicated vibration level, N2, EGT, Fuel Flow, Fuel Cut-off lever position and N3, unless engine manufacturer recommends otherwise.

44. Traffic Alert and Collision Avoidance System (TCAS).	Discretes	As installed	1	A suitable combination of discretes should be recorded to determine the status of-Combined Control, Vertical Control, Up Advisory, and Down Advisory. (ref. ARINC Characteristic 735 Attachment 6E, TCAS VERTICAL RA DATA OUTPUT WORD.).	
45. DME 1 and 2 Distance	0–200 NM	As installed	4	1 NM	1 mile.
46. Nav 1 and 2 Selected Frequency.	Full range	As installed	4		Sufficient to determine selected frequency
47. Selected barometric setting.	Full range	+/−5%	(1 per 64 sec.)	0.2% of full range.	
48. Selected Altitude	Full range	+/−5%	1	100 ft.	
49. Selected speed	Full range	+/−5%	1	1 knot.	
50. Selected Mach	Full range	+/−5%	1	.01.	
51. Selected vertical speed	Full range	+/−5%	1	100 ft/min.	
52. Selected heading	Full range	+/−5%	1	1°.	
53. Selected flight path	Full range	+/−5%	1	1°.	
54. Selected decision height.	Full range	+/−5%	64	1 ft.	
55. EFIS display format	Discrete(s)		4		Discretes should show the display system status (e.g., off, normal, fail, composite, sector, plan, nav aids, weather radar, range, copy).
56. Multi-function/Engine Alerts Display format.	Discrete(s)		4		Discretes should show the display system status (e.g., off, normal, fail, and the identity of display pages for emergency procedures, need not be recorded).
57. Thrust command	Full range	+/−2%	2	2% of full range.	
58. Thrust target	Full range	+/−2%	4	2% of full range.	
59. Fuel quantity in CG trim tank.	Full range	+/−5%	(1 per 64 sec.)	1% of full range.	
60. Primary Navigation System Reference.	Discrete GPS, INS, VOR/DME, MLS, Loran C, Omega, Localizer Glideslope.		4		A suitable combination of discrete to determine the Primary Navigation System reference.
61. Ice Detection	Discrete ''ice'' or ''no ice''.		4.		
62. Engine warning each engine vibration.	Discrete		1.		
63. Engine warning each engine over temp.	Discrete		1.		
64. Engine warning each engine oil pressure low.	Discrete		1.		
65. Engine warning each engine over speed.	Discrete		1.		
66. Yaw Trim Surface Position.	Full Range	+/−3% Unless Higher Accuracy Uniquely Required.	2.	0.3% of full range.	
67. Roll Trim Surface Position.	Full Range	+/−3% Unless Higher Accuracy Uniquely Required.	2.	0.3% of full range.	
68. Brake Pressure (left and right).	As installed	+/−5%	1		To determine braking effort applied by pilots or by autobrakes.

Appendix E to Part 125—Airplane Flight Recorder Specification—Continued

The recorded values must meet the designated range, resolution, and accuracy requirements during dynamic and static conditions. All data recorded must be correlated in time to within one second.

Parameters	Range	Accuracy (sensor input)	Seconds per sampling interval	Resolution	Remarks
69. Brake Pedal Application (left and right).	Discrete or Analog ''applied'' or ''off''.	+/−5% (Analog)	1		To determine braking applied by pilots.
70. Yaw or sideslip angle	Full Range	+/−5%	1	0,5°.	
71. Engine bleed valve position.	Decrete ''open'' or ''closed''.		4.		
72. De-icing or anti-icing system selection.	Discrete ''on'' or ''off''		4.		
73. Computed center of gravity.	Full Range	+/−5%	(1 per 64 sec.)	1% of full range.	
74. AC electrical bus status	Discrete ''power'' or ''off''		4		Each bus.
75. DC electrical bus status.	Discrete ''power'' or ''off''		4		Each bus.
76. APU bleed valve position.	Discrete ''open'' or ''closed.		4.		
77. Hydraulic Pressure (each system).	Full range	+/−5%	2	100 psi.	
78. Loss of cabin pressure	Discrete ''loss'' or ''normal''.		1.		
79. Computer failure (critical flight and engine control systems).	Discrete ''fail'' or ''normal''.		4.		
80. Heads-up display (when an information source is installed).	Discrete(s) ''on'' or ''off''		4.		
81. Para-visual display (when an information source is installed).	Discrete(s) ''on'' or ''off''		1.		
82. Cockpit trim control input position—pitch.	Full Range	+/−5%	1	0.2% of full range	Where mechanical means for control inputs are not available, cockpit display trim positions should be recorded.
83. Cockpit trim control input position—roll.	Full Range	+/−5%	1	0.2% of full range	Where mechanical means for control inputs are not available, cockpit display trim positions should be recorded.
84. Cockpit trim control input position—yaw.	Full Range	+/5%	1	0.2% of full range	Where mechanical means for control inputs are not available, cockpit display trim positions should be recorded.
85. Trailing edge flap and cockpit flap control position.	Full Range	+/−5%	2	0.5% of full range	Trailing edge flaps and cockpit flap control position may each be sampled alternately at 4 second intervals to provide a sample each 0.5 second.
86. Leading edge flap and cockpit flap control position.	Full Range or Discrete	+/−5%	1	0.5% of full range.	
87. Ground spoiler position and speed brake selection.	Full Range or discrete	+/−5%	0.5	0.2% of full range.	

88. All cockpit flight control input forces (control wheel, control column, rudder pedal).	Full Range Control wheel +/−70 lbs. Control Column +/−85 lbs Rudder pedal +/−165 lbs.	+/−5%	1	0.2% of full range	For fly-by-wire flight control systems, where flight control surface position is a function of the displacement of the control input device only, it is not necessary to record this parameter. For airplanes that have a flight control break-away capability that allows either pilot to operate the control independently, record both control force inputs. The control force inputs may be sampled alternately once per 2 seconds to produce the sampling interval of 1.

PART 129—OPERATIONS: FOREIGN AIR CARRIERS AND FOREIGN OPERATORS OF U.S.-REGISTERED AIRCRAFT ENGAGED IN COMMON CARRIAGE

8. The authority citation for part 129 continues to read as follows:

Authority: 49 USC 106(G), 40104–40105, 40113, 40119, 44701–44702, 44712, 44716–44717, 44722, 44901–44904, 44906.

9. The first sentence of paragraph (b) is revised to add reference to new § 129.20, to read as follows:

§ 129.1 Applicability.

* * * * *

(b) Sections 129.14 and 129.20 also apply to U.S.-registered aircraft operated in common carriage by a foreign person or foreign air carrier solely outside the United States. * * *

10. Section 129.20 is added to read as follows:

§ 129.20 Digital flight data recorders.

No person may operate an aircraft under this part that is registered in the United States unless it is equipped with one or more approved flight recorders that use a digital method of recording and storing data and a method of readily retrieving that data from the storage medium. The flight data recorder must record the parameters that would be required to be recorded if the aircraft were operated under part 121, 125, or 135 of this chapter, and must be installed by the compliance times required by those parts, as applicable to the aircraft.

PART 135—OPERATING REQUIREMENTS: COMMUTER AND ON-DEMAND OPERATIONS

11. The authority citation for part 135 continues to read as follows:

Authority: 49 USC 106(g), 40113, 44701–44702, 44705, 44709, 44711–44713, 44715–44717, 44722.

12. Section 135.152(a) is revised to read as follows:

§ 135.152 Flight recorders.

(a) Except as provided in paragraph (k) of this section, no person may operate under this part a multi-engine, turbine-engine powered airplane or rotorcraft having a passenger seating configuration, excluding any required crewmembers seat, of 10 to 19 seats, that was either brought onto the U.S. register after, or was registered outside the United States and added to the operator's U.S. operations specifications after, October 11, 1991, unless it is equipped with one or more approved flight recorders that use a digital method of recording and storing data and a method of readily retrieving that data from the storage medium. The parameters specified in either Appendix B or C of this part, as applicable must be recorded within the range, accuracy, resolution, and recording intervals as specified. The recorder shall retain no less than 25 hours of aircraft operation.

* * * * *

§ 135.152 [Amended]

13. In § 135.152(d), the first sentence is amended by removing the phrase ''8 hours'' and adding the phrase ''25 hours'' in its place.

14. Section 135.152(f) is revised to read as follows:

§ 135.152 Flight recorders.

* * * * *

(f)(1) For airplanes manufactured on or before August 18, 2000, and all other aircraft, each flight recorder required by this section must be installed in accordance with the requirements of § 23.1459, 25.1459, 27.1459, or 29.1459, as appropriate, of this chapter. The correlation required by paragraph (c) of § 23.1459, 25.1459, 27.1459, or 29.1459, as appropriate, of this chapter need be established only on one aircraft of a group of aircraft:

(i) That are of the same type;

(ii) On which the flight recorder models and their installations are the same; and

(iii) On which there are no differences in the type designs with respect to the installation of the first pilot's instruments associated with the flight recorder. The most recent instrument calibration, including the recording medium from which this calibration is derived, and the recorder correlation must be retained by the certificate holder.

(f)(2) For airplanes manufactured after August 18, 2000, each flight data recorder system required by this section must be installed in accordance with the requirements of § 23.1459 (a), (b), (d) and (e) of this chapter, or § 25.1459 (a), (b), (d), and (e) of this chapter. A correlation must be established between the values recorded by the flight data recorder and the corresponding values being measured. The correlation must contain a sufficient number of correlation points to accurately establish the conversion from the recorded values to engineering units or discrete state over the full operating range of the parameter. Except for airplanes having separate altitude and airspeed sensors that are an integral part of the flight data recorder system, a single correlation may be established for any group of airplanes—

(i) That are of the same type;

(ii) On which the flight recorder system and its installation are the same; and

(iii) On which there is no difference in the type design with respect to the installation of those sensors associated with the flight data recorder system. Documentation sufficient to convert recorded data into the engineering units and discrete values specified in the applicable appendix must be maintained by the certificate holder.

* * * * *

15. In § 135.152, new paragraphs (h), (i), and (j) and (k) are added to read as follows:

* * * * *

(h) The operational parameters required to be recorded by digital flight data recorders required by paragraphs (i) and (j) of this section are as follows, the phrase ''when an information source is installed'' following a parameter indicated that recording of that parameter is not intended to require a change in installed equipment.

(1) Time;

(2) Pressure altitude;

(3) Indicated airspeed;

(4) Heading—primary flight crew reference (if selectable, record discrete, true or magnetic);

(5) Normal acceleration (Vertical);

(6) Pitch attitude;

(7) Roll attitude;

(8) Manual radio transmitter keying, or CVR/DFDR synchronization reference;

(9) Thrust/power of each engine—primary flight crew reference;

(10) Autopilot engagement status;

(11) Longitudinal acceleration;

(12) Pitch control input;

(13) Lateral control input;

(14) Rudder pedal input;

(15) Primary pitch control surface position;

(16) Primary lateral control surface position;

(17) Primary yaw control surface position;

(18) Lateral acceleration;

(19) Pitch trim surface position or parameters of paragraph (h)(82) of this section if currently recorded;

(20) Trailing edge flap or cockpit flap control selection (except when parameters of paragraph (h)(85) of this section apply);

(21) Leading edge flap or cockpit flap control selection (except when parameters of paragraph (h)(86) of this section apply);

(22) Each Thrust reverser position (or equivalent for propeller airplane);

(23) Ground spoiler position or speed brake selection (except when parameters

of paragraph (h)(87) of this section apply);

(24) Outside or total air temperature;

(25) Automatic Flight Control System (AFCS) modes and engagement status, including autothrottle;

(26) Radio altitude (when an information source is installed);

(27) Localizer deviation, MLS Azimuth;

(28) Glideslope deviation, MLS Elevation;

(29) Marker beacon passage;

(30) Master warning;

(31) Air/ground sensor (primary airplane system reference nose or main gear);

(32) Angle of attack (when information source is installed);

(33) Hydraulic pressure low (each system);

(34) Ground speed (when an information source is installed);

(35) Ground proximity warning system;

(36) Landing gear position or landing gear cockpit control selection;

(37) Drift angle (when an information source is installed);

(38) Wind speed and direction (when an information source is installed);

(39) Latitude and longitude (when an information source is installed);

(40) Stick shaker/pusher (when an information source is installed);

(41) Windshear (when an information source is installed);

(42) Throttle/power lever position;

(43) Additional engine parameters (as designated in appendix F of this part);

(44) Traffic alert and collision avoidance system;

(45) DME 1 and 2 distances;

(46) Nav 1 and 2 selected frequency;

(47) Selected barometric setting (when an information source is installed);

(48) Selected altitude (when an information source is installed);

(49) Selected speed (when an information source is installed);

(50) Selected mach (when an information source is installed);

(51) Selected vertical speed (when an information source is installed);

(52) Selected heading (when an information source is installed);

(53) Selected flight path (when an information source is installed);

(54) Selected decision height (when an information source is installed);

(55) EFIS display format;

(56) Multi-function/engine/alerts display format;

(57) Thrust command (when an information source is installed);

(58) Thrust target (when an information source is installed);

(59) Fuel quantity in CG trim tank (when an information source is installed);

(60) Primary Navigation System Reference;

(61) Icing (when an information source is installed);

(62) Engine warning each engine vibration (when an information source is installed);

(63) Engine warning each engine over temp. (when an information source is installed);

(64) Engine warning each engine oil pressure low (when an information source is installed);

(65) Engine warning each engine over speed (when an information source is installed;

(66) Yaw trim surface position;

(67) Roll trim surface position;

(68) Brake pressure (selected system);

(69) Brake pedal application (left and right);

(70) Yaw or sideslip angle (when an information source is installed);

(71) Engine bleed valve position (when an information source is installed);

(72) De-icing or anti-icing system selection (when an information source is installed);

(73) Computed center of gravity (when an information source is installed);

(74) AC electrical bus status;

(75) DC electrical bus status;

(76) APU bleed valve position (when an information source is installed);

(77) Hydraulic pressure (each system);

(78) Loss of cabin pressure;

(79) Computer failure;

(80) Heads-up display (when an information source is installed);

(81) Para-visual display (when an information source is installed);

(82) Cockpit trim control input position—pitch;

(83) Cockpit trim control input position—roll;

(84) Cockpit trim control input position—yaw;

(85) Trailing edge flap and cockpit flap control position;

(86) Leading edge flap and cockpit flap control position;

(87) Ground spoiler position and speed brake selection; and

(88) All cockpit flight control input forces (control wheel, control column, rudder pedal).

(i) For all turbine-engine powered airplanes with a seating configuration, excluding any required crewmember seat, of 10 to 30 passenger seats, manufactured after August 18, 2000—

(1) The parameters listed in paragraphs (h)(1) through (h)(57) of this section must be recorded within the ranges, accuracies, resolutions, and recording intervals specified in Appendix F of this part.

(2) Commensurate with the capacity of the recording system, all additional parameters for which information sources are installed and which are connected to the recording system must be recorded within the ranges, accuracies, resolutions, and sampling intervals specified in Appendix F of this part.

(j) For all turbine-engine-powered airplanes with a seating configuration, excluding any required crewmember seat, of 10 to 30 passenger seats, that are manufactured after August 19, 2002 the parameters listed in paragraph (a)(1) through (a)(88) of this section must be recorded within the ranges, accuracies, resolutions, and recording intervals specified in Appendix F of this part.

(k) For airplanes manufactured before August 18, 1997 the following airplane type need not comply with this section: deHavilland DHC–6.

Apendix B to Part 135—[Amended]

16. In Appendix B to part 135, Airplane Flight Recorder Specifications, in the ''Range'' column, the first entry is amended by removing the phrase ''8 hr minimum'' and adding the phrase ''25 hr minimum'' in its place.

Appendix C to Part 135—[Amended]

17. In Appendix C to part 135, Helicopter Flight Recorder Specifications, in the ''Range'' column, the first entry is amended by removing the phrase ''8 hr minimum'' and adding the phrase ''25 hr minimum'' in its place.

18. Appendix F to part 135 is added to read as follows:

Appendix F to Part 135—Airplane Flight Recorder Specification

The recorded values must meet the designated range, resolution, and accuracy requirements during dynamic and static conditions. All data recorded must be correlated in time to within one second.

Parameters	Range	Accuracy (sensor input)	Seconds per sampling interval	Resolution	Remarks
1. Time or Relative Time Counts.	24 Hrs, 0 to 4095	+/−0.125% Per Hour	4	1 sec	UTC time preferred when available. Counter increments each 4 seconds of system operation.
2. Pressure Altitude	−1000 ft to max certificated altitude of aircraft. +5000 ft.	+/−100 to +/−700 ft (see table, TSO C124a or TSO C51a).	1	5′ to 35″	Data should be obtained from the air data computer when practicable.
3. Indicated airspeed or Calibrated airspeed.	50 KIAS or minimum value to Max V_{so+} and V_{so} to 1.2 $V._D$.	+/−5% and +/−3%	1	1 kt	Data should be obtained from the air data computer when practicable.
4. Heading (Primary flight crew reference).	0−360° and Discrete ''true'' or ''mag''.	+/−2°	1	0.5°	When true or magnetic heading can be selected as the primary heading reference, a discrete indicating selection must be recorded.
5.Normal Acceleration (Vertical).	−3g to +6g	+/−1% of max range excluding datum error of +/−5%.	0.125	0.004g.	
6. Pitch Attitude	+/−75%	+/−2°	1 or 0.25 for airplanes operated under §135.152(j).	0.5°	A sampling rate of 0.25 is recommended.
7. Roll Attitude	+/−180°0	+/−2°	1 or 0.5 for airplanes operated under §135.152(j).	0.5°	A sampling rate of 0.5 is recommended.
8. Manual Radio Transmitter Keying or CVR/DFDR synchronization reference.	On-Off (Discrete) None		1		Preferably each crew member but one discrete acceptable for all transmission provided the CVR/FDR system complies with TSO C124a CVR synchronization requirements (paragraph 4.2.1 ED–55).
9. Thrust/Power on Each Engine—primary flight crew reference.	Full Range Forward	+/−2%	1 (per engine)	0.2% of full range	sufficient parameters (e.g., EPR, N1 or Torque, NP) as appropriate to the particular engine be recorded to determine power in forward and reverse thrust, including potential overspeed conditions.
10. Autopilot Engagement	Discrete ''on'' or ''off''		1.		
11. Longitudinal Acceleration.	+/−1g	+/−1.5% max. range excluding datum error of +/−5%.	0.25	0.004g.	
12a. Pitch Control(s) position (non-fly-by-wire systems.	Full Range	+/−2° Unless Higher Accuracy Uniquely Required.	0.5 or 0.25 for airplanes operated under §135.152(j).	0.2% of full range	For airplanes that have a flight control break away capability that allows either pilot to operate the controls independently, record both control inputs. The control inputs may be sampled alternately once per second to produce the sampling interval of 0.5 or 0.25, as applicable.
12b. Pitch Control(s) position (fly-by-wire systems).	Full Range	+/−2° Unless Higher Accuracy.	0.5 or 0.25 for airplanes operated under §135.152(j).	0.2% of full range.	
13a. Lateral Control position(s) (non-fly-by-wire).	Full Range	+/−2° Unless Higher Accuracy Uniquely Required.	0.5 or 0.25 for airplanes operated under §135.152(j).	0.2% of full range	For airplanes that have a flight control break away capability that allows either pilot to operate the controls independently, record both control inputs. The control inputs may be sampled alternately once per second to produce the sampling intereval of 0.5 or 0.25, as applicable.
13b. Lateral Control position(s) (fly-by-wire).	Full range	+/−2° Unless Higher Accuracy Uniquely required.	0.5 or 0.25 for airplanes operated under §135.152(j).	0.2% of full range.	

14a. Yaw Control position(s) (non-fly-by-wire).	Full Range	+/−2° Unless Higher Accuracy Uniquely Required.	0.5 or 0.25 for airplanes operated under §135.152(j)..	0.2% of full range	For airplanes that have a flight control break away capability that allows either pilot to operate the controls independently, record both control inputs. The control inputs may be sampled alternately once per second to produce the sampling interval of 0.5.
14b. Yaw Control position(s) (fly-by-wire).	Full Range	+/−2° Unless Higher Accuracy Uniquely Required.	0.5	0.2% of full range.	
15. Pitch Control Surface(s) Position.	Full Range	+/−2° Unless Higher Accuracy Uniquely Required.	0.5 or 0.25 for airplanes operated under §135.152(j).	0.2% of full range	For airplanes fitted with multiple or split surfaces, a suitable combination of inputs is acceptable in lieu of recording each surface spearately. The control surfaces may be sampled alternately to produce the sampling interval of 0.5 or 0.25.
16. Lateral Control Surface(s) Position.	Full Range	+/−2° Unless Higher Accuracy Uniquely Required.	0.5 or 0.25 for airplanes operated under §135.152(j).	0.2% of full range	A suitable combination of surface position sensors is acceptable in lieu of recording each surface separately. The control surfaces may be sampled alternately to produce the sampling interval of 0.5 or 0.25.
17. Yaw Control Surface(s) Position.	Full Range	+/−2° Unless Higher Accuracy Uniquely Required.	0.5	0.2% of full range	For Airplanes with multiple or split surfaces, a suitable combination of surface position sensors is acceptable in lieu of recording each surface separately. The control surfaces may be sampled alternately to produce the sampling interval of 0.5.
18. Lateral Acceleration	+/−1g	+/−1.5% max. range excluding datum error of +/−5%.	0.25	0.004g.	
19. Pitch Trim Surface Position.	Full Range	+/−3% Unless Higher Accuracy Uniquely Required.	1	0.3% of full range.	
20. Trailing Edge Flap or Cockpit Control Selection.	Full Range or Each Position (discrete).	+/−3° or as Pilot's indicator.	2	0.5% of full range	Flap position and cockpit control may each be sampled alternately at 4 second intervals, to give a data point every 2 seconds.
21. Leading Edge Flap or Cockpit Control Selection.	Full Range or Each Discrete Position.	+/−3° or as Pilot's indicator and sufficient to determine each discrete position.	2	0.5% of full range	Left and right sides, or flap position and cockpit control may each be sampled at 4 second intervals, so as to give a data point every 2 seconds.
22. Each Thrust reverser Position (or equivalent for propeller airplane).	Stowed, In Transit, and reverse (Discrete).		1 (per engine		Turbo-jet—2 discretes enable the 3 states to be determined Turbo-prop—1 discrete
23. Ground Spoiler Position or Speed Brake Selection.	Full Range or Each Position (discrete)..	+/−2° Unless Higher Accuracy Uniquely Required.	1 0.5 for airplanes operated under §135.152(j).	0.2% of full range.	
24. Outside Air Temperature or Total Air Temperature.	−50°C to +90°C	+/−2° C	2	0.3° C.	
25. Autopilot/Autothrottle/AFCS Mode and Engagement Status.	A suitable combination of discretes.		1		Discretes should show which systems are engaged and which primary modes are controlling the flight path and speed of the aircraft.
26. Radio Altitude	−20 ft to 2,500 ft	+/−2 ft or +/−3% Whichever is Greater Below 500 ft and +/−5% Above 500 ft.	1	1 ft +5% above 500 ft	For autoland/category 3 operations. Each radio altimeter should be recorded, but arranged so that at least one is recorded each second.

Appendix F to Part 135—Airplane Flight Recorder Specification—Continued

The recorded values must meet the designated range, resolution, and accuracy requirements during dynamic and static conditions. All data recorded must be correlated in time to within one second.

Parameters	Range	Accuracy (sensor input)	Seconds per sampling interval	Resolution	Remarks
27. Localizer Deviation, MLS Azimuth, or GPS Lateral Deviation.	+/−400 Microamps or available sensor range as installed +/−62°.	As installed +/−3% recommended..	1	0.3% of full range	For autoland/category 3 operations. Each system should be recorded but arranged so that at least one is recorded each second. It is not necessary to record ILS and MLS at the same time, only the approach aid in use need be recorded.
28. Glideslope Deviation, MLS Elevation, or GPS Vertical Deviation.	+/−400 Microamps or available sensor range as installed. 0.9 to + 30°	As installed +/−3% recommended.	1	0.3% of full range	For autoland/category 3 operations. Each system should be recorded but arranged so that at least one is recorded each second. It is not necessary to record ILS and MLS at the same time, only the approach aid in use need be recorded.
29. Marker Beacon Passage.	Discrete ''on'' or ''off''		1		A single discrete is acceptable for all markers.
30. Master Warning	Discrete		1		Record the master warning and record each ''red'' warning that cannot be determined from other parameters or from the cockpit voice recorder.
31. Air/ground sensor (primary airplane system reference nose or main gear).	Discrete ''air'' or ''ground''.		1 (0.25 recommended.)		
32. Angle of Attack (If measured directly).	As installed	As installed	2 or 0.5 for airplanes operated under §135.152(j).	0.3% of full range	If left and right sensors are available, each may be recorded at 4 or 1 second intervals, as appropriate, so as to give a data point at 2 seconds or 0.5 second, as required.
33. Hydraulic Pressure Low, Each System.	Discrete or available sensor range, ''low'' or ''normal''.	+/−5%	2	0.5% of full range.	
34. Groundspeed	As installed	Most Accurate Systems Installed.	1	0.2% of full range.	
35. GPWS (ground proximity warning system).	Discrete ''warning'' or ''off''.		1		A suitable combination of discretes unless recorder capacity is limited in which case a single discrete for all modes is acceptable.
36. Landing Gear Position or Landing gear cockpit control selection.	Discrete		4		A suitable combination of discretes should be recorded.
37. Drift Angle	As installed	As installed	4	0.1°.	
38. Wind Speed and Direction.	As installed	As installed	4	1 knot, and 1.0°.	
39. Latitude and Longitude	As installed	As installed	4	0.002°, or as installed	Provided by the Primary Navigation System Reference. Where capacity permits latitude/longitude resolution should be 0.0002°.
40. Stick shaker and pusher activation.	Discrete(s) ''on'' or ''off''		1		A suitable combination of discretes to determine activation.
41. Windshear Detection	Discrete ''warning'' or ''off''.		1.		
42. Throttle/power lever position.	Full range	+/−2%	1 for each lever	2% of full range	For airplanes with non-mechanically linked cockpit engine controls.
43. Additional Engine Parameters.	As installed	As installed	Each engine each second.	2% of full range	Where capacity permits, the preferred priority is indicated vibration level, N2, EGT, Fuel Flow, Fuel Cut-off lever position and N3, unless engine manufacturer recommends otherwise.

44. Traffic Alert and Collision Avoidance System (TCAS).	Discretes	As installed	1		A suitable combination of discretes should be recorded to determine the status of—Combined Control, Vertical Control, Up Advisory, and down advisory. (ref. ARINC Characteristic 735 Attachment 6E, TCAS VERTICAL RA DATA OUTPUT WORD.)
45. DME 1 and 2 Distance	0–200 NM;	As installed	4	1 NM	1 mile.
46. Nav 1 and 2 Selected Frequency.	Full range	As installed	4		Sufficient to determine selected frequency.
47. Selected barometric setting.	Full Range	+/−5%	(1 per 64 sec.)	0.2% of full range.	
48. Selected altitude	Full Range	+/−5%	1	100 ft.	
49. Selected speed	Full Range	+/−5%	1	1 knot.	
50. Selected Mach	Full Range	+/−5%	1	.01.	
51. Selected vertical speed	Full Range	+/−5%	1	100 ft./min.	
52. Selected heading	Full Range	+/−5%	1	1°.	
53. Selected flight path	Full Range	+/−5%	1	1°.	
54. Selected decision height.	Full Range	+/−%5	64	1 ft.	
55. EFIS display format	Discrete(s)		4		Discretes should show the display system status (e.g., off, normal, fail, composite, sector, plan, nav aids, weather radar, range, copy.
56. Multi-function/Engine Alerts Display format.	Discrete(s)		4		Discretes should show the display system status (e.g., off, normal, fail, and the identity of display pages for emergency procedures, need not be recorded.
57. Thrust command	Full Range	+/−2%	2	2% of full range.	
58. Thrust target	Full Range	+/−2%	4	2% of full range.	
59. Fuel quantity in CG trim tank.	Full Range	+/−5%	(1 per 64 sec.)	1% of full range.	
60. Primary Navigation System Reference.	Discrete GPS, INS, VOR/DME, MLS, Loran C, Omega, Localizer Glidescope.		4		A suitable combination of discretes to determine the Primary Navigation System reference.
61. Ice Detection	Discrete ''ice'' or ''no ice''.		4.		
62. Engine warning each engine vibration.	Discrete		1.		
63. Engine warning each engine over temp..	Discrete		1.		
64. Engine warning each engine oil pressure low.	Discrete		1.		
65. Engine warning each engine over speed.	Discrete		1.		
66. Yaw Trim Surface Position.	Full Range	+/−3% Unless Higher Accuracy Uniquely Required.	2	0.3% of full range.	
67. Roll Trim Surface Position.	Full Range	+/−3% Unless Higher Accuracy Uniquely Required.	2	0.3% of full range.	
68. Brake Pressure (left and right).	As installed	+/−5%	1		To determine braking effort applied by pilots or by autobrakes.
69. Brake Pedal Application (left and right).	Discrete or Analog ''applied'' or ''off''.	+/−5% (Analog)	1		To determine braking applied by pilots.
70. Yaw or sideslip angle	Full Range	+/−5%	1	0.5°.	
71. Engine bleed valve position.	Discrete ''open'' or ''closed''.		4.		

Appendix F to Part 135—Airplane Flight Recorder Specification—Continued

The recorded values must meet the designated range, resolution, and accuracy requirements during dynamic and static conditions. All data recorded must be correlated in time to within one second.

Parameters	Range	Accuracy (sensor input)	Seconds per sampling interval	Resolution	Remarks
72. De-icing or anti-icing system selection.	Discrete ''on'' or ''off''		4.		
73. Computed center of gravity.	Full Range	+/−5%	(1 per 64 sec.)	1% of full range.	
74. AC electrical bus status	Discrete ''power'' or ''off''		4		Each bus.
75. DC electrical bus status.	Discrete ''power'' or ''off''		4		Each bus.
76. APU bleed valve position.	Discrete ''open'' or ''closed''.		4.		
77. Hydraulic Pressure (each system).	Full range	+/−5%	2	100 psi.	
78. Loss of cabin pressure	Discrete ''loss'' or ''normal''.		1.		
79. Computer failure (critical flight and engine control systems).	Discrete ''fail'' or ''normal''.		4.		
80. Heads-up display (when an information source is installed).	Discrete(s) ''on'' or ''off''		4.		
81. Para-visual display (when an information source is installed).	Discrete(s) ''on'' or ''off''		1.		
82. Cockpit trim control input position—pitch.	Full Range	+/−5%	1	0.2% of full range	Where mechanical means for control inputs are not available, cockpit display trim positions should be recorded.
83. Cockpit trim control input positions—roll.	Full Range	+/−5%	1	0.2% of full range	Where mechanical means for control inputs are not available, cockpit display trim positions should be recorded.
84. Cockpit trim control input position—yaw.	Full Range	+/−5%	1	0.2% of full range	Where mechanical means for control inputs are not available, cockpit display trim positions should be recorded.
85. Trailing edge flap and cockpit flap control position.	Full Range	+/−5%	2	0.5% of full range	Trailing edge flaps and cockpit flap control position may each be sampled alternately at 4 second intervals to provide a sample each 0.5 second.
86. Leading edge flap and cockpit flap control position.	Full Range or Discrete	+/−5%	1	0.5% of full range.	
87. Ground spoiler position and speed brake selection.	Full Range or discrete	+/−5%	0.5	0.2% of full range.	
88. All cockpit flight control input forces (control wheel, control column, rudder pedal).	Full Range Control wheel +/−70 lbs. Control Column +/−85 lb Rudder pedal +/−165 lbs	+/−5%	1	0.2% of full range	For fly-by-wire flight control systems, where flight control surface position is a function of the displacement of the control input device only, it is not necessary to record this parameter. For airplanes that have a flight control break away capability that allows either pilot to operate the control independently, record both control force inputs. The control force inputs may be sampled alternately once per 2 second to produce the sampling interval of 1.

(Revisions to Digital Flight Data Recorders;
Final Rule; Docket No. 28109)

Issued in Washington, D.C. on July 9, 1997.

Barry J. Valentine,

Acting Administrator.

[FR Doc. 97–18514 Filed 7–10–97; 3:03 pm]

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federal register

Thursday
July 17, 1997

Part III

Environmental Protection Agency

40 CFR Part 403

Streamlined Procedures for Modifying Approved Publicly Owned Treatment Works Pretreatment Programs; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 403

[FRL–5859–8]

RIN 2040–AC57

Streamlined Procedures for Modifying Approved Publicly Owned Treatment Works Pretreatment Programs

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: Today, EPA is revising the procedures for modifying the requirements of approved Publicly Owned Treatment Works (POTW) Pretreatment Programs incorporated into National Pollutant Discharge Elimination System (NPDES) permits issued to POTWs. The new regulations will reduce the administrative burden and cost associated with maintaining approved pretreatment programs without affecting environmental protection.

DATES: This rule is effective on August 18, 1997. In accordance with 40 CFR 23.2, this rule shall be considered final for the purposes of judicial review at 1:00 P.M. EDT on July 31, 1997.

ADDRESSES: Copies of comments submitted and the docket for this rulemaking are available for public inspection at EPA's Water Docket, Room L–102, 401 M Street, S.W. (MC–4101), Washington, D.C. 20460. The public may inspect the administrative record for this rulemaking between the hours of 9 a.m. and 3:30 p.m. on business days. For access to docket materials, please call (202) 260–3027 for an appointment during those hours. As provided in 40 CFR part 2, a reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Jeff Smith, EPA, Office of Wastewater Management (OWM), Permits Division (4203), 401 M Street, S.W., Washington, D.C. 20460, (202) 260–5586.

SUPPLEMENTARY INFORMATION:

Regulated Entities

Entities regulated by this action are governmental entities responsible for implementation of the National Pretreatment Program. Regulated entities include:

Category	Examples of regulated entities
Local government.	Publicly Owned Treatment Works with Approved Pretreatment programs.
State government.	States that act as Pretreatment Program Approval Authorities.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by this action. This table lists the types of entities that EPA is now aware could potentially be regulated by this action. Other types of entities not listed in the table could also be regulated. To determine whether your organization is regulated by this action, you should carefully examine the applicability criteria in 40 CFR 403.18 and other applicable criteria in Part 403 of title 40 of the Code of Federal Regulations. If you have questions regarding the applicability of this action to a particular entity, consult the person listed in the preceding **"FOR FURTHER INFORMATION CONTACT"** section.

Information in this preamble is organized as follows:

I. Background
A. Prior Program Approval Process
B. Summary of Today's Rule
C. Summary of Public Comments
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II. Section by Section Analysis
A. Characterization of Modifications
1. General
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F. Submission to Congress and the General Accounting Office

I. Background

Today, EPA is revising the procedures for modifying the requirements of approved Publicly Owned Treatment Works (POTW) Pretreatment Programs incorporated into National Pollutant Discharge Elimination System (NPDES) permits issued to POTWs under the Clean Water Act (CWA).

A. Prior Program Approval Process

EPA provided an extensive discussion of the background for today's rule in the proposed rule published in the July 30, 1996, **Federal Register** document (61 FR 39804). For the sake of brevity, EPA refers the reader to that notice and only repeats the background necessary to explain the need for today's final rule.

POTWs that meet certain requirements must develop pretreatment programs to control industrial discharges into their sewage systems. CWA section 402(b)(8); 40 CFR 403.8(a). EPA or the State (in States approved by EPA to act as the pretreatment program ''Approval Authority'') must approve the POTW's pretreatment program request according to the procedures in 40 CFR 403.11

Regulations at 40 CFR 403.8 and 403.9 describe the substantive content of and documentation required for a POTW pretreatment program. Under 40 CFR 403.8(f), the POTW pretreatment program submission must reflect specified legal authorities, compliance assurance procedures, adequate funding, a local limit development demonstration, an enforcement response plan (ERP), and a list of significant industrial users. After approval by the Approval Authority, the entire approved pretreatment program is then incorporated as an enforceable condition of the POTW's NPDES permit. 40 CFR 122.44(j)(2) and 403.8(c).

Regulations at 40 CFR 403.18 specify the procedures used to modify approved POTW programs. EPA originally promulgated those procedures on October 17, 1988. 53 FR 40562, 40615. Section 403.18(a) requires the POTW to follow program modification procedures whenever there is a ''significant change'' in the approved POTW pretreatment program. Section 403.18(c) and (d) outlines specific procedures for Approval Authority review and approval of ''substantial program modifications'' and other non-substantial program modifications. Section 403.18(b) contains a list of changes which are ''substantial program modifications'' and gives the Approval Authority power to designate other modifications as substantial modifications.

Section 403.18(c) describes the procedure for Approval Authority action on ''substantial program modifications.'' Under this section, the POTW submits specified documents; the Approval Authority uses the procedures in 40 CFR 403.11 (b)–(f) to act on the proposed modification; and the approved modification is incorporated into the POTW's NPDES permit as a minor permit modification under 40 CFR 122.63(g). Under these procedures, the Approval Authority determines whether the submission is

complete, issues public notice of the complete request for substantial program modification, acts on the submission within 90 days, and publishes notice of approval or disapproval.

To provide notice of the request for approval, the Approval Authority mails notices to specified individuals, publishes notice of the request in the largest daily newspaper within the jurisdiction served by the POTW, provides a 30-day public comment period, provides an opportunity to request a public hearing, and holds a public hearing at the POTW's request or if there is significant public interest in doing so. 40 CFR 403.11(b)(1). To provide notice of the approval or disapproval decision, the Approval Authority provides written notice to all persons who submitted comments or participated in the public hearing if held, and publishes notice in the same newspaper as the original notice of request for approval was published. 40 CFR 403.11(e).

Under the existing § 403.18(b)(2) procedures for approval of non-substantial program modifications, the POTW must notify the Approval Authority at least 30 days prior to implementation of a non-substantial modification. The modification is considered approved unless the Approval Authority decides within 90 days that the change is substantial and initiates the procedures for approval of substantial program modifications. Once again, the approved non-substantial change is incorporated into the NPDES permit as a minor permit modification under 40 CFR 122.63(g).

B. Summary of Today's Rule

Today's rule streamlines the procedures for modifying approved POTW Pretreatment Programs in several ways. First, fewer categories of modifications are considered ''substantial'' and, therefore, automatically subject to the detailed public notice procedures. Modifications that will no longer automatically be considered ''substantial'' include: changes that result in more prescriptive POTW legal authority; changes to legal authority that reflect changes to the Federal regulations; changes to local limits for pH; reallocations of local limits that do not increase the authorized discharge of the pollutant from the POTW; and other changes discussed below. 40 CFR 403.18(b). Second, the rule no longer requires the Approval Authority to issue a public notice of its final approval of a modification if it received no comments on its proposed approval of the modification and the modification is approved as proposed. 403.18(c)(3). Third, public notice provided by a POTW will satisfy the Approval Authority's obligation to provide notice in certain circumstances. 40 CFR 403.18(c)(4). Fourth, the rule allows a POTW to report changes to its list of industrial users in the POTW's annual reports, rather than being required to obtain advance approval. 40 CFR 403.8(f)(6) and 403.12(i)(1). Fifth, the period of notice that POTWs must provide for non-substantial modifications and the time for review by Approval Authorities will both be 45 days; POTWs may implement a non-substantial modification if the Approval Authority does not disapprove it within that time. 40 CFR 403.18(d). Sixth, the rule grants additional flexibility regarding the type of newspaper that may publish the notices and the government agencies that receive individual notice of all modifications. 40 CFR 403.11(b)(1)(1) (A) and (B).

C. Summary of Public Comments

1. General

EPA proposed regulations on July 30, 1996, responding to problems experienced in administering the existing rule (61 FR 39804). The preamble to the proposed rule explains the proposed changes in the regulation. The public comment period was open for a period of 60 days and closed on September 30, 1996. Although one comment was not received until October 2, EPA has responded to all comments received.

EPA received 25 comments, including those from five States, 10 municipalities, one attorney and one trade group that represent municipalities, one contract operator, one industrial facility, five trade groups that represent industry, and one environmental public interest group. A brief summary of the comments is set out below. A more detailed discussion of the comments received is set out later in this preamble in the section-by-section analysis.

Virtually all of the commenters recognized the need to streamline the current procedures for modifying POTW pretreatment programs. One commenter stated that it supported efforts to reduce the number of modifications that go through the ''grueling approval process'' and noted that its last major modification took 6 years to complete. A few Approval Authorities commented that they rarely receive public comments. One State commented that cities are required by State law to issue public notice and that no one had ever commented on the State's notices.

Commenters also generally supported the details of the proposal. No commenter opposed the proposal to allow modifications to be approved following a single public notice when there is no comment on the modification. No commenter strongly opposed the proposal to allow changes to legal authority that reflect changes to the Federal regulations, redistribution of the Maximum Available Industrial Load and changes to pH limits to be processed as ''non-substantial'' modifications. Although most commenters supported the other deletions from the definition of ''substantial'' modifications, a few commenters strongly opposed them. Only one commenter opposed allowing changes to Industrial User inventories to be reported in annual reports. Most commenters supported reducing to 45 days the time for review of non-substantial modifications.

One commenter recommended restricting the time for review of substantial modifications to 60 days. The commenter noted that the preamble to the October 18, 1988, revisions to the pretreatment regulations indicates that EPA would adopt a 60 day limit, but the regulatory language included the 90 day limit. (53 FR 40562, 40581). Given that some Approval Authorities are having difficulty performing reviews within the current 90 day time frame, EPA has decided not to revise this provision.

2. Comments on Further Streamlining

Several commenters, including a trade association for POTWs, recommended that streamlining would be best accomplished by removing the Approved Pretreatment Program from the POTW's NPDES permit, thereby eliminating the need for permit modifications.

They recommended that the Pretreatment program could be implemented by direct reference to the regulatory requirements or by placing performance measures into the POTW's permit. Some commenters suggested that whether a modification is ''substantial'' should be tied to specific measures such as whether the modification increases the total load or has a direct effect on the environment.

One commenter argued that it should not be necessary to get a permit modification for a ''non-substantial'' modification. The commenter's State charges thousands of dollars for a permit modification, including one to incorporate non-substantial modifications. While expressing no opinion on the reasonableness of such

fees for a minor permit modification, EPA notes that a program modification requires a permit modification if the modification relates to an enforceable element of the POTW's NPDES permit. 40 CFR 403.8(c).

EPA acknowledges that removing the Pretreatment Program from the NPDES permit would increase POTW flexibility and eliminate any issues regarding the need to provide public notice of modifications to the POTW's program. On the other hand, incorporation of the program into the permit provides all concerned with the greatest certainty as to the program's scope and content. As mentioned in the preamble to the proposal, some stakeholders were concerned that Part 403 standing alone may not be sufficiently specific to create objective, enforceable requirements that could be directly implemented. Although one commenter responded to EPA's request for more specific regulatory language with the recommendation that streamlining could be accomplished with language similar to NPDES boilerplate, no commenter provided specific language.

Today's rule does not remove the Pretreatment Program from the POTW's NPDES permit. EPA will continue its ongoing efforts to identify ways to orient the Pretreatment Program towards the accomplishment of performance measures. Implementation of that approach might involve NPDES permits that incorporate by reference boilerplate regulatory language rather than detailed Approved Programs.

II. Section by Section Analysis

A. Characterization of Modifications

1. General

Today's rule reduces the number of categories of Pretreatment Program modifications that are automatically deemed ''substantial''. 40 CFR 403.18(b). The number of categories that would no longer be deemed substantial is not, however, as large as EPA proposed. Under the July 30 proposal, only modifications to the POTW's Approved Pretreatment Program legal authority and local limits that relax the requirements applicable to industrial users would have continued to be processed as ''substantial'' modifications. Only for these modifications would Approval Authorities be required to follow the detailed public notice procedures of 40 CFR 403.11. The proposal would have defined all other modifications as non-substantial modifications.

While the majority of commenters supported this approach, a few commenters were very forceful in their opposition to it. One environmental public interest group objected to the reduction in public notice. One POTW argued that the problems with the proposal were due to recategorizing certain significant modifications as ''non-substantial'' and that streamlining could be accomplished without creating these problems. One industrial trade association asserted that allowing NPDES permit requirements to be amended without public notice violated various regulations, statutory requirements and the U.S. Constitution. These commenters argued that at a minimum, more categories of modifications should be considered ''substantial'', although they disagreed on which categories.

Today's rule addresses the concerns of these latter commenters by retaining as substantial modifications some of the categories that were proposed to be considered ''non-substantial''. 40 CFR 403.18(b). Under today's rule, three new categories of program modifications are now considered ''non-substantial'', specifically: Changes to the POTW's method of incorporating categorical pretreatment standards; certain reductions in POTW resources; and changes to sewage sludge management and disposal practices. In addition, as is discussed below, today's rule also increases the number of non-substantial modifications by creating exceptions to two categories of substantial modifications, namely, changes to legal authorities and changes that result in less stringent local limits.

Four of the seven categories that EPA proposed to delete from the definition of ''substantial'' modifications will be retained as substantial modifications. 40 CFR 403.18(b). The following changes will continue to constitute ''substantial'' modifications: changes to the POTW's control mechanism as described in § 403.8(f)(1)(iii); decreases in the frequency of self-monitoring and reporting required of industrial users; changes in the POTW's confidentiality procedures; and decreases in inspections or sampling by the POTW.

It is important to remember that ''decrease in the frequency of self-monitoring'' and ''decrease in the frequency of industrial user inspections'' refer to changes in the POTW's general policy and not to decisions affecting individual industrial users. Similarly, ''changes to the POTWs control mechanism'' refers to a change in the type of mechanism used (e.g., permit versus orders) and not to change in one facility's permit or to changes in the boilerplate or other details of the permit. Changes affecting individual industrial users are not substantial modifications.

EPA believes that the remaining three categories may be deleted from the definition of substantial modifications. Changes to the POTW's method of incorporation of categorical Pretreatment Standards are not considered substantial unless the change results in relaxed legal authority, in which case the change is still required to be reported as a substantial modification. Significant reductions in POTW resources are not substantial unless the reductions result in the POTW being unable to fulfill its other Approved Program requirements, in which case the POTW still may be held accountable under it NPDES permit. Changes to the POTW's sewage sludge disposal and management practices are not themselves part of the Pretreatment Program and, thus, would not constitute substantial modifications. Like a change to the POTW's water quality-based NPDES permit limits, sewage sludge practice changes may affect the program but are not part of the program. These three categories of modifications are not ''substantial'', although Approval Authorities would still have the discretion to designate the first two as substantial.

The proposed regulatory language did not describe criteria for identifying other substantial modifications or explicitly allow Approval Authorities to designate other modifications as substantial. As one commenter noted, the preamble and rulemaking record did not address this change. Another commenter recommended that Approval Authorities be able to designate a modification as substantial if it meets the specified criteria. In response, EPA notes that under the old rule, if an Approval Authority wanted to disapprove a non-substantial modification, the Approval Authority would first designate the change as a substantial modification. That extra designation step is unnecessary under today's rule, which allows Approval Authorities to disapprove non-substantial modifications directly. 40 CFR 403.18(d)(2). Today's rule does, however, give Approval Authorities the option of designating additional modifications as ''substantial'' if they meet the specified criteria. 40 CFR 403.18(b)(7).

One commenter recommended that the relaxation of other non-federally mandated limits such as particle size, malodorous liquids, numeric limits for non-petroleum oil and grease, and color limits be considered non-substantial. EPA did not adopt this suggestion. While many POTWs may not have local

limits for these pollutants, in some instances local limits on these pollutants will be appropriate to prevent pass through or interference. If such local limits are part of an Approved Pretreatment Program, the presumption would be that the relaxation of these local limits would be a substantial modification.

2. Changes That Relax Legal Authority

EPA is adopting the proposed revision so that only changes that result in less stringent POTW legal authority are subject to substantial modification procedures. 40 CFR 403.18(b)(1). One commenter argued that nothing in the rulemaking record supports this change. In response, EPA notes that a POTW is free under the CWA to impose additional requirements on IUS under State and local law; such additional requirements may go beyond the minimum requirements of the POTW's NPDES permits. Such modifications that do not relax legal authorities would not cause the POTW to be in violation of its existing NPDES permit and could be implemented by the POTW without modifying the permit. EPA does not want to discourage such ''beyond the minimum'' actions by requiring review of the changes.

The commenter further suggested that allowing more prescriptive legal authorities to be adopted by the POTW without being approved as a substantial modification is an unconstitutional delegation of authority to the POTW. EPA disagrees. A POTW requirement on an IU that goes beyond the scope of the existing Approved Program only becomes part of the Approved Program after it is processed by the Pretreatment Approval Authority as a program modification. The general public interest in program modifications is served by the opportunity for public comment on substantial modifications that result in less prescriptive programs. The general public interest may also be served in expeditious implementation of more prescriptive programs when necessary. EPA assumes that POTW's will faithfully abide by notice requirements of the federal and State constitutions prior to imposing a more prescriptive program requirement on an individual affected by a program modification.

Another commenter noted that designating certain modifications to legal authority as ''non-substantial'' will provide little relief because Approval Authorities will still need to determine if the modification does or does not result in less stringent legal authority. Although that may be the case in some instances, EPA believes that, overall, Approval Authorities will benefit from the flexibility to consider these modifications substantial or non-substantial.

3. Changes that Mirror Federal Regulations

Today's regulation excludes from the definition of ''substantial'' modification those changes to POTW legal authority that result in less prescriptive programs, but which directly reflect a revision to the Federal pretreatment regulations (for example, if the federal regulations are streamlined). 40 CFR 403.18(b)(1). Such modifications would have already undergone public notice and comment when promulgated by EPA. As long as the POTW's local ordinance is revised to directly reflect the new federal requirements, further public notice would be unnecessary. No commenter opposed this change.

One commenter asked whether the rule would apply to program modifications that are already required by the federal regulations, such as modifications to implement the revisions published on October 17, 1988 (53 FR 40562) and July 24, 1990 (55 FR 30082). In response, a modification could be processed under the revised procedures so long as the modification mirrors changes to the federal regulation made since the program's legal authority was approved or last modified. 40 CFR 403.18(b)(1).

One commenter recommended that a program should always be able to modify its program down to the federal minimum if, e.g., the POTW committed to additional sampling in the initial program. EPA is not adopting this approach. While minimum oversight requirements (e.g., annual sampling of Significant Industrial Users) are appropriate for some facilities, additional oversight is required for other facilities. It would not be appropriate to reduce oversight to the minimum for all facilities. As long as a specific element of the program is an enforceable permit requirement, permit modifications will be necessary if the POTW wants to do less than its permit requires.

4. Changes to pH Limits

Like the proposed rule, today's rule excludes all changes to local limits for pH from the definition of substantial modifications. 40 CFR 403.18(b)(2). No commenter opposed the proposal. The proposal noted that it would not affect the prohibition of discharges with a pH of less than 5.0 in 40 CFR 403.5(b)(2). One commenter understood this language to mean that only modifications to minimum pH limits would no longer be considered substantial. The commenter recommended that the revisions also include modifications to upper pH limits. EPA intended that the proposal include modifications to upper pH limits, and only discussed § 403.5(b)(2) in order to clarify that it remained in force. This revision is adopted as proposed. All changes to pH limits in Approved POTW Pretreatment Programs may be processed as non-substantial modifications. The prohibition in 40 CFR 403.5(b)(2) is unchanged.

5. Reallocation of MAIL

Today's rule adopts the proposal to exclude from the definition of substantial modifications revisions to local limits resulting from reallocations of the Maximum Allowable Industrial Loading (MAIL) for a given pollutant, provided that the reallocation does not increase the total MAIL for that pollutant. 40 CFR 403.18(b)(2). Some POTWs' local limits are expressed in terms of a MAIL for a pollutant, which is then allocated to individual industrial users as limits on the total mass of the pollutant that each user may discharge. Those mass limits are placed in the industrial users' permits or other individual control mechanisms and are enforceable under 40 CFR 403.5(d). Under today's rule, reallocations of the MAIL to individual industrial users could be processed as non-substantial modifications as long as the MAIL is not increased.

One commenter stated that all changes to local limits should be deemed substantial because of their impact on the industrial user. EPA is not changing the rule. Approval Authorities may continue to process modifications that impose more stringent local limits as non-substantial modifications. Such limits may only be imposed, however, following the notice required by 40 CFR 403.5(c)(3) and such additional notice as is required by local law. Today's rule only addresses the reallocation of MAILs.

When a POTW allocates the MAIL to individual industrial users, the POTW generally retains a portion of the MAIL as a safety factor so that new industrial users can be given a mass allocation out of the existing MAIL. Such an allocation to a new industrial user would not constitute a substantial modification. Today's rule specifies that a reallocation of an existing MAIL is not a substantial modification. Only where the POTW increases the total mass of a pollutant that all industrial users collectively could be authorized to discharge would the modification be considered substantial.

One commenter stated that the reallocation of a MAIL should not be considered a program modification at all. EPA agrees that if the POTW's approved program specifies the MAIL but does not specify how it is allocated, a reallocation of the MAIL that does not increase the MAIL would not constitute a program modification. Only if the reallocation would violate the POTW's permit would a modification be necessary. If the allocation is specified in the POTW's permit, a reallocation of a MAIL that does not increase the total pollutants may be submitted as a non-substantial modification. A reallocation that does increase the MAIL must be submitted as a substantial modification.

One commenter noted that a MAIL should be able to provide for residential growth by, for example, providing an index of allowable MAILs based on growth factors. Another stated that an increase in MAIL should be considered non-substantial if it is tied to an increase in the POTW's capacity. Today's rule would not prevent a POTW from submitting sufficient technical information as part of its local limits analysis to support a variable MAIL depending on the total flow to the POTW. The tiered MAIL would have to be an enforceable element of the POTW's permit. An increase to the higher tiered MAIL (provided for in the approved local limits) would not require a program modification.

Another POTW stated that the definition of MAIL was problematic because many POTWs do not know the contribution of commercial users. While the comment raises an important issue in local limit development, it is beyond the scope of today's rule. POTWs must determine the background level of a pollutant before they can determine the maximum level that their industrial users may discharge.

One commenter stated that a switch from local limits expressed as concentration to local limits expressed as mass should be considered non-substantial if the change does not increase the total mass. Similarly, one commenter stated that a switch from concentration-based or mass-based local limits to controls based on Best Management Practices (BMPs) should be considered non-substantial. Another commenter took the opposite view and argued that only reallocations of existing MAILs should be non-substantial. EPA agrees that, in most instances, the initial adoption of a MAIL or BMP will be a substantial modification where it replaces a different form of local limits. Unless the mass-based limit or BMP is specifically tied to an existing concentration limit, the switch to mass-based limits or to BMPs will likely result in less stringent local limits for at least some group of industrial users. The POTW's Approved Pretreatment Program will need to be modified to reflect such change. There may be limited circumstances, such as where the POTW documents that a BMP achieves an existing concentration limit, where the Approval Authority might consider such a change to be a non-substantial modification.

One commenter stated that for the reallocation of the MAIL to be considered non-substantial, the reallocation should be enforceable and should not be due to pollutant trading. Under a trading program, POTWs might allocate mass limit to individual industrial users and allow the industrial users to sell or otherwise transfer their allocations to another industrial user. EPA does not agree that all reallocations due to trading need to be processed as substantial modifications. Whether or not a local limit is the result of trading, any reallocation must be enforceable in order for it to satisfy the substantive requirements of 40 CFR 403.5(c).

6. Enforcement Response Plans

The preamble to the proposal solicited comment on whether changes to Enforcement Response Plans (ERPs) should be processed as non-substantial modifications. Most commenters supported the proposed list of substantial modifications, which did not include ERPs. Only two commenters, both of which were State Approval Authorities, supported treating revisions to ERPs as substantial modifications. One thought that all such changes should be treated as substantial modifications. The other thought that such changes should be substantial unless the State had a model ERP. Today's rule does not require all modifications of ERPs to be processed as substantial modifications.

ERPs are standard operating procedures or policies that implement existing legal authorities. An ERP should not be used to create additional authorities for a POTW, nor should an ERP relax existing authorities. Where an ERP does conflict with the POTW's legal authority, the ERP would have to be changed to be consistent with the POTW's legal authority, the POTW's legal authority may be revised through the modification process.

As with all non-substantial modifications, Approval Authorities retain the flexibility to designate them as substantial where appropriate. Some Approval Authorities may elect to treat all modifications to ERPs as substantial.

B. Public Notice Procedures for Substantial Modifications

1. Single Public Notice

Today's rule allows approval of proposed modifications after one public notice in certain circumstances. No commenters opposed this change. Prior to today's rule, section 403.18(b)(1) required the issuance of one public notice of a proposed modification and a second public notice once the modification is approved. Both notices needed to comply with the procedures in § 403.11(b)–(f). Today's rule revises § 403.18(c)(3) so that the Approval Authority would not need to publish a second notice of decision if the following conditions were met: (1) The first notice states that the modification will be approved without further notice if no comments are received; (2) the Approval Authority receives no substantive comments on that notice; and (3) the modification request is approved without change.

2. Adequacy of Local Notice

Under today's rule, Approval Authorities may consider local notice by the POTW to constitute a program modification request and notice of decision under § 403.11(b)–(f). EPA did not propose any regulatory changes covering local notice because, as noted in the preamble to the proposal, the Agency believed this option is available under the existing regulations. Several comments confirmed EPA's position on the adequacy of local notice to achieve the purposes of § 403.11(b)–(f). EPA has decided, as one commenter specifically recommended, to formally codify this position by including specific language in Part 403. 40 CFR 403.18(c)(4).

Under today's rule, Approval Authorities remain ultimately responsible for assuring the publication of the notice. POTWs are not required to provide the notice described in § 403.11. Today's rule leaves POTWs and Approval Authorities free to negotiate arrangements for the publication of the required notice. In the absence of voluntary and adequate notice by the POTW, the Approval Authority would still be required to provide the notice. In order for a local POTW public notice to substitute for an Approval Authority notice, the local notice must meet the requirements of § 403.11(b)(1). Today's rule merely acknowledges that Approval Authorities may find the notice provided by POTWs to be legally adequate. 40 CFR 403.18(c)(4).

One industry trade association argued that local procedures were not adequate. The commenter noted that there was no

record that most significant changes are worked out in advance at the local level. The commenter asserted that a more objective forum is needed than the local forums, where decisions are diverse and not always based on environmental considerations. Because local participation varies, the commenter asserted that § 403.18 is needed to level the playing field.

EPA agrees that Approval Authority review of modifications helps assure their consistency with state and federal regulations. State and EPA Approval Authorities retain the right to review modifications under today's rule regardless of who issues the notices. The lack of comments on State and EPA issued notices suggests that many issues are resolved at the local level. Approval Authorities must assure that notice provided at the local level is adequate and includes an opportunity to request a hearing from the Approval Authority.

3. Other Changes to Notice Requirements

Today's rule includes two additional changes to streamline the detailed notice procedures in § 403.11(b)(1). The first change involves the method of notice. The second involves who receives the notice.

Today's rule revises § 403.11(b)(1)(i)(B) to allow public notices to be published in any paper of general circulation within the jurisdiction served by the POTW. Today's rule revises the current requirement that the paper be in the largest daily paper of general circulation. One commenter noted that a weekly paper might be more appropriate for providing notice to a small community. Today's rule conforms the Pretreatment program notice requirement with the existing notice requirement for issuance of NPDES permits at 40 CFR 124.10(c)(2).

Today's rule also deletes the requirement from § 403.11(b)(1)(i)(A) that Approval Authorities always mail notices to designated 208 planning Agencies, and Federal and State fish, shellfish and wildlife resource agencies. One State commented that, in its experience, no comments are submitted by these agencies. While EPA does not believe that it is appropriate to discontinue all notices to these agencies, today's rule provides that the notices may be discontinued if requested by an agency listed in § 403.11(b)(1)(i)(A).

EPA also solicited comment on how the public might be educated as to the importance of Pretreatment Program requirements, so that public input will occur in response to notice of program modifications. One industry commenter stated that the content of public notices is not adequate for business to know what is being proposed. The commenter recommended that POTWs be required to directly notify businesses and to hold seminars to educate the businesses. One POTW supported allowing POTWs to provide notice but specifically opposed requiring POTWs to educate the public on the importance of the program. EPA believes that the public notice requirements of § 403.18 are adequate to provide reasonable notice to the public, and that the requirements to make data publicly available at §§ 2.302 and 403.14(c) are adequate for the public to educate itself about the program. Notices should contain sufficient information to alert the public about what is being proposed. While many POTWs do have public education programs, EPA does not believe that it is necessary to impose an affirmative obligation on POTWs to educate the public about the pretreatment program. The Pretreatment Program is a mature regulatory program that has operated for over 20 years.

An environmental group commented that public participation would be improved if POTWs were required to maintain a mailing list, with annual solicitation to be on the list, of parties wanting notice of non-substantial modifications. A similar procedure is already in place for substantial modifications. 40 CFR 403.11(b)(1)(i)(A). EPA does not believe that this procedure is necessary for non-substantial modifications, especially in light of today's decision to retain most categories of substantial modifications.

C. Procedures for Non-substantial Modifications

Under the pre-existing regulation, non-substantial modifications were deemed approved unless, within 90 days from their submission, the Approval Authority decided to review them as substantial modifications. Under today's rule, Approval Authorities have 45 days to act on a request for non-substantial modification by either approving or disapproving it, deciding to process it as a substantial modification, or determining that the request is incomplete and requesting that the POTW provide more supporting information. 40 CFR 403.18(d). If the Approval Authority takes no action within the 45 days, the modification is deemed approved and may be implemented by the POTW. 40 CFR 403.19(d)(3).

Under the July 30 proposal, non-substantial modifications would not be deemed approved, but would require affirmative approval by the Authority within 45 days. One reason that EPA proposed to eliminate the provision that non-substantial modifications could be deemed approved was that the proposal would also have expanded the list of non-substantial modifications to include most modifications currently classified as substantial. In addition, reducing the period of review to 45 days might have resulted in a greater number of potentially substantial modifications being deemed approved because of the inability of the Approval Authority to review them in that time period.

One commenter summarized the flaws with the proposed procedures for non-substantial modifications, which other commenters also noted. First, the proposal would have eliminated all notice of changes that might be significant. Second, the proposal would not have allowed the Approval Authority to decide that a modification is substantial. Third, the proposal would not have specified the outcome of the failure of the Approval Authority to act within 45 days. Fourth, because the public might not have received notice of a modification, a change which was deemed approved might be challenged up to several years later at NPDES permit renewal, frustrating continuity in administration of pretreatment programs.

The commenter noted that most of the problems with the proposed regulation resulted from EPA's proposal to redesignate certain modifications from substantial to non-substantial. If EPA retained the current definitions of substantial modification, the commenter noted, there would be no need to allow a lengthy review or require affirmative approval (as opposed to ''deemed'' approvals) of non-substantial modifications. Finally, the commenter noted that almost all of the proposed streamlining could be accomplished with fewer problems if the regulations allowed for one notice at the local level.

Today's rule incorporates most of these suggestions. As discussed above, fewer modifications will be considered non-substantial than would have been under the proposal. 40 CFR 403.18(b)(1). Approval Authorities will be given 45 days to review non-substantial modifications. 40 CFR 403.18(d)(2). If the Approval Authority does not disapprove the proposed modification or determine that it is substantial, the modification is deemed approved and the POTW may implement it. 40 CFR 403.18(d)(3).

Today's rule directs the Approval Authority to notify the POTW within 45 days of receipt of a non-substantial modification of its decision to approve

or disapprove the modification, rather than the 90 days currently allowed under existing § 403.18(b)(2). 40 CFR 403.18(b)(2)(ii). Only one commenter opposed reducing the period for review of non-substantial modifications. This commenter argued that 45 days might be inadequate if a modification included a revised procedure manual and Enforcement Response Plan. While this concern is legitimate, EPA believes the 45 day period balances the desires of POTWs to modify their programs expeditiously and the needs of Approval Authorities for sufficient time to review proposed modifications.

Several commenters objected to the proposed elimination of the procedure by which modifications could be deemed approved. One commenter went further and recommended that POTWs should not have to submit non-substantial modifications in advance. Instead, the commenter suggested that a POTW should be able to immediately implement a modification and the Approval Authority should be allowed 45 days for an after-the-fact objection. Two State commenters, however, opposed having modifications deemed approved at all.

EPA believes that the regulations should continue to allow non-substantial modifications to be deemed approved. Today's rule specifies that POTWs may implement the proposed modification if the Approval Authority does not disapprove it within 45 days. 40 CFR 403.18(d)(3). Unlike the existing rule, however, today's rule allows the Approval Authority to disapprove a non-substantial modification without going through the substantial modification procedures. 40 CFR 403.18(d)(2). If the Approval Authority needs additional information to review a proposed modification, it should notify the POTW that the request is disapproved until the information is received and reviewed. This process should allow the Approval Authority and POTW to resolve matters more efficiently than the current process, which requires the Approval Authority to process as a substantial modification any modification that it proposes to disapprove.

EPA solicited comment on whether only certain categories of non-substantial modifications could be deemed approved if not disapproved by the Approval Authority within 45 days. Commenters did not support this approach. EPA is not adopting this approach and believes it is unnecessary in light of its decision to exclude from the list of non-substantial modifications those modifications that are more likely to be of concern if deemed approved.

D. Changes Reported in Annual Reports

Today's rule adopts the proposal to allow POTWs to submit changes to their industrial user inventory at the time they submit their Annual Report. 40 CFR 403.8(f)(6). The preexisting regulations had required such changes to be submitted as non-substantial modifications and also required that the industrial user inventory be updated in the POTW's Annual Report to the Approval Authority.

Commenters overwhelmingly supported this approach. The only commenter that recommended that it not be adopted expressed concern that State inspectors would ''write 'em up'' if notification has not been submitted. EPA believes this revision should not hinder State and EPA inspectors. Many requirements related to POTW oversight of IUs are annual requirements, and changes to the list of IUs will still be reported annually. 40 CFR 403.12(i)(1). POTWs are still required to maintain a current list of their SIUs that Approval Authorities can use during inspections. 40 CFR 403.8(f)(6).

One commenter recommended that POTWs be required to submit a demonstration that a change in the IU inventory does not necessitate a change to its local limits. EPA believes that it is not necessary to add this requirement to the regulations. POTWs should anticipate the need for a new local limit analysis where appropriate, and Approval Authorities should consider this issue in their reviews.

EPA also solicited comment on whether other modifications should be reported retroactively by the POTW to the Approval Authority in the POTW's annual report rather than in advance. Two commenters recommended that changes that do not result in the POTW doing less than its permit requires be reported in the annual report. One commenter recommended that all non-substantial changes be reported in the annual report. One State, however, opposed reporting modifications in the annual report because of the risk that the State would subsequently overrule the modification. Today's rule allows a modification to be reported for the first time in the POTW's annual report only if the modification does not result in the POTW doing less than is currently described in its Approved Program as incorporated in the POTW's NPDES permits. 40 CFR 403.12(i)(4). If the activity is not compelled by the POTW's permit and does not result in the POTW doing less than the permit requires, the POTW should be free to report it in its annual report.

III. Regulatory Requirements

A. Executive Order 12866

Under Executive Order 12866 (58 FR 51735 (October 4, 1993)), the Agency must determine whether the regulatory action is ''significant'' and therefore subject to review by the Office of Management and Budget (OMB) and the requirements of the Executive Order. The Order defines ''significant regulatory action'' as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

It has been determined that this rule is not a ''significant regulatory action'' under the terms of Executive Order 12866 and is therefore not subject to OMB review.

B. Executive Order 12875

Under Executive Order 12875 (58 FR 58093 (October 28, 1993)), entitled ''Enhancing the Intergovernmental Partnership,'' the Agency is required to develop an effective process to permit elected officials and other representatives of State, local, and tribal governments to provide meaningful and timely input in the development of regulatory proposals.

EPA sought the involvement of those persons who are intended to benefit from or expected to be burdened by this rule before issuing the notice of proposed rulemaking. Following informal consultation in May 1994, EPA circulated a draft proposal to interested persons, including States, POTWs and trade and environmental organizations. EPA received approximately 20 comments, which were addressed in the proposal and today's rule. The Agency made several presentations outlining possible revisions to the pretreatment regulations to a number of stakeholder groups, including Regional, State and POTW personnel. EPA encouraged these groups to provide formal input to the proposed regulatory streamlining process. In addition, the Agency

provided notice of the availability of the draft proposal for review and comment in the September 1994 issue of the ''Water Environment & Technology,'' the principal publication of the Water Environment Federation.

EPA published the proposed rule in the July 30, 1996, **Federal Register** document (61 FR 39804). EPA mailed notice of the proposal and summaries of the preamble to the stakeholders identified in the Communication Strategy for the proposed rule. EPA received 25 comments on the proposal and responds to those comments in today's preamble. Copies of all comments received relating to this rulemaking are included in the docket for this rule.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA), 5 U.S.C. 601 *et seq.*, provides that, when an agency promulgates a final rule under section 553 of the Administrative Procedure Act after being required by that section to publish a general notice of proposed rulemaking for a proposed rule, the agency must prepare a final regulatory flexibility analysis (FRFA). The agency must prepare a FRFA for a final rule unless the head of the agency certifies that it will not have a significant economic impact on a substantial number of small entities.

When EPA proposed this rule, the Administrator certified, pursuant to section 605(b) of the RFA, that it would not have a significant economic impact on a substantial number of small entities. In today's final rule, the Administrator is certifying that the final rule will not have a significant economic impact on a substantial number of small entities.

The RFA defines ''small entity'' to mean a small business, small organization or small governmental jurisdiction. RFA section 601(5) defines the term ''small governmental jurisdiction'' as the government of cities, counties, towns, townships, villages, school districts or special districts with a population of less than 50,000 unless an agency proposes to use and publishes an alternative definition that is appropriate to the agency's activities. Today's rule revises requirements applicable only to publicly owned treatment works (POTW). The only RFA ''small entity'' that may be affected by EPA adoption of these changes to the pretreatment regulations is a small governmental jurisdiction with a population of less than 50,000 that owns and operates a POTW required to develop a pretreatment program.

As previously explained, today's rule amends the current requirements applicable to all POTWs that must have an approved pretreatment program. The modifications promulgated here only change the procedures that a State or EPA must follow in approving changes to a POTW's Approved Pretreatment Program. The effect of these changes is, therefore, deregulatory. It will reduce the burden on affected POTWs of obtaining approval for program modifications. Consequently, EPA's action today will either reduce or not change the cost to affected small governmental entities of complying with the pretreatment regulations as compared with the currently effective procedural requirements. In no event, however, will today's changes increase the economic costs of compliance.

For this reason, I am certifying that today's rule will not have a significant economic effect on a substantial number of small entities.

D. Paperwork Reduction Act

Today's rule is designed specifically to streamline the regulatory process and does not impose any additional information collection requirements on either the Approval Authorities or the POTWs. Therefore, EPA did not prepare an Information Collection Request (ICR) document for approval by the Office of Management and Budget.

The information collection requirements being streamlined were approved by the Office of Management and Budget under control number 2040–0009, which was last approved on October 18, 1996. The reductions in burden achieved by today's rule will be reflected when the ICR approval is revised during its regular triennial review.

E. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), P.L. 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with ''Federal mandates'' that may result in expenditures by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year. Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective or least burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted.

Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

Today's rule contains no Federal mandates (under the regulatory provisions of Title II of the UMRA) for State, local, or tribal governments or the private sector. The rulemaking is basically ''deregulatory'' in nature and does not impose any additional burdens on the affected State, local or tribal governments. As the preceding preamble language demonstrates, EPA considered alternatives to the proposed changes in the regulations governing modification of a POTW's pretreatment program.

This rule will provide flexibility to the regulated community. It does not impose any new requirements, so costs to the regulated community should remain unchanged or be minimal. Therefore, EPA has determined that an unfunded mandates statement is unnecessary.

EPA has determined that this rule contains no regulatory requirements that might significantly or uniquely affect small governments. As previously stated, EPA believes that the rule will reduce the regulatory burden on all governmental agencies operating POTWs. This overall reduction will be applied across the board to all POTWs, with attendant benefits being provided to both large and small governments. Although EPA cannot document the effects for each and every POTW, smaller governments may benefit the most from the proposed modifications. The avoided compliance costs attendant to modifying their programs may be a larger percentage of their total operating budgets than those costs borne by the larger POTWs.

In compliance with E.O. 12875 and section 203 of the UMRA, EPA conducted a wide outreach effort and actively sought the input of representatives of state, local and tribal governments in the process of developing the proposed regulation. Agency personnel have communicated with State and local representatives in a number of different forums.

F. Submission to Congress and the General Accounting Office

Under 5 U.S.C. 801(a)(1)(A) as added by the Small Business Regulatory Enforcement Fairness Act of 1996, EPA submitted a report containing this final rule revising procedures for modification of approved pretreatment programs (and other required information) to the U.S. Senate, the U.S. House of Representatives and the Comptroller General of the General Accounting Office prior to publication of the rule in today's **Federal Register**. This rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 403

Environmental protection, Confidential business information, Reporting and recordkeeping requirements, Waste treatment and disposal, Water pollution control.

Dated: July 10, 1997.

Carol M. Browner,

Administrator.

For the reasons set out in the preamble, chapter I of title 40 of the Code of Federal Regulations is amended as follows:

PART 403—GENERAL PRETREATMENT REGULATIONS FOR EXISTING AND NEW SOURCES OF POLLUTION

1. The authority citation for part 403 is revised to read as follows:

Authority: 33 U.S.C. 1251 *et seq.*

2. Section 403.8 is amended by revising paragraphs (c) and (f)(6) to read as follows:

§ 403.8 Pretreatment Program Requirements: Development and Implementation by POTW.

* * * * *

(c) *Incorporation of approved programs in permits.* A POTW may develop an appropriate POTW Pretreatment Program any time before the time limit set forth in paragraph (b) of this section. The POTW's NPDES Permit will be reissued or modified by the NPDES State or EPA to incorporate the approved Program as enforceable conditions of the Permit. The modification of a POTW's NPDES Permit for the purposes of incorporating a POTW Pretreatment Program approved in accordance with the procedure in § 403.11 shall be deemed a minor Permit modification subject to the procedures in 40 CFR 122.63.

* * * * *

(f) * * *

(6) The POTW shall prepare and maintain a list of its industrial users meeting the criteria in § 403.3(u)(1). The list shall identify the criteria in § 403.3(u)(1) applicable to each industrial user and, for industrial users meeting the criteria in § 403.3(u)(ii), shall also indicate whether the POTW has made a determination pursuant to § 403.3(u)(2) that such industrial user should not be considered a significant industrial user. The initial list shall be submitted to the Approval Authority pursuant to § 403.9 as a non-substantial modification pursuant to § 403.18(d). Modifications to the list shall be submitted to the Approval Authority pursuant to § 403.12(i)(1).

3. Section 403.11 is amended by revising paragraphs (b)(1)(i) (A) and (B) to read as follows:

§ 403.11 Approval procedures for POTW pretreatment program and POTW granting of removal credits.

* * * * *

(b) * * *

(1) * * *

(i) * * *

(A) Mailing notices of the request for approval of the Submission to designated 208 planning agencies, Federal and State fish, shellfish and wildfish resource agencies (unless such agencies have asked not to be sent the notices); and to any other person or group who has requested individual notice, including those on appropriate mailing lists; and

(B) Publication of a notice of request for approval of the Submission in a newspaper(s) of general circulation within the jurisdiction(s) served by the POTW that meaningful public notice.

* * * * *

4. Section 403.12 is amended by redesignating paragraph (i)(4) as paragraph (i)(5), revising paragraph (i)(3), and adding a new paragraph (i)(4) to read as follows:

§ 403.12 Reporting requirements for POTWs and industrial users.

* * * * *

(i) * * *

(3) A summary of compliance and enforcement activities (including inspections) conducted by the POTW during the reporting period;

(4) A summary of changes to the POTW's pretreatment program that have not been previously reported to the Approval Authority; and

* * * * *

5. Section 403.18 is revised to read as follows:

§ 403.18 Modification of POTW pretreatment programs.

(a) *General.* Either the Approval Authority or a POTW with an approved POTW Pretreatment Program may initiate program modification at any time to reflect changing conditions at the POTW. Program modification is necessary whenever there is a significant change in the operation of a POTW Pretreatment Program that differs from the information in the POTW's submission, as approved under § 403.11.

(b) *Substantial modifications defined.* Substantial modifications include:

(1) Modifications that relax POTW legal authorities (as described in § 403.8(f)(1)), except for modifications that directly reflect a revision to this Part 403 or to 40 CFR chapter I, subchapter N, and are reported pursuant to paragraph (d) of this section;

(2) Modifications that relax local limits, except for the modifications to local limits for pH and reallocations of the Maximum Allowable Industrial Loading of a pollutant that do not increase the total industrial loadings for the pollutant, which are reported pursuant to paragraph (d) of this section. Maximum Allowable Industrial Loading means the total mass of a pollutant that all Industrial Users of a POTW (or a subgroup of Industrial Users identified by the POTW) may discharge pursuant to limits developed under § 403.5(c);

(3) Changes to the POTW's control mechanism, as described in § 403.8(f)(1)(iii);

(4) A decrease in the frequency of self-monitoring or reporting required of industrial users;

(5) A decrease in the frequency of industrial user inspections or sampling by the POTW;

(6) Changes to the POTW's confidentiality procedures; and

(7) Other modifications designated as substantial modifications by the Approval Authority on the basis that the modification could have a significant impact on the operation of the POTW's Pretreatment Program; could result in an increase in pollutant loadings at the POTW; or could result in less stringent requirements being imposed on Industrial Users of the POTW.

(c) *Approval procedures for substantial modifications.*

(1) The POTW shall submit to the Approval Authority a statement of the basis for the desired program

modification, a modified program description (see § 403.9(b)), or such other documents the Approval Authority determines to be necessary under the circumstances.

(2) The Approval Authority shall approve or disapprove the modification based on the requirements of § 403.8(f) and using the procedures in § 403.11(b) through (f), except as provided in paragraphs (c)(3) and (4) of this section. The modification shall become effective upon approval by the Approval Authority.

(3) The Approval Authority need not publish a notice of decision under § 403.11(e) provided: The notice of request for approval under § 403.11(b)(1) states that the request will be approved if no comments are received by a date specified in the notice; no substantive comments are received; and the request is approved without change.

(4) Notices required by § 403.11 may be performed by the POTW provided that the Approval Authority finds that the POTW notice otherwise satisfies the requirements of § 403.11.

(d) *Approval procedures for non-substantial modifications.*

(1) The POTW shall notify the Approval Authority of any non-substantial modification at least 45 days prior to implementation by the POTW, in a statement similar to that provided for in paragraph (c)(1) of this section.

(2) Within 45 days after the submission of the POTW's statement, the Approval Authority shall notify the POTW of its decision to approve or disapprove the non-substantial modification.

(3) If the Approval Authority does not notify the POTW within 45 days of its decision to approve or deny the modification, or to treat the modification as substantial under paragraph (b)(7) of this section, the POTW may implement the modification.

(e) *Incorporation in permit.* All modifications shall be incorporated into the POTW's NPDES permit upon approval. The permit will be modified to incorporate the approved modification in accordance with 40 CFR 122.63(g).

[FR Doc. 97–18860 Filed 7–16–97; 8:45 am]

BILLING CODE 6560–50–M

federal register

Thursday
July 17, 1997

Part IV

Department of Education

Rehabilitation Short-Term Training; Notices

DEPARTMENT OF EDUCATION

RIN 1820–ZA09

Rehabilitation Short-Term Training

AGENCY: Office of Special Education and Rehabilitative Services, Department of Education.

ACTION: Notice of final priority for fiscal year 1997.

SUMMARY: The Secretary announces a final funding priority for fiscal year 1997 under the Rehabilitation Short-Term Training program. The Secretary takes this action in order to improve the leadership among top-level managers and administrators of the State Vocational Rehabilitation (VR) Services program.

EFFECTIVE DATE: This priority takes effect on August 18, 1997.

FOR FURTHER INFORMATION CONTACT: Sylvia Johnson, U.S. Department of Education, 600 Independence Avenue, SW., Room 330 Switzer Building, Washington, DC 20202–2649. Telephone: (202) 205–9312. Deaf and hearing impaired individuals may call (202) 205–8133 for TDD services. Internet: Sylvia__Johnson@ed.gov

SUPPLEMENTARY INFORMATION: This notice contains a final priority under the Rehabilitation Short-Term Training program. This program supports special seminars, institutes, workshops, and other short-term courses in technical matters relating to vocational, medical, social, and psychological rehabilitation programs, independent living services programs, and client assistance programs.

On May 20, 1997 the Secretary published a notice of proposed priority for this program in the **Federal Register** (62 FR 27680).

Note: This notice of final priority does *not* solicit applications. A notice inviting applications under this competition is published in a separate notice in this issue of the **Federal Register**.

Analysis of Comments and Changes

In response to the Secretary's invitation in the notice of proposed priority, seven parties submitted comments. An analysis of the comments and of the changes in the priority since publication of the notice of proposed priority follows. Technical and other minor changes—and suggested changes the Secretary is not legally authorized to make under the applicable statutory authority—are not addressed.

Comment: Two commenters identified two specific issues—increasing client choice and relationships with private sector rehabilitation—that should be included as focal points in the development of leadership training.

Discussion: The Secretary agrees with the importance of both of these topics to the public program of vocational rehabilitation. The first, client choice, was recommended as an example of an issue to be addressed in the proposed priority. The issue of private sector relationships was not used as an example, but the Secretary points out that there may be many issues of high importance to the public vocational rehabilitation program, and opinions will differ as to which is more important. That is why the advisory committee for the leadership institute is charged with final selection of issues that the institute will address through its training. Given the diversity of views reflected on the advisory committee, the most critical issues should surface as the appropriate foci for the institute. Increasing client choice and relationships with private sector rehabilitation may be among them.

Changes: None.

Comment: Two commenters suggested that private sector rehabilitation professionals be included as training participants.

Discussion: The Secretary points out that the priority was established in response to a specific need for training of public vocational rehabilitation professionals and their unique needs. The Rehabilitation Services Administration (RSA) recently established 10 community rehabilitation program continuing education centers. These centers train staff of community rehabilitation programs that have a service arrangement with a State vocational rehabilitation agency to provide services to individuals with disabilities served by the State agency. These centers provide a broad, integrated sequence of training activities on a variety of issues, which may include leadership training.

Changes: None.

Comment: One commenter pointed out that in-service training grants would already have been awarded, along with negotiated three-year budgets, and suggested that RSA should allow flexibility in renegotiating in-service training grants to help pay for the States' share of leadership training activities.

Discussion: The Secretary makes clear that the institute is responsible for determining the fee for each participant in the leadership training program. The Secretary did not specify that States must use dollars from their in-service training grants for this purpose. It is up to each State to determine how it will meet the mandatory participant fee established by the institute.

Changes: None.

Comment: One commenter suggested that, since the proposed leadership institute must coordinate with State VR in-service training programs and Rehabilitation Continuing Education Programs (RCEPs), they should be represented on the advisory committee.

Discussion: The Secretary agrees that the perspective from both the in-service training program and the RCEPs should be represented on the advisory committee as they are a very significant source of training for State agency staff. State VR agency administrators are represented on the proposed advisory committee, but the Secretary agrees that it also would be important to include the State VR agency training specialist perspective. Likewise, RCEP representation was not specifically mentioned in the priority, but the Secretary agrees it should also be included.

Changes: The priority has been changed to require the inclusion of both RCEP and State agency training specialist representation on the advisory committee.

Comment: Two commenters identified specific models of leadership (e.g., Total Quality Management, the Bass Model of Transformational Leadership, or models that focus on behavioral characteristics of leadership) that should be incorporated into the activities of the leadership institute.

Discussion: The Secretary agrees that there are many excellent models of leadership training that could be incorporated into the training curricula of the institute. It is the Secretary's expectation that applicants for this institute will propose those that are most appropriate for leaders in the field of rehabilitation. Peer reviewers will consider the appropriateness of models in assessing the applications.

Changes: None.

Comment: One commenter suggested that the competition should include an efficient means for determining whether the leadership models selected for the training institute apply to the field of rehabilitation.

Discussion: As previously noted, the Secretary expects that the applicants will propose leadership models that are most appropriate for the field of rehabilitation. In addition, the Secretary points out that the selection criteria for the Short-Term Training program include ''Relevance to the State-Federal rehabilitation service program.'' Within the context of the purpose of the grant, leadership training for public vocational

rehabilitation administrators, this should adequately address the concern.

Changes: None.

Comment: Two commenters suggested specific training approaches (e.g., mentoring, distance learning, competency based training) that should be incorporated into the curriculum of leadership training.

Discussion: The Secretary agrees that there are many excellent training approaches that could be incorporated into the curriculum of the leadership institute. It is the Secretary's expectation that applicants will propose those that are most appropriate for their particular project.

Changes: None.

Comment: Two commenters suggested that training should support the needs of mid-level managers and supervisors in addition to top-level managers and administrators.

Discussion: The Secretary believes that supervisory and mid-level management training is different from leadership training—supervision and mid-level management relate more generally to improving day-to-day performance while leadership training moves groups of employees in new directions and toward realizing organizational visions. The current system of RCEPs and in-service training can provide supervisory training. The leadership institute will focus on leadership training for top-level managers and administrators.

Changes: None.

Comment: One commenter suggested that the priority should require more than one leadership institute.

Discussion: The Secretary has determined that in order to ensure consistency of training and to ensure consistent substantial involvement of the Department with the institute, one leadership institute best meets the Department's needs. The Secretary also points out that an advisory committee, jointly selected by RSA and the institute, will be selected specifically to maintain the responsiveness of the institute and to keep it current in its content and approach.

Changes: None.

Comment: One commenter suggested that the background section of the priority should recognize the need for improving processes in order to achieve high quality outcomes.

Discussion: The Secretary believes that the substance of the comment is consistent with the intent of the statements in the background section. The context of the wording makes clear that State agency emphasis should be placed on outcome. This is consistent with both the current wording of the priority and the comment.

Changes: None.

Priority

Under 34 CFR 75.105(c)(3) and section 302(a)(1) of the Rehabilitation Act of 1973, as amended, the Secretary gives an absolute preference to applications that meet the following priority. The Secretary funds under this competition only applications that meet this absolute priority:

National Rehabilitation Leadership Institute

Background

The Secretary has determined that it is in the best interest of the State VR Services program to develop one national leadership training institute that focuses on leadership skills as applied to the unique issues facing State VR agencies. Progressive levels of training are needed to meet the varying needs of top-level managers and administrators. An advisory committee will provide input into the curriculum and direction concerning which issues the institute will address. Participating State agencies will be required to provide some degree of support to the program, as determined by the institute. The institute will evaluate its performance and report on progress annually. The notice of proposed priority published on May 20, 1997 in the **Federal Register** (62 FR 27680) includes more detail on the background related to this priority.

Priority

The Secretary will establish a National Rehabilitation Leadership Institute that will focus on developing the leadership skills of top-level managers and administrators in State VR agencies. The project must have plans for addressing the leadership needs in all VR agencies funded under the Act.

The project must employ a curriculum that focuses on the development of leadership skills and on the application of those skills to current challenges and issues in the VR program. The project must be capable of structuring leadership curricula around current VR issues of national significance, such as using VR standards and indicators to assess and improve agency performance, coordinating effectively with generic employment and training programs, and increasing client choice. Actual issues will be determined by the advisory committee (described later in this notice) and the Secretary.

The project must employ a curriculum that includes several levels of training to meet the needs of audiences ranging from new State administrators and directors to seasoned administrators and directors. The project's curriculum must include sequential courses that allow for repeated practice of newly learned skills over time, with performance feedback. The project must provide training in a peer setting.

The project must coordinate its training activities with activities conducted under the State VR In-Service Training program and the Rehabilitation Continuing Education Program. These programs are also charged with improving the leadership skills of State agency personnel. Therefore, collaboration and coordination are necessary.

The project must establish an advisory committee that includes RSA central and regional office representatives, representatives of State VR agency administrators and trainers, rehabilitation counselors, VR clients, Regional Continuing Education Centers, other educators and trainers of VR personnel, and others as determined to be appropriate by the grantee and RSA. This committee must provide substantial input on and direction to the training curriculum, including the specific VR issues to be incorporated.

The project must include an evaluation component based upon clear, specific performance and outcome measures. The results must be reported in its annual progress report.

The project must provide for some degree of participant contribution to training costs.

Goals 2000: Educate America Act

The Goals 2000: Educate America Act (Goals 2000) focuses the Nation's education reform efforts on the eight National Education Goals and provides a framework for meeting them. Goals 2000 promotes new partnerships to strengthen schools and expands the Department's capacities for helping communities to exchange ideas and obtain information needed to achieve the goals.

This final priority would address the National Education Goal that every adult American will be literate and will possess the knowledge and skills necessary to compete in a global economy and exercise the rights and responsibilities of citizenship. The final priority furthers the objectives of this Goal by focussing available funds on projects that improve the leadership skills of top administrators of State VR agencies, which will improve the

responsiveness of the VR system to adults with disabilities and their vocational pursuits.

Intergovernmental Review

This program is subject to the requirements of Executive Order 12372 and the regulations in 34 CFR Part 79. The objective of the Executive order is to foster an intergovernmental partnership and a strengthened federalism by relying on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

In accordance with the order, this document is intended to provide early notification of the Department's specific plans and actions for this program.

Applicable Program Regulations

34 CFR Parts 385 and 390.

Authority: 29 U.S.C. 774.

(Catalog of Federal Domestic Assistance Number: 84.246D, Rehabilitation Short-Term Training)

Dated: July 14, 1997.

Judith E. Heumann,

Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 97–18928 Filed 7–16–97; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[CFDA No.: 84.246L]

Rehabilitation Short-Term Training; Notice Inviting Applications for New Awards for Fiscal Year (FY) 1997

Purpose of Program: The Rehabilitation Short-Term Training program provides Federal support for developing and conducting special seminars, institutes, workshops, and technical instruction in areas of special significance to the delivery of vocational, medical, social, and psychological rehabilitation services.

Eligible Applicants: States and public or nonprofit agencies and organizations, including Indian tribes and institutions of higher education, are eligible for assistance under this program.

Deadline for Transmittal of Applications: August 18, 1997.

Deadline for Intergovernmental Review: September 17, 1997.

Applications Available: July 18, 1997.

Available Funds: $250,000.

Estimated Range of Awards: $200,000–$250,000.

Estimated Average Size of Awards: $250,000.

Estimated Number of Awards: 1.

Note: The Department is not bound by any estimates in this notice.

Maximum Award: In no case does the Secretary make an award greater than $250,000 for a single budget period of 12 months. The Secretary rejects and does not consider an application that proposes a budget exceeding this maximum amount.

Project Period: Up to 60 months.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR Parts 74, 75, 77, 79, 80, 81, 82, 85, and 86; and (b) The regulations for this program in 34 CFR Parts 385 and 390.

Priority: The priority in the notice of final priority for this program, as published elsewhere in this issue of the **Federal Register**, applies to this competition.

For Applications Contact: The Grants and Contracts Services Team, U.S. Department of Education, 600 Independence Avenue, SW., Room 3317 Switzer Building, Washington, DC 20202; or call (202) 205–8351.

For Information Contact: Sylvia Johnson, U.S. Department of Education, 600 Independence Avenue, SW., Room 3320, Switzer Building, Washington, DC 20202–2649. Telephone: (202) 205–9312. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

Information about the Department's funding opportunities, including copies of application notices for discretionary grant competitions, can be viewed on the Department's electronic bulletin board (ED Board), telephone (202) 260–9950; on the Internet Gopher Server (at gopher://gcs.ed.gov;)or on the World Wide Web (at http://gcs.ed.gov). However, the official application notice for a discretionary grant competition is the notice published in the **Federal Register**.

Authority: 29 U.S.C. 774.

Dated: July 14, 1997.

Judith E. Heumann,

Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 97–18929 Filed 7–16–97; 8:45 am]

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