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Monday
August 11, 1997

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

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

Rules and Regulations

Federal Register
Vol. 62, No. 154
Monday, August 11, 1997

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Parts 1001 and 4501

RIN 3206–AG87, 3209–AA15

Supplemental Standards of Ethical Conduct for Employees of the Office of Personnel Management

AGENCY: U.S. Office of Personnel Management (OPM).

ACTION: Final rule.

SUMMARY: The U.S. Office of Personnel Management, with the concurrence of the Office of Government Ethics (OGE), is adopting as final an interim rule published July 16, 1996, issuing a final rule which supplements, for OPM employees, the executive branch-wide Standards of Ethical Conduct (Standards) issued by OGE.

EFFECTIVE DATE: August 11, 1997.

FOR FURTHER INFORMATION CONTACT: Wade Plunkett, Principal Deputy Ethics Official, U.S. Office of Personnel Management, Office of the General Counsel, 1900 E. Street, N.W., Washington, D.C. 20415–0001, Telephone: (202) 606–1700, FAX: (202) 606–2609.

SUPPLEMENTARY INFORMATION:

I. Background

On July 16, 1996, OPM published with OGE concurrence and co-signature, Supplemental Standards of Ethical Conduct for Employees of OPM as an interim rule with request for comments (61 FR 36993–36997). The interim rule was intended to supplement the Standards of Ethical Conduct for Employees of the Executive Branch (Standards) published by OGE on August 7, 1992, and effective February 3, 1993 (57 FR 35006–35067), as corrected at 57 FR 48557, 57 FR 52583, and 60 FR 51667, and amended at 61 FR 42965–42970 (as corrected at 61 FR 48733 and 61 FR 50689–50691) (interim rule revisions adopted as final at 62 FR 12531), with additional grace period extensions for certain existing agency standards of conduct, including requirements for prior approval of outside activities, at 59 FR 4779–4780, 60 FR 6390–6391, and 60 FR 66857–66858. The executive branch-wide Standards, codified at 5 CFR part 2635, establish uniform standards of ethical conduct for executive branch employees. The interim rule was issued pursuant to 5 CFR 2635.105, which authorizes executive branch agencies to publish agency-specific supplemental regulations necessary to implement their respective ethics programs. The interim rule, in new 5 CFR part 4501, contained a notice requirement designed to ensure that OPM employees do not use their official positions or nonpublic information to obtain an advantage for themselves or for certain other persons on competitive and other examinations relating to Federal service; a requirement, revised from prior 5 CFR 1001.735–203, for OPM employees to obtain prior approval before engaging in certain types of outside activities; and a cross-reference to other ethics and conduct-related statutes and regulations. With regard to 5 CFR part 1001, OPM's internal standards of conduct regulations, the interim rule also repealed that portion which had been retained on an interim basis pending issuance of OPM's supplemental standards of ethical conduct regulations and those portions which had been superseded by the new Standards or by the executive branch financial disclosure regulations issued by OGE; retained a separate Privacy Act conduct code; and added to 5 CFR part 1001 a cross-reference to ethics and other conduct-related statutes and regulations.

The interim rule requested comments and prescribed a 30-day comment period. OPM received two comments on the interim rule, one from an OPM employee and another from the President of the International Personnel Management Association. Both comments were timely. OPM has carefully considered the points made in the comments, reviewed other Federal agency rules, considered changes in Federal law since publication of the interim rule, and reexamined OPM's previous requirement for prior approval of outside employment and activity. OPM has decided to make a minor modification to the rule. With that modification, OPM, with OGE's concurrence, is now adopting as final the interim rule Supplemental Standards of Ethical Conduct for Employees of the U.S. Office of Personnel Management for codification in chapter XXXV of 5 CFR, consisting of part 4501.

II. Summary of the Comments

The employee who commented on the interim regulations asserted that OPM should have allowed more time for comment. Both commenters objected to the requirement for obtaining prior approval before engaging in certain outside activities. The employee also asserted that the regulatory definitions are confusing. The personnel management association official suggested that the prior approval requirements raise the question of whether approval of an outside activity would constitute ''sanction'' of the activity by OPM. Finally, the personnel management association official suggested that the requirement for prior approval runs counter to the spirit of an amendment to 18 U.S.C. 205.

III. Analysis of the Comments

Comment Period

The employee commenter asserted that OPM should have allowed more time for comment, stating that the changes are not ''minor'' and that it was unnecessary for the regulations to go into effect immediately. OPM was not required to publish its supplemental standards as a proposed rule or an interim rule with request for comment, but could have published the new supplemental standards as a final rule pursuant to authority at 5 U.S.C. 1103(b)(1) and 1105. OPM believes it took reasonable and appropriate steps to notify employees of the publication of the interim rule, and that an extension of the comment period is not warranted. OPM received no additional comments since August 15, 1996.

Section 4501.103 Prior Approval for Certain Outside Activities

Both commenters objected to the requirement for obtaining prior approval before engaging in certain outside activities, contained in 5 CFR 4501.103(a). The commenters perceived the requirement for prior approval of the

employee's participation, for or without compensation, in the types of outside activities set forth at 5 CFR 4501.103(a) as being unnecessary and an infringement upon the employee's freedom of speech. They assert that this is especially true with regard to the provision of professional services involving the application of the same specialized skills or the same educational background as performance of the employee's official duties (§ 4501.103(a)(1)) and teaching, speaking, and writing that relates to the employee's official duties (§ 4501.103(a)(2)), but which are conducted without compensation to the employee. The employee commenting asserted that the requirement covers activities that ''never before have been considered to be problems'' and seems designed primarily ''to ensure that the employee repeatedly affirms that he or she knows what the rules are.'' Both commenters were concerned also that the prior approval requirement involves burdensome ''red tape'' to obtain approval, would prevent the employee from speaking openly and informally in professional meetings—according to the employee, ''in some cases educating audiences about technical issues, and in others clarifying OPM policies''—and the employee thought that the requirement would effectively prohibit the professional employee from ''doing all the normal things that a professional does to maintain the role of professional.'' In OPM's view, however, prior approval for certain activities serves many legitimate functions, not the least of which is an opportunity to counsel in order to ensure that the agency and the employee are aware of potential violations of ethics laws or regulations and take appropriate steps to avoid their violation. Violations of ethics laws or regulations may occur even where the activity is performed without monetary compensation to the employee. Prior approval also provides a means of protection for the employee against subsequent adverse action by ensuring that the employee is aware of the specific applicability of ethics statutes and regulations to the proposed activity.

It would be incorrect to conclude, because the previous OPM requirement for prior approval which was in effect prior to the issuance of the OGE Standards did not expressly mention other types of activities, that other activities could not present violations of ethics laws or regulations which would require resolution.

In drafting § 4501.103(a), OPM took care to clarify the previously existing requirement in prior 5 CFR 1001.735–203 and to *narrow* its scope, consistent with the Standards. OPM's former regulations also prohibited ''[o]utside employment activity which is in violation of a statute, Executive Order, or regulation, including applicable State and local statutes and ordinances.'' 5 CFR 1001.735–203(a)(4).

Although an activity might be lawful, there could be parameters to an activity, such as restrictions upon the employee's representational activities, imposed by ethics laws and regulations, some of which have criminal sanctions. The requirement that an employee obtain prior approval was designed to ensure that the employee was aware of any such limitations.

Prior written approval from the employee's regional or staff office head was required before the employee could serve as a member of a committee or board which planned or rendered advice on training courses or programs offered by non-Government organizations, or could engage in after-hours teaching as a faculty member; receipt of compensation was not a prerequisite. See prior 5 CFR 1001.735–203 (c) and (d). Previously, prior written approval was also required before an employee ''engage[d] in any kind of outside paid employment on a substantially regular basis,'' 5 CFR 1001.735–203(f). As noted, OPM determined in its new supplemental standards to focus more narrowly the prior approval requirement. See 5 CFR 4501.103 (a)(1)–(a)(4).

Nonetheless, the former, as well as the current, provisions on outside employment and activity expressly did not preclude an employee from participating in the affairs of a ''charitable, religious, professional, social, fraternal, nonprofit educational and recreational, public service, or civil organization.'' See prior 5 CFR 1001.735–203(g)(3). The prior approval process does not seek to prevent the free exercise of an employee's rights to outside employment or speech as is evident by new 5 CFR 4501.103(c) which provides that:

> Approval shall be granted only upon a determination by the agency designee, in consultation with an agency ethics official when such consultation is deemed necessary by the agency designee, that the outside activity is not expected to involve conduct prohibited by statute or Federal regulation, including 5 CFR part 2635.

This section was included to show that the presumption is that an activity will be approved unless there is some ethical violation which must be addressed. We emphasize, further, that OPM's new rules contained in 5 CFR part 4501 are supplemental to, and intended to be read in conjunction with, the OGE Standards contained at 5 CFR part 2635. Currently, the OGE Standards at 5 CFR part 2635, subpart H, provide for some restrictions on outside activities and additionally allow for prior approval to ensure that no other existing statutes or regulations will be violated.

Insofar as comments on the interim rule have asserted that the prior approval requirement itself somehow violates employees' rights under the First Amendment of the Constitution, we point out that the requirement does not prohibit any form of expression or association. In the case of *Williams* v. *Internal Revenue Service,* 919 F.2d 745 (D.C. Cir. 1990), it was held that an agency regulation that required employees to obtain permission from the agency before engaging in outside employment and that was tailored to the Government's interest in efficiency and avoiding the appearance of impropriety, did not violate employees' First Amendment rights.

Knowledge of these Standards is the personal responsibility of every OPM employee. OPM has established an ethics point of contact in every OPM service or staff office at the central office and agency ethics officials in the Office of the General Counsel to facilitate access to ethics laws and regulations for OPM employees. However, due to the frequent complexity of ethics laws and regulations, understanding of the rules may require consultation with an agency ethics official. For this reason, OPM has endeavored to isolate and require prior approval of those types of outside activities where an ethics statute or regulation may limit the employee's activities to ensure that both the interests of the Government and the employee are protected.

The personnel management association official suggests that the prior approval requirement runs counter to a recent amendment to 18 U.S.C. 205. OPM disagrees. The Federal Employee Representation Improvement Act of 1996; Pub. L. 104–177, 110 Stat. 1563, August 6, 1996, modified 18 U.S.C. 205 to permit employee representation of employee organizations under certain circumstances. OPM published proposed regulations reflecting this amendment's impact on its 5 CFR part 251 executive branch-wide regulations on agency relationships with organizations representing Federal employees and other organizations that are not labor organizations. See 62 FR 19525 (April 22, 1997). That proposed revision to the part 251 agency relationships regulations would continue the express provision that

agency officials and employees are advised to consult with their designated agency ethics officials for guidance regarding any conflicts of interests that may arise under 18 U.S.C. 205. Moreover, the modification to section 205 permitting Federal employees to represent certain nonprofit organizations before the Government in certain circumstances is different in focus, from the separate, and consistent requirement in these supplemental standards regulations that OPM employees obtain prior approval before engaging in certain outside activities. OPM feels both regulations are consistent with current Government-wide policy and each other, and it should not revise the scope of the approval for teaching, speaking and writing which relates to official duties in this part 4501 regulation applicable to OPM employees. This authority will be exercised consistent with the provisions of 18 U.S.C. 205, as amended, and other applicable conflicts laws and regulations.

Definitions

The employee asserts that the regulations are confusing in that they refer to definitions contained elsewhere in the Code of Federal Regulations, such as definitions of ''official duties'', ''outside activity'', ''profession'', ''prohibited source'', and ''compensation'', to which, he contends, most OPM readers do not have access. The prior approval requirement regarding teaching, speaking, and writing, contained at 5 CFR 4501.103(a)(2), supplements the Office of Government Ethics Standards contained at 5 CFR 2635.801 and 2635.807. The definition of ''compensation'' is contained at 5 CFR 2635.807(a)(2)(iii). Section 4501.103(d) defines the terms ''active participant,'' ''nonpublic information,'' ''professional services,'' ''prohibited source,'' and ''relates to the employee's official duties.'' It is OPM's view that the terms necessary for employees to understand the regulation are adequately provided and cross-references are clearly stated. However, should access to the regulations pose a problem or should any other confusion exist, agency ethics officials are available to answer specific questions regarding any ethics provision's applicability to OPM employees.

Appearance of OPM Sanctioning an Outside Activity

The personnel management association official commented that the prior approval requirement raises the question of whether ''approval'' of an outside activity would constitute ''sanction'' of the activity by OPM. The agency has a legitimate interest in the teaching, making of a speech or other presentation by an agency employee on a matter that relates to the employee's official duties and which, by the manner of its presentation, could create the appearance of being the official position of OPM. However, the prior approval requirement, as previously discussed, is meant to provide an opportunity to counsel in order to ensure that the agency and employee are aware of any violation of ethics laws or regulations. It should not in any way indicate that OPM is sanctioning the activity.

In summary, OPM has determined not to modify any of the substantive provisions in adopting the interim supplemental OPM standards at 5 CFR part 4501 as final. A typographical error will be corrected as noted below.

IV. Correction of Typographical Error

OPM is correcting in this final rule a typographical error that appeared in the authority citation for part 4501 which incorrectly cites 5 CFR 2635.802 as ''2635.–802''.

Regulatory Flexibility Act

As Director of OPM, I certify that this regulation will not have significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act (5 U.S.C. chapter 6).

Paperwork Reduction Act

As Director of OPM, I have determined that the Paperwork Reduction Act (44 U.S.C. chapter 35) does not apply because this regulation does not contain any information collection requirements that require the approval of the Office of Management and Budget.

List of Subjects in 5 CFR Parts 1001 and 4501

Conflict of interests, Government employees.

Dated: July 16, 1997.

James B. King,

Director, U.S. Office of Personnel Management.

Approved: July 29, 1997.

Stephen D. Potts,

Director, Office of Government Ethics.

Accordingly, OPM is adopting the interim rule, adding 5 CFR part 4501 and amending 5 CFR part 1001, which was published at 61 FR 36993 on July 16, 1996, as a final rule with the following change.

Chapter XXXV Office of Personnel Management

PART 4501—SUPPLEMENTAL STANDARDS OF ETHICAL CONDUCT FOR EMPLOYEES OF THE OFFICE OF PERSONNEL MANAGEMENT

1. The authority citation for part 4501 is corrected to read as follows:

Authority: 5 U.S.C. 7301; 5 U.S.C. App. (Ethics in Government Act of 1978), E.O. 12674, 54 FR 15159, 3 CFR, 1989 Comp., p. 215, as modified by E.O. 12731, 55 FR 42547, 3 CFR, 1990 Comp., p. 306; 5 CFR 2635.105, 2635.702, 2635.703, 2635.802, 2635.803, 2635.805.

[FR Doc. 97–21047 Filed 8–8–97; 8:45 am]

BILLING CODE 6325–01–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 94

[Docket No. 94–106–7]

RIN 0579–AA71

Importation of Beef From Argentina; Technical Amendment

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule; technical amendment.

SUMMARY: In a final rule published in the **Federal Register** on June 26, 1997, that will be effective August 25, 1997, we amended the regulations governing the importation of meat and meat products by allowing, under certain conditions, the importation of fresh, chilled or frozen, beef from Argentina. It was our intent that the amended regulations also allow the importation of cured or cooked beef that would otherwise not be allowed importation, provided it meets the same requirements as for fresh, chilled or frozen, beef. In this amendment, we are clarifying that intent. We are also correcting the Supplementary Information of the final rule to include the date of publication and **Federal Register** citation of a document we referred to.

DATES: This amendment is effective August 25, 1997.

FOR FURTHER INFORMATION CONTACT: Dr. Gary Colgrove, Chief Staff Veterinarian, National Center for Import and Export, VS, APHIS, 4700 River Road Unit 38, Riverdale, MD 20737–1231, (301) 734–8590.

SUPPLEMENTARY INFORMATION:

Conditions for Importation of Beef From Argentina

In a final rule published in the **Federal Register** on June 26, 1997, that will be effective August 25, 1997 (62 FR 34385–34394, Docket No. 94–106–5), we amended the regulations regarding the importation of meat and meat products in 9 CFR part 94 by adding a new § 94.21 to allow, under certain specified conditions, the importation of fresh, chilled or frozen beef from Argentina. The amended regulations should also have allowed the importation of cured or cooked beef from Argentina that would not otherwise be allowed importation, provided it meets the same requirements as for fresh, chilled or frozen beef.

Until the effective date of the final rule, the only beef allowed to be imported into the United States from Argentina is beef that has been cured or cooked in accordance with § 94.4 of the regulations. Because Argentina is not listed in § 94.1 as a country in which foot-and-mouth disease (FMD) and rinderpest are not known to exist, due to continued vaccination for FMD, the requirements of § 94.4 have been considered necessary to assure that any FMD virus in the beef has been destroyed. (Rinderpest has never been known to exist in Argentina.) The curing requirements include a specific water-protein ratio that must be met, and the cooking provisions include very specific time/temperature requirements.

In our final rule, we added to the regulations a § 94.21 to allow the importation into the United States of fresh, chilled or frozen, beef from Argentina under certain conditions. We explained in the final rule that we consider the unrestricted importation of such beef from Argentina to present a low risk of introducing FMD into this country. This conclusion was based on the fact that the last outbreak of FMD occurred in Argentina in 1994, on review by the Animal and Plant Health Inspection Service (APHIS) of information submitted by the government of Argentina, and on the results of a 1994 on-site APHIS evaluation of Argentina's animal health program and an updated risk assessment recently prepared by APHIS.

As we explained in our final rule, because vaccinations for FMD in Argentina continue, and because Argentina supplements its national meat supply by importing fresh, chilled, or frozen meat of ruminants and swine from countries in which FMD is known to exist, it is necessary to impose certain conditions on the importation of fresh, chilled, or frozen beef from Argentina to ensure that the importation of such beef poses a negligible risk of the introduction of FMD into the United States. As set forth in the final rule, these conditions include certification of the following: (1) That the beef originated in Argentina; (2) that the beef came from bovines that were moved directly from the premises of origin to the slaughterhouse without any contact with other animals; (3) that the beef has not been in contact with beef from regions of greater disease risk; (4) that the beef originated from premises where FMD and rinderpest have not been present during the lifetime of any bovines slaughtered for export; (5) that the beef originated from premises on which bovines or swine have not been vaccinated with modified or attenuated live viruses for FMD or where bovines have not been vaccinated for rinderpest during the lifetime of any of the bovines slaughtered for export; (6) that the beef comes from carcasses that have been allowed to maturate at 40 to 50 °F (4 to 10 °C) for a minimum of 36 hours after slaughter and have reached a maximum pH of 5.8 in the loin muscle at the end of the maturation period; and (7) that all bone, blood clots, and lymphoid tissue have been removed from the beef.

Although we specified in the final rule that the adherence to the above conditions would reduce to a negligible level any risk that fresh, chilled or frozen beef from Argentina would introduce FMD into the United States, we did not intend to imply that beef that is not fresh, chilled or frozen, could not also be imported into the United States with negligible risk if the same conditions were met. It was our intent that beef that has been cured or cooked other than in accordance with the provisions of § 94.4 could be imported if it meets the import conditions for fresh, chilled or frozen, beef. Therefore, we are adding language to § 94.4, paragraphs (a) and (b), to clarify that intent.

Correction of Supplementary Information

In the Supplementary Information section of the June 26, 1997, final rule (Docket No. 94–106–5), we inadvertently neglected to include the publication date and **Federal Register** citation of another final rule we referred to (Docket No. 94–106–6, ''Importation of Pork from Sonora, Mexico''). In FR Doc. 97–16748 (62 FR 34385–34394), under Supplementary Information, at page 34385, third column, third line from the bottom, the words: ''countries. On June 26, 1997, we'' should have read: ''countries. On May 9, 1997, we'' and at page 34386, first column, second and third line, the words: ''State of Sonora, Mexico (62 FR (INSERT FR CITE), Docket No. 94–106–6), based'' should have read: ''State of Sonora, Mexico (62 FR 25439–25443, Docket No. 94–106–6), based'.

List of Subjects in 9 CFR Part 94

Animal diseases, Imports, Livestock, Meat and meat products, Milk, Poultry and poultry products, Reporting and recordkeeping requirements.

Accordingly, 9 CFR part 94 is amended to read as follows:

PART 94—RINDERPEST, FOOT-AND-MOUTH DISEASE, FOWL PEST (FOWL PLAGUE), EXOTIC NEWCASTLE DISEASE, AFRICAN SWINE FEVER, HOG CHOLERA, AND BOVINE SPONGIFORM ENCEPHALOPATHY: PROHIBITED AND RESTRICTED IMPORTATIONS

1. The authority citation for part 94 continues to read as follows:

Authority: 7 U.S.C. 147a, 150ee, 161, 162, and 450; 19 U.S.C. 1306; 21 U.S.C. 111, 114a, 134a, 134b, 134c, 134f, 136, and 136a; 31 U.S.C. 9701; 42 U.S.C. 4331 and 4332; 7 CFR 2.22, 2.80, and 371.2(d).

2. In § 94.4, in both paragraphs (a) and (b), the introductory text is revised to read as follows:

§ 94.4 Cured or cooked meat from countries where rinderpest or foot-and-mouth disease exists.

(a) Except for cured beef from Argentina that meets the requirements for the importation of fresh, chilled or frozen, beef as provided in § 94.21, the importation of cured meats derived from ruminants or swine, originating in any country designated in § 94.1, is prohibited unless the following conditions have been fulfilled:

* * * * *

(b) Except for cooked beef from Argentina that meets the requirements for the importation of fresh, chilled or frozen, beef as provided in § 94.21, the importation of cooked meats from ruminants or swine originating in any country where rinderpest or foot-and-mouth disease exists, as designated in § 94.1, is prohibited, except as provided in this section.

* * * * *

Done in Washington, DC, this 5th day of August 1997.

Terry L. Medley,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 97–21107 Filed 8–8–97; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

9 CFR Parts 304, 308, 310, 320, 327, 381, 416, and 417

[Docket No. 97–047N]

Availability of Guidelines for Escherichia coli Testing

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Notice of availability of revised guidelines.

SUMMARY: The Food Safety and Inspection Service (FSIS) has made revisions to the ''Guidelines for *Escherichia coli* Testing for Process Control Verification in Cattle and Swine Slaughter Establishments'' (*E. coli*-1) and ''Guidelines for *Escherichia coli* Testing for Process Control Verification in Poultry Slaughter Establishments'' (*E. coli*-2). The revised guidelines are available from FSIS.

ADDRESSES: Copies of the guidebooks are available from the Public Outreach Office, Room 1180, South Agriculture Building, 1400 Independence Avenue, SW, Washington, DC 20250–3700. To obtain a copy, please mail your request indicating the number (i.e., *E. coli*-1 or *E. coli*-2) and title of the document to the Public Outreach Office at the above address; or FAX to (202) 720–9063.

FOR FURTHER INFORMATION CONTACT: Ms. Patricia Stolfa, Assistant Deputy Administrator, Regulations & Inspection, Office of Policy, Program Development and Evaluation, Food Safety and Inspection Service at (202) 205–0699, FAX (202) 401–1760.

SUPPLEMENTARY INFORMATION: On July 25, 1996, FSIS published a final rule, ''Pathogen Reduction; Hazard Analysis and Critical Control Point (HACCP) Systems,'' (61 FR 38806). The new regulations (1) require that each establishment develop, implement, and maintain written sanitation standard operating procedures (Sanitation SOP's); (2) require regular microbial testing for generic *E. coli* by slaughter establishments to verify the adequacy of the establishments' process controls for the prevention and removal of fecal contamination and associated bacteria; (3) establish pathogen reduction performance standards for *Salmonella* that slaughter establishments and establishments producing raw ground products must meet; and (4) require that all meat and poultry establishments develop and implement a system of preventive controls designed to improve the safety of their products, known as HACCP (Hazard Analysis and Critical Control Points).

As appendices to the final rule, FSIS included guidelines for *E. coli* testing. These guidelines outline the sampling and microbial testing procedures that would meet the regulatory requirements and may be helpful to microbiologists or analytic laboratories.

On May 13, 1997, FSIS published the final rule, ''Pathogen Reduction; Hazard Analysis and Critical Control Point (HACCP) Systems,'' (62 FR 26211). In light of some revisions to the *E. coli* testing requirements, FSIS has revised the guidelines. The new guidelines, ''Guidelines for *Escherichia coli* Testing for Process Control Verification in Cattle and Swine Slaughter Establishments' (*E. coli*-1) and ''Guidelines for *Escherichia coli* Testing for Process Control Verification in Poultry Slaughter Establishments'' (*E. coli*-2), are available from FSIS (see **ADDRESSES**).

Done at Washington, DC, on: August 7, 1997.

Thomas J. Billy,

Administrator.

[FR Doc. 97–21123 Filed 8–8–97; 8:45 am]

BILLING CODE 3410–DM–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 96–AWP–33]

Amendment to Class E Airspace; Salyer Farms, CA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends the Class E airspace area at Salyer Farms, CA. The development of a Special Global Positioning System (GPS) Runway (RWY) 32 Standard Instrument Approach Procedure (SIAP) has made this action necessary. The intended effect of this action is to provide adequate controlled airspace for Instrument Flight Rules (IFR) operations at Salyer Farms Airport, Salyer Farms, CA.

EFFECTIVE DATE: 0901 UTC September 11, 1997.

FOR FURTHER INFORMATION CONTACT: Larry Tonish, Airspace Specialist, Airspace Branch, AWP–520, Air Traffic Division, Western-Pacific Region, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, California 90261, telephone (310) 725–6555.

SUPPLEMENTARY INFORMATION:

History

On June 9, 1997, the FAA proposed to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) by amending the Class E airspace area at Salyer Farms, CA (62 FR 31371). This action will provided adequate controlled airspace to accommodate the Special GPS RWY 32 SIAP at Salyer Farms Airport, Salyer Farms, CA.

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

The Rule

This amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) amends the Class E airspace area at Salyer Farms, CA. The development of a Special GPS SIAP has made this action necessary. The intended effect of this action is to provide adequate airspace for aircraft executing the Special GPS RWY 32 SIAP at Salyer Farms Airport, Salyer Farms, CA.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this regulation—(1)

is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 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. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 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 area extending upward from 700 feet or more above the surface of the earth.

* * * * *

AWP CA E5 Salyer Farms, CA [Revised]

Salyer Farms Airport, CA
(Lat. 36°05′20″ N, long. 119°32′33″ W)
Salyer Farms RBN
(Lat. 36°05′05″ N, long. 119°32′43″ W)
El Rico Airport, CA
(Lat. 36°02′45″ N, long. 119°38′48″ W)

That airspace extending upward from 700 feet above the surface within a 6.6-mile radius of Salyer Farms Airport and within 2 miles each side of the 151° bearing from the Salyer Farms Radio Beacon extending from the 6.6-miles radius to 8.3 miles southeast of the Salyer Farms Radio Beacon, excluding that airspace with a 1-mile radius of El Rico Airport.

* * * * *

Issued in Lost Angeles, California on July 17, 1997.

Sabra W. Kaulia,

Assistant Manager, Air Traffic Division, Western-Pacific Region.

[FR Doc. 97–21042 Filed 8–8–97; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 520

Oral Dosage Form New Animal Drugs; Moxidectin Gel

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a new animal drug application (NADA) filed by Fort Dodge Animal Health. The NADA provides for oral use of moxidectin gel for horses and ponies for treatment and control of infections of certain gastrointestinal parasites.

EFFECTIVE DATE: August 11, 1997.

FOR FURTHER INFORMATION CONTACT: Melanie R. Berson, Center for Veterinary Medicine (HFV–110), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–594–1612.

SUPPLEMENTARY INFORMATION: Fort Dodge Animal Health, Division of American Home Products Corp., 800 Fifth Street NW., P.O. Box 518, Fort Dodge, IA 50501, filed original NADA 141–087 that provides for use of Quest™ moxidectin 2 percent oral gel in horses and ponies at 0.4 milligram moxidectin per kilogram of body weight for treatment and control of infections of certain large strongyles, small strongyles (adult and larvae), encysted cyathostomes, ascarids, pinworms, hairworms, large-mouth stomach worms, and horse stomach bots, and for supression of small strongyle egg production for 84 days. The NADA is approved as of July 11, 1997, and the regulations are amended by adding new 21 CFR 520.1452 to reflect the approval. The basis for approval is discussed in the freedom of information summary.

In accordance with the freedom of information provisions of 21 CFR part 20 and 514.11(e)(2)(ii), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday.

Under section 512(c)(2)(F)(ii) of the Federal Food, Drug, and Cosmetic Act, this approval qualifies for 3 years of marketing exclusivity beginning July 11, 1997, because the application contains substantial evidence of the effectiveness of the drug involved, any studies of animal safety or, in the case of food-producing animals, human food safety studies (other than bioequivalence or residue studies) required for approval of the application and conducted or sponsored by the applicant.

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

List of Subjects in 21 CFR Part 520

Animal drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under the authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 520 is amended as follows:

PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS

1. The authority citation for 21 CFR part 520 continues to read as follows:

Authority: Sec. 512 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b).

2. New § 520.1452 is added to read as follows:

§ 520.1452 Moxidectin gel.

(a) *Specifications.* The gel contains 2 percent moxidectin (20 milligrams per milliliter).

(b) *Sponsor.* See No. 000856 in § 510.600(c) of this chapter.

(c) [Reserved]

(d) *Conditions of use*—(1) *Amount.* 0.4 milligram moxidectin per kilogram (2.2 pounds) of body weight.

(2) *Indications for use.* Horses and ponies for treatment and control of large strongyles (*Strongylus vulgaris* (adults and L4/L5 arterial stages), *S. edentatus* (adult and tissue stages), *Triodontophorus brevicauda* (adults), *T. serratus* (adults)); small strongyles (*Cyathostomum* spp. (adults), *Cylicocyclus* spp. (adults), *Cylicostephanus* spp. (adults), *Gyalocephalus capitatus* (adults), undifferentiated lumenal larvae); encysted cyathostomes (late L3 and L4 mucosal cyathostome larvae); ascarids (*Parascaris equorum* (adults and L4 larval stages)); pinworms (*Oxyuris equi* (adults and L4 larval stages)), hairworms (*Trichostrongylus axei* (adults)), large-

mouth stomach worms (*Habronema muscae* (adults)), and horse stomach bots (*Gasterophilus intestinalis* (2nd and 3rd instars)). One dose also supresses small strongyle egg production for 84 days.

(3) *Limitations.* For horses and ponies including breeding mares and stallions. Not for use in horses and ponies intended for food. Consult your veterinarian for assistance in the diagnosis, treatment, and control of parasitism.

Dated: August 1, 1997.

Stephen F. Sundlof,

Director, Center for Veterinary Medicine.

[FR Doc. 97–21086 Filed 8–8–97; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

23 CFR Part 772

[FHWA Docket No. 96–26: FHWA–97–2348]

RIN 2125–AD97

Procedures for Abatement of Highway Traffic Noise and Construction Noise

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Final rule.

SUMMARY: The FHWA is adopting, as final, a current interim final rule that revises the FHWA regulation that allows Federal participation for Type II noise abatement projects—that is, proposed Federal or Federal-aid highway projects for noise abatement on an existing highway. This final rule restricts Federal participation for Type II projects to those that were approved before the date of enactment of the National Highway System Designation Act of 1995 (NHS) (Pub. L. 104–59, 109 Stat. 605) or are proposed along lands that were developed or were under substantial construction before approval of the acquisition of the rights-of-way for, or construction of, an existing highway.

EFFECTIVE DATE: September 30, 1996.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Armstrong, Office of Environment and Planning, (202) 366–2073, or Mr. Robert Black, Office of the Chief Counsel, (202) 366–1359, Federal Highway Administration, 400 Seventh Street, SW., Washington, DC 20590.

SUPPLEMENTARY INFORMATION: On August 29, 1996, the FHWA published an interim final rule along with a request for comments in the **Federal Register** (61 FR 45319) as a means of implementing changes in 23 CFR part 772 for Type II project eligibility. The interim rule prohibits Federal participation in Type II projects unless development predated the existence of any highway.

Discussion of Comments

The public comment period for the interim final rule closed on November 27, 1996. The FHWA received two comments from the Illinois Department of Transportation. The response concerning this interim final rule is available for review at the U.S. DOT Dockets, Room PL–401, 400 Seventh Street, SW., Washington, DC 20590.

The first comment noted that the FHWA went beyond the changes called for by the NHS Act by indicating that ''[n]oise abatement measures will not be approved at locations where such measures were previously determined not to be reasonable and feasible for a Type I project.'' The comment stated that there is no basis in the NHS legislation for this change and questioned the appropriateness of ruling out the possibility of FHWA participation in a Type II project on this basis.

It was the intent of the NHS legislation to prohibit Federal participation in the construction of Type II noise barriers in instances where proper consideration has not been given to highway traffic noise concerns and issues during the local growth and development process, *i.e.*, growth and development has occurred after a highway was constructed and has created unmitigated traffic noise impacts. This intent was meant to limit Federal expenditures for Type II noise barriers.

The questioned statement is meant to place increased emphasis on the importance of noise-compatible land use planning at the State and local level. Highway traffic noise should be reduced through a program of shared responsibility. Thus, the FHWA encourages State and local governments to practice compatible land use planning and control in the vicinity of highways. Local governments should use their power to regulate land development in such a way that either noise-sensitive land uses are prohibited from being located adjacent to a highway, or developments are planned, designed, and constructed to minimize noise impacts. The challenged statement has been left unchanged.

The second comment noted that, while the NHS legislation specifically refers to limiting Federal participation in the construction of Type II noise barriers, revised § 772.13 limits Federal participation in ''noise abatement measures,'' a broader term that exceeds the clear language of the NHS legislation. As was the case above, the wording ''noise abatement measures'' in revised § 772.13 was used to meet the intent of the NHS legislation to generally prohibit Federal Type II expenditures in instances where proper consideration has not been given to highway traffic noise concerns and issues during the local growth and development process. Therefore, no change has been made in the final rule.

Rulemaking Analyses and Notices

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

The FHWA has determined that this action is not a significant regulatory action within the meaning of Executive Order 12866 or significant within the Department of Transportation Regulatory Policies and Procedures. The amendment clarifies some of the requirements for Federal participation in noise abatement projects for the 17 States that have constructed at least one Type II noise barrier. It is anticipated that the economic impact of the rulemaking will be minimal; therefore, a full regulatory evaluation is not required.

Regulatory Flexibility Act

In compliance with the Regulatory Flexibility Act (5 U.S.C. 601–612), the FHWA has evaluated the effects of this rule on small entities. Based on the evaluation, the FHWA hereby certifies that this action will not have a significant economic impact on a substantial number of small entities. The amendment deals only with the eligibility of certain State highway noise abatement projects for Federal participation. As such, it affects only State highway agencies and not small entities.

Executive Order 12612 (Federalism Assessment)

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that this action does not have sufficient federalism implications to warrant the preparation of a federalism assessment. It does not impose any new obligation or requirement on a State. It does not affect the amount of Federal transportation funds that go to a State. A State is not required to have a Type II Noise Program. A State may still expend its own funds on a noise abatement project.

Executive Order 12372 (Intergovernmental Review)

Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.

Paperwork Reduction Act

This action does not contain a collection of information requirement for purposes of the Paperwork Reduction Act of 1995, 44 U.S.C. 3501 *et seq.*

National Environmental Policy Act

The agency has analyzed this action for the purposes of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*) and has determined that this action would not have any effect on the environment.

Regulation Identification Number

A regulation identification number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN number contained in the heading of this document can be used to cross reference this action with the Unified Agenda.

List of Subjects in 23 CFR Part 772

Highways and roads, Noise control.

PART 772—PROCEDURES FOR ABATEMENT OF HIGHWAY TRAFFIC NOISE AND CONSTRUCTION NOISE

In consideration of the foregoing and under the authority of 23 U.S.C. 109(h), 42 U.S.C. 4331, sec. 339(b) of Pub. L. 104–59, 109 Stat. 568, 605, and 49 CFR 1.48(b), the interim final rule amending 23 CFR Part 772 which was published at 61 FR 45319 on August 29, 1996, is adopted as a final rule without change.

Issued on: August 1, 1997.

Jane F. Garvey,

Acting Administrator.

[FR Doc. 97–21122 Filed 8–8–97; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 199

[DoD 6010.8–R]

Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); Program for Persons With Disabilities; Basic Program

AGENCY: Department of Defense.

ACTION: Final rule; administrative corrections.

SUMMARY: The Department of Defense published a final rule concerning the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS) on June 30, 1997 (62 FR 35086). There were incorrect amendments published to the Program for Persons with Disabilities section of the CHAMPUS rule. This document corrects the administrative error.

EFFECTIVE DATES: October 28, 1997.

FOR FURTHER INFORMATION CONTACT: Mr. M. Kottyan, telephone 303–361–1120.

SUPPLEMENTARY INFORMATION:

List of Subjects in 32 CFR Part 199

Administrative practice and procedures, Claims, Fraud, Health care, Health insurance, Individuals with disabilities, Military personnel.

Accordingly, 32 CFR part 199 is amended to read as follows:

PART 199—[AMENDED]

1. The authority citation for 32 CFR part 199 continues to read as follows:

Authority: 5 U.S.C. 301; 10 U.S.C. chapter 55.

2. Section 199.5 is amended by revising paragraph (b)(1)(iii) and paragraphs (e)(2) through (e)(4) to read as follows:

§ 199.5 Program for Persons with Disabilities (PFPWD).

* * * * *

(b) * * *

(1) * * *

(iii) *Deceased sponsor.* A CHAMPUS beneficiary remains eligible for benefits under the PFPWD:

(A) For a period of one calendar year from the date an active duty sponsor dies; or

(B) Through midnight of the beneficiary's twenty-first birthday when the beneficiary is receiving PFPWD benefits at the time the active duty sponsor dies and the sponsor was eligible, at the time of death, for receipt of hostile-fire pay or died as a result of a disease or injury incurred while eligible for such pay.

* * * * *

(e) * * *

(2)(i) *Sponsor cost-share liability.* Regardless of the number of PFPWD eligible family members, the sponsor's cost share for allowed PFPWD benefits in a given month is according to the following table:

Member's pay grade	Monthly share
E–1 through E–5	$25
E–6	30
E–7 and O–1	35
E–8 and O–2	40
E–9, W–1, W–2, and O–3	45
W–3, W–4, and O–4	50
W–5 and O–5	65
O–6	75
O–7	100
O–8	150
O–9	200
O–10	250

(ii) The sponsor's cost-share will be applied, up to the amount given in the table in paragraph (e)(2)(i), to the first allowed charges in any given month. The government's share will be paid, up to the maximum amount(s) specified in paragraphs (e)(3) and (e)(4) of this section for allowed charges after the sponsor's cost-share has been applied.

(3) *Government cost-share liability: member who sponsors one PFPWD beneficiary.* The total government share of the cost of all PFPWD benefits provided in a given month to a beneficiary who is the sponsor's only PFPWD eligible family member may not exceed $1,000 after application of the allowable payment methodology. Any amount remaining after the Government's maximum share has been reached is the responsibility of the active duty sponsor.

(4) *Government cost-share liability: member who sponsors more than one PFPWD beneficiary.* The total government share of the cost of all PFPWD allowable benefits provided in a given month to a beneficiary who is one of two or more PFPWD eligible family members of the same sponsor shall be determined as follows:

(i) *Maximum benefit limit determination for the first PFPWD eligible beneficiary.* The $1,000 maximum monthly government PFPWD benefit amount shall apply only to the beneficiary incurring the least amount of allowable PFPWD expense in a given month, after application of the allowable payment methodology. If two or more PFPWD eligible beneficiaries have the same amount of allowable PFPWD expenses in a given month, the

$1,000 maximum benefit in that month shall apply to only one PFPWD eligible beneficiary.

(ii) *Maximum benefit limit determination for the remaining PFPWD eligible beneficiaries.* After application of the Government's cost-share specified in paragraph (e)(4)(i) of this section, the government shall cost-share the entire remaining amount for all allowable services and items received in that month by the remaining PFPWD eligible beneficiaries.

* * * * *

Dated: August 5, 1997.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 97–21088 Filed 8–8–97; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 199

[DoD 6010.8–R]

Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); Extension of the Active Duty Dependents Dental Plan to Overseas Areas; Correction

AGENCY: Department of Defense.

ACTION: Final rule; administrative corrections.

SUMMARY: The Department of Defense published a final rule concerning the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS) on July 25, 1997 (62 FR 39940). This document corrects the administrative error for clarity.

EFFECTIVE DATE: August 25, 1997.

FOR FURTHER INFORMATION CONTACT: Mr. G. Zimmerman, telephone 703–695–3331

Accordingly, the **SUMMARY** and **SUPPLEMENTARY INFORMATION** for the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); Extension of the Active Duty Dependents Dental Plan to Overseas Areas interim final rule is amended as follows:

1. The **SUMMARY** is amended, last sentence, by revising ''active sponsors while overseas'' to read ''active duty sponsors overseas.''

2. The **SUPPLEMENTARY INFORMATION** section, second column, third paragraph, third sentence is amended by revising ''beneficiaries will be requested'' to read ''beneficiaries will be required''.

Dated: August 5, 1997.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 97–21087 Filed 8–8–97; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 247

[RIN 0790–AG37]

Department of Defense Newspapers, Magazines and Civilian Enterprise Publications

AGENCY: Office of the Secretary of Defense, DoD.

ACTION: Final rule.

SUMMARY: This rule revises and provides DoD policy and updates procedures to meet changed circumstances for publishing DoD internal command information newspapers, magazines and civilian enterprise publications. It has minimal impact on some civilian printers who are contracted to print the publications.

EFFECTIVE DATE: June 16, 1997.

FOR FURTHER INFORMATION CONTACT: Lieutenant Colonel Wayne White, USA, (703) 428–0629.

SUPPLEMENTARY INFORMATION: On February 3, 1997, (62 FR 4947) DoD published a proposed rule with public comment period. No comments were received.

Executive Order 12866, ''Regulatory Planning and Review''

It has been determined that 32 CFR part 247 is not a significant regulatory action. The rule does not:

(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 this Executive Order.

Public Law 96–354, ''Regulatory Flexibility Act'' (5 U.S.C. 601)

It has been certified that this rule is not subject to the Regulatory Flexibility Act (5 U.S.C. 601) because it would not, if promulgated, have a significant economic impact on a substantial number of small entities.

Public Law 96–511, ''Paperwork Reduction Act'' (44 U.S.C. Chapter 44)

It has been certified that 32 CFR part 247 does not impose any reporting or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35).

List of Subjects in 32 CFR Part 247

Defense communications, Government publications, Newspapers and magazines.

Accordingly, 32 CFR part 247 is revised to read as follows:

PART 247—DEPARTMENT OF DEFENSE NEWSPAPERS, MAGAZINES AND CIVILIAN ENTERPRISE PUBLICATIONS

Sec.

Authority: 10 U.S.C. 121 and 133.

§ 247.1 Purpose.

This part implements DoD Directive 5122.10 [1] and implements policy, assigns responsibilities, and prescribes procedures concerning authorized DoD Appropriated Funded (APF) newspapers and magazines, and Civilian Enterprise (CE) newspapers, magazines, guides, and installation maps in support of the DoD Internal Information Program.

§ 247.2. Applicability.

This part:

(a) Applies to the Office of the Secretary of Defense (OSD), the Military Departments, the Chairman of the Joint

[1] Copies may be obtained, at cost, from the National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22121.

Chiefs of Staff, the Combatant Commands, the Defense Agencies, and the DoD Field Activities (hereafter referred to collectively as ''the DoD Components''). The term ''Military Services,'' as used herein, refers to the Army, the Navy, the Air Force, the Marine Corps, and includes the Coast Guard when operating as a Military Service in the Navy. The term Commander, as used herein, also means Heads of the DoD Components.

(b) Does not apply to the *Stars and Stripes (S&S)* newspapers and business operations. *S&S* guidance is provided in DoD Directive 5122.11.[2]

(c) The term Commander, as used in this part, also means Heads of the DoD Components.

§ 247.3 Definitions.

Civilian Enterprise (CE) guides and installation maps. Authorized publications containing advertising that are prepared and published under contract with commercial publishers. The right to circulate the advertising in these publications to the DoD readership constitutes contractual consideration to pay for these DoD publications. The publications become the property of the command, installation, or intended recipient upon delivery in accordance with terms of the contract. Categories of these publications are:

(1) *Guides.* Publications that provide DoD personnel with information about the mission of their command; the availability of command, installation, or community services; local geography; historical background; and other information. These publications may include installation telephone directories at the discretion of the commander.

(2) *Installation maps.* Publications designed for orientation of new arrivals or for visitors.

CE publications. CE newspapers, CE magazines, CE guides and installation maps produced commercially under the CE concept.

DoD newspapers. Authorized, unofficial publications, serving as part of the commander's internal information program, that support DoD command internal communication requirements. Usually, they are distributed weekly or monthly. DoD newspapers contain most, if not all, of the following elements to communicate with the intended DoD readership: command, military department, and DoD news and features; commanders' comments; letters to the editor; editorials; commentaries; features; sports; entertainment items; morale, welfare, and recreation news and announcements; photography; line art; and installation and local community news and announcements. DoD newspapers do not necessarily reflect the official views of, or endorsement of content by, the Department of Defense.

(1) *CE newspapers.* Newspapers published by commercial publishers under contract with the DoD Components or their subordinate commands. The commander or public affairs office provides oversight and final approval authority for the news and editorial content of the paper. Authorized news and information sources include the Office of the Assistant Secretary of Defense for Public Affairs (OASD(PA)), AFIS, the Military Departments, their subordinate levels of command, and other Government Agencies. CE contractor personnel may provide material for use in the newspaper if approved by the commander or public affairs officer (PAO), as the commander's representative. These newspapers contain advertising sold by the commercial publisher on the same basis as for CE guides and installation maps and may contain supplements or inserts. They become the property of the command, installation, or intended recipient upon delivery in accordance with terms of the contract.

(2) *Funded newspapers.* Newspapers published by the DoD Components or their subordinate commands using appropriated funds. The editorial content of these newspapers is prepared by the internal information section of the public affairs staff or other internal sources. Usually, these newspapers are printed by the Government Printing Office (GPO) or under GPO contract in accordance with Government printing regulations. DoD Directive 5330.3[3] specifies DPS as the sole DoD conduit to the GPO.

(3) *Overseas Combatant Command newspapers.* Newspapers published for overseas audiences approved by the Assistant Secretary of Defense for Public Affairs (ASD(PA)) to provide world, U.S., and regional news from commercial sources, syndicated columns, editorial cartoons, and applicable U.S. Government, Department of Defense, Component, and subordinate command news and information.

(4) *News bulletins and summaries.* Publications of deployed or isolated commands and ships compiled from national and international news and opinion obtained from authorized sources. News bulletins or summaries may be authorized by the next higher level of command when no daily English language newspapers are readily available.

Inserts. A flier, circular, or freestanding advertisement placed within the folds of the newspaper. No disclaimer or other labeling is required.

Magazines. Authorized, unofficial publications, serving as part of the commander's internal information program. They are produced and distributed periodically, usually monthly, and contain information of interest to personnel of the publishing DoD component or organization. They usually reflect a continuing policy as to purpose, format, and content. They are normally non-directive in nature and are published to inform, motivate, and improve the performance of the personnel and organization. They may be published as funded magazines or under the CE concept.

Option. A unilateral right in a contract by which, for a specified time, the Government may elect to acquire additional supplies or services called for by the contract, or may elect to extend the term of the contract.

Organizational terms. (1) *Command.* A unit or units, an organization, or an area under the command of one individual. It includes organizations headed by senior civilians that require command internal information-type media.

(2) *DoD Components.* See § 247.2 (a).

(3) *Installation.* A DoD facility or ship that serves as the base for one or more commands. Media covered by this Part may serve the command communication needs of one or several commands located at one installation.

(4) *Major command.* A designated command such as the Air Mobility Command or the Army Forces Command that serves as the headquarters for subordinate commands or installations that have the same or related missions.

(5) *Subordinate levels.* Lower levels of command.

Publications. As used in this part, ''publications'' refers to DoD newspapers, magazines, guides and/or installation maps serving the commander's internal information program published in both paper and electronic format, including digital printing.

Supplements. Features, advertising sections, or morale, welfare and recreation sections printed with or inserted into newspapers for distribution. Supplements must be labeled ''Supplement to the (name of newspaper).'' Editorial content in

[2] See footnote 1 to § 247.1.

[3] See footnote 1 to § 247.1.

supplements is subject to approval by the commander or the PAO as his or her agent.

§ 247.4 Policy.

It is DoD policy that:

(a) A free flow of news and information shall be provided to all DoD personnel without censorship or news management. The calculated withholding of news unfavorable to the Department of Defense is prohibited.

(b) News coverage and other editorial content in DoD publications shall be factual and objective. News and headlines shall be selected using the dictates of good taste. Morbid, sensational, or alarming details not essential to factual reporting shall be avoided.

(c) DoD publications shall distinguish between fact and opinion, both of which may be part of a news story. When an opinion is expressed, the person or source shall be identified. Accuracy and balance in coverage are paramount.

(d) DoD publications shall distinguish between editorials (command position) and commentaries (personal opinion) by clearly identifying them as such.

(e) News content in DoD publications shall be based on releases, reports, and materials provided by the DoD Components and their subordinate levels, DoD newspaper staff members, and other government agencies. DoD publications shall credit sources of all material other than local, internal sources. This includes, but is not limited to, Military Department news sources, American Forces Information Service, and command news releases.

(f) DoD publications may contain articles of local interest to installation personnel produced outside official channels (e.g., stringers, local organizations), provided that the author's permission has been obtained, the source is credited, and they do not otherwise violate this part.

(g) DoD publications normally shall not be authorized the use of commercial news and opinion sources, such as Associated Press (AP), United Press International (UPI), New York Times, etc., except as stated in this paragraph and the following paragraph. The use of such sources is beyond the scope of the mission of command or installation publications and puts them in direct competition with commercial publications. The use of such sources may be authorized for a specific DoD newspaper by the cognizant DoD Component only when other sources of national and international news and opinion are not available.

(h) Overseas Combatant Command newspapers published outside the United States may purchase or contract for and carry news stories, features, syndicated columns, and editorial cartoons from commercial services or sources. A balanced selection of commercial news or opinion shall appear in the same issue and same page, whenever possible, but in any case, over a reasonable time period. Selection of commercial news sources, syndicated columns, and editorial cartoons to be purchased or contracted for shall be approved by the Commanders. Overseas Combatant Command newspapers, news bulletins, and news summaries authorized to carry national and world news may include coverage of U.S. political campaign news from commercial news sources. Presentation of such political campaign news shall be made on a balanced, impartial, and nonpartisan basis.

(i) The masthead of all DoD publications shall contain the following disclaimer printed in type no smaller than 6-point: ''This (DoD newspaper, magazine, guide or installation map) is an authorized publication for members of the Department of Defense. Contents of (name of the DoD newspaper/magazine/this guide/this installation map) are not necessarily the official views of, or endorsed by, the U.S. Government, the Department of Defense, or (the name of the publishing DoD Component).''

(j) The masthead of DoD CE publications shall contain the following statements in addition to that contained in paragraph (i) of this section:

(1) ''Published by (name), a private firm in no way connected with the (Department of Defense/the U.S. Army/the U.S. Navy/the U.S. Air Force/the U.S. Marine Corps) under exclusive written contract with (DoD Component or subordinate level).''

(2) ''The appearance of advertising in this publication, including inserts or supplements, does not constitute endorsement by the (Department of Defense/the U.S. Army/the U.S. Navy/the U.S. Air Force/the U.S. Marine Corps), or (name of commercial publisher) of the products or services advertised.''

(3) ''Everything advertised in this publication shall be made available for purchase, use, or patronage without regard to race, color, religion, sex, national origin, age, marital status, physical handicap, political affiliation, or any other nonmerit factor of the purchaser, user, or patron.'' If a violation or rejection of this equal opportunity policy by an advertiser is confirmed, the publisher shall refuse to print advertising from that source until the violation is corrected.

(k) DoD publications shall not contain campaign news, partisan discussions, cartoons, editorials, or commentaries dealing with political campaigns, candidates, issues, or which advocate lobbying elected officials on specific issues. DoD CE publications shall not carry paid political advertisements for a candidate, party, which advocate a particular position on a political issue, or which advocate lobbying elected officials on a specific issue. This includes those advertisements advocating a position on any proposed DoD policy or policy under review.

(l) DoD newspapers shall support the Federal Voting Assistance Program by carrying factual information about registration and voting laws, especially those on absentee voting requirements of the various States, the District of Columbia, Puerto Rico, and U.S. territories and possessions. DoD newspapers shall use voting materials provided by the Director, Federal Voting Assistance Program; the OSD; and the Military Departments. Such information is designed to encourage DoD personnel to register as voters and to exercise their right to vote as outlined in DoD Directive 1000.4.[4]

(m) DoD publications shall comply with DoD Instruction 1100.13[5] pertaining to polls, surveys, and straw votes.

(1) The DoD Components and subordinate levels may authorize polls on matters of local interest, such as soldier of the week, and favorite athlete.

(2) A DoD publication shall not conduct a poll, a survey, or a straw vote relating to a political campaign or issue.

(3) Opinion surveys must be in compliance with Military Service regulations.

(n) DoD newspapers will support officially authorized fund-raising campaigns (e.g., Combined Federal Campaign (CFC)) within the Department of Defense in accordance with DoD Directive 5035.1.[6] News coverage of the campaign will not discuss monetary goals, quotas, competition or tallies of solicitation between or among agencies. To avoid any appearance of endorsement, features and news coverage will discuss the campaign in general and not promote specific agencies within the CFC. Agencies may be mentioned routinely but must not be a main focus of features and news coverage.

(o) DoD publications shall not:

(1) Contain any material that implies that the DoD Components or their

[4] See footnote 1 to § 247.1.

[5] See footnote 1 to § 247.1.

[6] See footnote 1 to § 247.1.

subordinate levels endorse or favor a specific commercial product, commodity, or service.

(2) Subscribe, even at no cost, to a commercial or feature wire or other service whose primary purpose is the advertisement or promotion of commercial products, commodities, or services.

(3) Carry any advertisement that violates or rejects DoD equal opportunity policy. (See paragraph (j)(3) of this section).

(p) All commercial advertising, including advertising supplements, shall be clearly identifiable as such. Paid advertorials and advertising supplements may be included but must be clearly labeled as advertising and readily distinguishable from editorial content.

(q) Alteration of official photographic and video imagery will comply with DoD Directive 5040.5.[7]

(r) Commercial sponsors of Armed Forces Professional Entertainment Program events and morale, welfare and recreation events may be mentioned routinely with other pertinent facts in news stories and announcements in DoD newspapers. (See DoD Instructions 1330.13[8] and 1015.2.[9]

(s) Book, radio, television, movie, travel, and other entertainment reviews may be carried if written objectively and if there is no implication of endorsement by the Department of Defense or any of its Components or their subordinate levels.

(t) All printing using appropriated funds will be obtained in accordance with DoD Directive 5330.3.

(u) Although DoD internet web sites are normally discouraged from linking to commercial activities, the commander may authorize an installation web site to be linked to the web site carrying the authorized civilian enterprise publication.

§ 247.5 Responsibilities.

(a) The Assistant Secretary of Defense for Public Affairs, consistent with DoD Directive 5122.5,[10] shall:

(1) Develop policies and provide guidance on the administration of the DoD Internal Information Program.

(2) Provide policy and operational direction to the Director, AFIS.

(3) Monitor and evaluate overall mission effectiveness within the Department of Defense for matters under this part.

(b) The Director, American Forces Information Service, shall:

(1) Develop and oversee the implementation of policies and procedures pertaining to the management, content, and publication of DoD publications encompassed by this part.

(2) Serve as DoD point of contact with the Joint Committee on Printing, Congress of the United States, for matters under this part.

(3) Serve as the DoD point of contact in the United States for Combatant Command newspaper matters.

(4) Provide guidance to the Combatant Commands, Military Departments, and other DoD Components pertaining to DoD publications.

(5) Monitor effectiveness of business and financial operations of DoD publications and provide business counsel and assistance, as appropriate.

(6) Sponsor a DoD Interservice Newspaper Committee and a Flagship Magazine Committee composed of representatives of the Military Departments to coordinate matters on publications encompassed by this part and flagship magazine matters, respectively.

(7) Provide a press service for joint-Service news and information for use by authorized DoD publication editors.

(c) The Secretaries of the Military Departments shall:

(1) Provide policy guidance and assistance to the Department's publications.

(2) Encourage the use of CE publications when they are the most cost-effective means of fulfilling the command communication requirement.

(3) Ensure that adequate resources are available to support authorized internal information products under this part.

(4) Designate a member of their public affairs staff to serve on the DoD Interservice Newspaper Committee.

(5) Ensure all printing obtained with appropriated funds complies with DoD Directive 5330.3.

(d) The Commanders of Combatant Commands shall:

(1) Publish Combatant Command newspapers, if authorized. In discharging this responsibility, the Commander shall ensure that policy, direction, resources, and administrative support are provided, as required, to produce a professional quality newspaper to support the command mission.

(2) Ensure that the newspaper is prepared to support U.S. forces in the command area during contingencies and armed conflict.

§ 247.6 Procedures.

(a) *General.* (1) National security information shall be protected in accordance with DoD Directive 5200.1[11] and DoD 5200.1–R.[12]

(2) Specific items of internal information of interest to DoD personnel and their family members prepared for publication in DoD publications may be made available to requesters if the information can be released as provided in DoD Directive 5400.7[13] and DoD 5400.1–R.[14]

(3) Editorial policies of DoD publications shall be designed to improve the ability of DoD personnel to execute the missions of the Department of Defense.

(4) DoD editors of publications covered under this part shall conform to applicable policies, regulations, and laws involving the collection, processing, storage, use, publication and distribution of information by DoD Components (e.g., libel, photographic image alteration, copyright, sexually explicit materials, classification of information, protection of sensitive information and U.S. Government printing and postal regulations).

(5) DoD publications shall comply with DoD Directive 5400.11[15] regarding the DoD privacy program.

(b) *Establishment of DoD newspapers.* (1) Commanders are authorized to establish Funded newspapers (Appendix A to this part) or CE newspapers (Appendix B to this part) when:

(i) A valid internal information mission requirement exists.

(A) Command or installation newspapers provide the commander a primary means of communicating mission-essential information to members of the command. They provide feedback through such forums as letters to the editor columns. This alerts the commander to the emotional status and state of DoD knowledge of the command. The newspaper is used as a return conduit for command information to improve attitudes and increase knowledge.

(B) News reports and feature stories on individuals and organizational elements of the command provides a crossfeed of DoD information, which improves internal cooperation and mission performance. Recognition of excellence in individual or organizational performance motivates and sets forth expected norms for mission accomplishment.

(C) The newspaper improves morale by quelling rumors and keeping

[7] See footnote 1 to § 247.1.

[8] See footnote 1 to § 247.1.

[9] See footnote 1 to § 247.1.

[10] See footnote 1 to § 247.1.

[11] See footnote 1 to § 247.1.

[12] See footnote 1 to § 247.1.

[13] See footnote 1 to § 247.1.

[14] See footnote 1 to § 247.1.

[15] See footnote 1 to § 247.1.

members informed on DoD information that will affect their futures. It provides information and assistance to family members, which improve their spirits and thereby the effectiveness of their military service and/or civilian member. The newspaper encourages participation in various positive leisure-time activities to improve morale and deter alcohol abuse and other pursuits that impair their ability to perform.

(D) The newspaper provides information to make command members aware of the hazards of the abuse of drugs and other substances, and of the negative impact that substance abuse has on readiness.

(E) CE newspapers provide advertisements that guide command members to outlets where they may fulfill their purchasing needs. A by-product of this commercial contact is increased installation-community communication, which enhances mutual support.

(F) The newspaper increases organizational cohesiveness and effectiveness by providing a visual representation of the essence of the command itself.

(G) Good journalistic practices are vital, but are not an end unto themselves. They are the primary means to enhance receptivity of command communication through the newspaper.

(H) The newspaper exists to facilitate accomplishment of the command or installation mission. That is the only basis for the expenditure of DoD resources to produce them.

(ii) A newspaper is determined by the commander and the next higher level of command to be the most cost-effective means of fulfilling the command internal communication requirement.

(2) The use of appropriated funds is authorized to establish a Funded newspaper if a CE newspaper is not feasible. The process of establishing a newspaper must include an investigation of the feasibility of publishing under the CE concept. This investigation must include careful consideration of the potential for real or apparent conflict of interest. If publishing under the CE concept is determined to be feasible, commanders must ensure that they have obtained approval to establish the newspaper before authorizing their representatives to negotiate a contract with a CE publisher.

(3) DoD newspapers are mission activities. The use of nonappropriated funds for any aspect of their operations is not authorized.

(4) Appropriated funds shall not be used to pay any part of the commercial publisher's costs incurred in publishing a CE publication.

(5) Only one DoD newspaper or magazine is authorized for each command or installation.

(i) If a newspaper is required at an installation where more than one command or headquarters is collocated, the host commander shall be responsible for publication of one funded or CE newspaper for all. The host command shall provide balanced and sufficient coverage of the other commands, their personnel, and activities in that locality. These commands, or headquarters, shall assist the staff of the host newspaper with coverage. If required by unusual circumstance, a commander other than the host may publish the single authorized newspaper when the majority of affected organizations concur.

(ii) This provision is not intended to prohibit the headquarters of a geographically dispersed command that receives its local coverage in the host installation newspaper from publishing a command-wide newspaper; nor is it intended to prohibit a command that has information needs that are significantly different from the majority of the host installation audience from publishing a separate newspaper, when authorized by the designated approving authority. (See appendix E to this part).

(iii) *Establishment of CE Guides and Installation Maps.* When valid communication requirements exist, publications in this category may be established by the commander, if feasible. (See appendix B to this part) Only one CE guide and installation map is authorized for each command or installation. The requirements of paragraph (b)(4) of this section, apply to CE guides and installation maps. These publications shall be approved by the next higher level. Approval authorities shall exercise care not to overburden community advertisers.

(iv) *Use of trademark.* The DoD Components and their subordinate levels shall trademark—State, Federal, or both—the names of their publications when possible.

(v) *Use of recycled products.* The public affairs office shall, whenever possible, based on contractual agreements, use recycled paper for publications covered under this part.

(vi) *Mailing requirements and sales and distribution of non-DoD publications.* See appendix C to this part.

(vii) *AFIS print media directorate.* See appendix D to this part.

(viii) *DoD command newspaper and magazine review system.* See appendix E to this part.

(6) When, in the opinion of the Assistant Secretary of Defense for Public Affairs, or the Combatant Command Commander, a Combatant Command newspaper is needed, establishment shall be directed by the Secretary of Defense. Both appropriated and nonappropriated funds may be used in the publication of overseas Combatant Command newspapers.

(7) *Establishment of magazines.* New magazines shall be approved by the Head of the publishing DoD Component. New magazines serving the Military Services shall be approved in accordance with Service procedures. Only one DoD magazine or newspaper is authorized for each command or installation. Magazines are normally financed through appropriated funds. When CE magazines are approved, provisions in this part regarding advertising and contracting for CE publications apply to CE magazines. Magazines must:

(i) Serve a clearly defined purpose in support of the mission of the publishing DoD Component, and the purpose must justify the cost.

(ii) Not duplicate equivalent magazines serving the same, or substantially the same purpose.

(iii) Be published and distributed efficiently and economically.

(iv) Be reviewed every two years by the publishing DoD Component to ensure they are in compliance with this part, are mission essential, and are economically achieving their desired objective.

§ 247.7 Information requirements.

The biennial reporting requirement contained in this part has been assigned Report Control Symbol DD–PA(BI) 1638.

Appendix A to Part 247—Funded Newspapers and Magazines

A. *Purpose.* Funded newspapers and magazines support the command communication requirements of the DoD Components and their subordinate commands. Normally, printing is accomplished by a commercial printer under contract or in government printing facilities in accordance with DoD Directive 5330.3.[1] The editorial content of these publications and distribution are accomplished by the contracting command. Overseas, Funded newspapers are authorized to be printed under contract with the *S&S.* Where printing by *S&S* is not feasible because of distance or other factors, Funded newspapers may be printed by other means. These are evaluated

[1] Copies may be obtained, at cost, from the National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22121.

on a case-by-case basis with the cognizant DPS office.

B. *Name.* The name of the publication may include the name of the command or installation, or, the name of the command or installation may appear separately in the nameplate (flag). The emblem of the command or installation may be included in the nameplate, also. When possible, the DoD Components and their subordinate levels shall trademark the names of their publications, as stated in § 247.5(d).

C. *Masthead.* The masthead shall include the names of the commanding officer and the PAO, the names and editorial titles of the primary staff of the publication, and the mailing address and telephone number of the editorial staff, in addition to that required in § 247.4(i).

D. *News and editorial materials.* The commander and the public affairs staff shall generate and select news, information, photographs, editorial, and other materials to be used. Authorized news and information sources include the Office of the Assistant Secretary of Defense for Public Affairs (OASD(PA)), AFIS, the Military Departments, their subordinate levels of command, and other Government Agencies. Civilian community service news and announcements of benefit to personnel assigned to the command or installation and their family members may also be used. Photographic images used will be in compliance with § 247.4(r).

E. *Assignment of personnel.* Military and DoD civilian personnel may not be assigned to duty at the premises of the contract printer to perform any job functions that are part of the business activities or contractual responsibilities of the contract printer. Members of the public affairs staff who produce editorial content may work on the premises as liaison and monitor to specify and coordinate layout and other production details provided for in the command contract with the contract printer. A member of the public affairs staff shall review proof copy to prevent mistakes.

F. *Funding.* The expense of publishing and distributing Funded newspapers and magazines is charged to appropriated funds of the publishing command.

G. *Printing.* Printing of a funded publication shall be handled in accordance with DoD Directive 5330.3 in conjunction with the DoD Component's printing function with public affairs as the office of primary publishing interest. The use of color is authorized if the cognizant commander, the DoD Component's printing function and the PAO determine it enhances communication.

H. *Distribution.* Funded publications may be distributed through official channels. Appropriated funds and manpower may be used for distribution of Funded publications, as required.

I. *Advertising.* Funded publications shall not carry commercial advertising. As a service, the Funded newspaper may carry nonpaid listings of personally owned items and services for sale by members of the command. Noncommercial news stories and announcements concerning nonappropriated fund activities and commissaries may be published in funded publications.

J. *Employment and gratuities.* DoD personnel shall not accept any gratuities from or employment with any GPO-contracted printers in violation of the DoD 5500.7-R,[2] the Joint Ethics Regulation. In addition, DoD personnel whose spouse or children (or other relatives as described in the Joint Ethics Regulation) are offered employment by, or work for, a GPO-contracted printer, must take appropriate action to avoid conflicts of interest.

Appendix B to Part 247—CE Publications

A. *Purpose.* CE publications consist of DoD newspapers, magazines, guides, and installation maps. They support command internal communications. The commander or public affairs office provides oversight and final approval authority for the news and editorial content of the publication. CE publishers sell advertising to cover costs and secure earnings, print the publications, and may make all or part of the distribution. Periodically, CE publishers compete for contracts to publish these publications. Neither appropriated nor nonappropriated funds shall be used to pay for any part of a CE publisher's costs incurred in publishing a CE publication.

B. *Name.* The name of the publication may include the name of the command or installation, or the name of the command or installation may appear separately in the nameplate (flag). The emblem of the command or installation may also be included in the nameplate. When possible, the DoD Components and their subordinates shall trademark the names of their publications, as stated in § 247.6(d).

C. *Masthead.* The masthead shall include the following in addition to that required in § 247.4 (i) and (j). ''The editorial content of this publication is the responsibility of the (name of command or installation) Public Affairs Office.'' The names of the commanding officer and PAO, the names and editorial titles of the staff assigned the duty of preparing the editorial content, and the office address and telephone number of the editorial staff shall be listed in the masthead of DoD newspapers, but is not required in CE guides and installation maps. The names of the publisher and employees of the publisher may be listed separately.

D. *News and editorial materials.* The commander or the public affairs office shall provide oversight and final approval authority for news, information, photographs, editorial, and other materials to be used in a CE publication in the space allotted for that purpose by written contract with the commercial publisher. Authorized news and information sources include the OASD(PA), AFIS, the Military Departments and their subordinate levels of command, and other Government Agencies. CE contractor personnel may provide material for use in the publication if approved by the commander or PAO, as the commander's representative. Commercial news and opinion sources, such as AP, UPI, New York Times, etc., are not normally authorized for use in DoD publications except as stated in § 247.4(q). Newspapers may publish community service news and announcements of the civilian community for the benefit of command or installation personnel and their families. Imagery used will be in compliance with § 247.4(r).

E. *Assignment of personnel.* Neither military nor DoD civilian personnel shall be assigned to duty at the premises of the CE publisher. Neither military nor DoD civilian personnel shall perform any job functions that are part of the business activities or contractual responsibilities of the CE publisher either at the contractor's facility or the Government facility. The PAO and staff who produce the non-advertising content of the CE publication may perform certain installation liaison functions on publisher premises including monitoring and coordinating layout and design and other publishing details set forth in the contract to ensure the effective presentation of information. One or more members of the public affairs staff shall review proof copy to prevent mistakes. Newspaper text-editing-system pagination and copy terminals owned by the CE publisher may be placed in the command or installation public affairs office under contractual agreement for use by the public affairs staff to coordinate layout and ensure that the preparation of editorial material is performed in such a way as to enhance the efficiency and effectiveness of the printing and publication functions performed by the CE publisher. All costs of these terminals shall be borne by the CE newspaper publishers who shall retain title to the equipment and full responsibility for any damage to or loss of such equipment. The relationship between the public affairs staff and employees of the CE contractor is that of Government employees working with employees of a private contractor. Supervision of CE employees; that is, the responsibility to rate performance, set rate of pay, grant vacation time, exercise discipline, assign day-to-day administrative tasks, etc., remains with the CE publisher. Any modification of the contract must be made by the responsible contracting officer. Public affairs staff members must be aware that employees of the contractor are not employees of the government and should be treated accordingly.

F. *Distribution of CE publications.*

1. A funded newspaper shall not be distributed as an insert to a CE newspaper, unless provided for in the CE contract, nor shall a CE newspaper be distributed as an insert to a funded newspaper.

2. Supplements, clearly labeled as such, and advertising inserts, may be inserted into and distributed with a CE newspaper.

3. The commercial publisher of a CE publication shall make as much of the distribution to the intended readership as possible. CE publications may be distributed through official channels.

4. Except as authorized by the next higher headquarters for special situations or occasions (such as an installation open house), CE publications shall not be distributed outside the intended DoD audience and retirees, which includes family members. Electronic publication on the internet/world wide web is not considered distribution outside the intended DoD

[2] See footnote 1 to section A. of this appendix.

audience. The CE publisher may provide complete copies of each specific issue of a CE publication to an advertiser whose advertisement is carried therein.

5. The CE publisher of a CE newspaper will provide the appropriate number of news racks determined by the installation commander for publication distribution.

CE publishers are responsible for maintenance of these racks.

6. CE guides, magazines, and installation maps may be delivered in bulk quantities to the appropriate installation offices to distribute these publications through official channels as necessary.

G. *Responsibilities regarding advertising.*

1. Only the CE publisher shall use the space agreed upon for advertising. While the editorial content of the publication is completely controlled by the installation, the advertising section, including its content, is the responsibility of the CE publisher. The public affairs staff, however, retains the responsibility to review advertisements before they are printed.

2. Any decision by a CE publisher to accept or reject an advertisement is final. The PAO may discuss with a publisher their decision not to run an advertisement, but cannot substitute his judgment for that of the publisher.

3. Before each issue of a CE publication is printed, the public affairs staff shall review advertisements to identify any that are contrary to law or to DoD or Military Service regulations, including this part, or that may pose a danger or detriment to DoD personnel or their family members, or that interfere with the command or installation missions. It is in the command's best interest to carefully apply DoD and Service regulations and request exclusion of only those advertisements that are clearly in violation of this part. If any such advertisements are identified, the public affairs office shall obtain a legal coordination of the proposed exclusion. After coordination, the public affairs office shall request, in writing if necessary, that the commercial publisher delete any such advertisements. If the publisher prints the issue containing the objectionable advertisement(s), the commander may prohibit distribution in accordance with DoD Directive 1325.6.[1]

4. DoD Directive 1325.6 gives the commander authority to prohibit distribution on the installation of a CE publication containing advertising he or she determines likely to promote a situation leading to potential riots or other disturbances, or when the circulation of such advertising may present a danger to loyalty, discipline, or morale of personnel. Each commander shall determine whether particular advertisements to be placed by the publisher in a CE publication serving the command or installation may interfere with successful mission performance. Some considerations in this decision are the local situation, the content of the proposed advertisement, and the past performance of the advertiser. Prior to making a determination to prohibit distribution of a CE publication, the commander shall obtain a legal coordination.

5. CE publications may carry paid and nonpaid advertising of the products and services of nonappropriated fund activities and commissaries, if allowed by DoD and Military Service regulations. (See DoD Instruction 1015.2 [2])

6. The Military Departments will coordinate a standard set or ratios of advertising-to-editorial copy for multiples of pages for run of the publication advertising in CE publications that will be included in all DoD Component regulations supplementing this part. The recommended annual average is a ratio of 60/40. Inserts and advertising supplements will not count in the total ad-to-copy ratio; However, the commander may prohibit the distribution of supplemental advertising deemed excessive.

7. Bingo games and lotteries conducted by a commercial organization whose primary business is conducting lotteries may not be advertised in CE publications. Non-lottery activities (such as dining at a restaurant or attending a musical performance) of a commercial organization whose primary business is conducting lotteries may be advertised in CE publications. Exceptions are allowed for authorized State lotteries, lotteries conducted by a not-for-profit organization or a governmental organization, or conducted as a promotional activity by a commercial organization and clearly occasional and ancillary to the primary business of that organization. An exception also pertains to any gaming conducted by an Indian tribe under 25 U.S.C. 2720. See section D. of appendix C to this part.

H. *CE guides and maps.*

1. The name of the publication may include the name and emblem of the command or installation.

2. At the discretion of the commander, an installation telephone directory may be included as a section of a CE guide. The telephone section shall be part of the guide contract specifications. Separate contracts for CE telephone directories are not authorized. Over-run printing of the telephone directory/yellow pages section of the installation guide is authorized. The number of guides with integral telephone directories and the number of over-run copies of the telephone directory/yellow pages will be clearly specified in the single guide contract. Required communication security information shall be printed on the first page of the telephone section and not on the cover of the guide. The cover of the guide may notify users that the publication contains the telephone directory.

3. CE contracts for guides and maps shall establish firm delivery dates and shall contain provisions to ensure distribution is controlled by the command. Delivery dates may vary for guides and maps to make them more attractive to advertisers. The contract provisions shall specify delivery dates.

I. *Employment and gratuities.* DoD personnel shall not accept any gratuities from or employment with any CE publisher in violation of DoD Directive 5500.7–R.[3] In addition, DoD personnel whose spouse or children (or other relations as described in DoD Directive 5500.7–R) are offered employment by, or work for, a CE publisher, must take appropriate action to avoid conflicts of interest.

J. *Contracting for a CE publication.*

1. *General.* The DoD Components and their subordinate commands are authorized to contract in writing for CE publications. The underlying premise of the CE concept is that the DoD Components and their subordinate commands will save money by transferring certain publishing and distribution functions to a commercial publisher selected through a competitive process. The CE publication is printed and delivered to the command, installation, or its readership in accordance with the terms of a written contract. Oral contracts are not acceptable. The right to sell and circulate advertising to the complete readership in the CE publication provides the publisher revenue to cover costs and secure earnings. The command or installation guarantees first publication and distribution of locally-produced editorial content in the publication. The publication becomes the property of the command, installation, or intended reader upon delivery in accordance with terms of the contract.

2. *Contracting process.* Whether a first time initiative to establish a CE publication or a recompetition of an existing CE contract, the process must start with advance planning as to the nature of the command's requirements, the contracting strategy, and the market of potential advertisers and competitors for the job. The CE contract solicitation and the contract itself must contain a statement of work that describes in legally sufficient detail the Government's requirements and the conditions and restrictions under which the contractor will perform. The cognizant contracting office for the CE contracting action shall be the contracting office which normally provides contracting support to the command for service contracts and other procurements of a general nature which are above the simplified small purchase threshold. The contracting officer shall combine the statement of work with appropriate contractual terms and conditions, using 48 CFR chapter I and II as guides, although CE contracts are not subject to the FAR or DFARS, because they do not involve the expenditure of appropriated funds. The resulting solicitation and contract shall completely identify the rights and obligations of both parties. Proposals shall be solicited from all known commercial publishers who could potentially become the CE contractor. Upon evaluation of the competing proposals by the Source Selection Advisory Committee (SSAC) and selection of a winner by the selecting official, the CE contract shall be awarded by the contracting officer. The CE contract shall not require the contractor to pay money to the command or to provide goods, services, or other consideration not directly related to the CE publication. In the event that only one offer is received, the SSAC may recommend to the selecting official that no award be made or that the contracting officer enter into negotiations with the sole offeror to obtain the best possible service and product for the Government.

[1] Copies may be obtained, at cost, from the National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161.

[2] See footnote 1 to section G.3. of this appendix.

[3] See footnote 1 to section G.3. of this appendix.

3. *Statement of Work (SOW).* The SOW should be written to have the CE contractor perform as many of the publishing and distribution functions as practical to generate maximum savings to the Department of Defense. In so doing, care must be taken to balance Government requirements with a realistic view of the advertising revenue potential so as to achieve a contract that is commercially viable. The command's internal information needs shall be paramount. Some of the key issues that shall be addressed in the SOW follow:

a. A general description of the scope of the proposed contract including the name and nature of the publication involved; for example, weekly newspaper, monthly magazine, annual guide and installation map. Normally, guides and installation maps are included in the same contract.

b. A description of editorial content to be carried; e.g., news, features, supplements, and factual information, along with provisions addressing the possible inclusion of contractor-furnished advertising supplements for newspapers, provided any such supplement shall have the prior approval of the commander.

c. A description of the rules for the inclusion of advertising in the publication, substantially as follows: ''The contractor agrees not to include in the publication any advertising of the following types: (1) paid political advertisements for a candidate, party, or which advocate a particular position on a political issue, including advertisements advocating a position on any proposed DoD policy or policy under review, or which advocate lobbying elected officials on a specific issue; (2) advertisements for any establishment declared ''off limits'' by the command; (3) advertisements that are contrary to law or to DoD or Military Service regulations or that in the government's opinion pose a danger or detriment to DoD personnel or their family members, or that interfere with the command or installation missions; (4) advertisements for bingo games or lotteries conducted by a commercial organization whose primary business is conducting lotteries; (5) (other restrictions deemed appropriate by the Service/command, if any.)'' Additionally, the contract will contain provisions which: (1) specify the annual average advertising-to-editorial ratio for newspapers and magazines; (2) state that the commander's representative shall have the authority to specify newspaper advertising layout when required to enhance communication's effectiveness of the publication; and (3) which requires the contractor to notify advertisers of the requirements in § 247.4(i) and § 247.4(j).

d. A provision substantially as follows: ''The contractor agrees not to enter into any exclusive advertising agreement with any firm, broker, or individual for the purpose of selling advertising associated with this contract.''

e. A description of the CE contractor's responsibilities for distribution of the publication. This provision should address such matters as contractor furnishing of news racks along with contractor responsibility for maintenance of these racks.

f. A description of contractor-owned and/or contractor-furnished equipment such as text editing, copy terminals, and modems determined to be required to coordinate layout and ensure that the preparation of editorial material is performed in such a way as to enhance the efficiency and effectiveness of the publication process.

g. A description of contractor-furnished editorial support services determined to be required. Such description must be in terms of the end product required; e.g., photography service and/or writer/reporter services, and not as a requirement to make available certain contractor personnel. In day-to-day performance and administration of the CE contract, contractor personnel performing such support services shall not be treated in any way as though they are Government employees.

h. A provision that the use, where economically feasible, of recycled paper for internal products will be a consideration for awarding the contract, as stated in § 247.6 (e).

i. SOW's and RFP's for CE newspapers shall specify standard newsprint, recyclable, subject to requirements of applicable laws and regulations.

j. For CE magazines, a provision requiring the contractor to provide a bulk number of copies of each printing to the Government Printing Office (GPO) for distribution to Federal Depository Libraries. The number of copies to be provided will be determined on the number of libraries desiring to subscribe to the publication. The number could be a maximum of 1,400, but has historically averaged approximately 500 to 600 copies for military magazines. The contractor would be required to contact GPO to initiate this procedure at (202)512–1071.

4. *Contract provisions.* The CE concept is based on an exception to the Government Printing and Binding Regulations [4] published by the Congressional Joint Committee on Printing. While CE contracts are not subject to the FAR (48 CFR chapter I) or the DFARS (48 CFR chapter II), the FAR contains many clauses that are useful in protecting the interests of the Government. The following clauses may be helpful in obtaining the best possible CE publication:

a. *Status of FAR clause.* To clarify the status of FAR clauses appearing in CE contracts, the following clause shall be included in all new CE contracts:

''The (name of DoD installation/unit/organization) is an element of the United States Government. This agreement is a United States Government contract authorized under the provisions of DoD Instruction 5120.4 [5] as an exception to the Government Printing and Binding Regulations published by the Congressional Joint Committee on Printing. Although this contract is not subject to the Federal Acquisition Regulation (FAR) or the Defense FAR Supplement (DFARS), FAR clauses useful in protecting the interests of the Government and implementing those provisions required by law are included in this contract.''

[4] Copies may be obtained, at cost, from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

[5] See footnote 1 to section G.3. of this appendix.

b. *Option clause.* Insert a clause substantially the same as the following to extend the term of the CE publisher contract:

(1) ''The Government may extend the term of this contract by written notice to the contractor within [insert in the clause the period of time in which the contracting officer has to exercise the option]; provided that the Government shall give the contractor a preliminary written notice of its intent to exercise the option at least 60 days before the contract expires. The preliminary notice does not commit the government to exercise the option.'' In the case of base closure or realignment the publisher has the right to request a renegotiation of the contract.

(2) ''If the Government exercises this option, the extended contract shall be considered to include this option provision.''

(3) ''The total duration of this contract, including the exercise of any options under this clause, shall not exceed 6 years.''

c. *Default clause.* Insert the following clause in solicitations and contracts:

(1) ''The Government may, by written notice of default to the contractor, terminate this contract in whole or in part if the contractor fails to:

(a) Deliver the CE publications in the quantities required or to perform the services within the time specified in this contract or any extension;

(b) Make progress, so as to endanger performance of this contract;

(c) Perform any of the other provisions of this contract.''

(2) ''If the Government terminates this contract in whole or in part, it may acquire, under the terms and in the manner the contracting officer considers appropriate, supplies or services similar to those terminated. However, the contractor shall continue the work not terminated.''

(3) ''The rights and remedies of the Government in this clause are in addition to any other rights and remedies provided by law or under this contract.''

d. *Termination for convenience of the Government.* Insert the following clause in solicitations and contracts:

''The contracting officer, by written notice, may terminate this contract, in whole or in part if the services contracted for are no longer required by the Government, or when it is in the Government's interest, such as with installation closures. Any such termination shall be at no cost to the Government.'' The Government will use its best efforts to mitigate financial hardship on the publisher.

5. *Term of contract.* CE contracts may be entered into for an initial period of up to 2 years, and may contain options to extend the contract for one or more additional periods of 1 or 2 years duration. The total period of the contract, including options, shall not exceed 6 years, after which the contract must be recompeted.

6. *Exercise of options.* Under normal circumstances, when the contractor is performing satisfactorily, options for additional periods of performance should be exercised. However, the exercise of the option is the exclusive right of the Government.

7. *Modification of the contract.* Any changes to the SOW or other terms and

conditions of the contract shall be made by written contract modification signed by both parties.

8. *SSAC.* The commander shall appoint an SSAC. The committee shall participate in the development of the Source Selection Plan (SSP) before the solicitation of proposals, evaluate proposals, and recommend a source to the selecting official. Since cost is not a factor in the evaluation, award will be based on technical proposals, the offeror's experience and/or qualifications, and past performance.

a. The SSAC shall consist of a minimum of five voting members: a chairperson, who shall be a senior member of the command; senior representatives from public affairs and printing; and a minimum of two other functional specialists with skills relevant to the selection process. Each SSAC shall have non-voting legal and contracting advisors to assist in the selection process.

b. In arriving at its recommendations, the SSAC shall follow the SSP and avail itself of all relevant information, including the proposals submitted, independently derived data regarding offerors' performance records, the results of on-site surveys of offerors' facilities, where feasible, and in appropriate cases, personal presentations by offerors.

c. The work of the SSAC must be coordinated with the contracting officer to ensure that the process is objective and fair. All communications between the offerors and the Government shall be through the contracting officer. No member of the SSAC or the selecting official shall communicate directly with any offeror regarding the source selection.

d. In cases where a losing competitor requests a debriefing from the contracting officer, members of the SSAC may be called upon to participate so as to give the losing competitor the most thorough explanation practical as to why its proposal was not successful. No information regarding competitors' proposals shall be discussed with the unsuccessful offerors during debriefings, discussions, or negotiations.

9. *SSP.* A SSP (see sample SSP at attachment 1 to this Appendix) must be developed early in the planning process to serve as a guide for the personnel involved and ensure a fair and objective process and a successful outcome. The contracting officer is primarily responsible for development of the SSP, in coordination with the PAO and other members of the SSAC. Ideally, the SSP should be completed and approved prior to issuance of the solicitation; it must be completed and approved before the receipt of proposals.

10. *Evaluation criteria and proposal requirements.* The solicitation must specify, in relative order of importance, the factors the Government will consider in selecting the most advantageous proposal. In addition, the solicitation must specify the types of information the proposal must contain to be properly evaluated. These two aspects of the solicitation must closely parallel one another. The contracting officer is primarily responsible for development of these two solicitation provisions, in coordination with the PAO, legal counsel, and members of the SSAC.

a. *Evaluation criteria for award.* Drawing upon the SSP, this feature of the solicitation must advise offerors what factors the Government will consider in evaluating proposals and the relative importance of each factor. The sample SSP (attachment 1 to this appendix) provides an example of criteria that might be used. Note that under the ''Services and/or Items Offered'' factor, paragraph E.2.b. of attachment 1 to this appendix, it is necessary to list and indicate the relative importance of services and/or items *above the minimum requirements of the SOW* that the command would consider desirable and that, if offered, will enhance the offeror's evaluation standing. The offer of services and/or items not listed in the evaluation criteria shall not be considered in the evaluation of proposals, but may be accepted in the contract award if deemed valuable to the Government, PROVIDED the service and/or item involved is directly related to producing the publication and not in violation of any other statute or regulation. Examples of items that cannot be considered during the evaluation process are; press kits, laminated maps, economic development reports, or other separate publications not an integral part of the CE publication.

b. *Proposal requirements.* This provision of the solicitation must describe the specific and general types of information necessary to be submitted as part of the proposal to be evaluated. Offerors shall be notified that unnecessarily elaborate proposals are not desired.

Attachment 1 to Appendix B to Part 247—SSP

A. Introduction

1. The objectives of this plan are:

a. To ensure an impartial, equitable, and thorough evaluation of all offerors' proposals in accordance with the evaluation criteria presented in the request for proposals (RFP).

b. To ensure that the contracting officer is provided technical evaluation findings of the SSAC in such a manner that selection of the offer most advantageous to the Government is ensured.

c. To document clearly and thoroughly all aspects of the evaluation and decision process to provide effective debriefings to unsuccessful offerors, to respond to legal challenges to the selection, and to ensure adherence to evaluation criteria.

2. This plan will be used to select a CE contractor for publication of the _____ newspaper (CE guide, magazine, or installation map) and will:

a. Give each SSAC member a clear understanding of his or her responsibilities as well as a complete overview of the evaluation process.

b. Establish a well-balanced evaluation structure, equitable and uniform scoring procedures, and a thorough and accurate appraisal of all considerations pertinent to the negotiated contracting process.

c. Provide the selecting official with meaningful findings that are clearly presented and founded on the collective, independent judgment of technical and managerial experts.

d. Ensure identification and selection of a contractor whose final proposal offers optimum satisfaction of the Government's technical and managerial requirements as expressed in the RFP.

e. Serve as part of the official record for the evaluation process.

B. Organization and Staffing

1. The SSAC will consist of the Chairperson and a minimum of four other voting committee members plus the non-voting advisors to the SSAC.

2. The SSAC committee members are:

Name	Position
	Chairperson
	Member
	Member
	Member
	Member
	Legal Advisor [1]
	Contract Advisor [1]

[1] Non-voting members.

C. Responsibilities

1. Selecting Official:

a. Approves the SSP.

b. Reviews the evaluation and findings of the SSAC.

c. Considers the SSAC's recommendation of award.

d. Selects the successful offeror.

2. Chairperson of the Source Selection Advisory Committee (C/SSAC):

a. Reviews the SSP.

b. Approves membership of the SSAC.

c. Analyzes the evaluation and findings of the SSAC and applies weights to the evaluation results.

d. Approves the SSAC report for submission to the selecting official.

3. Contracting Officer:

a. Is responsible for the proper and efficient conduct of the entire source selection process encompassing solicitation, evaluation, selection, and contract award.

b. Provides SSAC and the selecting official with guidance and instructions to conduct the evaluation and selection process.

c. Receives proposals submitted and makes them available to the SSAC, taking necessary precautions to ensure against premature or unauthorized disclosure of source selection information.

4. SSAC members shall:

a. Familiarize themselves with the RFP and SSP.

b. Provide a fair and impartial review and evaluation of each proposal against the solicitation requirements and evaluation criteria.

c. Provide written documentation substantiating their evaluations to include strengths, weaknesses, and any deficiencies of each proposal.

5. Legal advisor:

a. Reviews RFP and SSP for form and legality.

b. Advises the SSAC members of their duties and responsibilities, regarding procurement integrity issues and confidentiality requirements.

c. Participate in SSAC meetings and provide legal advice as required.

d. Provides legal review of all documents supporting the selection decision to ensure legal sufficiency and consistency with the evaluation criteria in the RFP and SSP.

e. Advises the selecting official on the legality of the selection decision.

D. Administrative Instructions

1. *Evaluation overview.* The advisory committee will operate with maximum flexibility. Collective discussion by evaluators at committee meetings of their evaluation findings is permitted in the interchange of viewpoints regarding strengths, weaknesses, and deficiencies noted in the proposals relating to evaluation items. Evaluators will not suggest or disclose numerical scores or other information regarding the relative standing of offerors outside of committee meetings.

2. *Evaluation procedure.* The evaluation of offers is based on good judgment and a thorough knowledge of the guidelines and criteria applicable to each evaluation factor.

a. Numerical scoring is merely reflective of the composite findings of the SSAC. The evaluation scoring system is used as a tool to assist the Chairperson of the SSAC in determining the proposal most advantageous to the Government.

b. The most important documents supporting the contract award will be the findings, conclusions, and reports of the SSAC.

3. *Safeguarding data.* The sensitivity of the proceedings and documentation require stringent and special safeguards throughout the evaluation process:

a. Inadvertent release of information could be a source of considerable misunderstanding and embarrassment to the Government. It is imperative, therefore, for all members of the SSAC to avoid any unauthorized disclosures of information pertaining to this evaluation. Evaluation participants will observe the following rules:

(1) All offeror and evaluation materials will be secured when not in use (i.e., during breaks, lunch, and at the end of the day).

(2) All attempted communications by offeror's representatives shall be directed to the contracting officer. No communications between members of the SSAC or the selecting official and offerors regarding the contract award or evaluation is permitted except when called upon under the provisions of paragraph J.8.d, of Appendix B to this part.

(3) Neither SSAC members or the selecting official shall disclose anything pertaining to the source selection process to any offeror except as authorized by the contracting officer.

(4) Neither SSAC members or the selecting official shall discuss the substantive issues of the evaluation with any unauthorized individual, even after award of the contract.

E. Technical Evaluation Procedures

1. *Evaluation process.* Proposals will be evaluated based on the following criteria as indicated in Section M of the solicitation: The evaluation worksheet (attachment 2 to this appendix) shall be used to score the technical factors. Using the technical evaluation worksheet, each member of the SSAC will independently review each proposal and assign an appropriate number of points to each factor being considered. Point scores for each factor will range from ''0'' to ''5'' based on the committee member's evaluation of the proposal. Upon completion of individual evaluations, the group will meet in committee with the Chairperson and arrive at a single numeric score for each factor in the proposal.

2. *Criteria.* An example of applicable evaluation criteria and their relative order of importance are listed below in paragraphs E.2. a. through d. of this appendix. Criteria and weights are provided as an example only. The SSAC must determine its own weighting factors tailored to meet the needs of the particular CE publication and describe the relative weights assigned in the RFP; e.g., ''Evaluation factors are listed in descending order of importance; criteria #1 is twice as important as criteria #2,'' etc.

a. *Technical and production capability.* Scores will range from ''0'' (unacceptable), to ''5'' (exhibits state-of-the-art, award winning, or clearly superior technical ability to produce the required newspaper, magazine, guide, or installation map). Factors to be considered for newspaper contracts include: level of automation; compatibility of automation with existing PAO automation (unless other automation is provided); printing capability; production equipment; physical plant (capabilities); and driving distance to the plant. Similar factors may be considered for magazines, guides and installation maps.

b. *Services and/or items offered.* Scores will range from ''0'' (unacceptable), to ''5'' (the offer of equipment, such as automation equipment; or services, such as editorial or photographic services as set forth in the contract solicitation that will greatly enhance the newspaper and/or its production). Factors to be considered for newspapers include: offer of automation equipment and the quality and amount of equipment offered; the quality and amount of services offered; the usefulness of the services and/or items to the public affairs office in enhancing the newspaper; the impact of the services and/or items on other parts of the contract. Similar factors may be considered for magazines, guides and installation maps. The offer of equipment or services not specifically related to producing the publication will not result in the assignment of a higher score.

c. *Past performance record.* Scores will range from ''0'' (no experience in newspaper, magazine, guide, or installation map publishing and/or unsatisfactory, previous performance), to ''5'' (long-term, highly successful experience publishing similar newspapers, magazines, guides, or installation maps). Factors to be considered include: demonstrated ability to successfully produce a CE or similar publication; demonstrated printing ability (types of printing, history of newspaper, magazine, guide, or installation map printing); demonstrated success in contract performance in a timely and responsive manner; demonstrated capability to sell advertising and successfully recoup publication costs.

d. *Management approach.* Scores will range from ''0'' (approach unacceptable), to ''5'' (proposal demonstrates a sound and innovative approach to interfacing with the PAO and managing the CE publication operation). Factors to be considered include: The offeror's proposed approach to:

(1) Interfacing with the PAO staff.

(2) Controlling the quality and timeliness of the finished product.

(3) Sale of ads of the type that enhance the publication's image in the community and with the readership at large.

(4) Ensuring that contractor's personnel are properly supervised and managed.

3. *Weighting factors.* Points will be assigned to the final score of each factor in a proposal as determined by multiplying the score assigned (e.g., ''0,'' ''1,'' ''2,'' ''3,'' ''4,'' or ''5'') by the relative weight of the individual criterion as indicated:

Factor	Relative weight (percent)	Maximum points
CRITERION 1	40	200
CRITERION 2	30	150
CRITERION 3	20	100
CRITERION 4	10	50
	.....	500

(EXAMPLE ONLY):

CRITERION 1: Score 5 (5 × 40), Total Points	200
CRITERION 1: Score 4 (4 × 30), Total Points	120
CRITERION 1: Score 3 (3 × 20), Total Points	60
CRITERION 1: Score 2 (2 × 10), Total Points	20
	400

4. *Report of findings and recommendations.* After the SSAC has completed final evaluation of proposals and all weighting has been completed, the committee will prepare a written report of its findings and recommendations, setting forth the consensus of the committee and its composite scores (Sample at attachment 3 to this appendix). The Chairperson will sign the report to confirm its accuracy and his agreement with the recommendation. All copies of proposals and evaluation worksheets will be returned to the contracting officer.

Attachment 2 to Appendix B to Part 247—Sample Evaluation Worksheet

CONTRACTOR _____

EVALUATOR _____

DATE _____

EVALUATION CRITERIA AND SCORES (RANGE 0–5 POINTS FOR EACH)

1. Technical and production capability: _____
2. Services and items offered: _____
3. Past performance record: _____
4. Management approach: _____

NARRATIVE DISCUSSION: [1]
Strengths _____
Weaknesses _____
Deficiencies _____

Attachment 3 to Appendix B to Part 247—Sample Memorandum for Selecting Official

SUBJECT: Evaluation of Proposals

RFP No. _____

1. All proposals received in response to subject RFP have been evaluated by the Source Selection Advisory Committee (SSAC). The results and comments are listed below.

a. Offeror's proposals were rated as follows:

Offeror Name Numerical Score

b. Summary Narrative Comments.

(This section of the report shall be a summary of the individual strengths and weaknesses in each proposal, along with any deficiencies that are susceptible to being cured through written or oral discussions with the offeror, as noted by the SSC evaluators. This summary should be supported by detailed narratives contained on the individual evaluator's worksheets.)

2. Recommendation.

_____

Chairperson, SSAC

Appendix C to Part 247—Mailing of DoD Newspapers, Magazines, CE Guides, and Installation Maps; Sales and Distribution of Non-DoD Publications

A. *Policy.* It is DoD policy that mailing costs shall be kept at a minimum consistent with timeliness and applicable postal regulations. (See DoD Instruction 4525.7 [1] and DoD 4525.8–M.[2] Responsible officials shall consult with appropriate postal authorities to obtain resolution of specific problems.

B. *Definition.* DoD appropriated fund postage includes all means of paying postage using funds appropriated for the Department of Defense. These means include meter imprints and stamps, permit imprints, postage stamps, and other means authorized by the U.S. Postal Service.

C. *Use of appropriated fund postage.*

1. DoD appropriated fund postage shall be used only for:

a. Mailing copies to satisfy mandatory distribution requirements.

b. Mailing copies to other public affairs offices for administrative purposes.

c. Mailing copies to headquarters in the chain of command.

d. Bulk mailings of DoD newspapers and magazines to subordinate units for distribution to members of the units.

e. Mailing information copies to other U.S. Government Agencies, Members of Congress, libraries, hospitals, schools, and depositories.

f. Mailing of an individual copy of a DoD newspaper, magazine, or CE publication in response to an unsolicited request from a private person, firm, or organization, if such response is in the best interest of the DoD Component or its subordinate levels of command.

g. Mailing copies of DoD newspapers, magazines, guides, or installation maps to incoming DoD personnel and their families to orient them to their new command, installation, and community.

2. DoD appropriated fund postage shall not be used for mailing:

a. To the general readership of DoD newspapers, magazines, guides, and installation maps, unless specifically excepted in this part.

b. By a CE publisher.

c. CE publications other than newspapers and magazines in bulk. (See paragraph C.1.d. of this section).

3. Generally, DoD newspapers, magazines, and CE publications shall be mailed as second class Requester Publication Rate, third-class bulk, or third- or fourth-class mail.

D. *Legal prohibitions.* Compliance with 18 U.S.C., 1302 and 1307 is mandatory. 18 USC Section 1302 prohibits the mailing of publications containing advertisements of any type of lottery or scheme that is based on lot or chance. 18 USC 1307 authorizes exceptions pertaining to authorized State lotteries, lotteries conducted by a not-for-profit organization or a governmental organization, or conducted as a promotional activity by a commercial organization and clearly occasional and ancillary to the primary business of that organization. An exception also pertains to any gaming conducted by an Indian tribe under 25 U.S.C. 2720. Lottery is defined as containing the following three elements:

1. Prize (whatever items of value are offered in the particular game).

2. Chance (random selection of numbers to produce a winning combination).

3. Consideration (requirement to pay a fee to play).

E. *Review of mailing and distribution effectiveness.*

1. Mailing and distribution lists shall be reviewed annually to determine distribution effectiveness and continuing need of each recipient to receive the publication.

2. Distribution techniques, target audiences, readers-per-copy ratios, and use of the U.S. Postal Service to ensure the most economical use of mail services consistent with timeliness shall be revalidated annually.

F. *Non-DoD publications.* A commander shall afford reputable distributors of other publications the opportunity to sell or give away publications at the activity he or she commands in accordance with DoD Directive 1325.6.[3] Such publications shall not be distributed through official channels. These publications may be made available through subscription paid for by the recipient or placed in specific general use areas designated by the commander, such as the foyers of open messes or exchanges. They will be placed only in stands or racks provided by the responsible publisher. The responsible publisher will maintain the stand or rack to present a neat and orderly appearance. Subscriptions paid for by a recipient may be home-delivered by the commercial distributor in installation residential areas.

Appendix D to Part 247–AFIS Print Media Directorate

A. *General.* The Print Media Directorate (PMD), an element of AFIS, develops, publishes, and distributes a variety of print media products that support DoD-wide programs and policies for targeted audiences throughout the DoD community. Products include the following:

1. *American Forces Press Service,* news and feature articles, photographs, and art targeted principally to editors of DoD newspapers.

2. *DEFENSE* magazine, a bimonthly magazine featuring articles authored by senior military and civilian officials on DoD programs and policies. An annual almanac edition highlights DoD's organization and statistical information.

3. *Defense Billboard,* a monthly poster featuring topics of particular interest to junior Military Service members, but applicable to general DoD audiences.

4. Pamphlets, booklets, and other posters covering a variety of joint interest information topics.

5. PMD posts the *Press Service* on Military Service computer bulletin boards and internet world wide web sites. PAOs and editors may download text and art in a form readily usable for word processing or desktop publishing. All other PMD publications should be requisitioned through the Military Service's or organization's publications distribution system.

6. Additional information may be obtained on the internet using the AFIS Uniform Resource Locator: http://www.dtic.mil/defenselink/afis/.

B. *Use of materials published by print media directorate.* With the exception of copyrighted matter, all materials published by PMD may be reproduced or adapted for use by DoD newspaper and magazine editors as appropriate. When PMD material is edited or revised, accuracy and conformance to DoD policy and accepted standards of good taste will be maintained. Due to the policy-oriented nature of *DEFENSE* magazine contents, particular care shall be taken to preserve the original context, tone, and meaning of any material adapted, revised, or edited from this publication.

C. *Eligible activities.* The following activities are eligible to receive the above listed PMD products:

1. All authorized DoD newspapers and magazines.

2. Headquarters of the DoD Components and their subordinate commands.

3. Proponent offices of DoD periodicals published by the DoD Components.

4. Armed Forces Radio and Television Service networks and outlets.

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[1] Discussions of strengths, weaknesses, and deficiencies should reference the specific evaluation factor involved to ensure that proposals are evaluated only against the criterion set forth in the RFP, to facilitate debriefings, and to provide an effective defense to any challenges regarding the legality of the selection process.)

[1] Copies may be obtained, at cost, from the National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161.

[2] See footnote 1 to section A. of this appendix.

[3] See footnote 1 to section A. of this appendix.

5. Isolated commands and detachments at which DoD newspapers are not readily available.

Appendix E to Part 247—DoD Command Newspaper and Magazine Review System

A. *Purpose.* The purpose of the DoD command newspaper and magazine review system is to assist commanders in establishing and maintaining cost-effective internal communications essential to mission accomplishment. The system also enables internal information managers to assess the cost and effective use of resources devoted to command newspapers and to provide requested reports.

B. *Policy.* DoD newspapers and magazines shall be reviewed and reported biennially. The review process is not intended to replace day-to-day quality assurance procedures or established critique programs.

C. *Review criteria.* Each newspaper and magazine shall be evaluated on the basis of mission essentiality, communication effectiveness, cost-effectiveness, and compliance with applicable regulations.

D. Reporting requirements.

1. The DoD Components (less the Military Departments) shall forward, by January 31 of each even numbered year, the information indicated at attachment 1 to this Appendix for each newspaper published to: Director, American Forces Information Service, ATTN: Print Media Plans and Policy, 601 North Fairfax Street, Alexandria, VA 22314–2007.

2. No later than April 15 of each even-numbered year, the Secretary (or designee) of each Military Department shall forward to the address above a report of the Military Department's review of newspapers and magazines. This report shall include summary data on total number of newspapers and magazines, along with a listing of the information indicated at attachment 1 to this appendix.

3. One information copy of each issue of all DoD newspapers and magazines shall be forwarded on publication date to the address in paragraph H.1. of this appendix.

4. Information copies of CE contracts shall be forwarded to the address in paragraph H.1. of this appendix, upon request.

5. Administrative Instructions shall be issued by the Director, AFIS, for the annual review and reporting of newspapers and magazines.

Attachment 1 to Appendix E to Part 247—Newspaper and Magazine Reporting Data

As required by section H. of this appendix, the following information shall be provided biennially regarding newspapers and magazines:

A. Name of newspaper or magazine.

B. Publishing command and mailing address.

C. Printing arrangement:

1. Government equipment.

2. Government contract with commercial printer.

3. CE contract with commercial publisher (provide name, mailing address, and phone number of commercial publisher).

D. Frequency and number of issues per year.

E. Number of copies printed and estimated readership.

F. Paper size (metro, tabloid, or magazine format).

Dated: August 5, 1997.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 97–21091 Filed 8–8–97; 8:45 am]

BILLING CODE 5000–04–P

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 286

[DoD 5400.7–R]

DoD Freedom of Information Act Program; Correction

AGENCY: Department of Defense.

ACTION: Final rule.

SUMMARY: The Department of Defense published a final rule concerning the DoD Freedom of Information Act Program on July 1, 1997 (62 FR 35351). This document is published to correct administrative errors published.

EFFECTIVE DATE: May 22, 1997.

FOR FURTHER INFORMATION CONTACT: Mr. C. Talbott, telephone 703–697–1171.

SUPPLEMENTARY INFORMATION:

List of Subjects in 32 CFR Part 286

Freedom of information.

Accordingly, 32 CFR part 286 is amended to read as follows:

PART 286—[AMENDED]

1. The authority citation for 32 CFR part 286 continues to read as follows:

Authority: 5 U.S.C. 552.

2. Section 286.3, definition *Appellate authority,* is amended by revising ''*initial denital*'' to to read ''*initial denial*''.

3. Section 286.28(d)(3)(ii)(A), next to last sentence, is amended after the word ''section'' by adding the word ''apply''.

Dated: August 5, 1997.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 97–21090 Filed 8–8–97; 8:45 am]

BILLING CODE 5000–04–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[GA–34–2–9716; FRL–5865–9]

Approval and Promulgation of Air Quality Implementation Plans; State of Georgia; Enhanced Motor Vehicle Inspection and Maintenance Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Interim final rule.

SUMMARY: EPA is granting interim approval of a State Implementation Plan (SIP) revision submitted by Georgia. This revision establishes and requires the implementation of an enhanced motor vehicle inspection and maintenance (I/M) program in 13 metro Atlanta counties. This action approves the State's enhanced I/M program for an 18 month interim period based upon the State's good faith estimate of the program's performance. This action is being taken under section 110 of the Clean Air Act (CAA) and section 348 of the National Highway Systems Designation Act (NHSDA).

DATES: This final rule is effective on September 10, 1997.

ADDRESSES: Copies of the documents relevant to this action are available for public inspection during normal business hours at the following locations:

Air, Pesticides, and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia, 30303

Georgia Department of Natural Resources, Environmental Protection Division, Air Protection Branch, 4244 International Parkway, Suite 120, Atlanta, Georgia, 30354

Air and Radiation Docket and Information Center (Air Docket 6102) U.S. Environmental Protection Agency, 401 M St., SW., Washington, DC 20460

FOR FURTHER INFORMATION CONTACT: Ben Franco, by telephone at: (404) 562–9039, or via e-mail at: Franco.Ben@epamail.epa.gov. The mailing address is U.S. EPA Region 4, 61 Forsyth Street, SW., Atlanta, Georgia, 30303.

SUPPLEMENTARY INFORMATION:

I. Background

On December 13, 1996 (61 FR 65496), EPA published a notice of proposed rulemaking (NPR) for the State of Georgia. The NPR proposed conditional interim approval of Georgia's enhanced

I/M program, submitted to satisfy the applicable requirements of both the CAA and the NHSDA. The formal SIP revision was submitted by the Georgia Environmental Protection Division (EPD) on March 27, 1996. A lack of Acceleration Simulation Mode (ASM) test method specifications was the reason for the conditional approval.

The NHSDA directs EPA to grant interim approval for a period of 18 months to approvable I/M submittals under this Act. The NHSDA also directs EPA and the states to review the interim program results at the end of that 18-month period, and to make a determination as to the effectiveness of the interim program. Following this demonstration, EPA will adjust any credit claims made by the State in its good faith effort, to reflect the emissions reductions actually measured by the State during the program evaluation period. The NHSDA is clear that the interim approval shall last for only 18 months, and that the program evaluation is due to EPA at the end of that period. Therefore, EPA believes Congress intended for these programs to begin as soon as possible, which EPA believes should be on or before November 15, 1997, so that, assuming a twelve month planning period before program implementation, at least six months of operational program data can be collected to evaluate the interim programs. EPA believes that in setting such a strict timetable for program evaluations under the NHSDA, Congress recognized and attempted to mitigate any further delay with the start-up of this program. If the State fails to start its program according to this schedule, this interim approval granted under the provisions of the NHSDA will convert to a disapproval after a finding letter is sent to the State. Unlike the other specified conditions of this rulemaking, which are explicit conditions under section 110(k)(4) of the CAA and which will trigger an automatic disapproval should the State fail to meet its commitments, the start date provision will only trigger a disapproval upon EPA's notification to the State by letter that the start date has been missed. This letter will not only notify the State that this rulemaking action has been converted to a disapproval, but also that the sanctions clock associated with this disapproval has been triggered as a result of this failure. Because the start date condition is not imposed pursuant to a commitment to correct a deficient SIP under 110(k)(4), EPA does not believe it is necessary to have the SIP approval convert to a disapproval automatically if the start date is missed. EPA is imposing the start date condition under its general SIP approval authority of section 110(k)(3), which does not require automatic conversion.

On January 31, 1997, the Georgia EPD submitted necessary ASM specifications that were the reason for the condition in the December 13, 1996, notice. These specifications were largely based upon EPA's specifications for the ASM test. Therefore, the condition noted in the December 13, 1996, proposal has been met and is removed. Georgia has also begun its implementation of the I/M program as scheduled and has met all milestones to date. Georgia has also committed to meet the ECOS/EPA/STAPPA evaluation workgroup protocol which will meet the requirements of 40 CFR 51.353(c)(3).

As per the NHSDA requirements, this interim rulemaking will expire on February 11, 1999. A full approval of Georgia's final I/M SIP revision is still necessary under section 110 and under section 182, 184 or 187 of the CAA. After EPA reviews Georgia's submitted program evaluation and regulations, final rulemaking on the State's full SIP revision will occur.

Additional detailed discussion of the Georgia enhanced I/M SIP and the rationale for EPA's action are explained in the proposal notice published December 13, 1996, at 61 FR 65496–65504 and will not be restated here.

II. Final Rulemaking Action

EPA had initially proposed to grant conditional interim approval to the Georgia enhanced I/M SIP revision due to the lack of the ASM specification. However, Georgia has since submitted the required ASM specifications, thereby meeting the requirements of the condition. EPA notes the State has demonstrated its good faith efforts by meeting its I/M program implementation schedule to date.

Under the terms of EPA's December 13, 1996, proposed interim conditional approval rulemaking, Georgia was required to make commitments (within 30 days) to remedy one major deficiency with the I/M program SIP (as specified in the NPR), within twelve months of final interim approval. On January 10, 1997, Georgia submitted a letter from Ronald Methier, Chief of the Air Protection Branch, Georgia Environmental Protection Division, to EPA committing to satisfy the ASM condition cited in the NPR, by certain dates specified in the letter. Subsequently, on January 31, 1997, the Georgia EPD submitted the required ASM specifications. Since the condition has been met by EPA's receipt of the ASM specifications, and since no comments were received concerning the December 13, 1996, proposal, EPA is granting final interim approval to the Georgia I/M SIP under section 110 of the CAA. As discussed in detail later in this notice, this approval is being granted on an interim basis, for an 18-month period under authority of the NHSDA.

III. Further Requirements for Permanent I/M SIP Approval

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

(1) EPA's review of the Georgia program evaluation confirms that the appropriate amount of program credit was claimed by the State and achieved with the interim program.

IV. Administrative Requirements

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

A. Executive Order 12866

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.

C. SIP Approval Actions

SIP approvals under section 110 and subchapter I, part D of the CAA do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not impose any new requirements, I certify that it does not have a significant impact on any small entities affected. Moreover,

due to the nature of the Federal-State relationship under the CAA, preparation of a flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The CAA 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) and 7410(k)(3).

D. 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 approval action promulgated does not include a Federal mandate that may result in estimated costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves pre-existing requirements under State or local law, and imposes no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

E. Submission to Congress and the General Accounting Office

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

F. Petitions for Judicial Review

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by October 10, 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 in 40 CFR Part 52

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

Dated: July 12, 1997.

John H. Hankinson, Jr.,

Regional Administrator.

Part 52 of chapter I, title 40, Code of Federal Regulations, is amended as follows:

PART 52—[AMENDED]

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

Authority: 42.U.S.C. 7401–7671q.

Subpart L—Georgia

2. Section 52.570 is amended by adding paragraph (c)(50) to read as follows:

§ 52.570 Identification of plan.

* * * * *

(c) * * *

(50) Georgia Enhanced Inspection and Maintenance submitted to EPA by the Georgia Department of Natural Resources on March 27, 1996.

(i) Incorporation by reference.

(A) Chapter 391–3–20 Enhanced Inspection and Maintenance program effective on September 24, 1996.

(ii) Other material. None.

[FR Doc. 97–20576 Filed 8–8–97; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[AD–FRL–5872–7]

National Emission Standards for Chromium Emissions From Hard and Decorative Chromium Electroplating and Chromium Anodizing Tanks

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: On January 25, 1995, the EPA issued national emission standards for hazardous air pollutants (NESHAP) under Section 112 of the Clean Air Act, as amended in 1990, for Hard and Decorative Chromium Electroplating and Chromium Anodizing Tanks. The NESHAP requires existing and new major and area sources to control emissions of hazardous air pollutants by meeting emission limits that are based on the use of maximum achievable control technology (MACT). On January 30, 1997, the EPA issued an interim final rule that revised the compliance date for some provisions for some of the sources subject to this standard. Specifically, the interim rule extended the compliance date for the monitoring, reporting, and recordkeeping (MRR) requirements for hard chromium electroplaters and chromium anodizing operations in California from January 25, 1997 to July 24, 1997.

Based on the comments received on the interim final rule, the EPA has reconsidered the extension deadline and is promulgating these revisions in today's action. Specifically, today's action further extends the compliance date for performance test requirements and all the monitoring, reporting, and recordkeeping (MRR) requirements for hard chromium electroplaters and chromium anodizing operations in California to January 25, 1998.

DATES: The final rule will be effective August 11, 1997.

ADDRESSES: *Docket.* Docket No. A–88–02 containing the supporting information for the original NESHAP and this action, are available for public inspection and copying between 8:00 a.m. and 5:30 p.m., Monday through Friday, at the EPA's Air and Radiation Docket and Information Center, Waterside Mall, room M–1500, first floor, 401 M Street SW., Washington, DC 20460, or by calling (202) 260–7548 or 260–7549. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Mr. Lalit Banker, Emission Standards Division (MD–13), U.S. Environmental Protection Agency, Office of Air Quality Planning and Standards, Research Triangle Park, North Carolina 27711, telephone number (919) 541–5420.

SUPPLEMENTARY INFORMATION:

Regulated Entities

The regulated category and entities affected by this action include the hard chromium electroplating and chromium anodizing operations in the State of California only. To determine whether your facility is regulated by this action, you should carefully examine the applicability criteria in § 63.340 of the regulation. If you have questions

regarding the applicability of this action to a particular entity, consult your State/local agency, EPA regional office, or the EPA Office of Enforcement and Compliance Assurance.

I. Basis for Changes to Rule

In response to two public comments received and further consideration by the EPA, the following changes have been made to the rule since the interim final rule. The EPA is extending the compliance date for all the MRR requirements for hard chromium electroplaters and the chromium anodizing sources in California from January 25, 1997, to January 25, 1998 (the interim final rule extended some of these up to July 24, 1997). Also, the performance test completion date is extended for all the hard chromium electroplaters and the chromium anodizing sources in California for which a source test is required from July 24, 1997, to January 25, 1998.

These changes are made primarily to allow more time for the California Air Resources Board (CARB) to establish and obtain approval under Subpart E of its MRR requirements for these sources that would be at least as stringent as the Federal NESHAP requirements. It also will allow more time for EPA to review and approve/disapprove over one hundred performance tests for sources that performed these tests prior to July 24, 1997. CARB and EPA Region IX have developed a source test review protocol to use in reviewing these performance tests for approval. Those sources whose performance tests are disapproved will have to perform additional performance test(s) following the criteria and methods provided in the final NESHAP rule. Thus, the extension will give CARB and the sources additional time to achieve this. The net effect of this compliance extension will be that all the hard chromium electroplating and chromium anodizing sources in California that apply add-on emission control devices to reduce chromium emissions will continue to operate as they do now, while complying with the current applicable State/district rules. The Federal NESHAP continues to require these sources to monitor applicable parameters on and after the date on which the initial performance test is required to be completed, which is currently July 24, 1997. However, for chromium anodizing sources that use fume suppressants as the control technology, the MRR requirements were effective January 25, 1997, if they choose not to do a performance test (which is allowed). Today's action extends these dates to January 25, 1998.

As stated in the interim final rule, there is no adverse environmental impact as a result of this extension. The sources in California presently are required to comply with California's ''Chrome Plating Air Toxics Control Measure'' (February 1988), which specifies the application of control technology (already in place) that is identical to that required by the Chromium NESHAP. The Chromium NESHAP requires control technology to be installed by January 25, 1997. California is in the process of obtaining approval of its rule, including State MRR requirements, as equivalent to the Federal rule under section 112(l) of the CAA, 42 U.S.C. § 7412(l). In the event that California is unable to obtain approval before January 25, 1998, the requirements of the Chromium NESHAP will take effect. In this action, the EPA is not extending the date by which control technology must be installed, only the date by which California sources subject to the rule must meet the Federal performance testing and MRR requirements. This extension is not considered for similar sources in other States because no other State has a pre-existing State regulation that requires the installation of equivalent control technology by January 25, 1997, nor is any other State seeking approval of an equivalent rule or other authority.

II. Impacts

The extension of the performance testing and MRR compliance dates for some sources in California will not have any detrimental environmental effects because there is no delay in installation of control technology; thus, there is no impact on the estimated emissions reduction or the control cost for the rule.

III. Public Participation

The EPA provided 30 days for submission of public comments on the interim final rule. Two comment letters were received during the comment period. Both commentors asked for more time to allow the regulatory and equivalency process to be completed thereby ensuring that California sources are subject to only one set of requirements in the interim and also to allow time for EPA to complete its review of performance tests that certain sources conducted before July 24, 1997. These commenters also requested that the EPA include in the extension all other MRR requirements that were not included in the interim final rule. These other MRR requirements relate to having an operation and maintenance plan, reporting and recordkeeping of all malfunctions, etc. One commenter wanted the extension to be as long as it takes for differences between the State and Federal rules to be resolved. Considering the status of the equivalency proposal, and the fact that the sources for which the extension applies are required to install control technology by the NESHAP's compliance date of January 25, 1997, the EPA has decided to extend the date by which a source must conduct its performance test and comply with the MRR requirements until January 25, 1998. In the event that California is unable to submit an approvable rule to EPA before January 25, 1998, the requirements of the Chromium NESHAP will take effect. EPA does not intend to grant additional extensions beyond January 25, 1998 for this source category as the current extension has been granted in consideration of extraordinary circumstances which we are committed to resolving prior to this date.

Both the commenters requested clarification regarding the compliance date and performance test compliance date and whether the source is in violation if a performance test conducted after January 25, 1997 shows noncompliance, while a subsequent performance test conducted before the extended performance test compliance date shows compliance. As stated above, today's action does not extend the source's compliance date, which was January 25, 1997, which is the date by which all sources were required to be in compliance. Compliance is required as of the compliance date, regardless of when the performance test is performed. If a performance test shows noncompliance, then the EPA considers the source to be not in compliance from the initial compliance date (January 25, 1997). This provision is not changed in the final rule. Moreover, one of the premises underlying EPA's decision to grant the extension is there is no delay in compliance. The extension only allows additional time to conduct the requisite performance tests and comply with the MRR requirements.

IV. Administrative Requirements

A. Paperwork Reduction Act

The information collection requirements of the previously promulgated NESHAP were submitted to and approved by the Office of Management and Budget (OMB). A copy of this Information Collection Request (ICR) document (EPA ICR number 1611.02) may be obtained from Sandy Farmer, Information Policy Branch (PM–223Y); U.S. Environmental Protection Agency; 401 M Street, SW;

Washington, DC 20460 or by calling (202) 260–2740.

Today's changes to the NESHAP should have no impact on the information collection burden estimates made previously. Today's action merely extends the date of compliance with the source test requirements and the MRR requirements in the rule for the existing affected sources in California. These changes do not impose new requirements. Consequently, the ICR has not been revised.

B. Executive Order 12866 Review

Under Executive Order 12866, the EPA must determine whether the proposed regulatory action is ''significant'' and therefore, subject to OMB review and the requirements of the executive order. The Order defines ''significant'' regulatory action as one that is likely to lead to 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 in 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.

The Chrome Electroplating NESHAP promulgated on January 25, 1995 was determined by OMB to be a ''significant regulatory action'' within the meaning of the Executive Order. For this reason, OMB reviewed the final rule as promulgated. However, today's action merely extends for certain sources the source test completion and the compliance deadline for MRR requirements. These changes do not add any additional control requirements or costs. Therefore, this regulatory action does not affect the previous decision and is not considered to be significant.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act of 1980 requires the identification of potentially adverse impacts of Federal regulations upon small business entities. The Act specifically requires the completion of a Regulatory Flexibility Analysis when the regulation will impose a significant economic impact on a substantial number of small entities. Because today's action imposes no adverse economic impacts, a Regulatory Flexibility Analysis has not been prepared.

D. Submission to Congress and the General Accounting Office

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

E. Unfunded Mandates

Under Section 202 of the Unfunded Mandates Reform Act of 1995, the 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, the EPA must select the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the Act and is consistent with statutory requirements. Section 203 requires the 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 the action promulgated today 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. Therefore, the requirements of the Unfunded Mandates Reform Act do not apply to this action.

List of Subjects in 40 CFR Part 63

Environmental protection, Air pollution control, Hazardous substances, Reporting and recordkeeping requirements.

Dated: August 4, 1997.

Carol M. Browner,

Administrator.

For the reasons set out in the preamble, title 40, chapter I, part 63, of the Code of Federal Regulations is amended as follows:

PART 63—[AMENDED]

1. The authority citation for part 63 continues to read as follows:

Authority: 42 U.S.C. 7401, *et seq.*

Subpart N—National Emission Standards for Chromium Emissions From Hard and Decorative Chromium Electroplating and Chromium Anodizing Tanks

2. Section 63.342 is amended by revising the first sentence of paragraph (f)(3)(i) introductory text to read as follows:

§ 63.342 Standards.

* * * * *

(f) * * *

(3) * * * (i) The owner or operator of an affected source subject to the work practices of paragraph (f) of this section shall prepare an operation and maintenance plan to be implemented no later than the compliance date, except for hard chromium electroplaters and chromium anodizing operations in California which have until January 25, 1998. * * *

* * * * *

3. Section 63.343 is amended by revising paragraph (b)(1) and the first sentence of paragraphs (c)(1)(ii), (c)(2)(ii), (c)(4)(ii), (c)(5)(ii) introductory text, and (c)(6)(ii) introductory text, to read as follows:

§ 63.343 Compliance provisions.

* * * * *

(b) * * *

(1) Except as provided in paragraphs (b)(2) and (b)(3) of this section, an owner or operator of an affected source subject to the requirements of this subpart is required to conduct an initial performance test as required under § 63.7, except for hard chromium electroplaters and chromium anodizing operations in California which have until January 25, 1998, using the procedures and test methods listed in §§ 63.7 and 63.344.

* * * * *

(c) * * *

(1) * * *

(ii) On and after the date on which the initial performance test is required to be completed under § 63.7, except for hard chromium electroplaters and chromium anodizing operations in California which have until January 25, 1998, the owner or operator of an affected source, or group of affected sources under common control, shall monitor and record the pressure drop across the composite mesh-pad system once each day that any affected source is operating. * * *

(2) * * *

(ii) On and after the date on which the initial performance test is required to be completed under § 63.7, except for hard chromium electroplaters and chromium anodizing operations in California

which have until January 25, 1998, the owner or operator of an affected source, or group of affected sources under common control, shall monitor and record the velocity pressure at the inlet to the packed-bed system and the pressure drop across the scrubber system once each day that any affected source is operating. * * *

* * * * *

(4) * * *

(ii) On and after the date on which the initial performance test is required to be completed under § 63.7, except for hard chromium electroplaters and chromium anodizing operations in California which have until January 25, 1998, the owner or operator of an affected source, or group of affected sources under common control, shall monitor and record the pressure drop across the fiber-bed mist eliminator, and the control device installed upstream of the fiber bed to prevent plugging, once each day that any affected source is operating. * * *

(5) * * *

(ii) On and after the date on which the initial performance test is required to be completed under § 63.7, except for hard chromium electroplaters and chromium anodizing operations in California which have until January 25, 1998, the owner or operator of an affected source shall monitor the surface tension of the electroplating or anodizing bath. * * *

(6) * * *

(ii) On and after the date on which the initial performance test is required to be completed under § 63.7, except for hard chromium electroplaters and chromium anodizing operations in California which have until January 25, 1998, the owner or operator of an affected source shall monitor the foam blanket thickness of the electroplating or anodizing bath. * * *

* * * * *

4. Section 63.347 is amended by revising paragraph (e)(4) to read as follows:

§ 63.347 Reporting requirements.

* * * * *

(e) * * *

(4) For sources that are not required to complete a performance test in accordance with § 63.343(b), the notification of compliance status shall be submitted to the Administrator no later than 30 days after the compliance date specified in § 63.343(a), except the date on which sources in California shall monitor the surface tension of the anodizing bath is extended to January 25, 1998.

* * * * *

[FR Doc. 97–21143 Filed 8–8–97; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–300521; FRL–5732–7]

RIN 2070–AB78

Glyphosate; Pesticide Tolerances for Emergency Exemptions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes a time-limited tolerance for residues of glyphosate, per se in or on dry peas, pea vines, hay, and silage, lentils, and kidney (cattle, goats, horses and sheep). This action is in response to EPA's granting of emergency exemptions under section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act authorizing use of the pesticide on dry peas, lentils and chickpeas. This regulation establishes a maximum permissible level for residues of glyphosate in this food commodity pursuant to section 408(l)(6) of the Federal Food, Drug, and Cosmetic Act, as amended by the Food Quality Protection Act of 1996. The tolerance will expire and is revoked on August 30, 1998.

DATES: This regulation is effective August 11, 1997. Objections and requests for hearings must be received by EPA on or before October 10, 1997.

ADDRESSES: Written objections and hearing requests, identified by the docket control number, [OPP–300521], must be submitted to: Hearing Clerk (1900), Environmental Protection Agency, Rm. M3708, 401 M St., SW., Washington, DC 20460. Fees accompanying objections and hearing requests shall be labeled ''Tolerance Petition Fees'' and forwarded to: EPA Headquarters Accounting Operations Branch, OPP (Tolerance Fees), P.O. Box 360277M, Pittsburgh, PA 15251. A copy of any objections and hearing requests filed with the Hearing Clerk identified by the docket control number, [OPP–300521], must also be submitted to: Public Information and Records Integrity Branch, Information Resources and Services Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring a copy of objections and hearing requests to Rm. 1132, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA.

A copy of objections and hearing requests filed with the Hearing Clerk may also be submitted electronically by sending electronic mail (e-mail) to: opp-docket@epamail.epa.gov. Copies of objections and hearing requests must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Copies of objections and hearing requests will also be accepted on disks in WordPerfect 5.1 file format or ASCII file format. All copies of objections and hearing requests in electronic form must be identified by the docket control number [OPP–300521]. No Confidential Business Information (CBI) should be submitted through e-mail. Electronic copies of objections and hearing requests on this rule may be filed online at many Federal Depository Libraries.

FOR FURTHER INFORMATION CONTACT: By mail: Virginia Dietrich, Registration Division 7505C, Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location, telephone number, and e-mail address: Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, (703) 308–9359, e-mail: dietrich.virginia@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: EPA, on its own initiative, pursuant to section 408(e) and (l)(6) of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a(e) and (l)(6), is establishing a tolerance for residues of the herbicide *N*-(Phosphonomethyl)glycine, in or on dry peas, pea vines, hay, and silage, lentils, and kidney (cattle, goats, horses and sheep) at 5, 60, 200, 90, 5, and 4, respectively part per million (ppm). These tolerances will expire and are revoked on August 30, 1998. After August 30, 1998, EPA will publish a document in the **Federal Register** to remove the revoked tolerance from the Code of Federal Regulations.

I. Background and Statutory Authority

The Food Quality Protection Act of 1996 (FQPA) (Pub. L. 104–170) was signed into law August 3, 1996. FQPA amends both the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 301 *et seq*., and the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), 7 U.S.C. 136 *et seq* . The FQPA amendments went into effect immediately. Among other things, FQPA amends FFDCA to bring all EPA pesticide tolerance-setting activities under a new section 408 with a new safety standard and new procedures. These activities are described below and

discussed in greater detail in the final rule establishing the time-limited tolerance associated with the emergency exemption for use of propiconazole on sorghum (61 FR 58135, November 13, 1996)(FRL–5572–9).

New section 408(b)(2)(A)(i) of the FFDCA allows EPA to establish a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is ''safe.'' Section 408(b)(2)(A)(ii) defines ''safe'' to mean that ''there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information.'' This includes exposure through drinking water and in residential settings, but does not include occupational exposure. Section 408(b)(2)(C) requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to ''ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue***.''

Section 18 of FIFRA authorizes EPA to exempt any Federal or State agency from any provision of FIFRA, if EPA determines that ''emergency conditions exist which require such exemption.'' This provision was not amended by FQPA. EPA has established regulations governing such emergency exemptions in 40 CFR part 166.

Section 408(l)(6) of the FFDCA requires EPA to establish a time-limited tolerance or exemption from the requirement for a tolerance for pesticide chemical residues in food that will result from the use of a pesticide under an emergency exemption granted by EPA under section 18 of FIFRA. Such tolerances can be established without providing notice or period for public comment.

Because decisions on section 18-related tolerances must proceed before EPA reaches closure on several policy issues relating to interpretation and implementation of the FQPA, EPA does not intend for its actions on such tolerance to set binding precedents for the application of section 408 and the new safety standard to other tolerances and exemptions.

II. Emergency Exemption for Glyphosate on (Dry Peas, Lentils, and Garbanzo Beans) and FFDCA Tolerances

The Agency determined that an urgent, non-routine situation exists in areas where dense populations of Canada thistle develop in dry pea, chickpea and lentil crops in Idaho, Oregon and Washington. Crop loss of up to 100% may occur in areas heavily infested with Canada thistle. Both pre- and post-emergence herbicides are registered for these crops, but they are ineffective in controlling Canada thistle. Spot treatment with glyphosate to eliminate Canada thistle will not improve dry pea, chick pea and lentil crop yields this year since the application will also destroy the surrounding crop. However, the use of glyphosate will eliminate the Canada thistle pest and future crops are expected to improve. After having reviewed the submission, EPA concurs that emergency conditions exist for this state. EPA has authorized under FIFRA section 18 the use of glyphosate on dry peas, garbanzo beans and lentils) for control of Canada thistle.

As part of its assessment of this emergency exemption, EPA assessed the potential risks presented by residues of glyphosate in or on dry peas, garbanzo beans and lentils. In doing so, EPA considered the new safety standard in FFDCA section 408(b)(2), and EPA decided that the necessary tolerance under FFDCA section 408(l)(6) would be consistent with the new safety standard and with FIFRA section 18. Consistent with the need to move quickly on the emergency exemption in order to address an urgent non-routine situation and to ensure that the resulting food is safe and lawful, EPA is issuing this tolerance without notice and opportunity for public comment under section 408(e), as provided in section 408(l)(6). Although these tolerances will expire and are revoked on August 30, 1998, under FFDCA section 408(l)(5), residues of the pesticide not in excess of the amounts specified in the tolerance remaining in or on dry peas, garbanzo beans, and lentils after that date will not be unlawful, provided the pesticide is applied in a manner that was lawful under FIFRA. EPA will take action to revoke this tolerance earlier if any experience with, scientific data on, or other relevant information on this pesticide indicate that the residues are not safe.

Because this tolerance is being approved under emergency conditions EPA has not made any decisions about whether glyphosate meets EPA's registration requirements for use on dry peas, garbanzo beans, and lentils or whether a permanent tolerance for this use would be appropriate. Under these circumstances, EPA does not believe that this tolerance serves as a basis for registration of glyphosate by a State for special local needs under FIFRA section 24(c). Nor does this tolerance serve as the basis for any State other than Idaho, Oregon, and Washington to use this pesticide on this crop under section 18 of FIFRA without following all provisions of section 18 as identified in 40 CFR part 166. For additional information regarding the emergency exemption for glyphosate, contact the Agency's Registration Division at the address provided above.

III. Risk Assessment and Statutory Findings

EPA performs a number of analyses to determine the risks from aggregate exposure to pesticide residues. First, EPA determines the toxicity of pesticides based primarily on toxicological studies using laboratory animals. These studies address many adverse health effects, including (but not limited to) reproductive effects, developmental toxicity, toxicity to the nervous system, and carcinogenicity. Second, EPA examines exposure to the pesticide through the diet (e.g., food and drinking water) and through exposures that occur as a result of pesticide use in residential settings.

A. Toxicity

1. *Threshold and non-threshold effects.* For many animal studies, a dose response relationship can be determined, which provides a dose that causes adverse effects (threshold effects) and doses causing no observed effects (the ''no-observed effect level'' or ''NOEL'').

Once a study has been evaluated and the observed effects have been determined to be threshold effects, EPA generally divides the NOEL from the study with the lowest NOEL by an uncertainty factor (usually 100 or more) to determine the Reference Dose (RfD). The RfD is a level at or below which daily aggregate exposure over a lifetime will not pose appreciable risks to human health. An uncertainty factor (sometimes called a ''safety factor'') of 100 is commonly used since it is assumed that people may be up to 10 times more sensitive to pesticides than the test animals, and that one person or subgroup of the population (such as infants and children) could be up to 10 times more sensitive to a pesticide than another. In addition, EPA assesses the potential risks to infants and children based on the weight of the evidence of the toxicology studies and determines whether an additional uncertainty factor is warranted. Thus, an aggregate daily exposure to a pesticide residue at or below the RfD (expressed as 100% or less of the RfD) is generally considered acceptable by EPA. EPA generally uses

the RfD to evaluate the chronic risks posed by pesticide exposure. For shorter term risks, EPA calculates a margin of exposure (MOE) by dividing the estimated human exposure into the NOEL from the appropriate animal study. Commonly, EPA finds MOEs lower than 100 to be unacceptable. This hundredfold MOE is based on the same rationale as the hundredfold uncertainty factor.

Lifetime feeding studies in two species of laboratory animals are conducted to screen pesticides for cancer effects. When evidence of increased cancer is noted in these studies, the Agency conducts a weight of the evidence review of all relevant toxicological data including short-term and mutagenicity studies and structure activity relationship. Once a pesticide has been classified as a potential human carcinogen, different types of risk assessments (e.g., linear low dose extrapolations or MOE calculation based on the appropriate NOEL) will be carried out based on the nature of the carcinogenic response and the Agency's knowledge of its mode of action.

2. *Differences in toxic effect due to exposure duration.* The toxicological effects of a pesticide can vary with different exposure durations. EPA considers the entire toxicity data base, and based on the effects seen for different durations and routes of exposure, determines which risk assessments should be done to assure that the public is adequately protected from any pesticide exposure scenario. Both short and long durations of exposure are always considered. Typically, risk assessments include ''acute'', ''short-term'', ''intermediate term'', and ''chronic'' risks. These assessments are defined by the Agency as follows.

Acute risk, by the Agency's definition, results from 1–day consumption of food and water, and reflects toxicity which could be expressed following a single oral exposure to the pesticide residues. High end exposure to food and water residues are typically assumed.

Short-term risk results from exposure to the pesticide for a period of 1-7 days, and therefore overlaps with the acute risk assessment. Historically, this risk assessment was intended to address primarily dermal and inhalation exposure which could result, for example, from residential pesticide applications. However, since enaction of FQPA, this assessment has been expanded to include both dietary and non-dietary sources of exposure, and will typically consider exposure from food, water, and residential uses when reliable data are available. In this assessment, risks from average food and water exposure, and high-end residential exposure, are aggregated. High-end exposures from all 3 sources are not typically added because of the very low probability of this occurring in most cases, and because the other conservative assumptions built into the assessment assure adequate protection of public health. However, for cases in which high-end exposure can reasonably be expected from multiple sources (e.g. frequent and widespread homeowner use in a specific geographical area), multiple high-end risks will be aggregated and presented as part of the comprehensive risk assessment/characterization. Since the toxicological endpoint considered in this assessment reflects exposure over a period of at least 7 days, an additional degree of conservatism is built into the assessment; i.e., the risk assessment nominally covers 1-7 days exposure, and the toxicological endpoint/NOEL is selected to be adequate for at least 7 days of exposure. (Toxicity results at lower levels when the dosing duration is increased.)

Intermediate-term risk results from exposure for 7 days to several months. This assessment is handled in a manner similar to the short-term risk assessment.

Chronic risk assessment describes risk which could result from several months to a lifetime of exposure. For this assessment, risks are aggregated considering average exposure from all sources for representative population subgroups including infants and children.

B. Aggregate Exposure

In examining aggregate exposure, FFDCA section 408 requires that EPA take into account available and reliable information concerning exposure from the pesticide residue in the food in question, residues in other foods for which there are tolerances, residues in groundwater or surface water that is consumed as drinking water, and other non-occupational exposures through pesticide use in gardens, lawns, or buildings (residential and other indoor uses). Dietary exposure to residues of a pesticide in a food commodity are estimated by multiplying the average daily consumption of the food forms of that commodity by the tolerance level or the anticipated pesticide residue level. The Theoretical Maximum Residue Contribution (TMRC) is an estimate of the level of residues consumed daily if each food item contained pesticide residues equal to the tolerance. In evaluating food exposures, EPA takes into account varying consumption patterns of major identifiable subgroups of consumers, including infants and children. The TMRC is a ''worst case'' estimate since it is based on the assumptions that food contains pesticide residues at the tolerance level and that 100% of the crop is treated by pesticides that have established tolerances. If the TMRC exceeds the RfD or poses a lifetime cancer risk that is greater than approximately one in a million, EPA attempts to derive a more accurate exposure estimate for the pesticide by evaluating additional types of information (anticipated residue data and/or percent of crop treated data) which show, generally, that pesticide residues in most foods when they are eaten are well below established tolerances.

Percent of crop treated estimates are derived from federal and private market survey data. Typically, a range of estimates are supplied and the upper end of this range is assumed for the exposure assessment. By using this upper end estimate of percent of crop treated, the Agency is reasonably certain that exposure is not understated for any significant subpopulation group. Further, regional consumption information is taken into account through EPA's computer-based model for evaluating the exposure of significant subpopulations including several regional groups, to pesticide residues. For this pesticide, the most highly exposed population subgroup (non-nursing infants less than 1 year old) was not regionally based.

IV. Aggregate Risk Assessment and Determination of Safety

Consistent with section 408(b)(2)(D), EPA has reviewed the available scientific data and other relevant information in support of this action, EPA has sufficient data to assess the hazards of glyphosate and to make a determination on aggregate exposure, consistent with section 408(b)(2), for a time-limited tolerance for residues of glyphosate on dry peas, pea vines, hay, and silage, lentils, and kidney (cattle, goats, horses and sheep) at 5, 60, 200, 90, 5, and 4 ppm, respectively. EPA's assessment of the dietary exposures and risks associated with establishing the tolerance follows.

A. Toxicological Profile

EPA has evaluated the available toxicity data and considered its validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable

subgroups of consumers, including infants and children. The nature of the toxic effects caused by glyphosate are discussed below.

1. *Acute toxicity.* No endpoint of concern was identified by the Office of Pesticide Programs .

2. *Short - and intermediate - term toxicity.* No effects were observed in a 21–day dermal toxicity study at the limit dose. No adverse effects were observed in the developmental toxicity study in rats up to 1,000 mg/kg/day and in rabbits at up to 175 mg/kg/day.

3. *Chronic toxicity.* EPA has established the RfD for glyphosate at 2 milligrams/kilogram/day (mg/kg/day). This RfD is based on the maternal toxicity NOEL of 175 mg/kg/day from a rabbit developmental toxicity study using an uncertainty factor (UF) of 100. The lowest observed effect level (LOEL) of 350 mg/kg/day (highest dose tested) was based on treatment-related findings of diarrhea, nasal discharge, and death (62.5% of does died by gestation day 21). Developmental toxicity was not observed at any dose tested.

4. *Carcinogenicity.* Glyphosate has been classified as a Group E chemical (evidence of non-carcinogenicity for humans) by the Office of Pesticide Programs. The classification was based on a lack of convincing evidence of carcinogenicity in adequate studies with two animal species, rat and mouse.

B. Exposures and Risks

1. *From food and feed uses.* Tolerances have been established (40 CFR 180.364, 185.3500, 186.3500) for the combined residues of glyphosate and its metabolite aminomethylphosphonic acid in or on certain raw agricultural commodities ranging from 0.1 ppm in peanuts to 200 ppm in alfalfa. This regulation also establishes a tolerance for secondary residues in kidney (cattle, goats, horses, and sheep). Risk assessments were conducted by EPA to assess dietary exposures and risks from glyphosate as follows:

i. *Acute exposure and risk.* No endpoint was identified for this duration of exposure, therefore no assessment was necessary. Acute dietary risk assessments are performed for a food-use pesticide only if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a 1 day or single exposure.

ii. *Chronic exposure and risk.* In conducting this exposure assessment, EPA has made very conservative assumptions—that 100% of dry peas, lentils, and chickpeas and all other commodities having glyphosate tolerances would contain glyphosate residues and that those residues would be at the level of the respective tolerances—which result in an overestimate of human dietary exposure. Thus, in making a safety determination for this tolerance, EPA is taking into account this conservative exposure assessment.

All the glyphosate tolerances (published, pending, and including these Section 18 tolerances) result in a Theoretical Maximum Residue Contribution (TMRC) that is equivalent to the following percentages of the RfD:

Subgroups	Percentage of RFD
U.S Population	1.2
Nursing Infants	1.2
Non-Nursing Infants (<1 year old).	3.3
Children (1-6 years old)	2.6
Children (7-12 years old)	1.8
Western Region	1.3

The subgroups listed above are: (1) the U.S. population (48 states); (2) those for infants and children; and, (3) the other subgroups for which the percentage of the RfD occupied is greater than that occupied by the subgroup U.S. population (48 states).

iii. *Cancer risk.* Glyphosate has been classified as a Group E chemical (evidence of non-carcinogenicity for humans) by the Office of Pesticide Programs Cancer Peer Review Committee.

2. *From drinking water.* Based on information in the EPA's files, glyphosate is not persistent and not mobile. A Maximum Contaminant Level has been established by the Agency's Office of Water (OW) for residues of glyphosate in drinking water at 0.7 ppm. OW has also established Health Advisory levels for glyphosate in drinking water at the following levels:

Child, 10 kg of body weight.	
1–day	20 mg/L
10–day	20 mg/L
longer-term	1 mg/L
Adult, 70 kg of body weight.	
lifetime	0.7 mg/L

i. *Acute exposure and risk.* No endpoint of concern was identified by the Agency so this risk assessment was not required.

ii. *Chronic exposure and risk.* Because the Agency lacks sufficient water-related exposure data to complete a comprehensive drinking water risk assessment for many pesticides, EPA has commenced and nearly completed a process to identify a reasonable yet conservative bounding figure for the potential contribution of water-related exposure to the aggregate risk posed by a pesticide. In developing the bounding figure, EPA estimated residue levels in water for a number of specific pesticides using various data sources. The Agency then applied the estimated residue levels, in conjunction with appropriate toxicological endpoints (RfD's or acute dietary NOEL's) and assumptions about body weight and consumption, to calculate, for each pesticide, the increment of aggregate risk contributed by consumption of contaminated water. While EPA has not yet pinpointed the appropriate bounding figure for exposure from contaminated water, the ranges the Agency is continuing to examine are all below the level that would cause glyphosate to exceed the RfD if the tolerance being considered in this document were granted. The Agency has therefore concluded that the potential exposures associated with glyphosate in water, even at the higher levels the Agency is considering as a conservative upper bound, would not prevent the Agency from determining that there is a reasonable certainty of no harm if the tolerance is granted.

3. *From non-dietary exposure.* Glyphosate is registered for uses on outdoor non-food sites such as turf and ornamentals. These uses may result in non-occupational exposures. However, since no toxicological endpoints for non-dietary exposures have been identified, the resulting risks cannot be assessed, therefore these exposures have not been estimated.

4. *Cumulative exposure to substances with common mechanism of toxicity.* Section 408(b)(2)(D)(v) requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider ''available information'' concerning the cumulative effects of a particular pesticide's residues and ''other substances that have a common mechanism of toxicity.'' The Agency believes that ''available information'' in this context might include not only toxicity, chemistry, and exposure data, but also scientific policies and methodologies for understanding common mechanisms of toxicity and conducting cumulative risk assessments. For most pesticides, although the Agency has some information in its files that may turn out to be helpful in eventually determining whether a pesticide shares a common mechanism of toxicity with any other substances, EPA does not at this time have the methodologies to resolve the complex scientific issues concerning common mechanism of toxicity in a

meaningful way. EPA has begun a pilot process to study this issue further through the examination of particular classes of pesticides. The Agency hopes that the results of this pilot process will increase the Agency's scientific understanding of this question such that EPA will be able to develop and apply scientific principles for better determining which chemicals have a common mechanism of toxicity and evaluating the cumulative effects of such chemicals. The Agency anticipates, however, that even as its understanding of the science of common mechanisms increases, decisions on specific classes of chemicals will be heavily dependent on chemical specific data, much of which may not be presently available.

Although at present the Agency does not know how to apply the information in its files concerning common mechanism issues to most risk assessments, there are pesticides as to which the common mechanism issues can be resolved. These pesticides include pesticides that are toxicologically dissimilar to existing chemical substances (in which case the Agency can conclude that it is unlikely that a pesticide shares a common mechanism of activity with other substances) and pesticides that produce a common toxic metabolite (in which case common mechanism of activity will be assumed).

EPA does not have, at this time, available data to determine whether glyphosate has a common mechanism of toxicity with other substances or how to include this pesticide in a cumulative risk assessment. Unlike other pesticides for which EPA has followed a cumulative risk approach based on a common mechanism of toxicity, glyphosate does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, EPA has not assumed that glyphosate has a common mechanism of toxicity with other substances.

C. Aggregate Risks and Determination of Safety for U.S. Population

1. *Acute risk.* Since no toxicological endpoint of concern was identified, there is a reasonable certainty that no harm will result from aggregate acute exposures to glyphosate residues.

2. *Chronic risk.* Using the TMRC exposure assumptions described above, EPA has concluded that aggregate exposure to glyphosate from food will utilize 1.2 percent of the RfD for the U.S. population. The major identifiable subgroup with the highest aggregate exposure is non-nursing infants, which is further discussed below. EPA generally has no concern for exposures below 100% of the RfD because the RfD represents the level at or below which daily aggregate dietary exposure over a lifetime will not pose appreciable risks to human health. Despite the potential for exposure to glyphosate in drinking water and from non-dietary, non-occupational exposure, EPA does not expect the aggregate exposure to exceed 100% of the RfD. EPA concludes that there is a reasonable certainty that no harm will result from aggregate exposure to glyphosate residues.

3. *Short- and intermediate-term risk.* Short- and intermediate-term aggregate exposure takes into account chronic dietary food and water (considered to be a background exposure level) plus indoor and outdoor residential exposure.

An Ad Hoc Toxicology Endpoint Selection Committee concluded that this risk assessment is not required, based on the lack of any observable effects in a 21–day dermal toxicity study at the limit dose and the observation of no adverse effects in a developmental toxicity study in rats up to 1,000 mg/kg/day and rabbits up to ≥ 175 mg/kg/day. Therefore, EPA concludes that there is a reasonable certainty that no harm will result from aggregate short- and inermediate-term exposure to glyphosate residues.

D. Aggregate Cancer Risk for U.S. Population

As noted above, glyphosate has been classified as a Group E chemical (evidence of non-carcinogenicity for humans).

E. Aggregate Risks and Determination of Safety for Infants and Children

1. *Safety factor for infants and children—a. In general.* In assessing the potential for additional sensitivity of infants and children to residues of glyphosate, EPA considered data from developmental toxicity studies in the rat and rabbit and a two-generation reproduction study in the rat. The developmental toxicity studies are designed to evaluate adverse effects on the developing organism resulting from pesticide exposure during prenatal development to one or both parents. Reproduction studies provide information relating to effects from exposure to the pesticide on the reproductive capability of mating animals and data on systemic toxicity.

FFDCA section 408 provides that EPA shall apply an additional tenfold margin of safety for infants and children in the case of threshold effects to account for pre-and post-natal toxicity and the completeness of the database unless EPA determines that a different margin of safety will be safe for infants and children. Margins of safety are incorporated into EPA risk assessments either directly through use of a MOE analysis or through using uncertainty (safety) factors in calculating a dose level that poses no appreciable risk to humans. EPA believes that reliable data support using the standard MOE and uncertainty factor (usually 100 for combined inter- and intra-species variability)) and not the additional tenfold MOE/uncertainty factor when EPA has a complete data base under existing guidelines and when the severity of the effect in infants or children or the potency or unusual toxic properties of a compound do not raise concerns regarding the adequacy of the standard MOE/safety factor.

b. *Developmental toxicity studies —i. Rat.* In the rat developmental toxicity study, the maternal (systemic) NOEL is 1,000 mg/kg/day. The maternal (systemic) LOEL of 3,500 mg/kg/day was based on the following treatment-related effects: diarrhea, decreased mean body weight gain, breathing rattles, inactivity, red matter around the nose and mouth, and on forelimbs and dorsal head, decreases in total implantations/dam and non-viable fetuses/dam, and death (24% of the group). The developmental (fetal) NOEL is 1,000 mg/kg/day. The developmental (fetal) LOEL of 3,500 mg/kg/day was based on treatment-related developmental effects observed only in the high-dose group of: increased number of litters and fetuses with unossified sternebrae, and decreased mean fetal body weights.

ii. *Rabbit.* In the rabbit developmental toxicity study, the maternal (systemic) NOEL is 175 mg/kg/day. The maternal (systemic) LOEL of 350 mg/kg/day was based on treatment-related effects that included: diarrhea, nasal discharge, and death (62.5% of does died by gestation day 21). The developmental (fetal) NOEL is ≥ 175 mg/kg/day (insufficient litters were available at 350 mg/kg/day to assess developmental toxicity). Developmental toxicity was not observed at any dose tested.

c. *Reproductive toxicity study—i. Rat.* A three-generation reproductive toxicity study was conducted with Sprague-Dawley rats, the parental NOEL/LOEL is ≥ 30 mg/kg/day (highest dose tested). The only effect observed was an increased incidence of focal tubular dilation of the kidney (both unilateral and bilateral combined) in the high-dose male F_{3b} pups.

Since the focal tubular dilation of the kidneys was not observed at the 1,500 mg/kg/day level (HDT) in the 2-generation rat reproduction (see below),

but was observed at the 30 mg/kg/day level (HDT) in the 3-generation rat reproduction study, the OPP Developmental Peer Review Committee concluded that the latter was a spurious rather than glyphosate-related effect. Therefore, the parental and reproductive (pup) NOELs are ≥ 30 mg/kg/day.

ii. *Rat.* A two-generation reproductive toxicity study was conducted with Sprague-Dawley rats. Treatment-related effects observed in the high dose group included: soft stools, very frequent, in the Fo and F1 males and females, decreased food consumption and body weight gain of the Fo and F1 males and females during the growth (premating) period, and decreased body weight gain of the F1a, F2a and F2b male and female pups during the second and third weeks of lactation. Focal tubular dilation of the kidneys, observed in the 3-generation study, was not observed at any dose level in this study. Based on the above findings, the parental and developmental (pup) NOEL's are 500 mg/kg/day and the parental and developmental (pup) LOEL's are 1,500 mg/kg/day. The reproductive toxicity NOEL is ≥ 1,500 mg/kg/day.

d. *Pre- and post-natal sensitivity.* Based on the developmental toxicity studies discussed above, for glyphosate there does not appear to be an extra sensitivity for pre-natal effects. The developmental rat study only had developmental findings above 1,000 mg/kg/day in the presence of severe maternal effects [death, etc.] at the highest dose tested of 3,500 mg/kg/day. In rabbits, developmental effects above the NOEL of 175 mg/kg/day were unable to be identified due to severe maternal effects [death, etc.] at 350 mg/kg/day [highest dose tested]. Based on the reproductive toxicity study discussed above, for glyphosate there does not appear to be an extra sensitivity for post-natal effects. The pup and adult NOELs of 500 mg/kg/day and LOELs of 1,500 mg/kg/day do not demonstrate any post-natal extra sensitivity for infants and children because the dose levels, respectively, are the same for pups and adults and the effects are similar as well.

e. *Conclusion.* Therefore, the Agency concludes that no additional 10X safety factor is necessary to protect infants and children.

2. *Acute risk.* No endpoint was selected by the Agency so this risk assessment was not conducted.

3. *Chronic risk.* Using the conservative exposure assumptions described above, EPA has concluded that aggregate exposure to glyphosate from food will utilize no more than 3.3% of the RfD for non-nursing infants, the most highly exposed sub-group. EPA generally has no concern for exposures below 100% of the RfD because the RfD represents the level at or below which daily aggregate dietary exposure over a lifetime will not pose appreciable risks to human health. Despite the potential for exposure to glyphosate in drinking water and from non-dietary, non-occupational exposure, EPA does not expect the aggregate exposure to exceed 100% of the RfD. EPA concludes that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to glyphosate residues.

V. Other Considerations

A. Metabolism In Plants and Animals

The nature of the residue in plants and animals is adequately understood. The current tolerances established under 40 CFR 180.364 include glyphosate and its metabolite aminomethylphosphonic acid (AMPA). The Office of Pesticide Programs Metabolism Committee has concluded that AMPA need not be regulated and should be dropped from the tolerance regulation. The residue of concern is the parent compound, glyphosate, only.

B. Analytical Enforcement Methodology

Adequate enforcement methodology (GLC and HPLC/fluorometric) are available (PAM, Vol. II, Method I) to enforce the tolerance expression.

C. Magnitude of Residues

Residues of glyphosate, per se, are not expected to exceed the following levels as a result of this Section 18 use. Time-limited tolerances should be established at these levels: pea, dry at 5 ppm; lentil at 5 ppm; pea, field vines at 60 ppm; pea, field hay at 200 ppm; pea, field silage at 90 ppm; kidney, cattle, goats, horses, and sheep at 4 ppm.

With the exception of the proposed increase in the kidney tolerance noted above, secondary residues in animal commodities are not expected to exceed existing tolerances as a result of this Section 18 use. The dietary burden for livestock will not exceed that from the use on grasses.

D. International Residue Limits

A CODEX MRL has been established for residues of glyphosate, per se, on dry peas at 5 ppm. Canadian tolerances have been established for residues of glyphosate and AMPA on peas at 5 ppm and lentils at 4 ppm.

E. Rotational Crop Restrictions

For this proposed Section 18 use, a 30–day plant-back interval for crops on which glyphosate is not registered is being required.

VI. Conclusion

Therefore, the tolerance is established for residues of glyphosate in dry peas, pea vines, hay, and silage, lentils, and kidney (cattle, goats, horses and sheep) at 5, 60, 200, 90, 5, and 4, ppm, respectively.

VII. Objections and Hearing Requests

The new FFDCA section 408(g) provides essentially the same process for persons to ''object'' to a tolerance regulation issued by EPA under new section 408(e) and (l)(6) as was provided in the old section 408 and in section 409. However, the period for filing objections is 60 days, rather than 30 days. EPA currently has procedural regulations which govern the submission of objections and hearing requests. These regulations will require some modification to reflect the new law. However, until those modifications can be made, EPA will continue to use those procedural regulations with appropriate adjustments to reflect the new law.

Any person may, by October 11, 1997, file written objections to any aspect of this regulation and may also request a hearing on those objections. Objections and hearing requests must be filed with the Hearing Clerk, at the address given above (40 CFR 178.20). A copy of the objections and/or hearing requests filed with the Hearing Clerk should be submitted to the OPP docket for this rulemaking. The objections submitted must specify the provisions of the regulation deemed objectionable and the grounds for the objections (40 CFR 178.25). Each objection must be accompanied by the fee prescribed by 40 CFR 180.33(i). If a hearing is requested, the objections must include a statement of the factual issues on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the requestor (40 CFR 178.27). A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established, resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issues in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32). Information submitted in connection with an objection or hearing request

may be claimed confidential by marking any part or all of that information as Confidential Business Information (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the information that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice.

VIII. Public Docket

EPA has established a record for this rulemaking under docket control number [OPP–300521] (including any comments and data submitted electronically). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The public record is located in Room 1132 of the Public Information and Records Integrity Branch, Information Resources and Services Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA.

Electronic comments may be sent directly to EPA at:

opp-docket@epamail.epa.gov.

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption.

The official record for this rulemaking, as well as the public version, as described above will be kept in paper form. Accordingly, EPA will transfer any copies of objections and hearing requests received electronically into printed, paper form as they are received and will place the paper copies in the official rulemaking record which will also include all comments submitted directly in writing. The official rulemaking record is the paper record maintained at the Virginia address in ''ADDRESSES'' at the beginning of this document.

IX. Regulatory Assessment Requirements

This final rule establishes tolerances under FFDCA section 408(l)(6). The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled Regulatory Planning and Review (58 FR 51735, October 4, 1993). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104–4). Nor does it require any prior consultation as specified by Executive Order 12875, entitled Enhancing the Intergovernmental Partnership (58 FR 58093, October 28, 1993), or special considerations as required by Executive Order 12898, entitled Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations (59 FR 7629, February 16, 1994), or require OMB review in accordance with Executive Order 13045, entitled Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997).

In addition, since these tolerances and exemptions that are established on the basis of a petition under FFDCA section 408 (l)(5), such as the tolerances in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply. Nevertheless, the Agency has previously assessed whether establishing tolerances, exemptions from tolerances, raising tolerance levels or expanding exemptions might adversely impact small entities and concluded, as a generic matter, that there is no adverse economic impact. The factual basis for the Agency's generic certification for tolerance acations published on May 4, 1981 (46 FR 24950), and was provided to the Chief Counsel for Advocacy of the Small Business Administration.

X. 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, the Agency has submitted a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the General Accounting Office prior to publication of this rule in today's **Federal Register**. This is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Animal feeds, Food additives, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: July 29, 1997.

Peter Caulkins,

Acting Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180— [AMENDED]

1. In part 180:

a. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 346a and 371.

b. Section 180.364 is amended by adding text to paragraph (b) to read as follows:

§ 180.364 Glyphosate; tolerances for residues.

(a) *General* . * * *

(b) *Section 18 emergency exemptions.* Time-limited tolerances are established for combined residues of the herbicide glyphosate, per se in connection with use of the pesticide under section 18 emergency exemptions granted by EPA. The tolerances will expire and are revoked on the dates specified in the following table.

Commodity	Parts per million	Expiration/Revocation Date
Cattle, kidney	4	August 30, 1998
Goats, kidney	4	August 30, 1998
Horses, kidney	4	August 30, 1998
Lentils	5	August 30, 1998
Pea, hay	200	August 30, 1998
Pea, vines	60	August 30, 1998
Peas, dry	5	August 30, 1998
Sheep, kidney	4	August 30, 1998
Silage, hay	90	August 30, 1998

* * * * *

[FR Doc. 97–21144 Filed 8–8–97; 8:45 am]
BILLING CODE 6560–50–F

GENERAL SERVICES ADMINISTRATION

41 CFR Part 301–8

[FTR Amendment 66]

RIN 3090–AG41

Federal Travel Regulation; Reimbursement of Higher Actual Subsistence Expenses in Special or Unusual Circumstances; Correction

AGENCY: Office of Governmentwide Policy, GSA.

ACTION: Correcting amendments.

SUMMARY: This document contains corrections to the final rule, which was published in the **Federal Register** of Tuesday, June 3, 1997, (62 FR 30279). The final rule related to reimbursement of higher actual subsistence expenses in special or unusual circumstances.

DATES: Effective on May 1, 1997.

FOR FURTHER INFORMATION CONTACT: Jane E. Groat, 202–501–1538.

SUPPLEMENTARY INFORMATION:

Background

The final rule that is the subject of these corrections amended the Federal Travel Regulation (FTR) (41 CFR chapters 301–304) to allow an agency to authorize or approve travel up to 300 percent of the prescribed maximum per diem rate on an actual subsistence expense basis under certain special or unusual circumstances.

Need for correction

As published, the final rule contains information, which may prove to be misleading, and needs to be clarified.

List of Subjects in 41 CFR Part 301–8

Government employees, Travel, Travel allowances, Travel and transportation expenses.

Accordingly, 41 CFR Part 301–8 is corrected by making the following correcting amendments:

PART 301–8—REIMBURSEMENT OF ACTUAL SUBSISTENCE EXPENSES

1. The authority citation for part 301–8 continues to read as follows:

Authority: 5 U.S.C. 5707.

§ 301–8.3 [Corrected]

2. Section 301–8.3 is amended in paragraphs (a)(1) and (b)(1)(i) to remove the phrase ''150 percent'' where it appears and to replace it with the phrase ''300 percent''; by revising paragraph (b)(1)(ii) to read ''The amount established by the Departments of Defense and State for travel outside CONUS.''; by removing paragraph (c); by redesignating paragraph (d) as (c); by amending newly redesignated paragraph (c) to remove the phrase ''paragraphs (a) through (c) of this section'' where it appears and to replace it with the phrase ''paragraphs (a) and (b) of this section''.

3. Section 301–8.3(a)(2) is revised to read as follows:

* * * * *

(a) * * *

(1) * * *

(2) *Travel outside CONUS.* For travel outside CONUS, the maximum daily rate for subsistence expenses shall not exceed the amount prescribed by:

(i) The Department of Defense, Per Diem, Travel and Transportation Allowance Committee, for nonforeign areas, as set forth in Civilian Personnel Per Diem Bulletin No. 194; and

(ii) The Department of State, for foreign areas, as set forth in section 925, a per diem supplement to the U.S. Department of State Standardized Regulations (Government Civilians, Foreign Areas).

* * * * *

Dated: August 5, 1997.

Peggy Wood,

Acting Director, Travel and Transportation Management Policy Division.

[FR Doc. 97–21051 Filed 8–8–97; 8:45 am]
BILLING CODE 6820–34–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 0

[DA 97–1505]

Freedom of Information Act

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Federal Communications Commission is modifying a section of the Commission's rules that implements the Freedom of Information Act (FOIA) fee schedule. This modification pertains to the charge for recovery of the full, allowable direct costs of searching for and reviewing records requested under the FOIA and the Commission's rules, unless such fees are restricted or waived. The fees are being revised to correspond to modifications in the rate of pay approved by Congress.

EFFECTIVE DATE: September 10, 1997.

FOR FURTHER INFORMATION: Judy Boley, Freedom of Information Act Officer, Office of Performance Evaluation and Records Management, Room 234, Federal Communications Commission, 1919 M Street, NW., Washington, DC 20554, (202) 418–0210.

SUPPLEMENTARY INFORMATION: The FCC is modifying § 0.467(a) of the Commission's rules. This rule pertains to the charges for searching and reviewing records requested under the Freedom of Information Act (FOIA). The FOIA requires federal agencies to establish a schedule of fees for the processing of requests for agency records in accordance with fee guidelines issued by the Office of Management and Budget (OMB). In 1987, OMB issued its Uniform Freedom of Information Act Fee Schedule and Guidelines. However, because the FOIA requires that each agency's fees be based upon its direct costs of providing FOIA services, OMB did not provide a unitary, government-wide schedule of fees. The Commission based its FOIA fee schedule on the grade level of the employee who processes the request. Thus, the fee schedule was computed at a Step 5 of each grade level based on the General Schedule effected January 1997. The instant revisions correspond to modifications in the rate of pay recently approved by Congress.

Regulatory Procedures

This final rule has been reviewed under Executive Order No. 12866 and has been determined not to be a ''significant rule'' since it will not have an annual effect on the economy of $100 million or more.

In addition, it has been determined that this final rule will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 47 CFR Part 0

Freedom of information.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

Rule Changes

Part 0 of title 47 of the Code of Federal Regulations is amended as follows:

PART 0—COMMISSION ORGANIZATION

1. The authority citation for part 0 continues to read as follows:

Authority: 47 U.S.C. 155, 255, unless otherwise noted.

2. Section 0.467 is amended by revising the table in paragraph (a)(1) and its note, and paragraph (a)(2) to read as follows:

§ 0.467 Search and review fees.

(a)(1) * * *

Grade	Hourly fee
GS–1	8.84
GS–2	9.62
GS–3	10.85
GS–4	12.18
GS–5	13.62
GS–6	15.09
GS–7	16.87
GS–8	18.70
GS–9	20.64
GS–10	22.74
GS–11	24.98
GS–12	29.94
GS–13	35.60
GS–14	42.07
GS–15	49.49

Note: These fees will be modified periodically to correspond with modifications in the rate of pay approved by Congress.

(2) The fees in paragraph (a)(1) of this section were computed at step 5 of each grade level based on the General Schedule effective January 1997 and include 20 percent for personnel benefits.

* * * * *

[FR Doc. 97–21116 Filed 8–8–97; 8:45 am]

BILLING CODE 6712–01–P

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

48 CFR Chapter 7, Appendix J

[AIDAR Notice 97–3]

RIN 0412–AA–35

Direct USAID Contracts for Personal Services Abroad

AGENCY: Agency for International Development, IDCA.

ACTION: Final rule.

SUMMARY: The AID Acquisition Regulation is being amended by revising and updating Appendix J, ''Direct-USAID Contracts—with Cooperating Country Nationals and With Third Country Nationals for Personal Services Abroad'' in its entirety.

DATES: This rule is effective September 10, 1997.

FOR FURTHER INFORMATION CONTACT: Mrs. Patricia L. Bullock, Office of Procurement, Policy Division (M/OP/P), USAID, Room 1600A, SA–14, Washington, D.C. 20523–1435, (703) 875–1534.

SUPPLEMENTARY INFORMATION: The Aid Acquisition Regulation is being amended to make the following changes in Appendix J: (1) change references to USAID's Handbook System, when possible, to the respective numbered reference in the Automated Directives System (ADS); (2) change language to reflect the new identification of work in the New Management System (NMS); (3) revise the Cover Page to reflect the Coding in the NMS, as well as other administrative changes; (4) incorporate a new Cover Page; (5) remove the Prompt Pay language; (6) add FAR Clauses which were inadvertently dropped; (7) provide clarification regarding what authorities, duties and responsibilities Cooperating Country Nationals (CCNs) or Third Country Nationals (TCNs) may have delegated to them; and (8) provide for Meritorious step-increases for CCNs provided the granting of such increases is the general practice locally in each country.

The changes being made by this rule are not considered ''significant'' under FAR 1.301 or FAR 1.501, and public comments have not been solicited. This rule will not have an impact on a substantial number of small entities or require any information collection, as contemplated by the Regulatory Flexibility Act or the Paperwork Reduction Act respectively. Because of the nature and subject matter of this rule, use of the proposed rule/public comment approach was not considered necessary. We decided to issue as a final rule; however, we welcome public comment on the material covered by this Notice or any other part of the AIDAR at anytime. Comments or questions may be addressed as specified in the **FOR FURTHER INFORMATION CONTACT** section of the Preamble.

Accordingly, for the reasons set forth above and under the authority of 22 U.S.C. 2381, as amended and E.O. 12163 of Sept. 29, 1979, Appendix J of 48 CFR Chapter 7 is revised to read as follows:

Appendix J—Direct USAID Contracts With a Cooperating Country National and With a Third Country National for Personal Services Abroad

1. General

(a) *Purpose.* This appendix sets forth the authority, policy, and procedures under which USAID contracts with cooperating country nationals or third country nationals for personal services abroad.

(b) *Definitions.* For the purpose of this appendix:

(1) Personal services contract (PSC) means a contract that, by its express terms or as administered, make the contractor personnel appear, in effect, Government employees (see FAR 37.104).

(2) Employer-employee relationship means an employment relationship under a service contract with an individual which occurs when, as a result of (i) the contract's terms or (ii) the manner of its administration during performance, the contractor is subject to the relatively continuous supervision and control of a Government officer or employee.

(3) Non-personal services contract means a contract under which the personnel rendering the services are not subject either by the contract's terms or by the manner of its administration, to the supervision and control usually prevailing in relationships between the Government and its employees.

(4) Independent contractor relationship means a contract relationship in which the contractor is not subject to the supervision and control prevailing in relationships between the Government and its employees. Under these relationships, the Government does not normally supervise the performance of the work, or the manner in which it is to be performed, control the days of the week or hours of the day in which it is to be performed, or the location of performance.

(5) Contractor means a cooperating country national or a third country national who has entered into a contract pursuant to this appendix.

(6) Cooperating country means the country in which the employing USAID Mission is located.

(7) Cooperating country national (CCN) means an individual who is a cooperating country citizen or a non-cooperating country citizen lawfully admitted for permanent residence in the cooperating country.

(8) Third Country National (TCN) means an individual

(i) who is neither a citizen nor a permanent legal resident alien of the United States nor of the country to which assigned for duty, and

(ii) who is eligible for return to his/her home country or country of recruitment at U.S. Government expense [see Section 12, General Provision 9 paragraph (n)].

2. Legal Basis

(a) Section 635(b) of the Foreign Assistance Act of 1961, as amended, hereinafter referred to as the ''FAA'', provides the Agency's contracting authority.

(b) Section 636(a)(3) of the FAA authorizes the Agency to enter into personal services contracts with individuals for personal services abroad and provides further that such individuals ''* * * shall not be regarded as employees of the U.S. Government for the purpose of any law administered by the Civil Service Commission.'' [1]

3. Applicability

(a) This appendix applies to all personal services contracts with CCNs or TCNs to provide assistance abroad under Section 636(a)(3) of the FAA.

(b) This appendix does not apply to:

(1) Contracts for non-personal services with TCNs or CCNs; such contracts are covered by the basic text of the FAR and AIDAR.

(2) Personal services contracts with U.S. citizens or U.S. resident aliens for personal services abroad; such contracts are covered by Appendix D of this chapter.

(3) Appointments of experts and consultants as USAID direct-hire employees; such appointments are covered by USAID Handbook 25, Employment and Promotion or superseding Chapters of the Automated Directive System (ADS).

4. Policy

(a) *General.* USAID may finance, with either program or operating expense (OE) funds, the cost of personal services as part of the Agency's program of foreign assistance by entering into a direct contract with a CCN or a TCN for personal services abroad.

(1) *Program funds.* Under the authority of Section 636(h) of the FAA, program funds may be obligated for periods up to five years where necessary and appropriate to the accomplishment of the tasks involved.

(2) *Operating expense funds.* Pursuant to USAID budget policy, OE funded salaries and other recurrent cost items may be forward funded for a period of up to three (3) months beyond the fiscal year in which these funds were obligated. Non-recurring cost items may be forward funded for periods not to exceed twenty-four (24) months where necessary and appropriate to accomplishment of the work.[2]

(b) *Limitations on Personal Services Contracts.*

(1) Personal services contracts may only be used when adequate supervision is available.

(2) Personal services contracts may be used for commercial activities. Commercial activities provide a product or service which could be obtained from a commercial source. See Attachment A of OMB Circular A–76 for a representative list of such activities.

(3) Notwithstanding any other provision of USAID directives, regulations or delegations, Cooperating Country or Third Country Nationals may be delegated or assigned any authority, duty or responsibility, delegated or assigned U.S. citizen direct-hire employees (USDH employees) except that:

a. They may not supervise USDH employees of USAID or other U.S. Government agencies. They may supervise USPSCs and non-U.S. citizen employees.

b. They may not be designated a Contracting Officer or delegated authority to sign obligating or subobligating documents.

c. They may represent the agency, except that communications that reflect a final policy, planning or budget decision of the agency must be cleared by a USDH employee.

d. They may participate in personnel selection matters but may not be delegated authority to make a final decision on personnel selection.

e. Services which involve security classified material.

(4) Exceptions. Exceptions to the limitations in (b)(3) must be approved by the Assistant Administrator for Management (AA/M).

(c) *Conditions of Employment.*

(1) *General.* For the purpose of any law administered by the U.S. Office of Personnel Management, USAID PSC contractors are not to be regarded as employees of the U.S. Government, are not included under any retirement or pension program of the U.S. Government, and are not eligible for the Incentive Awards Program covered by Uniform State/USAID/USIA regulations. Each USAID Mission is expected to participate in the Joint Special Embassy Incentive Awards Program. The program is administered by a joint committee which establishes procedures for submission, review and approval of proposed awards. Other than these exceptions, CCNs and TCNs who are hired for work in a cooperating country under PSCs generally will be extended the same benefits and be subject to the same restrictions as Foreign Service Nationals (FSNs) employed as direct-hires by the USAID Mission.

(2) *Compensation.* (i) It is USAID's general policy (see AIDAR 722.170) that PSC compensation may not, without the approval of the Mission Director or Assistant Administrator, exceed the prevailing compensation paid to personnel performing comparable work in the cooperating country. Compensation for TCN or CCN personal services contractors set in accordance with the provisions of 4c(2)(ii) below satisfies this requirement.

(ii) In accordance with Section 408(a)(1) of the Foreign Service Act of 1980, a local compensation plan forms the basis for all compensation payments to FSNs which includes CCNs and TCNs. The plan is each post's official system of position classification and pay, consisting of the local salary schedule which includes salary rates, statements authorizing fringe benefit payments, and other pertinent facets of compensation for TCNs and CCNs, and the local position classification system as reflected in the Local Employee Position Classification Handbook (LEPCH) or equivalent in effect at the Mission. Compensation for PSCs will be in accordance with the local compensation plan, to the extent that it covers employees of the type or category being employed, unless the Mission Director determines otherwise. If the Mission Director determines that compensation in accordance with the local plan would be inappropriate in a particular instance, then compensation will be set in accordance with (in order of preference):

(A) Any other Mission policies on foreign national employee compensation; or

(B) Paragraphs 4(c) (d), (e), (g), (h), and (i) of Appendix D. When compensation is set in accordance with this exception, the record shall be documented in writing with a justification prepared by the requesting office and approved by the Mission Director.

(iii) The earning of leave (annual and sick), allowances and differential (if applicable), salaries and all other related benefits cannot be enumerated in this Appendix as they vary from Mission to Mission and are based upon the compensation plan for each.

(iv) Unless otherwise authorized, the currency in which compensation is paid to contractors shall be in accordance with the prevailing local compensation practice of the post.

(v) CCN and TCN contractors are eligible for allowances and differential on the same basis as direct-hire FSN employees under the post compensation plan.

(vi) A USAID PSC who is a spouse of a current or retired U.S. Civil Service, U.S. Foreign Service, or U.S. military service member, and who is covered by their spouse's government health or life

[1] The Civil Service Commission is now the Federal Office of Personnel Management.

[2] If there is a need, these contracts may be written for 5 years but only funded as outlined above.

insurance policy, is ineligible for a contribution towards the costs of annual health and life insurance.

(vii) Retired CCNs and TCNs may be awarded personal services contracts without any reduction in or offset against their Government annuity.

(3) *Incentives Awards.* (i) All Cooperating Country Nationals direct-hire and Personal Services Contractors (PSCs) and Third Country Nationals (PSCs) of the Foreign Affairs Community are eligible for the Joint Special Embassy Incentive Awards Program.

(ii) Meritorious Step Increases for USAID FSN PSCs may be authorized provided the granting of such increases is the general practice locally.

(iii) The Joint Country Awards Committee administers each post's (Embassy) award program, including establishment of procedures for submission, review and approval of proposed awards.

(4) *Training.* CCN and TCN PSCs are eligible for most of the training courses offered in the Training Course Schedule. However, applications will be processed on a case-by-case basis and are required to be approved by the Contracting Officer.

5. Soliciting for Personal Services Contracts

(a) *Technical Officer's Responsibilities.* The Technical Officer will prepare a written detailed statement of duties and a statement of minimum qualifications to cover the position being recruited for; the statement shall be included in the procurement request. The procurement request shall also include the following additional information as a minimum:

(1) The specific foreign location(s) where the work is to be performed, including any travel requirements (with an estimate of frequency);

(2) The length of the contract, with beginning and ending dates, plus any options for renewal or extension;

(3) The basic education, training, experience, and skills required for the position;

(4) A certification from the officer in the Mission responsible for the LEPCH or equivalent that the position has been reviewed and is properly classified as to a title, series and grade in accordance with the LEPCH. If the position does not fall within the LEPCH or equivalent system, and estimate of compensation based on subparagraphs 4(c)(2)(ii) (A) or (B) of this Appendix after consultations or in coordination with the contract officer or executive officer;

(5) A list of Government or host country furnished items (e.g., housing).

(b) *Contracting Officer's Responsibilities.* (1) The Contracting Officer will prepare the solicitation for personal services which shall contain:

(i) Three sets of certified biographical data and salary history. (Upon receipt, one copy of the above information shall be forwarded to the Project Officer);

(ii) A detailed statement of duties or a completed position description for the position being recruited for;

(iii) A copy of the prescribed contract Cover Page, Contract Schedule, and General Provisions as well as the FAR Clause to be included in full text and a list of those to be incorporated by reference; and

(iv) A copy of General Notice entitled ''Employee Review of the New Standards of Conduct'' dated October 30, 1992.

(2) The Contracting Officer shall comply with the limitations of AIDAR 706.302–70(c) as detailed in paragraph 5(c) below.

(c) *Competition.* (1) Under AIDAR 706.302–70(b)(1), Personal Services Contracts are exempt from the requirements for full and open competition with two limitations that must be observed by Contracting Officers:

(i) Offers are to be requested from as many potential offerors as is practicable under the circumstances, and

(ii) a justification supporting less than full and open competition must be prepared in accordance with FAR 6.303.

(2) A class justification was approved by the USAID Procurement Executive to satisfy the requirements of AIDAR 706.302–70(c)(2) for a justification in accordance with FAR 6.303. Use of this class justification for Personal Services Contracts with Cooperating Country Nationals and Third Country Nationals is subject to the following conditions:

(i) New contracts are publicized consistent with Mission/Embassy practice on announcement of direct hire FSN positions. Renewals or extensions with the same individual for continuing service do not need to be publicized.

(ii) A copy of the class justification (which was distributed to all USAID Contracting Officers via Contract Information Bulletin) must be included in the contract file, together with a written statement, signed by the Contracting Officer, that the contract is being awarded pursuant to AIDAR 706.302–70(b)(1); that the conditions for use of this class justification have been met; and that the cost of the contract is fair and reasonable. If the conditions in paragraphs (2)(i) and (ii) are not followed, the Contracting Officer must prepare a separate justification as required under AIDAR 706.302–70(c)(2).

(3) Since the award of a personal services contract is based on technical qualifications, not price, and since the biographical data and salary history are used to solicit for such contracts, FAR Subparts 15.4 and 15.5 are inappropriate and shall not be used. Instead, the solicitation and selection procedures outlined in this Appendix shall govern.

6. Negotiating a Personal Services Contract

Negotiating a Personal Services Contract is significantly different from negotiating a nonpersonal services contract because it establishes an employer-employee relationship; therefore, the selection and negotiations procedures are more akin to the personal selection procedures.

(a) *Technical Officer's Responsibilities.* The Technical Officer shall be responsible for reviewing and evaluating the applications received in response to the solicitation issued by the Contracting Officer. If deemed appropriate, interviews may be conducted with the applicants before the final selection is submitted to the Contracting Officer.

(b) *Contracting Officer's Responsibilities.*

(1) The Contracting Officer shall forward a copy of biographical data and salary history received under the solicitation to the Technical Officer for evaluation.

(2) On receipt of the Technical Officer's recommendation, the Contracting Officer shall conduct negotiations with the recommended applicant. The terms and conditions of the contract will normally be in accordance with the local compensation plan which forms the basis for all compensation on payments paid to FSNs which includes CCNs and TCNs.

(3) The Contracting Officer shall use the certified salary history on the certified statement of biographical data and salary history as the basis for salary negotiations, along with the Technical Officer's cost estimate.

(4) The Contracting Officer will obtain necessary data for a security and suitability clearance to the extent required by USAID Handbook 6, Security or superseding ADS Chapters.

7. Executing a Personal Services Contract

Contracting activities, whether USAID/W or Mission, may execute Personal Services Contracts, provided that the amount of the contract does not exceed the contracting authority that has been redelegated to them. See AIDAR 701.601. In executing a personal

service contract, the Contracting Officer is responsible for insuring that:

(a) The proposed contract is within his/her delegated authority;

(b) A written detailed statement of duties covering the proposed contract has been received;

(c) The proposed scope of work is contractible, contains a statement of minimum qualifications from the technical office requesting the services, and is suitable for a personal services contract in that:

(1) Performance of the proposed work requires or is best suited for an employer-employee relationship, and is thus not suited to the use of a non-personal services contract;

(2) The scope of work does not require performance of any function normally reserved for direct-hire Federal employees (under paragraph 4(b) of this Appendix); and

(3) There is no apparent conflict of interest involved (if the Contracting Officer believes that a conflict of interest may exist, the question should be referred to the cognizant legal counsel);

(d) Selection of the contractor is documented and justified (AIDAR 706.302–70(b)(1) provides an exception to the requirement for full and open competition for Personal Services Contracts abroad; see paragraph 5(c) of this Appendix);

(e) The standard contract format prescribed for a Cooperating Country National and a Third Country National personal services contract (Sections 9, 10, 11, 12, and 13 of this Appendix as appropriate) is used, or that any necessary deviations are processed as required by AIDAR 701.470;

(f) The contractor has submitted the names, addresses, and telephone numbers of at least two persons who may be notified in the event of an emergency (this information is to be retained in the contract file);

(g) The contract is complete and correct and all information required on the contract Cover Page (USAID form 1420–36B) has been entered;

(h) The contract has been signed by the Contracting Officer and the contractor, and fully executed copies are properly distributed;

(i) The following clearances, approvals and forms have been obtained, properly completed, and placed in the contract file before the contract is signed by both parties:

(1) Security clearance to the extent required by USAID Handbook 6, *Security* or other superseding Chapters of the Automated Directives System;

(2) Mission, host country, and technical office clearance, as appropriate;

(3) Medical clearance(s) based on a full medical examination(s) and statement of medical opinion by a licensed physician. The physician's medical opinion must be in the possession of the Contracting Officer prior to signature of contract. If a TCN is recruited, medical clearance requirements apply to the contractor and each dependent who is authorized to accompany the contractor;

(4) The approval for any salary in excess of ES–6, in accordance with Appendix G of this chapter;

(5) A copy of the class justification or other appropriate explanation and support required by AIDAR 706.302–70, if applicable;

(6) Any deviation to the policy or procedures of this Appendix, processed and approved under AIDAR 701.470;

(7) The memorandum of negotiation;

(j) The position description is classified in accordance with the LEPCH, and the proposed salary is consistent with the local compensation plan or the alternate procedures established in 4(c)(2)(ii) above;

(k) Funds for the contract are properly obligated to preclude violation of the Anti-Deficiency Act, 31 U.S.C. 134 (the Contracting Officer ensures that the contract has been properly recorded by the appropriate accounting office prior to its release for the signature of the selected contractor);

(l) The contractor receives and understands USAID General Notice entitled ''Employee Review of the New Standards of Conduct'' dated October 30, 1992 and a copy is attached to each contract, as provided for in paragraph (c) of General Provision 2, Section 12;

(m) Agency conflict of interest requirements, as set out in the above notice are also met by the contractor prior to his/her reporting for duty;

(n) A copy of a Checklist for Personal Services Contractors which may be in the form set out above or another form convenient for the contracting officer, provided that a form containing all of the information described in this paragraph 7 shall be prepared for each PSC and placed in the contract file;

(o) In consultation with the regional legal advisor and/or the regional contracting officer, the contract is modified by deleting from the General Provisions (Sections 12 and 13 of this Appendix) the inapplicable clause(s) by a listing in the Schedule; and

(p) The block entitled, ''Acquisition and Assistance Request Document'' on the Cover Page of the contract format is completed by inserting the four-segment technical number as prescribed in USAID Handbook 18, the USAID Code Book Appendix D or superseding ADS Chapter if the PSC is project-funded.

8. Contracting Format

The prescribed Contract Cover Page, Contract Schedules, General Provisions and FAR Clauses for personal service contracts for TCNs and CCNs covered by this Appendix are included as follows:

9. *''Cover Page'' for a Contract with a Cooperating Country National or with a Third Country National for Personal Services.*

10. *''Schedule'' for a Contract with a Cooperating Country National or Third Country National Personal Services Contracts.*

11. *''Optional Schedule'' for a Contract with a Cooperating Country National or Third Country National Personal Services Contracts.*

[Use of the Optional Schedule is intended to serve as an alternate procedure for OE funded Foreign Service National PSCs. The schedule was developed for use when the Contracting Officer anticipates incremental recurring cost funded contracts. It should be noted that the Optional Schedule eliminates the need to amend the contract each time funds are obligated. However, the Contracting Officer is required to amend each contract not less than twice during a 12 month period to ensure that the contract record of obligations is up to date and agrees with the figures in the master funding document.]

12. *''General Provisions'' for a Contract With a Cooperating Country National or With a Third Country National for Personal Services.*

13. *FAR Clauses to be incorporated in full text as well as by reference in Personal Services Contracts.*

9. ''Cover page'' for a Contract With a Cooperating Country National or With a Third Country National for Personal Services.

—AID Form 1420–36B (11/96)

BILLING CODE 6116–01–M

U.S. AGENCY FOR INTERNATIONAL DEVELOPMENT

WASHINGTON, D.C. 20523

CONTRACT WITH A COOPERATING COUNTRY NATIONAL FOR PERSONAL SERVICES ABROAD [ ]
CONTRACT WITH A THIRD COUNTRY NATIONAL FOR PERSONAL SERVICES ABROAD [ ]

Ethics Code *("X" Appropriate Box)* ☐ N ☐ C ☐ P

Negotiated Pursuant to Section 636(a)(3) of the Foreign Assistance Act of 1961, as amended, and Executive Order 11223	Contract Number	
Country of Performance	Amount Obligated This Action	Total Estimated Contract Cost $
Contract For Technical Services	Request Document Number	
For	Contractor *(Name, Street, City, State, Postal Zone)*	
Contracting Office *(Name and Address)*		
Administered By *(If other than Contracting Office)*	Effective Date	Estimated Completion Date
Cognizant Scientific/Technical Office *(Name, Office Symbol, Address)*	Accounting and Appropriation Data Resource Category _____ Organization _____ Request ID _____ Activity _____ Fund _____ Fund Account _____ Allotment Symbol _____	
Supervising Officer		
Payment Will be Made By	Type of Advance *("X" Appropriate Box)* ☐ INITIAL ☐ NONE AUTHORIZED	

The United States of America, hereinafter called the Government, represented by the Contracting Office executing this contract, and the Contractor agree that the Contractor shall perform all the services set forth in the attached Schedule, for the consideration stated therein. The rights and obligations of the parties to this contract shall be subject to and governed by the Schedule and the General Provisions. To the extent of any inconsistency between the Schedule or the General Provisions and any specifications or other provisions which are made a part of this contract, by reference or otherwise, the Schedule and the General Provisions shall control. To the extent of any inconsistency between the Schedule and the General Provisions, the Schedule shall control.

This Contract consists of this Cover Pager, the Schedule of _____pages, including the Table of Contents,

The General Provisions Section 12 and Section 13 FAR Clauses by reference.

	UNITED STATES OF AMERICA AGENCY FOR INTERNATIONAL DEVELOPMENT
Signature of Contractor	By *(Signature of Contracting Officer)*
Typed or Printed Name	Typed or Printed Name
Date	Date

AID 1420-36B (11/96)

BILLING CODE 6116–01–C

10. ''Schedule'' for a Contract With a Cooperating Country National or Third Country National Personal Services Contracts

Contract No. _____

Table of Contents

The Schedule on pages ____ through ____ consists of this Table of Contents, the following Articles, and General Provisions:

General Provisions

The following provisions, numbered as shown below, omitting number(s) _____, are the General Provisions (GPs) of this Contract:

Schedule

Note: Use of the following Schedule is not mandatory.

The Schedule is intended to serve as a guideline and as a checklist for contracting offices in drafting contract schedules. Article language shall be changed to suit the needs of the particular contract. Special attention should be given to the financial planning sections where unnecessary line items should be eliminated.

Article I—Statement of Duties

[The statement of duties shall include:

A. General statement of the purpose of the contract.

B. Statement of duties to be performed.

C. Orientation or training to be provided by USAID.]

Article II—Period of Service

Within ____ days after written notice from the Contracting Officer that all clearances, including the statement of medical opinion required under General Provision Clause 3, have been received, unless another date is specified by the contracting officer in writing, the contractor shall proceed to ____ and shall promptly commence performance of the duties specified above. The contractor's period of service shall be approximately ____ in ____. (Specify time of duties in each location.)

Article III—Contractor's Compensation and Reimbursement

A. Except as reimbursement may be specifically authorized by the Mission Director or contracting officer, USAID shall pay the contractor compensation after it has accrued and make reimbursements, if any are due, in currency of the post or for necessary and reasonable costs actually incurred in the performance of this contract within the categories listed in Paragraph D, below, and subject to the conditions and limitations applicable thereto as set out herein and in the attached General Provisions (GPs).

B. The amount budgeted and available as personal compensation to the contractor is calculated to cover a calendar period of approximately ____ (days) (weeks) (months) (years) (which is to include) (1) vacation and sick leave which may be earned during contractor's tour of duty (GP Clause No. 6), (2) ____ days for authorized travel (GP Clause 9), and (3) ____ days for orientation and consultation if required by the Statement of Duties.

C. The contractor shall earn vacation leave at the rate of ____ days per year under the contract (provided the contract is in force for at least 90 days) and shall earn sick leave at the rate of ____ days per year under the contract.

D. Allowable Costs.

1. Compensation at the rate of LC ____ per (year) (month) (week) (day), equivalent to Grade FSN–____ / ____, in accordance with the Mission's Local Compensation Plan. If during the effective period of this contract the Local Compensation Plan is revised, contractor's compensation will be revised accordingly and contractor will be notified in writing by the contracting officer. Adjustments in compensation for periods when the contractor is not in compensable pay status shall be calculated as follows: Rate of LC ____ per (day) (hour).

LC ____

2. Overtime (Unless specifically authorized in the Schedule of this contract, no overtime hours shall be allowed hereunder.)

3. Travel and Transportation (Ref. GP Clause 9). (Includes the value of TRs furnished by the Government, not payable to contractor).

a. United States—$_____
b. International—$_____
c. Cooperating and Third Country—$_____, LC _____

Subtotals Item 3—$_____, LC _____

4. Subsistence or Per Diem (Ref. GP Clause 9).

a. United States—$_____
b. International—$_____
c. Cooperating and Third Country—$_____, LC_____

Subtotals Item 4—$_____, LC_____

5. Other Direct Costs

a. Physical Examination (Ref. GP Clause 3)—LC_____
b. Miscellaneous—LC_____

Subtotal Item—LC_____

Total Estimated Costs (Lines 1 thru 5) $_____ LC _____

E. Maximum U.S. Dollar and Local Currency Obligation.

In no event shall the maximum U.S. Dollar obligation under this contract exceed $____ nor shall the maximum local currency obligation exceed LC ____. Contractor shall keep a close account of all obligations incurred and accrued hereunder and promptly notify the contracting officer whenever it appears that the said maximum is not sufficient to cover all compensation and costs reimbursable which are anticipated under the contract.

F. Under the Joint Incentive Awards Program for FSN monetary awards will be made pending availability of funds. The increase for the award will be effected by the execution of an SF–1126 which will be attached to the contract and will form a part of the contract. In no event may costs under the contract exceed the total amount obligated.

Meritorious Step Increases for FSN PSCs may be authorized provided the granting of such increase is the general practice locally.

Article IV—Costs Reimbursable And Logistic Support

A. General.

The contractor shall be provided with or reimbursed in local currency (____) for the following: [Complete]

B. Method of Payment of Local Currency Costs.

Those contract costs which are specified as local currency costs in Paragraph A, above, if not furnished in kind by the cooperating government or

the Mission, shall be paid to the contractor in a manner adapted to the local situation, based on vouchers submitted in accordance with GP Clause 10. The documentation for such costs shall be on such forms and in such manner as the Mission Director shall prescribe.

C. Cooperating or U.S. Government Furnished Equipment and Facilities.

[List any logistical support, equipment, and facilities to be provided by the cooperating government or the U.S. Government at no cost to this contract; e.g., office space, supplies, equipment, secretarial support, etc., and the conditions, if any, for use of such equipment.]

Article V—Precontract Expenses

No expense incurred before signing of this contract will be reimbursed unless such expense was incurred after receipt and acceptance of a precontract expense letter issued to the contractor by the Contracting Officer, and then only in accordance with the provisions and limitations contained in such letter. The rights and obligations created by such letter shall be considered as merged into this contract.

Article VI—Additional Clauses

[Additional Schedule Clauses may be added to meet specific requirements of an individual contract.]

11. Optional Schedule for a Contract With a Cooperating Country National or Third Country National Personal Services Contracts

Contract No. _____

Table of Contents

(Optional Schedule)

[Use of the Optional Schedule is not mandatory. It is intended to serve as an alternate procedure for OE funded Cooperating Country National and Third Country National PSCs. The schedule was developed for use when the Contracting Officer anticipates incremental recurring cost funded contracts.

It should be noted that use of the Optional Schedule eliminates the need to amend the contract each time funds are obligated. However, Contracting Officer is required to amend each contract not less than twice during a 12 month period to ensure that the contract record of obligations is up to date and agrees with the figures in the master funding document.]

The Schedule on pages ____ through ____ consists of this Table of Contents and the following Articles:

General Provisions

The following provisions, numbered as shown below, omitting number(s) ____, are the General Provisions (GPs) of this contract.

Article I—Statement of Duties

[The statement of duties shall include:

A. General statement of the purpose of the contract.

B. Statement of duties to be performed.

C. Orientation or training to be provided by USAID.]

Article II—Period of Service

Employment under this contract is of a continuing nature. Its duration is expected to be part of a series of sequential contracts; all contract provisions and clauses and regulatory requirements concerning availability of funds and the specific duration of this contract shall apply.

Within 10 days after written notice from the Contracting Offices that all clearances have been received, unless another date is specified by the Contracting Officer in writing, the contractor shall proceed to (name place) and shall promptly commence performance of the duties specified in Article I of this contract. The contractor's period of service shall be approximately (specify duration from date to date).

Article III—Contractor's Compensation and Reimbursement

A. Except as reimbursement may be specifically authorized by the Mission Director or Contracting Officer, USAID shall pay the contractor compensation after it has accrued and make reimbursements, if any are due in currency of the cooperating country (LC) in accordance with the prevailing practice of the post or for necessary and reasonable costs actually incurred in the performance of this contract within the categories listed in paragraph E, below, and subject to the conditions and limitations applicable thereto as set out herein and in the attached General Provisions (GPs).

B. The amount budgeted and available as personal compensation to the contractor is calculated to cover a calendar period of approximately ____ (days) (weeks) (months) (years) (which is to include) (1) vacation and sick leave which may be earned during the contractor's tour of duty (GP Clause No. 6), (2) ____ days for authorized travel (GP Clause 9), and (3) ____ days for orientation and consultation if required by the Statement of Duties.

C. The contractor shall earn vacation leave at the rate of ____ days per year under the contract (provided the contract is in force for at least 90 days) and shall earn sick leave at the rate of ____ days per year under the contract.

D. All employee rights and benefits from the previous contract or employment, i.e., accumulated annual and sick leave balances, original service computation dates, reserve fund contributions, accumulated compensatory time, social security contributions, seniority and longevity bonuses are considered allowable costs and as a continuation as long as the break in service does not exceed three days.

E. Allowable Costs.

1. The following illustrative budget details allowable costs under this contract and provides estimated incremental recurrent cost funding in the total amount shown. Additional funds for the full term of this contract will be provided by the preparation of a master PSC funding document issued by the Mission Controller for the purpose of providing additional funding for a specific period. The master PSC funding document will be attached to this contract and will form a part of the executed contract while also serving to amend the budget.

2. Overtime (Unless specifically authorized in the Schedule of this contract, no overtime hours shall be allowed hereunder.)

LC____

3. Travel and Transportation (Ref. GP Clause 9). (Includes the value of TRs furnished by the Government, not payable to contractor).

a. United States—$____
b. International—$____
c. Cooperating and Third Country—$____, LC ____
Subtotals Item 3—$____, LC ____

4. Subsistence or Per Diem (Ref. GP Clause 9.)

a. United States—$____
b. International—$____
c. Cooperating and Third Country—$____, LC ____
Subtotals Item 4—$____, LC ____

5. Other Direct Costs.

a. Physical Examination (Ref. GP Clause 3)—$____, LC ____
b. Miscellaneous—$____, LC ____
Subtotals Item 5—$____, LC ____

Total Estimated Costs (Lines 1 thru 5) $____, LC ____

F. Allowable costs compensation and all terms and benefits of employment under this contract will be in accordance with the Mission's local compensation plan. Salary changes and personnel-related contract actions will be made by processing the same forms as used in making such changes and actions for direct-hire FSN employees. When issued by the Contracting Officer, the forms utilized will be attached to the contract and will form a part of the contract terms and conditions.

Any adjustment or increase in the compensation granted to direct-hire employees under the local compensation plan will be allowed for in PSCs subject to the availability of funds. Such an adjustment will be effected by a mass pay adjustment notice from the Contracting Officer, which will be attached to the contract and form a part of the executed contract.

At the end of each year of satisfactory service, PSC contractors will be eligible to receive an increase equal to one annual step increase as shown in the local compensation plan, pending availability for funds. Such increase will be effected by the execution of an SF–1126, Payroll Change Slip which is to be attached to each contract and each action forms a part of the official contract file.

Under the Joint Inventive Awards Program for FSNs, monetary awards will be made pending availability of funds. The increase for the award will be effected by the execution of an SF–1126 which will be attached to the contract and will form a part of the contract. In no event may costs under the contract exceed the total amount obligated.

Meritorious Step Increases for FSN PSCs may be authorized provided the granting of such increase is the general practice locally.

The master PSC funding document may not exceed the term or estimated total cost of this contract. Notwithstanding that additional funds are obligated under this contract through the issuance and attachment of the master PSC funding document, all other contract terms and conditions remain in full effect.

Article IV—Costs Reimbursable and Logistic Support

A. General.

The contractor shall be provided with or reimbursed in local currency

____ for the following: [Complete]

B. Method of Payment of Local Currency Costs.

Those contract costs which are specified as local currency costs in Paragraph A, above, if not furnished in kind by the cooperating government or the Mission, shall be paid to the contractor in a manner adapted to the local situation, based on vouchers submitted in accordance with GP Clause 10. The documentation for such costs shall be on such forms and in such manner as the Mission Director shall prescribe.

C. Cooperating or U.S. Government Furnished Equipment and Facilities.

[List any logistical support, equipment, and facilities to be provided by the cooperating government or the U.S. Government at no cost to this contract; e.g., office space, supplies, equipment, secretarial support, etc., and the conditions, if any, for use of such equipment.]

Article V—Precontract Expenses

No expense incurred before signing of this contract will be reimbursed unless such expense was incurred after receipt and acceptance of a precontract expense letter issued to the contractor by the Contracting Officer, and then only in accordance with the provisions and limitations contained in such letter. The rights and obligations created by such letter shall be considered as merged into this contract.

Article VI—Additional Clauses

[Additional Schedule Clauses may be added to meet specific requirements of an individual contract.]

12. General Provisions for a Contract With a Cooperating Country National or With a Third Country National for Personal Services

To be used to contract with cooperating country nationals or third country nationals for personal services.

Index of Clauses

1. Definitions (July 1993)

[For use in both Cooperating Country National (CCN) and Third Country National (TCN) Contracts].

(a) *USAID* shall mean the U.S. Agency for International Development.

(b) *Administrator* shall mean the Administrator or the Deputy Administrator of the U.S. Agency for International Development.

(c) *Contracting Officer* shall mean a person with the authority to enter into, administer, and/or terminate contracts and make related determinations and findings. The term includes certain authorized representatives of the Contracting Officer acting within the limits of their authority as delegated by the Contracting Officer.

(d) *Cooperating Country National* shall mean the individual engaged to serve in the Cooperating Country under this contract.

(e) *Cooperating Country* shall mean the foreign country in or for which services are to be rendered hereunder.

(f) *Cooperating Government* shall mean the government of the Cooperating Country.

(g) *Government* shall mean the United States Government.

(h) *Economy Class* air travel shall mean a class of air travel which is less than business or first class.

(i) *Local Currency* shall mean the currency of the cooperating country.

(j) *Mission* shall mean the United States USAID Mission to, or principal USAID office in, the Cooperating Country.

(k) *Mission Director* shall mean the principal officer in the Mission in the Cooperating Country, or his/her designated representative.

(l) *Third Country National* shall mean an individual (i) who is neither a citizen of the United States nor of the country to which assigned for duty, and (ii) who is eligible for return travel to the TCN's home country or country from which recruited at U.S. Government expenses, and (iii) who is on a limited assignment for a specific period of time.

(m) *Tour of Duty* shall mean the contractor's period of service under this contract and shall include, authorized leave and international travel.

(n) *Traveler* shall mean the contractor or dependents of the contractor who are in authorized travel status.

(o) *Dependents* shall mean spouse and children (including step and adopted children who are unmarried and under 21 years of age or, regardless of age, are incapable of self-support.

2. Compliance With Laws and Regulations Applicable Abroad (July 1993)

[For use in both CCN and TCN Contracts].

(a) *Conformity to Laws and Regulations of the Cooperating Country.*

Contractor agrees that, while in the cooperating country, he/she as well as authorized dependents will abide by all applicable laws and regulations of the cooperating country and political subdivisions thereof.

(b) *Purchase or Sale of Personal Property or Automobiles.* [For TCNs Only].

To the extent permitted by the cooperating country, the purchase, sale, import, or export of personal property or automobiles in the cooperating country by the contractor shall be subject to the same limitations and prohibitions which apply to Mission U.S.-citizen direct-hire employees.

(c) *Code of Conduct.*

The contractor shall, during his/her tour of duty under this contract, be considered an ''employee'' (or if his/her tour of duty is for less than 130 days, a ''special Government employee'') for the purposes of, and shall be subject to, the provisions of 18 U.S.C. 202(a) the AID General Notice entitled Employee Review of the New Standards of Conduct. The contractor acknowledges receipt of a copy of these documents by his/her acceptance of this contract.

3. Physical Fitness (July 1993)

[For use in both CCN and TCN Contracts].

(a) *Cooperating Country National.*

The contractor shall be examined by a licensed doctor of medicine, and shall obtain a statement of medical opinion that, in the doctor's opinion, the contractor is physically qualified to engage in the type of activity for which he/she is to be employed under the contract. A copy of the medical opinion shall be provided to the Contracting Officer before the contractor starts work under the contract. The contractor shall be reimbursed for the cost of the physical examination based on the rates prevailing locally for such examinations in accordance with Mission practice.

(b) *Third Country National.*

(i) The contractor shall obtain a physical examination for himself/herself and any authorized dependents by a licensed doctor of medicine. The contractor shall obtain a statement of medical opinion from the doctor that, in the doctor's opinion, the contractor is physically qualified to engage in the type of activity for which he/she is to be employed under the contract, and the contractor's authorized dependents are physically qualified to reside in the cooperating country. A copy of that medical opinion shall be provided to the Contracting Officer prior to the dependents' departure for the cooperating country.

(ii) The contractor shall be reimbursed for the cost of the physical examinations mentioned above as follows: (1) based on those rates prevailing locally for such examinations in accordance with Mission practice or (2) if not done locally, not to exceed $100 per examination for the contractor's dependents of 12 years of age and over and not to exceed $40 per examination for contractor's dependents under 12 years of age. The contractor shall also be reimbursed for the cost of all immunizations normally authorized and extended to FSN employees.

4. Security (July 1993)

[For use in both CCN and TCN Contracts].

(a) The contractor is obligated to notify immediately the Contracting Officer if the contractor is arrested or charged with any offense during the term of this contract.

(b) The contractor shall not normally have access to classified or administratively controlled information and shall take conscious steps to avoid receiving or learning of such information. However, based on contractor's need to know, Mission may authorize access to administratively controlled information for performance of assigned scope of work on a case-by-case basis in accordance with USAID Handbook 6 or superseding ADS Chapters.

(c) The contractor agrees to submit immediately to the Mission Director or Contracting Officer a complete detailed report, marked ''Privileged Information'', of any information which the contractor may have concerning existing or threatened espionage, sabotage, or subversive activity against the United States of America or the USAID Mission or the cooperating country government.

5. Workweek (Oct 1987)

[For use in both CCN and TCN Contracts].

The contractor's workweek shall not be less than 40 hours, unless otherwise provided in the Schedule, and shall coincide with the workweek for those employees of the Mission or the cooperating country agency must closely associated with the work of this contract. If approved in advance in writing, overtime worked by the contractor shall be paid in accordance with the procedures governing premium compensation applicable to direct-hire foreign service national employees. If the contract is for less than full time (40 hours weekly), the leave earned shall be prorated.

6. Leave and Holidays (Oct 1987)

[For use in both CCN and TCN Contracts].

(a) *Vacation Leave.*

The contractor may accrue, accumulate, use and be paid for vacation leave in the same manner as such leave is accrued, accumulated, used and paid to foreign service national direct-hire employees of the Mission. No vacation leave shall be earned if the contract is for less than 90 days. Unused vacation leave may be carried over under an extension or renewal of the contract as long as it conforms to Mission policy and practice. With the approval of the Mission Director, and if the circumstances warrant, a contractor may be granted advance vacation leave in excess of that earned, but in no case shall a contractor be granted advance vacation leave in excess of that which he/she will earn over the life of the contract. The contractor agrees to reimburse USAID for leave used in excess of the amount earned during the contractor's assignment under the contract.

(b) *Sick Leave.*

The contractor may accrue, accumulate, and use sick leave in the same manner as such leave is accrued, accumulated and used by foreign service national direct-hire employees of the Mission. Unused sick leave may be carried over under an extension of the contract. The contractor will not be paid for sick leave earned but unused at the completion of this contract.

(c) *Leave Without Pay.*

Leave without pay may be granted only with the written approval of the Contracting Officer or Mission Director.

(d) *Holidays.*

The contractor shall be entitled to all holidays granted by the Mission to direct-hire cooperating country national employees who are on comparable assignments.

7. Social Security and Cooperating Country Taxes (Dec 1986)

[For use in both CCN and TCN Contracts].

Funds for Social Security, retirement, pension, vacation or other cooperating country programs as required by local law shall be deducted and withheld in accordance with laws and regulations and rulings of the cooperating country or any agreement concerning such withholding entered into between the cooperating government and the United States Government.

8. Insurance (July 1993)

[For use in both CCN and TCN Contracts].

(a) *Worker's Compensation Benefits.*

The contractor shall be provided worker's compensation benefits under the Federal Employees Compensation Act.

(b) *Health and Life Insurance.*

The contractor shall be provided personal health and life insurance benefits on the same basis as they are granted to direct-hire CCNs and TCN employees at the post under the Post Compensation Plan.

(c) *Insurance on Private Automobiles—Contractor Responsibility* [For use in TCN contracts]. If the contractor or dependents transport, or cause to be transported, any privately owned automobile(s) to the cooperating country, or any of them purchase an automobile within the cooperating country, the contractor agrees to ensure that all such automobile(s) during such ownership within the cooperating country will be covered by a paid-up insurance policy issued by a reliable company providing the following minimum coverages, or such other minimum coverages as may be set by the Mission Director, payable in U.S. dollars or its equivalent in the currency of the cooperating country: injury to persons, $10,000/$20,000; property damage, $5,000. The contractor further agrees to deliver, or cause to be delivered to the Mission Director, copies of the insurance policies required by this clause or satisfactory proof of the existence thereof, before such automobile(s) is operated within the cooperating country. The premium costs for such insurance shall not be a reimbursable cost under this contract.

(d) *Claims for Private Personal Property Losses* [For use in TCN contracts]. The contractor shall be reimbursed for private personal property losses in accordance with USAID Handbook 23, ''Overseas Support'', Chapter 10, or superseding ADS Chapter.

9. Travel and Transportation Expenses (July 1993)

[For use in both CCN and TCN Contracts as appropriate].

(a) *General.* The contractor will be reimbursed in currency consistent with the prevailing practice at post and at the rates established by the Mission Director for authorized travel in the cooperating country in connection with duties directly referable to work under this contract. In the absence of such established rates, the contractor shall be reimbursed for actual costs of authorized travel in the cooperating country if not provided by the cooperating government or the Mission in connection with duties directly referable to work hereunder, including travel allowances at rates prescribed by USAID Handbook 22, ''Foreign Service Travel Regulations'' or superseding ADS Chapters as from time to time amended. The Executive or Administrative Officer at the Mission may furnish Transportation Requests (TR's) for transportation authorized by this contract which is payable in local currency or is to originate outside the United States. When transportation is not provided by Government issued TR, the contractor shall procure the transportation, and the costs will be reimbursed. The following paragraphs provide specific guidance and limitations on particular items of cost.

(b) *International Travel.* For travel to and from post of assignment the TCN contractor shall be reimbursed for travel costs and travel allowances from place of residence in the country of recruitment (or other location provided that the cost of such travel does not exceed the cost of the travel from the place of residence) to the post of duty in the cooperating country and return to place of residence in the country of recruitment (or other location provided that the cost of such travel does not exceed the cost of travel from the post of duty in the cooperating country to the contractor's residence) upon completion of services by the individual. Reimbursement for travel will be in accordance with USAID's established policies and procedures for its CCN and TCN direct-hire employees and the provisions of this contract, and will be limited to the cost of travel by the most direct and expeditious route. If the contract is for longer than one year and the contractor does not complete one full year at post of duty (except for reasons beyond his/her control), the cost of going to and from the post of duty for the contractor and his/her dependents are not reimbursable hereunder. If the contractor serves more than one year but less than the required service in the cooperating country (except for reasons beyond his/her control) costs of going to the post of duty are reimbursable hereunder but the cost of going from post of duty to the contractor's permanent, legal place of residence at the time he or she was employed for work under this contract are not reimbursable under this contract for the contractor and his/her dependents. When travel is by economy class accommodations, the contractor will be reimbursed for the cost of transporting up to 10 kilograms/22 pounds of accompanied personal baggage per traveler in addition to that regularly allowed with the economy ticket provided that the total number of pounds of baggage does not exceed that regularly allowed for first class travelers. Travel allowances for travelers shall not be in excess of the rates authorized in the Standardized Regulations (Government Civilians, Foreign Areas) hereinafter referred to as the Standardized Regulations—as from time to time amended, for not more than the travel time required by scheduled commercial air carrier using the most expeditious route. One stopover enroute for a period of not to exceed 24 hours is allowable when the traveler uses economy class accommodations for a trip of 14 hours or more of scheduled duration. Such stopover shall not be authorized when travel is by indirect route or is delayed for the convenience of the traveler. Per diem during such stopover shall be paid in accordance with the Federal Travel Regulations as from time to time amended.

(c) *Local Travel.*—Reimbursement for local travel in connection with duties directly referable to the contract shall not be in excess of the rates established by the Mission Director for the travel costs of travelers in the Cooperating

Country. In the absence of such established rates the contractor shall be reimbursed for actual travel costs in the Cooperating Country by the Mission, including travel allowances at rates not in excess of those prescribed by the Standardized Regulations.

(d) *Indirect Travel for Personal Convenience of a TCN.* When travel is performed by an indirect route for the personal convenience of the traveler, the allowable costs of such travel will be computed on the basis of the cost of allowable air fare via the direct usually traveled route. If such costs include fares for air or ocean travel by foreign flag carriers, approval for indirect travel by such foreign flag carriers must be obtained from the Contracting Officer or the Mission Director before such travel is undertaken, otherwise only that portion of travel accomplished by the United States-flag carriers will be reimbursable within the above limitation of allowable costs.

(e) *Limitation on Travel by TCN Dependents.* Travel costs and allowances will be allowed for authorized dependents of the contractor and such costs shall be reimbursed for travel from place of abode in the country of recruitment to the assigned station in the Cooperating Country and return, only if the dependent remains in the Cooperating Country for at least 9 months or one-half of the required tour of duty of the contract, whichever is greater, except as otherwise authorized hereunder for education, medical, or emergency visitation travel. Dependents of the TCN contractor must return to the country of recruitment or home country within thirty days of the termination or completion of the contractor's employment, otherwise such travel will not be reimbursed under this contract.

(f) *Delays Enroute.* The contractor may be granted reasonable delays enroute while in travel status when such delays are caused by events beyond the control of the contractor and are not due to circuitous routing. It is understood that if delay is caused by physical incapacitation, he/she shall be eligible for such sick leave as provided under the ''Leave and Holidays'' clause of this contract.

(g) *Travel by Privately Owned Automobile (POV).* If travel by POV is authorized in the contract schedule or approved by the Contracting Officer, the contractor shall be reimbursed for the cost of travel performed in his/her POV at a rate not to exceed that authorized in the Federal Travel Regulations plus authorized per diem for the employee and, if the POV is being driven to or from the cooperating country as authorized under the contract, for each of the authorized dependents traveling in the POV, provided that the total cost of the mileage and per diem paid to all authorized travelers shall not exceed the total constructive cost of fare and normal per diem by all authorized travelers by surface common carrier or authorized air fare, whichever is less.

(h) *Emergency and Irregular Travel and Transportation.* [For TCNs only]. Emergency transportation costs and travel allowances while enroute, as provided in this section, will be reimbursed not to exceed amounts authorized by the Foreign Service Travel Regulations for FSN direct-hire employees in like circumstances under the following conditions:

(1) The costs of going from post of duty in the cooperating country to another approved location for the contractor and authorized dependents and returning to post of duty, subject to the prior written approval of the Mission Director, when such travel is necessary for one of the following reasons:

(i) Need for medical care beyond that available within the area to which contractor is assigned.

(ii) Serious effect on physical or mental health if residence is continued at assigned post of duty.

(iii) Serious illness, injury, or death of a member of the contractor's immediate family or a dependent, including preparation and return of the remains of a deceased contractor or his/her dependents.

(2) Emergency evacuation when ordered by the principal U.S. Diplomatic Officer in the cooperating country. Transportation and travel allowances at safe haven and the transportation of household effects and automobile or storage thereof when authorized by the Mission Director, shall be payable in accordance with established Government regulations.

(3) The Mission Director may also authorize emergency or irregular travel and transportation in other situations when in his/her opinion the circumstances warrant such action. The authorization shall include the kind of leave to be used and appropriate restrictions as to time away from post, transportation of personal and household effects, etc.

(i) *Country of Recruitment Travel and Transportation.* [For TCNs only]. The contractor shall be reimbursed for actual transportation costs and travel allowances in the country of recruitment as authorized in the Schedule or approved in advance by the Contracting Officer or the Mission Director. Transportation costs and travel allowances shall not be reimbursed in any amount greater than the cost of, and time required for, economy-class commercial-scheduled air travel by the most expeditious route except as otherwise provided in paragraph (h) above, unless economy air travel is not available and the contractor adequately documents this to the satisfaction of the Contracting Officer in documents submitted with the voucher.

(j) *Rest and Recuperation Travel.* [For TCNs only].

If approved in writing by the Mission Director, the contractor and his/her dependents shall be allowed rest and recuperation travel on the same basis as direct-hire TCN employees and their dependents at the post under the local compensation plan.

(k) *Transportation of Personal Effects (Excluding Automobiles and Household Goods).* [For TCNs only].

(1) *General.* Transportation costs will be paid on the same basis as for direct-hire employees at post serving the same length tour of duty, as authorized in the schedule. Transportation, including packing and crating costs, will be paid for shipping from contractor's residence in the country of recruitment or other location, as approved by the Contracting Officer (provided that the cost of transportation does not exceed the cost from the contractor's residence) to post of duty in the cooperating country and return to the country of recruitment or other location provided the cost of transportation of the personal effects of the contractor not to exceed the limitations in effect for such shipments for USAID direct-hire employees in accordance with the Foreign Service Travel Regulations in effect at the time shipment is made. These limitations may be obtained from the Contracting Officer. The cost of transporting household goods shall not exceed the cost of packing, crating, and transportation by surface common carrier.

(2) *Unaccompanied Baggage.* Unaccompanied baggage is considered to be those personal belongings needed by the traveler immediately upon arrival of the contractor and dependents. To permit the arrival of effects to coincide with the arrival of the contractor and dependents, consideration should be given to advance shipments of unaccompanied baggage. The contractor will be reimbursed for costs of shipment of unaccompanied baggage (in addition to the weight allowance for household effects) not to exceed the limitations in effect for USAID direct-hire employees in accordance with the Foreign Service Travel Regulations in effect when shipment is made. These limitations are available from the Contracting Officer.

This unaccompanied baggage may be shipped as air freight by the most direct route between authorized points of origin and destination regardless of the modes of travel used.

(l) *Reduced Rates on U.S.-Flag Carriers.* Reduced rates on U.S.-flag carriers are in effect for shipments of household goods and personal effects of USAID contractors between certain locations. These reduced rates are available provided the shipper furnishes to the carrier at the time of the issuance of the Bill of Lading documentary evidence that the shipment is for the account of USAID. The Contracting Officer will, on request, furnish to the contractor current information concerning the availability of a reduced rate with respect to any proposed shipment. The contractor will not be reimbursed for shipments of household goods or personal effects in amounts in excess of the reduced rates which are available in accordance with the foregoing.

(m) *Transportation of things.* [For TCNs Only]. Where U.S. flag vessels are not available, or their use would result in a significant delay, the contractor may obtain a release from the requirement to use U.S. flag vessels from the Transportation Division, Office of Procurement, U.S. Agency for International Development, Washington, DC 20523–1419, or the Mission Director, as appropriate, giving the basis for the request.

(n) *Repatriation Travel.* [For TCNs Only]. Notwithstanding other provisions of this Clause 9, a TCN must return to the country of recruitment or to the TCN's home country within 30 days after termination or completion of employment or forfeit all right to reimbursement for repatriation travel. The return travel obligation [repatriation travel] assumed by the U.S. Government may have been the obligation of another employer in the area of assignment if the employee has been in substantially continuous employment which provided for the TCN's return to home country or country from which recruited.

(o) *Storage of household effects.* [For TCNs Only]. The cost of storage charges (including packing, crating, and drayage costs) in the country of recruitment of household goods of regular employees will be permitted in lieu of transportation of all or any part of such goods to the Cooperating Country under paragraph (k) above provided that the total amount of effects shipped to the Cooperating Country or stored in the country of recruitment shall not exceed the amount authorized for USAID direct-hire employees under the Foreign Service Travel Regulations. These amounts are available from the Contracting Officer.

10. Payment (May 1997)

[For use in both CCN and TCN Contracts].

(a) Payment of compensation shall be based on written documentation supporting time and attendance which may be (1) maintained by the Mission in the same way as for direct-hire CCNs and TCNs or (2) the contractor may submit such written documentation in a form acceptable to Mission policy and practice as required for other personal services contractors and as directed by the Mission Controller or paying office. The documentation will also provide information required to be filed under cooperating country laws to permit withholding by USAID of funds, if required, as described in the clause of these General Provisions entitled Social Security and Cooperating Country Taxes.

(b) Any other payments due under this contract shall be as prescribed by Mission policy for the type of payment being made.

11. Contractor-Mission Relationships (Dec. 1986)

[For use in both CCN and TCN Contracts].

(a) The contractor acknowledges that this contract is an important part of the U.S. Foreign Assistance Program and agrees that his/her duties will be carried out in such a manner as to be fully commensurate with the responsibilities which this entails. Favorable relations between the Mission and the Cooperating Government as well as with the people of the cooperating country require that the contractor shall show respect for the conventions, customs, and institutions of the cooperating country and not become involved in any illegal political activities.

(b) If the contractor's conduct is not in accordance with paragraph (a), the contract may be terminated pursuant to the General Provision of this contract, entitled ''Termination.'' If a TCN, the contractor recognizes the right of the U.S. Ambassador to direct his/her immediate removal from any country when, in the discretion of the Ambassador, the interests of the United States so require.

(c) The Mission Director is the chief representative of USAID in the cooperating country. In this capacity, he/she is responsible for the total USAID Program in the cooperating country including certain administrative responsibilities set forth in this contract and for advising USAID regarding the performance of the work under the contract and its effect on the U.S. Foreign Assistance Program. The contractor will be responsible for performing his/her duties in accordance with the statement of duties called for by the contract. However, he/she shall be under the general policy guidance of the Mission Director and shall keep the Mission Director or his/her designated representative currently informed of the progress of the work under this contract.

12. Termination (Nov. 1989)

[For use in both CCN and TCN Contracts].

(This is an approved deviation to be used in place of the clause specified in FAR 52.249–12.)

(a) The Government may terminate performance of work under this contract in whole or, from time to time, in part:

(1) For cause, which may be effected immediately after establishing the facts warranting the termination, by giving written notice and a statement of reasons to the contractor in the event (i) the contractor commits a breach or violation of any obligations herein contained, (ii) a fraud was committed in obtaining this contract, or (iii) the contractor is guilty (as determined by USAID) of misconduct in the cooperating country. Upon such a termination, the contractor's right to compensation shall cease when the period specified in such notice expires or the last day on which the contractor performs services hereunder, whichever is earlier. No costs of any kind incurred by the contractor after the date such notice is delivered shall be reimbursed hereunder except the cost of return transportation (not including travel allowances), if approved by the Contracting Officer. If any costs relating to the period subsequent to such date have been paid by USAID, the contractor shall promptly refund to USAID any such prepayment as directed by the Contracting Officer.

(2) For the convenience of USAID, by giving not less than 15 calender days advance written notice to the contractor. Upon such a termination, contractor's right to compensation shall cease when the period specified in such notice expires except that the contractor shall be entitled to any accrued, unused vacation leave, return transportation costs and travel allowances and transportation of unaccompanied baggage costs at the rates specified in the contract and subject to the limitations which apply to authorized travel status.

(3) For the convenience of USAID, when the contractor is unable to complete performance of his/her

services under the contract by reason of sickness or physical or emotional incapacity based upon a certification of such circumstances by a duly qualified doctor of medicine approved by the Mission. The contract shall be deemed terminated upon delivery to the contractor of a termination notice. Upon such a termination, the contractor shall not be entitled to compensation except to the extent of any accrued, unused vacation leave, but shall be entitled to return transportation, travel allowances, and unaccompanied baggage costs at rates specified in the contract and subject to the limitations which apply to authorized travel status.

(b) The contractor, with the written consent of the Contracting Officer, may terminate this contract upon at least 15 days' written notice to the Contracting Officer.

13. Allowances (Dec. 1986)

[For TCNs only].

Allowances will be granted to the contractor and authorized dependents on the same basis as to direct-hire TCN employees at the post under the Post Compensation Plan. The allowances provided shall be paid to the contractor in the currency of the cooperating country or in accordance with the practice prevailing at the Mission.

14. Advance of Dollar Funds (Dec 1986)

[For TCNs only].

If requested by the contractor and authorized in writing by the Contracting Officer, USAID will arrange for an advance of funds to defray the initial cost of travel, travel allowances, authorized precontract expenses, and shipment of personal property. The advance shall be granted on the same basis as to an USAID U.S.-citizen direct-hire employee in accordance with USAID Handbook 22, Chapter 4 or superseding ADS Chapters.

15. Conversion of U.S. Dollars To Local Currency (Dec 1986)

[For TCNs only].

Upon arrival in the cooperating country, and from time to time as appropriate, the contractor shall consult with the Mission Director or his/her authorized representative who shall provide, in writing, the policy the contractor shall follow in the conversion of one currency to another currency. This may include, but not be limited to, the conversion of said currency through the cognizant U.S. Disbursing Officer, or Mission Controller, as appropriate.

16. Post of Assignment Privileges (Dec 1986)

[For TCNs only].

Privileges such as the use of APO, PX's, commissaries and officer's clubs are established at posts abroad pursuant to agreements between the U.S. and host governments. These facilities are intended for and usually limited to U.S. citizen members of the official U.S. Mission including the Embassy, USAID, Peace Corps, U.S. Information Services and the Military. Normally, the agreements do not permit these facilities to be made available to non-U.S. citizens if they are under contract to the United States Government. However, in those cases where the facilities are open to TCN contractor personnel, they may be used.

17. Release Of Information (Dec 1986)

[For use in both CNN and TCN Contracts].

All rights in data and reports shall become the property of the U.S. Government. All information gathered under this contract by the contractor and all reports and recommendations hereunder shall be treated as privileged information by the contractor and shall not, without the prior written approval of the Contracting Officer, be made available to any person, party, or government, other than USAID, except as otherwise expressly provided in this contract.

18. Notices (Dec 1986)

[For use in both CNN and TCN Contracts].

Any notice, given by any of the parties hereunder, shall be sufficient only if in writing and delivered in person or sent by telegraph, telegram, registered, or regular mail as follows:

(a) TO USAID: To the Mission Director of the Mission in the Cooperating Country with a copy to the appropriate Contracting Officer.

(b) TO THE CONTRACTOR: At his/her post of duty while in the Cooperating Country and at the contractor's address shown on the Cover Page of this contract or to such other address as either of such parties shall designate by notice given as herein required.

Notices hereunder shall be effective when delivered in accordance with this clause or on the effective date of the notice, whichever is later.

19. Incentive Awards (Dec 1996)

[For CNN and TCN Contracts].

(a) All Cooperating Country National (CCN) Personal Services Contractors (PSCs) and Third Country Nationals (TCNs) of the Foreign Affairs Community are eligible for the Joint Embassy Incentive Awards Program. The program is administered by each post's (Embassy) Joint Country Awards Committee.

(b) Meritorious Step Increases

Meritorious step increases may be granted to CNNs and TCNs paid under the local compensation plan provided the granting of such increases is the general practice locally.

20. Training (July 1993)

[For CNN and TCN Contracts].

The contractor may be provided job related training to develop growth potential, expand capabilities and increase knowledge and skills. The training may be funded under the personal services contract.

21. Medical Evacuation (MEDEVAC) Services (July 1993)

[For TCN Contracts Only].

(a) The contractor agrees to obtain medevac service coverage for himself/herself and his/her authorized dependents while performing personal services abroad. Coverage shall be obtained pursuant to the terms of the contract between USAID and USAID's medevac service provider unless exempted in accordance with paragraph (b).

(b) The following are exempted from the requirements in paragraph (a):

(i) Contractors and their dependents with a health insurance program that includes sufficient medevac coverage as approved by the Contractor Officer.

(ii) Contractors and their dependents located at Missions where the Mission Director makes a written determination to waive the requirement for such coverage based on findings that the quality of local medical services or other circumstances obviate the need for such coverage.

(c) Information on the current medevac service provider, including application procedures, is available from the Contracting Officer.

13. FAR Clauses

The following FAR Clauses are always to be used along with the General Provisions. They are required in full text.

1. Covenant Against Contingent Fees 52.203–5
2. Disputes 52.233–1 (Alternate 1)
3. Preference for U.S. Flag Air Carriers 52.247–63

The following FAR Clauses are to be used along with the General Provisions, and when appropriate, be incorporated in each personal services contract by reference:

1. Anti-Kickback Procedures 52.203–7
2. Limitation on Payments to Influence Certain Federal Transactions 52.203–12

3. Audit and Records—Negotiation 52.215–2
4. Privacy Act Notification 552.224–1
5. Privacy Act 52.224–2
6. Taxes—Foreign Cost Reimbursement Contracts 52.229–8
7. Interest 52.232–17
8. Limitation of Cost 52.232–20
9. Limitation of Funds 52.232–22
10. Assignment of Claims 52.232–23
11. Protection of Government Buildings, Equipment, and Vegetation 52.237–2
12. Notice of Intent to Disallow Costs 52.242–1
13. Inspection 52.246–5
14. Limitation of Liability—Services 52.246–25

Dated: June 23, 1997.

Marcus L. Stevenson,

Procurement Executive.

[FR Doc. 97–20717 Filed 8–8–97; 8:45 am]

BILLING CODE 6116–01–M

Proposed Rules

Federal Register
Vol. 62, No. 154
Monday, August 11, 1997

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

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 213

RIN 3206–AH91

Fellowship and Similar Appointments in the Excepted Service

AGENCY: Office of Personnel Management.

ACTION: Proposed rulemaking.

SUMMARY: The Office of Personnel Management (OPM) proposes to consolidate single-agency excepted service authorities for filling positions associated with fellowships, internships, residencies, student-stipend, and similar programs by establishing two Governmentwide authorities in their place. This will reduce the number of appointing authorities. One authority would cover fellowship-type programs, while the other would apply to student employees who are paid stipends under special statutory provisions.

DATES: Comments must be received on or before September 10, 1997.

ADDRESSES: Send or deliver written comments to Mary Lou Lindholm, Associate Director for Employment, Office of Personnel Management, Room 6F08, 1900 E Street NW., Washington, DC 20415.

FOR FURTHER INFORMATION CONTACT: Sylvia Cole on (202) 606–0830, TDD (202) 606–0023, or FAX (202) 606–2329.

SUPPLEMENTARY INFORMATION: In OPM's continuing efforts to simplify the Federal appointment system, we are reducing the overall number of excepted service authorities. As part of this initiative we are reviewing all appointing authorities that were established to meet specific agency needs, to determine if exception is still appropriate. Where it is, we hope to identify the situations where individual agency authorities share enough of a common basis that they could be consolidated into a single Governmentwide appointing authority that would apply to all agencies.

Fellowship and Similar Programs

Over the years OPM has granted numerous excepted authorities to individual agencies to cover a variety of fellowship, internship and similar programs. These regulations propose a consolidated Schedule A authority for these types of programs. Positions are placed in Schedule A when it is impracticable to examine for them.

The term ''fellowship'' covers a variety of non-permanent employment situations, usually associated with specific programs. They can be in the form of internship or training programs that provide developmental work opportunities and learning experiences to individuals who have completed their education, for instance in the area of science and engineering. Many are at the postgraduate or postdoctoral level, though they can occur at any level. Other programs are designed to increase the pool of candidates in a particular specialty for all employers, not just the Federal Government, such as in health care, or to bring highly specialized private sector expertise to an agency.

They can also be in the form of industry exchange programs that are intended to foster mutual understanding and cooperation between an agency and its customer group, or a particular profession, such as public accounting. They are designed to give program participants a better understanding of how Federal policies are formulated, while they, in turn, bring new ideas and perspectives from outside government to the agency. Some programs provide scholarships or other educational assistance to individuals and, in turn, require a period of obligated service with the Federal Government.

All these programs operate under specific parameters set by the employing agency or a non-Federal entity, such as a professional association. Most fellowship-type appointments last from one to three years and are not usually intended to recruit candidates for permanent Federal employment. We are proposing a 4-year employment limit to cover the occasional program that has unique requirements and any unforeseen agency needs.

None of the above employment situations is covered under an existing Governmentwide excepted authority. While agencies have available to them appointing authorities for students, they do not cover individuals who have completed their education. The existing Presidential Management Intern Program, established by Executive order, is also very narrow in scope and not compatible with the multitude of fellowship-type situations that exist in agencies.

OPM finds that it is impracticable to examine for fellowship and similar programs because they represent non-traditional employment situations. There is no open competition because only applicants from targeted academic or professional disciplines are considered for the positions, and they must meet previously agreed upon qualification criteria. Often they are ranked and recommended by a third party, such as a non-Federal organization. Other times selections are based solely on a candidate's interest in the agency's programs.

The proposed appointing authority will cover a small but important employment need of agencies that have unique fellowship and similar programs. It is designed to encompass existing programs that currently operate under individual agency appointing authorities.

Student-Stipend Programs

Under 5 U.S.C. 5351–5356, agencies may pay stipends and provide certain services to student-employees assigned or attached to Government hospitals, clinics or medical or dental laboratories. These positions are excluded from the provisions of law relating to classification and General Schedule pay. We propose to establish a separate Schedule A authority for these positions because of their unique compensation and classification aspects.

As with the fellowship positions, numerous single-agency authorities have been established for student-stipend programs. The positions typically covered by these programs include student practical nurses, student dental assistants, medical interns, and student pharmacists, which are located in agencies operating hospitals, clinics, medical centers or laboratories. The programs usually provide training opportunities or clinical experiences to students from an academic institution, or to residents from a non-Federal hospital.

It is impracticable to examine for positions associated with student-stipend programs because position incumbents are selected by the school where they are enrolled. When a non-Federal organization controls the selection process, there is no examination by a Federal agency.

Conforming Amendment

In 5 CFR 213.104, positions filled under single-agency authorities for fellowship and related programs are exempt from the service limits for making temporary appointments and the refilling of these positions by temporary appointment. We are adding the new appointing authorities to the list of exceptions cited in 5 CFR 213.104(b)(3)(ii).

Regulatory Flexibility Act

I certify that these regulations will not have a significant economic impact on a substantial number of small entities (including small businesses, small organizational units, and small governmental jurisdictions) because the regulations apply only to appointment procedures used to appoint certain employees in Federal agencies.

List of Subjects in 5 CFR Part 213

Government employees, Reporting and recordkeeping requirements.

James B. King,

Director, Office of Personnel Management.

Accordingly, OPM proposes to amend 5 CFR part 213 as follows:

PART 213—EXCEPTED SERVICE

1. The authority citation for part 213 continues to read as follows:

Authority: 5 U.S.C. 3301 and 3302, E.O. 10577, 3 CFR 1954–1958 Comp., p. 218; § 213.101 also issued under 5 U.S.C. 2103; § 213.3102 also issued under 5 U.S.C. 3301, 3302, 3307, 8337(h) and 8456; E.O. 12364, 47 FR 22931, 3 CFR 1982 Comp., p. 185; and 38 U.S.C. 4301 *et seq.*

2. In § 213.104 paragraph (b)(3)(ii) is revised to read as follows:

§ 213.104 Special provisions for temporary, intermittent, or seasonal appointments in Schedule A, B, or C.

* * * * *

(b) * * *

(3) * * *

(ii) Positions are filled under an authority established for the purpose of enabling the appointees to continue or enhance their education, or to meet academic or professional qualification requirements. These include the authorities set out in paragraphs (r) and (s) of § 213.3102 and paragraph (c) of § 213.3202, and authorities granted to individual agencies for use in connection with internship, fellowship, residency, or student programs.

* * * * *

3. In § 213.3102, paragraphs (r) and (s) are added to read as follows:

§ 213.3102 Entire executive civil service.

* * * * *

(r) Positions established in support of fellowship and similar programs that are filled from limited applicant pools and operate under specific criteria developed by the employing agency and/or a non-Federal organization. These programs may include: internship or fellowship programs that provide developmental or professional experiences to individuals who have completed their formal education; training and associateship programs designed to increase the pool of qualified candidates in a particular occupational specialty; professional/industry exchange programs that provide for a cross-fertilization between the agency and the private sector to foster mutual understanding, an exchange of ideas, or to bring experienced practitioners to the agency; residency programs through which participants gain experience in a Federal clinical environment; and programs that require a period of Government service in exchange for educational, financial or other assistance. Appointments under this authority may not exceed 4 years.

(s) Positions with compensation fixed under 5 U.S.C. 5351–5356 when filled by student-employees assigned or attached to Government hospitals, clinics or medical or dental laboratories. Employment under this authority may not exceed 4 years.

* * * * *

[FR Doc. 97–21048 Filed 8–8–97; 8:45 am]

BILLING CODE 6325–01–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 56

[Docket No. PY–97–003]

Voluntary Shell Egg Regulations

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: The Agricultural Marketing Service (AMS) proposes to amend the regulations governing the voluntary shell egg grading program. The proposed revisions would require electronic digital-display scales be provided to the grader; provide an alternative grademark for shell eggs; provide for the use of a ''Produced From'' grademark to officially identify products that originate from officially graded shell eggs; and remove the requirement for continuous overflow of water during the egg washing process. From time to time, sections in the regulations are affected by changes in egg processing technology. This rule updates the regulations to reflect these changes.

DATES: Comments must be received on or before October 10, 1997.

ADDRESSES: Send written comments to Douglas C. Bailey, Chief, Standardization Branch, Poultry Division, Agricultural Marketing Service, U.S. Department of Agriculture, Stop 0259, 1400 Independence Avenue, SW, Washington, D.C. 20250–0259. Comments received may be inspected at this location between 8:00 a.m. and 4:30 p.m., Eastern Time, Monday through Friday, except holidays. State that your comments refer to Docket No. PY–97–003.

FOR FURTHER INFORMATION CONTACT: Rex A. Barnes, Chief, Grading Branch, 202–720–3271.

SUPPLEMENTARY INFORMATION: This proposed rule has been determined to be not significant for purposes of Executive Order 12866 and has not been reviewed by the Office of Management and Budget (OMB).

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. This action 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. There are no administrative procedures which must be exhausted prior to any judicial challenge to the provisions of this rule.

Pursuant to the requirements set forth in the Regulatory Flexibility Act (RFA), AMS has considered the economic impact of this action on small entities as defined in the RFA (5 U.S.C. 601). There are almost 200 plants using the Agency's shell egg grading services and many of them are small entities.

The proposal to require electronic digital-display scales will affect some processors by requiring the purchase of one or more scales that cost from $150 to $1,000 each. This equipment will improve the accuracy of egg weight determinations, allowing processors to avoid the expense incurred when product is unnecessarily retained and re-processed.

One proposal to establish an alternative form of the USDA grademark

would allow shell egg processors to use a shield displayed in three colors to officially identify USDA graded eggs. Similarly, another proposal would allow producers of products originating from officially graded shell eggs to use a ''Produced From'' grademark on packaging materials. These proposals would have no adverse economic impact on processors.

The proposal to remove the requirement for the continuous overflow of water during egg washing would conserve water and energy resources, decrease operating expenses of processors, and lessen the environmental impact of shell egg processing. This is expected to have a significant positive economic impact on processors.

Other editorial-type changes would clarify or update the existing regulations and would have no economic impact on entities using voluntary shell egg grading services.

For the above reasons, the Agency has certified that this action will not have a significant impact on a substantial number of small entities.

The information collection requirement in § 56.37 to be amended by this rule has been previously approved by OMB and assigned OMB Control Number 0581–0127 under the Paperwork Reduction Act of 1980.

Background and Proposed Changes

Shell egg grading is a voluntary program provided under the Agricultural Marketing Act of 1946, as amended, and is offered on a fee-for-service basis. It is designed to assist the orderly marketing of shell eggs by providing for the official certification of egg quality, quantity, size, temperature, packaging, and other factors. Changing technology in egg processing requires that the regulations governing shell egg grading be updated.

Grading personnel certify egg weights according to the official U.S. weight classes. Today, the highly mechanized, state-of-the-art equipment used to package shell eggs weighs individual eggs with high precision to satisfy container weight requirements. For processors to receive fair, uniform, accurate weight certification, graders need to have similarly precise scales to certify egg weights. The Agency is proposing to amend § 56.17(a) by requiring plants to replace balance or spring-type scales for weighing individual eggs and consumer packages with electronic digital-display scales.

Many processors want to identify their consumer-pack USDA graded shell eggs, or products prepared from those eggs, with a USDA grademark. The Agency is proposing to amend § 56.36 to allow processors additional flexibility. The proposal would permit the use of a new grademark that contains horizontal bands of three colors. It would also provide for the use of a new ''Produced From'' grademark to officially identify products for which there are no U.S. grade standards (e.g., pasteurized shell eggs) that are produced from U.S. Grade AA or Grade A shell eggs. The proposal would also remove the option of using terms such as ''Federal-State Graded'' within the grademark because this option is no longer used. Finally, the proposal would clarify the organization and wording of § 56.36 and would correct references to § 56.36 that are in § 56.37 and § 56.40.

Egg wash tanks are designed to permit the continuous inflow of water and, when tank capacity is exceeded, the continuous outflow of water. Because some water is lost during egg washing due to evaporation and other causes, a continuous supply of fresh replacement water is required in order to maintain a proper volume of wash water. A continuous overflow of water is required by AMS to indicate that an adequate amount of fresh replacement water is being added. However, replacement water is not always of a sufficient volume to provide for continuous overflow, especially at the beginning of shifts or when the washing equipment is stopped and restarted. This situation, in addition to new washing and egg cleaning technologies and better production practices, brought the requirement for a continuous overflow into question. Therefore, AMS is proposing to amend § 56.76(e)(5) by omitting the requirement for a continuous overflow of water in shell egg washers.

List of Subjects in 7 CFR Part 56

Eggs and egg products, Food grades and standards, Food labeling, Reporting and recordkeeping requirements.

For reasons set forth in the preamble, it is proposed that 7 CFR part 56 be amended as follows:

PART 56—VOLUNTARY GRADING OF SHELL EGGS

1. The heading for part 56 is revised to read as set forth above.

1a. The authority citation for part 56 continues to read as follows:

Authority: 7 U.S.C. 1621–1627.

2. In § 56.17, paragraphs (a)(2) and (a)(3) are revised and new paragraphs (a)(4) and (a)(5) are added to read as follows:

§ 56.17 Facilities and equipment for graders.

* * * * *

(a) * * *

(2) Electronic digital-display scales graduated in increments of 1/10-ounce or less for weighing individual eggs and test weights for calibrating such scales. Plants packing product based on metric weight must provide scales graduated in increments of 1-gram or less;

(3) Electronic digital-display scales graduated in increments of 1/4-ounce or less for weighing the lightest and heaviest consumer packages packed in the plant and test weights for calibrating such scales;

(4) Scales graduated in increments of 1/4-pound or less for weighing shipping containers and test weights for calibrating such scales;

(5) An acceptable candling light.

* * * * *

3. Section 56.36 is revised to read as follows:

§ 56.36 Form of grademark and information required.

(a) *Form of official identification symbol and grademark.* (1) The shield set forth in Figure 1 of this section shall be the official identification symbol for purposes of this part and when used, imitated, or simulated in any manner in connection with shell eggs, shall be deemed prima facia to constitute a representation that the product has been officially graded for the purposes of § 56.2.

(2) Except as otherwise authorized, the grademark permitted to be used to officially identify USDA consumer-graded shell eggs shall be of the form and design indicated in Figures 2 through 4 of this section. The shield shall be of sufficient size so that the printing and other information contained therein is legible and in approximately the same proportion as shown in Figures 2 through 4 of this section.

(3) The ''Produced From'' grademark in Figure 5 of this section may be used to identify products approved by the Agency for which there are no U.S. grade standards (e.g., pasteurized shell eggs) that are prepared from U.S. Consumer Grade AA or A shell eggs under the continuous supervision of a grader.

(b) *Information required on grademark.* (1) Except as otherwise authorized by the administrator, each grademark used shall include the letters ''USDA'' and the U.S. grade of the product it identifies, such as ''A Grade,'' as shown in Figure 2 of this section. Such information shall be printed with the shield and the wording within the

shield in contrasting colors in a manner such that the design is legible and conspicuous on the material upon which it is printed.

(2) The size or weight class of the product, such as ''Large,'' may appear within the grademark as shown in Figure 3 of this section. If the size or weight class is omitted from the grademark, it must appear prominently on the main panel of the carton.

(3) Except as otherwise authorized, the bands of the shield in Figure 4 of this section shall be displayed in three colors, with the color of the top, middle, and bottom bands being blue, white, and red, respectively.

(4) The ''Produced From'' grademark in Figure 5 of this section may be any one of the designs shown in Figures 2 through 4 of this section. The text outside the shield shall be conspicuous, legible, and in approximately the same proportion and close proximity to the shield as shown in Figure 5 of this section.

(5) The plant number of the official plant preceded by the letter ''P'' must be shown on each carton or packaging material.

Figures to § 56.36

BILLING CODE 3410–02–P

Figure 1

Figure 2

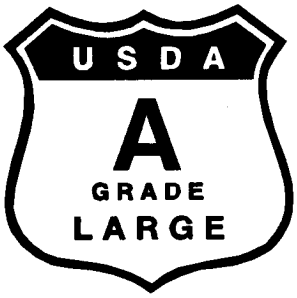

Figure 3

Figure 4

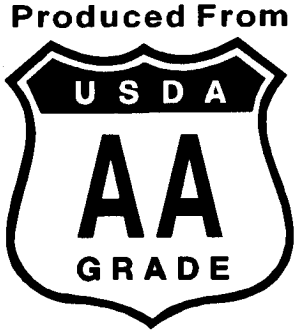

Figure 5

BILLING CODE 3410–02–C

4. In § 56.37, the first sentence is revised to read as follows:

§ 56.37 Lot marking of officially identified product.

Each carton identified with the grademarks shown in § 56.36 shall be legibly lot numbered on either the carton or the consumer package. * * *

5. In § 56.40, paragraph (a) is revised to read as follows:

§ 56.40 Grading requirements of shell eggs identified with consumer grademarks.

(a) Shell eggs to be identified with the grademarks illustrated in § 56.36 must be individually graded by a grader or by authorized personnel pursuant to § 56.11 and thereafter check graded by a grader.

* * * * *

6. In § 56.76, the first sentence in paragraph (e)(5) is revised to read as follows:

§ 56.76 Minimum facility and operating requirements for shell egg grading and packing plants.

* * * * *

(e) * * *

(5) Replacement water shall be added continuously to the wash water of washers. * * *

* * * * *

Dated: July 31, 1997.

Lon Hatamiya,

Administrator, Agricultural Marketing Service.

[FR Doc. 97–20901 Filed 8–8–97; 8:45 am]

BILLING CODE 3410–02–P

NUCLEAR REGULATORY COMMISSION

10 CFR Part 20

RIN 3150–AF44

Reporting Requirements for Unauthorized Use of Licensed Radioactive Material

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule; withdrawal.

SUMMARY: The Nuclear Regulatory Commission (NRC) is withdrawing a notice of proposed rulemaking that was published in the **Federal Register** on January 31, 1996, regarding the intentional unauthorized use of licensed radioactive material by individuals. The majority of commenters stated that the costs of implementing the proposed rule would outweigh the benefits that might result from the rule. After reviewing these comments, the Commission has reconsidered the need for the proposed rule and is withdrawing it.

FOR FURTHER INFORMATION CONTACT: Mary L. Thomas, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555–0001, telephone (301) 415–6230, E-mail MLT1@NRC.GOV.

SUPPLEMENTARY INFORMATION: On January 31, 1996, the NRC published a proposed amendment to 10 CFR part 20, in the **Federal Register** (61 FR 3334), that would have required licensees to report events involving intentional unauthorized use of licensed radioactive material to the NRC Operations Center within 24 hours of discovery.

Eighty-six comment letters were received on the proposed rule: 12 from power reactor licensees, 11 from industry representative groups, 8 from Agreement States, 14 from Agreement State licensees, 30 from NRC material licensees, 10 from private citizens, and one from a public interest group. Eighty-two of the commenters opposed the proposed rule; four were in favor of the proposed rule. In addition, comments were received from the Advisory Committee on Medical Uses of Isotopes (ACMUI) at a meeting held on February 22, 1996.

The commenters addressed the regulatory analysis, the severity level that would be assigned to violations for failure to report, and the backfit analysis as well as the proposed rule itself. Because the proposed rule is being withdrawn, only the comments received on the proposed rule itself are discussed here. All of the comments received on the rule are available for review in the NRC's Public Document Room.

Comment: Forty commenters stated that the concept presented in this rule was not consistent with the ALARA principle. They also stated that the rule would require every event of contamination and exposure to be reported regardless of the level of contamination or exposure. Several commenters argued that using a reporting threshold that included any ''allegedly intentional'' unauthorized use was too broad and would result in licensees spending more time and money than the 20 hours to evaluate an incident estimated in the proposed regulatory analysis for the proposed rule, and would detract from their ability to perform their other duties. They stated that this would place an undue burden on small licensees whose resources are already limited. Thirty-two commenters suggested that the requirement to report events where unauthorized use could not be ruled out within 48 hours be deleted. They stated that it was too vague, burdensome, and restrictive, and they would be forced to report every contamination to avoid a Severity Level III violation. Forty-nine commenters suggested that the NRC be more specific with respect to the type of events to be reported. Thirty-six commenters suggested that the proposed rule be withdrawn. They stated that basing a rulemaking on only two incidents was not justified. Of this group, 26 commenters stated that regulations already exist to cover such incidents, such as 10 CFR 30.10, Deliberate misconduct, 10 CFR 20.2201, Reports of theft or loss of licensed material, 10 CFR 20.2202, Notification of incidents, and 10 CFR 30.50(a), Reporting requirements.

Of the eight Agreement States that provided comments, all stated that the proposed rule should be withdrawn. One Agreement State commented that this rule may violate the intent of that State's Regulatory Reform Act of 1995 that requires the State's regulatory system not impose excessive, unreasonable, or unnecessary obligations.

Four comments were received in favor of the proposed rule. One commenter supported the proposed rule without changes; the other three supported the intent of the proposed rule but suggested changes to further clarify the intent and to make the rule less burdensome. As discussed below, the Commission recognizes that regulations already exist requiring reporting of events when certain established dose thresholds have been reached. The Commission believes that a requirement to report events below these established thresholds would not provide any additional protection and the cost would not be justified.

Response: The Commission examined the comments received on the proposed rule, and concluded that a sufficient basis does not exist to promulgate a rule at this time. The Commission recognizes that regulations already exist requiring reporting of events when certain dose thresholds have been reached. The established thresholds in these existing requirements capture any event where the occupational dose limits have been exceeded. Therefore, any additional protection achieved from reporting events below the established thresholds would be low and the costs of both the reporting by licensees and the subsequent follow-up actions by the NRC staff would not be justified. For the above reasons, the Commission is withdrawing the proposed rule.

Dated at Rockville, Maryland, this 4th day of August, 1997.

For the Nuclear Regulatory Commission.

John C. Hoyle,

Secretary of the Commission.

[FR Doc. 97–21120 Filed 8–8–97; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–NM–49–AD]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Model DC–9–10, –20, –30, –40, and –50 Series Airplanes, and C–9 (Military) Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain McDonnell Douglas Model DC–9–10, –20, –30, –40, and –50 series airplanes, and C–9 (military) airplanes. This proposal would require a one-time visual inspection to determine if all corners of the aft lower cargo doorjamb have been previously modified. This proposal also would require low frequency eddy current inspections to detect cracks of the fuselage skin and doubler at all corners of the aft lower cargo doorjamb, various follow-on repetitive inspections, and modification, if necessary. This proposal is prompted by fatigue cracks found in the fuselage skin and doubler at the corners of the aft lower cargo doorjamb. The actions specified by the proposed AD are intended to detect and correct such fatigue cracking, which could result in rapid decompression of the fuselage and consequent reduced structural integrity of the airplane.

DATES: Comments must be received by September 22, 1997.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 97–NM–49–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Technical Publications Business Administration, Department C1–L51 (2–60). This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Wahib Mina, Aerospace Engineer, Airframe Branch, ANM–120L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712; telephone (562) 627–5324; fax (562) 627–5210.

SUPPLEMENTARY INFORMATION:

Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 97–NM–49–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 97–NM–49–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The FAA has received reports of fatigue cracks in the fuselage skin and doubler at the corners of the aft lower cargo doorjamb on Model DC–9 series airplanes. These cracks were discovered during inspections conducted as part of the Supplemental Structural Inspection Document (SSID) program, required by AD 96–13–03, amendment 39–9671 (61 FR 31009, June 19, 1996). Investigation revealed that such cracking was caused by fatigue-related stress. Fatigue cracking in the fuselage skin or doubler at the corners of the aft lower cargo doorjamb, if not detected and corrected in a timely manner, could result in rapid decompression of the fuselage and consequent reduced structural integrity of the airplane.

Explanation of Relevant Service Information

The FAA has reviewed and approved McDonnell Douglas Service Bulletin DC9–53–278, dated November 4, 1996. The service bulletin describes the following procedures:

1. For certain airplanes: Performing low frequency eddy current (LFEC) inspections to detect cracks of the fuselage skin and doubler at all corners of the aft lower cargo doorjamb;
2. For certain other airplanes: Contacting the manufacturer for disposition of certain conditions;
3. Conducting repetitive inspections, or modifying the corner skin of the aft lower cargo doorjamb and performing follow-on LFEC inspections, if no cracking is detected;
4. Performing repetitive LFEC inspections to detect cracks on the skin adjacent to any corner that has been modified; and
5. Modifying any crack that is found to be 2 inches or less in length at all corners that have not been modified and performing follow-on repetitive LFEC inspections.

Accomplishment of the modification will minimize the possibility of cracks in the fuselage skin and doubler.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would require, for certain airplanes, LFEC inspections to detect cracks of the fuselage skin and doubler at all corners of the aft lower cargo doorjamb, various follow-on repetitive inspections, and modification, if necessary. The actions would be required to be accomplished in accordance with the service bulletin described previously.

The proposed AD also would require a one-time visual inspection to determine if all corners of the aft lower cargo doorjamb have been previously modified. The FAA finds that the LFEC inspections described in the referenced service bulletin are dependent on

whether the corners have been modified or not, and dependent on what service documents the operators used to accomplish the modification. The FAA finds that an initial one-time visual inspection is necessary to make such a determination.

Operators also should note that, although the service bulletin specifies that the manufacturer must be contacted for disposition of certain conditions, this proposal would require the repair of those conditions to be accomplished in accordance with a method approved by the Manager, Los Angeles Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate.

Cost Impact

There are approximately 899 McDonnell Model DC–9–10, –20, –30, –40, and –50 series airplanes, and C–9 (military) airplanes of the affected design in the worldwide fleet. The FAA estimates that 622 airplanes of U.S. registry would be affected by this proposed AD.

It would take approximately 1 work hour per airplane to accomplish the proposed visual inspection, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the visual inspection proposed by this AD on U.S. operators is estimated to be $37,320, or $60 per airplane.

Should an operator be required to accomplish the proposed LFEC inspection, it would take approximately 1 work hour per airplane to accomplish, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the LFEC inspection proposed by this AD on U.S. operators is estimated to be $37,320, or $60 per airplane.

Should an operator be required to accomplish the proposed modification, it would take approximately 14 work hours per airplane to accomplish, at an average labor rate of $60 per work hour. Required parts would cost between $692 to $990 per airplane, depending on the service kit purchased. Based on these figures, the cost impact of the modification proposed by this AD on U.S. operators is estimated to be $1,532 or $1,830 per airplane.

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

Regulatory Impact

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

Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

McDonnell Douglas: Docket 97–NM–49–AD.

Applicability: Model DC–9–10, –20, –30, –40, and –50 series airplanes, and C–9 (military) airplanes, as listed in McDonnell Douglas DC–9 Service Bulletin DC9–53–278, dated November 4, 1996; 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 (e) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To detect and correct fatigue cracking in the fuselage skin or doubler at the corners of the aft lower cargo doorjamb, which could result in rapid decompression of the fuselage and consequent reduced structural integrity of the airplane, accomplish the following:

Note 2: Where there are differences between the service bulletin and the AD, the AD prevails.

Note 3: This AD is related to AD 96–13–03, amendment 39–9671, (61 FR 31009, June 19, 1996), and will affect Principal Structural Element (PSE) 53.09.035 of the DC–9 Supplemental Inspection Document (SID).

(a) Prior to the accumulation of 48,000 total landings, or within 3,575 landings after the effective date of this AD, whichever occurs later, perform a one-time visual inspection to determine if the corners of the aft lower cargo doorjamb have been modified prior to the effective date of this AD.

(b) If the visual inspection required by paragraph (a) of this AD reveals that the corners of the aft lower cargo doorjamb *have not been modified*, prior to further flight, perform a low frequency eddy current (LFEC) or x-ray inspection to detect cracks of the fuselage skin and doubler at all corners of the aft lower cargo doorjamb, in accordance with McDonnell Douglas Service Bulletin DC9–53–278, dated November 4, 1996.

(1) If no crack is detected during the LFEC or x-ray inspection required by this paragraph, accomplish the requirements of either paragraph (b)(1)(i) or (b)(1)(ii) of this AD.

(i) *Option 1.* Repeat the inspections as follows until paragraph (b)(1)(ii) of this AD is accomplished:

(A) If the immediately preceding inspection was conducted using LFEC techniques, conduct the next inspection within 3,575 landings.

(B) If the immediately preceding inspection was conducted using x-ray techniques, conduct the next inspection within 3,075 landings.

(ii) *Option 2.* Prior to further flight, modify the corners of the aft lower cargo doorjamb, in accordance with the service bulletin. Prior to the accumulation of 28,000 landings after accomplishment of that modification, perform a LFEC inspection to detect cracks on the skin adjacent to the modification, in accordance with the service bulletin. Repeat the LFEC inspection thereafter at intervals not to exceed 20,000 landings.

(A) If no crack is detected on the skin adjacent to the modification during any LFEC or x-ray inspection required by this paragraph, repeat the LFEC inspection thereafter at intervals not to exceed 20,000 landings.

(B) If any crack is detected on the skin adjacent to the modification during any LFEC or x-ray inspection required by this paragraph, prior to further flight, repair it in accordance with a method approved by the

Manager, Los Angeles Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate.

(2) If any crack is found during any LFEC or x-ray inspection required by this paragraph and the crack is 2 inches or less in length: Prior to further flight, modify it in accordance with the service bulletin. Prior to the accumulation of 28,000 landings after accomplishment of the modification, perform a LFEC inspection to detect cracks on the skin adjacent to the modification, in accordance with the service bulletin.

(i) If no crack is detected during the LFEC inspection required by this paragraph, repeat the LFEC inspection thereafter at intervals not to exceed 20,000 landings.

(ii) If any crack is detected during the LFEC inspection required by this paragraph, prior to further flight, repair it in accordance with a method approved by the Manager, Los Angeles ACO.

(3) If any crack is found during any LFEC or x-ray inspection required by this paragraph and the crack is greater than 2 inches in length: Prior to further flight, repair it in accordance with a method approved by the Manager, Los Angeles ACO.

(c) If the visual inspection required by paragraph (a) of this AD reveals that the corners of the aft lower cargo doorjamb *have been modified*, but not in accordance with the DC–9 Structural Repair Manual (SRM) or Service Rework Drawing, prior to further flight, repair it in accordance with a method approved by the Manager, Los Angeles ACO.

(d) If the visual inspection required by paragraph (a) of this AD reveals that the corners of the aft lower cargo doorjamb *have been modified* in accordance with DC–9 SRM or Service Rework Drawing, prior to the accumulation of 28,000 landings since accomplishment of that modification, or within 3,500 landings after the effective date of this AD, whichever occurs later, perform a LFEC inspection to detect cracks on the skin adjacent to the modification, in accordance with McDonnell Douglas Service Bulletin DC9–53–278, dated November 4, 1996. Repeat the LFEC inspection thereafter at intervals not to exceed 20,000 landings.

(1) If no crack is detected during any LFEC inspection required by this paragraph, repeat the LFEC inspection thereafter at intervals not to exceed 20,000 landings.

(2) If any crack is detected during any LFEC inspection required by this paragraph, prior to further flight, repair it in accordance with a method approved by the Manager, Los Angeles ACO.

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

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

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

Issued in Renton, Washington, on August 5, 1997.

John J. Hickey,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 97–21096 Filed 8–8–97; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–NM–165–AD]

RIN 2120–AA64

Airworthiness Directives; Fokker Model F28 Mark 0100 and 0070 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Fokker Model F28 Mark 0100 and 0070 series airplanes. This proposal would require replacement of the fusible pin in the upper torque link of the main landing gear with an improved pin. This proposal is prompted by issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. The actions specified by the proposed AD are intended to prevent reduced structural integrity and potential collapse of the main landing gear.

DATES: Comments must be received by September 22, 1997.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 97–NM–165–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Fokker Aircraft USA, Inc., 1199 North Fairfax Street, Alexandria, Virginia 22314. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Tim Dulin, Aerospace Engineer, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2141; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 97–NM–165–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 97–NM–165–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The Rijksluchtvaartdienst (RLD), which is the airworthiness authority for the Netherlands, notified the FAA that an unsafe condition may exist on certain Fokker Model F28 Mark 0100 and 0070 series airplanes. The RLD advises that failures of the fusible pin to shear as required under excessive loading conditions may result in structural damage to the main landing gear (MLG). This condition, if not corrected, could result in reduced structural integrity and potential collapse of the main landing gear.

Explanation of Relevant Service Information

Fokker has issued Service Bulletin SBF100–32–099, dated June 14, 1996, which describes procedures for replacement of the fusible pin in the upper torque link of the MLG with an improved pin. (This service bulletin references Menasco Service Bulletin 41050–32–6, dated March 15, 1995, as an additional source of service information for accomplishment of the replacement.) The RLD classified the Fokker service bulletin as mandatory and issued Dutch airworthiness directive BLA 1996–074 (A), dated June 28, 1996, in order to assure the continued airworthiness of these airplanes in the Netherlands.

FAA's Conclusions

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

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would require accomplishment of the actions specified in the Fokker service bulletin described previously.

Cost Impact

The FAA estimates that 10 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 14 work hours per airplane to accomplish the proposed actions, and that the average labor rate is $60 per work hour. Required parts would be supplied by the manufacturer at no cost to the operators. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be $8,400, or $840 per airplane.

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

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Fokker: Docket 97–NM–165–5-AD.

Applicability: Model F28 Mark 0100 and 0070 series airplanes, equipped with Menasco Aerospace Ltd. main landing gears having part number (P/N) 41050, including the fusible upper torque link pin having P/N 41223–1; certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent reduced structural integrity and potential collapse of the main landing gear, accomplish the following:

(a) Within one year after the effective date of this AD, replace any main landing gear upper torque link fusible pin having P/N 41223–1 with a pin having P/N 41223–3, in accordance with Fokker Service Bulletin SBF100–32–099, dated June 14, 1996.

(b) As of the effective date of this AD, no person shall install a main landing gear upper torque link fusible pin having P/N 41223–1 on any airplane.

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

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

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

Issued in Renton, Washington, on August 5, 1997.

John J. Hickey,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 97–21097 Filed 8–8–97; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–NM–166–AD]

RIN 2120–AA64

Airworthiness Directives; Israel Aircraft Industries (IAI), Ltd., Model 1121, 1121A, 1121B, 1123, 1124, and 1124A Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to all IAI, Ltd., Model 1121, 1121A, 1121B, 1123, 1124, and 1124A series airplanes. This proposal would require repetitive inspections of the trim actuator of the horizontal stabilizer to verify jackscrew integrity and to detect excessive wear of the tie rod, and replacement of the actuator or tie rod, if necessary. This proposal is prompted by issuance of mandatory continued airworthiness information by a foreign civil airworthiness authority. The actions specified by the proposed AD are intended to ensure that the trim actuator of the horizontal stabilizer operates properly; failure of the actuator to operate properly could result in reduced controllability of the airplane.

DATES: Comments must be received by September 22, 1997.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 97–NM–166–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Technical Publications, Astra Jet Corporation, 77 McCullough Drive, Suite 11, New Castle, Delaware 19720. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Tim Dulin, Aerospace Engineer, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2141; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 97-NM–166-AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 97-NM–166-AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The Civil Aviation Administration of Israel (CAAI), which is the airworthiness authority for Israel, notified the FAA that an unsafe condition may exist on all Israel Aircraft Industries (IAI), Ltd., Model 1121, 1121A, 1121B, 1123, 1124, and 1124A series airplanes. The CAAI advises that, during an inspection, an operator found one sheared actuator jackscrew of the horizontal stabilizer on an airplane, which caused the rod end to separate from the jackscrew. This condition, if not corrected, could result in failure of the actuator to operate properly, and consequent reduced controllability of the airplane.

Explanation of Relevant Service Information

The manufacturer has issued Commodore Jet Service Bulletin SB 1121–27–023, dated August 14, 1996 (for Model 1121, 1121A, and 1121B series airplanes), Westwind Service Bulletin SB 1123–27–046, dated August 14, 1996 (for Model 1123 series airplanes), and Westwind Service Bulletin 1124–27–133, dated August 14, 1996 (for Model 1124 and 1124A series airplanes). These service bulletins describe procedures for repetitive inspections of the trim actuator of the horizontal stabilizer to verify jackscrew integrity and to detect excessive wear of the tie rod, and replacement of the actuator or tie rod, if necessary. The CAAI classified these service bulletins as mandatory and issued Israeli airworthiness directive 96–92, dated September 1, 1996, in order to assure the continued airworthiness of these airplanes in Israel.

FAA's Conclusions

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

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would require accomplishment of the actions specified in the applicable service bulletin described previously.

Cost Impact

The FAA estimates that 292 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 4 work hours per airplane to accomplish the proposed actions, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be $70,080, or $240 per airplane.

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

Regulatory Impact

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

federalism implications to warrant the preparation of a Federalism Assessment.

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§39.13 [Amended]

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

Israel Aircraft Industries (IAI), LTD.: Docket 97–NM–166–AD.

Applicability: All Model 1121, 1121A, 1121B, 1123, 1124, and 1124A series airplanes, certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To ensure that the trim actuator of the horizontal stabilizer operates properly; failure of the actuator to operate properly could result in reduced controllability of the airplane, accomplish the following:

(a) Perform an inspection of the trim actuator of the horizontal stabilizer to verify jackscrew integrity and to detect excessive wear of the tie rod, in accordance with Commodore Jet Service Bulletin SB 1121–27–023, dated August 14, 1996 (for Model 1121, 1121A, and 1121B series airplanes), Westwind Service Bulletin SB 1123–27–046, dated August 14, 1996 (for Model 1123 series airplanes), or Westwind Service Bulletin 1124–27–133, dated August 14, 1996 (for Model 1124 and 1124A series airplanes), as applicable; at the times specified in paragraph (a)(1) or (a)(2) of this AD, as applicable.

(1) For airplanes that have accumulated 6,000 or more total flight cycles or on which the horizontal trim actuator has accumulated 2,000 or more flight cycles as of the effective date of this AD: Inspect within 50 flight hours after the effective date of this AD. Repeat the inspection thereafter at intervals not to exceed 300 flight hours (for Model 1121, 1121A, 1121B, and 1123 series airplanes) or 400 flight hours (for Model 1124 and 1124A series airplanes), as applicable.

(2) For airplanes that have accumulated less than 6,000 total flight cycles and on which the horizontal trim actuator has accumulated less than 2,000 total flight cycles as of the effective date of this AD: Inspect at the times specified in paragraph (a)(2)(i) or (a)(2)(ii) of this AD, as applicable.

(i) For Model 1121, 1121A, 1121B, and 1123 series airplanes: Inspect within 300 flight hours after the effective date of this AD. Repeat the inspection thereafter at intervals not to exceed 300 flight hours.

(ii) For Model 1124 and 1124A series airplanes: Inspect within 400 flight hours after the effective date of this AD. Repeat the inspection thereafter at intervals not to exceed 400 flight hours.

(b) If any discrepancy is found during any inspection required by paragraph (a) of this AD, prior to further flight, replace the actuator or tie rod, as applicable, in accordance with Commodore Jet Service Bulletin SB 1121–27–023, dated August 14, 1996 (for Model 1121, 1121A, and 1121B series airplanes), Westwind Service Bulletin SB 1123–27–046, dated August 14, 1996 (for Model 1123 series airplanes), or Westwind Service Bulletin 1124–27–133, dated August 14, 1996 (for Model 1124 and 1124A series airplanes), as applicable.

(c) As of the effective date of this AD, no horizontal stabilizer trim actuator shall be installed on any airplane unless that trim actuator has been inspected in accordance with the requirements of paragraph (a) of this AD.

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

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

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

Issued in Renton, Washington, on August 5, 1997.

John J. Hickey,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 97–21098 Filed 8–8–97; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 97–AWP–31]

Proposed Amendment to Class D Airspace; Hayward, CA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to amend the Class D airspace area at Hayward, CA. The development of a Global Positioning System (GPS) Standard Instrument Approach Procedure (SIAP) to Runway (RWY) 28L has made this amendment necessary. The intended effect of this proposal is to provide adequate controlled airspace for Instrument Flight Rules (IFR) operations at Hayward Air Terminal, Hayward, CA.

DATES: Comments must be received on or before September 10, 1997.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, Attn: Manager, Airspace Branch, AWP–520, Docket No. 97–AWP–31, Air Traffic Division, P.O. Box 92007, Worldway Postal Center, Los Angeles, California, 90009.

The official docket may be examined in the Office of the Assistant Chief Counsel, Western Pacific Region, Federal Aviation Administration, Room

6007, 15000 Aviation Boulevard, Lawndale, California, 90261.

An informal docket may also be examined during normal business hours at the Office of the Manager, Operations Branch, Air Traffic Division, at the above address.

FOR FURTHER INFORMATION CONTACT: Larry Tonish, Airspace Specialist, Airspace Branch, AWP–520, Air Traffic Division, Western-Pacific Region, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, California, 90261, telephone (310) 725–6555.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with the comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Airspace Docket No. 97–AWP–31.'' The postcard will be date/time stamped and returned to the commenter. All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination in the Airspace Branch, Air Traffic Division, at 15000 Aviation Boulevard, Lawndale, California 90261, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Airspace Branch, P.O. Box 92007, Worldway Postal Center, Los Angeles, California 90009. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2A, which describes the application procedures.

The Proposal

The FAA is considering an amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) to amend the Class D airspace area at Hayward, CA. The development of GPS SIAP at Hayward Air Terminal has made this proposal necessary. The intended effect of this proposal is to provide adequate Class D airspace for aircraft executing the GPS RWY 28L SIAP at Hayward Air Terminal, Hayward, CA. Class D airspace designations are published in Paragraph 5000 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 D airspace designation listed in this document would be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this proposed regulation—(1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 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 proposed rule would not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

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

PART 71—[AMENDED]

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

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

§ 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 5000 Class D Airspace

* * * * *

AWP CA D Hayward, CA [Revised]

Hayward Air Terminal, CA
(lat. 37°39′34″ N, long. 122°07′21″ W)
Metropolitan Oakland International Airport
(lat. 37°43′17″ N, long. 122°13′15″ W)

That airspace extending upward from the surface to but not including 1,500 feet MSL within a 3.5-mile radius of the Hayward Air Terminal and within 1.8 miles on each side of the 119° bearing from the Hayward Air Terminal, extending from the 3.5-mile radius to 5.2 miles southeast of the Hayward Air Terminal, excluding that portion within the Metropolitan Oakland International Airport, CA, Class C airspace area. This Class D airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

Issued in Los Angeles, California, on July 16, 1997.

Sabra W. Kaulia,

Assistant Manager, Air Traffic Division, Western-Pacific Region.

[FR Doc. 97–21044 Filed 8–8–97; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 97–AWP–23]

Proposed Amendment of Class E Airspace; Flagstaff, AZ

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to amend the Class E airspace area at Flagstaff, AZ. The development of a Global Positioning System (GPS) Standard Instrument Approach Procedure (SIAP) to Runway (RWY) 3 has made this proposal necessary. The intended effect of this proposal is to provide adequate controlled airspace for Instrument Flight Rules (IFR) operations at Flagstaff Pulliam Airport, Flagstaff, AZ.

DATES: Comments must be received on or before September 5, 1997.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, Attn: Manager, Airspace Branch, AWP–520, Docket No. 97–AWP–23, Air Traffic Division, P.O. Box 92007, Worldway Postal Center, Los Angeles, California, 90009.

The official docket may be examined in the Office of the Assistant Chief Counsel, Western Pacific Region, Federal Aviation Administration, Room 6007, 15000 Aviation Boulevard, Lawndale, California 90261.

An informal docket may also be examined during normal business hours at the Office of the Manager, Airspace Branch, Air Traffic Division, at the above address.

FOR FURTHER INFORMATION CONTACT: Larry Tonish, Airspace Specialist, Airspace Branch, AWP–520, Air Traffic Division, Western-Pacific Region, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, California 90261, telephone (310) 725–6555.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with the comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Airspace Docket No. 97–AWP–23.'' The postcard will be date/time stamped and returned to the commenter. All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination in the Airspace Branch, Air Traffic Division, at 15000 Aviation Boulevard, Lawndale, California 90261, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Airspace Branch, P.O. Box 92007, Worldway Postal Center, Los Angeles, California 90009. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2A, which describes the application procedures.

The Proposal

The FAA is considering an amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) to amend the Class E airspace area at Flagstaff, AZ. The development of GPS SIAP at Flagstaff Pulliam Airport has made this proposal necessary. The intended effect of this proposal is to provide adequate Class E airspace for aircraft executing the GPS RWY 3 SIAP at Flagstaff Pulliam Airport, Flagstaff, AZ. Class E airspace designations for airspace areas extending upward from 700 feet or more above the surface of the earth are published in paragraphs 6004 and 6005 of FAA Order 7400.9D, dated September 4, 1996, and effective September 16, 1996, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document would be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this proposed regulation—(1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 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 proposed rule would not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

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

PART 71—[AMENDED]

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

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

§ 71.1 [Amended]

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

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

* * * * *

AWP AZ E4 Flagstaff, AZ [Revised]

Flagstaff Pulliam Airport, AZ
(lat. 35°08′18″N, long. 111°40′17″W)
Flagstaff VOR/DME
(lat. 35°08′50″N, long. 111°40′27″W)

That airspace extending upward from the surface beginning where a line 1.8 miles northwest of and parallel to the Flagstaff VOR/DME 057° radial intercepts the 6.1-mile radius of the Flagstaff Pulliam Airport, thence clockwise to intercept a line 1.8 miles northwest of and parallel to the Flagstaff VOR/DME 218° radial, thence northeastbound on a line 1.8 miles west of and parallel to the Flagstaff VOR/DME 218° radial to intercept the 3-mile arc of the Flagstaff Pulliam Airport clockwise to intercept the line 1.8 miles northwest of and parallel to the Flagstaff VOR/DME 057° radial and thence to the point of beginning and within 1.8 miles each side of the Flagstaff VOR/DME 127° radial, extending from the 6.1-mile radius to 8.6 miles southeast of the VOR/DME. This Class E airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

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

* * * * *

AWP AZ E5 Flagstaff, AZ [Revised]

Flagstaff Pulliam Airport, AZ
(lat. 35°08′18″N, long. 111°40′17″W)
Flagstaff VOR/DME
(lat. 35°08′50″N, long. 111°40′27″W)

That airspace extending upward from 700 feet above the surface within a 3.6-mile radius of Flagstaff Pulliam Airport and within a 10-mile radius of the Flagstaff VOR beginning at a line 1.8-miles northwest of

and parallel to the Flagstaff VOR 043° radial extending clockwise to a point beginning at lat. 35°00′00″N, long. 111°36′00″W; to lat. 34°44′00″N, long, 111°50′00″W; to lat. 34°45′00″N, long. 112°01′00″W; to lat. 34°54′00″N, long. 112°05′00″W; to lat. 35°08′00″N, long. 111°52′00″W, thence eastbound along the Flagstaff VOR 263° radial to intercept the 3.6-mile radius of the Flagstaff Pulliam Airport, thence clockwise to the point of beginning. That airspace extending upward from 1,200 feet above the surface within 8.3 miles each side of the Flagstaff VOR 127° and 307° radials, extending from 7 miles northwest to 16.5 miles southeast of the Flagstaff VOR and that airspace bounded by a line beginning at lat. 35°13′32″N, long. 111°04′31″W; to lat. 35°17′17″N, long. 111°02′35″W; to lat. 35°22′00″N, long. 111°16′43″W; to lat. 35°24′00″N, long. 111°26′16″W; to lat. 35°18′00″N, long. 111°35′33″W, thence clockwise via a 10-mile radius of the Flagstaff VOR to lat. 35°16′34″N, long. 111°32′42″W; to lat. 35°19′58″N, long. 111°24′10″W; thence to the point of beginning and that airspace bounded by a line beginning at lat. 35°03′00″N, long. 111°21′00″W; to lat. 35°02′00″N, long. 111°15′00″W; to lat. 35°01′00″N, long. 111°22′00″W; thence to the point of beginning, excluding the Sedona, AZ, Class E airspace area.

* * * * *

Issued in Los Angeles, California, on July 21, 1997.

Thomas L. Parks,

Acting Manager, Air Traffic Division, Western-Pacific Region.

[FR Doc. 97–21043 Filed 8–8–97; 8:45 am]

BILLING CODE 4910–13–M

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

29 CFR Part 2204

Amendment of the Commission's Equal Access to Justice Rules

AGENCY: Occupational Safety and Health Review Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document proposes to add a new paragraph to the Commission's procedural rules on eligibility under the Equal Access to Justice Act in order to minimize extra unnecessary collateral litigation and to bring the Commission into conformity with the corresponding rule adopted by most other federal agencies.

DATES: Comments must be received by September 10, 1997.

ADDRESSES: All comments concerning this proposed rule should be addressed to Earl R. Ohman, Jr., General Counsel, Occupational Safety and Health Review Commission, 1120 20th Street, NW, 9th Floor, Washington, DC 20036–3419.

FOR FURTHER INFORMATION CONTACT: Earl R. Ohman, Jr., General Counsel, (202) 606–5410.

SUPPLEMENTARY INFORMATION: This document proposes to add a paragraph to the procedural rules of the Occupational Safety and Health Review Commission governing applications for attorney's fees under the Equal Access to Justice Act (''EAJA''). Generally, changes to the Commission's rules of procedure are not subject to the provisions of the Administrative Procedure Act requiring notice and opportunity for comment (5 U.S.C. 553(b)(3)(A)). However, because the Commission values the views of those who appear before it, the Commission invites public comment.

As announced in the Commission's decision in *BFW Construction Co.*, OSHRC Docket No. 91–1214, issued on August 6, 1997, the Commission would add a new paragraph (f) to 29 CFR 2204.105, its rule of procedure concerning eligibility under the EAJA. This new provision would state that the net worth and number of employees of the applicant and all of its affiliates shall be aggregated to determine the applicant's eligibility under the EAJA. Any individual, corporation, or other entity that directly or indirectly controls or owns a majority of the voting shares or other interest of the applicant, or any corporation or other entity of which the applicant directly or indirectly owns or controls a majority of the voting shares or other interest, will be considered an affiliate under this part, unless such treatment would be unjust and contrary to the purposes of the Act in light of the actual relationship between the affiliated entities. In addition, financial relationships of the applicant other than those described in this paragraph may constitute special circumstances that would make an award unjust.

When the EAJA was enacted, it required each federal agency to adopt its own rules implementing the EAJA after consultation with the (former) Administrative Conference of the United States (''ACUS''). 5 U.S.C. 504(c)(1). ACUS suggested model rules for agencies, including model rule 0.104(f) on aggregation of net worth for eligibility purposes. 46 FR 32900, 32912 (1981). (The EAJA itself is silent on the issue of aggregation.) Most federal agencies adopted an aggregation rule that closely followed that model rule. *See, e.g.*, 29 CFR 16.105(f) (Department of Labor), 29 CFR 102.143(g) (National Labor Relations Board), and 29 CFR 2704.104(f) (Federal Mine Safety and Health Review Commission). However, the Commission declined to adopt that rule, stating instead that it would decide the aggregation issue ''on a case-by-case basis.'' 46 FR 48078, 48079 (1981), reprinted in 1980–81 CCH ESHG New Developments ¶ 12,365, p. 15,458 (October 6, 1981). However, as discussed in BFW Corp., deciding the issue on a case-by-case basis applying the ''real party in interest'' factors developed by federal courts has proven unwieldy and has resulted in extra unnecessary collateral litigation, contrary to the intent of the EAJA. Therefore, the Commission has taken a ''second look'' at the ACUS model rule and has decided to join many of our fellow agencies in adopting a rule that closely follows the ACUS model.

The Commission also proposes to change all references in Part 2204 to the ''EAJ Act'' to read ''EAJA'' to conform to the common shortened reference term for the Equal Access to Justice Act.

List of Subjects in 29 CFR Part 2204

Claims, Equal access to justice, Lawyers.

For the reasons set forth in the preamble, the Occupational Safety and Health Review Commission proposes to amend Title 29, Chapter XX, Part 2204, of the Code of Federal Regulations as follows:

PART 2204—IMPLEMENTATION OF THE EQUAL ACCESS TO JUSTICE ACT IN PROCEEDINGS BEFORE THE OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

1. The authority citation for Part 2204 continues to read as follows:

Authority: Sec. 203(a)(1), Pub. L. 96–481, 94 Stat. 2325 (5 U.S.C. 504(c)(1)); Pub. L. 99–80, 99 Stat. 183.

2. All references in Part 2204 to ''EAJ Act'' are revised to read ''EAJA'' wherever they appear.

3. A new paragraph (f) is added to § 2204.105 to read as follows:

§ 2204.105 Eligibility of applicants.

* * * * *

(f) The net worth and number of employees of the applicant and all of its affiliates shall be aggregated to determine eligibility. Any individual, corporation, or other entity that directly or indirectly controls or owns a majority of the voting shares or other interest of the applicant, or any corporation or other entity of which the applicant directly or indirectly owns or controls a majority of the voting shares or other interest, will be considered an affiliate for purposes of this part, unless such treatment would be unjust and contrary to the purposes of the EAJA in light of the actual relationship between the affiliated entities. In addition, financial

relationships of the applicant other than those described in this paragraph may constitute special circumstances that would make an award unjust.

Dated: August 6, 1997.

Stuart E. Weisburg,

Chairman.

Daniel Guttman,

Commissioner.

[FR Doc. 97–21161 Filed 8–8–97; 8:45 am]

BILLING CODE 7600–01–M

POSTAL SERVICE

39 CFR Parts 775, 777 and 778

National Environmental Policy Act Implementing Procedures

AGENCY: Postal Service (USPS).

ACTION: Proposed rule.

SUMMARY: This proposal would revise existing procedures and categorical exclusions governing the Postal Service's compliance with the National Environmental Policy Act (NEPA). The proposed amendments are based upon experience with existing regulations and new policies and infrastructure that have been implemented since the restructuring of the Postal Service in 1992. The proposed changes are intended to comply with the requirements of NEPA while improving quality and reducing administrative processes and preparation.

DATE: Comments must be received by September 10, 1997.

ADDRESSES: Please submit written comments to Charles E. Bravo, Manager, Environmental Management Policy, U.S. Postal Service, 475 L'Enfant Plaza SW Room 1P830, Washington, DC 20260–2810, fax (202) 268–6016.

FOR FURTHER INFORMATION CONTACT: Charles A. Vidich, Environmental Coordinator, U.S. Postal Service, 8 Griffin Rd. N., Windsor, CT 06006–7030, phone (860) 285–7254, or Gary W. Bigelow, Senior Counsel, Environmental Law, 4200 Wake Forest Rd., Raleigh, NC 27668–1121, phone (919) 501–9439.

SUPPLEMENTARY INFORMATION:

Historically, the U.S. Postal Service has implemented the provisions of the National Environmental Policy Act (NEPA) through policies and procedures established by the Postal Service's Facilities organization. Certainly, most of the ''major federal actions'' undertaken by the Postal Service have been associated with the construction or disposal of postal facilities. However, in recent years it has become increasingly evident that other postal organizations also have a role in implementing the provisions of NEPA. The Postal Service is revising its regulations to clarify the scope of the applicability of NEPA.

The proposed changes revise procedures for implementing the requirements of NEPA. They require Postal Service officials to consider potential impacts of major federal actions to the human environment. To properly implement the provisions of the Act, responsible Postal Service officials must perform adequate environmental analyses to determine whether identified impacts are significant. An Environmental Impact Statement (EIS) is required if the impacts are determined to be significant; otherwise, an environmental assessment (EA) is prepared, unless the action is categorically excluded or there is no potential for significant impact.

Responsible officials will complete an environmental checklist to identify potential environmental concerns outside of the NEPA process, such as permitting requirements, and to determine the need for preparing an EA. Although NEPA does not require the preparation of an environmental checklist, it is Postal Service policy to use the environmental checklist as a planning tool to better identify the environmental consequences of proposed actions that have potential for impacts upon the environment.

The proposed changes respond to numerous suggestions for additional categorical exclusions (CATEXs), modifications to existing exclusions, and clarification of the scope of the NEPA requirements. The changes are connected with experience with the types of actions that generally do not require an EA or result in a finding of no significant impact (FONSI). In addition, the Postal Service reorganized in 1992 and its missions, programs, and policies have evolved to meet the requirements of the competitive market and to continue to provide a business-like public service to the American public. Accordingly, the Postal Service needs to make changes to its NEPA regulations consistent with its restructured operation.

In order to produce an update of the CATEXs, the Postal Service reviewed EAs and FONSIs that it has issued. It also reviewed other federal agency CATEXs to ensure the appropriateness of the exclusions. The results form the basis for the proposed amendments. The proposed changes are consistent with guidance provided by the Council on Environmental Quality (CEQ), which encourages flexibility in the NEPA implementing procedures to reduce administrative burdens and promote efficiency. The Postal Service has consulted the CEQ regarding these proposed amendments. The proposed CATEXs would not affect the Postal Service's responsibility for compliance with other applicable federal, state, or local environmental laws, including the Clean Air Act, Clean Water Act, and existing postal floodplain and wetland regulations.

The proposed changes are intended to adjust the Postal Service's normal levels of NEPA review and to add, modify, and clarify classes of actions based upon experience in applying NEPA. The listings do not constitute a conclusive determination regarding the appropriate level of review for a proposed action. The identified categories of CATEXs and actions that normally require an EA presume that the level of review is appropriate. The presumptions do not apply when unusual or extraordinary circumstances related to the action that may affect the significance of the proposed action. An example of an extraordinary circumstance could be the proposed construction of a small structure in the middle of wetlands that harbor protected endangered species.

Description of Proposed Amendments

This section describes the proposed amendments to the Postal Service NEPA regulations at 39 CFR part 775. Subchapter K is renamed Environmental Regulations to more accurately describe the subchapter that contains NEPA and wetland and floodplain regulations. Parts 777 and 778 are redesignated from Subchapter K to the formerly reserved Subchapter L, Special Regulations.

Part 775 is similarly renamed National Environmental Policy Act Procedures. Section 775.1, Purpose, is revised by deleting the language in the second sentence.

Section 775.3(a), Responsibilities, is revised to indicate that the Chief Environmental Officer of the Postal Service is the person responsible for overall development of policy regarding NEPA, and each 39 CFR part 4 officer with responsibility over the proposed program, project, action, or facility is responsible for compliance with NEPA as the responsible official. The officer who is in charge of the facilities organization is responsible for the development of NEPA policy as it affects real estate and construction or disposal of postal facilities. Paragraph (b) is revised to state that environmental coordinators are designated by postal management to assist in compliance with NEPA requirements because the Postal Service has reorganized and renamed many of the groups referenced in the original regulation.

Section 775.4 is a new section with definitions. The Postal Service incorporates by reference those definitions set forth in CEQ's regulations contained in 40 CFR part 1508. Additional definitions pertaining to postal documents or types of officials are also listed.

Existing § 775.4, Typical classes of action, is split up and renamed and renumbered as § 775.5, Classes of Actions, and § 775.6, Categorical Exclusions. Section 775.4(a) is renumbered as § 775.5 and revised to state that the Postal Service does not normally conduct actions requiring an EIS, but will prepare an EIS based on the factors in the CEQ regulations. Classes of actions that normally require EAs have been revised and include:

1. Any project that includes the conversion, purchase, or any other alteration of the fuel source for 25 percent or more of USPS vehicles operating with fuel other than diesel or gasoline in any carbon monoxide or ozone nonattainment area.
2. Any action that would adversely affect a federally listed threatened or endangered species or its habitat.
3. Any action that would directly affect public health.
4. Any action that would require development within park lands, or be located in close proximity to a wild or scenic river or other ecologically critical area.
5. Any action affecting the quality of the physical environment that would be scientifically highly controversial.
6. Any action that may have highly uncertain or unknown risks on the human environment.
7. Any action that threatens a violation of applicable federal, state, or local law or requirements imposed for the protection of the environment.
8. New construction of a facility with vehicle maintenance or petroleum fuel dispensing capabilities, whether owned or leased.
9. Acquisition or lease of an existing building involving new uses or a change in use to a greater environmental intensity.
10. Real property disposal involving a known change in use to a greater environmental intensity.
11. Postal facility function changes involving new uses of greater environmental intensity.
12. Reduction in force involving more than 1000 positions.
13. Relocation of 300 or more employees more than 50 miles.
14. Initiation of legislation.

Paragraph (b) of existing § 775.4, Categorical Exclusions, is revised and renumbered as § 775.6, Categorical Exclusions. The classes of actions in paragraphs (b) through (e) of this section are those that the Postal Service has determined do not individually or cumulatively have a significant impact on the human environment and, therefore, do not require the preparation of an EA or EIS. In order to be categorically excluded, a proposed action must be based on a determination that the action fits within a class listed and that there are no extraordinary circumstances that may affect the significance of the proposal. Extraordinary circumstances are those unique situations presented by specific proposals, such as scientific controversy about the environmental impacts of the proposal or uncertain effects or effects involving unique resources or unknown risks. The proposed action must also not be connected to other actions with potentially significant actions or is not related to other proposed actions with potentially significant impacts.

The CATEXs are listed in the following order: Those relating to general agency actions; emergency and restoration actions; maintenance and repair actions; and real estate and construction activities. The general agency actions relate to activities that in and of themselves do not normally impact the environment, such as policy development, planning, procurement, training, research, and other administrative processes. The emergency and environmental restoration actions relate to emergency, disaster-related, and environmental restoration or remediation activities. The maintenance and repair actions involve activities that are minor or involve replacement of equipment and upkeep of buildings. Real estate and construction activities concern the acquisition, construction, and disposal of real property.

Paragraph (b) states that the listed CATEXs that relate to general agency actions are classes of actions that have been determined to not have a significant impact upon the environment and therefore do not require an EA or EIS. These are new CATEXs except where indicated.

(1) Policy development, planning, and implementation that relate to routine activities such as personnel, organizational changes, or similar administrative functions.

(2) Routine actions, including the management of programs or activities necessary to support the normal conduct of agency business, such as administrative, financial, operational, and personnel actions that involve no commitment of resources other than manpower and funding allocations.

(3) Award of contracts for technical support services, management and operation of a government-owned facility, and personal services.

(4) Research activities and studies and routine data collection when such actions are clearly limited in context and intensity.

(5) Educational and informational programs and activities.

(6) Reduction in force resulting from workload adjustments, reduced personnel or funding levels, skill imbalances, or other similar causes that do not affect more than 1,000 positions.

(7) Postal rate or mail classification actions, address information system changes, post office name changes, and ZIP Code changes. (Revised and renumbered from existing § 775.4(b)(14).)

(8) Property protection, law enforcement, and other legal activities undertaken by the Postal Inspection Service, General Counsel, the Judicial Officer, and the Inspector General.

(9) Activities related to trade representation and market development activities abroad.

(10) Emergency preparedness planning activities, including designation of on-site evacuation routes.

(11) Minor reassignment of motor vehicles and purchase or deployment of motor vehicles to new locations that do not adversely impact traffic safety, congestion, or air quality. (Revised and renumbered from § 775.4(b)(13).)

(12) Procurement or disposal of mail handling or transport equipment. (Revised and renumbered from § 775.4(b)(13).)

(13) Acquisition, installation, operation, removal, or disposal of communication systems, computers, and data processing equipment.

(14) Postal facility function changes not involving construction, where there are no substantial relocations of employees or no substantial increase in the number of motor vehicles at a facility. (Revised and renumbered from § 775.4(b)(15).)

(15) Closure or consolidation of post offices under 39 U.S.C. 404(b).

(16) Minor operational changes at an existing facility to minimize waste generation and for reuse of materials. These changes include, but are not limited to, adding filtration and recycling systems to allow reuse of vehicle or machine oil, setting up sorting areas to improve process efficiency, and segregating waste streams previously mingled and assigning new identification codes to the two resulting streams.

(17) Actions that have an insignificant effect upon the environment as

established in a previously written Environmental Assessment (EA) and Finding of No Significant Impact (FONSI) or Environmental Impact Statement (EIS). Such repetitive actions shall be considered ''reference actions,'' and a record of all decisions concerning these ''reference actions'' shall be maintained by the Chief Environmental Officer or designee. The proposed action must be essentially the same in context and the same or less in intensity or must create fewer impacts than the ''reference action'' previously studied under an EA or EIS in order to qualify for this exclusion.

(18) Rulemakings that are strictly procedural, and interpretations and rulings with existing regulations, or modifications or rescissions of such interpretations and rulings.

Paragraph (c) lists emergency or restoration actions that are CATEXs. These are new CATEXs.

(1) Any cleanup, remediation, or removal action conducted under the provisions of the Comprehensive Environmental Response Compensation and Liability Act (CERCLA) or the Resource Conservation Recovery Act (RCRA), any asbestos abatement actions regulated under the provisions of the Occupational Safety and Health Act (OSHA) or the Clean Air Act, or any polychlorinated biphenyls (PCB) transformer replacement or any lead-based paint abatement actions regulated under the provisions of the Toxic Substances Control Act (TSCA), OSHA, or RCRA.

(2) Testing associated with environmental cleanups or site investigations.

Paragraph (d) lists CATEXs concerning maintenance or repair actions at existing facilities that do not have a significant impact upon the environment. Revised and renumbered CATEXs are indicated.

(1) Siting, construction or operation of temporary support buildings or support structures.

(2) Routine maintenance and minor activities, such as fencing, that occur in floodplains or state and local wetlands or pursuant to the nationwide permitting process of the Corps of Engineers.

(3) Routine actions normally conducted to protect and maintain properties and which do not alter the configuration of the building. (Renumbered from § 775.4(b)(6)).

(4) Changes in buildings required to promote handicapped accessibility pursuant to the Architectural Barriers Act.

(5) Repair to, or replacement in kind or equivalent of building equipment or components (e.g., electrical distribution, HVAC systems, doors, windows, roofs, etc.). (Revised and renumbered § 775.4(b)(7)).

(6) Internal modifications or improvements to structures or buildings to accommodate mail processing, computer, communication or other similar types of equipment or other actions which do not involve modification to the external walls of the facility.

(7) Joint development and/or joint use projects that only involve internal modifications to an existing facility. (Revised and renumbered from § 775.4(b)(12)).

(8) Noise abatement measures, such as construction of noise barriers and installation of noise control materials.

(9) Actions which require concurrence or approval of another federal agency where the action is a categorical exclusion under the NEPA regulations of that federal agency.

Paragraph (e) concerns CATEXs applicable to real estate actions. Revised and renumbered CATEXs are indicated.

(1) Obtaining, granting, disposing, or changing of easements, licenses and permits, rights-of-way and similar interests. (Renumbered from § 775.4(b)(8)).

(2) Extension, renewal, renegotiation, or termination of existing lease agreements. (Renumbered from § 775.4(b)(11)).

(3) Purchase of Postal Service occupied leased property where the planned postal uses do not differ significantly from the past uses of the site. (Renumbered from § 775.4(b)(10).

(4) Acquisition or disposal of existing facilities and real property where the planned uses do not differ significantly from past uses of the site. (Renumbered and revised from § 775.4(b)(2) & (9)).

(5) Acquisition of real property not connected to specific facility plans or when necessary to protect the interests of the Postal Service in advance of final project approval. This categorical exclusion only applies to the acquisition. Any subsequent use of the site for a facility project must be considered under this part. (Revised and renumbered from § 775.4(b)(5)).

(6) Disposal through sale or outlease of unimproved real property (Renumbered and revised from § 775.4(b)(9)).

(7) Disposal through sale, outlease, transfer or exchange of real property to other federal or state agencies.

(8) Acquisition or disposal through sale, lease, transfer or exchange of real property that do not involve any increase in volumes, concentrations, or discharge rates of wastes, air emissions, or water effluents, and that under reasonably foreseeable uses, have generally similar environmental impacts as compared to those before the acquisition or disposal. A determination that the proposed action is categorically excluded can be based upon a previous reference action.

(9) Acquisition or disposal through sale, lease, transfer, reservation or exchange of real property for nature and habitat preservation, conservation, a park or wildlife management.

(10) New construction, Postal Service owned or leased, or joint development and/or joint use projects, of any facility unless the proposed action is listed as requiring an EA in § 775.5 (Revised and renumbered from § 775.4(b)(1)).

(11) Expansion or improvement of an existing facility where the expansion is within the boundaries of the site or occurs in a previously developed area unless the proposed action is listed as requiring an EA in § 775.5.

(12) Construction and disturbance pursuant to a nationwide permit issued by the Corp of Engineers.

(13) Any activity in floodplains being regulated pursuant to Part 776 and which is not listed as requiring an EA in § 775.5.

Section 775.5 is renumbered to § 775.8. No revisions are made to this section.

A new § 775.7 is added entitled Planning and early coordination. This section outlines the necessity for planning and early coordination for all NEPA documents. Operational personnel and facilities personnel must cooperate in the early concept stages of a program or project in order to fully evaluate the ramifications of the proposed action since certain decisions made early in the planning concept may fix later impacts and results.

Section 775.6 Environmental evaluation process is renumbered to § 775.9 and revised extensively. Paragraph (a) is revised to indicate that an environmental checklist can be used to support a record of environmental consideration that a proposed action either was categorically excluded and there were no extraordinary circumstances that may cause the action to have a significant impact upon the environment; or the action clearly indicates the absence of environmental impacts upon the environment; or that the proposed action will require the preparation of an environmental assessment.

The use of the environmental checklist can act as an internal check for the responsible official to assist in the determination that environmental issues have been considered. Although NEPA

does not require the use of a checklist, the Postal Service has found that the use of a checklist can serve important NEPA and non-NEPA functions such as whether a permit may be necessary or further investigations may be required to verify the presence of hazardous substances on a property.

The use of a mitigated FONSI is conditioned upon the implementation of the identified mitigation measures that support a FONSI. When the FONSI relies upon implementation of the proposed mitigation measures, those mitigation measures must be funded and implemented or the FONSI is not valid. Unless the identified mitigation measures are implemented by the responsible official, an EIS must be prepared.

Paragraph (b) is revised to indicate that alternatives to the proposed action are to be considered as well as alternate sites for a new facility. The use of alternative analysis is broader than comparison of alternate sites and the revisions reflect the expansion of NEPA beyond the facilities program and projects. The identification of decision makers have been expanded to reflect that many persons or groups have authority within the Postal Service to make a decision that may impact the environment. The decision to prepare an EIS has been delegated to the responsible officer with authority over that project or program.

Present § 775.7 is renumbered to § 775.10 and revised in paragraph (a) to add a requirement that the EA contain a list of applicable environmental permits necessary to complete the proposed action.

Section 775.8 is renumbered to § 775.11 and revised to change section references.

Section 775.9 is renumbered to § 775.12.

Section 775.10 is renumbered to § 775.13 and revised in (a)(4) to correct the title of the legislative counsel.

Section 775.11 is renumbered to § 775.14 and revised to change section references.

DISTRIBUTION TABLE

Existing section	New section	Action
775.1	775.1	Revised.
775.2	775.2	Unchanged.
775.3	775.3	Revised.
	775.4	New.
775.4(a)	775.5	Revised.
775.4(b)	775.6	Revised.
	775.7	New.
775.5	775.8	Unchanged.
775.6	775.9	Revised.
775.7	775.10	Amended.
775.8	775.11	Amended.
775.9	775.12	Amended.
775.10	775.13	Amended.
775.11	775.14	Amended.

In view of the matters discussed above, although exempt from the notice and comment requirements of the Administrative Procedure Act (5 U.S.C. 553 (b), (c)) regarding proposed rulemaking by 39 U.S.C. 410(a), the Postal Service invites comments on the following proposed amendments to part 775 of subchapter K and subchapter L of title 39, Code of Federal Regulations.

List of Subjects in 39 CFR Part 775

Environmental impact statements.

For the reasons set out in this document, the Postal Service proposes to amend 39 CFR subchapter K, part 775, and subchapter L, parts 777 and 778, as follows:

SUBCHAPTER K—ENVIRONMENTAL REGULATIONS

PART 775—NATIONAL ENVIRONMENTAL POLICY ACT PROCEDURES

1. The authority citation for 39 CFR part 775 is revised to read as follows:

Authority: 39 U.S.C. 401; 42 U.S.C. 4321 *et seq.*; 40 CFR 1500.4.

2. The heading for subchapter K is revised to read as set forth above.

3. The heading of part 775 is revised to read as set forth above.

4. Section 775.1 is revised to read as follows:

§ 775.1 Purpose.

These procedures implement the National Environmental Policy Act (NEPA) regulations (40 CFR part 1500) issued by the Council on Environmental Quality (CEQ).

5. Section 775.3 is revised to read as follows:

§ 775.3 Responsibilities.

(a) The Chief Environmental Officer is responsible for overall development of policy regarding NEPA and other environmental policies. The officer in charge of the facilities or real estate organization is responsible for the development of NEPA policy as it affects real estate or acquisition, construction and disposal of postal facilities consistent with overall NEPA policy. Each officer with responsibility over the proposed program, project, action, or facility is responsible for compliance with NEPA as the responsible official.

(b) Postal managers will designate environmental coordinators to assist with compliance with NEPA procedures.

§§ 775.5 through 775.11 [Redesignated as §§ 775.8 through 775.14]; § 775.4(a) [Redesignated as § 775.5] and § 775.4(b) [Redesignated as § 775.6].

6. Sections 775.5 through 775.11 are redesignated as §§ 775.8 through 775.14 and § 775.4(a) is redesignated as § 775.5 and § 775.4(b) is redesignated as § 775.6.

7. Newly redesignated § 775.5 is revised to read as follows:

§ 775.5 Classes of actions.

(a) *Actions which normally require an environment impact statement.* None, however the Postal Service will prepare an EIS when necessary based on the factors identified in 40 CFR 1508.27.

(b) *Actions requiring an environmental assessment.*Classes of actions that will require an environmental assessment unless categorically excluded include:

(1) Any project that includes the conversion, purchase, or any other alteration of the fuel source for 25 percent or more of USPS vehicles operating with fuel other than diesel or gasoline in any carbon monoxide or ozone non-attainment area;

(2) Any action that would adversely affect a federally listed threatened or endangered species or its habitat;

(3) Any action that would directly affect public health;

(4) Any action that would require development within park lands, or be located in close proximity to a wild or scenic river or other ecologically critical area;

(5) Any action affecting the quality of the physical environment that would be scientifically highly controversial;

(6) Any action that may have highly uncertain or unknown risks on the human environment;

(7) Any action that threatens a violation of applicable federal, state, or local law or requirements imposed for the protection of the environment;

(8) New construction of a facility with vehicle maintenance or fuel dispensing capabilities, whether owned or leased;

(9) Acquisition or lease of an existing building involving new uses or a change in use to a greater environmental intensity;

(10) Real property disposal involving a known change in use to a greater environmental intensity;

(11) Postal facility function changes involving new uses of greater environmental intensity;

(12) Reduction in force involving more than 1000 positions;

(13) Relocation of 300 or more employees more than 50 miles;

(14) Initiation of legislation.

8. In newly redesignated § 775.9, paragraphs (a)(1) through (4), the first sentence in (b)(1), and paragraphs (b)(2), (b)(3), introductory text, and (b)(3)(i) are revised and a new sentence is added after the first sentence in paragraph (b)(1) to read as follows:

§ 775.9 Environmental evaluation process.

(a) *All Actions*—(1) *Assessment of actions.* An environmental checklist may be used to support a record of environmental consideration as the written determination that the proposed action does not require an environmental assessment. An environmental assessment must be prepared for each proposed action, except that an assessment need not be made if a written determination is made that:

(i) The action is one of a class listed in § 775.6, Categorical Exclusions, and

(ii) The action is not affected by extraordinary circumstances which may cause it to have a significant environmental effect, or

(iii) The action is a type that is not a major federal action with a significant impact upon the environment.

(2) *Findings of no significant impact.* If an environmental assessment indicates that there is no significant impact of a proposed action on the environment, an environmental impact statement is not required. A ''finding of no significant impact'' is prepared and published in accordance with § 775.13. When the proposed action is approved, it may be accomplished without further environmental consideration. A ''finding of no significant impact'' document briefly presents the reasons why an action will not have a significant effect on the human environment and states that an environmental impact statement will not be prepared. It must refer to the environmental assessment and any other environmentally pertinent documents related to it. The assessment may be included in the finding if it is short, in which case the discussion in the assessment need not be repeated in the finding. The FONSI may be a mitigated FONSI in which case the required mitigation factors should be listed in the FONSI. The use of a mitigated FONSI is conditioned upon the implementation of the identified mitigation measures in the EA that support the FONSI. Unless the mitigation measures are implemented by the responsible official, the use of an EA in lieu of an EIS is not acceptable.

(3) *Impact statement preparation decision and notices.* If an environmental assessment indicates that a proposed major action would have a significant impact on the environment, a notice of intent to prepare an impact statement is published (see § 775.13) and an environmental impact statement is prepared.

(4) *Role of impact statement in decision making.* An environmental impact statement is used, with other analyses and materials, to decide which alternative should be pursued, or whether a proposed action should be abandoned or other courses of action pursued. See § 775.12 for restrictions on the timing of this decision.

* * * * *

(b) * * *

(1) The environmental assessment of any action which involves the construction or acquisition of a new mail processing facility must include reasonable alternatives to the proposed action and not just consideration of contending sites for a facility. This process must be started early in the planning of the action.* * *

(2) When an environmental assessment indicates that an environmental impact statement may be needed for a proposed facility action, the responsible officer will make the decision whether to prepare an environmental impact statement for presentation to the Capital Investment Committee, and to the Board of Governors if the Board considers the proposal.

(3) If an environmental impact statement is presented to the Committee or the Board, and an analysis indicates that it would be more cost-effective to proceed immediately with continued control of sites, (including advance acquisition, if necessary, and where authorized by postal procedures), environmental impact statement preparation, and project designs, a budgetary request will include authorization of funds to permit:

(i) The preparation of an impact statement encompassing all reasonable alternatives and site alternatives,

* * * * *

9. Newly redesignated § 775.6 is revised to read as follows:

§ 775.6 Categorical exclusions.

(a) The classes of actions in this section are those that the Postal Service has determined do not individually or cumulatively have a significant impact on the human environment. A proposed action, to be categorically excluded, is based upon a determination that the action fits within a class listed and there are no extraordinary circumstances that may affect the significance of the proposal. The action must not be connected to other actions with potentially significant impacts or is not related to other proposed actions with potentially significant impacts. Extraordinary circumstances are those unique situations presented by specific proposals, such as scientific controversy about the environmental impacts of the proposal; uncertain effects or effects involving unique or unknown risks.

(b) Categorical exclusions relating to general agency actions:

(1) Policy development, planning and implementation that relate to routine activities such as personnel, organizational changes or similar administrative functions.

(2) Routine actions, including the management of programs or activities necessary to support the normal conduct of agency business, such as administrative, financial, operational and personnel actions that involve no commitment of resources other than manpower and funding allocations.

(3) Award of contracts for technical support services, management and operation of a government owned facility, and personal services.

(4) Research activities and studies and routine data collection when such actions are clearly limited in context and intensity.

(5) Educational and informational programs and activities.

(6) Reduction in force resulting from workload adjustments, reduced personnel or funding levels, skill imbalances or other similar causes that do not affect more than 1,000 positions.

(7) Postal rate or mail classification actions, address information system changes, post office name and zip code changes.

(8) Property protection, law enforcement and other legal activities undertaken by the Postal Inspection Service, the Law Department, the Judicial Officer, and the Inspector General.

(9) Activities related to trade representation and market development activities abroad.

(10) Emergency preparedness planning activities, including designation of on-site evacuation routes.

(11) Minor reassignment of motor vehicles and purchase or deployment of motor vehicles to new locations that do not adversely impact traffic safety, congestion or air quality.

(12) Procurement or disposal of mail handling or transport equipment.

(13) Acquisition, installation, operation, removal or disposal of communication systems, computers and data processing equipment.

(14) Postal facility function changes not involving construction, where there are no substantial relocation of employees, or no substantial increase in the number of motor vehicles at a facility.

(15) Closure or consolidation of post offices under 39 U.S.C. 404(b).

(16) Minor operational changes at an existing facility to minimize waste generation and for reuse of materials. These changes include but are not limited to, adding filtration and recycling systems to allow reuse of vehicle or machine oil, setting up sorting areas to improve process efficiency, and segregating waste streams previously mingled and assigning new identification codes to the two resulting streams.

(17) Actions which have an insignificant effect upon the environment as established in a previously written Environmental Assessment (EA) and Finding of No Significant Impact (FONSI) or Environmental Impact Statement (EIS). Such repetitive actions shall be considered ''reference actions'' and a record of all decisions concerning these ''reference actions'' shall be maintained by the Chief Environmental Officer or designee. The proposed action must be essentially the same in context and the same or less in intensity or create fewer impacts than the ''reference action'' previously studied under an EA or EIS in order to qualify for this exclusion.

(18) Rulemakings that are strictly procedural, and interpretations and rulings with existing regulations, or modifications or rescissions of such interpretations and rulings.

(c) Categorical exclusions relating to emergency or restoration actions:

(1) Any cleanup, remediation or removal action conducted under the provisions of the Comprehensive Environmental Response compensation and Liability Act (CERCLA) or the Resource Conservation and Recovery Act (RCRA), any asbestos abatement actions regulated under the provisions of the Occupational Safety and Health Act (OSHA), or the Clean Air Act or any PCB transformer replacement or any lead based paint abatement actions regulated under the provisions of the Toxic Substances Control Act (TSCA), OSHA or RCRA.

(2) Testing associated with environmental cleanups or site investigations.

(d) Categorical exclusions relating to maintenance or repair actions at existing facilities:

(1) Siting, construction or operation of temporary support buildings or support structures.

(2) Routine maintenance and minor activities, such as fencing, that occur in floodplains or state and local wetlands or pursuant to the nationwide permitting process of the Corps of Engineers.

(3) Routine actions normally conducted to protect and maintain properties and which do not alter the configuration of the building.

(4) Changes in configuration of buildings required to promote handicapped accessibility pursuant to the Architectural Barriers Act.

(5) Repair to, or replacement in kind or equivalent of building equipment or components (e.g., electrical distribution, HVAC systems, doors, windows, roofs, etc.).

(6) Internal modifications or improvements to structures or buildings to accommodate mail processing, computer, communication or other similar types of equipment or other actions which do not involve modification to the external walls of the facility.

(7) Joint development and/or joint use projects that only involve internal modifications to an existing facility.

(8) Noise abatement measures, such as construction of noise barriers and installation of noise control materials.

(9) Actions which require concurrence or approval of another federal agency where the action is a categorical exclusion under the NEPA regulations of that federal agency.

(e) Categorical exclusions relating to real estate actions.

(1) Obtaining, granting, disposing, or changing of easements, licenses and permits, rights-of-way and similar interests.

(2) Extension, renewal, renegotiation, or termination of existing lease agreements.

(3) Purchase of Postal Service occupied leased property where the planned postal uses do not differ significantly from the past uses of the site.

(4) Acquisition or disposal of existing facilities and real property where the planned uses do not differ significantly from past uses of the site.

(5) Acquisition of real property not connected to specific facility plans or when necessary to protect the interests of the Postal Service in advance of final project approval. This categorical exclusion only applies to the acquisition. Any subsequent use of the site for a facility project must be considered under this part.

(6) Disposal through sale or outlease of unimproved real property.

(7) Disposal through sale, outlease, transfer or exchange of real property to other federal or state agencies.

(8) Acquisition and disposal through sale, lease, transfer or exchange of real property that does not involve an increase in volumes, concentrations, or discharge rates of wastes, air emissions, or water effluents, and that under reasonably foreseeable uses, have generally similar environmental impacts as compared to those before the acquisition or disposal. A determination that the proposed action is categorically excluded can be based upon previous ''reference actions'' documented under § 775.5(b)(17).

(9) Acquisition and disposal through sale, lease, transfer, reservation or exchange of real property for nature and habitat preservation, conservation, a park or wildlife management.

(10) New construction, Postal Service owned or leased, or joint development and joint use projects, of any facility unless the proposed action is listed as requiring an EA in § 775.5.

(11) Expansion or improvement of an existing facility where the expansion is within the boundaries of the site or occurs in a previously developed area unless the proposed action is listed as requiring an EA in § 775.5.

(12) Construction and disturbance pursuant to a nationwide permit issued by the Corps of Engineers.

(13) Any activity in floodplains being regulated pursuant to § 776 and is not listed as requiring an EA in § 775.5.

10. Section 775.4 is removed, and a new § 775.4 is added to read as follows:

§ 775.4 Definitions.

(a) The definitions set forth in 40 CFR part 1508 apply to this part 775.

(b) In addition to the terms defined in 40 CFR part 1508, the following definitions apply to this part:

Approving official means the person or group of persons, who authorizes funding as established through the delegations of approval authority issued by the finance organization. That person or group of persons may not have proposed the action for which financial approval is sought.

Environmental checklist means a Postal Service form that identifies potential environmental impacts for proposed actions initiated by postal managers.

Mitigated FONSI means a FONSI which requires the implementation of specified mitigation measures in order to ensure that there are no significant impacts to the environment.

Record of environmental consideration means the Postal Service form that identifies the Postal Service's review of proposed activities under NEPA.

Responsible official means the person, or designated representative, who proposes an action and is responsible for compliance with NEPA. For larger projects, that person may not have the financial authority to approve such action. The responsible official signs the NEPA documents (FONSI, ROD) and the REC.

11. In newly redesignated § 775.10, paragraph (a)(4) is added to read as follows:

§ 775.10 Environmental assessments.

(a) * * *

(4) A list of applicable environmental permits necessary to complete the proposed action.

* * * * *

12. A new § 775.7 is added.

§ 775.7 Planning and early coordination.

Early planning and coordination among postal functional groups is required to properly consider environmental issues that may be attributable to the proposed action. Operational and facility personnel must cooperate in the early concept stages of a program or project. If it determined that more than one postal organization will be involved in any action, a lead organization will be selected to complete the NEPA process before any NEPA documents are prepared. If it is determined that a project has both real estate and non-real estate actions, the facilities functional organization will take the lead.

13. Newly redesignated § 775.11 is amended by revising the last sentence of paragraph (a)(1) and by revising paragraphs (b)(2)(ii), (c)(2), (c)(4), (c)(5) introductory text, (c)(5)(iv), and (d)(1) to read as follows:

§ 775.11 Environmental impact statements.

(a) * * *

(1) * * * Notice is given in accordance with § 775.13.

(b) * * *

(2) * * *

(ii) Contain discussions of impacts in proportion to their significance. Insignificant impacts eliminated during the process under § 775.11(a) to determine the scope of issues must be discussed only to the extent necessary to state why they will not be significant.

* * * * *

(c) * * *

(2) *Summary.* The section should compare and summarize the findings of the analyses of the affected environment, the environmental impacts, the environmental consequences, the alternatives, and the mitigation measures. The summary should sharply define the issues and provide a clear basis for choosing alternatives.

(3) * * *

(4) *Proposed action.* This section should clearly outline the need for the EIS and the purpose and description of the proposed action. The entire action should be discussed, including connected and similar actions. A clear discussion of the action will assist in consideration of the alternatives.

(5) *Alternatives and mitigation.* This portion of the environmental impact statement is vitally important. Based on the analysis in the Affected Environment and Environmental Consequences section (see § 775.11(c)(6)), the environmental impacts and the alternatives are presented in comparative form, thus sharply defining the issues and providing a clear basis for choosing alternatives. Those preparing the statement must:

* * * * *

(iv) Describe appropriate mitigation measures not considered to be an integral part of the proposed action or alternatives. See § 775.9(a)(7).

* * * * *

(d) * * *

(1) Any completed draft environmental impact statement which is made the subject of a public hearing, must be made available to the public as provided in § 775.13, of this chapter at least 15 days in advance of the hearing.

* * * * *

14. In newly redesignated § 775.12, the heading is revised to read as follows:

§ 775.12 Time frames for environmental impact statement actions.

* * * * *

15. In newly redesignated § 775.13, paragraph (a)(4) is revised to read as follows:

§ 775.13 Public notice and information.

(a)* * *

(4) A copy of every notice of intent to prepare an environmental impact statement must be furnished to the Chief Counsel, Legislative, Law Department, who will have it published in the **Federal Register**.

* * * * *

16. In newly redesignated § 775.14, paragraph (b) is revised to read as follows:

§ 775.14 Hearings.

* * * * *

(b) The distribution and notice requirements of § 775.11(d)(1) and 775.13 must be complied with whenever a hearing is to be held.

17. A heading for Subchapter L is added to read as follows:

Subchapter L—Special Regulations

18. Parts 777 and 778 are redesignated from Subchapter K to Subchapter L.

PARTS 777 AND 778—[REDESIGNATED TO SUBCHAPTER L]

Stanley F. Mires,

Chief Counsel, Legislative.

[FR Doc. 97–20737 Filed 8–8–97; 8:45 am]

BILLING CODE 7710–12–P

Notices

Federal Register

Vol. 62, No. 154

Monday, August 11, 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 COMMERCE

International Trade Administration

Application of U.S. Antidumping and Countervailing Duty Laws to Hong Kong

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Application of U.S. Antidumping and Countervailing Duty Laws to Hong Kong.

SUMMARY: This document notifies the public that no change in the status of current orders or proceedings or in current practice regarding the application of the U.S. antidumping and countervailing duty laws will be made, either to Hong Kong or the PRC.

EFFECTIVE DATE: July 1, 1997.

FOR FURTHER INFORMATION CONTACT: Jeff May, Acting Director, Office of Policy, Import Administration, International Trade Administration, U.S. Department of Commerce, Room 3713, 14th Street and Constitution Avenues, NW, Washington, D.C. 20230; telephone (202) 482–4412.

SUPPLEMENTARY INFORMATION: Pursuant to the Sino-British Joint Declaration, signed in 1984, the People's Republic of China (PRC) resumed the exercise of sovereignty over Hong Kong on July 1, 1997. Section 201 of the United States-Hong Kong Policy Act of 1992 states that this reversion will not affect the manner in which Hong Kong is treated under U.S. law. Furthermore, the U.S. Customs Service has determined that no change in the current practice regarding the country of origin marking of goods produced in Hong Kong should be made as a result of this reversion (see 62 FR 30927). This means that Hong Kong will be considered a separate Customs territory within the PRC, as it was considered a separate Customs territory under British rule.

Accordingly, this document notifies the public that no change in the status of current orders or proceedings or in current practice regarding the application of the U.S. antidumping and countervailing duty (AD/CVD) laws will be made, either to Hong Kong or the PRC. Petition requirements and initiations, investigations, administrative reviews, revocations, circumvention inquiries, the coverage and scope of AD/CVD orders and suspension agreements, the calculation of normal value, and all other methodological, policy, and procedural aspects of U.S. AD/CVD proceedings, conducted under Title VII of the Tariff Act of 1930, as amended, will not change.

Dated: August 5, 1997.

Robert S. LaRussa,

Assistant Secretary.

[FR Doc. 97–21278 Filed 8–8–97; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Export Trade Certificate of Review

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of Initiation of Process to Revoke Export Trade Certificate of Review No. 94–00004.

SUMMARY: The Secretary of Commerce issued an export trade certificate of review to Allegheny Highland Hardwoods, Inc. Because this certificate holder has failed to file an annual report as required by law, the Department is initiating proceedings to revoke the certificate. This notice summarizes the notification letter sent to Allegheny Highland Hardwoods, Inc.

FOR FURTHER INFORMATION CONTACT: W. Dawn Busby, Director, Office of Export Trading Company Affairs, International Trade Administration, (202) 482–5131. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 (''the Act'') (15 U.S.C. 4011–21) authorizes the Secretary of Commerce to issue export trade certificates of review. The regulations implementing Title III (''the Regulations'') are found at 15 CFR part 325. Pursuant to this authority, a certificate of review was issued on July 13, 1994 to Allegheny Highland Hardwoods, Inc.

A certificate holder is required by law (Section 308 of the Act, 15 U.S.C. 4018) to submit to the Department of Commerce annual reports that update financial and other information relating to business activities covered by its certificate. The annual report is due within 45 days after the anniversary date of the issuance of the certificate of review (Sections 325.14(a) and (b) of the Regulations). Failure to submit a complete annual report may be the basis for revocation (Section 325.10(a) of the Regulations).

The Department of Commerce sent to Allegheny Highland Hardwoods, Inc. on October 6, 1995, a letter containing annual report questions with a reminder that its annual report was due by August 28, 1995. Additional reminders were sent on July 18, 1996, October 18, 1996, and on January 3, 1997. The Department has received no response to any of these letters.

On August 4, 1997, and in accordance with Section 325.10 (c)(1) of the Regulations, a letter was sent by certified mail to notify Allegheny Highland Hardwoods, Inc. that the Department was formally initiating the process to revoke its certificate. The letter stated that this action is being taken because of the certificate holder's failure to file an annual report.

In accordance with Section 325.10(c)(2) of the Regulations, each certificate holder has thirty days from the day after its receipt of the notification letter in which to respond. The certificate holder is deemed to have received this letter as of the date on which this notice is published in the **Federal Register**. For good cause shown, the Department of Commerce can, at its discretion, grant a thirty-day extension for a response.

If the certificate holder decides to respond, it must specifically address the Department's statement in the notification letter that it has failed to file an annual report. It should state in detail why the facts, conduct, or circumstances described in the notification letter are not true, or if they are, why they do not warrant revoking the certificate. If the certificate holder does not respond within the specified period, it will be considered an admission of the statements contained

in the notification letter (Section 325.10(c)(2) of the Regulations).

If the answer demonstrates that the material facts are in dispute, the Department of Commerce and the Department of Justice shall, upon request, meet informally with the certificate holder. Either Department may require the certificate holder to provide the documents or information that are necessary to support its contentions (Section 325.10(c)(3) of the Regulations).

The Department shall publish a notice in the **Federal Register** of the revocation or modification or a decision not to revoke or modify (Section 325.10(c)(4) of the Regulations). If there is a determination to revoke a certificate, any person aggrieved by such final decision may appeal to an appropriate U.S. district court within 30 days from the date on which the Department's final determination is published in the **Federal Register** (Sections 325.10(c)(4) and 325.11 of the Regulations).

Dated: August 5, 1997.

W. Dawn Busby,

Director, Office of Export Trading Company Affairs.

[FR Doc. 97–21118 Filed 8–8–97; 8:45 am]

BILLING CODE 3510–DR–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 072997B]

North Pacific Fishery Management Council; Committee Meeting

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

ACTION: Notice of public meeting.

SUMMARY: The North Pacific Fishery Management Council's (Council) Bering Sea/Aleutian Islands Crab Plan Team will hold a meeting in Anchorage, AK.

DATES: The meeting will be held on August 28, 1997, beginning at 8:00 a.m. and concluding by 5:00 p.m.

ADDRESSES: The meeting will be held at the West Coast International Inn, Susitna Room, 3333 W International Airport Road, Anchorage, AK.

Council address: North Pacific Fishery Management Council, 605 W. 4th Ave., Suite 306, Anchorage, AK 99501–2252.

FOR FURTHER INFORMATION CONTACT: David Witherell; telephone: 907–271–2809.

SUPPLEMENTARY INFORMATION: The agenda for the meeting will include the following subjects:

1. Review:
(a) Available guideline harvest levels,
(b) Crab fishery management plan (FMP) proposals,
(c) Joint Council and Alaska Board of Fish Meeting,
(d) Essential fish habitat report, and
(e) Status of FMP updates;
2. Discussion:
(a) Overfishing definition, and
(b) Other crab management issues.

Special Accommodations

The meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Helen Allen, 907–271–2809, at least 5 working days prior to the meeting date.

Dated: August 4, 1997.

Bruce C. Morehead,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 97–21046 Filed 8–8–97; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 080497B]

North Pacific Fishery Management Council; Committee Meeting

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

ACTION: Notice of committee meeting.

SUMMARY: The North Pacific Fishery Management Council's Observer Advisory Committee will meet in Seattle, WA.

DATES: The meeting will be held on Monday, September 8, 1997, beginning at 8:30 a.m.

ADDRESSES: The meeting will be held at the Observer Training Room, Building 4, Alaska Fisheries Science Center, 7600 Sand Point Way NE., Seattle, WA.

Council address: North Pacific Fishery Management Council, 605 W. 4th Ave., Suite 306, Anchorage, AK 99501–2252.

FOR FURTHER INFORMATION CONTACT: Chris Oliver; telephone: 907–271–2809.

SUPPLEMENTARY INFORMATION: The Committee will review progress by NMFS and the Pacific States Marine Fisheries Commission on a joint project agreement to implement a third-party observer program.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Helen Allen, 907–271–2809, at least 5 working days prior to the meeting date.

Dated: August 5, 1997.

Bruce C. Morehead,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 97–21136 Filed 8–8–97; 8:45 am]

BILLING CODE 3510–22–F

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of a Guaranteed Access Level for Certain Cotton Textile Products Produced or Manufactured in Guatemala

August 5, 1997.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs increasing a guaranteed access level.

EFFECTIVE DATE: August 12, 1997.

FOR FURTHER INFORMATION CONTACT: Naomi Freeman, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of this limit, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 927–5850. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Uruguay Round Agreements Act.

On the request of the Government of Guatemala, the U.S. Government agreed to increase the 1997 Guaranteed Access Level for Categories 342/642.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 61 FR 66263, published on December 17, 1996). Also see 61 FR 58038, published on November 12, 1996.

The letter to the Commissioner of Customs and the actions taken pursuant

to it are not designed to implement all of the provisions of the Uruguay Round Agreements Act and the Uruguay Round Agreement on Textiles and Clothing, but are designed to assist only in the implementation of certain of their provisions.

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

August 5, 1997.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on November 4, 1996, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool and man-made fiber textile products, produced or manufactured in Guatemala and exported during the twelve-month period which began on January 1, 1997 and extends through December 31, 1997.

Effective on August 12, 1997, you are directed to increase the Guaranteed Access Level for Categories 342/642 to 150,000 dozen.

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 97–21084 Filed 8–8–97; 8:45 am]

BILLING CODE 3510–DR–F

DEPARTMENT OF DEFENSE

Office of the Secretary

Proposed Collection; Comment Request

AGENCY: Defense Technical Information Center, DOD.

ACTION: Notice.

In compliance with Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Defense Technical Information Center (DTIC) announces the initiation of a public information collection of its registered users and seeks public comment on the provisions thereof. 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 information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by October 10, 1997.

ADDRESSES: Written comments and recommendations on the proposed information collection should be sent to: ATTN: DTIC–BCP, Defense Technical Information Center, 8725 John J. Kingman Road, Suite 0944, Fort Belvoir, VA 22060–6218.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to the above address or call (703) 767–8267/DSN 427–8267.

Title, Associated Form, and OMB Number

Needs and Uses: The information collection is necessary to provide DTIC with satisfaction data about the timeliness, use, and quality of its products and services in order to establish a customer satisfaction baseline; assist in determining appropriate modifications to current products and services; and contribute to DTIC's product development efforts. It will allow DTIC to compile customer data which does not currently exist. Information gathered from discussions with customers is maintained in various nondigital formats but is not considered to be quantifiable in terms of customer satisfaction factors because of its anecdotal nature. Because DTIC offers 23 products and services to approximately 3,500 registered users, no cheaper method exists to collect this data other than a survey instrument. This survey is required to implement Executive Order 12862, 11 Sep 93, Setting Customer Service Standards, and the memorandum of the Secretary of Defense, 7 Jan 94, which directs the application of the principles of the Executive Order to all customers of the directors of all defense agencies; the Government Performance and Results Act (GPRA); and the DTIC Strategic Plan mandate to measure customer satisfaction of government-produced products and services.

Affected Public: All DTIC registered users who are Department of Defense (DoD) contractors and potential contractors; U.S. Government organizations and their contractors; and participants in the Small Business Innovation Research/Small Business, Technology Transfer, Historically Black Colleges and Universities, and University Research Support programs.

Annual Burden Hours: 20 hours (based on a 20% return rate).

Number of Respondents: Approximately 1,500.

Responses per Respondent: 1.

Average Burden per Respondent: 3 minutes.

Frequency: Annually, after baseline is established.

SUPPLEMENTARY INFORMATION: This survey is required to implement Executive Order 12862, 11 Sep 93, Setting Customer Service Standards; the memorandum of the Secretary of Defense, 7 Jan 94, which directs the application of the principles of the Executive Order to all customers of the directors of all defense agencies; the GPRA; and the DTIC Strategic Plan mandate to measure customer satisfaction of government-produced products and services.

The Executive Order 12862, 11 Sep 93, Setting Customer Service Standards, the memorandum of the Secretary of Defense, 7 Jan 94, and the GPRA of 1993, have as their purposes to improve the efficiency and effectiveness of Federal programs by requiring Government agencies to establish a system to set goals and measure program performance and program results. DTIC does not presently have a system established to gather data to measure program performance or program results in quantifiable terms against customer standards. Each agency is required to publish a customer service plan and make use of customer survey information to promote the principles and objectives of the executive order.

Under the GPRA, DTIC must set program goals and then publicly report on their progress toward achieving those goals in three stages:

a. By September 30, 1997, a five-year strategic plan for DTIC's programs. DTIC has developed such a plan. According to the GPRA, it will be submitted every 3 years, include a mission statement covering major functions and operations of the agency and general goals and objectives of the agency; the approach and necessary resources to be used in achieving those goals and objectives; any ''key external factors'' that might have a significant affect on DTIC's ability to achieve the general goals and objectives; and any program evaluations used in establishing or revising the goals and objectives (including plans for future evaluations).

b. By October 1, 1997, DTIC will be required to prepare an annual performance plan. The first plan will be

for Fiscal Year 1999. As with the pilot projects, these plans will cover each program activity in DTIC's budget and establish performance goals and define the performance level to be achieved by a program activity. The goal will be expressed in an objective, quantifiable, and measurable form. Performance indicators will be used to measure the relevant outputs, outcomes, and/or service levels for each program activity. The performance plans will also describe the operational processes and resources needed to meet the performance goals and will establish a procedure for comparing actual program results with the performance goals.

c. By March 31, 2000, and every year thereafter, DTIC will be required to publish annual program performance reports. (These reports will be due 6 months after the end of the fiscal year on which they are based.) The reports will compare the performance indicators that were established in the performance plan and the actual program performance achieved with the performance goals. These reports will also discuss the agency's success in achieving the performance goals and describe and explain those cases in which performance goals have not been met.

Dated: August 5, 1997.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 97–21089 Filed 8–8–97; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF DEFENSE

Department of the Army

Final Environmental Impact Statement (FEIS) for the Proposed Construction of a Rail Connector at Fort Campbell, Kentucky

AGENCY: Department of the Army, DoD.

ACTION: Notice of Availability.

SUMMARY: In compliance with the National Environmental Policy Act of 1969 and the Council on Environmental Quality and Army regulations, the Army has prepared an FEIS for the proposed construction of a rail connector for Fort Campbell, Kentucky. The primary Army action analyzed in the FEIS is the construction of a rail connector between the government-owned line and the CSX line in Christian County, Kentucky. The rail connector is needed so that the 101st Airborne Division, stationed at Fort Campbell, can deploy rapidly during an emergency.

Five alternatives including the No-Action Alternative, have been evaluated:

1. The No-Action Alternative would not change the existing configuration or operation of the rail lines, or construct any new ones. Trains from Fort Campbell would continue current operations, using the Hopkinsville Belt Line and Interchange, to switch five cars at a time to the CSX main line.

2. The Hopkinsville Interchange Upgrade Alternative (Alternative 1) would upgrade the existing connection between the government-owned branch line with the CSX main line track and also involves construction of two relatively short rail connectors within the city limits of Hopkinsville and a 2.2-mile siding track parallel to the existing branch line south of Hopkinsville. However, because Alternative 1 resulted in excessive cycle times resulting from having only one (northbound) entrance to the CSX main line, a modified Alternative 1 was also reviewed. The modified Alternative 1 included a southbound entrance to the CSX main line and alignment adjustments to lessen the proposed curvature and grade. Due to the high real estate acquisition costs, potential residential and commercial displacement impacts, numerous grade crossings, and the requirement for additional bridges and tunnels, the alternative was found not to be reasonable.

3. The Hopkinsville Bypass North Alternative (Alternative 2N) would connect the branch line directly to the CSX main line south of Hopkinsville and north of the Hopkinsville Bypass (KY 8546) with approximately 2.7 miles of new rail, and incorporate a 2.2-mile siding track parallel to the existing branch line south of Hopkinsville.

4. The Hopkinsville Bypass South Alternative (Alternative 2S) would connect the branch line directly to the CSX main line south of Hopkinsville and south of the Hopkinsville Bypass (KY 8546) with approximately 2.8 miles of new rail, and incorporate a 2.2-mile siding track parallel to the existing branch line south of Hopkinsville.

5. The Masonville-Casky Alternative (Alternative 3) would connect the branch line directly to the CSX main line approximately 6 miles south of Hopkinsville with approximately 5.5 miles of new rail. A 2.2-mile siding track for Alternative 3 is included in the alignment corridor.

The FEIS has identified Alternative 2S as the preferred alternative, due to the following: it meets mission requirements, allowing the 101st Airborne Division to meet its rapid deployment requirements; is less disruptive to City and total community land use and planning; requires few or no relocations; has fewer grade crossings; and has less public opposition than Alternatives 2N and 3. No, significant adverse environmental impacts are anticipated as a result of this Army action.

DISTRIBUTION AND WAITING PERIOD: The FEIS on the proposed construction of a rail connector for Fort Campbell, Kentucky, was distributed to interested agencies and the public prior to, or simultaneously with, filing of the Notice of Availability for the FEIS with the U.S. Environmental Protection Agency. Following a 30 day post-filing waiting period, the Department of the Army will prepare a Record of Decision.

QUESTIONS OR REQUEST FOR FEIS: Questions regarding the FEIS, or a request for copies of the document may be directed to Mr. William Ray Haynes, U.S. Army Corps of Engineers, Louisville District, PO Box 59, Louisville, Kentucky 40201–6475, or call (502) 582–6475.

Dated: August 5, 1997.

Richard E. Newsome,

Acting Deputy Assistant Secretary of the Army (Environment, Safety and Occupational Health), OASA (1, L&E).

[FR Doc. 97–21041 Filed 8–8–97; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP96–403–004]

ANR Pipeline Company; Notice of Refund Report

August 5, 1997.

Take notice that on August 1, 1997, ANR Pipeline Company (ANR) tendered for filing a report of refunds paid to eligible customers in compliance with the Commissioner's Order on Reconciliation Filing and Directing Refunds issued on June 13, 1997, in the referenced proceeding.

On July 1, 1997, ANR states that it paid to eligible customers refunds of the costs of upstream pipeline capacity of Viking Gas Transmission Corporation of $8,483,256, consisting of principal amounts totaling $7,740,793 and interest of $742,463.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be

filed on or before August 12, 1997. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 97–21066 Filed 8–8–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–436–000]

ANR Pipeline Company; Notice of Proposed Changes in FERC Gas Tariff

August 5, 1997.

Take notice that on August 1, 1997, ANR Pipeline Company (ANR) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following tariff sheets to become effective August 1, 1997:

Twenty-fourth Revised Sheet No. 8
Twenty-sixth Revised Sheet No. 9
Twenty-fifth Revised Sheet No. 13
Twenty-sixth Revised Sheet No. 16
Twenty-first Revised Sheet No. 18

ANR states that the above-referenced tariff sheets are being filed to commence recovery of approximately $2.8 million of additional pricing differential (PD) and carrying costs that have been incurred by ANR during the period March 1, 1997 through May 31, 1997 as a result of the implementation of Order Nos. 636, et seq. ANR proposes a reservation fee surcharge applicable to its Part 284 firm transportation customers to recover ninety percent (90%) of the PD costs, and an adjustment to the maximum base tariff rates applicable to Rate Schedule ITS and overrun service rendered pursuant to Rate Schedule FTS–2, so as to recover the remaining ten percent (10%). ANR advises that the proposed charges would increase its PD surcharge from $0.167 to $0.196.

Any person desiring to be heard or to protest this filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 97–21077 Filed 8–8–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–187–006]

Arkansas Western Pipeline Company; Notice of Compliance Filing

August 6, 1997.

Take notice that on July 30, 1997, Arkansas Western Pipeline Company (AWP) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the following tariff sheets, with an effective date of June 1, 1997:

Substitute First Revised Sheet No. 7
Substitute First Revised Sheet No. 11
Substitute First Revised Sheet No. 26
Substitute First Revised Sheet No. 29
Substitute First Revised Sheet No. 33

AWP states that the tariff sheets are being filed in compliance with the Commission's July 15, 1997 letter order.

AWP states that a copy of the filing is being mailed to each of AWP's customers and the affected state regulatory agencies.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection in the public reference room.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 97–21111 Filed 8–8–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–197–004]

Chandeleur Pipe Line Company; Notice of Compliance Filing

August 6, 1997.

Take notice that on August 1, 1997, Chandeleur Pipe Line Company (Chandeleur) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the revised tariff sheets hereto in compliance with directives noted in the Commission's Letter Order Pursuant to Section 375.307 (b)(1) and (b)(3) issued July 21, 1997 in the above-referenced dockets, to become effective June 1, 1997.

Chandeleur states that it is serving copies of the filing to its customers, State Commissions and interested parties.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 97–21112 Filed 8–8–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–181–005]

CNG Transmission Corporation; Notice of Compliance Tariff Filing

August 5, 1997.

Take notice that on July 31, 1997, CNG Transmission Corporation (CNG) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following revised tariff sheet, with an effective date of June 1, 1997:

Second Sub. Original Sheet No. 386A

CNG states that the purpose of its filing is to revise CNG's FERC Gas Tariff in compliance with the July 16 Letter

Order in the captioned proceeding, to reflect CNG's June 1 implementation of business practice standards of the Gas Industry Standards Board (GISB). These GISB standards have been incorporated by reference in the Commission's regulations through Order No. 587–C. At Sheet No. 386A, CNG has listed the additional GISB Business Practice Standards that are to be adopted by reference, at Section 31 in the General Terms and Conditions. CNG also requests a further extension of time with regard to its implementation of certain systems-based and EDM-related business practice standards.

CNG states that copies of its filing have been mailed to CNG's customers and interested state commissions, and to parties to the captioned proceeding.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 97–21070 Filed 8–8–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP97–658–000]

Columbia Gas Transmission Corporation; Notice of Request Under Blanket Authorization

August 5, 1997.

Take notice that on July 22, 1997, as supplemented on August 1, 1997, Columbia Gas Transmission Corporation (Columbia), Post office Box 1273, Charleston, West Virginia 25325-1273, filed in Docket No. CP97–658–000 a request pursuant to Sections 157.205,157.211 and 157.216(b) of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.211, and 157.216) for approval to abandon a portion of its transmission Line KA and to relocate a point of delivery to Mountaineer Gas Company (Mountaineer) for service to one mainline tap customer, under Columbia's blanket certificate issued in Docket No. CP83–76–000, pursuant to Section 7(c) of the Natural Gas Act (NGA), all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Columbia proposes to abandon facilities that were transferred to low pressure service in order to maintain service to one mainline tap customer in Docket No. CP94–21–000. Columbia asserts that such transfer was necessary due to the relocation of a pipeline corridor in replacing deteriorating KA pipeline. Columbia further asserts that the proposed abandonment will not result in the loss of any service to any customer, as the customer is currently being provided natural gas service by Mountaineer.

Columbia also requests authorization to relocate a point of delivery where Columbia has been requested by Mountaineer to continue to provide firm transportation service under Part 284 of the Commission's Regulations for U.S. Steel Mining Company. Columbia states that the estimated quantity of natural gas to be delivered at the relocated point of delivery is 120 Dth per Day.

Any person or the Commission's Staff may, within 45 days of the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.214), a motion to intervene 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 therefore, the proposed activities shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 97–21052 Filed 8–8–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. GT97–34–001]

Columbia Gas Transmission Corporation; Notice of Proposed Changes in FERC Gas Tariff

August 5, 1997.

Take notice that on July 31, 1997, Columbia Gas Transmission Corporation (Columbia Transmission) tendered for filing to be part of its FERC Gas Tariff, Second Revised Volume No. 1, the following tariff sheet bearing an effective date of September 1, 1997:

Original Sheet No. 500B

Columbia Transmission states that it is making the submission to comply with the letter order issued by the Federal Energy Regulatory Commission (Commission) on July 16, 1997, in Docket No. GT97–34–000. Therein, Columbia was required to file a revised tariff sheet referencing the service agreement between Columbia and West Ohio Gas Company which was filed on June 26, 1997, pursuant to the approved Stipulation and Agreement in Docket No RP95–408.

Columbia Transmission states further that copies of this filing have been mailed to all of its customers, affected state regulatory commissions, and all parties on the official service list in this proceeding and in Docket No. RP95–408.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's regulations. All such protests must be filed as provided in Section 154.210 of the Commission's regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. A copy of this filing is on file with the Commission and is available for public inspection in the Commission's Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 97–21055 Filed 8–8–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–153–005]

Granite State Gas Transmission Inc.; Notice of Compliance Filing

August 5, 1997.

Take notice that on August 1, 1997, Granite State Gas Transmission, Inc. (Granite State) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, revised tariff sheets listed below for effectiveness on September 1, 1997:

Third Revised Sheet No. 215
Third Revised Sheet No. 289.

According to Granite State, the foregoing revised tariff sheets are submitted in further compliance with the requirements of Order Nos. 587, *et seq*., adopting Gas Industry Standards Board (GISB) procedures for pipeline operating practices. Granite State further states that the revised tariff sheets adopt additional GISB standards for its operations in compliance with letter orders issued by the Director of the Office of Pipeline Regulation on May 20 and June 26, 1997 with respect to prior tariff filings and are proposed to become effective September 1, 1997 because of an extension which Granite State was granted to comply with certain GISB standards.

Granite State states that copies of its filing were served on its firm and interruptible customers, the regulatory agencies of the states of Maine, Massachusetts and New Hampshire, and the intervenor in Docket No. RP97–137–000.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 97–21069 Filed 8–8–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Koch Gateway Pipeline Company; Notice of Compliance Filing

[Docket No. RP96–320–017]

August 6, 1997.

Take notice that on August 1, 1997, Koch Gateway Pipeline Company (Koch) tendered for filing as part of its FERC Gas Tariff, Fifth Revised Volume No. 1, the following tariff sheets to be effective June 19, 1997:

Twelfth Revised Sheet No. 29

On June 19, 1997, Koch filed Tenth Revised Sheet No. 29 in its Fifth Revised Volume No. 1, reflecting a recent negotiated rate with Texaco Exploration and Production, Inc. (Texaco). This filing was made to disclose all the relevant information regarding a negotiated rate transaction regarding a gathering rate on the Tooke #21 Well in Gregg County, Texas. On July 17, 1997, the Commission issued an ''Order Accepting Tariff Sheets Subject to Conditions'' requesting that Koch ''clarify and revise the tariff sheet to indicate: (1) whether the gathering service is firm or interruptible, (2) the applicable receipt and delivery points; (3) the volumes to be transported under the negotiated transaction.'' In addition the Commission requested Koch to clarify the gathering rate units and revise the tariff accordingly. In response to the Commission's requests Koch is filing a Twelfth Revised Sheet No. 29 to comply with the July 17th order.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Regulations. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 97–21110 Filed 8–8–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. TM97–14–16–000]

National Fuel Gas Supply Corporation; Notice of Tariff Filing

August 6, 1997.

Take notice that on July 31, 1997, National Fuel Gas Supply Corporation (National) tendered for filing as part of its FERC Gas Tariff, Fourth Revised Volume No. 1, First Revised Sheet No. 9, with a proposed effective date of August 1, 1997.

National states that pursuant to Article II, Section 2, of the approved settlement at Docket No. RP94–367–000, et al., National is required to recalculate the maximum Interruptible Gathering (IG) rate monthly and to charge that rate on the first day of the following month if the result is an IG rate more than 2 cents above or below the IG rate as calculated under Section 1 of Article II. The recalculation produced an IG rate of 10 cents per dth.

National further states that, as required by Article II, Section 4, National is filing a revised tariff sheet within 30 days of the effective date for the revised IG rate.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, DC, 20426, in accordance with Rules 211 or 214 of the Commission's Rules of Practice and Procedure (18 CFR Sections 385.211 or 385.214). All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 97–21114 Filed 8–8–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–64–009]

Natural Gas Pipeline Company of America; Notice of Compliance Filing

August 5, 1997.

Take notice that on August 1, 1997, Natural Gas Pipeline Company of America (Natural) tendered for filing as part of its FERC Gas Tariff, Sixth Revised Volume No. 1, Substitute Third Revised Sheet No. 200 and Substitute Fourth Revised Sheet No. 247A, to be effective November 1, 1997.

Natural states that the purpose of the filing is to comply with the Commission's letter order issued July 23, 1997, in Docket No. RP97–64–007.

Natural states that copies of the filing are being mailed to its customers, interested state regulatory agencies, and all parties set out on the official service list at Docket No. RP97–64.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 97–21067 Filed 8–8–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP96–200–024]

NorAm Gas Transmission Company; Notice of Proposed Changes in FERC Gas Tariff

August 5, 1997.

Take notice that on August 1, 1997, NorAm Gas Transmission Company (NGT) tendered for filing as part of its FERC Gas Tariff, Fourth Revised Volume No. 1, the following revised tariff sheet to be effective August 1, 1997:

First Revised Sheet No. 7E.01

NGT states that this tariff sheet is filed herewith to reflect a specific negotiated rate transaction for the month of August, 1997.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rule 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.211). All such protests must be filed as provided in Section 154.210 of the Commission's regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestant parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 97–21065 Filed 8–8–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–433–000]

Panhandle Eastern Pipe Line Company; Notice of Proposed Changes in FERC Gas Tariff

August 5, 1997.

Take notice that on August 1, 1997, Panhandle Eastern Pipe Line Company (Panhandle) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the tariff sheets listed on Appendix A to the filing, to become effective September 1, 1997.

Panhandle states that this filing is to reinstate the Take-or-Pay Volumetric Surcharge pursuant to Section 18.4(g) of the General Terms and Conditions (GT&C) of Panhandle's tariff. Panhandle has not fully recovered the Second Supplemental TOP Settlement Costs as of June 30, 1997 and accordingly is proposing to implement a 0.04¢ per Dt. volumetric surcharge to be in effect during the twelve month Reconciliation Amount Recovery Period which commences September 1, 1997.

Panhandle states that copies of this filing are being served on all affected customers and applicable state regulatory agencies.

Any person desiring to be heard or to protest this filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 97–21074 Filed 8–8–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–150–007]

Richfield Gas Storage System; Notice of Proposed Changes in FERC Gas Tariff

August 5, 1997.

Take notice that on July 30, 1997, Richfield Gas Storage System (Richfield) tendered for filing as part of its FERC Gas Tariff, Substitute Volume No. 1, the tariff sheets listed below to become effective August 1, 1997. The modifications to the listed tariff sheets are proposed to more accurately reflect the operation of and information displayed on Richfield's Electronic Bulletin Board (EBB) as of August 1, 1997.

FERC Gas Tariff

Substitute Volume No. 1
First Revised Sheet No. 40
Second Revised Sheet No. 41
First Revised Sheet No. 41A

Richfield states that copies of this filing are being served on all affected customers and applicable state regulatory agencies.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are

available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 97–21068 Filed 8–8–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–432–000]

Southern Natural Gas Company; Notice of GSR Revised Tariff Sheets

August 5, 1997.

Take notice that on July 31, 1997, Southern Natural Gas Company (Southern) tendered for filing as part of its FERC Gas Tariff, Seventh Revised Volume No. 1, the following tariff sheets with the proposed effective date of August 1, 1997:

Tariff Sheets Applicable to Contesting Parties:
Twenty Ninth Revised Sheets No. 14
Fiftieth Revised Sheet No. 15
Twenty Ninth Revised Sheet No. 16
Fiftieth Revised Sheet No. 17
Thirty Third Revised Sheet No. 29

Southern states that it submits the revised tariff sheets to its FERC Gas Tariff, Seventh Revised Volume No. 1, to reflect a change in its FT/FT–NN GSR Surcharge, due to a decrease in GSR billing units effective August 1, 1997.

Southern states that copies of the filing were served upon all parties listed on the official service list compiled by the Secretary in these proceedings.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules of Practice and Procedure. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of Southern's filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 97–21073 Filed 8–8–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–435–000]

Southern Natural Gas Company; Notice of Filing

August 5, 1997.

Take notice that on July 31, 1997, Southern Natural Gas Company (Southern) submitted a filing pursuant to the Commission's Order dated August 30, 1995 in Docket No. RP95–404–000. In the Order the Commission directed Southern to file not later than three months prior to the second anniversary of the effective date of the continuation of its pricing differential mechanism (PDM) for recovery of gas supply realignment costs. The second anniversary of the continuation date of Southern's PDM will be November 1, 1997, and Southern anticipates that it will be unable to obtain reformation of all of its gas supply contracts prior to that date. Accordingly, Southern made this filing in support of a two-year continuation of its PDM.

Southern states that copies of the filing were served upon Southern's shippers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before August 12, 1997. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of Southern's filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 97–21076 Filed 8–8–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP90–119–019]

Texas Eastern Transmission Corporation; Notice of Compliance Filing

August 5, 1997.

Take notice that on August 1, 1997, Texas Eastern Transmission Corporation (Texas Eastern) tendered for filing as part of its FERC Gas Tariff, Sixth Revised Volume No. 1 and Original Volume No. 2, revised tariff sheets listed on Appendix A to the filing with a proposed effective date of September 1, 1997.

Texas Eastern asserts that the purpose of this filing is to comply with the Stipulation and Agreement (S&A) approved by the Commission in Docket Nos. RP90–119 et al., in order to remove costs associated with the merger between Panhandle Eastern Corporation and Texas Eastern and as a result reduce Texas Eastern's system rates by approximately $4.7 million annually. Texas Eastern states that Article I, Section 4 of the S&A provides that at the time of the termination of the collection period for the consolidation costs associated with the merger between Panhandle Eastern Corporation and Texas Eastern (Consolidation Costs), Texas Eastern will make an appropriate compliance filing to remove the Consolidation Costs from its rates. Texas Eastern also states that Article I, Section 4 of the S&A provides that the compliance filing removing the Consolidation Costs will not constitute a new Section 4 filing, will not be subject to suspension and will be subject to review on the sole question of whether it accurately implements Article I, Section 4 of the S&A.

Texas Eastern states that copies of this filing were served on firm customers of Texas Eastern, interested state commissions, current interruptible customers and all parties to the S&A.

Any person desiring to protect this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, DC 20426, in accordance with § 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in § 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public

inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 97–21056 Filed 8–8–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP97–670–000]

Texas Gas Transmission Corporation; Notice of Application

August 5, 1997.

Take notice that on July 28, 1997, Texas Gas Transmission Corporation (Texas Gas), 3800 Frederica Street, Owensboro, Kentucky 42301, filed, in Docket No. CP97–670–000, an abbreviated application pursuant to Sections 7(b) and 7(c) of the Natural Gas Act and Part 157 of The Commission's Regulations for a certificate of public convenience and necessity authorizing Texas Gas to: (1) replace 5,121 feet of 20-inch pipeline with 5,121 feet of 12-inch pipeline, (2) replace twelve 4-inch well line side valves, (3) construct approximately 1,590 feet of 4-inch pipeline, and (4) abandon by removal approximately 555 feet of 8-inch pipeline and 250 feet of 4-inch pipeline at Texas Gas' Hanson Storage Field, all as more fully set forth in the application which is on file with the Commission and open for public inspection.

Any person desiring to be heard or to make any protest with reference to said application should on or before August 26, 1997, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the Protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Texas Gas to appear or be represented at the hearing.

Lois D. Cashell,

Secretary.

[FR Doc. 97–21053 Filed 8–8–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–183–005]

Texas Gas Transmission Corporation; Notice of Filing of Tariff Sheets

August 5, 1997.

Take notice that on July 31, 1997, Texas Gas Transmission Corporation (Texas Gas) tendered for filing, as part of its FERC Gas Tariff, First Revised Volume No. 1, the following tariff sheets:

Sixth Revised Sheet No. 207

On April 28, 1997, Texas Gas submitted pro forma tariff sheets reflecting implementation of standards proposed by the Gas Industry Standards Board (GISB) and adopted by the Commission in Order No. 587–C. As previously stated on June 30, 1997, the Commission issued a Letter Order that directed Texas Gas to file actual tariff sheets at least 30 days prior to the proposed effective date, November 1, 1997. Additionally, Texas Gas was directed to file an actual tariff sheet, to be effective August 1, 1997, which reflects incorporation of GISB Standard 4.3.6 by reference.

Texas Gas states that the instant filing is being made to comply with the Commission directive, thereby incorporation by reference GISB Standard 4.3.6.

Texas Gas states that copies of the tariff sheets are being served upon Texas Gas' jurisdictional customers and interested state commissions, as well as all parties on the Commission's official service list in Docket No. RP97–183.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 97–21071 Filed 8–8–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–334–001]

Texas Gas Transmission Corporation; Notice of Filing of Tariff Sheets

August 5, 1997.

Take notice that on July 31, 1997, Texas Gas Transmission Corporation (Texas Gas) tendered for filing, as part of its FERC Gas Tariff, First Revised Volume No. 1 the following tariff sheets:

Third Revised Sheet Nos. 385–389

Texas Gas states that the instant filing contains tariff sheets to comply with the directives of the Commission's May 16, 1997, Order with respect to the Form of EDI Trading Partner Agreement. The revisions include language regarding confidential information, termination of agreements, and liability provisions. Texas Gas has requested an effective date of September 1, 1997, which coincides with the implementation by Texas Gas of EDI using the Internet electronic delivery mechanism.

Texas Gas states that copies of the tariff sheets are being served upon Texas Gas's jurisdictional customers and interested state commissions, as well as all parties on the Commission's official service list in Docket No. RP97–334.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, DC 20426, in accordance with § 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with § 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make

protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 97–21072 Filed 8–8–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. TM97–5–18–000]

Texas Gas Transmission Corporation; Notice of Proposed Changes in FERC Gas Tariff

August 5, 1997.

Take notice that on July 31, 1997, Texas Gas Transmission Corporation (Texas Gas) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1 and Original Volume No. 2, the revised tariff sheets contained in Appendix A to the filing.

Texas Gas states that the proposed tariff sheets reflect changes to its Base Tariff Rates pursuant to the Transportation Cost Adjustment provisions included as a part of the Stipulation and Agreement in Docket No. RP94–423, and contained in Section 39 of the General Terms and Conditions of its FERC Gas Tariff, First Revised Volume No. 1, as filed on February 23, 1996. The net rate change proposed by this filing is an decrease of $0.0030 in the FT and NNS daily demand rates. $0.0004 in the FT and NNS commodity rates, $0.0064 in the SGT rates for Zones 1–4, and $0.0051 for SGT–SL. Interruptible transportation and overrun rates are also generally decreased by $0.0034. Texas Gas respectfully requests that the revised tariff sheets reflecting a net decrease in its rates become effective September 1, 1997.

Texas Gas states that copies of the filing have been served upon Texas Gas's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, DC 20426, in accordance with Sections 385.211 and 385.214 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party to the proceeding must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 97–21078 Filed 8–8–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. TM97–1–142–000]

Texas-Ohio Pipeline, Inc.; Notice of Proposed Changes in FERC Gas Tariff

August 6, 1997.

Take notice that on August 1, 1997, Texas-Ohio Pipeline, Inc. (TOP), tendered for filing to become part of its FERC Gas Tariff, Original Volume No. 1, First Revised Sheet No. 4, with a proposed date of October 1, 1996.

TOP states that the purpose of this filing is to correct its Annual Charge Adjustment unit charge for the period October 1, 1996 through the present in accordance with the requirements of section 154.402 of the Commission's regulations, 18 CFR Section 154.402 and Section 22 of the General Terms and Conditions of its tariff. Specifically, the enclosed proposed revised tariff sheet reflects a decrease in TOP's ACA unit charge of $0.0002 per Dth, from $0.0022 to $0.0020 per Dth, effective October 1, 1996. TOP states that it is in the process of calculating and making refunds due its jurisdictional customers as a result of this decrease.

TOP further states that copies of this filing have been served on TOP's historic customers.

Any person desiring to be heard or to protest this filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 97–21113 Filed 8–8–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–434–000]

Transwestern Pipeline Company; Notice of Proposed Changes in FERC Gas Tariff

August 5, 1997.

Take notice that on August 1, 1997, Transwestern Pipeline Company (Transwestern) tendered for filing to become part of its FERC Gas Tariff, Second Revised Volume No. 1, the following tariff sheets proposed to become effective on September 1, 1997:

Fourth Revised Sheet No. 1A
Original Sheet No. 5B.04
Original Sheet No. 37A
Original Sheet No. 37B
Original Sheet No. 37C
Original Sheet No. 37D
Original Sheet No. 37E
Original Sheet No. 37F
Original Sheet No. 156

Transwestern states that the instant filing is made in accordance with Section 154.202 of the Commission's Regulations. Transwestern is proposing to offer a new interruptible Park 'N Ride Service under Rate Schedule PNR. Transwestern's Park 'N Ride Service will enable Transwestern to accommodate the needs of its customers in a manner not currently available under its existing tariff by providing shippers greater flexibility in managing their daily gas supply needs through the use of Transwestern's pipeline system.

Transwestern states that copies of the filing were served upon Transwestern's customers and interested State Commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such petitions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. All protests will be considered by the Commission in determining the appropriate action to be taken in this proceeding, but will not serve to make Protestant a party to the proceeding. 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 inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 97–21075 Filed 8–8–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP94–164–013]

Trunkline Gas Company; Notice of Proposed Changes in FERC Gas Tariff

August 5, 1997.

Take notice that on August 1, 1997, Trunkline Gas Company (Trunkline) tendered for filing to become part of its FERC Gas Tariff, First Revised Volume No. 1, revised tariff sheets, listed on Appendix A attached to the filing. Trunkline requests an effective date of September 1, 1997.

Trunkline states that this filing is being made in accordance with the provisions of Article IV, Section 2(d) of the January 20, 1995 Stipulation and Agreement (Settlement) approved by the Commission in the referenced proceedings, 72 FERC ¶ 61,012 (1995).

Trunkline further states that Article IV, Section 2(d) of the Settlement permitted Trunkline to include in the working capital component of its cost of service and resulting rates $969,400 per year for three years, commencing September 1, 1994. This amount was associated with its prepayment under the Koch Gateway Pipeline Company (Koch) lease arrangement.

Trunkline also states that Article IV, Section 2(d) of the Settlement required Trunkline to file at least thirty days prior to the conclusion of the specified amortization period to remove from its then-effective rates the costs associated with such working capital component.

Trunkline states that copies of this filing have been served on all participants in the proceedings, jurisdictional customers and applicable state regulatory agencies.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rule 211 of the Commission's Rules of Practice and Procedure 18 CFR 385.211. All such protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 97–21064 Filed 8–8–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. TM97–5–30–000]

Trunkline Gas Company; Notice of Proposed Changes in FERC Gas Tariff

August 5, 1997.

Take notice that on August 1, 1997, Trunkline Gas Company (Trunkline) tendered for filing its Annual Miscellaneous Revenue Flowthrough Surcharge Adjustment in accordance with Section 23 of the General Terms and conditions of its FERC Gas Tariff, First Revised Volume No. 1.

Trunkline states that the purpose of this filing is to comply with Section 23 of the General Terms and Conditions of its FERC Gas Tariff, First Revised Volume No. 1 which requires that at least 30 days prior to the effective date of adjustment, Trunkline shall make a filing with the Commission to reflect the adjustment, if any, required to Trunkline's Base Transportation Rates to reflect the result of the Miscellaneous Revenue Flowthrough Surcharge Adjustment. Trunkline further states that no adjustment is required to Base Transportation Rates.

Trunkline further states that copies of this filing are being served on all affected customers and applicable state regulatory agencies.

Any person desiring to be heard or to protest this filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, DC 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 97–21079 Filed 8–8–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. DR97–2–000]

Wisconsin Public Service Corp.; Notice of Filing

August 5, 1997.

Take notice that on July 24, 1997, Wisconsin Public Service Corporation (WPSC) filed an Application for Change of Depreciation Rates pursuant to Section 302 of the Federal Power Act. The proposed changes to depreciation rates are for accounting purposes only.

WPSC requests authorization to implement accelerated depreciation for its ownership share of the Kewaunee Nuclear Power Plant, effective February 21, 1997. WPSC also requests authorization to implement depreciation rate changes for certain jointly-owned, non-nuclear facilities, effective January 1, 1997. WPSC states that these depreciation rates have been authorized by the Wisconsin Public Service Commission for purposes of retail ratemaking.

WPSC further states that it is asking the Commission's Chief Accountant for authorization to defer recovery of the wholesale portion of the accelerated depreciation for the nuclear plant by recording the increased wholesale depreciation as a regulatory asset in Account No. 182.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before August 18, 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.

Lois D. Cashell,

Secretary

[FR Doc. 97–21054 Filed 8–8–97; 8:45 am]

BILLING CODE 6717–01–M

FEDERAL ENERGY REGULATORY COMMISSION

[Docket No. ER97–3751–000, et al.]

Public Service Electric and Gas Company, et al.; Electric Rate and Corporate Regulation Filings

August 5, 1997.

Take notice that the following filings have been made with the Commission:

1. Public Service Electric and Gas Company

[Docket No. ER97–3751–000]

Take notice that on July 11, 1997, Public Service Electric and Gas Company (PSE&G) of Newark, New Jersey, tendered for filing an agreement for the sale of capacity and energy to The Cincinnati Gas & Electric Company, PSI Energy, Inc. (collectively Cinergy Operating Companies) and Cinergy Services, Inc., as agent for and on behalf of the Cinergy Operating Companies (Cinergy) pursuant to the PSE&G Wholesale Power Market Based Sales Tariff, presently on file with the Commission.

PSE&G further requests waiver of the Commission's Regulations such that the agreement can be made effective as of April 15, 1997.

Copies of the filing have been served upon Cinergy and the New Jersey Board of Public Utilities.

Comment date: August 19, 1997, in accordance with Standard Paragraph E at the end of this notice.

2. Public Service Electric and Gas Company

[Docket No. ER97–3752–000]

Take notice that on July 11, 1997, Public Service Electric and Gas Company (PSE&G) of Newark, New Jersey, tendered for filing an agreement for the sale of capacity and energy to Edison Source, a subsidiary of Edison International (Edison Source) pursuant to the PSE&G Wholesale Power Market Based Sales Tariff, presently on file with the Commission.

PSE&G further requests waiver of the Commission's Regulations such that the agreement can be made effective as of June 1, 1997.

Comment date: August 19, 1997, in accordance with Standard Paragraph E at the end of this notice.

3. Public Service Electric and Gas Company

[Docket No. ER97–3753–000]

Take notice that on July 11, 1997, Public Service Electric and Gas Company (PSE&G) of Newark, New Jersey, tendered for filing an agreement for the sale of capacity and energy to Rainbow Energy Marketing Corporation (Rainbow) pursuant to the PSE&G Wholesale Power Market Based Sales Tariff, presently on file with the Commission.

PSE&G further requests waiver of the Commission's Regulations such that the agreement can be made effective as of May 1, 1997.

Copies of the filing have been served upon Rainbow and the New Jersey Board of Public Utilities.

Comment date: August 19, 1997, in accordance with Standard Paragraph E at the end of this notice.

4. Public Service Electric and Gas Company

[Docket No. ER97–3754–000]

Take notice that on July 11, 1997, Public Service Electric and Gas Company (PSE&G) of Newark, New Jersey, tendered for filing an agreement for the sale of capacity and energy to Illinois Power Company (Illinois Power) pursuant to the PSE&G Wholesale Power Market Based Sales Tariff, presently on file with the Commission.

PSE&G further requests waiver of the Commission's Regulations such that the agreement can be made effective as of June 1, 1997.

Copies of the filing have been served upon Illinois Power and the New Jersey Board of Public Utilities.

Comment date: August 19, 1997, in accordance with Standard Paragraph E at the end of this notice.

5. Portland General Electric Company

[Docket No. ER97–3755–000]

Take notice that on July 18, 1997, Portland General Electric Company (PGE), tendered for filing under PGE's Final Rule pro forma tariff (FERC Electric Tariff Original Volume No. 8, Docket No. OA96–137–000), an executed Service Agreement for Long-Term Firm Point-to-Point Transmission Service with Washington Water Power Company.

Pursuant to 18 CFR 35.11, and the Commission's Order in Docket No. Pub. L. 93–2–002 issued July 30, 1993, PGE respectfully requests that the Commission grant a waiver of the notice requirements of 18 CFR 35.3 to allow the Service Agreement to become effective June 25, 1997.

A copy of this filing was caused to be served upon Washington Water Power Company as noted in the filing letter.

Comment date: August 19, 1997, in accordance with Standard Paragraph E at the end of this notice.

6. Commonwealth Electric Company, Cambridge Electric Light Company

[Docket No. ER97–3756–000]

Take notice that on July 16, 1997, Commonwealth Electric Company (Commonwealth) and Cambridge Electric Light Company (Cambridge), collectively referred to as the Companies, tendered for filing with the Federal Energy Regulatory Commission executed Service Agreements between the Companies and the following Market-Based Power Sales Customers (collectively referred to herein as the Customers):

NorAm Energy Services, Inc.
North American Energy Conservation, Inc.

These Service Agreements specify that the Customers have signed on to and have agreed to the terms and conditions of the Companies' Market-Based Power Sales Tariffs designated as Commonwealth's Market-Based Power Sales Tariff (FERC Electric Tariff Original Volume No. 7) and Cambridge's Market-Based Power Sales Tariff (FERC Electric Tariff Original Volume No. 9). These Tariffs, accepted by the FERC on February 27, 1997, and which have an effective date of February 28, 1997, will allow the Companies and the Customers to enter into separately scheduled short-term transactions under which the Companies will sell to the Customers capacity and/or energy as the parties may mutually agree. The Companies request an effective date as specified on each Service Agreement.

Comment date: August 19, 1997, in accordance with Standard Paragraph E at the end of this notice.

7. Entergy Services, Inc.

[Docket No. ER97–3757–000]

Take notice that on July 16, 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 Enron Power Marketing, Inc.

Comment date: August 19, 1997, in accordance with Standard Paragraph E at the end of this notice.

8. New England Power Pool

[Docket No. ER97–3758–000]

Take notice that on July 17, 1997, the New England Power Pool (NEPOOL or Pool) Executive Committee filed a request for termination of membership in NEPOOL, with a retroactive date of March 1, 1997, of the following entities: AGF, Inc.; ANP Energy Direct Company; EnergyChoice, L.L.C.; KCS Power Marketing, Inc.; Multi-Energies USA, Inc.; Natural Resources Group, Inc.; Phibro Inc.; Vermont Energy Ventures, L.L.C.; and Western Power Services, Inc. (collectively, the Terminating Participants). Such termination is pursuant to the terms of the NEPOOL Agreement dated September 1, 1971, as amended, and previously signed by each of the Terminating Participants. The New England Power Pool Agreement, as amended, has been designated NEPOOL FPC No. 2.

The Executive Committee states that termination of the Terminating Participants with a retroactive date of March 1, 1997, would relieve those entities, at their individual requests, of the obligations and responsibilities of Pool membership and would not change the NEPOOL Agreement in any manner, other than to remove the Terminating Participants from membership in the Pool. None of the Terminating Participants has received any energy related services (such as scheduling, transmission, capacity or energy services) under the NEPOOL Agreement.

Comment date: August 19, 1997, in accordance with Standard Paragraph E at the end of this notice.

9. South Carolina Electric & Gas Company

[Docket No. ER97–3759–000]

Take notice that on July 18, 1997, South Carolina Electric & Gas Company (SCE&G) submitted a service agreement establishing Carolina Power & Light Company (CP&L) as a customer under the terms of SCE&G's Open Access Transmission Tariff.

SCE&G requests an effective date of one day subsequent to the filing of the service agreement. Accordingly, SCE&G requests waiver of the Commission's notice requirements. Copies of this filing were served upon CP&L and the South Carolina Public Service Commission.

Comment date: August 19, 1997, in accordance with Standard Paragraph E at the end of this notice.

10. South Carolina Electric & Gas Company

[Docket No. ER97–3760–000]

Take notice that on July 18, 1997, South Carolina Electric & Gas Company, tendered for filing proposed cancellation of Rate Schedule FERC No. 45 (South Carolina Electric & Gas Company) and Rate Schedule FERC No. 832 (Georgia Power Company).

Under the proposed cancellation the contract which expired effective August 31, 1996 will be canceled.

Copies of this filing were served upon Georgia Power Company.

Comment date: August 18, 1997, in accordance with Standard Paragraph E at the end of this notice.

11. PECO Energy Company

[Docket No. ER97–3761–000]

Take notice that on July 18, 1997, PECO Energy Company (PECO) filed a Service Agreement dated May 29, 1997 with Florida Municipal Power Agency (FMPA) under PECO's FERC Electric Tariff Original Volume No. 1 (Tariff). The Service Agreement adds FMPA as a customer under the Tariff.

PECO requests an effective date of July 2, 1997, for the Service Agreement.

PECO states that copies of this filing have been supplied to FMPA and to the Pennsylvania Public Utility Commission.

Comment date: August 19, 1997, in accordance with Standard Paragraph E at the end of this notice.

12. PECO Energy Company

[Docket No. ER97–3762–000]

Take notice that on July 18, 1997, PECO Energy Company (PECO) filed a Service Agreement dated July 9, 1997 with ProMark Energy, Inc. (PROMARK) under PECO's FERC Electric Tariff Original Volume No. 1 (Tariff). The Service Agreement adds PROMARK as a customer under the Tariff.

PECO requests an effective date of July 9, 1997, for the Service Agreement.

PECO states that copies of this filing have been supplied to PROMARK and to the Pennsylvania Public Utility Commission.

Comment date: August 19, 1997, in accordance with Standard Paragraph E at the end of this notice.

13. PECO Energy Company

[Docket No. ER97–3763–000]

Take notice that on July 18, 1997, PECO Energy Company (PECO) filed a Service Agreement dated June 30, 1997 with CL Power Sales Two, L.L.C. (CL TWO) under PECO's FERC Electric Tariff Original Volume No. 1 (Tariff). The Service Agreement adds CL TWO as a customer under the Tariff.

PECO requests an effective date of June 30, 1997, for the Service Agreement.

PECO states that copies of this filing have been supplied to CL TWO and to the Pennsylvania Public Utility Commission.

Comment date: August 19, 1997, in accordance with Standard Paragraph E at the end of this notice.

14. Cinergy Services, Inc.

[Docket No. ER97–3764–000]

Take notice that on July 18, 1997, Cinergy Services, Inc. (Cinergy), tendered for filing on behalf of its operating companies, the Cincinnati Gas & Electric Company (CG&E) and PSI Energy, Inc. (PSI), a Power Purchase Agreement, dated March 14, 1997 between Cinergy, CG&E, PSI and Energy Services, Inc. (ESI).

The Power Purchase Agreement provides for sale on a market basis.

Copies of the filing were served on Energy Services, Inc., Washington Utilities and Transportation Commission, the Kentucky Public Service Commission, the Public Utilities Commission of Ohio and the Indiana Utility Regulatory Commission.

Comment date: August 19, 1997, in accordance with Standard Paragraph E at the end of this notice.

15. Allegheny Power Service Corporation, on behalf of Monongahela Power Company, the Potomac Edison Company and West Penn Power Company (Allegheny Power)

[Docket No. ER97–3765–000]

Take notice that on July 18, 1997, Allegheny Power Service Corporation on behalf of Monongahela Power Company, The Potomac Edison Company and West Penn Power Company (Allegheny Power) filed Supplement No. 28 to add one (1) new Customer to the Standard Generation Service Rate Schedule under which Allegheny Power offers standard generation and emergency service on an hourly, daily, weekly, monthly or yearly basis. Allegheny Power requests a waiver of notice requirements to make service available to Pennsylvania Power & Light Company as of a date authorized by the Commission.

Copies of the filing have been provided to the Public Utilities Commission of Ohio, the Pennsylvania Public Utility Commission, the Maryland Public Service Commission, the Virginia State Corporation Commission, the West Virginia Public Service Commission, and all parties of record.

Comment date: August 19, 1997, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 97–21108 Filed 8–8–97; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 1494–094]

Grand River Dam Authority; Notice of Availability of Environmental Assessment

August 6, 1997.

A final environmental assessment (FEA) is available for public review. The FEA is for an application for non-project use of project lands. The proposed application involves excavation of a boat channel for a private residence. The proposed action further involves expanding a previously approved excavation area. The FEA finds that with the inclusion of specific recommendations, approval of the proposed action would not constitute a major federal action significantly affecting the quality of the human environment. The proposed excavation site is located on the shore of the Pensacola Project reservoir, Grand Lake O' The Cherokees, near Horse Creek, in Delaware County, Oklahoma.

The FEA was written by staff in the Office of Hydropower Licensing, Federal Energy Regulatory Commission. Copies of the FEA can be viewed at the Commission's Reference and Information Center, Room 2A, 888 First Street, NE, Washington, DC 20426. Copies can also be obtained by calling the project manager, Patti Pakkala at (202) 219–0025.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 97–21109 Filed 8–8–97; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5873–2]

National Drinking Water Advisory Council; Notice of Open Meeting

Under section 10(a)(2) of Public Law 92–423, ''The Federal Advisory Committee Act,'' notice is hereby given that a meeting of the National Drinking Water Advisory Council established under the Safe Drinking Water Act, as amended (42 U.S.C.S300f *et seq.*), will be held on August 27, 1997, from 2 p.m. until 5 p.m. at the U.S. Environmental Protection Agency's Headquarters, Room 1209 East Tower, 401 M Street, S.W., Washington, D.C. 20460. Members of the Council will be participating by conference call. The meeting is open to the public, but due to past experience, seating will be limited.

The purpose of the meeting is to provide the Council with the recommendations from the Small Systems Working Group. The Council encourages the hearing of outside statements and will allocate one-half hour at each meeting for this purpose. Oral statements will be limited to five minutes, and it is preferred that only one person present the statement. Any outside parties interested in presenting an oral statement should petition the Council by telephone at (202) 260–2285 before August 22, 1997.

Any person who wishes to file a written statement can do so before or after a Council meeting. Written statements received prior to the meeting will be distributed to all members of the Council before any final discussion or vote is completed. Any statements received after the meeting will become part of the permanent meeting file and will be forwarded to the Council members for their information.

Members of the public that would like to attend the meeting, present an oral statement, or submit a written statement, should contact Ms. Charlene Shaw, Designated Federal Officer, National Drinking Water Advisory Council or Mr. Peter Shanaghan, Designated Federal Officer, Small Systems Working Group, U.S. EPA, Office of Ground Water and Drinking Water (4601), 401 M Street, SW, Washington, DC 20460. The telephone number is Area Code (202) 260–2285 or (202) 260–5813. Response through E-Mail, should be to either address, shaw.charlene@epamail.epa.gov or shanaghan.peter@epamail.epa.gov.

Dated: August 5, 1997.

Elizabeth Fellows,

Acting Director, Office of Ground Water and Drinking Water.

[FR Doc. 97–21139 Filed 8–8–97; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[OPP–30407B; FRL–5730–1]

Monsanto Company; Approval of a Pesticide Product Conditional Registration

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces Agency approval of an application to conditionally register the pesticide product CryIA(b) Form of the B.t.k. Insect Control Protein, containing a new active ingredient not included in any previously registered product pursuant to the provisions of section 3(c)(7)(C) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended.

FOR FURTHER INFORMATION CONTACT: By mail: Michael Mendelsohn, Regulatory Action Leader, Biopesticides and Pollution Prevention Division (7501W), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. CS51B6, Westfield Building North Tower, 2800 Crystal Drive, Arlington, VA 22202, (703) 308–8715; e-mail: mendelsohn.mike@epamail.epa.gov.

SUPPLEMENTARY INFORMATION:

Electronic Availability: Electronic copies of this document and the Fact Sheet are available from the EPA home page at the Environmental Sub-Set entry for this document under ''Regulations'' (http://www.epa.gov/fedrgstr/).

EPA issued a notice, published in the **Federal Register** of April 17, 1996 (61 FR 16781; FRL–5362–2), which announced that Monsanto Company, 700 Chesterfield Parkway North, St. Louis, MO 63198, had submitted an application to register the pesticide product CryIA(b) Form of the *Bacillus thuringiensis* subsp. *kurstaki* Insect Control Protein (EPA File Symbol 524–UOE), containing the new active ingredient *Bacillus thuringiensis* delta-endotoxin as produced in corn by a CryIA(b) gene and its controlling

sequences, an active ingredient not included in any previously registered product.

The application was approved on May 29, 1996, as CryIA(b) Form of the B.t.k. Insect Control Protein for seed propagation (EPA Registration Number 524–492). The chemical was amended to read ''*Bacillus thuringiensis* delta-endotoxin as produced by the CryIA(b) gene and the genetic material necessary for its production (PV-ZMCT01) in corn.''

A conditional registration may be granted under section 3(c)(7)(C) of FIFRA for a new active ingredient where certain data are lacking, on condition that such data are received by the end of the conditional registration period and do not meet or exceed the risk criteria set forth in 40 CFR 154.7; that use of the pesticide during the conditional registration period will not cause unreasonable adverse effects; and that use of the pesticide is in the public interest.

The Agency has considered the available data on the risks associated with the proposed use of *Bacillus thuringiensis* delta-endotoxin as produced by the CryIA(b) gene and the genetic material necessary for its production (PV-ZMCT01) in corn, and information on social, economic, and environmental benefits to be derived from such use. Specifically, the Agency has considered the nature and its pattern of use, application methods and rates, and level and extent of potential exposure. Based on these reviews, the Agency was able to make basic health and safety determinations which show that use of *Bacillus thuringiensis* delta-endotoxin as produced by the CryIA(b) gene and the genetic material necessary for its production (PV-ZMCT01) in corn during the period of conditional registration will not cause any unreasonable adverse effect on the environment, and that use of the pesticide is in the public interest.

This product is conditionally registered in accordance with FIFRA section 3(c)(7)(C). If the conditions are not complied with the registration will be subject to cancellation in accordance with FIFRA section 6(e).

Consistent with section 3(c)(7)(C), the Agency has determined that this conditional registration is in the public interest. Use of the pesticides are of significance to the user community, and appropriate labeling, use directions, and other measures have been taken to ensure that use of the pesticides will not result in unreasonable adverse effects to man and the environment.

More detailed information on this conditional registration is contained in an EPA Pesticide Fact Sheet on *Bacillus thuringiensis* CryIA(b) delta-endotoxin and the genetic material necessary for its production in corn.

A copy of the fact sheet, which provides a summary description of the chemical, use patterns and formulations, science findings, and the Agency's regulatory position and rationale, may be obtained from the National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, VA 22161.

In accordance with section 3(c)(2) of FIFRA, a copy of the approved label, the list of data references, the data and other scientific information used to support registration, except for material specifically protected by section 10 of FIFRA, are available for public inspection in the Public Information and Records Integrity Branch, Information Resources and Services Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 1132, CM #2, Arlington, VA 22202 (703–305–5805). Requests for data must be made in accordance with the provisions of the Freedom of Information Act and must be addressed to the Freedom of Information Office (A-101), 401 M St., SW., Washington, D.C. 20460. Such requests should: (1) Identify the product name and registration number and (2) specify the data or information desired.

Authority: 7 U.S.C. 136.

List of Subjects

Environmental protection, Pesticides and pests, Product registration.

Dated: July 30, 1997.

Janet L. Andersen,

Director, Biopesticides and Pollution Prevention Division, Office of Pesticide Programs.

[FR Doc. 97–21146 Filed 8-8-97; 8:45 am]
BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[PF–755; FRL–5736–1]

Notice of Filing of Pesticide Petitions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the initial filing of pesticide petitions proposing the establishment of regulations for residues of certain pesticide chemicals in or on various food commodities.

DATES: Comments, identified by the docket control number PF–755, must be received on or before September 10, 1997.

ADDRESSES: By mail submit written comments to: Public Information and Records Integrity Branch (7506C), Information Resources and Services Division, Office of Pesticides Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person bring comments to: Rm. 1132, CM #2, 1921 Jefferson Davis Highway, Arlington, VA.

Comments and data may also be submitted electronically by following the instructions under ''SUPPLEMENTARY INFORMATION.'' No confidential business information should be submitted through e-mail.

Information submitted as a comment concerning this document may be claimed confidential by marking any part or all of that information as ''Confidential Business Information'' (CBI). CBI should not be submitted through e-mail. Information marked as CBI will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments will be available for public inspection in Rm. 1132 at the address given above, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: The product manager listed in the table below:

Product Manager	Office location/telephone number	Address
George LaRocca (PM 13).	Rm. 204, CM #2, 703–305–6100, e-mail: larocca.george@epamail.epa.gov.	1921 Jefferson Davis Hwy, Arlington, VA
Mary Waller, Acting (PM 21).	Rm. 265, CM #2, 703–308–9354, e-mail: waller.mary@epamail.epa.gov.	Do.

Product Manager	Office location/telephone number	Address
James Tompkins, Acting (PM 25).	Rm. 239, CM #2, 703–305–5697, e-mail: tompkins.jim@epamail.epa.gov.	Do.

SUPPLEMENTARY INFORMATION: EPA has received pesticide petitions as follows proposing the establishment and/or amendment of regulations for residues of certain pesticide chemicals in or on various food commodities under section 408 of the Federal Food, Drug, and Comestic Act (FFDCA), 21 U.S.C. 346a. EPA has determined that these petitions contain data or information regarding the elements set forth in section 408(d)(2); however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data supports granting of the petition. Additional data may be needed before EPA rules on the petition.

The official record for this notice of filing, as well as the public version, has been established for this notice of filing under docket control number [PF–755] (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The official record is located at the address in ''ADDRESSES'' at the beginning of this document.

Electronic comments can be sent directly to EPA at:
opp-docket@epamail.epa.gov

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comment and data will also be accepted on disks in Wordperfect 5.1 file format or ASCII file format. All comments and data in electronic form must be identified by the docket number [PF–755] and appropriate petition number. Electronic comments on this notice may be filed online at many Federal Depository Libraries.

List of Subjects

Environmental protection, Agricultural commodities, Food additives, Feed additives, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: August 1, 1997.

Peter Caulkins,

Acting Director, Registration Division, Office of Pesticide Programs.

Summaries of Petitions

Petitioner summaries of the pesticide petitions are printed below as required by section 408(d)(3) of the FFDCA. The summaries of the petitions were prepared by the petitioners and represent the views of the petitioners. EPA is publishing the petition summaries verbatim without editing them in any way. The petition summary announces the availability of a description of the analytical methods available to EPA for the detection and measurement of the pesticide chemical residues or an explanation of why no such method is needed.

1. Bayer Corporation

PP 7E4825

EPA has received a pesticide petition (PP 7E4825) from Bayer Corporation, 8400 Hawthorn Road, Kansas City, MO 64120, proposing pursuant to section 408(d) of the Federal Food, Drug and Cosmetic Act, 21 U.S.C. 346a(d), to amend 40 CFR part 180 by establishing import tolerances for residues of the fungicide Tolylfluanid in or on the raw agricultural commodities apples and grapes at 5.0 parts per million (ppm), hops at 30 ppm and tomatoes at 1.0 ppm. EPA has determined that the petition contains data or information regarding the elements set forth in section 408(d)(2) of the FFDCA; however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data supports granting of the petition. Additional data may be needed before EPA rules on the petition.

A. Residue Chemistry

1. *Plant metabolism*. Plant metabolism studies were conducted using radiolabeled tolylfluanid applied to apples, grapes, and strawberries. Unchanged parent tolylfluanid was the major metabolite identified in these studies.

2. *Analytical method*. Bayer has developed an analytical method for the determination of tolylfluanid residues in raw agricultural and processed commodities of apples, grapes, tomatoes, and hops. Samples are analyzed by gas chromatography using thermionic nitrogen-phosphorus detector or flame photometric detector following extraction, filtration, and cleanup procedures. The limit of quantitation is 0.02 mg/kg for all matrices, except it is 0.05 mg/kg for raisins and wet apple pomace, 0.5 mg/kg for green hop cones, and 1.0 mg/kg for dried hop cones.

3. *Magnitude of residues*. Bayer has conducted over 90 residue field trials in seven countries on apples, grapes, tomatoes, and hops. Residues of tolylfluanid in or on grapes harvested 14, 21 or 35 days following treatment according to recommended practices ranged from 0.03 mg/kg to 3.45 mg/kg, except residues of tolylfluanid were 5.08 mg/kg in one sample from a trial conducted in Spain. Residues of tolylfluanid ranged from 0.03 mg/kg to 0.66 mg/kg in tomatoes harvested 3 or 7 days following multiple applications with tolylfluanid. Residues of tolylfluanid ranged from 0.14 to 2.31 mg/kg in or on apples harvested 7 days after multiple applications with tolylfluanid. Residues of tolylfluanid in or on hops harvested 14 days following multiple applications ranged from 3.31 mg/kg to 27.0 mg/kg (dried cone) and ranged from 3.8 mg/kg to 17.6 mg/kg (green cone).

Studies have also been conducted to evaluate the potential for concentration of tolylfluanid residues during the processing of apples, grapes, and tomatoes. Tolylfluanid does not have the potential to concentrate in the EPA required processed commodities consumed by humans for apples, grapes and tomatoes. Residues of tolylfluanid may have the potential to concentrate in wet apple pomace, an animal feed item.

B. Toxicological Profile

1. *Acute toxicity*. Tolylfluanid exhibits low acute oral, dermal, and inhalation toxicity (LD_{50s} >5,000 mg/kg b.w.). An acute neurotoxicity study showed no specific evidence of neurotoxicity; non-specific signs of toxicity were observed in this study (in females only) at doses at and greater than 150 mg/kg b.w. Tolylfluanid is a severe dermal irritant, moderately irritating to the eye, and a skin sensitizer. Tolylfluanid showed no systemic toxicity following subacute dermal administration, but did cause dermal irritation. Effects seen in the acute as well as subacute inhalation

study indicate tolylfluanid is a strong respiratory irritant.

2. *Genotoxicity*. The genotoxic potential of tolylfluanid was assessed in several *in vivo* and *in vitro* studies. The weight-of-the-evidence indicates that tolylfluanid is not genotoxic.

3. *Reproductive and developmental toxicity*. Tolylfluanid showed no evidence of developmental toxicity based on two rat developmental toxicity studies. Tolylfluanid showed evidence of developmental effects in rabbits but only at a maternally toxic dose level.

Two complete 2-generation reproductive toxicity studies in rats and one supplementary 2-generation reproductive toxicity rat study have been conducted on tolylfluanid. Reproductive toxicity (decreased body weight development in pups and decreased number of pups born, birth weight, litter size, and lactation index) was noted only in the presence of parental toxicity (decreased body weight gain, organ weight changes, and hyperostosis of the crania).

4. *Subchronic toxicity*. Subchronic toxicity studies have been done with tolylfluanid in rats and dogs. Decreased body weight gain, decreased liver enzymes, slightly increased relative liver weights, and thyroid toxicity were noted in a subchronic rat dietary study (no correlating histopathological findings). Decreased body weight gain, increased liver enzyme activity, slightly increased relative liver weights, and increased PAS staining in the liver occurred in a subchronic dietary dog study. A subchronic neurotoxicity study in rats showed no evidence of neurotoxicity.

5. *Chronic toxicity*. Chronic toxicity studies on tolylfluanid were done in the rat, mouse and dog. Tolylfluanid was tested in two rat chronic dietary studies. Increased growth of the incisors of the upper jaw and skeletal changes (hyperostosis in the skull and ribs) resulted from the high fluorine content of the compound. Hepatotoxicity and renal toxicity were seen in rats, mice, and dogs. Hepatotoxicity was evidenced by hepatocellular cytoplasmic changes, vacuolation, and focal fatty changes in rats, hepatocellular hypertrophy and single cell necrosis in mice, decreased liver enzymes in rats, and increased liver enzymes in mice and dogs. Renal toxicity (microscopic kidney lesions, increased relative kidney weights, effects on urinalysis parameters) was probably attributable to the effects of fluoride on renal tubules. A second chronic toxicity study in dogs is currently ongoing (results not yet available).

6. *Oncogenicity*. Tolylfluanid showed no evidence of direct oncogenic activity in rats or mice. In rats tolylfluanid altered thyroid hormone levels and an increased incidence of hyperplastic and neoplastic lesions of the thyroid (primarily adenomas) in rats was observed. The thyroid neoplasia is considered to be a secondary (thresholdable) effect to altered thyroidal iodine metabolism and does not suggest a direct oncogenic effect. No treatment-related neoplasms were seen in the mouse oncogenicity study.

Based on the chronic toxicity data, Bayer believes the RfD for tolylfluanid is 0.08 mg/kg, based on the no observed adverse effect level (NOAEL) of 8 mg/kg b.w./day for parental and reproductive toxicity identified in the second 2-generation rat reproductive toxicity study (Pinckel and Ricke, 1995) and an uncertainty factor of 100. No unique concern for toxicity to infants and children was identified, therefore an additional safety factor is not warranted. (Note there is a seven-fold difference between the NOAEL and lowest effect level (LEL).

Using the Guidelines for Carcinogenic Risk Assessment published in September 1986, we believe the Agency will classify tolylfluanid as a Group C carcinogen (possible human carcinogen) based on benign thyroid tumors seen in the chronic rat studies). Mechanistic studies with tolylfluanid have shown that these tumors are induced through a nonlinear threshold mechanism similar to that discussed in EPA's thyroid policy document. Therefore, tolylfluanid should be regulated using the margin of exposure approach.

7. *Animal metabolism*. Metabolism studies were conducted using hens and goats. No residues of parent tolylfluanid were detected in any tissues, organs, milk, or eggs. Tolylfluanid is metabolized and excreted rapidly and efficiently in mammals.

C. Aggregate Exposure

1. *Dietary exposure*. Food and drinking water/non-dietary exposure.

2. *Food*. A chronic dietary exposure analysis was conducted for tolylfluanid. The reference dose (RfD) was 0.08 mg/kg/day based on a NOEL of 8 mg/kg/day and an uncertainty factor of 100. The no observed effect level (NOEL) was obtained from the rat reproduction study and the effect was decreased pup viability and decreased body weights.

The RfD could change based on the NOEL from a repeat chronic dog toxicity study which is currently ongoing (doses tested: 5, 20, and 80 mg/kg/day). The final report for this study is expected to be completed in the second part of 1997. If necessary, revising the RfD will be addressed at that time.

Tolylfluanid does not have the potential to concentrate in processed commodities consumed by humans. The proposed MRLs for the respective crops were used for the raw agricultural and processed commodities for grapes (5 mg/kg), tomatoes, (1 mg/kg), and hops (30 mg/kg). The anticipated residue level for fresh apples and apple juice was calculated by adjusting the proposed MRL for apples (5 mg/kg) for the percentage of fresh apples (4.8%) and apple juice (59.7%) consumed in the U.S. that are imported. No adjustments were made for the anticipated residue levels for grapes, tomatoes and hops.

The results of the chronic dietary exposure analysis for the overall U.S. population and the three most highly exposed population subgroups are summarized as follows.. The exposure estimate was compared against the RfD of 0.08 mg/kg. The theoretical maximum residue contribution (TMRC) as percentage of the RfD, was 9.53% for the U.S. population, 53.36% for non-nursing infants, 38.02% for nursing infants (0-1 yr old), and 26.16% for children (1-6 yrs old). The anticipated residue contribution (ARC) as percentage of the RfD was 5.97% for the U.S. population, 23.29% for non-nursing infants, 15.41% for nursing infants and 15.10% for children. As seen above, chronic dietary exposure to tolylfluanid is less than 24% of the RfD for even the most highly exposed subgroup. In addition, these exposure estimates greatly over estimate the anticipated risk for the following reasons: (1) a relatively small percentage of these crops will be treated with tolylfluanid; (2) a small percentage of the treated crops are imported to the U.S.; (3) a small percentage of the total U.S. consumption of these crops are imported products; and (4) the actual residues in the imported commodities will likely be below the proposed MRLs.

3. *Drinking water*. Tolylfluanid residue levels in tap water, non-tap water, and water in commercially prepared food were assumed to be zero because tolylfluanid is not registered for use in the United States and therefore, the only exposure is from the importation of tolylfluanid-treated commodities.

4. *Non-dietary exposure*. Tolylfluanid is not registered in the United States, therefore there is no non-occupational, structural or residential exposure.

D. Cumulative Effects

Tolylfluanid is a fungicide that is somewhat structurally similar to

Captan, and appears to share a common mechanism of fungicidal action with this product. However, tolylfluanid does not show a similar mammalian toxicity profile to Captan, which has been reported to produce mouse gastrointestinal tumors and male rat kidney tumors. No significant cumulative toxicity to mammals based on a common mechanism of action to that of Captan is anticipated for tolylfluanid.

Tolylfluanid alters the thyroid hormone balance, but: (1) no data exist showing specifically how tolylfluanid causes thyroid changes; (2) tolylfluanid is not known to be structurally similar to other thyroid tumorigens; (3) no common mechanism has been established or proposed and (4) even if it is eventually determined that the mechanism for thyroid tumorigenesis may be similar to other classes of pesticides, this endpoint is seen with tolylfluanid only at very high exposure levels. If an RfD for tolylfluanid were based on dose levels at which thyroid hormone levels were altered, a very low impact on a cumulative risk cup would be anticipated because the potency of tolylfluanid is very low.

Endocrine effects. Endocrine-related effects of tolylfluanid exposure appear to be limited to the thyroid. No evidence of estrogenic or anti-estrogenic activity was present in the available animal studies. The developmental toxicity and reproductive toxicity studies showed no effects suggesting endocrine disruption, (e.g., change in fetal sex ratios, change in estrous cycles or mating performance, change in fertility, or malformed or altered reproductive organ development).

E. Safety Determination

1. *U.S. population*. A chronic dietary exposure analysis was conducted for tolylfluanid. The chronic dietary exposure to tolylfluanid is 5.97% of the RfD for the U.S. population, using the ARC.

2. *Infants and children*. A chronic dietary exposure analysis was conducted for tolylfluanid. The chronic dietary exposure to tolylfluanid is 23.29% of the RfD for non-nursing infants, the most highly exposed group, using the ARC.

F. International Tolerances

The current Codex tolerances for tolylfluanid are based on residues of parent only. The Codex tolerances are: 5 mg/kg for currents (black, red, and white), 2 mg/kg for Gherkins, 1 mg/kg for head lettuce, 5 mg/kg for pome fruits, 3 mg/kg for strawberries, and 2 mg/kg for tomatoes. (Mary Waller)

2. DowElanco

PP 5E4571

EPA has received a pesticide petition (PP 5E4571) from DowElanco, 9330 Zionsville Road, Indianapolis, IN 46268-1054, proposing pursuant to section 408(d) of the Federal Food, Drug and Cosmetic Act, 21 U.S.C. 346a(d), to amend 40 CFR part 180 by establishing a tolerance for residues of the herbicide, tebuthiuron and its related metabolites in or on the food commodities refined sugar and molasses at 0.05 parts per million (ppm) from treatment of sugarcane outside of the United States with tebuthiuron. The proposed analytical method involves homogenization, filtration, partition and cleanup with analysis by gas liquid chromatography using flame photometric detection. EPA has determined that the petition contains data or information regarding the elements set forth in section 408(d)(2) of the FFDCA; however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data supports granting of the petition. Additional data may be needed before EPA rules on the petition.

A. Residue Chemistry

1. *Plant metabolism*. The metabolism of tebuthiuron has been investigated in grasses. The residues of concern are the parent compound and its metabolites 103 (OH) N-[5-(2-hydroxy-1,1-dimethylethyl)-1,3,4-thiazol-2-yl]-N,N'dimethylurea, 104 N-[5-(1,1-dimethylethyl)-1,3,4-thiazol-2-yl]-N-methylurea, and 109 N-[5-(1,1-dimethylethyl)-1,3,4-thiazol-2-yl]-N'-hydroxymethyl-N-methylurea. Tebuthiuron and its metabolites 104 and 109 have been identified in sugarcane.

2. *Analytical method*. The method for enforcement of plant commodities tolerances is a GLC method with flame photometric detection. The stated detection limit for the parent compound and metabolites 103 (OH), 104 and 109 is 0.01 ppm.

Enforcement methods for milk and meat have been developed by DowElanco and have been submitted to the Agency as part of reregistration. An adequate method (GC/flame photometric detection) exists to determine tebuthiuron and some metabolites (104, 106, and 109) in milk and ruminant tissue. The new enforcement method is needed to determine additional metabolites of toxicological concern.

3. *Magnitude of residues*. Commercial sugarcane samples were collected from two major Brazilian sugarcane growing regions. Tebuthiuron had been applied at rates ranging from 750 to 1,500 g ai/ha. Most of the samples were collected approximately 12 months after treatment. Analysis for tebuthiuron and metabolites 104 and 109 occurred within 60 days of sample collection. No residues of tebuthiuron were found above the LOQ (0.01 ppm). In many samples there was no detection of metabolites. In samples at one site treated with 1,250 g ai/ha, however, there were residues of the combined metabolites at the LOQ.

B. Toxicological Profile

1. *Acute toxicity*. Tebuthiuron is classified as a Moderate (Category II) acute toxicant based upon the acute oral LD_{50} value in the rat (387-477 mg/kg) and rabbit (286 mg/kg. The LD_{50} for the dermal toxicity in the rabbit was greater than the limit dose of 5,000 mg/kg. The acute inhalation LC_{50} in the rabbit was greater than 3.696 mg/L. Tebuthiuron produced slight irritation (slight conjunctival hyperemia at 1 hour post-treatment; Category IV) and was not a dermal irritant (Category IV) or dermal sensitizer. The following table summarizes the acute toxicity profile of tebuthiuron.

Test	Species	Category
Oral	Mouse	III
	Rat, Rabbit	II
Dermal	Rabbit	IV
Inhalation	Rat	III
Eye Irritation	Rabbit	IV
Dermal Irritation	Rabbit	IV
Dermal Sensitization	Guinea Pig	none

2. *Genotoxicity*. Results from a battery of assays in vitro indicate that tebuthiuron is not genotoxic. It was inactive in the Ames S. typhimurium reverse gene mutation assay with or without metabolic activation. In the mouse lymphoma assay, tebuthiuron was negative without metabolic activation and slightly positive (mutation index of 2) with metabolic activation at doses 700 mg/mL. In this assay, cytotoxicity was observed at doses 200 mg/mL. In Chinese Hamster Ovary cells, there were chromosomal aberrations and cytotoxicity at the highest doses tested with (1,550 mg/mL) and without (1,950 mg/mL) metabolic activation. There was no Unscheduled DNA Synthesis in primary rat hepatocytes at 800 mg/mL, while cytotoxicity was observed at 900 mg/mL.

3. *Reproductive and developmental toxicity*. In a 3-generation reproduction study in which rats were fed 28 or 56 mg tebuthiuron/kg/day, F_{1b} weanling pups had reduced mean body weight gains. No reproductive no observed effect level (NOEL) could be determined from this study.

In a 2-generation reproduction study, rats were fed tebuthiuron at dietary levels of 100, 200 or 400 ppm (7, 14, 28 mg/kg/day). There was a reduced rate of body weight gain in the F_1 females during the premating period at the 14 and 28 mg/kg/day dose levels. The systemic NOEL of this study was 7 mg/kg/day and the reproductive NOEL was the highest dose tested (28 mg/kg/day). The RfD for tebuthiuron was determined to be 0.07 mg/kg/day based upon the systemic NOEL of this 2-generation reproduction study with a Safety Factor of 100.

In a developmental toxicity study in which rats were fed 0, 15, 30, or 45 mg tebuthiuron/kg/day, the maternal NOEL was 30 mg/kg/day based upon reduced body weight gain and food consumption. There were no adverse developmental effects observed in this study. The developmental NOEL was the highest dose tested (45 mg/kg/day).

Rabbits were administered 0, 10, or 25 mg tebuthiuron/kg/day by oral gavage on gestation days 6-18. The maternal toxicity NOEL was the highest dose tested (25 mg/kg/day). Although there was an apparent decrease in fetal weights at the highest dose, this was probably the result of an increased number of fetuses per litter in the highest dose group (5.7 fetuses/litter versus 4.4 fetuses/litter in controls). Therefore, no treatment-related adverse affects were attributed to tebuthiuron.

These studies indicate that tebuthiuron is not a developmental or reproductive toxicant.

4. *Subchronic toxicity*. Rats were exposed to tebuthiuron in the diet at the exposure levels of 0, 20, 50, or 125 mg/kg/day for 90 days. The NOEL was determined to be 50 mg/kg/day based upon reduced body weight, increased relative liver, kidney, and gonad weights, and slight vacuolization of pancreatic acinar cells at 125 mg/kg/day. In addition, males also had increased relative spleen and prostate gland weights at the highest dose.

Dogs were exposed to tebuthiuron in the diet for 90 days at 0, 500, 1,000, or 2,500 ppm. The NOEL was determined to be 500 ppm (12.5 mg/kg/day) based upon anorexia, weight loss, increases in blood urea nitrogen and alkaline phosphatase activity, and increases in spleen and thyroid gland weights at the LOEL value of 1,000 ppm (25 mg/kg/day).

Rabbits were exposed dermally to 1,000 mg tebuthiuron/kg/day for 6 hours a day for 21 days. Slight erythema occurred in these rabbits and resolved by day 7. The NOEL was less than 1,000 mg/kg/day.

5. *Chronic toxicity*. Dogs were fed tebuthiuron in capsules at doses of 0, 12.5, 25, or 50 mg/kg/day for 1-year. The NOEL was determined to be 25 mg/kg/day based upon the clinical signs of anorexia, diarrhea, and emesis as well as increased thrombocyte count, alanine transferase, and alkaline phosphatase activity, and increased liver, kidney, and thyroid weights at the LOEL value of 50 mg/kg/day.

Tebuthiuron was fed to 40 Harlan (Wistar) rats/sex/group at concentrations 400, 800, or 1,600 ppm (20, 40, or 80 mg/kg/day) for 2 years. There were 60 control rats/sex. The systemic NOEL value was 40 mg/kg/day and the lowest observed effect level (LOEL) value was 80 mg/kg/day based upon a reduction in weight gain and elevated kidney weights. There were no treatment-related carcinogenic effects.

In another study, tebuthiuron was fed to 40 Harlan (ICR) mice/sex/group at 400, 800, or 1,600 ppm (57, 144, or 228 mg/kg/day) for 2 years. There were 60 control mice/sex. The systemic NOEL value was the highest dose tested (228 mg/kg/day). Although there were no compound-related carcinogenic effects, the dose levels were judged to be inadequate for carcinogenic testing. This study was considered to be supplemental to the rat study by the Health Effects Division (HED) and the Reference Dose (RfD) Committee, and that no additional study would be required. The HED RfD Committee has classified tebuthiuron as a Group D carcinogen (not classifiable as to human carcinogenicity).

6. *Animal metabolism*. The metabolism of tebuthiuron has been investigated in ruminants. The residues of concern in milk and meat are the parent compound and its metabolites 104, 106 N-[5-(1,1-dimethylethyl)-1,3,4-thiazol-2-yl]-urea, 108 [2-dimethylethyl)-5-amino-1,3,4-thiadiazole], and 109.

The metabolism of radiolabelled tebuthiuron was conducted in four laboratory species (rats, rabbits, dogs, and mice) using a single administration by gavage of 10 or 160 mg/kg. In all four species, tebuthiuron was readily absorbed, metabolized, and excreted. In rats, rabbits and dogs, elimination in the urine accounted for 84% to 95% of the administered dose (the parent compound accounting for 0.4% to 0.7% of the dose). Biliary excretion was demonstrated in the rat. Mice excreted less radioactivity in the urine (66%; with 23% as unchanged parent compound) and more in the feces (31%) as compared with the other species examined. At least seven major metabolites were excreted in the urine, and there was no unusual tissue distribution of metabolites.

C. Aggregate Exposure

Tebuthiuron currently is registered for treatment of forage grasses and hay, therefore, potential dietary exposure to humans is from secondary residues in milk and meat from livestock which have consumed treated grasses. A chronic dietary exposure analysis was conducted for tebuthiuron using the existing tolerances of 0.3 ppm in milk and 2.0 ppm in meat and the proposed tolerance of 0.05 ppm in cane sugar and molasses. The exposure assessment included the worst-case assumptions that all ruminants and horses were fed treated grasses, and sugar and molasses available to consumers came from treated sugarcane. As tebuthiuron was detected in ground water at 23 ppb in a small scale monitoring study under a high exposure scenario, this value was used in all water in the consumption survey. In this estimation, exposure to the U.S. population from water sources represented 1.1% of the RfD (about 24% of total exposure to tebuthiuron). The following table summarizes the results from the chronic aggregate exposure analysis.

	Dietary Exposure (mg/kg BW/day)	% of Rfd
All Infants	0.004971	7.1%
Nurs. Infants < 1 yr	0.001859	2.7%
Non-nurs. Inf. < 1 yr	0.006429	9.2%
Children 1-6 yrs	0.005732	8.2%
Children 7-12 yrs	0.004376	6.3%
Females 13-50 yrs	0.002394	3.4%

As the RfD was based upon decreased body weight gains in the reproduction toxicity study, the subpopulations shown above represent the groups with the highest potential impact from this endpoint. This is a worst-case estimate based upon tolerance values and the assumption that all water sources will have the residue concentration that was found in the monitoring study. Even with these worst-case estimations, aggregate exposure levels were less than 10% of the RfD for any subpopulation.

D. Cumulative Effects

The potential for cumulative effects of tebuthiuron and other substances that have a common mechanism of toxicity was considered. The mammalian toxicity of tebuthiuron is well defined. However, the biochemical mechanism of toxicity of this compound is not well known. No reliable information exists to indicate that toxic effects produced by tebuthiuron would be cumulative with those of any other chemical compounds. Therefore, consideration of a common mechanism of toxicity with other compounds is not appropriate. Thus only the potential risks of tebuthiuron are considered in the aggregate exposure assessment.

E. Safety Determination

1. *U.S. population*. Based upon maximum expected residues in meat, milk, and refined sugar and molasses from sugarcane, DowElanco concludes that there is a reasonable certainty of no harm resulting from aggregate exposure of tebuthiuron to the general population.

2. *Infants and children*. The toxicological data indicate that tebuthiuron is not a developmental or reproductive toxicant, and that infants and children are not sensitive subpopulations. There is a reasonable certainty that no harm will result from aggregate exposure of tebuthiuron to infants and children.

F. International Tolerances

No Codex MRLs have been established or proposed for residues of tebuthiuron.

G. Endocrine Effects

An evaluation of the potential effects on the endocrine systems of mammals has not been determined; However, no evidence of such effects were reported in the chronic or reproductive toxicology studies described above. There was no observed pathology of the endocrine organs in these studies. There is no evidence at this time that tebuthiuron causes endocrine effects. (James Tompkins)

3. Merck Research Laboratories

PP 7F4844

EPA has received a pesticide petition (PP 7F4844) from Merck Research Laboratories, P.O. Box 450, Hillsborough Road, Three Bridges, NJ. The petition proposes, pursuant to section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a(d). that EPA amend 40 CFR part 180 to establish tolerances for pesticide chemical residues consisting of the insecticide abamectin (avermectin B_1) and/or its delat 8,9- isomers in or on the following food items: grapes, raisins, and other grape-derived food items at 0.02 parts per million (ppm) and chili peppers at 0.01 ppm. Abamectin has been approved by EPA for use on many other food crops, including various tree fruits, nuts, and vegetables (including bell peppers), as well as hops and cotton. Tolerances corresponding to these uses are in effect for abamectin residues (including a tolerance for bell peppers at 0.01 ppm); the most recent rule, reissuing tolerances for abamectin on citrus and cotton under the FFDCA as amended by the Food Quality Protection Act (FQPA), was published in the **Federal Register** on March 24, 1997 (62 FR 13833). A notice of filing with regard to that rulemaking had earlier been published on December 10, 1996 (61 FR 65043). The proposed analytical method involves homogenization, filtration, partition and cleanup with analysis by high performance liquid chromatography using UV detection. EPA has determined that the petition contains data or information regarding the elements set forth in section 408(d)(2) of the FFDCA; however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data supports granting of the petition. Additional data may be needed before EPA rules on the petition.

A. Residue Chemistry

1. *Plant metabolism*. The metabolism of abamectin in plants is adequately understood and the residues of concern include the parent insecticide, abamectin or avermectin B_1 (which is a mixture of a minimum of 80% avermectin B_{1a} and a maximum of 20% avermectin B_{1b}) and the delta 8,9-isomer of the B_{1a} and of the B_{1b} components of the parent insecticide. Animal metabolism also has been studied but is not relevant to this petition, since the crops involved are not significant animal feed items.

2. *Analytical method*. Practicable analytical methods (HPLC-fluorescence methods) are available to detect residues that would exceed the proposed tolerances, and for enforcement. The methods are sufficiently sensitive to detect residues at or above the tolerances proposed. All methods have undergone independent laboratory validation as required by PR Notice 88-5.

3. *Magnitude of residues*. In residue field trials on grapes, the highest residue combined values in day 28 (or later) samples was 6.7 ppb for abamectin B_{1a} plus its delta 8,9- photoisomer; there were no detectable levels of abamectin b_{1b} residues in any of the day 28 (or later) samples. In the two raisin samples the levels for abamectin B_{1a} ranged from 8.6 to 11.8 ppb. The residues did not concentrate in grape juice. These data support the proposed tolerance of 0.02 ppm for total toxic residues of abamectin on the RACs grapes, grape juice, and raisins and the proposed 28-day PHI.

For chili peppers the primary B_{1a} component and its photoisomer, the residues recovered on day 7 were all either nonquantifiable (less than 5 ng/g, but equal or greater to 2 ng/g) or nondetectable (less than 2 ng/g). These data support the proposed tolerance of 0.01 ppm for total toxic residues of

abamectin on the RAC chili peppers and the proposed 7-day PHI.

B. Toxicological Profile

All the toxicity data on which this petition is based have previously been submitted to EPA in support of other petitions, and were summarized in the recent notice of filing (61 FR 65043). In the recent final rule (62 FR 13833) EPA concluded that acute dietary exposure risk evaluations should be based on a no observed effect level (NOEL) of 0.06 mg/kg bw/day (mouse pup NOEL in a developmental toxicity study using the delta 8,9-isomer of abamectin) and that a margin of exposure of 300 should be required. EPA determined that chronic dietary exposure risk evaluations should be based on a reference dose (RfD) of 0.0004 mg/kg bw/day, derived from a 2-generation rat reproduction study with a NOEL of 0.12 mg/kg/day and an uncertainty factor of 300.

This petition contains a supplemental a document setting forth new acute exposure and chronic exposure and risk analyses that corrects previously submitted analyses to reflect newly available residue data on chili peppers (the previously submitted report used data on bell peppers only) and to reflect current Agency preferences regarding the handling of blended foods. The results of the old and new analyses are substantially similar.

C. Aggregate Exposure

1. *Dietary exposure*. The March 1997 rule was based on an exposure analysis submitted by Merck that included exposure attributable to grapes and peppers. The exposure contribution for chili peppers was calculated using data on bell peppers. With the present petition, Merck is submitting new residue data on chili peppers and a revised acute and chronic risk assessment that incorporates that data; the exposure levels have not changed significantly. The chronic exposure for the U.S. population at large is estimated to be 0.000006 mg/kg bw/day, and for children aged 1-6, the highest exposure group, chronic exposure is estimated to be 0.000014 mg/kg bw/day. The estimated acute exposure (at the 99.9th percentile level) is for the U.S. population at large, 0.000025 mg/kg bw/day.

2. *Drinking water*. In the final rule EPA also concluded that drinking water exposure assumptions were not of concern.

3. *Non-dietary exposure*. In the final rule published on March 24, 1997, EPA concluded that there is no likelihood of significant exposure from the registered residential indoor and outdoor nonfat use of abamectin. Approval of tolerances for grapes and chili peppers would not change that conclusion.

D. Cumulative Effects

Abamectin is a member of the avermectin family of natural and semi-synthetic compounds. Ivermectin, another member of that family, is very closely similar to abamectin in structural standpoint; it is used as a human and animal drug. Emamectin, a proposed new pesticide, is made from abamectin but is less similar to abamectin than is avermectin. These compounds are all Merck products. Other companies product certain other drugs have certain structural similarities. Merck in not aware of any information indicating what, if any, cumulative effect would result from exposure to two or more of these compounds. The March 1997 rule discussed cumulative effects and stated that in view of the lack of information on how to evaluate possible common mechanisms, it would not assume that abamectin has a common mechanism of toxicity with any other substance.

E. Safety Determination

In the recently issued final rule (62 FR 13833, March 24, 1997) EPA discussed analyses of risks from chronic and acute exposure for all existing or pending tolerances. Those analyses included exposure to grapes and peppers, among other previously-approved and then-pending uses. In the final rule, EPA found the risks to be acceptable, with regard to both the general U.S. population and with regard to infants and children. As noted earlier, Merck now has submitted specific residue data on chili peppers, but the exposure analyses are not significantly affected thereby.

F. International Tolerances

Codex has not issued abamectin tolerances for grapes and chili peppers. (George LaRocca)

[FR Doc. 97–21147 Filed 8–8–97; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

[FRL–5873–4]

Four Documents Required Under the Safe Drinking Water Act as Amended

AGENCY: Environmental Protection Agency.

ACTION: Notice of Availability.

SUMMARY: In this notice, the Environmental Protection Agency (EPA or the Agency) is publishing two documents, and announcing the public availability of three other documents. All the documents relate to provisions in the Safe Drinking Water Act, as amended in 1996 (SDWA), and were issued by the Agency on August 6, 1997.

The documents that can be obtained from the Agency are: (1) EPA 816–R–97–009, ''State Source Water and Assessment Guidance'' which is guidance for states to follow in developing state source water assessment and petition programs (SDWA sections 1453 and 1454); (2) EPA 816–R–97–010, ''Guidance for Future State Ground Water Protection Grants' which establishes procedures for application for state ground water protection program assistance and identifies key elements of state ground water protection programs (SDWA section 1429(b)); and (3) EPA–815–R–97–002, ''Small System Compliance Technology List for the Surface Water Treatment Rule'' which contains detailed information on the list of technologies published in this notice.

Published in this notice are the list of small system compliance technology that meets the Surface Water Treatment Rule (SWTR) for three population sizes of small drinking water systems as required by SDWA section 1412(b)(4)(E)(v) and alternative monitoring guidelines for states to follow in proposing alternative monitoring requirements for chemical contaminants as required by SDWA 1418(b)(2). The alternative monitoring guidelines are also available as a separate document, EPA 816–R–97–001.

DATES: The documents are available beginning August 6, 1997.

ADDRESSES: Copies of these documents are available from the Safe Drinking Water Act Hotline, telephone (800) 426–4791 or e-mail hotline-sdwa@epamail.epa.gov. Copies are also available from the Office of Water Resource Center (RC4100), U.S. EPA, 401 M Street, SW, Washington, DC 20460, (202) 260–7786. The Center is open from 8:30 a.m. until 5:00 p.m. Monday through Friday. The documents are available, as of August 6, 1997, on EPA's Web Site at the following address: ''http://www.epa.gov/OGWDW''.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. State Source Water Assessment and Protection Programs Guidance

The reauthorized SDWA, which was signed by President Clinton on August 6, 1996, established state source water assessment programs and state source water petition programs. The term ''source water'' denotes any ground or surface water supply source destined for use as public drinking water. A source water assessment program is required of all states with primary enforcement responsibility for administering drinking water programs and consists of delineating drinking water source protection areas and conducting contaminant source inventories and susceptibility analyses within those delineated areas. The source water petition program is voluntary for states, and consists of developing incentive-based voluntary management measures to reduce or eliminate threats to drinking water sources within assessed drinking water source protection areas. The SDWA requires EPA to publish guidance for both programs by August 6, 1997. This guidance was released in draft on April 8, 1997 for public review and comment. To solicit comments on the guidance EPA held 22 stakeholder meetings around the country. In addition, the agency received over 100 written comments as well as recommendations from the National Drinking Water Advisory Council. States have until February of 1999 (with a possible 18 month extension) to develop a source water assessment program utilizing a public participation process and submit it to the appropriate EPA regional administrator for approval.

The guidance document (EPA 816–R–97–009) is available from the Safe Drinking Water Act Hotline, telephone (800) 426–4791 or e-mail hotline-sdwa@epamail.epa.gov, the Office of Water Resource Center (RC4100), U.S. EPA, 401 M Street, SW, Washington, DC 20460, (202) 260–7786 and on EPA's Web Site at the following address: ''http://www.epa.gov/OGWDW''. For more information contact Roy Simon, phone: (202) 260–7777, E-mail: simon.roy@epamail.epa.gov.

II. Guidance for Future State Ground Water Protection Grants

Section 1429 of the SDWA as amended authorizes a new state grant program to encourage states to develop and implement programs to ensure the coordinated and comprehensive protection of ground water resources. The purpose of this guidance is to fulfill the statutory requirement to issue grants guidance for this program although the Administration has not yet requested nor has Congress appropriated funds for these grants. This guidance outlines EPA's approach for state ground water protection program assistance should funding be made available and identifies key elements of state ground water protection programs.

The guidance document (EPA–815–R–97–002) is available from Safe Drinking Water Act Hotline, telephone (800) 426–4791 or e-mail hotline-sdwa@epamail.epa.gov, the Office of Water Resource Center (RC4100), U.S. EPA, 401 M Street, SW, Washington, DC 20460, (202) 260–7786 and on EPA's Web Site at the following address: ''http://www.epa.gov/OGWDW''. For more information contact Denise Coutlakis at (202) 260–5558 or coutlakis.denise@epamail.epa.gov.

III. Small System Compliance Technology List for the Surface Water Treatment Rule

The SDWA, as amended, (Section 1412(b)(4)(E)(v)) requires EPA to list technologies that meet the SWTR for each of the three small system population size categories by August 6, 1997. EPA is also announcing the public availability of a guidance document entitled ''Small System Compliance Technology List for the Surface Water Treatment Rule'' (EPA 815–R–97–002) which contains the list in this notice accompanied by more detailed explanation.

Background

The SWTR was published in the **Federal Register** on June 29, 1989. It requires compliance with treatment techniques rather than a Maximum Contaminant Level (MCL). Section 1412(b)(7)(A) of SDWA specifies the conditions under which the Administrator can promulgate a treatment technique in lieu of an MCL. In those cases, the Administrator must identify those treatment techniques which, in the Administrator's judgement, would prevent known or anticipated adverse effects on the health of persons to the extent feasible. Section 1412(b)(4)(D) of SDWA states that ''the term 'feasible' means feasible with the use of the best technology, treatment techniques and other means which the Administrator finds, after examination for efficacy under field conditions and not solely under laboratory conditions, are available (taking cost into consideration)''.

The cost assessments for the feasibility determinations have historically been based upon impacts to regional and large metropolitan water systems serving populations greater than 50,000 persons. This standard was established when the SDWA was enacted in 1974 [H.R. Rep. No. 93–1185 at 18(1974)] and when the Act was amended in 1986 [132 Cong. Rec. S6287 (May 21, 1986)]. Since large systems served as the basis for the feasibility determinations, the technical and/or cost considerations associated with these technologies often made them inappropriate or unavailable for small water systems. The 1996 amendments to the SDWA specifically require EPA to make technology assessments for small systems for both existing and future regulations. The 1996 SDWA amendments list three population size categories of small public water systems: those serving 10,000–3,301 persons, 3,300–501 persons, and 500–25 persons.

The 1996 SDWA identifies two classes of technologies for small systems—compliance technologies and variance technologies. However, small system variances are not available for an NPDWR for a microbial contaminant (including a bacterium, virus, or other organism) or an indicator or treatment technique for a microbial contaminant [Section 1415(e)(6)(B)]. As a result, variance technologies will not be listed for these contaminants because the systems involved cannot receive a small system variance. The 1996 SDWA requires EPA to list compliance technologies for the SWTR for each of the three population size categories for the small systems by August 6, 1997 [Section 1412(b)(4)(E)(v)]. For other information on Technologies for Small Drinking Water Systems please contact Jeffrey Kempic, Phone: (202) 260–9567, Fax: (202) 260–3762 or Tara Cameron, Phone: (202) 260–3702, Fax: (202) 260–3762 at the U.S. Environmental Protection Agency.

Explanation of Effect of This List

1. Rationale for Guidance Instead of Regulation

The 1996 SDWA does not specify the format for the compliance technology lists. Section 1412(b)(15)(D) does state that the variance technology lists can be issued either through guidance or regulations. Moreover, since the listing provided in today's notice is informational and interpretative, it doesn't require any changes to existing rules or the promulgation of new ones. The purpose of this notice and the guidance referred to in this notice is to provide small systems with information concerning the types of technologies that comply with the SWTR requirements. This notice does not alter any of the SWTR requirements. Thus, EPA believes the compliance technology

list issued today is appropriately provided through this notice and guidance rather than through rulemaking.

The SWTR was published in the **Federal Register** on June 29, 1989. Even though many systems have already installed a treatment technology, there are systems that still need to select a treatment technology to comply with the SWTR. Since technology decisions for these systems will need to be made soon, meeting the August 6, 1997 deadline in the SDWA with respect to this list of technologies provides these systems with valuable information regarding their treatment technology options.

EPA has chosen to issue the list through this Notice and a guidance document because regulation development is unnecessary and could considerably delay publication of the list. Issuing the list without rulemaking will allow EPA to meet the deadline and to provide information to more small systems as they make their treatment technology decisions.

2. Relationship Between This Guidance and Regulatory Requirements; State Role

The SWTR lists four disinfection technologies and four filtration technologies that can be used by any size system. Those technologies and several new disinfection and filtration technologies have been evaluated as possible compliance technologies. Six technologies are listed today as small system disinfection compliance technologies.

The SWTR lists four types of approved filtration technologies. They are described in § 141.73(a)–(d): (a) conventional filtration treatment or direct filtration; (b) slow sand filtration; (c) diatomaceous earth filtration; and (d) other filtration technologies. A public water system could not use the fourth option unless it could demonstrate to the state, using pilot plant studies or other means, that the filtration technology, in combination with the disinfection treatment meets the three log removal requirement of Giardia and four log removal requirement of viruses.

For these alternative filtration technologies, there are typically two stages of evaluation prior to approval. The first stage is to determine if the process effectively removes/inactivates the contaminants of concern. The second stage is to determine if the individual system under consideration can effectively operate the process and to assess site-specific considerations that can affect the technology's performance. Under the SWTR, the filtration processes listed in § 141.73(a)–(c) already meet the first stage requirement and will generally have some degree of site-specific testing to meet the second stage. The ''other filtration technologies'' (§ 141.73(d)) have needed pilot testing to meet both criteria.

For the ''other filtration technologies'' on the SWTR compliance technology list, the national-level pilot testing for viability can be waived under § 141.73(d). National level pilot plant studies are just one mechanism identified in § 141.73(d) to demonstrate that the process is capable of meeting the goals of the SWTR. A filtration technology can be demonstrated using ''other means'' besides pilot testing. The alternative filtration technologies on the compliance technology list in today's notice have been demonstrated to EPA to be effective under § 141.73(d) and thus do not require national-level pilot testing for viability. This puts these new filtration technologies on the same footing as the technologies listed in § 141.73(a)–(c) regarding national-level pilot testing. A state may still require site-specific testing to assess factors that affect technology performance for all of the compliance technologies. A state may also still require testing to demonstrate that the system is capable of operating the process for all the compliance technologies.

For filtration technologies that are not on the compliance technology list, the existing mechanism in the SWTR for alternative filtration technologies can still be used. Pilot testing for viability could be required for these systems under § 141.73(d).

Explanation of List

1. Development of the Small System Compliance Technology List for the Surface Water Treatment Rule (SWTR)

The August 6, 1997, deadline necessitates that the SWTR small system compliance technology list be a very general expansion of the original SWTR technology list. The 1996 Safe Drinking Water Act does not specify the degree of specificity of this or any of the future small system compliance technology lists. This list will be followed by a revised SWTR compliance technology list to be published in August 1998, which will provide additional details about water quality requirements and other constraints for the listed technologies. Future lists may also include additional technologies not listed in this guidance because of current informational deficiencies with respect to the capabilities of those technologies. The SWTR small system compliance technology list will continue to evolve over time as updates are published.

2. Small System Compliance Technology Lists and Product-Specificity

The small system compliance lists will not be product-specific since EPA's Office of Ground Water and Drinking Water does not have the resources to review each product for each potential application; nor does EPA feel it would be appropriate to do so. However, information on specific products are expected to soon be available through another mechanism. The EPA Office of Research and Development has a pilot project under the Environmental Technology Verification (ETV) Program to provide technology purchasers with performance data generated by independent third parties. The EPA and National Sanitation Foundation International are cooperatively organizing and conducting this pilot project in part to address the needs of community water systems for verification testing of packaged drinking water treatment systems. The ETV pilot project includes development of verification protocols and test plans, independent testing and validation of packaged equipment, government/industry partnerships to obtain credible cost and performance data, and preparation of product verification reports for wide-spread dissemination.

3. The August 1998 Small System Compliance Technology List for the Surface Water Treatment Rule (SWTR)

When the small system compliance technologies list for the SWTR is updated in August 1998, it will be supplemented by information on applicability ranges and other issues that a water system should consider prior to selecting a disinfection or filtration technology. The level of detail that might be provided concerning these factors was discussed at a public meeting concerning technologies for small drinking water systems held on July 22 and 23, 1997, in Washington, DC. Additional information that could be incorporated into this list of compliance technologies includes: (1) Influent water quality range specificity and pre-treatment requirements; (2) an evaluation of log removal credits for technologies not originally listed in the SWTR; and (3) guidance on operation and maintenance requirements, waste disposal, and other technical concerns.

In addition to the technologies listed in today's notice, there are ''new'' technologies that merit consideration for small system application: advanced

oxidation or ''prozone'' (the combined use of ozone and hydrogen peroxide), pulsed ultraviolet radiation (UV), ultraviolet oxidation (the combined use of UV and chemical oxidants). These technologies will be evaluated in the future and, if found viable for small system applications, will be incorporated in the updated list.

EPA will also consider listing point-of-entry (POE) devices in future notices. However, there are several difficulties that would need to be overcome and questions answered before POE devices can be considered as viable treatment options for microbial contaminants. For instance, how would disinfection be applied? The National Research Council, a principal operating agency of the National Academy of Sciences advises that POE devices not be used for disinfection purposes since ''control of acute disease should be accomplished with the highest feasible degree of competence.'' (National Research Council. *Safe Water From Every Tap: Improving Water Service to Small Communities.* National Academy Press. Washington, DC. 1997). In addition, since disinfection following filtration is considered good engineering practice, the absence of disinfection following POE filtration devices presents a dilemma for the use of these devices. Finally, if POE devices were used despite such considerations, what would be the required monitoring frequency? Monitoring requirements may make POE devices inappropriate as small systems technologies for SWTR compliance.

EPA cannot consider point-of-use (POU) devices for the current list because section 1412(b)(4)(E)(ii) of the Safe Drinking Water Act specifically prohibits the use of POU devices as compliance technologies for any MCL or treatment technique requirement for microbial contaminants (or indicators of microbial contaminants).

4. Availability of a Guidance Document Regarding This Notice

This **Federal Register** Notice is supported by the guidance document entitled ''Small System Compliance Technology List for the Surface Water Treatment Rule.'' The guidance document may be obtained from EPA by calling the Safe Drinking Water Hotline at (800) 426–4791. It is also available through the Internet at <www.epa.gov/OGWDW/>.

The guidance document is organized into several chapters describing the listed small system compliance technologies for the SWTR. Chapter 1 discusses the requirements of the 1996 amendments to the SDWA and the approach EPA is following to meet those requirements. Chapter 2 discusses the list of technologies that were evaluated for the initial compliance technology list. Chapter 3 discusses the technologies that require further evaluation over the next year. This chapter also discusses some of the criteria that may be evaluated over the next year for the approved compliance technologies so that applicability ranges can be developed.

July 22–23, 1997 Stakeholder Meeting

EPA held a stakeholder meeting on July 22 and 23, 1997. The meeting took place at RESOLVE, 1255 23rd Street, N.W., Washington, D.C. Approximately 60 people registered and participated at the meeting. Those who participated included representatives from States, water systems and equipments manufacturers. One subject discussed at this stakeholder meeting was the draft guidance document, ''Small System Compliance Technology List for the SWTR.'' The three major goals of the meeting were: (1) to inform stakeholders of the initial list of compliance technologies for the SWTR, (2) to seek input on technologies that are not on the list because of a concern about feasibility, and (3) to seek input on the level of detail needed to describe compliance technologies in the updated list. Stakeholders were asked to review the list of compliance technologies for the three size categories of small systems. The major changes between the stakeholder draft of the list of technologies and the list in today's notice is that several of the technologies that were not listed or were not listed for all size categories have now been listed for all size categories. In the stakeholder draft, EPA did not list technologies because of treatment system implement ability or performance consistency concerns. Several stakeholders indicated that they preferred that EPA list the technologies along with the concerns rather than exclude these technologies from the list. Some stakeholders also expressed a desire for the compliance technology list to provide more technology options for an individual system that could be capable of operating a more complex technology. Many stakeholders felt that the consistency concerns could be addressed through the site-specific pilot testing that can be required by the state. EPA agrees with these comments and today's notice reflects this change in approach.

List of Compliance Technologies for the SWTR

The following tables contain the initial list of compliance technologies for the SWTR for the three small system size categories. A description of each technology can be found in the guidance document. The three population size categories of small public water systems as defined in the SDWA are those serving: 10,000—3,301 persons, 3,300—501 persons, and 500—25 persons. The technologies are listed for all three size categories; however, systems should examine the ''Limitations'' column before selecting a technology. This column contains information that could limit the applicability of the technology for some systems within a size category or categories.

Water treatment plant operator skills vary with each piece of unit technology. The tables for filtration and disinfection technologies include a skill level for each technology ranging from basic to advanced. For a piece of unit technology that requires ''basic operator skill'', an operator with minimal experience in the water treatment field can perform the necessary system operation and monitoring if provided with written instruction. ''Intermediate operator skill'' implies that the operator understands the principles of water treatment and has a knowledge of the regulatory framework. ''Advanced operator skill'' implies that the operator possesses a thorough understanding of the principles of system operation, including water treatment and regulatory requirements. The ''operator skill level required'' column in the tables refers to the skill level needed for the unit technology. If pretreatment is required, the required operator skill levels will likely increase.

These lists will be updated in August 1998 and may include new technologies or additional information.

SWTR COMPLIANCE TECHNOLOGY TABLE: FILTRATION

Unit technologies [1]	Limitations (see footnotes)	Raw water quality range [2]	Operator skill level required [2]
Conventional Filtration (includes dual-stage and dissolved air flotation).	([d])	Wide Range	Advanced.
Direct Filtration (includes In-line Filtration)	([d])	High quality	Advanced.
Diatomaceous Earth Filtration	([e])	Very high quality or pre-treatment	Intermediate.
Slow Sand Filtration	([f])	Very high quality or pre-treatment	Basic.
Reverse Osmosis Filtration	N/A	Requires pre-filtration for surface waters	Advanced.
Nanofiltration	N/A	Very high quality or pre-treatment	Basic.
Ultrafiltration	N/A	Very high quality or pre-treatment	Basic.
Microfiltration	N/A	High quality or pre-treatment	Basic.
Bag Filtration	([g])	Very high quality or pre-treatment	Basic.
Cartridge Filtration	([g])	Very high quality or pre-treatment	Basic.

[1] New technologies added by this notice in italics.
[2] National Research Council (NRC) *Safe Water From Every Tap: Improving Water Service to Small Communities*. National Academy Press. Washington, DC. 1997.

SWTR COMPLIANCE TECHNOLOGY TABLE: DISINFECTION

Unit technologies [3]	Limitations (see footnotes)	Raw water quality range [4]	Operator skill level required [2]
Free Chlorine	([a])	All, but better with high quality	Basic.
Ozone	N/A	All, but better with high quality	Intermediate.
Chloramines	([b])	All, but better with high quality	Basic.
Chlorine Dioxide	([c])	All, but better with high quality	Intermediate.
Mixed-Oxidant Disinfection	N/A	All, but better with high quality	Basic to Intermediate.
Ultraviolet (UV) radiation	N/A	Visual clarity; suspended and dissolved materials can impede performance [5].	Basic.

[3] New technologies added by this notice in italics.
[4] National Research Council (NRC). *Safe Water From Every Tap: Improving Water Service to Small Communities.* National Academy Press. Washington, DC. 1997.
[5] U.S. Environmental Protection Agency. Ultraviolet Light Disinfection Technology in Drinking Water Application: An Overview. Office of Water. EPA 811–R–96–002 (1996).

Limitations Footnotes to SWTR Compliance Technology Tables

[a] Chlorine is available in several forms: solid, liquid, and gaseous. Gaseous chlorine, due to its hazardous nature, requires special handling and storage care. Special training of operators is recommended.

[b] Chloramine disinfection requires careful monitoring of the ratio of added chlorine to ammonia. Chloramines also possess less potency than other disinfectants and thus need longer CTs.

[c] The process of generating chlorine dioxide is complicated and requires intermediate operator skill. Because of this complexity and the high monitoring requirements, this technology may not be appropriate for many small water systems.

[d] Involves coagulation. Coagulation chemistry requires advanced operator skill and extensive monitoring. A system needs to have direct full-time access or full-time remote access to a skilled operator to use this technology properly.

[e] Filter cake should be discarded if filtration is interrupted. For this reason, intermittent use is not practical. Recycling the filtered water can remove this potential problem.

[f] Water service interruptions can occur during the periodic filter-to-waste cycle, which can last from six hours to two weeks.

[g] Site-specific pilot testing prior to installation of a bag or cartridge filter likely to be needed to ensure adequate performance.

IV. Alternative Monitoring Guidelines for Chemical Contaminants Overview

These guidelines for alternative monitoring, formerly referred to as Permanent Monitoring Relief (PMR), are being issued pursuant to section 1418(b) of the Safe Drinking Water Act (SDWA), which requires the Environmental Protection Agency (EPA) to issue guidelines for states to follow in proposing alternative monitoring requirements for chemical contaminants. Congress recognized that as a state gains a better understanding of the contamination sources that may affect the quality of a drinking water supply, the state would be in an appropriate position to tailor the monitoring requirements for the system while continuing to provide effective public health protection. The SDWA, therefore, provides that a state may allow a system to implement the alternative monitoring offered by these guidelines, if the state has an approved source water assessment program, and has completed a source water assessment for that system. The SDWA further requires EPA to issue guidance for states to use in meeting these source water assessment requirements, and directs EPA to issue the source water assessment guidance at the same time as these alternative monitoring guidelines. Accordingly, the source water assessment guidance was also issued on August 6, 1997 as described earlier in this notice.

On July 3, 1997, EPA published draft guidelines in the **Federal Register** [62 FR 36100] in conjunction with an Advance Notice of Proposed Rule Making (ANPRM) for revising the federal chemical monitoring requirements (then referred to as Chemical Monitoring Reform). The draft guidelines were included in that notice in order to consolidate all of the draft changes to the federal provisions for chemical monitoring into a single document. These alternative monitoring guidelines have been developed after considering timely public comments received on the draft guidelines.

EPA mentioned in the July 3, 1997 notice that regulations might be needed in order to implement fully the alternative monitoring guidelines. Pursuant to the statute, alternative monitoring must assure compliance

with applicable national primary drinking water regulations. To permit states to implement monitoring provisions that differ from the current requirements, EPA plans to propose alternative monitoring as regulations in conjunction with the proposal of the CMR regulations. Until such time as the provisions for alternative monitoring have been promulgated as regulations, these guidelines do not impose legally binding requirements on EPA, states or the regulated community. In compliance with the SDWA Amendments of 1996, they are intended to assist states in developing source water assessment programs that will generate the information to enable states to offer alternative monitoring to water systems in appropriate circumstances. EPA expects to issue final regulations for CMR and alternative monitoring in a single regulation for monitoring revision by August 6, 1998. This time frame for regulatory support of alternative monitoring should not pose a hardship for the states or public water systems (PWSs). It will take some time for many states to comply with the statutory pre-requisites concerning source water protection for granting alternative monitoring to its public water systems.

Under Section 1418(b) of the SDWA, the alternative monitoring guidelines must ensure that the public health will be protected from drinking water contamination, that a state program will apply on a contaminant-by-contaminant basis and that a public water system must show the state that the contaminant is not present in the drinking water supply or, if present, is reliably and consistently below the maximum contaminant level. The guidelines must further require that if a contaminant is detected at levels at or above the maximum contaminant level or is no longer reliably or consistently below the maximum contaminant level, the system must either demonstrate that the contamination source has been removed or that other action has been taken to eliminate the contamination or test for the detected contaminant according to the applicable national primary drinking water regulation.

The SDWA further provides that the alternative monitoring shall not apply to regulated microbiological contaminants (or indicators thereof), disinfectants and disinfection by-products, or corrosion by-products. The guidelines apply to the chemicals listed in the following table and to nitrate, as described in the sections below.

Chronic Chemical Contaminants

Inorganic Chemicals (IOCs):
[1] Antimony, [2] Arsenic, [3] Asbestos, [4] Barium, [5] Beryllium, [6] Cadmium, [7] Chromium, [8] Cyanide, [9] Fluoride, [10] Mercury, [11] Nickel, [12] Selenium, [13] Thallium.

Synthetic Organic Chemicals (SOCs):
[1] 2,4-D (Formula 40 Weeder 64); [2] 2,3,7,8-TCDD (Dioxin); [3] 2,4,5-TP (Silvex); [4] Alachlor (Lasso); [5] Atrazine; [6] Benzo[a]pyrene; [7] Carbofuran; [8] Chlordane; [9] Dalapon; [10] Di(2-ethylhexyl)adipate; [11] Di(2-ethylhexyl)phthalate; [12] Dibromochloropropane (DBCP); [13] Dinoseb; [14] Diquat; [15] Endothall; [16] Endrin; [17] Ethylene dibromide (EDB); [18] Glyphosate; [19] Heptachlor epoxide; [20] Heptachlor; [21] Hexachloro-cyclopentadiene; [22] Hexachlorobenzene; [23] Lindane; [24] Methoxychlor; [25] Oxamyl (Vydate); [26] Pentachlorophenol; [27] Picloram; [28] Polychlorinated Biphenyls (PCBs); [29] Simazine; [30] Toxaphene.

Volatile Organic Chemicals (VOCs):
[1] 1,1-Dichloroethylene; [2] 1,1,2-Trichloroethane; [3] 1,1,1-Trichloroethane; [4] 1,2,4-Trichlorobenzene; [5] 1,2-Dichloropropane; [6] 1,2-Dichloroethane; [7] Benzene; [8] Carbon tetrachloride; [9] cis-1,2-Dichloroethylene; [10] Dichloromethane; [11] Ethylbenzene; [12] Monochlorobenzene; [13] o-Dichlorobenzene; [14] p-Dichlorobenzene; [15] Styrene; [16] Tetrachloroethylene; [17] Toluene; [18] trans-1,2-Dichloroethylene; [19] Trichloroethylene; [20] Vinyl Chloride; [21] Xylenes.

After weighing the statutory requirements and considering public comment, EPA is providing states the option of offering three forms of alternative monitoring: monitoring waivers, surrogate sampling and reduced nitrate monitoring. These forms are described in detail below. For waivers and surrogate sampling, EPA considers ½ of the MCL the highest concentration at which a contaminant may be judged to be reliably and consistently < MCL, especially considering that five year renewable waivers could mean that the system would not be required to sample for a 10 year period or longer. For nitrate, EPA considers 2 mg/L as the threshold for determining that a system is reliably and consistently < MCL. Although 2 mg/L is 20% of the MCL, it was selected because nitrate has acute health effects and a greater safety factor is appropriate to provide effective public health protection from drinking water contamination.

A state with an approved source water assessment program may complete the source water assessments for a specific contaminant and grant alternative monitoring for that contaminant, even if the state has not yet completed assessments for the remaining contaminants. Although the SDWA specifies that the monitoring program apply on a contaminant by contaminant basis, states are not precluded from conducting area-wide assessments covering many systems and may, therefore, grant alternative monitoring to all the systems in the area-wide assessment consistent with the results of the assessment.

States are expected to incorporate the information gathered through the source water assessments in making waiver decisions, in designating surrogate sampling points and in conducting analyses to support reduced nitrate sampling. States are also expected to review changes to the conditions on which these forms of alternative monitoring are based before renewing them. An update to the source water assessment may provide this information. States are, therefore, encouraged to integrate the activities required for decisions related to alternative monitoring and the very similar activities supporting the source water assessment program to make them complementary.

Specific Alternative Monitoring Provisions and Criteria

States may offer alternative monitoring under Sections A and B for the sixty four (64) contaminants listed in the table above, and under Section C for nitrate.

Section A—Sampling Waivers for Chronic Contaminants

(1) State Findings Required for Waivers: A state may grant a waiver allowing a system to forgo sampling during a five year monitoring period, if the state, at a minimum, makes one of the following determinations:

(a) The sampling point is *free of contamination* and there is a high probability that it will remain so during the term of the waiver. A state may not make this determination, if the contaminant has been detected within the source water review area of the

sampling point within the last five years; or

(b) The contaminant level will remain reliably and consistently below the MCL during the sampling period based on a finding that:

(i) The natural occurrence levels are stable and the contaminant does not occur because of human activity; or

(ii) All the sources of potential contamination within the source water review area: have been identified, brought under control, and will pose no increased or additional risk of contamination to the source water withdrawal point during the sampling period; and the contaminant levels have peaked based on the history of sampling results and the duration of the contaminant in the environment; or

(iii) The treatment at the sampling point is properly operated and maintained, and is working reliably and effectively; and

(iv) The highest contaminant levels are < ½ MCL.

(2) General Considerations : In making waiver decisions the state should, at a minimum, consider the following factors.

(a) The fate and transport of the contaminant;

(b) The patterns of contaminant use;

(c) The location of potential contamination sources within the source water review area;

(d) The hydrogeologic features within the source water review area;

(e) The integrity of the structures delivering source water to the sampling point;

(f) The results of all source water assessments that have been completed within the source water review area;

(g) The efficacy of any source water protection measures that have been enacted, and;

(h) For waivers based on the contaminant remaining reliably and consistently below the MCL for the sampling period, the relationship of the sampling results to the MCL, the variability of the sampling results over time, and the trend of the sampling results.

(3) System Responsibility: Each water system granted a sampling waiver under this paragraph should notify the state within 30 days of the time it first learns of any change in any of the conditions under which a waiver was granted.

(4) State Review of Waiver Determinations: The state should review its decision to grant or renew a waiver, whenever it learns of a change in the circumstances upon which the waiver was granted. The state may amend the terms of a waiver, or revoke a waiver at any time.

(5) Waiver Renewals: A state may renew a sampling waiver by making the same determination it made to initially grant the waiver, after reviewing current assessments of the factors that are subject to change during the term of the waiver, and that affect the finding(s) upon which the waiver is based.

(6) Waivers for Cyanide: Before granting a waiver for cyanide, the state should determine whether cyanide is present in the system's source water.

Section B—Surrogate Sampling Points

A State may allow a system, or several systems, to use the monitoring results from the sampling point(s) designated by the state as surrogate point(s), if the state determines that the source water serving the surrogate sampling points is drawn from the most vulnerable portion of the same contiguous source water.

(1) Intra-system Surrogate Sampling: For designating surrogate sampling points within one system, the state should consider a sufficient record of the pertinent information below and the results of the source water assessments that have been completed under section 1453 of the Safe Drinking Water Act:

(a) Monitoring data demonstrating that the sampling results are <½ MCL;

(b) Well log or surface water hydrology data demonstrating that the points to be included in the surrogate sampling point program draw from the same contiguous source water; and

(c) An inventory of the potential contamination sources within the source water review area affecting all the sampling points to be included in the surrogate sampling point program.

The state should also require the system to periodically validate the results of the surrogate sampling points. For example, where one sampling point among three in a small system has been designated as the surrogate point, the state might require the other two points to rotate the sample every five years.

(2) Inter-system Surrogate Sampling: For designating surrogate sampling points among systems, a state first needs to receive EPA approval of its criteria and procedures for implementing an Inter-system Surrogate Sampling Point Program, that meets the criteria of this paragraph. Two or more systems may use the monitoring results from surrogate sampling points designated by the state, based on a complete assessment of the contiguous source water that has been approved by the state and that describes:

(a) The requirements for validation sampling (For example, where several sampling points among dozens in several systems have been designated as the surrogate points, the state might require the next most vulnerable tier of sampling points to ''round robin'' the sample every five years. This could significantly reduce the overall sampling burden.) ;

(b) The location of potential contamination sources that could affect any of the community water systems or non-transient, non-community water systems drawing from the contiguous source water.

(c) The hydrogeologic features of the contiguous source water; and

(d) The relationships among potential contamination sources, the hydrogeologic features and the source water withdrawal points, with particular regard to their relative locations.

(3) Validation Sampling: Whenever the sampling results at a surrogate point are ≥½ of the MCL, the state should require the systems to conduct validation sampling at each of the points represented by that surrogate point. Surrogate sampling should be discontinued for that sampling point, and for any sampling points that it represents, if the contaminant is ≥½ MCL. The state should then decide which sampling points to target for increased sampling, which, if any, to default to once every five years, and which, if any, may be appropriate for a smaller surrogate sampling arrangement.

(4) System Responsibility: Each system should notify the state within 30 days of the time it first learns of any change in any of the conditions under which any surrogate sampling point has been designated.

(5) State Review of Surrogate Sampling Point Designations: The state should review its decision to designate any surrogate sampling point, whenever it learns of a change in the circumstances upon which the point was designated.

Section C—Reduced Nitrate Sampling

States may reduce the nitrate monitoring frequency from annual to biennial for a sampling point served exclusively by ground water.

(1) State Findings: States should allow this reduction in nitrate sampling only under the following conditions:

(a) *Maximum Allowed Concentration:* Nitrate measured as N has not exceeded a concentration equal to or greater than 2 milligrams per liter at any time during the past ten years; and

(b) *Integrity of Structures & Equipment:* The state has determined that the design and construction of the structures and equipment delivering water from the wellhead to the distribution system fully comply with

current state code for such structures and equipment; and

(c) *Freedom from Surface Water Intrusion:* The state has determined that the ground water serving the sampling point is not under the direct influence of surface water, and is not susceptible to significant changes in contamination levels during the period for which the sampling would be reduced e.g., not a shallow well, not in fractured bedrock; and

(d) *State Determination:* The state has determined that (a) nitrate sampling is not required as a precursor to microbial or viral contamination, (b) land uses, or relevant land use based conditions (such as the effective operation of septic systems) in the area affecting the sampling point are unlikely to change in a way that would increase the risk of nitrate contamination, and (c) any contamination at the sampling point is unlikely to exceed the 2 mg/l during the reduced sampling period.

(2) Effect of Detection ≥2 mg/l: If nitrate is detected at ≥2 mg/l, measured as N, the system would return to an annual sampling frequency under the state requirements adopted pursuant to the national primary drinking water regulations; and

(3) System Responsibility & State Review: Each system should notify the state within 30 days of the time it learns of any change the conditions under which the reduced sampling for nitrate has been allowed, particularly of any change in land use practices. The state will review its decision to reduce the sampling frequency, whenever it learns of a change in the circumstances upon which its decision was based.

Section D—Definitions

(1) Contiguous source water means, for the purposes of these guidelines, a source or several inter-connected sources of public drinking water:

(a) Comprised of surface water, or ground water, or ground water under the direct influence of surface water, or any combination thereof, that serves two or more source water withdrawal points; and

(b) From within which contamination that can reach any one of the source water withdrawal points, can also reach any of the other source water withdrawal points.

(2) Monitoring period means the period during which water systems are required under federal regulations to take at least one sample.

(3) Source Water Review Area (SWRA) means the surface and subsurface area within which a contaminant can reach the source water withdrawal point, or any point between it and the entry point to the distribution system (e.g., an aqueduct), during the time between regularly scheduled samples. The size and shape will vary depending upon several factors, including the sampling period, the hydrogeologic features within the area, and particularly a specific contaminant's fate and transport. Where systems use ground water, the SWRA could be the Source Water Protection Area (SWPA) established under the Safe Drinking Water Act, where the SWPA is based on a time of travel delineation consistent with the sampling period i.e., 5 years. For surface water, the SWRA is the watershed upstream of the source water withdrawal point.

(4) Surrogate sampling points mean the sampling point(s) within a group of sampling points: within one water system e.g., under a Wellhead Protection Program, that meets the criteria for intra-system surrogate sampling point designations; or within a group of water systems, that are designated by the state as the most vulnerable to contamination and, therefore, can be used to represent all the sampling points within the group.

(5) Validation sampling means sampling at one or more points represented by surrogate sampling points, in order to verify that the surrogate points are representative of those sampling points.

State Adoption and EPA Approval of Alternative Monitoring

The Act specifies that state alternative monitoring provisions will be treated as ''applicable'' national primary drinking water regulations, which means they must be enforceable under both state and federal law.[1] The Act defines an enforceable state requirement as a ''state program approved pursuant to this part.'' [2] In order to assure that the state alternative monitoring provisions will be federally enforceable, EPA will review and approve the state program. Therefore, any state adoption of alternative monitoring requirements must be at least as stringent as the federal program and adhere to each of the following steps.

(1) State Program Description: The State will describe the information it will review, and its procedures and decision criteria for issuing waivers under Section A, designating surrogate sampling points under Section B, or allowing systems to sample biennially for nitrate under Section C. At a minimum, the State Program Description should include the criteria under Sections A–C (respectively) for each form of alternative monitoring that the state proposes to offer, and specify that the state will retain a record of the most recent vulnerability determination for each sampling point, including:

(a) Those resulting in a decision to grant a sampling waiver under Section A;

(b) Those resulting in a decision to allow the use of intra-system surrogate sampling points under Section B(1); and

(c) Those resulting in the approval of source water assessments and the location of geographically targeted sampling points based on those source water assessments under Section B(2).

(2) Notice and Comment: The state should provide notice and opportunity for public comment on the state program.

(3) Attorney General Certification: The Attorney General needs to certify in writing that the alternative state monitoring requirements were duly adopted under state law, are enforceable under state law, and provide adequate authority to meet EPA's alternative monitoring guidelines.

(4) State source water assessment program: The state must obtain EPA approval of its source water assessment program.

(5) EPA Review & Decision: Under section 1428(c)(1), a state's program submittal will be reviewed in conformance with 40 CFR 142.10 through 142.12.

(6) EPA Review of State Determinations: A regional administrator may annul a state decision to grant a waiver, to designate a surrogate sampling point, or to reduce nitrate sampling, under the procedures specified in 40 CFR 142.18.

(7) State Reporting: EPA will address state reporting requirements in the subsequent rulemaking for Chemical Monitoring Reform, which will incorporate these guidelines.

Dated: August 5, 1997.

Robert Perciasepe,

Assistant Administrator, Office of Water, Environmental Protection Agency.

[FR Doc. 97–21140 Filed 8–8–97; 8:45 am]

BILLING CODE 6560–50–P

[1] See section 1418(c).

[2] See section 1414(l)(4).

FEDERAL COMMUNICATIONS COMMISSION

Sunshine Act Meeting

August 7, 1997.

Additional Item To Be Considered at Open Meeting Thursday, August 7, 1997

The Federal Communications Commission will consider an additional item on the subject listed below at the Open Meeting scheduled for 9:30 a.m., Thursday, August 7, 1997, at 1919 M Street, N.W., Washington, D.C.

Item No.	Bureau	Subject
2	International	Title: International Settlement Rates (IB Docket No. 96–261). Summary: The Commission will consider action concerning revised settlement rate benchmarks to assist U.S. international carriers in negotiating settlement rates that are more closely related to the costs incurred by foreign carriers.

The prompt and orderly conduct of the Commission business requires that less than 7-days notice be given consideration of this additional item.

Action by the Commission August 7, 1997, Chairman Hundt and Commissioners Quello, Ness and Chong voting to consider this item.

Additional information concerning this meeting must be obtained from Maureen Peratino or David Fiske, Office of Public Affairs, telephone number (202) 418–0500.

Copies of materials adopted at this meeting can be purchased from the FCC's duplicating contractor, International Transcription Services, Inc. (ITS, Inc.) at (202) 857–3800 or fax (202) 857–3805 and 857–3184. These copies are available in paper format and alternative media which includes, large print/type; digital disk; and audio tape. ITS may be reached by e-mail:its__inc@ix.netcom.com. Their Internet address is http://www.itsi.com.

This meeting can be viewed over George Mason University's Capitol Connection. For information on this service call (703) 993–3100. The audio portion of the meeting will be broadcast live on the Internet via the FCC's Internet audio broadcast page at <http://www.fcc.gov/realaudio/>. The meeting can also be heard via telephone, for a fee, from National Narrowcast Network, telephone (202) 966–2211 or fax (202) 966–1770; and from Conference Call USA (available only outside the Washington, D.C. metropolitan area), telephone 1–800–962–0044. Audio and video tapes of this meeting can be obtained from the Office of Public Affairs, Television Staff, telephone (202) 418–0460, or TTY (202) 418–1398; fax numbers (202) 418–2809 or (202) 418–7286.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 97–21294 Filed 8–7–97; 2:35 am]

BILLING CODE 6712–01–M

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 September 4, 1997.

A. Federal Reserve Bank of Dallas (Genie D. Short, Vice President) 2200 North Pearl Street, Dallas, Texas 75201-2272:

1. New Broadway, Inc., San Antonio, Texas; to become a bank holding company by acquiring 100 percent of the voting shares of Broadway Bancshares, Inc., San Antonio, Texas, and thereby indirectly acquire Broadway Bancshares of Delaware, Inc., Wilmington, Delaware; Broadway National Bank, San Antonio, Texas; and Eisenhower National Bank, San Antonio, Texas.

Board of Governors of the Federal Reserve System, August 4, 1997.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 97–21050 Filed 8–8–97; 8:45 am]

BILLING CODE 6210–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

National Institute for Occupational Safety and Health; Mining Occupational Safety and Health Research Grants; Notice of Availability of Funds for Fiscal Year 1998

[Announcement Number 807]

Introduction

The Centers for Disease Control and Prevention (CDC), National Institute for Occupational Safety and Health (NIOSH), announces that grant applications are being accepted for research projects relating to occupational safety and health concerns associated with mining.

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 Occupational Safety and Health. (For ordering a copy of ''Healthy People 2000,'' see the section **Where To Obtain Additional Information**.)

Authority

This program is authorized under the Public Health Service Act, as amended, Section 301 (42 U.S.C. 241) and the Federal Mine Safety and Health Act of 1977, Section 501 (30 U.S.C. 951). The applicable program regulations are in 42 CFR part 52.

Eligible Applicants

Eligible applicants include domestic and foreign non-profit and for-profit organizations, universities, colleges, research institutions, and other public and private organizations, including State and local governments and small, minority and/or woman-owned businesses.

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 to receive Federal funds constituting an award, grant (cooperative agreement), contract, loan, or any other form.

Smoke-Free Workplace

CDC strongly encourages all grant recipients to provide a smoke-free workplace and promote the non-use 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.

Availability of Funds

About $500,000 is expected to be available in fiscal year (FY) 1998 to fund approximately 4 to 8 research project grants. The amount of funding available may vary and is subject to change. Awards will range from $50,000 to $200,000 in total costs (direct and indirect) per year. Awards are expected to begin on or about July 1, 1998. Awards will be made for a 12-month budget period within a project period not to exceed 3 years. Continuation awards within the project period will be made on the basis of satisfactory progress and availability of funds.

Background

Under provisions of the FY 1996 Appropriations legislation, the U.S. Bureau of Mines (USBM) was closed and certain functions were maintained and reassigned to other agencies. These actions resulted in the transfer of the health and safety research programs of the Bureau of Mines to NIOSH in the Department of Health and Human Services. NIOSH intends to maintain an extramural research program as part of the research responsibilities transferred from the former USBM.

The Mine Safety and Health Research Program has been fully coordinated with the National Occupational Research Agenda (NORA) plans and recommendations.

NORA category	Priority research area
Disease and Injury.	Allergic and Irritant Dermatitis
	Asthma and Chronic Obstructive Pulmonary Disease
	Fertility and Pregnancy Abnormalities
	Hearing Loss
	Infectious Diseases
	Low-Back Disorders
	Musculoskeletal Disorders of the Upper Extremities
	Traumatic Injuries
Work Environment and Work Force.	Emerging Technologies
	Indoor Environment
	Mixed Exposures
	Organization of Work
	Special Populations at Risk
Research Tools and Approaches	Cancer Research Methods
	Control Technology and Personal Protective Equipment
	Exposure Assessment Methods
	Health Services Research
	Intervention Effectiveness Research
	Risk Assessment Methods
	Social and Economic Consequences of Workplace Illness and Injury
	Surveillance Research Methods

Purpose

The purpose of this grant program is to develop knowledge that can be used to prevent occupational diseases and injuries to miners. NIOSH will support hypothesis-testing research projects to identify and quantify occupational health and safety hazards to miners, develop methods and technologies to measure and control these hazards, and translate research findings so that they can be applied to solve health and safety problems in mines.

Programmatic Interest

Emphasis will be given to the priority research areas identified by NORA listed above. The focus of grants should emphasize research in the following topical areas which are in priority order:

(1) Hearing Loss Prevention

Conduct laboratory and field research on noise-induced hearing loss in miners; Conduct field dosimetric and audiometric surveys to assess the extent and severity of the problem and to identify those mining segments in greatest need of attention and to objectively track progress in meeting loss prevention goals; Conduct field and laboratory research to identify noise generation sources and to identify those areas most amenable to intervention activities; Develop, test, and demonstrate new control technologies for noise reduction; Develop strategies and methods to improve the effectiveness of hearing protectors for miners; Assess the effect of using hearing protectors on miner safety; Evaluate technical and economic feasibility of controls; Develop, evaluate, and recommend implementation strategies to promote the adoption and use of noise reduction technology.

(2) Mining Injury Prevention

Conduct laboratory, field, and computer modeling research to focus on human physiological capabilities and limitations and their interactions with mining jobs, tasks, equipment and the mine work environment; Research on causes and prevention of low back disorders in miners; Study effects of human behavior on mining injuries; Design and conduct epidemiological research studies to identify and classify risk factors that are causing or may be causing traumatic injuries to miners; Evaluate and recommend implementation strategies for injury prevention and control technologies.

(3) Dust and Toxic Substance Control

Research to develop or improve personal and area direct reading instruments for measuring mining contaminants, including but not limited to respirable dust, silica, diesel engine emissions, and other toxic substances and mixtures; Conduct field tests, experiments, and demonstrations of new technology for monitoring and assessing mine air quality; Conduct laboratory and field research to develop airborne hazard reduction control technologies; Carry out field surveys in

mines to identify work organization strategies that could result in reduced dust or toxic substance exposure; Evaluate the performance, economics, and technical feasibility of engineering control strategies, novel approaches, and the application of new or emerging technologies for underground and surface mine dust and toxic substance control systems; Develop and evaluate implementation strategies for using newly developed monitors and control technology for exposure reduction or prevention.

(4) Social and Economic Consequences of Mining Illness and Injury

Analyze all effects of mining illness and injury on miners, their families, communities and States; Assess the effectiveness of health services provided to miners for prevention and care of occupational illness and injury; Assess the economic burden of mining illnesses and injuries and potential economic benefits of their prevention.

(5) Surveillance

Develop and evaluate new surveillance methods for mining-related illnesses and fatal and nonfatal injuries to improve collection and analysis of health and safety data; Collect demographic information on miners to analyze health and safety data; Develop improved methods to describe trends in incidence of mining-related fatalities, morbidity, and traumatic injury; Develop and evaluate methods to conduct surveillance on the use of new and emerging technologies, the use of engineering controls, and the use of protective equipment in the mining sector; Analyze the effectiveness of prevention and control interventions in mining; Conduct mining-relevant risk analyses.

Reporting Requirements

Progress reports are required annually as part of the continuation application (75 days prior to the start of the next budget period). The annual progress reports must contain information on accomplishments during the previous budget period and plans for each remaining year of the project. Financial status reports (FSR) are required no later than 90 days after the end of the budget period. The final performance and FSRs are required 90 days after the end of the project period. The final performance report should include, at a minimum, a statement of original objectives, a summary of research methodology, a summary of positive and negative findings, and a list of publications resulting from the project. Research papers, project reports, or theses are acceptable items to include in the final report. The final report should stand alone rather than citing the original application. Three copies of reprints of publications prepared under the grant should accompany the report.

Evaluation Criteria

Upon receipt, applications will be reviewed by CDC for completeness and responsiveness. Applications determined to be incomplete or unresponsive to this announcement will be returned to the applicant without further consideration. If the proposed project involves organizations or persons other than those affiliated with the applicant organization, letters of support and/or cooperation must be included.

Applications that are complete and responsive to the announcement will be evaluated for scientific and technical merit by appropriate peer reviewers in accordance with the review criteria stated below. As part of the initial merit review, a process may be used by the peer reviewers in which applications will be determined to be competitive or non-competitive using the evaluation criteria below to determine their scientific merit relative to other applications received in response to this announcement. Applications judged to be competitive will be discussed and assigned a priority score. Applications determined to be non-competitive will be withdrawn from further consideration and the principal investigator/program director and the official signing for the applicant organization will be promptly notified.

Review criteria for technical merit are as follows:

1. Technical significance and originality of proposed project.
2. Appropriateness and adequacy of the study design and methodology proposed to carry out the project.
3. Qualifications and research experience of the Principal Investigator and staff, particularly but not exclusively in the area of the proposed project.
4. Availability of resources necessary to perform the project.
5. Documentation of cooperation from industry, unions, or other participants in the project, where applicable.
6. Adequacy of plans to include both sexes and minorities and their subgroups as appropriate for the scientific goals of the project (Plans for the recruitment and retention of subjects will also be evaluated.).
7. Appropriateness of budget and period of support.
8. Human Subjects—Procedures adequate for the protection of human subjects must be documented. Recommendations on the adequacy of protections include: (1) Protections appear adequate and there are no comments to make or concerns to raise, (2) protections appear adequate, but there are comments regarding the protocol, (3) protections appear inadequate and the Objective Review Group (ORG) has concerns related to human subjects, or (4) 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.

Review criteria for programmatic importance are as follows:

1. Relevance to mine safety and health, by contributing to achievement of research objectives specified in Section 501 of the Federal Mine Safety and Health Act of 1977.
2. Magnitude of the problem in terms of numbers of miners affected.
3. Severity of the disease or injury in the mining population.
4. Usefulness to applied technical knowledge in the identification, evaluation, or control of occupational safety and health hazards in mines on a national or regional basis.

The following will be considered in making funding decisions:

1. Merit of the proposed project as determined by the initial peer review.
2. Programmatic importance of the project as determined by secondary review.
3. Availability of funds.
4. Program balance among priority areas of the announcement.

Executive Order 12372 Review

Applications are not subject to the review requirements of Executive Order 12372, entitled Intergovernmental Review of Federal Programs.

Public Health System Reporting Requirement

This program is not subject to the Public Health System Reporting Requirements.

Catalog of Federal Domestic Assistance Number

The Catalog of Federal Domestic Assistance number is 93.262.

Other Requirements

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. Assurances 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 assurance in accordance with the appropriate guidelines provided in the application kit.

Animal Subjects

If the proposed project involves research on animal subjects, the applicant must comply with the PHS Policy on Humane Care and Use of Laboratory Animals by Awardee Institutions. An applicant organization proposing to use vertebrate animals in CDC-supported activities must file an Animal Welfare Assurance with the Office for Protection from Research Risks at the National Institutes of Health.

Women and Racial and Ethnic Minorities

It is the policy of the CDC to ensure that women and racial and ethnic groups will be included in CDC 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 and racial and ethnic minority populations are appropriately represented in applications for research involving human subjects. Where clear and compelling rationale exist that inclusion is not feasible, this situation must be explained as part of the application. In conducting the review of applications for scientific merit, review groups will evaluate proposed plans for inclusion of minorities and both sexes as part of the scientific assessment and assigned score. 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, Friday, September 15, 1995, pages 47947–47951.

Application Submission and Deadlines

1. Preapplication Letter of Intent

Although not a prerequisite of application, a non-binding letter of intent-to-apply is requested from potential applicants. The letter should be submitted to the Grants Management Officer (whose address is reflected in section 2., ''Applications''). It should be postmarked no later than September 11, 1997. The letter should identify the announcement number, name of principal investigator, and specify the priority area to be addressed by the proposed project. The letter of intent does not influence review or funding decisions, but it will enable CDC to plan the review more efficiently, and will ensure that each applicant receives timely and relevant information prior to application submission.

2. Applications

Applicants should use Form PHS–398 (OMB Number 0925–0001) and adhere to the ERRATA Instruction Sheet for Form PHS–398 contained in the Grant Application Kit. Please submit an original and five copies on or before November 11, 1997 to: Ron Van Duyne, Grants Management Officer, ATTN: Joanne Wojcik, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), 255 East Paces Ferry Road, NE., Room 300, MS E–13, Atlanta, GA 30305.

3. Deadlines

a. Applications shall be considered as meeting a deadline if they are either:

(1) Received at the above address on or before the deadline date, or

(2) Sent on or before the deadline date to the above address, and received in time for the review process. Applicants should 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 shall not be accepted as proof of timely mailings.

b. Applications which do not meet the criteria above are considered late applications 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 807. You will receive a complete program description, information on application procedures, and application.

If you have questions after reviewing the contents of all the documents, business management information may be obtained from Joanne Wojcik, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), 255 East Paces Ferry Road, NE., MS E–13, Atlanta, GA 30305, telephone (404) 842–6535; fax: (404) 842–6513; Internet: jcw6@cdc.gov.

Programmatic technical assistance may be obtained from Roy M. Fleming, Sc.D., Associate Director for Grants, National Institute for Occupational Safety and Health, Centers for Disease Control and Prevention (CDC), 1600 Clifton Road, NE., Building 1, Room 3053, MS D–30, Atlanta, GA 30333, telephone: 404–639–3343; fax: 404–639–4616; Internet: rmf2@cdc.gov.

Please refer to announcement number 807 when requesting information and submitting an application.

This and other CDC Announcements can be found on the CDC home page (http://www.cdc.gov) under the Funding section.

CDC will not send application kits by facsimile or express mail.

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) through the Superintendent of Documents, Government Printing Office, Washington, DC 20402–9325, telephone (202) 512–1800.

Dated: August 5, 1997.

Diane D. Porter,

Acting Director, National Institute for Occupational Safety and Health, Centers for Disease Control and Prevention (CDC).

[FR Doc. 97–21102 Filed 8–8–97; 8:45 am]

BILLING CODE 4163–19–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention (CDC)

Clinical Laboratory Improvement Advisory Committee (CLIAC) Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463),the Centers for Disease Control and Prevention (CDC) announces the following meeting.

Name: Clinical Laboratory Improvement Advisory Committee.

Times and Dates: 8:30 a.m.–4:30 p.m., September 11, 1997. 8:30 a.m.–4:30 p.m., September 12, 1997.

Place: CDC, Auditorium A, Building 2, 1600 Clifton Road, NE, Atlanta, Georgia 30333.

Status: Open to the public, limited only by the space available.

Purpose: This committee is charged with providing scientific and technical advice and guidance to the Secretary of Health and Human Services, the Assistant Secretary for Health, and the Director, CDC, regarding the need for, and the nature of, revisions to the standards under which clinical laboratories are regulated; the impact of proposed revisions to the standards; and the

modification of the standards to accommodate the technological advances.

Matters To Be Discussed: Agenda items include Genetics Testing; Proficiency Testing (PT) Implementation; Data measuring the effectiveness of CLIA in improving laboratory performance.

Agenda items are subject to change.

Contact Person: John Ridderhof, Dr.P.H., Division of Laboratory Systems, Public Health Practice Program Office, CDC, 4770 Buford Highway, NE, MS G25, Atlanta, Georgia 30341–3724, telephone 770/488–4674.

Dated: August 5, 1997.

Carolyn J. Russell,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 97–21100 Filed 8–8–97; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 94N–0193]

Robert E. Sacher; Debarment Order

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is issuing an order under the Federal Food, Drug, and Cosmetic Act (the act) permanently debarring Dr. Robert E. Sacher, 117 Deer Path Lane, Weston, MA 02193, from providing services in any capacity to a person that has an approved or pending drug product application. FDA bases this order on a finding that Dr. Sacher was convicted of a felony under Federal law for conduct relating to the regulation of a drug product under the act. Dr. Sacher has failed to request a hearing and, therefore, has waived his opportunity for a hearing concerning this action.

EFFECTIVE DATE: August 11, 1997.

ADDRESSES: Application for termination of debarment to the Dockets Management Branch (HFA–305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Leanne Cusumano, Center for Drug Evaluation and Research (HFD–7), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–594–2041.

SUPPLEMENTARY INFORMATION:

I. Background

On June 1, 1992, the U.S. district court for the District of Massachusetts entered judgment against Dr. Robert E. Sacher for one count of corruptly influencing, obstructing, and impeding the due administration of justice in an administrative proceeding of FDA, a Federal felony under 18 U.S.C. 1505.

As a result of this conviction, FDA served Dr. Sacher by certified mail on November 25, 1994, a notice proposing to permanently debar him from providing services in any capacity to a person that has an approved or pending drug product application, and offered him an opportunity for a hearing on the proposal. The proposal was based on a finding, under section 306(a)(2)(B) of the act (21 U.S.C. 335a(a)(2)(B)), that Dr. Sacher was convicted of a felony under Federal law for conduct relating to the regulation of a drug product. Dr. Sacher did not request a hearing. His failure to request a hearing constitutes a waiver of his opportunity for a hearing and a waiver of any contentions concerning his debarment.

II. Findings and Order

Therefore, the Director of the Center for Drug Evaluation and Research, under section 306(a) of the act, and under authority delegated to her (21 CFR 5.99(b)), finds that Dr. Robert E. Sacher has been convicted of a felony under Federal law for conduct relating to the regulation of a drug product.

As a result of the foregoing finding, Dr. Robert E. Sacher is permanently debarred from providing services in any capacity to a person with an approved or pending drug product application under sections 505, 507, 512, or 802 of the act (21 U.S.C. 355, 357, 360b, or 382), or under section 351 of the Public Health Service Act (42 U.S.C. 262), effective August 11, 1997 (sections 306a(c)(1)(B) and (c)(2)(A)(ii) and 201(dd) of the act (21 U.S.C. 321(d))). Any person with an approved or pending drug product application who knowingly uses the services of Dr. Sacher, in any capacity, during his period of debarment, will be subject to civil money penalties (section 307(a)(6) of the act). If Dr. Sacher, during his period of debarment, provides services in any capacity to a person with an approved or pending drug product application, he will be subject to civil money penalties (section 307(a)(7) of the act). In addition, FDA will not accept or review any abbreviated new drug applications or abbreviated antibiotic drug applications from Dr. Sacher during his period of debarment.

Any application by Dr. Sacher for termination of debarment under section 306(d)(4) of the act should be identified with Docket No. 94N–0193 and sent to the Dockets Management Branch (address above). All such submissions are to be filed in four copies. The public availability of information in these submissions is governed by 21 CFR 10.20(j). Publicly available submissions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: July 18, 1997.

Janet Woodcock,

Director, Center for Drug Evaluation and Research.

[FR Doc. 97–21085 Filed 8–8–97; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Notice of CRADA Opportunities

National Cancer Institute: Nitric Oxide Technology: Opportunities for Cooperative Research and Development Agreements (CRADAs) for the development of medicinal agents useful for treating a variety of disorders arising from localized physiologic deficiencies of the multifaceted bioregulatory molecule, nitric oxide. The NCI is looking for multiple CRADA Collaborators to develop independently different aspects of their nitric oxide technology.

AGENCY: National Institutes of Health, PHS, DHHS.

ACTION: Notice for CRADA opportunities.

SUMMARY: Pursuant to the Federal Technology Transfer Act of 1986 (FTTA, 15 U.S.C. § 3710, and Executive Order 12591 of April 10, 1987, as amended by the National Technology Transfer and Advancement Act of 1995), the National Cancer Institute (NCI) of the National Institutes of Health (NIH) of the Public Health Service (PHS) of the Department of Health and Human Services (DHHS) seeks Cooperative Research and Development Agreements (CRADAs) with pharmaceutical or biotechnology companies to develop applications of nitric oxide technology. Any CRADA for the biomedical use of this technology will be considered. The CRADAs would have an expected duration of one (1) to five (5) years. The goals of the CRADAs include the rapid publication of research results and timely commercialization of products, diagnostics and treatments that result from the research. The CRADA Collaborators will have an option to negotiate the terms of an exclusive or nonexclusive commercialization license to subject inventions arising under the

CRADAs, and can apply for background licenses to the existing patents listed below, subject to any pre-existing licenses already issued for other fields of use.

Please see accompanying announcement for Licensing opportunitites with this technology.

ADDRESSES: 1. CRADA opportunities—Dr. Thomas Stackhouse, National Cancer Institute, Fairview Center, Room 502, Frederick, MD 21701 (phone: 301–846–5465, fax: 301–846–6820).

2. Scientific inquiries—Dr. Larry Keefer, National Cancer Institute, Frederick Cancer and Research Development Center, Building 538, Room 205E, Frederick, MD 21702–1201 (phone: 301–846-1467, fax: 301–846–5946).

EFFECTIVE DATE: Inquiries regarding scientific matters may be forwarded at any time. Confidential CRADA proposals, preferably one page or less, must be submitted to NCI on or before October 10, 1997. Guidelines for preparing full CRADA proposals will be communicated shortly thereafter to all respondents who have been selected.

SUPPLEMENTARY INFORMATION:

Technology Available

DHHS scientists are developing a variety of novel techniques for delivering nitric oxide (NO) to specific organs and cell types for therapeutic benefit. Methods for targeting lung, liver, and other tissues have been introduced to the literature, as have NO-releasing proteins and insoluble polymers. The compounds and drug delivery strategies developed thus far have shown promising antimicrobial, cytostatic, and antimetastatic activities; other activities that have been demonstrated in experimental animals include relief of respiratory distress, protection against toxic liver injury, radiosensitization of hypoxic tumors, and correction of genitourinary tract dysfunction. Publications outlining these developments are available on request, and descriptions of other (unpublished) advances can be obtained from Dr. Stackhouse via a Confidential Disclosure Agreement.

DHHS now seeks collaborative arrangements for the joint evaluation and possible clinical exploitation of these agents. For collaborations with the commercial sector, a Cooperative Research and Development Agreement (CRADA) will be established to provide for equitable distribution of intellectual property rights developed under the CRADA. The successful CRADA awardee will collaboratively characterize compounds supplied by the Government with respect to the potential biomedical application(s) specified in the CRADA. CRADA aims will include rapid publication of research results as well as full and timely exploitation of any commercial opportunities.

NCI's Nitric Oxide Patents

1. Keefer, L. K., *et al.*: Complexes of nitric oxide with polyamines. U.S. Patent 5,155,137, October 13, 1992.

2. Keefer, L. K., *et al.*: Complexes of nitric oxide with polyamines. U.S. Patent 5,250,550, October 5, 1993.

3. Keefer, L. K., *et al.*: Oxygen-substituted derivatives of nucleophile-nitric oxide adducts as nitric oxide donor prodrugs. U.S. Patent 5,366,997, November 22, 1994.

4. Christodoulou, D. D., *et al.*: Mixed ligand metal complexes of nitric oxide nucleophile adducts useful as cardiovascular agents. U.S. Patent 5,389,675, February 14, 1995.

5. Keefer, L. K., *et al.*: Polymer-bound nitric oxide/nucleophile adduct compositions, pharmaceutical compositions and methods of treating biological disorders. U.S. Patent 5,405,919, April 11, 1995.

6. Keefer, L. K., *et al.*: Polymer-bound nitric oxide/nucleophile adduct compositions, pharmaceutical compositions incorporating same and methods of treating biological disorders using same. U.S. Patent 5,525,357, June 11, 1996.

7. Mitchell J. B. *et al.*: Use of nitric oxide releasing compounds as hypoxic cell radiation sensitizers. U.S. Patent Application 08/133,574, filed October 8, 1993

8. Korthuis, R. J., *et al.*: Use of nitric oxide-releasing agents for reducing metastasis risk. U.S. Patent Application 08/344,341, filed November 22, 1994.

9. Saavedra, J. E., *et al.*: Biopolymer-bound nitric oxide-releasing compositions, pharmaceutical compositions incorporating same and methods of treating biological disorders using same. U.S. Patent Application 08/344,157, filed November 22, 1994.

10. Keefer, L. K., *et al.*: Polymer-bound nitric oxide/nucleophile adduct compositions, pharmaceutical compositions incorporating same and methods of treating biological disorders using same. U.S. Patent Application 08/417,913, filed April 6, 1995.

11. Keefer, L. K., *et al.*: Polymer-bound nitric oxide/nucleophile adduct compositions, pharmaceutical compositions incorporating same and methods of treating biological disorders using same. U.S. Patent Application 08/417,917, filed April 6, 1995.

12. Keefer, L. K., *et al.*: Use of nitric oxide-releasing agents to treat impotency. U.S. Patent Application 08/419,044, filed April 10, 1995.

13. Smith, D. J., *et al.*: Polysaccharide-bound nitric oxide/nucleophile adducts. U.S. Patent Application 08/419,424, filed April 10, 1995.

14. Keefer, L. K., *et al.*: Pharmaceutical compositions of secondary amine-nitric oxide adducts. U.S. Patent Application 08/476,601, filed June 6, 1995.

15. Keefer, L. K., *et al.*: N-substituted piperazine NONOates. U.S. Patent Application 08/475,732, filed June 7, 1995.

16. Saavedra, J. E., *et al.*: Selective prevention of organ injury in sepsis and shock using selective release of nitric oxide in vulnerable organs. U.S. Patent Application 08/509,558, filed July 31, 1995.

17. Hrabie, J. A., *et al.*: Method of generating nitric oxide gas using nitric oxide complexes. U.S. Patent Application 08/522,405, filed September 12, 1995.

18. Saavedra, J. E., *et al.*: O^2-aryl substituted diazeniumdiolates. U.S. Patent Application 60/026,816, filed September 27, 1996.

19. Green, S. *et al.*: Encapsulated and non-encapsulated nitric oxide generators used as antimicrobial agents. U.S. Patent Application 08/428,632, filed April 24, 1995.

The role of the National Cancer Institute in this CRADA will include, but not be limited to:

1. Providing intellectual, scientific, and technical expertise and experience to the research project.

2. Providing the Collaborator with samples of the subject compounds for pharmacological evaluation and assist in the development of new compounds, as determined by the research project.

3. Planning research studies and interpreting research results.

4. Publishing research results.

The role of the CRADA Collaborator may include, but not be limited to:

1. Providing significant intellectual, scientific, and technical expertise or experience to the research project.

2. Planning research studies and interpreting research results.

3. Providing technical and/or financial support for ongoing CRADA-related research in the development of the particular application of nitric oxide technology outlined in the agreement.

4. Publishing research results.

Selection criteria for choosing the CRADA Collaborator may include, but not be limited to:

1. The ability to collaborate with NCI on further research and development of

this technology. This ability can be demonstrated through experience and expertise in this or related areas of technology indicating the ability to contribute intellectually to ongoing research and development.

2. The demonstration of adequate resources to perform the research, development and commercialization of this technology (e.g. facilities, personnel and expertise) and accomplish objectives according to an appropriate timetable to be outlined in the CRADA Collaborator's proposal.

3. The willingness to commit best effort and demonstrated resources to the research, development and commercialization of this technology.

4. The demonstration of expertise in the commercial development, production, marketing and sales of products related to this area of technology.

5. The level of financial support the CRADA Collaborator will provide for CRADA-related Government activities.

6. The willingness to cooperate with the National Cancer Institute in the timely publication of research results.

7. The agreement to be bound by the appropriate DHHS regulations relating to human subjects, and all PHS policies relating to the use and care of laboratory animals.

8. The willingness to accept the legal provisions and language of the CRADA with only minor modifications, if any. These provisions govern the equitable distribution of patent rights to CRADA inventions. Generally, the rights of ownership are retained by the organization that is the employer of the inventor, with (1) the grant of a license for research and other Government purposes to the Government when the CRADA Collaborator's employee is the sole inventor, or (2) the grant of an option to elect an exclusive or nonexclusive license to the CRADA Collaborator when the Government employee is the sole inventor.

Dated: July 21, 1997.

Kathleen Sybert,

Acting Director, Office of Technology Development, National Cancer Institute, National Institutes of Health.

[FR Doc. 97–21148 Filed 8–8–97; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Government-Owned Inventions; Availability for Licensing

AGENCY: National Institutes of Health, Public Health Service, DHHS.

ACTION: Notice.

SUMMARY: The inventions referenced below are owned by agencies of the U.S. Government and are available for licensing in the U.S. in accordance with 35 U.S.C. 207 to achieve expeditious commercialization of results of federally-funded research and development. Foreign patent applications are filed on selected inventions to extend market coverage for U.S. companies and may also be available for licensing.

ADDRESSES: Licensing information and copies of the issued U.S. patents and the U.S. patent applications referenced below may be obtained by contacting Carol Lavrich, Technology Licensing Specialist, Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, Maryland 20852–3804; telephone: 301/496–7057 ext. 287; fax: 301/402–0220; e-mail: CL21R@NIH.GOV. A signed Confidential Disclosure Agreement will be required to receive copies of the patent applications.

SUPPLEMENTARY INFORMATION: The National Institutes of Health is seeking licensees and/or CRADA collaborators for the further development, evaluation, and commercialization of nitric oxide (NO) compounds and subsequent drug delivery strategies for the treatment of a variety of medical disorders. Published elsewhere in this issue of the **Federal Register** is a notice describing the CRADA opportunities available from the National Cancer Institute for these NO technologies. A complete listing of these technologies may be found in the CRADA notice; abstracts for some of them appear below.

Complexes of Nitric Oxide With Polyamines

LK Keefer, JA Hrabie (NCI)
Serial No. 07/585,793 filed 20 Sep 90; U.S. Patent 5,155,137 issued 13 Oct 92

Novel complexes of nitric oxide and polyamines are potentially useful in treating a variety of clinical disorders. These nitric oxide/polyamine complexes release nitric oxide under physiological conditions in a sustained and controllable fashion and possess long-lived pharmacological effects.

Related cases: Serial No. 07/906,479 filed 30 Jun 92 (DIV), which issued as U.S. Patent 5,250,550 on 05 Oct 93; Serial No. 08/522,405 filed 02 Feb 96 (CIP of 07/906,479)

Oxygen Substituted Derivatives of Nucleophile-Nitric Oxide Adducts as Nitric Oxide Donor Products

LK Keefer, TM Dunams, JE Saavedra (NCI)
Serial No. 07/950,637 filed 23 Sep 92; U.S. Patent 5,366,997 issued 22 Nov 94

A novel class of compounds that release nitric oxide (NO) *in vivo* offers to improve the treatment of many clinical disorders. This new class of compounds is stable to acidic conditions of the stomach and in the blood stream but releases nitric oxide at sites of metabolic activation. Thus, they provide organ-selective NO release and can be advantageously administered orally.

Polymer-Bound Nitric Oxide/ Nucleophile Adduct Compositions, Pharmaceutical Compositions Incorporating Same, and Methods of Treating Biological Disorders

LK Keefer, JA Hrabie (NCI)
Serial No. 07/935,565 filed 24 Aug 92; U.S. Patent 5,405,919 issued 11 Apr 95

A polymeric composition capable of releasing nitric oxide including a polymer and a nitric oxide-releasing N_2O_2-functional group bound to the polymer; pharmaceutical compositions including the polymeric composition; and methods for treating biological disorders in which dosage with nitric oxide is beneficial. The compositions can be used as and/or incorporated into implants, injectables, condoms, prosthesis coatings, patches, and the like for use in a wide variety of medical applications.

Nitric Oxide-Releasing Compounds for the Sensitization of Hypoxic Cells in Radiation Therapy

JB Mitchell, MC Krishna, D Wink, JE Liebmann, A Russo (NCI)
Serial No. 08/319,888 filed 07 Oct 94; U.S. Patent 5,650,442 issued 22 Jul 97

A novel method has been developed for sensitizing oxygen-poor, or hypoxic, tumor cells, which will increase the effectiveness of radiation treatment. It has long been known that ionizing radiation is more effective in killing cancer cells if the cells are in an oxygen-rich environment; however, the farther tumor cells are away from the blood

supply, the more hypoxic they are and the more resistant they are to radiation therapy. Current methods for delivering oxygen to hypoxic cells have limitations because they are toxic to normal tissue, require oxygen for their activity, or have too short a half-life. This development overcomes such problems by employing a nitric oxide (NO)-containing compound that spontaneously releases NO under physiologic conditions without requiring oxygen. This compound—which has a relatively long half-life and is nontoxic to normal cells—has the dual advantages of being able to sensitize hypoxic tumor cells to ionizing radiation while protecting normal cells from the effects of radiation.

Use of Nitric Oxide-Releasing Agents for Reducing Metastasis Risk

RJ Korthuis, L Kong, LK Keefer (NCI)
Serial No. 08/344,341 filed 22 Nov 94

Metastasis, which involves the release of cancerous cells from a tumor into the circulatory or lymphatic system, is a major problem in tumor therapy. Current methods to prevent metastasis from occurring include chemotherapy and immunotherapy. However, chemotherapeutic methods currently in use employ inhibitors of nucleic acid or protein synthesis that cause serious side effects. This invention relates to the use of compounds that generate nitric oxide (NO) to reduce metastases. It is not known at the present whether NO in fact does reduce metastases, although it is known that tumor cells that synthesize NO appear to be less metastatic than those that do not. Specifically, the claims relate to a series of novel compounds that contain a nitric oxide-releasing N_2O_2-functional group. These compounds are useful for inhibiting tumor cell adherence at sites at risk.

Biopolymer-Bound Nitric Oxide-Releasing Compositions, Pharmaceutical Compositions Incorporating Same and Methods of Treating Biological Disorders Using Same

JE Saavedra, LK Keefer, PP Roller, M Akamatsu (NCI) Serial No. 08/344,157 filed 22 Nov 94; U.S. Patent 5,632,981 issued 27 May 97

Nitric oxide (NO) has recently been implicated in a variety of bioregulatory processes, including normal physiological control of blood pressure, macrophage-induced cytostasis and cytotoxicity, and neurotransmission. A number of compounds have been developed which are capable of delivering nitric oxide, including compounds which release nitric oxide upon being metabolized and compounds which release nitric oxide spontaneously in aqueous solution. Nitric oxide in its pure form, however, is a highly reactive gas having limited solubility in aqueous media. Nitric oxide, therefore, is difficult to introduce reliably into most biological systems without premature decomposition. The invention provides a polymeric-bound composition (biopolymer) capable of spontaneously releasing nitric oxide under physiological conditions. A biopolymer would include any biological polymer, such as peptides, polypeptides, proteins, oligonucleotides, and nucleic acids, including those that contain naturally occurring and/or nonnaturally occurring subunits. Specific examples include antibodies or fragments thereof and peptide hormones, proteins, and growth factors for which the target cell type has a high population of receptors.

Incorporation of N_2O_2 Functional Group Into Polymeric Drug Delivery Systems for Treatment of Impotence

LK Keefer (NCI), JE Saavedra (NCI), M Hanamoto (Vivus), PC Doherty (Vivus), V Place (Vivus)
Serial No. 08/419,044 filed 10 Apr 95

Impotence is a major problem in the urology clinic with approximately 10–20 million men with moderate to severe forms of erectile dysfunction. This invention relates to a method of treating impotency in males through the use of nitric oxide-releasing agents. As nitric oxide is a mediator of penile erection, this method comprises the administration of a nitric oxide-releasing agent which is capable of providing a penile erection-inducing amount of nitric oxide to the male animal and which includes a nitric oxide-releasing functional group. Thus the invention provides a method of administering nitric oxide by using: compounds comprising nitric oxide-releasing functional groups, polymers to which a nitric oxide-releasing functional group is bound, as well as a nitric oxide delivery means for use in the method which delivers such a compound or polymer. The delivery means may be biodegradable or nonbiodegradable. The invention provides a method in which the nitric-oxide releasing agent provides nitric oxide to the penis of an impotent male animal in sufficient quantity to create a penile erection.

Polysaccharide-Bound Nitric Oxide/ Nucleophile Adducts

DJ Smith, D Chakravarthy, LK Keefer (NCI)
Serial No. 08/419,424 filed 10 Apr 95

The present invention relates to compositions comprising a number of nitric oxide/nucleophile adducts capable of releasing nitric oxide in a physiological environment, pharmaceutical compositions comprising such nitric oxide/ nucleophile adduct compositions, and methods of their use to treat biological disorders for which the administration of nitric oxide is indicated. The spontaneous generation of nitric oxide by these compounds has proven advantageous for many applications in which only one tissue is to be targeted among the many that could be affected by systemic administration. The invention details the compounds which eventually provides a composition capable of releasing nitric oxide which includes a nitric oxide-releasing N_2O_2 functional group bound to a polymer, specifically a polysaccharide. This permits modulation of the time course of nitric oxide release in a controllable way as well as limiting nitric oxide exposure to selected sites within the body through the use of incorporating the N_2O_2 functional group into a variety of polymeric matrices. It also provides a pharmaceutical composition which includes a pharmaceutically acceptable carrier and a polymer, specifically a polysaccharide, having a nitric oxide-releasing N_2O_2 functional group bound to the polymer. The invention provides for a method of treatment of disorders which comprises administering a composition comprising a polymer and a nitric oxide-releasing N_2O_2 functional group bound to the polymer in an amount sufficient to release a therapeutically effective amount of nitric oxide.

N-Substituted Piperazine NONOates

LK Keefer, JE Saavedra, JA Hrabie (NCI)
Serial No. 08/475,732 filed 07 Jun 95

A frequent problem in nitric oxide research is the delivery of nitric oxide to a specific organ or cell type needed without adversely affecting other nitric oxide sensitive parts of the body. This invention overcomes this problem by the synthesis of a number of N-substituted piperazine NONOate compounds which are potent nitric oxide releasing compounds without activation at physiological pH. The invention's N-substituted piperazine NONOates, when tagged to polypeptides and proteins, can become an effective tissue-selective potent nitric oxide releasing protein. Thus, the invention may achieve specific cellular interactions unique to the proteins to be adducted allowing for exquisite

targeting even though the adduct is systemically administered and nitric oxide release is spontaneous.

Selective Prevention of Organ Injury in Sepsis and Shock Using Selective Release of Nitric Oxide in Vulnerable Organs

JF Saavedra, TR Billiar, LK Keefer (NCI)
Serial No. 08/509,558 filed 31 Jul 95

The invention provides a method of treating mammalian tissue which is injured or is at risk of injury during sepsis or shock, including septic shock, hemorrhagic stock, and cardiogenic shock. In the suggested method, nitric oxide is delivered to target tissue or cells in a controlled and predictable manner through the administration of a nitric oxide containing compound (diazeniumdiolate) which is protected from the systemic release of nitric oxide under physiological conditions, and/or that is concentrated in at risk organs before releasing its nitric oxide. The diazeniumdiolate is capable of releasing at the targeted tissue a therapeutically effective amount of nitric oxide, sufficient to protect tissue from sepsis or shock-induced injury.

O^2-aryl Substituted Diazeniumdiolates

JE Saavedra, A Srinivasan, LK Keefer (NCI)
Serial No. 60/026,816 filed 27 Sep 96

Diazeniumdiolates, wherein the N^1 position is substituted by an organic moiety and the O^2-oxygen is bound to a substituted or unsubstituted aromatic group, are provided. The O^2-aryl diazeniumdiolates are stable with respect to the hydrolytic generation of nitric oxide in neutral to acidic solutions. These novel compounds generate nitric oxide in basic or nucleophilic environments or microenvironments. Also provided are compositions, including pharmaceutical compositions, comprising such compounds and methods of using such compounds.

Encapsulated and Non-Encapsulated Nitric Oxide Generators Used as Antimicrobial Agents

SJ Green, LK Keefer (NCI)
Serial No. 08/428,632 filed 24 Apr 95

This invention relates to compositions capable of releasing nitric oxide and therapeutic methods of use thereof for the treatment of microorganism-related disease states. The composition comprises one or more nitric oxide generators, preferably encapsulated in vesicles, such as liposomes. The compositions are used therapeutically by administration to humans and animals via different routes for the treatment of infectious diseases caused by pathogenic microbes.

Dated: August 4, 1997.

Barbara M. McGarey,

Deputy Director, Office of Technology Transfer.

[FR Doc. 97–21149 Filed 8–8–97; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Prospective Grant of Exclusive License: New Brefeldin a Derivatives

AGENCY: National Institutes of Health, Public Health Service, DHHS.

ACTION: Notice.

SUMMARY: This is notice in accordance with 35 U.S.C. 209(c)(1) and 37 CFR 404.7(a)(1)(i) that the National Institutes of Health (NIH), Department of Health and Human Services, is contemplating the grant of an exclusive world-wide license to practice the inventions embodied in U.S. Patent Application Serial Number 08/267,525, entitled ''New Brefeldin A Derivatives And Their Utility In The Treatment Of Cancer,'' and corresponding U.S. and foreign patent applications to Allelix Biopharmaceuticals, Inc. of Mississauga, Ontario, Canada. The patent rights of the NIH inventors in these inventions have been assigned to the United States of America.

DATES: Only written comments and/or applications for a license which are received by NIH on or before October 10, 1997, will be considered.

ADDRESSES: Requests for copies of the patent applications, inquiries, comments and other materials relating to the contemplated licenses should be directed to: Raphe Kantor, Ph.D., Technology Licensing Specialist, Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, Maryland 20852–3804; Telephone: (301) 496–7056 ext. 247; Facsimile: (301) 402–0220. A signed Confidentiality Agreement will be required to receive copies of the patent applications.

SUPPLEMENTARY INFORMATION: This invention relates to a new class of compounds which can be characterized as breveldin A derivatives, e.g., 4-O-(N,N-dimethylglycyl) breveldin A; 7-O-(N-N-dimethylglycyl) breveldin A. These breveldin A analogs are more water soluble than the parent compound. These analogs appear to have reduced toxicities which limited the clinical utility of the parent compound. These compounds exhibit activity against a wide variety of cancers, including colon cancer, melanoma, leukemia, ovarian, prostate, breast and renal tumors. However, recently performed toxicity studies on one breveldin A analog (breflate) found that it still retained an unacceptable toxicity profile.

The prospective exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7. The prospective exclusive license may be granted unless within sixty (60) days from the date of this published notice, NIH receives written evidence and argument that establishes that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR 404.7.

Applications for a license filed in response to this notice will be treated as objections to the grant of the contemplated licenses. Comments and objections submitted to this notice will not be made available for public inspection and, to the extent permitted by law, will not be released under the Freedom of Information Act, 5 U.S.C. 552.

Dated: August 1, 1997.

Barbara M. McGarey,

Deputy Director, Office of Technology Transfer.

[FR Doc. 97–21093 Filed 8–8–97; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Prospective Grant of Exclusive License: Diagnostic Methods Derived From the Human Metastasis Suppressor Gene KAI1

AGENCY: National Institutes of Health, Public Health Service, DHHS.

ACTION: Notice.

SUMMARY: This notice in accordance with 35 U.S.C. 209(c)(1) and 37 CFR 404.7(a)(1)(i) that the National Institutes of Health, Department of Health and Human Services, is contemplating the grant of an exclusive world-wide license to practice the inventions embodied in U.S. Patent Applications SN 08/430,225 and corresponding foreign patent applications entitled, ''Diagnostic Methods and Gene Therapy Using Reagents Derived From the Human Metastasis Suppressor Gene KAI1'' to Centocor, Inc. of Malvern, PA. The patent rights in these inventions have been assigned to the United States of

America and Johns Hopkins University. The prospective exclusive license field of use may be limited to: The use of KAI1 monoclonal antibodies in the diagnostic/prognostic fields of use for prostate cancer.

DATES: Only written comments and/or applications for a license which are received by NIH on or before October 10, 1997.

ADDRESSES: Requests for copies of the patent applications, inquiries, comments and other materials relating to the contemplated licenses should be directed to: Joseph K. Hemby, Jr., J.D., Technology Licensing Specialist, Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, Maryland 20852-3804; Telephone: (301) 496-7735 ext. 265; Facsimile: (301) 402-0220. A signed Confidentiality Agreement will be required to receive copies of the patent applications.

SUPPLEMENTARY INFORMATION: The prospective exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7. The prospective exclusive license may be granted unless within sixty (60) days from the date of this published notice, NIH receives written evidence and argument that establishes that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR 404.7.

The invention relates to the KAI1 gene which has been shown to suppress metastasis of prostate cancer and is down regulated in human malignant prostate cancers. The invention further provides methods of detection of alterations in the wild-type KAI1 gene sequence, KAI1 mRNA, and KAI1 protein useful in determining the presence of malignant cancer in a subject or genetic predisposition to malignancy in a subject. Other uses of the KAI1 gene include the possible treatment of patients who are diagnosed with early stage prostate cancer.

Applications for a license in the field of use filed in response to this notice will be treated as objections to the grant of the contemplated licenses. Comments and objections submitted to this notice will not be made available for public inspection and, to the extent permitted by law, will not be released under the Freedom of Information Act, 5 U.S.C. 552.

Dated: July 18, 1997.

Barbara M. McGarey,

Deputy Director, Office of Technology Transfer.

[FR Doc. 97–21094 Filed 8–8–97; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Availability of Draft Recovery Plan for the Inyo California Towhee of the Southern Argus Range, Inyo County, California, for Review and Comment

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of document availability.

SUMMARY: The U.S. Fish and Wildlife Service announces the availability for public review of a draft recovery plan for the threatened Inyo California towhee. The Service solicits review and comment from the public on this draft recovery plan.

DATES: Comments on the draft recovery plan must be received on or before October 10, 1997.

ADDRESSES: A copy of the draft recovery plan can be obtained from the Fish and Wildlife Service's Ventura Fish and Wildlife Office, 2493 Portola Road, Suite B, Ventura, California, 93003, phone 805/644–1766. Written comments and materials regarding the plan should be addressed to the Field Supervisor at the Ventura Fish and Wildlife Office. Comments and materials received are available on request for public inspection by appointment at the Ventura Fish and Wildlife Office.

FOR FURTHER INFORMATION CONTACT: Robert Mesta in the Ventura Fish and Wildlife Office (see **ADDRESSES** section).

SUPPLEMENTARY INFORMATION:

Background

Restoring an endangered or threatened animal or plant to the point where it is again a secure, self-sustaining member of its ecosystem is a primary goal of the U.S. Fish and Wildlife Service's endangered species program. To help guide recovery efforts, the Service prepares recovery plans for most of the listed species native to the United States. Recovery plans describe actions considered necessary for conservation of listed species, establish criteria for the recovery levels for reclassification from endangered to threatened or removal from the list, and estimate the time and cost for implementing the needed recovery measures.

The Endangered Species Act of 1973 (Act), as amended (16 U.S.C. 1531 *et seq.*) requires the development of recovery plans for listed species unless such a plan would not promote the conservation of a particular species. Section 4(f) of the Act, as amended in 1988, requires that public notice and an opportunity for public review and comment be provided during recovery plan development. The Service will consider all information presented during a public comment period prior to approval of each new or revised recovery plan. The Service and other Federal agencies will take these comments into account in the course of implementing approved recovery plans.

Inyo California towhees are restricted in range and number and therefore, are susceptible to habitat destruction and degradation. The recovery strategy for this subspecies will focus on the elimination of threats to all known habitats and the rehabilitation of those that have been degraded or destroyed. The draft recovery plan describes tasks that, when accomplished, should ensure the continued existence of the Inyo California towhee, and thereby justify its removal from the endangered and threatened species list. The draft recovery plan was developed in cooperation with the principle affected agencies: California Department of Fish and Game, Bureau of Land Management, and the Navy.

Public Comments Solicited

The Service solicits written comments on the draft recovery plan described herein. All comments received by the date specified above will be considered prior to approval of the plan.

Authority: The authority for this action is section 4(f) of the Endangered Species Act, 16 U.S.C. 1533(f).

Dated: June 17, 1997.

Thomas J. Dwyer,

Acting Regional Director.

[FR Doc. 97–21095 Filed 8–8–97; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Availability of an Environmental Assessment and Receipt of an Application for an Incidental Take Permit for the Cantara Residential Project in the City of Colton, San Bernardino County, California

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability.

SUMMARY: The Fish and Wildlife Service has under consideration a proposal to issue an 8-year permit pursuant to the Endangered Species Act of 1973, as amended (Act), that would authorize incidental taking of the endangered Delhi Sands flower-loving fly (*Rhaphiomidas terminatus*

abdominalis). Take would occur during completion of a residential housing development in the City of Colton, California. The applicant for this incidental take permit is John Laing Homes (California), Incorporated. The application includes a Habitat Conservation Plan for the Delhi Sands flower-loving fly and an Implementing Agreement. The Implementing Agreement does not include ''No Surprises'' assurances (62 FR 29091). The Habitat Conservation Plan was prepared by the applicant and does not reflect the view of the Service relative to the site being occupied by the Delhi Sands flower-loving fly. In response to the permit application, the Service has prepared an Environmental Assessment pursuant to the National Environmental Policy Act. This assessment and the permit application are available for public review and comment. All comments received, including names and addresses, will become part of the administrative record and may be made available to the public.

DATES: Written comments on the Environmental Assessment, Habitat Conservation Plan, and Implementing Agreement should be received by the Service on or before September 10, 1997.

ADDRESSES: Comments should be submitted to Mr. Gail Kobetich, Field Supervisor, Fish and Wildlife Service, 2730 Loker Avenue West, Carlsbad, California 92008. Written comments also may be sent by facsimile to (760) 431–9618.

FOR FURTHER INFORMATION CONTACT: Mr. Pete Sorensen, Assistant Field Supervisor, at the above address, telephone (760) 431–9440.

SUPPLEMENTARY INFORMATION:

Availability of Documents

Individuals wishing copies of the documents should immediately contact the applicant's consultant, Mr. Larry Munsey, Larry Munsey International, 15901 Redhill Avenue, Suite 01, Tustin, California 92780, telephone (714) 440–8255. Documents also will be available for public inspection by appointment during normal business hours (8 a.m. to 5 p.m., Monday through Friday) at the Service's Carlsbad office (see **ADDRESSES** section above), and at the City of Colton Public Library, 656 North 9th Street, Colton, California, telephone (909) 370–5083.

Background Information

The Service listed the Delhi Sands flower-loving fly as an endangered species on September 23, 1993 (58 FR 49881). As an endangered species, the Delhi Sands flower-loving fly is protected against take pursuant to section 9 of the Act; that is, no one may harass, harm, pursue, hunt, shoot, wound, kill, trap, capture or collect the species, or attempt to engage in such conduct (16 U.S.C. 1538). Under certain circumstances, however, the Service may issue permits to take endangered wildlife species incidental to, and not the purpose of, otherwise lawful activities. Regulations governing permits for endangered species are at 50 CFR 17.22.

The applicant proposes to complete construction of a residential development project in the City of Colton, San Bernardino County. The proposed project is partially located in undeveloped areas that are either known to support the endangered Delhi Sands flower-loving fly or are considered suitable habitat for the species. Completion of the partially constructed project would result in the permanent loss of 36 acres of vacant land, including 3.4 acres of habitat for the Delhi Sands flower-loving fly.

John Laing Homes proposes to compensate for incidental take of the Delhi Sands flower-loving fly by donating $125,000 to the National Fish and Wildlife Foundation to be used for the purchase and preservation of offsite habitat occupied by the species. In turn, the National Fish and Wildlife Foundation has committed to provide additional matching funds in an amount no less than $175,000. The combined total of at least $300,000 would be used to purchase approximately 4 to 10 acres of land selected to contribute to one of the Recovery Units established in the Recovery Plan for the Delhi Sands flower-loving fly.

Environmental Assessment

The Environmental Assessment considers the effects to the human environment of the proposed action and two alternatives. Under the No Action alternative, the Service would not issue an incidental take permit for the completion of the Cantara residential project as proposed by John Laing Homes. Under this alternative, John Laing Homes would redesign its project to avoid habitat of the Delhi Sands flower-loving fly onsite. No measures would be taken to secure the conservation of suitable habitat onsite for the Delhi Sands flower-loving fly. Under the Mitigation Bank alternative, John Laing Homes also would redesign its project to avoid habitat of the Delhi Sands flower-loving fly, and would secure the conservation of suitable habitat for this species onsite and would sell credits to others needing mitigation for other projects that adversely affect the species.

This notice is provided pursuant to section 10(a) of the Act and Service regulations for implementing the National Environmental Policy Act (40 CFR 1506.6). The Service will evaluate the application, associated documents, and comments submitted thereon to determine whether the application meets the requirements of the Act. If the Service determines that the requirements are met, a permit will be issued for the incidental take of the Delhi Sands flower-loving fly. The final decision on permit issuance will be made no sooner than 30 days from the date of this notice.

Dated: August 5, 1997.

Michael J. Spear,

Regional Director, Region 1, Portland, Oregon.

[FR Doc. 97–21101 Filed 8–8–97; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AK–962–1410–00–P, AA–9242, AA–9252, and AA–9258]

Alaska Native Claims Selection

In accordance with Departmental regulation 43 CFR 2650.7(d), notice is hereby given that a decision to issue conveyance under the provisions of section 14(h)(1) of the Alaska Native Claims Settlement Act of December 18, 1971, 43 U.S.C. 1601, 1613(h)(1), will be issued to Calista Corporation for approximately 14.47 acres. The lands involved are in the vicinity of Nunivak Island, Alaska.

Seward Meridian, Alaska

T. 3 S., R. 96 W.,
Sec. 25.
T. 2 N., R. 98 W.,
Sec. 2;
Sec. 15.

A notice of the decision will be published once a week, for four (4) consecutive weeks, in the *Anchorage Daily News.* Copies of the decision may be obtained by contacting the Alaska State Office of the Bureau of Land Management, 222 West Seventh Avenue, #13, Anchorage, Alaska 99513–7599 ((907) 271–5960).

Any party claiming a property interest which is adversely affected by the decision, an agency of the Federal government or regional corporation, shall have until September 10, 1997 to file an appeal. However, parties receiving service by certified mail shall have 30 days from the date of receipt to file an appeal. Appeals must be filed in

the Bureau of Land Management at the address identified above, where the requirements for filing an appeal may be obtained. Parties who do not file an appeal in accordance with the requirements of 43 CFR part 4, subpart E, shall be deemed to have waived their rights.

Patricia A. Baker,

Land Law Examiner, ANCSA Team, Branch of 962 Adjudication.

[FR Doc. 97–21099 Filed 8–8–97; 8:45 am]

BILLING CODE 4310–$$–P

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Request for Information Collection

AGENCY: National Park Service, Interior.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the National Park Service's intention to request approval for information collection in support of its Concession Management Program.

DATES: Comments on this notice must be received by September 10, 1997.

ADDITIONAL INFORMATION OR COMMENTS: Contact Laurie Shaffer, Concessions Program Center, National Park Service, 12795 West Alameda Parkway, Denver, CO 80225–0287 or 303–987–6911.

SUPPLEMENTARY INFORMATION:

Title: Comparable Rates Database Survey for River Operations, Livery Operations and Mountaineering Operations.

Type of Request: Approval for information collection.

Abstract: The National Park Service (NPS) authorizes private businesses known as concessioners to provide necessary and appropriate visitor facilities and services in areas of the National Park System. 16 U.S.C. 20 Section 3 © requires that ''The reasonableness of concessioner's rates and charges to the public shall unless otherwise provided in the contract, by judged primarily be comparison with those current for facilities and services of comparable character under similar conditions, with due consideration for length of season, provision for peakloads, average percentage of occupancy, accessibility, availability and cost of labor and materials, type of patronage, and other factors deemed significant by the Secretary.''

This information collection is a survey that requests operators within and outside of the National Park Areas provide information on their operations and the rates that they charge. This information will be used to establish a comparable database that can be utilized by park personnel in establishing rates in their park areas. The collection of this information is required by law and has been performed on a park by park basis. This collection is an effort to streamline that collection and provide a resource to park managers in the fulfillment of that requirement.

Estimate of Burden: Approximately 1 hour per response.

Estimated Number of Respondents: Approximately 1500.

Estimated Number of Responses per Respondent: One.

Estimated Total Annual Burden on Respondents: 1500 hours.

Copies of the survey forms are available upon request. Send comments regarding the accuracy of the burden estimate, way to minimize the burden, including the use of automated collection techniques or other forms of information technology or any other aspect of this collection of information to Laurie Shaffer, Concessions Program Center, National Park Service, 12795 West Alameda Parkway, Denver, CO 80225–0287 or 303–987–6911.

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 23, 1997.

Robert K. Yearout,

Concession Program Manager.

[FR Doc. 97–21133 Filed 8–8–97; 8:45 am]

BILLING CODE 4310–70–M

DEPARTMENT OF THE INTERIOR

National Park Service

Public Notice

AGENCY: National Park Service, Interior.

ACTION: Public Notice.

SUMMARY: Public notice is hereby given that the National Park Service proposes to award a concession contract authorizing ferry services for the public at Fire Island National Seashore for a period of ten (10) years from date of contract execution.

EFFECTIVE DATE: October 10, 1997.

ADDRESSES: Interested parties should contact National Park Service, Fire Island National Seashore, 120 Laurel Street, Patchogue, New York 11772 to obtain a copy of the prospectus describing the requirements of the proposed contract.

SUPPLEMENTARY INFORMATION: This contract has been determined to be categorically excluded from the procedural provisions of the National Environmental Policy Act and no environmental document will be prepared.

The existing concessioner has performed its obligations to the satisfaction of the Secretary under an existing contract which expired by limitation of time on December 31, 1996, and therefore pursuant to the provisions of Section 5 of the Act of October 9, 1965 (79 Stat. 969; 16 U.S.C. § 20), is entitled to be given preference in the renewal of the contract and in the negotiation of a new contract, providing that the existing concessioner submits a responsive offer (a timely offer which meets the terms and conditions of the Prospectus). This means that the contract will be awarded to the party submitting the best offer, provided that if the best offer was not submitted by the existing concessioner, then the existing concessioner will be afforded the opportunity to match the best offer. If the existing concessioner agrees to match the best offer, then the contract will be awarded to the existing concessioner.

If the existing concessioner does not submit a responsive offer, the right of preference in renewal shall be considered to have been waived, and the contract will then be awarded to the party that has submitted the best responsive offer.

The Secretary will consider and evaluate all proposals received as a result of this notice. Any proposal, including that of the existing concessioner, must be received by the Senior Concessions Program Manager, Concession Management Division, not later than the sixtieth (60th) day following publication of this notice to be considered and evaluated.

Dated: July 10, 1997.

Chrysandra L. Walter,

Acting Field Director, Northeast Field Area.

[FR Doc. 97–21134 Filed 8–8–97; 8:45 am]

BILLING CODE 4310–70–M

DEPARTMENT OF THE INTERIOR

National Park Service

Public Notice

AGENCY: National Park Service, Interior.

ACTION: Public Notice.

SUMMARY: Public notice is hereby given that the National Park Service proposes to award a concession contract authorizing marina facilities and services for the public at Staten Island

Unit, Gateway National Recreation Area, New York, for a period of ten (10) years.

EFFECTIVE DATE: October 10, 1997.

ADDRESSES: Interested parties should contact National Park Service, Senior Concession Program Manager, Concession Management Program, New England System Support Office, 15 State Street, Boston, MA 02109–3572, to obtain a copy of the prospectus describing the requirements of the proposed contract.

SUPPLEMENTARY INFORMATION: This contract has been determined to be categorically excluded from the procedural provisions of the National Environmental Policy Act and no environmental document will be prepared.

The existing concessioner has performed its obligations to the satisfaction of the Secretary under an existing contract which expired by limitation of time, and therefore pursuant to the provisions of Section 5 of the Act of October 9, 1965 (79 Stat. 969; 16 U.S.C. § 20), is entitled to be given preference in the renewal of the contract and in the negotiation of a new contract, providing that the existing concessioner submits a responsive offer (a timely offer which meets the terms and conditions of the Prospectus). This means that the contract will be awarded to the party submitting the best offer, provided that if the best offer was not submitted by the existing concessioner, then the existing concessioner will be afforded the opportunity to match the best offer. If the existing concessioner agrees to match the best offer, then the contract will be awarded to the existing concessioner.

If the existing concessioner does not submit a responsive offer, the right of preference in renewal shall be considered to have been waived, and the contract will then be awarded to the party that has submitted the best responsive offer.

The Secretary will consider and evaluate all proposals received as a result of this notice. Any proposal, including that of the existing concessioner, must be received by the Senior Concession Program Manager, Concession Management Program, not later than the sixtieth (60th) day following publication of this notice to be considered and evaluated.

Dated: July 28, 1997.

Chrysandra L. Walter,

Acting Field Director, Northeast Field Area.

[FR Doc. 97–21128 Filed 8–8–97; 8:45 am]

BILLING CODE 4310–70–M

DEPARTMENT OF THE INTERIOR

National Park Service

Response to Public Comments on NPS–48

AGENCY: National Park Service, Interior.

ACTION: Response to public comments on NPS–48.

SUMMARY: On February 20, 1997, the National Park Service (NPS) published for additional public comment its staff manual (NPS–48) dealing with the administration of concession contracts and permits. On March 27, 1997, NPS extended the due date for receipt of comments through April 8, 1997. On May 29, 1997, NPS requested public comment on certain proposed amendments and clarifications to NPS–48. This notice responds to the comments received in response to these notices and, after due consideration of public comment, makes certain amendments and clarifications to NPS–48.

EFFECTIVE DATE: September 10, 1997, except as otherwise noted.

FOR FURTHER INFORMATION CONTACT: Robert Yearout, Program Manager, Concessions Program, National Park Service, P.O. Box 37127, Washington, D.C. 20013–7127.

SUPPLEMENTARY INFORMATION: NPS–48 was developed by NPS during the 1980's as an agency staff manual for the management of NPS concession contract matters. As such, notice of it generally was not initially published in the **Federal Register**. (Certain portions of NPS–48 as a matter of policy were adopted by NPS after a notice and comment period.) Inasmuch as NPS is considering making major changes to NPS–48 and its legal status has been a subject of two recent federal court decisions, NPS determined to solicit and consider additional public comments on it. However, NPS notes that NPS–48 is an agency staff manual and as such is not required to be published in the **Federal Register** pursuant to 5 U.S.C. § 552 nor promulgated as a rule after public notice and comment pursuant to 5 U.S.C. § 553. In addition, NPS notes that the rulemaking requirements of 5 U.S.C. § 553, even if otherwise applicable to an agency staff manual such as NPS–48, are expressly not applicable to matters relating to agency management or personnel or to public property, loans, grants, benefits or contracts. NPS–48, as a matter concerning the administration of public property and contracts, falls within this exemption to the extent it may be considered a rule or regulation within the meaning of 5 U.S.C. § 553.

NPS received nine comments on NPS–48 in response to the February 20, 1997, request for comments and two comments in response to the May 29, 1997, request for comments. With respect to the first category, seven of the nine comments were submitted by existing NPS concessioners, one was submitted by an organization representing NPS concessioners, and one was submitted by a certified public accounting firm on behalf of a concessioner. No comments from the general public were received. With respect to the second category, comments were received only from the organization representing concessioners and an attorney representing a concessioner.

Several of the comments received from these notices concerned matters which were not within the scope of the requests for comments. These comments are not discussed in this notice.

Analysis of Comments in Response to the February 20, 1997, Public Notice

1. Conformance With Revised Regulations

One commenter pointed out that the concession contracting regulations (36 CFR, Part 51) included in NPS–48 are not the most recent version of these regulations, which were amended effective October 5, 1992. NPS agrees that the copy of the regulations contained in NPS–48 is outdated, and hereby deletes the old regulations and incorporates the revised regulations in NPS–48. NPS further notes that in the event of any conflict between these revised regulations and any guidance contained in NPS–48, the revised regulations will prevail.

2. Private Enterprise Outside of Park Policy

One commenter expressed concern that NPS and others could interpret too narrowly its policy of not developing concession facilities within the park if adequate facilities exist ''or can feasibly be developed by private enterprise'' outside park boundaries. NPS considers that NPS–48 provides adequate guidance in this regard.

3. Concessioner Participation in Planning

One commenter felt that concessioner input into NPS planning efforts should be expanded. Present procedures limit concessioner input to ''assistance in basic data collection and review *as a member of the public.*'' This commenter suggests that concessioners should be

granted ''interested party status'' in this regard. NPS recognizes that concessioners can make important contributions to park planning efforts. However, the very nature of the contractual relationship between NPS and its concessioners is such that NPS must exercise caution to avoid perceived conflicts of interest in park planning decisions. NPS is sensitive to concerns raised by members of the public during the planning process, and does not agree that categorization as ''a member of the public'' in any way demeans the concessioner's input into the planning process.

4. Term of Contracts

Two commenters agreed that the term of concession contracts should continue to be based on the investment required. However, they suggested that NPS also should consider a requirement for substantial depreciation or amortization as justification for a longer contract term. One commenter felt that the length of a contract term should not be judged solely by investment, because longer term contracts enhance continuity and consistency of service to park visitors.

NPS believes that the goals of continuity and consistency of service are adequate by NPS–48 guidelines and applicable law and regulations. NPS does not agree that longer term contracts are necessary to achieve these goals. NPS believes that the term of concession contracts should continue to be based primarily on the investment required.

5. Contract Extensions

One commenter stated that longer-term extensions for expired concession contracts should be considered in lieu of year-to-year extensions, because 1-year extensions may not adequately protect the concessioner's investment in needed major repairs or improvements. Two other commenters objected to the NPS use of interim letters of authorization in lieu of formal contract extensions or timely contract renewals. Although NPS–48 provides for contract extensions with terms of up to 2 years, NPS, as a matter of practice, has been authorizing continuation of concession services with 1-year interim letters of authorization over the past several years. NPS does not consider that changes to NPS–48 are warranted in this regard.

6. Facility Design and Construction

One commenter felt that NPS review of design and construction projects has become too detailed, sometimes extending to the selection of furniture, carpeting, draperies, and color selections. NPS considers that, although there may have been specific instances where NPS has become unduly involved in such matters, the general guidance of NPS–48 in this connection is appropriate.

7. Cooperating Associations

Three commenters felt that cooperating associations which were established for interpretive and educational purposes have been permitted to move into sales areas directly competitive with concessioners who have clear contract rights. NPS will continue to review any situation where a concessioner feels this has occurred on a case-by-case basis. However, the guidance in NPS–48 in this connection is considered appropriate.

8. Rate Approval

Three commenters felt that the current rate approval processes followed by NPS are cumbersome, outdated, and too detailed. NPS believes that the present methodology is adequate. However, NPS is also considering the possibility of generally revising its rate approval program. If such a proposal is made, it will be published for public comment in the **Federal Register**.

9. Concessioner Review Program

One commenter felt that the current program is too detailed and time-consuming. Two other commenters expressed concern about the requirements of the review program and felt that these requirements should be implemented by NPS personnel who understand the concessioner's operation. NPS considers that the present guidance of NPS–48 provides an appropriate program in this regard. However, NPS is also considering a major revision to its review program guidelines. If such a proposal is made, it will be published for public comment in the **Federal Register**.

Another commenter pointed out that a conflict exists between NPS–48 and the revised regulations (36 CFR § 51.5) concerning the disposition of unsatisfactory and marginal ratings. NPS–48 states that if a concessioner receives an annual overall rating of ''unsatisfactory'' in *any* year of the contract term or ''marginal'' for *any* 2 consecutive years, then the concessioner is not entitled to a right of preference in the renewal of its contract. The regulations at 36 CFR § 51.5(a) limit the loss of a concessioner's right of preference in contract renewal to the last year (for ''unsatisfactory'' ratings) or the last 2 years (for ''marginal'' ratings) prior to issuance of a prospectus. NPS requested public comment on this issue on May 29, 1997, and after having considered all comments received, agrees that the regulations and guidelines are in conflict on this point, and hereby clarifies NPS–48 to include the language of the regulation at 36 CFR § 51.5(a).

10. Franchise Fee Renegotiation

Three commenters suggested the elimination of the five-year franchise fee reconsideration, or the use of a different approach to fee increases during the term of the contract. NPS is required, by law (16 U.S.C. 20(d)), to reconsider the franchise fees at least every 5 years during the term of a contract. Accordingly, the requirement cannot be eliminated. NPS also notes that the substance of the NPS franchise fee reconsideration process was established through adoption of the NPS standard language concession contract after solicitation and consideration of public comments.

11. Handcrafts, Gifts and Merchandise

One commenter reacted favorably to the overall direction taken by NPS in the development of thematic merchandising in parks, but cautioned that NPS should also allow for the selection of some merchandise customarily sold in similar theme-oriented retail outlets outside the park. It is important to note that the thematic approach referred to is being taken by NPS on a case-by-case basis as contracts are renewed, and is not specifically required by NPS–48. NPS is presently considering the possibility of making revisions to the handcraft, gift and merchandising guidance of NPS–48, which it expects to publish for comment within the next year. In the interim, NPS considers it appropriate to continue the current guidance of NPS–48.

12. Deposits for Advance Reservations

One commenter pointed out that one provision in NPS–48 requires that rates in effect at the time of a deposit should apply to all or a portion of the visitor stay, even though there may have been a price increase (Chapter 29, D.2.b.), and that this conflicts with another provision in NPS–48 which allows concessioners to charge the increased rates so long as individuals making advance reservations are notified that rates are subject to change and are not guaranteed by the deposit (Chapter 29, D.1.c.(1)). NPS, after proposing an amendment to NPS–48 in this regard on May 29, 1997, and having considered all public comments received, agrees that these provisions are in conflict and hereby adopts a provision allowing

concessioners to charge increased rates if individuals making reservations are notified that rates are subject to change and not guaranteed by the deposit. Chapter 29 of NPS–48 is hereby amended by deleting subsection D.2.b.

13. Advertising and Informational Literature

One commenter felt that general, and not detailed guidelines, should be issued with regard to NPS review of concessioner advertising and informational literature. NPS considers that the current guidance of NPS–48 in this regard provides adequate flexibility with respect to necessary review of advertising and informational literature.

14. NPS Concession Employee Training

One commenter commended NPS for including selected concessioners, their employees and others to assist in providing training to NPS concession employees.

15. Applicability of Related NPS Guidelines

One commenter stated that references to other NPS guidelines should be deleted from NPS–48, as these other guidelines have not been subject to a public review process. NPS believes that the references contained in NPS–48 to other NPS staff manuals are necessary to portray the concession program in its proper context within the overall NPS organization and are, therefore, appropriate.

16. Exemption of Handcraft Sales from Franchise Fee Calculation

Three commenters requested that the exemption of handcraft sales from franchise fee calculations be reinstated. NPS published for comment a notice of its intention to eliminate this exemption in the **Federal Register** on January 17, 1995, and again on July 20, 1995. 23 comments were received in response to those notices. The NPS analysis of those comments and final decision to eliminate the exemption were published in the **Federal Register** on April 26, 1996. NPS finds no new arguments in the 2 comments received that would persuade it to change its position on this matter.

17. Standard Language Concession Contract

Two commenters objected to revisions made by NPS in its standard concession contract language in 1993. Specific objections included changes in possessory interest compensation and compensation for equipment, requiring the concessioner to acknowledge the reasonable opportunity to realize a profit on its operations, requiring the concessioner to acknowledge maintenance and operating plans which can be unilaterally changed by NPS, and ability of NPS to modify contract terms as a condition to the approval of a sale or transfer.

NPS published for comment a notice proposing changes to the standard concession contract language on September 3, 1992. 61 comments were received in response to that notice. The NPS analysis of those comments and final standard contract language were published in the **Federal Register** on January 7, 1993. NPS finds no new arguments in the comments received that would persuade it to change its position on these matters.

Response to Comments Received Pursuant to the May 29, 1997, Request for Comments

1. Franchise Fee Waivers

NPS, on May 29, 1997, proposed clarifying NPS–48 with respect to waiver of franchise fees. In this regard, Chapter 24, section 5.i. of NPS–48 authorizes waiver of NPS concession contract franchise fees in certain circumstances. However, NPS–48 fails to expressly note that as a matter of law such waivers are permissible only where the concession contract or permit in question contains an express provision authorizing such a waiver or in other special circumstances as discussed below. Decision of the Comptroller General, April 11, 1944 (B–40226). In addition, NPS proposed to clarify NPS–48 to state more explicitly that the waiver provisions of NPS–48 apply only to waiver of franchise fees (where an express contract provision so authorizes), not to any other financial obligations of a concessioner set forth in an NPS concession contract or permit. Two comments were received on this proposal. One was from an attorney representing an NPS concessioner. He took the position, among others, that the 1944 Comptroller General opinion cited by NPS is no longer valid law (also noting that the opinion is unpublished) an that it is inconsistent with the Concessions Policies Act of 1965 (16 U.S.C. § 20 *et. seq.*) (the ''Act'').

NPS first notes that the conclusions of this unpublished Comptroller General opinion were subsequently affirmed by the Comptroller General in 34 Comp. Gen. 207 (1954).

In any event, it is a matter of settled law that in the absence of a statute specifically so providing, no officer of the federal government has authority to give away or surrender (without adequate consideration) a right vested in or acquired by the government under a contract. 14 Comp. Gen. 897, 900; 15 Comp. Gen. 25; 20 Comp. Gen. 703; 22 Comp. Gen. 260. This basis for this rule is set forth as follows in *Columbus Ry. Power & L. Co.* v. *Columbus,* 249 U.S. 399, 412 (1919):

It certainly was not intended to question the principle, frequently declared in decisions of this court, that if a party charges himself with an obligation to be performed, he must abide by it unless performance is rendered impossible by an act of God, the law, or other third party. Unforeseen difficulties will not excuse performance. Where the parties have made no provision for a dispensation, the terms of the contract must prevail. (Citations omitted).

This legal doctrine has been applied to NPS concession contracts by the Comptroller General on a number of other occasions in addition to B–40226 cited above. 23 Comp. Gen. 811 (1944); 40 Comp. Gen. 234, 239 (1960); and 58 Comp. Gen. 7 (1978). This latter decision, issued long after the passage of the Act, reiterates that it is a ''well established rule that, without a compensating benefit to the United States, Government agents and officers have no authority to dispose of the money or property of the United States, to modify existing contracts, or to surrender or waive vested rights,'' 58 *id.* 7, citing *Christine* v. *United States,* 237 U.S. 234 (1915) and *Pacific Hardware* v. *United States,* 49 Ct. Cl. 327, 335, 337 (1914).

The commenter also notes a series of decisions and other supporting materials which indicate that impossibility or impracticability may operate to discharge a contractual duty under a contract as a matter of law. For example, the commenter states, this doctrine may excuse performance by a contractor in circumstances occasioned by acts of God, acts of third parties, ''or in cases of war, embargo, or the like.'' In light of this comment, NPS has further clarified NPS–48 with respect to waiver of franchise fees by modifying the first sentence of its proposed clarification of NPS–48 regarding waiver of franchise fees to state as follows:

Franchise fee waivers as a matter of law are only permissible under this section or otherwise where the concession contract contains an express provision which authorizes such a waiver or where payment of franchise fees by a concessioner is otherwise excused by operation of law.

In this connection, NPS concession contracts entered into prior to 1979 generally contain a franchise fee waiver provision. NPS concession contracts

entered into thereafter generally do not. NPS acknowledges that in the past it may have waived franchise fees in circumstances where no express waiver provision was contained in the contract. Such waivers, however, may have been appropriate because payment of the franchise fee was excused by operation of law as discussed above. Any other waivers which may have been granted in the absence of an express contract franchise fee waiver provision were unauthorized for the reasons stated above.

The commenter also argues that the Act mandates that franchise fee waivers be granted to NPS concessioners. NPS does not consider that this is the case. The Act makes no reference to any authority or requirement regarding waivers of concession franchise fees.

The commenter argues that 16 U.S.C. § 20b(b) requires that NPS waive franchise fees if necessary in order for the concessioner to have a reasonable opportunity for profit. However, 16 U.S.C. § 20b(b) states as follows in its entirety:

> The Secretary shall exercise *his authority hereunder* in a manner consistent with a reasonable opportunity for the concessioner to realize a profit on his operation as a whole commensurate with the capital invested and the obligations assumed. (Emphasis added.)

The Act makes no mention of any NPS authority to waive franchise fees nor does it expressly authorize NPS to include a franchise waiver provision in concession contracts. This is in pointed contrast to the Act's express requirements regarding franchise fee reconsideration provisions. The Act expressly discusses NPS authority regarding the alteration of franchise fees during the term of a concession contract. It requires that NPS include in concession contracts provisions for reconsideration of franchise fees at least every five years unless the contract is for a shorter period of time. Waiver of franchise fees is not mentioned. (Such reconsideration provisions are contained in all NPS concession contracts with a term of more than five years.)

An organization which represents concessioners also commented on the NPS–48 franchise fee waiver clarification. This organization suggested that NPS should include in NPS concession contracts a provision which would allow waiver of franchise fees and other concessioner payments to the government. NPS does not consider this to be necessary or appropriate in light of the franchise fee reconsideration provisions contained in NPS concession contracts as required by the Act. The commenter also suggested that the Act should be interpreted to allow waiver of franchise fees in circumstances which precluded the concessioner, ''through no fault of his, from having a reasonable opportunity to realize a profit, such as acts of God or government closures.'' NPS considers that the further clarification to NPS–48 discussed above accommodates this concern to the extent appropriate.

Neither of the commenters expressly objected to the clarification to NPS–48 regarding the fact that its franchise fee waiver provisions only apply to waiver of franchise fees and not to waiver of any other financial obligations established by a concession contract. However, the comment from the attorney representing a particular concessioner implied that an obligation of a concessioner to deposit a percentage of the concessioner's gross receipts in an account to be used by the concessioner to make concessioner improvements constitutes a franchise fee obligation. This is not the case. All NPS concession contracts clearly distinguish between payment of franchise fees and other financial obligations a contract may impose, including deposits into capital improvement accounts. The provisions of NPS–48 concerning waiver of franchise fees apply only to waiver of franchise fees owed the United States by a concessioner and denominated as such by the terms of the concession contract in question. To the extent that NPS in the past may have waived the payment of other financial obligations by a concessioner, such waivers were unauthorized unless made pursuant to a specific contract waiver provision regarding such financial obligations or were otherwise required by operation of law.

2. Food Service Sanitation Program

In its May 29, 1997, ''Federal Register'' notice, NPS proposed to amend Chapter 21, Standard 1, of NPS–48 with respect to its Food Code guidelines to conform them to the revised ''Food Code'' issued by the U.S. Public Health Service. One commenter objected to this proposal and expressed concerns about the new rating system for the Food Service Sanitation Inspection Report, its use in the Concessioner's Operational Performance Rating, and the proposed implications on the concessioner's right of preference in the renewal of its contract. This commenter feels that there would be too much subjectivity involved in determining a ''critical item'' and believes that if a Sanitation Inspector decides that an imminent health hazard exists, the concessioner's right of preference in the renewal of its contract would be jeopardized. NPS disagrees. Both ''critical items'' and ''imminent health hazards'' are defined in the U.S. Public Health Service Food Code. They are not determinations that are made subjectively by inspectors in the field. NPS notes that a concessioner's right of preference in renewal would only be affected if the concessioner is found ''unsatisfactory'' in the *last year* or ''marginal'' in the *last two years* of its contract.

This commenter suggests that if NPS is firm on this system, then a workable and fair appeal procedure needs to be outlined and included in the amendments. NPS believes that an adequate appeal procedure exists. Concessioners have the same appeal rights that currently exist in the Concessioner Review Program. Concessioners may appeal their annual overall rating to the Regional Director. As indicated below, Annex 1 (''Compliance and Enforcement'') of the Food Code is not being adopted by NPS.

The commenter further suggests that the numerical rating assigned should stand on its own, and feels that the system established for converting the rating could result in a rating with which the superintendent may not agree. NPS recognizes that the system established for converting the rating is imperfect. However, numeric ratings must be converted since the concessioner's Annual Overall Rating for operational performance (including public health and safety reports) is established as ''satisfactory,'' ''marginal'' or ''unsatisfactory.'' Other conversion or rating systems were considered, but all had certain drawbacks that adversely affected either the small or large operator. NPS believes that the system devised provides sufficient flexibility, and is fair and objective. Further, NPS does not feel that this proposal will require a superintendent to give a concessioner a rating that he or she deems less than appropriate. The superintendent, with justification, may adjust the Operational Performance Rating on the NPS Concessioner Annual Overall Rating. This process is no different than the one that currently exists.

Amendments and Clarifications to NPS–48

For the reasons discussed above, NPS–48 is hereby amended and clarified as follows:

1. Chapter 5, Subsection B.2., of NPS–48 is amended by deleting the former text of 36 CFR part 51, and replacing it

with the text of 36 CFR, part 51, as revised on October 5, 1992.

2. Chapter 19 of NPS–48 is amended by deleting the first sentence of subsection G and replacing it with the following two sentences:

When a concessioner's Annual Overall Rating is Unsatisfactory for a year, or Marginal for two consecutive years, it constitutes grounds for termination of the contract/permit. Further, if a concessioner receives an annual overall rating of Unsatisfactory during the last year prior to issuance of a prospectus, or an annual overall rating of Marginal during the 2 years prior to issuance of a prospectus, then the concessioner is not entitled to a right of preference in the renewal of its contract or permit.

3. Chapter 24 of NPS–48 is clarified, effective immediately as a matter of law, by adding the following two sentences to the end of the first paragraph of section 5.i.:

Franchise fee waivers are only permissible under this section or otherwise where the concession contract or permit in question contains an express provision which authorizes such a waiver or when payment of franchise fees is otherwise excused by operation of law. In addition, even in circumstances where a concession contract or permit contains such an express franchise fee waiver provision, such waiver authority applies only to payment of franchise fees; it does not apply to any other financial or other obligations a concessioner may have under the terms of a concession contract or permit unless the contract or permit in question expressly so states.

3. Chapter 29 of NPS–48 is amended by deleting subsection D.2.b.

4. Chapter 21, Standard 1, of NPS–48 is amended, effective immediately, by deleting existing Standard 1 and replacing it with a new Standard 1 conforming with the revised ''Food Code'' (exclusive of Annex 1 thereto) issued by the United States Public Health Service in 1993. Copies of the revised Standard 1 are available upon request.

All other portions of NPS–48 remain in effect.

Dated: July 24, 1997.

Dale Wilking,

Associate Director, Park Operations and Education.

[FR Doc. 97–21080 Filed 8–8–97; 8:45 am]

BILLING CODE 4310–70–M

DEPARTMENT OF THE INTERIOR

National Park Service

Booker T. Washington National Monument General Management Plan Public Meeting and Intent to Publish an Environmental Impact Statement

AGENCY: National Park Service. Interior.

ACTION: Notice of meeting/open house and notice of intent to publish environmental impact statement.

SUMMARY: This notice announces an upcoming scoping meeting and open house for the Booker T. Washington National Monument General Management Plan and the intent to publish an environmental impact statement in association with the general management plan.

Public Meeting Dates and Times: Monday, August 18, 1997 from 7:00–9:00 p.m.

Address: Trinity Ecumenical Parish, 40 Lake Mount Drive, Moneta, VA 24121.

Public Meeting Dates and Times: Wednesday, October 8, 1997 from 7:00–9:00 p.m.

Address: Rocky Mount, VA 24151. Location To Be Announced.

Open House Dates and Times:

Tuesday, August 19, 1997 from 9:00 a.m.–1:00 p.m.

Thursday, October 9, 1997 from 9:00 a.m.–1:00 p.m.

Address: Booker T. Washington NM Visitor Center, 12130 Booker T. Washington Highway, Hardy, VA 24101.

The purpose of the meeting and open house is to describe the general management planning effort beginning for Booker T. Washington National Monument and to solicit public concerns about the future management of the park. The agenda for the open house consists of an overview of the project and an open discussion of citizen concerns.

We encourage all who have an interest in the park's future to attend or contact the park Superintendent by letter or telephone. Minutes of the meeting will be available for public review four weeks after the meeting at the Visitor Center.

FOR FURTHER INFORMATION CONTACT:

Superintendent, Booker T. Washington National Monument, 12130 Booker T. Washington Highway, Hardy, VA 24101, (540) 721–2094.

Dated: July 23, 1997.

Fred Herling,

Outdoor Recreation Planner, Chesapeake/Allegheny System Support Office, Stewardship & Partnerships Team.

[FR Doc. 97–21130 Filed 8–8–97; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

National Park Service

Golden Gate National Recreation Area and Point Reyes National Seashore Advisory Commission; Notice of Meeting Cancellation

Notice is hereby given in accordance with the Federal Advisory Committee Act that the meeting of the Golden Gate National Recreation Area and Point Reyes National Seashore Advisory Commission previously scheduled for Wednesday, August 13, 1997 in San Francisco will be cancelled.

The Advisory Commission was established by Public Law 92–589 to provide for the free exchange of ideas between the National Park Service and the public and to facilitate the solicitation of advice or other counsel from members of the public on problems pertinent to the National Park Service systems in Marin, San Francisco and San Mateo Counties.

Members of the Commission are as follows:

Mr. Richard Bartke, Chairman
Ms. Naomi T. Gray
Mr. Michael Alexander
Ms. Lennie Roberts
Ms. Sonia Bolaños
Mr. Redmond Kernan
Mr. Merritt Robinson
Mr. John J. Spring
Mr. Joseph Williams
Ms. Amy Meyer, Vice Chair
Dr. Howard Cogswell
Mr. Jerry Friedman
Ms. Yvonne Lee
Mr. Trent Orr
Ms. Jacqueline Young
Mr. R.H. Sciaroni
Dr. Edgar Wayburn
Mr. Mel Lane

Dated: July 31, 1997.

Len McKenzie,

General Superintendent, Golden Gate National Recreation Area.

[FR Doc. 97–21129 Filed 8–8–97; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

National Park Service

Maine Acadian Culture Preservation Commission; Notice of Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act (PL 92–463) that the Maine Acadian Culture Preservation Commission will meet on Friday, August 15, 1997. The meeting will convene at 7:00 p.m. in the recreation hall of the Acdadian Village on U.S. Route 1 in Van Buren, Aroostook County, Maine.

The Maine Acadian Culture Preservation Commission was appointed by the Secretary of the Interior pursuant to the Maine Acadian Culture Preservation Act (PL 101–543). The purpose of the Commission is to advise the National Park Service with respect to:

- The development and implementation of an interpretive program of Acadian culture in the state of Maine; and
- The selection of sites for interpretation and preservation by means of cooperative agreements.

The Agenda for this meeting is as follows:

1. Review and approval of the summary reports of the meeting held June 20
2. A talk by Annette White on ''Pre-deportation Acadian costume''
3. NPS staff report
4. Other business
5. Proposed agenda, place, and date of the next Commission meeting

The meeting is open to the public. Further information concerning Commission meetings may be obtained from the Superintendent, Acadia National Park. Interested persons may make oral/written presentations to the Commission or file written statements. Such requests should be made at least seven days prior to the meeting to: Superintendent, Acadia National Park, P.O. Box 177, Bar Harbor, ME 04609–0177; telephone (207) 288–5472.

Len Bobinchock,

Deputy Superintendent for Acadia National Park.

[FR Doc. 97–21131 Filed 8–8–97; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

National Park Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before August 2, 1997. Pursuant to section 60.13 of 36 CFR part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, P.O. Box 37127, Washington, D.C. 20013–7127. Written comments should be submitted by August 26, 1997.

Carol D. Shull,

Keeper of the National Register.

ALABAMA

Marion County

Fite, Ernest Baxter, House, Jct. of Jackson Military Rd. and Thomas St., Hamilton, 94001545

GEORGIA

Jackson County

Talmo Historic District, Roughly along Main St., Kinney Ave., and A.J. Irvin Rd., Talmo, 97000960

IOWA

Cherokee County

Lewis Hotel, 231 W. Main St., Cherokee, 97000963

Henry County

Peterson Manufacturing Building, 213 W. Main St., New London, 97000962

Polk County

Masonic Temple of Des Moines (Architectural Legacy of Proudfoot & Bird in Iowa MPS), 1011 Locust St., Des Moines, 97000961

LOUISIANA

East Baton Rouge Parish

Gracelane Plantation House, 14444 Perkins Rd., Baton Rouge, 97000967

St. Tammany Parish

Arcade Theater, 2247–2251 Carey St., Slidell, 97000966

Tangipahoa Parish

Nesom, G.W., House, 50023 LA 51 N, Tickfaw, 97000965

Winn Parish

St. Maurice Methodist Church, Jct. of LA 477 and LA 71, St. Maurice, 97000964

MARYLAND

Harford County

Ivory Mills, 4916 Harford Creamery Rd., White Hall vicinity, 97000968

MASSACHUSETTS

Suffolk County

Charlestown Heights, Roughly bounded by St. Martin, Bunker Hill, Medford, and Sackville Sts., Boston, 97000969
North Terminal Garage, 600 Commercial St., Boston, 97000971
Students House, 96 The Fenway, Boston, 97000970

MICHIGAN

Benzie County

Navigation Structures at Frankfort Harbor, 2nd St., Frankfort, 97000973

Huron County

Navigation Structure at Harbor Beach Harbor, N. Lakeshore Dr., Harbor Beach, 97000972

MONTANA

Liberty County

First Episcopal Methodist Church of Chester, Jct. of Second St. and Madison, Chester, 97000974
First State Bank of Chester, Jct. of Washington Ave. and First St. E, Chester, 97000975

Treasure County

Sanders Gynmasium and Community Hall, Old Hwy 10, 6 mi. E of Hysham, Sanders, 97000976

NEW JERSEY

Essex County

Montrose Park Historic District,
Roughly bounded by S. Orange, Sanford, and Heywood Aves., and Holland Rd., South Orange, 97000978

Union County

Twin Maples,
8 Edgewood Rd.,
Summit, 97000977

NEW YORK

Essex County

CHAMPLAIN II Shipwreck,
Address Restricted,
Westport, 97000980

Madison County

Mount Hope Reservoir,
Between Mt. Hope and Fairview Aves.,
Oneida, 97000981

Suffolk County

Manhanset Chapel,
24 N. Ferry Rd.,
Shelter Island, 97000979

OREGON

Clatsop County

Bald Point Site (35CLT23)
(Native American Archeological Sites of the Oregon Coast MPS)
Address Restricted,
Cannon Beach vicinity, 97000983
Ecola Point Site (35CLT21)
(Native American Archeological Sites of the Oregon Coast MPS)
Address Restricted,
Cannon Beach vicinity, 97000984
Indian Creek Village Site (35CLT12)
(Native American Archeological Sites of the Oregon Coast MPS)
Address Restricted,
Cannon Beach vicinity, 97000982

Coos County

Archeological site 35CS24
(Native American Archeological Sites of the Oregon Coast MPS)
Address Restricted,

North Bend vicinity, 97001029
Archeological site 35CS129
(Native American Archeological Sites of the Oregon Coast MPS)
Address Restricted,
Charleston vicinity, 97001031
Archeological site 35CS67
(Native American Archeological Sites of the Oregon Coast MPS)
Address Restricted,
Charleston vicinity, 97001033
Archeological site 35CS66
(Native American Archeological Sites of the Oregon Coast MPS)
Address Restricted,
Charleston vicinity, 97001034
Archeological site 35CS39
(Native American Archeological Sites of the Oregon Coast MPS)
Address Restricted,
Charleston vicinity, 97001036
Archeological site 35CS9
(Native American Archeological Sites of the Oregon Coast MPS)
Address Restricted,
Bandon vicinity, 97001039
Archeological site 35CS8
(Native American Archeological Sites of the Oregon Coast MPS)
Address Restricted,
Bandon vicinity, 97001040
Bullards Beach site
(Native American Archeological Sites of the Oregon Coast MPS)
Address Restricted,
Bandon vicinity, 97001037
Cape Arago site (35CS10)
(Native American Archeological Sites of the Oregon Coast MPS)
Address Restricted,
Charleston vicinity, 97001035
Mussell Reef Village
(Native American Archeological Sites of the Oregon Coast MPS)
Address Restricted,
Charleston vicinity, 97001030
Running Foxe Midden (35CS131)
(Native American Archeological Sites of the Oregon Coast MPS)
Address Restricted,
Bandon vicinity, 97001038
Samuels, The, site (35CS138)
(Native American Archeological Sites of the Oregon Coast MPS)
Address Restricted,
Charleston vicinity, 97001032

Curry County

Arch Rock
(Native American Archeological Sites of the Oregon Coast MPS)
Address Restricted,
Carpenterville vicinity, 97001058
Archeological site 35CU83
(Native American Archeological Sites of the Oregon Coast MPS)
Address Restricted,
Sixes vicinity, 97001042
Archeological site 35CU1
(Native American Archeological Sites of the Oregon Coast MPS)
Address Restricted,
Sixes vicinity, 97001043
Archeological site 35CU13
(Native American Archeological Sites of the Oregon Coast MPS)
Address Restricted,
Port Orford vicinity, 97001045
Archeological site 35CU14
(Native American Archeological Sites of the Oregon Coast MPS)
Address Restricted,
Port Orford vicinity, 97001046
Archeological site 35CU156
(Native American Archeological Sites of the Oregon Coast MPS)
Address Restricted,
Port Orford vicinity, 97001047
Archeological site 35CU16
(Native American Archeological Sites of the Oregon Coast MPS)
Address Restricted,
Port Orford vicinity, 97001048
Archeological site 35CU153 (Native American Archeological Sites of the Oregon Coast MPS) Address Restricted, Port Orford vicinity, 97001049
Archeological site 35CU142 (Native American Archeological Sites of the Oregon Coast MPS) Address Restricted, Port Orford vicinity, 97001050
Archeological site 35CU31 (Native American Archeological Sites of the Oregon Coast MPS) Address Restricted, Pistol River vicinity, 97001055
Archeological site 35CU69 (Native American Archeological Sites of the Oregon Coast MPS) Address Restricted, Carpenterville vicinity, 97001066
Archeological site 35CU80 (Native American Archeological Sites of the Oregon Coast MPS) Address Restricted, Brookings vicinity, 97001069
Archeological site 35CU79 (Native American Archeological Sites of the Oregon Coast MPS) Address Restricted, Brookings vicinity, 97001070
Eagle Rock (Native American Archeological Sites of the Oregon Coast MPS) Address Restricted, Pistol River vicinity, 97001054
Harris Park Mound (Native American Archeological Sites of the Oregon Coast MPS) Address Restricted, Brookings vicinity, 97001068
Indian Sands (Native American Archeological Sites of the Oregon Coast MPS) Address Restricted, Carpenterville vicinity, 97001061
Khustenete—Hustenate—Xusteneten (Native American Archeological Sites of the Oregon Coast MPS) Address Restricted, Carpenterville vicinity, 97001057
Little Ridge—Cape Sebastian (35CU77) (Native American Archeological Sites of the Oregon Coast MPS) Address Restricted, Pistol River vicinity, 97001051
Little Ridge—Cape Sebastian (35CU78) (Native American Archeological Sites of the Oregon Coast MPS) Address Restricted, Pistol River vicinity, 97001052
Lone Ranch Creek Mound (Native American Archeological Sites of the Oregon Coast MPS) Address Restricted, Brookings vicinity, 97001067
Miller Creek (Native American Archeological Sites of the Oregon Coast MPS) Address Restricted, Carpenterville vicinity, 97001059
Newburgh Lithic site (35CU209) (Native American Archeological Sites of the Oregon Coast MPS) Address Restricted, Sixes vicinity, 97001041
Pistol River site—Chetlessentan—Chetleshin—Chet-less-chun-dunn (Native American Archeological Sites of the Oregon Coast MPS) Address Restricted, Pistol River vicinity, 97001053
Port Orford site (Native American Archeological Sites of the Oregon Coast MPS) Address Restricted, Port Orford vicinity, 97001044
Sheep Trail Shell Midden (35CU32) (Native American Archeological Sites of the Oregon Coast MPS) Address Restricted, Carpenterville vicinity, 97001056
Thunder Rock (Native American Archeological Sites of the Oregon Coast MPS) Address Restricted, Carpenterville vicinity, 97001060
Whale Head (Native American Archeological Sites of the Oregon Coast MPS) Address Restricted, Carpenterville vicinity, 97001062
Whaleshead Lithic site (35CU207) (Native American Archeological Sites of the Oregon Coast MPS) Address Restricted, Carpenterville vicinity, 97001064
Whaleshead South Midden (35CU208) (Native American Archeological Sites of the Oregon Coast MPS) Address Restricted, Carpenterville vicinity, 97001063
Whaleshead Trail Viewpoint (35CU36) (Native American Archeological Sites of the Oregon Coast MPS) Address Restricted, Carpenterville vicinity, 97001065

Lane County

Archeological site 35LA1 (Native American Archeological Sites of the Oregon Coast MPS) Address Restricted, Searose Beach vicinity, 97001014
Archeological site 35LA228 (Native American Archeological Sites of the Oregon Coast MPS) Address Restricted, Searose Beach vicinity, 97001015
Archeological site 35LA2 (Native American Archeological Sites of the Oregon Coast MPS) Address Restricted, Searose Beach vicinity, 97001016
Archeological site 35LA4 (Native American Archeological Sites of the Oregon Coast MPS) Address Restricted, Searose Beach vicinity, 97001018
Archeological site 35LA5 (Native American Archeological Sites of the Oregon Coast MPS) Address Restricted, Searose Beach vicinity, 97001019
Archeological site 35LA6 (Native American Archeological Sites of the Oregon Coast MPS) Address Restricted, Searose Beach vicinity, 97001020
Archeological site 35LA7 (Native American Archeological Sites of the Oregon Coast MPS) Address Restricted, Searose Beach vicinity, 97001021
Archeological site 35LA227 (Native American Archeological Sites of the Oregon Coast MPS) Address Restricted, Searose Beach vicinity, 97001024
Archeological site 35LA11 (Native American Archeological Sites of the Oregon Coast MPS) Address Restricted, Searose Beach vicinity, 97001025
Archeological site 35LA13 (Native American Archeological Sites of the Oregon Coast MPS) Address Restricted, Searose Beach vicinity, 97001026
Archeological site 35LA16 (Native American Archeological Sites of the Oregon Coast

MPS) Address Restricted, Searose Beach vicinity, 97001027
Bob Creek site 35LA10 (Native American Archeological Sites of the Oregon Coast MPS) Address Restricted, Searose Beach vicinity, 97001023
Devil's Elbow site (35LA17) (Native American Archeological Sites of the Oregon Coast MPS) Address Restricted, Searose Beach vicinity, 97001028
Neptune, The, Site (35LA3) (Native American Archeological Sites of the Oregon Coast MPS) Address Restricted, Searose Beach vicinity, 97001017
Strawberry Hill site (35LA8) (Native American Archeological Sites of the Oregon Coast MPS) Address Restricted, Searose Beach vicinity, 97001022

Lincoln County

Archeological site 35LNC68 (Native American Archeological Sites of the Oregon Coast MPS) Address Restricted, Depoe Bay vicinity, 97001005
Archeological site 35LNC48 (Native American Archeological Sites of the Oregon Coast MPS) Address Restricted, Yachats vicinity, 97001012
Archeological site 35LNC63 (Native American Archeological Sites of the Oregon Coast MPS) Address Restricted, Yachats vicinity, 97001013
Boiler Bay Site (35LNC45) (Native American Archeological Sites of the Oregon Coast MPS) Address Restricted, Depoe Bay vicinity, 97001003
Devil's Bunch Bowl (Native American Archeological Sites of the Oregon Coast MPS) Address Restricted, Otter Rock vicinity, 97001006
Government Point Site (Native American Archeological Sites of the Oregon Coast MPS) Address Restricted, Depoe Bay vicinity, 97001002
North 804 Midden (35LNC72) (Native American Archeological Sites of the Oregon Coast MPS) Address Restricted, Yachats vicinity, 97001008
Rocky Creek Site (35LNC43) (Native American Archeological Sites of the Oregon Coast MPS) Address Restricted, Depoe Bay vicinity, 97001004
Seal Rock (Native American Archeological Sites of the Oregon Coast MPS) Address Restricted, Seal Rock vicinity, 97001007
Smelt Sands Midden (35LNC65) (Native American Archeological Sites of the Oregon Coast MPS) Address Restricted, Yachats vicinity, 97001011
Trail 804 Midden #3 (35LNC73) (Native American Archeological Sites of the Oregon Coast MPS) Address Restricted, Yachats vicinity, 97001009
Yachats Trail 804 Midden (35LNC66) (Native American Archeological Sites of the Oregon Coast MPS) Address Restricted, Yachats vicinity, 97001010

Tillamook County

Archeological Site (35TI39) (Native American Archeological Sites of the Oregon Coast MPS) Address Restricted, Netarts vicinity, 97000993
Archeological Site 35TI1 (Native American Archeological Sites of the Oregon Coast MPS) Address Restricted, Netarts vicinity, 97000989
Archeological Site 35TI44 (Native American Archeological Sites of the Oregon Coast MPS) Address Restricted, Netarts vicinity, 97000990
Archeological Site 35TI45 (Native American Archeological Sites of the Oregon Coast MPS) Address Restricted, Netarts vicinity, 97000994
Archeological site 35TI38 (Native American Archeological Sites of the Oregon Coast MPS) Address Restricted, Netarts vicinity, 97000997
Archeological site 35TI36 (Native American Archeological Sites of the Oregon Coast MPS) Address Restricted, Netarts vicinity, 97001000
Archeological site 35TI54 (Native American Archeological Sites of the Oregon Coast MPS) Address Restricted, Netarts vicinity, 97001001
Cape Canyon Midden (35TI61) (Native American Archeological Sites of the Oregon Coast MPS) Address Restricted, Netarts vicinity, 97000998
Cove Creek Midden (35TI35) (Native American Archeological Sites of the Oregon Coast MPS) Address Restricted, Netarts vicinity, 97000999
Nehalem Bay Dune Site (Native American Archeological Sites of the Oregon Coast MPS) Address Restricted, Nehalem vicinity, 97000986
Nehalem Boat Ramp Midden (35TI62) (Native American Archeological Sites of the Oregon Coast MPS) Address Restricted, Manzanita vicinity, 97000987
Netarts FCR Camp (45TI67) (Native American Archeological Sites of the Oregon Coast MPS) Address Restricted, Netarts vicinity, 97000992
Netarts Marsh Site (35TI68) (Native American Archeological Sites of the Oregon Coast MPS) Address Restricted, Netarts vicinity, 97000991
Netarts Spit FCR—Elko Site (35TI65) (Native American Archeological Sites of the Oregon Coast MPS) Address Restricted, Netarts vicinity, 97000996
Netarts Spit Lithic Site (Native American Archeological Sites of the Oregon Coast MPS) Address Restricted, Netarts vicinity, 97000995
Oceanside Site (35TI47) (Native American Archeological Sites of the Oregon Coast MPS) Address Restricted, Oceanside vicinity, 97000988
Smuggler Cove Shell Midden (35TI46) (Native American Archeological Sites of the Oregon Coast MPS) Address Restricted, Neahkahnie vicinity, 97000985

VIRGINIA

Amelia County

Ingleside, 10920 Rodophil Rd., Amelia vicinity, 97001071

Fairfax County

Thermo-Con House, 9791 Gunston Rd., Fort Belvoir, 97001075

Loudoun County

Clapham's Ferry, 44344 E. Spinks Ferry Rd., Leesburg vicinity, 97001076

Pulaski County

Fairview District Home, Roughly bounded by VA 643, VA 11, and VA 100, Dublin vicinity, 97001073

Wise County

Tacoma School, 4408 Stone Mountain Rd., Coeburn vicinity, 97001072

Radford Independent City

Halwyck, 915 Tyler Ave., Radford, 97001074

WASHINGTON

Grant County

Bell Hotel, 210 W. Division St., Ephrata, 97001082

King County

Maloney's General Store, 104 Railroad Ave. W, Skyomish, 97001078
Seattle Municipal Light and Power Plant, 20030 Cedar Falls Rd. SE, North Bend, 97001077

Kittitas County

Gray, Dr. Paschal and Agnes, House, 606 N. Main St., Ellensburg, 97001079

Pend Oreille County

Pend Oreille Mines and Metals Building, 103 S. Grandview St., Metaline Falls, 97001081

Pierce County

Woodbrook Hunt Club, 6122 150th St. SW, Lakewood, 97001083

Spokane County

Globe Hotel, The (Single Room Occupancy Hotels in the Central Business District of Spokane MPS) 204 N. Division St., Spokane, 97001080
Roosevelt Hall, Eastern Washington Hospital, Medical Lake, 97001084

[FR Doc. 97–21092 Filed 8–8–97; 8:45 am]
BILLING CODE 4310–70–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Under the Comprehensive Environmental Response, Compensation, and Liability Act

Notice is hereby given that on July 25, 1997, three proposed Consent Decrees in *United States* versus *Alcan Aluminum, et al.*, Civil Action No. 97–3094, were lodged with the United States District Court for the Central District of Illinois.

In this action, the United States sought to recover costs incurred in conducting response activities as a result of releases or threatened releases of hazardous substances at the Pierce Waste Oil Services Site, located in Springfield, Illinois. The proposed settlements are set forth in three Consent Decrees that address the liability of all twenty-six defendants in this action, each of which has been named as a generator of hazardous

substances sent to the Site. Twenty-one of the 26 defendants negotiated as a group in one settlement; four other defendants negotiated in another settlement; and one defendant settled in an ability-to-pay settlement. Together, these settlements will recover $1,307,280, not including interest.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the Consent Decrees. Comments should be addressed to the Assistant Attorney General of the Environment and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States* versus *Alcan Aluminum, et al.*, D.J. Ref. 90–11–2–1177.

The Consent Decrees may be examined at the office of the United States Attorney, Central District of Illinois, Room 312 Federal Building, 600 East Monroe Street, Springfield, Illinois 62701, at United States Environmental Protection Agency Region V, 77 West Jackson Boulevard, Chicago, Illinois 60604, and at the Consent Decree Library, 1120 G Street, NW., 4th Floor, Washington, DC 20005, (202) 624–0892. A copy of the Consent Decrees may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, NW., 4th Floor, Washington, DC 20005. In requesting copies of these three proposed settlements, please enclose a check in the amount of $23.50 (25 cents per page reproduction cost) payable to the Consent Decree Library.

Joel M. Gross,

Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 97–21059 Filed 8–8–97; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Two Consent Decrees Pursuant to the Comprehensive Environmental Response, Compensation and Liability Act of 1980

In accordance with Departmental policy, 28 CFR 50.7, and 42 U.S.C. 9622(d)(2), notice is hereby given that on July 25, 1997, two Consent Decrees were lodged in *United States* v. *Dixie-Narco, et al.*, Civil Action No. MJG–96–3310, with the United States District Court for the District of Maryland.

The Consent Decrees resolve claims against Noxell, Corporation and Dixie-Narco, Inc. under section 107 of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (''CERCLA''), 42 U.S.C. 9607, with respect to the Drumco Superfund Site (''Drumco Site'') located in Baltimore and in Anne Arundel County, Maryland. Pursuant to the terms of the Consent Decrees, Noxell Corporation and Dixie-Narco, Inc. will make payments of $400,000 and $360,000, respectively, to the United States for costs incurred in connection with the Site.

The Department of Justice will receive comments relating to the proposed Consent Decrees for a period of thirty days from the date of publication of this notice. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States* v. *Dixie-Narco, et al.*, Civil Action No. MJG–96–3310, Ref. No. 90–11–2–1140. The proposed Consent Decrees may be examined at the office of the United States Attorney, District of Maryland, 604 United States Courthouse, 101 W. Lombard Street, Baltimore, Maryland. Copies of the Consent Decree may also be examined and obtained by mail at the Consent Decree Library, 1120 G Street, NW., 4th Floor, Washington, DC 20005 (202–624–0892) and the offices of the Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107. When requesting a copy by mail, please enclose a check in the amount of $4.00 (twenty-five cents per page reproduction costs) for either Consent Decree, or $8.00 for both Consent Decrees, payable to the ''Consent Decree Library.''

Walker B. Smith,

Deputy Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 97–21061 Filed 8–8–97; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Pursuant to the Clean Water Act

In accordance with Departmental policy and 28 CFR 50.7, notice is hereby given that on July 28, 1997, a consent decree was lodged in *United States* v. *City of Erie et al.*, Civil Action No. 94–281E with the United States District Court for the Western District of Pennsylvania.

This consent decree resolves claims against the City of Erie and the Erie Sewer Authority (jointly ''Erie'') brought pursuant to sections 309 (b) and (d) of the Clean Water Act (the ''Act''), 33 U.S.C. 1319 (b) and (d), for civil penalties and injunctive relief for failure to comply with effluent limits and pretreatment requirements. Pursuant to the terms of the Consent Decree, Erie has agreed to come into full compliance with the Act, pay a civil penalty of $200,000, and perform two Supplemental Environmental Projects (''SEPs''). The first SEP involves separating approximately 5000 feet of combined sewer lines and replacing them with separate sanitary and storm water sewer lines, which will result in a reduction of pollutants entering receiving waters and will ensure the closure of one discharge point. The second SEP entails installing upgraded air pollution control equipment and replacing old scrubbers on the Erie's sewage sludge incinerators, and will result in a reduction of particulate emissions and stack opacity beyond the Standards of Performance already required to be met by sewage sludge incinerators. The combined cost of these two SEPs is estimated to be at least $6.25 million.

The Department of Justice will receive comments relating to the proposed consent decree for a period of thirty days from the date of publication of this notice. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States* v. *City of Erie et al.*, DOJ Ref. No. *90–5–1–1–5064*. The proposed consent decree may be examined at the office of the United States Attorney, Western District of Pennsylvania, 633 U.S. Post Office and Courthouse, 7th Avenue and Grant Street, Pittsburgh, Pennsylvania. Copies of the consent decree may also be examined and obtained by mail at the Consent Decree Library, 1120 G Street, NW., 4th Floor, Washington, DC 20005 (202–624–0892) and the offices of the Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107. When requesting a copy by mail, please enclose a check in the amount of $6.75 (twenty-five cents per page reproduction costs) payable to the ''Consent Decree Library.''

Walker B. Smith,

Deputy Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 97–21062 Filed 8–8–97; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Pursuant to the Clean Water Act

Notice is hereby given that a proposed Consent Decree in *United States* v. *Great Lakes Dredge & Dock Co.*, Civil No. 3:97–CV–01388–RNC (D. Conn.), was lodged with the United States District Court for the District of Connecticut on July 15, 1997. The proposed Consent Decree concerns alleged violations of sections 301(a) and 404(s) of the Clean Water Act, 33 U.S.C. 1311(a) and 1344(s), resulting from the unauthorized discharge of dredged material into Long Island Sound. The defendant, Great Lakes Dredge & Dock Company, was hired by United Illuminating Company to perform certain dredging operations pursuant to a permit issued by the Corps of Engineers. The alleged violation occurred when an improperly loaded scow encountered rough seas prior to reaching an authorized disposal area and was unloaded prematurely for safety reasons. Great Lakes Dredge & Dock Company has agreed to a proposed Consent Decree to settle its alleged violations of the Clean Water Act.

The proposed Consent Decree would require the Great Lakes Dredge & Dock Company to pay a $20,000 civil penalty and would permanently enjoin it from future violations of the Clean Water Act.

The U.S. Department of Justice will receive written comments relating to the proposed Consent Decree for a period of thirty (30) days from the date of publication of this notice. Comments should be addressed to Ms. Sharon S. Jaffe, Assistant United States Attorney, 915 Lafayette Blvd., Bridgeport, CT 06604, and should refer to *United States* v. *Great Lakes Dredge & Dock Co.*, Civil No. 3:97–CV–01388–RNC (D. Conn.).

The proposed Consent Decree may be examined at the Clerk's Office, United States District Court for the District of Connecticut, 450 Main Street, Hartford, Connecticut 06103.

Letitia J. Grishaw,

Chief, Environmental Defense Section, Environment and Natural Resources Division, United States Department of Justice.

[FR Doc. 97–21057 Filed 8–8–97; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Pursuant to the Clean Air Act

Under 28 CFR 50.7, notice is hereby given that on July 30, 1997, a proposed consent decree in *United States* v. *Board of Trustees of Southern Illinois University*, Civil Action No. 97–4247–JPG, was lodged with the United States District Court for the Southern District of Illinois.

In this action, the United States sought injunctive relief and civil penalties under section 113(b) of the Clean Air Act, 42 U.S.C. 7413(b), for violations of the Illinois State Implementation Plan (''SIP'') and the New Source Performance Standards (''NSPS'') for Industrial-Commercial-Institutional Steam Generating Units, 40 CFR part 60, Subpart Db., at the Central Steam Plant at Southern Illinois University's Carbondale, Illinois, campus. Specifically, the Complaint alleges that SIU violated two sections of the Illinois SIP: (1) 35 I.A.C. § 212.202 relating to particulate matter emission exceedances, and (2) 35 I.A.C. § 201.144 relating to operating without a permit, with respect to SIU's operation of three coal-fired boilers at its Central Steam Plant. The Complaint also alleges that SIU violated various provisions of the NSPS regulations applicable to its natural gas-fired boiler at the Central Steam Plant. The proposed consent decree provides for compliance testing in the form of stack tests for three of SIU's boilers with respect to particulate emission limits of the Illinois SIP. In addition, SIU will pay a civil penalty of $150,000 for its violations of the Illinois SIP and the NSPS.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, Department of Justice, Washington, DC. 20530, and should refer to *United States* v. *Board of Trustees of Southern Illinois University*, DOJ Ref. # 90–5–2–1–2045.

The proposed consent decree may be examined at the office of the United States Attorney for the Southern District of Illinois, Nine Executive Drive, Suite 300, Fairview Heights, Illinois 62208; at U.S. EPA Region 5, 77 West Jackson Boulevard, Chicago, IL 60604; and at the Consent Decree Library, 1120 G Street, NW., 4th Floor, Washington, DC. 20005, (202) 624–0892. A copy of the proposed consent decree may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, NW., 4th Floor, Washington, DC. 20005. In requesting a copy please refer to the referenced case and enclose a check in the amount of $5.25 (25 cents per page reproduction costs), payable to the Consent Decree Library.

Joel M. Gross,

Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 97–21060 Filed 8–8–97; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Under the Clean Water Act

Under 28 CFR 50.7, notice is hereby given that on July 23, 1997, a proposed Consent Decree in *United States* v. *TurboCombustor Technology, Inc.*, Civil Action No. 97–14274–CIV–KLR was lodged with the United States District Court for the Southern District of Florida.

In this action the United States sought to recover civil penalties and enjoin violations of the Clean Water Act, 33 U.S.C. 1319, for discharges from TurboCombustor Technology, Inc.'s (''TCT'') facility in Stuart, Florida. The United States alleged that TCT discharged low pH wastewater in violation of effluent limitations contained in the National General Pretreatment Standards regulations, 40 CFR part 403. The Consent Decree provides for a $200,000 civil penalty, enjoins discharges of low pH wastewater, and further requires monitoring and sampling of wastewater, evaluation of the facility for wastewater minimization, and reporting of results from environmental audits at the facility and at other facilities owned by TCT's parent company.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the Consent Decree. Comments should be addressed to the Assistant Attorney General of the Environment and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States* v. *TurboCombustor Technology, Inc.*, D.J. Ref. 90–5–1–1–4329.

The consent decree may be examined at the Office of the United States Attorney, Southern District of Florida, 99 N.E. 4th Street, 4th Fl, Miami, FL 33132, at U.S. EPA Region 4, 61 Forsyth Street, SW, Atlanta, GA 30303, and at the Consent Decree Library, 1120 G Street, NW, 4th Floor, Washington, DC 20005, (202) 624–0892. A copy of the consent decree may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, NW, 4th Floor, Washington, DC 20005. In requesting a copy, please enclose a

check in the amount of $10.75 (25 cents per page reproduction cost) payable to the Consent Decree Library.

Walker B. Smith,

Deputy Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 97–21063 Filed 8–8–97; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Antitrust Division

United States and States of New York and Ohio and Commonwealth of Pennsylvania v. Cargill Inc., Akzo Nobel, NV, Akzo Nobel, Inc., and Akzo Nobel Salt, Inc.; Public Comment and Response on Proposed Judgment

Pursuant to the Antitrust Penalties and Procedures Act, 15 U.S.C. 16 (b)–(h), the United States publishes below the comment it received on the proposed final judgment in *United States et al.* v. *Cargill, Inc. et al.,* No. 6:97–CV–06161–L, filed in the United States District Court for the Western District of New York, together with the United States' response to that comment.

Copies of the comment and the response, which were attached to the United States' Certificate of Compliance with the Antitrust Procedures and Penalties Act, are available for inspection and copying in Room 215 of the U.S. Department of Justice, Antitrust Division, 325 7th Street, NW, Washington DC 20530 (telephone (202) 514–2481) and at the office of the Clerk of the United States District Court for the Western District of New York, Rochester Division, 100 State Street, Room 2120, Rochester, NY 14614. Copies of these materials may be obtained upon request and payment of a copying fee.

Constance K. Robinson,

Director of Operations.

May 19, 1997.

J. Robert Kramer II,

Chief—Litigation II Section, Antitrust Division, United States Department of Justice, 1401 H Street, NW, Suite 3000, Washington, DC 20530

Re: Authorize Letter of Support to J. Robert Kramer, II

Dear Mr. Kramer: Enclosed is a certified copy of the above reference resolution which was duly adopted by the County Legislature on the 12th day of May, 1997.

Very truly yours,

Stacy B. Husted,

Deputy Clerk, Schuyler County Legislature.

Enclosure

sbh

[Resolution No. 180]

Schuyler County Legislature

Regular Meeting

May 12, 1997

Intro. No. 13
Approved by Committee RJF
Approved by Co. Atty. JPC
Motion by Fitzsimmons
Seconded by Young
Vote: 6 Ayes to 0 Noes
Name of Noes
Re: Authorize Letter of Support to J. Robert Kramer, II

Whereas, April 21, 1997, the United States, the states of New York, Ohio, and Pennsylvania filed a Civil Antitrust complaint, a proposed Final Judgment and a Stipulation and Order between the parties of AKZO Nobel and Cargill, Inc., and

Whereas, the Stipulation and Order and proposed Final Judgment requires Cargill and AKZO to ensure that, until the divestitures mandated by the proposed Final Judgment are accomplished, AKZO's Watkins Glen evaporated salt plant and related assets will be maintained and operated as a saleable and economically viable ongoing concern, and

Whereas, both facilities are an extremely important and a vital part of our community, and,

Whereas, written comments may be submitted to the United States Department of Justice within 60 days of the date of publication of the Competitive Impact Statement in the Federal Register.

Now, therefore, be it resolved that a letter be prepared to J. Robert Kramer II, Chief-Litigation II Section, Antitrust Division, United States Department of Justice, 1401 H Street, NW, Suite 3000, Washington, D.C., 20530, on behalf of our Schuyler County community simply to make the United States Department of Justice aware of the importance of the jobs provided by both of these facilities and the economic impact that any downsizing or plant closings would have on our small Schuyler County community.

State of New York
County of Schuyler

I, Stacy Husted, Deputy Clerk to the Schuyler County Legislature, do hereby certify that the foregoing is a true and exact copy of resolution duly adopted by the County Legislature on May 12, 1997.

In testimony whereof, I have hereunto set my hand and the seal of said County Legislature at Watkins Glen, NY.

May 19, 1997.

Stacy B. Husted,

Deputy Clerk.

July 17, 1997.

Honorable Stacy B. Husted

Deputy Clerk, Schuyler County Legislature, County Office Building, Box 6, 105 Ninth Street, Watkins Glen, New York 14891

Re: *Proposed Judgment in United States, et al.* v. *Cargill Inc. and Akzo Nobel, NV, et al.*

Dear Ms. Husted: Thank you for your May 19 letter to Mr. Kramer, in which you enclosed a copy of the May 12, 1997 resolution adopted by the Schuyler County Legislature concerning the proposed Final Judgment in this case. The proposed Judgment, if entered by the Court, would alleviate the competitive concerns raised by Cargill's acquisition of the salt operations of Akzo Nobel. The Judgment requires Cargill and Akzo to divest certain assets related to the production and sale of bulk deicing salt. It also requires Cargill to divest the evaporated salt plant in Watkins Glen acquired from Akzo Nobel.

The Akzo and Cargill salt plants are the major employers in Watkins Glen, the seat of Schuyler County. In its resolution, the Schuyler County Legislature wanted to make ''the Department of Justice aware of the importance of the jobs provided by both of these facilities and the economic impact that any downsizing or plant closings would have on our small Schuyler County community.''

I would first note that the proposed Final Judgment does not affect the Watkins Glen salt plant owned by Cargill prior to Cargill's acquisition of Akzo Nobel. As to the Akzo plant, the Department of Justice and the Schuyler County Legislature have similar concerns. The Judgment requires Cargill to divest the former Akzo plant in such a way as to satisfy the Department of Justice that it will be used as part of a viable, ongoing business engaged in the production and sale of food grade salt (Judgment, §§ IV(B) and (G)). As such, the Akzo plant will continue to need a skilled work force. Although the purchaser of the facility will have the same right that Akzo has historically had to determine the appropriate size of its workforce, the Department of Justice would not approve the plant's purchase by a person who intends to shut the plant down or take other actions that would render the plant an ineffective competitor in the market.

Thank you for bringing your concerns to our attention. We hope that this information will help alleviate them. Pursuant to the Antitrust Procedures and Penalties Act, a copy of your letter and the Schuyler County resolution and this response will be published in the **Federal Register** and filed with the Court.

Sincerely yours,

Anthony E. Harris,

Attorney, Litigation II Section.

[FR Doc. 97–21058 Filed 8–8–97; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. H–372]

RIN: 1218–AB58

Metalworking Fluids Standards Advisory Committee: Notice of Open Meeting

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Metalworking Fluids Standards Advisory Committee: notice of open meeting.

SUMMARY: The Occupational Safety and Health Administration announces the first meeting of the Metalworking Fluids Standards Advisory Committee (MWFSAC). The Secretary of Labor established MWFSAC to advise the Assistant Secretary for OSHA on appropriate actions to protect workers from the hazards associated with occupational exposure to metalworking fluids.

DATES: The meeting date is Tuesday, September 2, 1997, from 10:00 a.m. to about 4:30 p.m. Submit comments, requests for oral presentations, and requests for special disability accommodations by August 19, 1997.

ADDRESSES: The meeting will take place in Room C–5515 (1A and 1B) of the U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C.

Mail comments and requests for oral presentations to Dr. Peter Infante, U.S. Department of Labor, OSHA, Directorate of Health Standards Programs, Metalworking Fluids Standards Advisory Committee, Room N–3718, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

FOR FURTHER INFORMATION CONTACT:

Bonnie Friedman, Director, Office of Information and Consumer Affairs, OSHA, 202–219–8151. For special disability accommodations, contact Theresa Berry (phone: 202–219–8615 ext. 106; FAX: 202–219–5986).

SUPPLEMENTARY INFORMATION:

Background

On August 29, 1996, OSHA published a notice of intent to form a Metalworking Fluids Standards Advisory Committee (MWFSAC) and asked the public for nominations of individuals with suitable experience or expertise to serve as members (61 FR 45459). The Secretary of Labor chartered the advisory committee to address the relevant issues surrounding occupational exposure to metalworking fluids. These issues include methods of analysis and measurement, health effects, significance of risk, and technological and economic feasibility. The Secretary recently appointed fifteen persons to serve as members of MWFSAC, representing the interests of small and large employers, workers, academics, safety and health professionals, and government agencies (62 FR 39551, 7/23/97).

OSHA invites the public to attend the first MWFSAC meeting on Tuesday, September 2, 1997. Seating will be available on a first-come, first-served basis.

Meeting Agenda

The agenda for the first meeting of the advisory committee includes: introduction of members, welcome by the Acting Assistant Secretary of OSHA, discussion of committee procedures, administrative details, review of the committee charter, discussion of exposure sources and metalworking fluid operations, discussion of metalworking fluid design and uses, and discussion of appropriate source documents which MWFSAC may wish to use.

Public Participation

Interested persons may file written comments, data, views or statements for consideration by MWFSAC by submitting them to Dr. Peter Infante. Interested persons may also address the committee on items that are on the meeting agenda. A person wishing to make such an oral presentation must provide Dr. Infante with a summary of the proposed presentation, an estimate of the time desired, and a statement of the interest that the person represents. Presentation time will be allotted to speakers based on the amount of time available. In addition, public attendees may be allowed to participate in committee discussions, in the Chair's discretion and subject to time available.

Authority

This notice is issued under the authority of sections 6(b)(1) and 7(b) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 655, 666), the Federal Advisory Committee Act (5 U.S.C. App. 2), and 29 CFR part 1912.

Signed at Washington, D.C., this 5th day of August, 1997.

Greg Watchman,

Acting Assistant Secretary of Labor.

[FR Doc. 97–21126 Filed 8–8–97; 8:45 am]

BILLING CODE 4510–26–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (97–110)]

NASA Advisory Council, Aeronautics and Space Transportation Technology Advisory Committee, Rotorcraft Subcommittee; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, as amended, National Aeronautics and Space Administration announces a NASA Advisory Council, Aeronautics and Space Transportation Technology Advisory Committee, Rotorcraft Subcommittee meeting.

DATES: August 26, 1997, 8:00 a.m. to 4:00 p.m.

ADDRESSES: National Aeronautics and Space Administration, Langley Research Center, Building 1219, Room 225, Hampton, VA 23681–0001.

FOR FURTHER INFORMATION CONTACT: Mr. Joe W. Elliott, National Aeronautics and Space Administration, Ames Research Center, Moffett Field, CA 94035–1000, 415–604–2001.

SUPPLEMENTARY INFORMATION: The meeting will be open to the public up to the seating capacity of the room. Agenda topics for the meeting are as follows:

—Overview of the Rotorcraft Subcommittee Charter and Functions
—Overview of the NASA Rotorcraft Base Program
—Review of the Rotorcraft Level II Programs
—Design for Efficient and Affordable Rotorcraft
—Safe All-Weather Flight Operations for Rotorcraft
—Select Low-Noise Technologies
—National Rotorcraft Technology Center (NRTC)
—Aviation System Capacity—Shorthaul Civil Tiltrotor

It is imperative that the meeting be held on these dates to accommodate the scheduling priorities of the key participants. Visitors will be requested to sign a visitors register.

Dated: July 31, 1997.

Leslie M. Nolan,

Advisory Committee Management Officer.

[FR Doc. 97–21159 Filed 8–8–97; 8:45 am]

BILLING CODE 7510–01–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (97–107)]

Notice of Prospective Patent License

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of prospective patent license.

SUMMARY: NASA hereby gives notice that Cannondale, of 9 Brookside Place, Georgetown, CT 06829–0122, has applied for a partially exclusive license to practice the inventions described and claimed in NASA Case Number GSC–13,802–1, entitled ''3–D Sprag Ratcheting Tool,'' and U.S. Patent No. 5,482,144, entitled ''Three Dimensional Roller Locking Sprag,'' which are both

assigned to the United States of America as represented by the Administrator of the National Aeronautics and Space Administration. Written objections to the prospective grant of a license should be sent to Goddard Space Flight Center.

DATES: Responses to this notice must be received by October 10, 1997.

FOR FURTHER INFORMATION CONTACT:

Guy M. Miller, Patent Counsel, Goddard Space Flight Center, Mail Stop 204, Greenbelt, MD 20771, telephone (301) 286–7351.

Dated: August 4, 1997.

Edward A. Frankle,

General Counsel.

[FR Doc. 97–21158 Filed 8–8–97; 8:45 am]

BILLING CODE 7510–01–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (97–109)]

Notice of Prospective Patent License

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of prospective patent license.

SUMMARY: NASA hereby gives notice that Dow-United Technologies Composite Products, Inc., of Wallingford, CT 06492–1843, has applied for a partially exclusive license to practice the inventions described and claimed in NASA Case Numbers: LAR 15383–1, entitled ''Method of Preparing Polymers with Low Melt Viscosity''; LAR 15534–1, entitled ''Method of Preparing Polymers with Low Melt Viscosity''; and LAR 15534–2, entitled ''Method of Preparing Polymers with Low Melt Viscosity''; for which United States Patent Applications were filed by the United States of America as represented by the Administrator of the National Aeronautics and Space Administration. Written objections to the prospective grant of a license should be sent to Langley Research Center.

DATES: Responses to this notice must be received by October 10, 1997.

FOR FURTHER INFORMATION CONTACT:

George F. Helfrich, Patent Counsel, Langley Research Center, Mail Stop 212, Hampton, VA 23681–0001, telephone (757) 864–3227, fax (757) 864–9190.

Dated: August 4, 1997.

Edward A. Frankle,

General Counsel.

[FR Doc. 97–21168 Filed 8–8–97; 8:45 am]

BILLING CODE 7510–01–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (97–108)]

Notice of Prospective Patent License

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of prospective patent license.

SUMMARY: NASA hereby gives notice that UE Systems, Inc., Elmsford, New York, has applied for an exclusive license for the patent application entitled ''Ultrasonic Imaging System,'' KSC–11909, which is assigned to the United States of America as represented by the Administrator of the National Aeronautics and Space Administration. Written objections to the prospective grant of a license to UE Systems, Inc. should be sent to Beth Vrioni, John F. Kennedy Space Center, Mail Code DE–TPO, Kennedy Space Center, FL 32899.

DATES: Responses to this notice must be received by October 10, 1997.

FOR FURTHER INFORMATION CONTACT: Beth Vrioni at (407) 867–2544.

Dated: August 4, 1997.

Edward A. Frankle,

General Counsel.

[FR Doc. 97–21167 Filed 8–8–97; 8:45 am]

BILLING CODE 7510–01–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–267]

Notice of Termination

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of the Termination of the Public Service Company of Colorado Fort St. Vrain Nuclear Generating Station License.

SUMMARY: The U.S. Nuclear Regulatory Commission is noticing the termination of the Public Service Company of Colorado's Fort St. Vrain (FSV) Nuclear Generating Station, Unit 1, License DPR–34, (NRC Docket File No. 50–267), located near Platteville, Colorado.

Background

The Nuclear Regulatory Commission (NRC) is terminating the operating license of the decommissioned Fort St. Vrain Nuclear Generating Station (License DPR–34) near Platteville, Colorado, and releasing the site for unrestricted use, as requested by the licensee, Public Service Company of Colorado.

The nuclear power plant, located 35 miles north of Denver, received its operating license in 1973. It was a high-temperature, gas-cooled reactor, capable of producing 330 megawatts of electricity.

NRC conducted 24 inspections at Fort St. Vrain in connection with the company's decommissioning activities. The most recent inspections (inspections conducted from February 1996 through January 1997) focused on supporting the final radiation survey review. The NRC's confirmatory radiation survey affirmed that the licensee's final survey results demonstrated that the site met the Commission's criteria for unrestricted release.

On March 10, 1997, the NRC noticed the receipt of the Fort St. Vrain Termination Plan and provided an opportunity for a hearing, but no requests were received. A public meeting was held on December 3, 1996, in the vicinity of the plant, as required under 10 CFR 50.82(a)(9)(iii), to discuss the termination of the license and no adverse comments were received.

On the basis of the decommissioning activities conducted by the licensee, the NRC review of the licensee's termination survey final report, the results of the NRC inspections, and the results of NRC confirmatory surveys, the NRC concludes that the decommissioning process is complete and the site and facility are suitable to be released for unrestricted use.

Action

Consistent with NRC's revised decommissioning regulations, specifically 10 CFR 50.82(a)(11), the NRC has released the facility and site for unrestricted use and terminated the NRC Nuclear Power Facility License DPR–34 (NRC Docket File No. 50–267).

FOR FURTHER INFORMATION CONTACT: Mr. Clayton L. Pittiglio, Project Manager, Low-Level Waste and Decommissioning Projects Branch, Division of Waste Management, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Mail Stop T–7–F27, Washington, DC 20555–0001. Telephone (301) 415–6702.

Dated at Rockville, MD this 5th day of August 1997.

For the U.S. Nuclear Regulatory Commission.

John W. N. Hickey,

Chief, Low-Level Waste and Decommissioning Projects Branch, Division of Waste Management, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 97–21119 Filed 8–8–97; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards; Joint Meeting of the ACRS Subcommittee on Materials and Metallurgy and on Severe Accidents; Notice of Meeting

The ACRS Subcommittees on Materials and Metallurgy and on Severe Accidents will hold a joint meeting on August 26 and 27, 1997, Room T–2B3, 11545 Rockville Pike, Rockville, Maryland.

A portion of the meeting may be closed to public attendance to discuss proprietary information submitted by the Boiling Water Reactor (BWR) Owners Group.

The agenda for the subject meeting shall be as follows:

Tuesday, August 26, 1997—8:30 a.m. until the conclusion of business

Wednesday, August 27, 1997—8:30 a.m. until 10:30 a.m.

The Subcommittees will review the staff's interim Safety Evaluation Report regarding an industry document related to BWR pressure vessel shell weld inspection requirements and associated recommendations, and a proposed generic letter and regulatory guide associated with steam generator integrity. The Subcommittees will also discuss the staff's response to a differing professional opinion and to previous ACRS concerns associated with steam generator integrity. 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 Subcommittees, their 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 Subcommittees, along with any of their consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittees will then hear presentations by and hold discussions with representatives of the NRC staff, Nuclear Energy Institute, and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, 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. Amarjit Singh (telephone 301/415–6899) 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: August 5, 1997.

Sam Duraiswamy,

Chief, Nuclear Reactors Branch.

[FR Doc. 97–21121 Filed 8–8–97; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

Proposed Collection; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Filings and Information Services, 450 Fifth Street, NW., Washington, DC 20549.

Extension: Rule 23c–1—SEC File No. 270–253—OMB Control No. 3235–0260.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (the ''Commission'') is soliciting comments on the collection of information summarized below. The Commission plans to submit this existing collection of information to the Office of Management and Budget for extension and approval.

Rule 23c–1, among other things, permits a closed-end fund to repurchase its securities for cash if in addition to the other requirements set forth in the rule: (i) Payment of the purchase price is accompanied or preceded by a written confirmation of the purchase; (ii) the asset coverage per unit of the security to be purchased is disclosed to the seller or his agent; and (iii) if the security is a stock, the fund has, within the preceding six months, informed stockholders of its intention to purchase stock. The Commission estimates that approximately 575 closed-end funds may rely on rule 23c–1, and that on average, a fund spends approximately 2.5 hours per year on complying with the rule's paperwork requirements. The total annual burden of the rule's paperwork requirements thus is estimated to be 1,438 hours.

In addition, the fund must file with the Commission, during the calendar month following any month in which a purchase permitted by rule 23c–1 occurs, two copies of a report of purchases made during the month, together with copies of any written solicitation to purchase securities given on behalf of the fund to 10 or more persons. The burden associated with filing Form N–23C–1, the form for this report, has been addressed in the submission for that Form.

The estimate of average burden hours is made solely for the purposes of the Paperwork Reduction Act, and is not derived from a comprehensive or even a representative survey or study of the costs of Commission rules and forms.

Written comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the Commission, including whether the information has practical utility; (b) the accuracy of the Commission'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: August 4, 1997.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–21157 Filed 8–8–97; 8:45 am]

BILLING CODE 8010–01–M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Reports, Forms 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 1995 (44 U.S.C. Chapter 35), this notice

announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and its expected burden. The **Federal Register** notice with a 60-day comment period soliciting comments on the following collection of information was published on April 18, 1997 (62 FR 19160).

DATES: Comments must be submitted on or before September 10, 1997.

FOR FURTHER INFORMATION CONTACT: Mr. Larry Minor, Office of Motor Carriers, (202) 366–4012, Federal Highway Administration, Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590.

SUPPLEMENTARY INFORMATION:

Federal Highway Administration (FHWA)

Title: Inspection, Repair, and Maintenance.

OMB Number: 2125–0037.

Type of Request: Reinstatement, without change, of a previously approved collection for which approval has expired.

Affected Public: Motor carriers.

Abstract: Motor carriers must maintain, or cause to be maintained, records that document the inspection, repair, and maintenance activities performed on their owned and leased motor vehicles. Burden hours will increase due primarily to a revised estimate of the daily usage rate of commercial motor vehicles that increases the estimated frequency of a recordkeeping requirement.

Estimated Annual Burden Hours: 33,114,100.

ADDRESSES: Send comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725–17th Street, NW., Washington, DC 20503, Attention DOT Desk Officer. Comments are invited on: whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimate of the burden of the proposed information collection; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Issued in Washington, DC, on August 5, 1997.

Vanester M. Williams,

Clearance Officer, United States Department of Transportation.

[FR Doc. 97–21150 Filed 8–8–97; 8:45 am]

BILLING CODE 4910–62–P

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 (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 15, 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 October 10, 1997.

SUPPLEMENTARY INFORMATION:

Title: Survey of Domestic and Foreign Repair Stations.

Need: The FAA plans to conduct a survey of domestic and foreign repair stations. The House Committee on Transportation and Infrastructure has proposed Part 145 legislation ''Aircraft Repair Stations Safety Act of 1997'' (and sister bill being introduced in the Senate) to revoke the 1988 amendment to FAR Part 145, thereby subjecting foreign repair stations to the same requirements as domestic repair stations. In order to address issues raised by the Committee, the FAA plans to conduct a study which will include an economic analysis of domestic and foreign repair stations to determine whether maintenance jobs are being moved overseas at a more rapid rate than work is coming into the U.S. The survey will provide real data to be used in the analysis.

Respondents: 449 repair stations.

Frequency: One time.

Burden: 898 hours.

FOR FURTHER INFORMATION: Or to obtain a copy of the request for clearance submitted to OMB, you may contact Ms. Judith Street at the: Federal Aviation Administration, Corp. 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 August 5, 1997.

Patricia W. Carter,

Acting Manager, Corporate Information Division, ABC–100.

[FR Doc. 97–21153 Filed 8–8–97; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

RTCA, Inc., Government/Industry Free Flight Steering Committee

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (P.L. 92–463, 5 U.S.C., Appendix 2), notice is hereby given for an RTCA Government/Industry Free Flight Steering Committee meeting to be held August 20, 1997, from 1:00 p.m. until 5:00 p.m. The meeting will be held in Conference Room 8ABC (8th floor) of the Federal Aviation Administration, 800 Independence Avenue, S.W., Washington, D.C.

The agenda will include: (1) Chairmen's Introductory Remarks; (2) Review/Approval of Summary of the Previous Meeting; (3) Free Flight Select Committee Report; (4) Presentation on European CNS/ATM Concepts and Initiatives; (5) Other Business; (6) Date and Location of Next Meeting.

Attendance is open to the interested public but limited to space availability. With the approval of the chairmen, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the RTCA Secretariat, 1140 Connecticut Avenue, N.W., Suite 1020, Washington, DC, 20036; (202) 833–9339 (phone); (202) 833–9434 (fax); or http://www.rtca.org (web site). Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on July 31, 1997.

Janice L. Peters,

Designated Official.

[FR Doc. 97–21154 Filed 8–8–97; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Notice of Application for Approval of Discontinuance or Modification of a Railroad Signal System or Relief From the Requirements of Title 49 Code of Federal Regulations Part 236

Pursuant to Title 49 Code of Federal Regulations (CFR) part 235 and 49 U.S.C. App. 26, the following railroads have petitioned the Federal Railroad Administration (FRA) seeking approval for the discontinuance or modification of the signal system or relief from the requirements of 49 CFR part 236 as detailed below.

Block Signal Application (BS–AP)–No. 3430

Applicant: CSX Transportation, Incorporated, Mr. R. M. Kadlick, Chief Engineer Train Control, 500 Water Street (S/C J–350), Jacksonville, Florida 32202.

CSX Transportation, Incorporated seeks approval of the proposed modification of the traffic control system, at Morton, Kentucky, milepost OHC–268.38, on the Earlington Cutoff, Henderson Subdivision, Chicago Service Lane, consisting of the discontinuance and removal of controlled signals 93RA and 93RL.

The reason given for the proposed changes is to eliminate facilities no longer needed in present day operation, due to the previous removal of the siding.

BS–AP–No. 3431

Applicant: Southeastern Pennsylvania Transportation Authority, Mr. John LaForce, P. E., Deputy Chief Engineer Power, Signals and Communications, 1234 Market Street, Philadelphia, Pennsylvania 19107.

The Southeastern Pennsylvania Transportation Authority (SEPTA) seeks approval of the proposed modification of the automatic block signal system, on the Ivy Ridge Line, between CP Valley, milepost 4.0 and Cynwyd, milepost 6.1, near Philadelphia, Pennsylvania, consisting of the conversion of eastward leaving Signal No. 62 to a controlled signal, remotely controlled by the SEPTA ''A'' Tower Operator, and elimination of the Train Register function located at Jeff, milepost 4.5.

The reason given for the proposed changes is that all eastward movements from the Cynwyd Turnback can be manually controlled and will no longer require each train to stop when entering and leaving the single track, thus improving operations.

Any interested party desiring to protest the granting of an application shall set forth specifically the grounds upon which the protest is made, and contain a concise statement of the interest of the protestant in the proceeding. The original and two copies of the protest shall be filed with the Associate Administrator for Safety, FRA, 400 Seventh Street, S.W., Mail Stop 25, Washington, D.C. 20590 within 45 calendar days of the date of issuance of this notice. Additionally, one copy of the protest shall be furnished to the applicant at the address listed above.

FRA expects to be able to determine these matters without an oral hearing. However, if a specific request for an oral hearing is accompanied by a showing that the party is unable to adequately present his or her position by written statements, an application may be set for public hearing.

Issued in Washington, D.C. on August 6, 1997.

Grady C. Cothen, Jr.,

Deputy Associate Administrator for Safety Standards and Program Development.

[FR Doc. 97–21151 Filed 8–8–97; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Petitions for Waivers of Compliance

In accordance with Part 211 of Title 49 Code of Federal Regulations (CFR), notice is hereby given that the Federal Railroad Administration (FRA) received requests for waivers of compliance with certain requirements of its safety standards. The individual petitions are described below, including the parties seeking relief, the regulatory provisions involved, the nature of the relief being requested, and the petitioners' arguments in favor of relief.

CSX Transportation, Incorporated

(Waiver Petition Docket Number H–97–4)

CSX Transportation, Incorporated (CSX) seeks approval from FRA to conduct a test program for the purpose of evaluating recent technological advancements applied to equipment used in the inspection of rail for internal flaws. Specifically, CSX proposes to test a rail inspection system in which the primary rail inspection vehicle transmits, via radio modem, chart data to a secondary (chase) vehicle for the purposes of defect verification.

CSX is seeking relief from the requirements of 49 CFR Section 213.5(a), which requires certain actions be taken once the track owner has notice that the track does not meet all of the requirements of this part. With respect to the inspection of rail for internal defects, FRA has historically interpreted this subsection to require that suspect rail flaw indications be verified by hand test equipment, and remedial action taken, if necessary, within the same day of the test.

Present practice within the industry, as is the case with current CSX procedures, is to immediately stop the rail inspection vehicle when an indication of a possible rail flaw is received by the on-board equipment. A hand test to verify the existence of the rail flaw is then performed. CSX maintains that this procedure has limited the rail inspection vehicles to an average of five miles of testing for every hour of on-track time. CSX further states that as traffic density continues to increase, the available on-track time for activities such as rail inspection continues to decrease.

CSX's petition requests that for certain non-critical rail flaw indications, hand test verification by the secondary (chase) vehicle will be accomplished within 48 hours of the time of observation by the primary test vehicle. All critical rail flaw indications recorded by the primary test vehicle will be immediately verified by hand test, and remedial action taken if necessary. In the absence of any critical rail flaw indications, the primary rail inspection vehicle would be allowed to continue to test the rail in a non-stop mode.

CSX petitions to implement this test program with dedicated equipment over approximately 4,000 miles of connected trackage on its system. CSX maintains that the procedures outlined in this test program will result in a safety benefit by increasing its on-track test mileage as well as increasing its testing cycle frequency, therefore creating additional opportunities to find rail flaws before they grow to service failure size. Critical rail flaws will be protected as in the past, while non-critical rail flaws are unlikely to grow to service failure size in the 48 hour delay time requested for verification.

CSX anticipates that there will not be any additional cost to either the private sector, consumer, Federal, State and local governments.

Burlington Northern Santa Fe Railroad Company

[Waiver Petition Docket Number LI–95–14]

The Burlington Northern Santa Fe Railroad Company (BNSF) seeks a waiver of compliance from 49 CFR 229.9, Railroad Locomotive Safety Standards—Movement of non-

complying locomotives. Section 229.9(b) states: ''A locomotive that develops a non-complying condition enroute may continue to utilize its propelling motors, if the requirements of paragraph (a) are otherwise fully met, until the earlier of—

(1) The next calendar day inspection, or
(2) The nearest forward point where the repairs necessary to bring it into compliance can be made.''

BNSF is requesting an exemption to the requirement of Section 229.9(b) for locomotives that have traction motor failures enroute, specifically, one or more traction motors cut out, between points in Illinois and the West Coast of the United States. BNSF would like to continue the non-complying, cut out traction motor past Argentine Yard in Kansas City, Kansas. BNSF maintains facilities at Argentine Yard capable of making the required repairs to bring the locomotive into compliance. BNSF believes that the waiver, if granted, would greatly increase the efficiency of its locomotive utilization without adversely affecting safety.

Union Pacific Railroad Company

[Waiver Petition Docket Numbers LI–97–1 and PB–97–1]

The Union Pacific Railroad Company (UP) seeks a waiver of compliance from certain regulatory provisions and sections of 49 CFR Part 229, Railroad Locomotive Safety Standards, and Part 232, Railroad Power Brakes and Drawbars. Specifically, UP is seeking a waiver of 49 CFR 229.49(a)(1) and 232.10(j)(4) which require the main reservoir system of each locomotive to be equipped with at least one safety valve that shall prevent an accumulation of pressure of more than 15 pounds per square inch above the maximum working air pressure fixed by the chief mechanical officer of the carrier operating the locomotive; and, the main reservoir system of each unit being equipped with at least one safety valve, the capacity of which shall be sufficient to prevent an accumulation of pressure of more than 10 pounds per square inch above the maximum setting of the compressor governor fixed by the chief mechanical officer of the carrier operating the locomotive.

This waiver would apply to the entire UP system (including the Southern Pacific Railroad (SP) which recently merged with UP). UP seeks a waiver permitting continued operation of 150 psi main reservoir safety valve setting with 125 psi maximum working air pressure.

Since the late 1970's, UP reduced its maximum working pressure from the traditional 135 psi to 125 psi, changing the air compressor governor setting accordingly to a cut in/out pressure of 120/130 psi as appropriate under Sections 229.49(b) and 232.10(j)(5). This change was made in the wake of the oil shortages of the 1970's in an effort to conserve fuel. As all railroads did not make this change, it was necessary to leave the safety valve set for 150 psi so that the valves did not pop continuously when UP locomotives were operated in multiple with those of foreign lines with the higher working air pressure settings.

In addition, SP had its safety valves set for 155 psi, with 135 psi working air pressure. It is further requested in the waiver that this practice be continued until these locomotives can be brought into UP's standard, which should be no later than three years after the waiver is granted. Implementation will be immediately upon approval of this waiver. There are no anticipated changes in operating practices. UP claims that no adverse effects are expected on the safety of operations. The conditions for UP's setting of the safety valve and maximum working pressure have existed for at least 20 years with no identified problems. UP believes a greater margin of safety is provided between the maximum working air pressure and the safety valve setting, going from a margin of 15 psi to 25 psi. Safety is not believed to be sacrificed in any manner. The maximum pressure that may exist in the main reservoir remains at the same levels that have always existed—150 psi (155 psi in SP's case). The main reservoirs were not modified; they carry the same burst pressure limits for which they were originally designed. The required differentials between maximum brake pipe pressure and air compressor cut in/cut out have been maintained. The reduction of the maximum working air pressure is not an issue of consideration as this is set by the carrier's chief mechanical officer. It is also asserted that fuel consumption will be favorably affected by approval of this waiver request, due to not having the air compressor cut in for longer periods in order to maintain higher air pressure. The environment (emissions) is also benefited through the consumption of less fuel.

Iowa Railroad Historical Society

[Waiver Petition Docket Number PB–96–1]

The Iowa Railroad Historical Society, Boone & Scenic Valley Railroad (BSV), seeks a permanent waiver of compliance from 49 CFR Part 232, Section 17(b)(2), on a passenger car equipped with U type air brakes by extending the clean, oil, test, and stencil (COT&S) period from 15 calendar months to 15 operating months.

On December 6, 1996, BSV was granted a waiver of compliance (Docketed PB–96–1) from the requirements to perform COT&S every 15 calendar months as required by Section 232.17(b)(2) and as specified in Standard S–045 in the Manual of Standards and Recommended Practices of the Association of American Railroads A–III–256, Section 2.1.2. The waiver applies to only the eight cars BSV specified in the original request and extends the COT&S period from 15 calendar months to 24 calendar months, with a single car test required every 12 months. BSV inadvertently left out Lackawana car 3218 in the original request and hereby requests that this car be included under the same requirements as specified for the eight cars in the original waiver.

BSV is a non-profit tourist line that operates only six months a year, with one trip per day during the week and three trips on Saturday and Sunday over a 15-mile captive service route originating in Boone, Iowa. BSV explains that they have been performing the COT&S every 12 calendar months at a considerable expense for six months of operation, and that by granting this waiver they would perform the COT&S every 24 months for 12 months of operation.

Port of Pend Oreille dba Pend Oreille Valley Railroad

[Waiver Petition Docket Number RSGM–96–2]

The Port of Pend Oreille dba Pend Oreille Valley Railroad (POVA) seeks a waiver of compliance from 49 CFR 223.11(c) which requires that locomotives built or rebuilt prior to July 1, 1980, be equipped with certified glazing in all locomotive cab windows. POVA requests a permanent waiver of compliance for its locomotive POVA 103, built by General Electric in December 1956, which is not equipped with certified glazing. The locomotive will be utilized in work train service.

Electric Transport of America, Incorporated

[Waiver Petition Docket Number RSGM–96–12]

Electric Transport of America, Incorporated, (ETA) seeks a waiver of compliance from 49 CFR 223.9(a) which requires that locomotives, including yard locomotives, built or rebuilt after June 30, 1980, be equipped with certified glazing in all locomotive cab windows. ETA requests a waiver for one locomotive imported from the Czech

Republic. It is a 49 ton diesel-electric locomotive. ETA intends to market the switcher locomotive to industrial operators in North America. The Ohio Central Railroad has agreed to allow the locomotive to be demonstrated within its Coshocton Yard, Coshocton, Ohio.

Austin & Texas Central Railroad

[Waiver Petition Docket Number RSGM–97–2]

The Austin & Texas Central Railroad (ATCX) seeks a permanent waiver of compliance with the Safety Glazing Standards, 49 CFR Part 223.15(c), which requires certified glazing in all windows of passenger cars and at least four emergency windows, for its three passenger coach cars: former NKP–151, known as the City of Chicago; former MP–640, known as the Eagle Cliff; and former ATSF–1343, known as the Red Rock. These cars have double pane glazing consisting of a sheet of laminated safety plate as the inside sheet, and a sheet of Polycarbonate laminated safety plate or polished plate as the outer sheet in the lounge areas and hallways. ATCX is a museum type excursion operation which is a project of the Austin Steam Train Association, a 501–(c)(3) non-profit corporation. Since 1992, operation has been on weekends for 10 months each year along with some weekday operation. During this time period, the railroad reports that there have been no acts of vandalism involving any glazing location associated with the operation of a train.

ATCX proposes that any time a glazing location must be renewed, for any reason, the glazing location will be renewed with certified glazing, if mechanically possible, without alterations to the structure or function of the car.

Gettysburg Railway Company

[Waiver Petition Docket Number RSGM–97–3]

The Gettysburg Railway Company (GETY) seeks a waiver of compliance from 49 CFR Part 223.9(a) which requires that locomotives, including yard locomotives, built or rebuilt after June 30, 1980, be equipped with certified glazing in all locomotive cab windows. GETY requests a waiver for two rebuilt F–7 locomotives. GETY intends to use these locomotives in low speed (20 mph) passenger excursions in Gettysburg, Pennsylvania.

Union Pacific Railroad Company

[Waiver Petition Docket Number RST–97–2]

Union Pacific Railroad Company (UP) seeks approval from FRA to electronically submit and maintain track inspection records. UP is requesting that FRA waive the requirements of 49 CFR 213.241, Inspection records, and permit it to use an electronic reporting system for submitting and maintaining track inspection records. Relief is sought from the requirement that each record shall be signed by the person making the inspection.

UP states that the electronic system for creating and maintaining track inspection records will provide for the integrity and security of each record. The system will provide for several levels of security to uniquely identify the person as the author of that record with a date and time stamp that the record was created. Once a record is created, it cannot be modified. UP believes that the electronic system will not only be beneficial economically, but will be more flexible for Federal and State track inspectors who inspect the records.

Yakima Valley Rail and Steam Museum

[Waiver Petition Docket Number SA–93–1]

The Yakima Valley Rail and Steam Museum (YVRX) seeks a waiver of compliance from 49 CFR 231.30 (c) and (f), which requires that a locomotive used in switching service be equipped with four switching steps and must have means for operating the uncoupling mechanism safely from the switching step as well as from ground level, for its locomotive #4. Locomotive #4 is a Plymouth locomotive built in 1943. YVRX states that the rear of the locomotive is not equipped with corner stairways or switching steps, and the uncoupling mechanism must be operated from the ground. If the waiver is granted, the locomotive will be utilized to haul approximately 100 cars a year from Toppenish, Washington, to Harrah, Washington, a distance of about 10 miles, and 4 cars per year between Toppenish, Washington, and White Swan, Washington, a distance of 21 miles.

Napa Valley Wine Train, Incorporated

[Waiver Petition Docket Number SA–94–7]

The Napa Valley Wine Train, Incorporated, (NVRR) seeks a waiver of compliance from 49 CFR 231.30 (c) and (f), which requires that a locomotive used in switching service be equipped with four switching steps with a minimum width of eighteen inches (locomotives built prior to April 1, 1977) and that the uncoupling mechanisms be safely operated from the switching steps as well as ground level, for their locomotive #52. Locomotive #52 is a General Electric locomotive built in 1943. NVRR states that the switching steps at all four locations are 14 inches wide. The locomotive uncoupling mechanisms are not equipped to allow for uncoupling from the switching steps and must be operated from the ground. If the waiver is granted, NVRR states the locomotive will occasionally be utilized in interchange freight service.

Union Pacific Railroad Company

[Waiver Petition Docket Number SA–97–1]

The Union Pacific Railroad Company (UP) seeks a waiver of compliance from 49 CFR Part 231.27, Box and other house cars without roof hatches or placed in service after October 1, 1966, which requires in part that cars be equipped with end platforms and end platform handholds in addition to 16 end and 16 side handholds. UP is requesting that it be permitted to operate 273 high side gondola cars with removable fiberglass covers. The cars, UP 97700 through 97489 and UP 97850 through 97999, were originally constructed and approved in accordance with 49 CFR 231.2, Hopper cars and high-side gondolas with fixed ends, which requires side and end ladders in addition to side and end handholds, but does not require end platforms, end platform handholds, nor the 16 end or 16 side handholds.

The cars were subsequently equipped with temporary removable fiberglass covers to protect contaminated earth for movement solely by UP from Chicago, Illinois, to Clive, Utah, a distance of about 1700 miles. UP states that these cars are in captive service and have operated more than two years without incident. UP also states that upon expiration of the three year contract to haul the contaminated earth, the fiberglass covers will be removed and scrapped with the cars being returned to general service. Additionally, UP states that it would be an unjustified economic loss to modify the cars to comply with Section 231.27, then upon expiration of the contract remodify them to comply with Section 231.2.

Belfast & Moosehead Lake Rail Road Company

[Waiver Petition Docket Number SA–97–2]

The Belfast & Moosehead Lake Rail Road Company seeks a waiver of compliance from 49 CFR Section 231.15(b), Railroad Safety Appliance Standards—Steam locomotives used in road service, Pilot sill-steps. Section 231.15(b) states that each steam locomotive used in road service shall be equipped with two pilot sill steps mounted on or near each end of buffer-beam outside of the rail and not more

then sixteen inches above the top of the rail.

The Belfast & Moosehead Lake Rail Road Company is requesting an exemption to the requirement of these steps (2) for their steam locomotive #1149. The railroad states that due to the design and placement of the locomotive cylinders and pilot truck, the steps cannot be applied without substantially rebuilding the front of the locomotive. Also, application of the pilot sill steps would block access to the pilot truck journal boxes, make inspections more difficult, and possibly interfere with the movement of the locomotive's outside-frame pilot truck. Employees of the Belfast & Moosehead Lake Rail Road Company are not permitted to ride the pilot of the locomotive.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number (e.g., Waiver Petition Docket Number H–97–4) and must be submitted in triplicate to the Docket Clerk, Office of Chief Counsel, FRA, Nassif Building, 400 Seventh Street, S.W., Mail Stop 10, Washington, D.C. 20590. Communications received within 30 days of the date of this notice will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular business hours (9:00 a.m.–5:00 p.m.) at FRA's temporary docket room located at 1120 Vermont Avenue, N.W., Room 7051, Washington, D.C. 20005.

Issued in Washington, D.C. on August 6, 1997.

Grady C. Cothen, Jr.,

Deputy Associate Administrator for Safety Standards and Program Development.

[FR Doc. 97–21152 Filed 8–8–97; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[FRA Docket No. SBR 97–1, Notice 1]

RIN NO. 2130—AB15

Interim Policy Statement Concerning Small Entities Subject to the Railroad Safety Laws

AGENCY: Department of Transportation (DOT), Federal Railroad Administration (FRA).

ACTION: Notice of interim statement of agency policy concerning small entities subject to the railroad safety laws.

SUMMARY: In this notice, FRA explains its communication and enforcement policies and programs concerning small businesses subject to the federal railroad safety laws. These policies are being published pursuant to requirements set forth in the Small Business Regulatory Enforcement Fairness Act of 1996. FRA has in place programs that devote special attention to the unique concerns and operations of small entities in the administration of the national railroad safety compliance and enforcement program. FRA expects that publication of these policies and programs will enhance safe operations for small railroads, contractors, and shippers, and improve communication between FRA and small entities.

DATES: *Effective Date:* This Interim Statement of Policy is effective October 10, 1997.

Written Comments: Written comments must be submitted to FRA before November 30, 1997.

FOR FURTHER INFORMATION PLEASE CONTACT:

(1) Principal Program Person: Mark Weihofen, Office of Safety, Planning and Evaluation Staff Director, RRS–21, Federal Railroad Administration, 400 Seventh Street, SW, Stop 25, Washington, D.C., 20590; telephone 202–632–3303.

(2) Principal Attorney: Christine Beyer, Office of Chief Counsel, RCC–11, Federal Railroad Administration, 400 Seventh Street, SW, Stop 10, Washington, D.C., 20590; telephone 202–632–6189.

SUPPLEMENTARY INFORMATION:

I. Legislative Background

The Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. No. 104–121) (SBREFA) establishes new requirements for federal agencies to follow with respect to small businesses, creates new duties for the Small Business Administration (SBA), and amends portions of the Regulatory Flexibility Act (5 U.S.C. 601, *et seq.*) and the Equal Access to Justice Act (EAJA) (5 U.S.C. 501, *et seq.*). The primary purposes of SBREFA are to implement recommendations developed at the 1995 White House Conference on Small Business, to provide small businesses enhanced opportunities for judicial review of final agency action, to encourage small business participation in the regulatory process, to develop accessible sources of information on regulatory requirements for small business, to create a cooperative regulatory environment for small business, and to make federal regulators accountable for ''excessive'' enforcement actions.

In order to accomplish these goals, SBREFA, among other things, requires federal enforcement agencies to institute two new policies. The first is a communication policy, described in section 213 of the legislation, in which each agency must ''answer inquiries by small entities concerning information on, and advice about, compliance with'' statutes and regulations within the agency's jurisdiction, ''interpreting and applying the law to specific sets of facts supplied by the small entity.'' The second is an enforcement policy, required by section 223 of SBREFA, which requires each agency to establish a policy or program

> to provide for the reduction, and under appropriate circumstances for the waiver, of civil penalties for violations of a statutory or regulatory requirement by a small entity. Under appropriate circumstances, an agency may consider ability to pay in determining assessments on small entities.

This enforcement policy must include conditions or exclusions, such as requiring a small entity to correct the violation within a reasonable time; excluding small businesses that have been subject to several enforcement actions by the agency; excluding actions that involve willful or criminal conduct; excluding actions that pose serious health, safety, or environmental threats; and requiring a good faith effort to comply with the law.

SBREFA incorporates the definition for ''small entity'' that is established by existing law (5 U.S.C. 601, 15 U.S.C. 632, 13 CFR part 121) for those businesses to be covered by the agency policies. Generally, a small entity is a business concern that is independently owned and operated, and is not dominant in its field of operation. Also, ''small governmental jurisdictions'' that serve populations of 50,000 or less are small entities. (Commuter railroads are governmental jurisdictions, and some may fit within this statutory delineation

for small governmental jurisdictions, or small entities.) An agency may establish one or more other definitions for this term, in consultation with the SBA and after opportunity for public comment, that are appropriate to the agency's activities.

II. Definition of Small Entity in the Railroad Industry

Pursuant to its statutory authority, the SBA promulgated regulations that clarify the term ''small entity'' by industry, using number of employees or annual income as criteria. 13 CFR 121.101–108, and 201. In the SBA regulations, main line railroads with 1500 or fewer employees, and switching or terminal establishments with 500 or fewer employees constitute small entities. The SBA regulations do not address hazardous material shippers in the railroad industry.

Prior to the SBA regulations establishing size categories, the Interstate Commerce Commission (ICC) developed a classification system for freight railroads as Class I, II or III, based on annual operating revenue. (The detailed, qualifying criteria for these classifications are set forth in 49 CFR part 1201.) The Department of Transportation's Surface Transportation Board, which succeeded the ICC, has not changed these classifications. The ICC classification system has been used pervasively by FRA and the railroad industry to identify entities by size. The SBA recognizes this classification system as a sound one, and concurs with FRA's decision to continue using it, provided the public has notice of the classification system in use for any particular proceeding and an opportunity to comment on it. FRA has decided to define ''small entity,'' on an interim basis, to include only those entities whose revenues would bring them within the Class III definition. FRA believes this definition is a much more realistic and useful place to draw the line for safety purposes than the general SBA definition, but that several other possible definitions deserve consideration. Therefore, for purposes of the Interim Statement of Policy at this point in time, FRA wishes to clarify that small entities are: the Class III railroads; the hazardous material shippers that meet the income level established for Class III railroads (those with annual operating revenues of $20 million per year or less, as set forth in 49 CFR 1201.1–1); railroad contractors that meet the income level established for Class III railroads; and commuter railroads or small governmental jurisdictions that serve populations of 50,000 or less. The principles concerning the aggregation of company affiliates set forth in DOT's regulations at 49 C.F.R. 6.7(f) apply to this definition for purposes of claims brought under EAJA. However, FRA intends to develop a new definition for the term ''small entity'' for the railroad industry that will apply to the programs set forth in this Policy Statement.

Therefore, FRA now invites comment from the public on potential, alternative definitions for the term ''small entity.'' Suggested new definitions should be accompanied by supportable rationale, including economic and employee data, operating concerns, and an explanation of how SBREFA's legislative intent would be met by the adoption of a particular definition. The comments should also include how the proposed definition would apply to railroads, shippers, commuter railroads, and contractors working in the railroad industry.

FRA is contemplating several potential new definitions at this time: fifteen employees subject to the hours of service laws, which was established by Congress as a benchmark for small business exemptions in the Hours of Service Act, 49 U.S.C. 20102, 21101–21107, 21303–4; 400,000 person/hours worked annually, which equates to approximately 200 employees and which FRA has used as a size classification in regulatory programs in the past; the Class III income designation currently in use; the employee delineations established by SBA regulation for main line and switching railroads; any combination of these; and entirely new designations. FRA invites comments from all individuals and entities subject to the railroad safety laws and other members of the public on these potential designations for ''small entity'' or any additional classifications that have not yet been discussed. After reviewing comments submitted, FRA will conduct a public meeting to further discuss and consider potential designations with all interested parties. Commenters should be aware that the ''small entity'' definition FRA adopts here on an interim basis and the one it ultimately adopts will determine the entities that will be considered small for purposes of Regulatory Flexibility Act analysis, the Equal Access to Justice Act, and FRA's small business enforcement policy and communication program. However, whatever ''small entity'' definition FRA adopts, FRA will retain the authority to use different criteria to tailor the applicability of any regulations it issues to address appropriately the specific safety problem at issue. For example, even if FRA decides to retain the interim Class III standard for ''small entity,'' it may issue a rule that applies only to railroads with more than a certain number of annual person/hours or to all railroads, regardless of size.

III. FRA's Small Business Communication and Enforcement Programs

FRA's purpose in publishing this notice and policy statement is to formally announce and explain its communication and enforcement policies concerning small entities in the railroad industry. FRA is hopeful that this publication will, aside from achieving compliance with the SBREFA requirements, enhance railroad safety in several ways: the number of small entities that participate cooperatively in the safety compliance and enforcement program will increase; small businesses will gain a greater understanding of railroad safety requirements; small entities will be encouraged to communicate more freely with agency personnel to alleviate potential safety risks before they become hazardous; and FRA's understanding of small operations will improve.

FRA's small business communication program has existed for some time, and continues to grow to meet the needs of our customers in the railroad industry. FRA Office of Safety and Office of Chief Counsel personnel, at the headquarters, regional and local level, devote a great deal of attention to the inquiries and concerns of small entities. FRA's program is flexible and responsive to the particular need expressed. The agency's response takes a variety of forms: verbal and written answers to questions received, training sessions for new or existing small businesses on the substance of railroad safety regulations, and advice on a particular standard or interpretation of a standard. Some of the FRA Regional Administrators have established programs in which small entities in the region meet with FRA regional specialists on a regular basis to discuss new regulations, persistent safety concerns, developing technology, and ongoing compliance issues. FRA regional offices hold yearly conferences, in which specific blocks of time are set aside to meet with small businesses and hear their concerns. In addition, FRA has instituted new, innovative programs that expand our existing communication policy for small entities. The Railroad Safety Advisory Committee and Technical Resolution Committees, which play an integral role in the development of railroad safety regulations and the clarification of regulatory interpretations, include representatives of small businesses.

Similarly, FRA's enforcement program devotes special attention to ensuring that the limited financial resources of small entities are considered during the enforcement process. FRA inspectors have and utilize discretion when determining whether a civil penalty citation or other enforcement action should be taken against a small entity. Staff attorneys in FRA's Office of Chief Counsel regularly assess information provided by a company concerning the degree to which fines will impact the viability of a small business, and the extent to which a fine may prevent the business from improving the safety of its operation. In fact, the federal railroad safety laws include the requirement that agency personnel consider a respondent's ability to pay in any civil penalty action taken. Staff attorneys regularly invite small entities to present information concerning financial status and other factors that may result in a reduction or waiver of penalty assessments. FRA has instituted a new enforcement program, the Safety Assurance and Compliance Program (SACP), that also benefits small entities, and it is described in more detail in the interim policy statement set forth below.

FRA anticipates that when this interim policy statement becomes final, it will be codified in the Code of Federal Regulations as an appendix to 49 CFR part 209, so that all members of the public have access to it as needed. The terms ''small business'' and ''small entity'' have identical meaning for purposes of this document, and are used interchangeably throughout.

Comments Requested

FRA invites written comment on the definition of ''small entity,'' potential alternative definitions, and supporting rationale for suggested alternative definitions. Please direct all written comments in triplicate to the Docket Clerk, FRA, 400 Seventh Street, SW, Stop 10, Washington, D.C. 20590 before November 30, 1997.

Federal Railroad Administration Interim Statement of Agency Policy Concerning Small Entities

This interim policy statement explains FRA's communication and enforcement policies concerning small entities subject to the federal railroad safety laws. These policies have been developed to take into account the unique concerns and operations of small businesses in the administration of the national railroad safety program, and will continue to evolve to meet the needs of our customers in the railroad industry. For purposes of this policy statement, Class III railroads, contractors and hazardous materials shippers meeting the economic criteria established for Class III railroads in 49 CFR 1201.1–1, and commuter railroads that serve populations of 50,000 or less constitute the class of organizations considered ''small entities'' or ''small businesses.''

FRA understands that small entities in the railroad industry have significantly different characteristics than large carriers and shippers. FRA believes that these differences necessitate careful consideration in order to ensure that those entities receive appropriate treatment on compliance and enforcement matters, and enhance the safety of railroad operations. Therefore, FRA has developed programs to respond to compliance-related inquiries of small entities, and to ensure proper handling of civil penalty and other enforcement actions against small businesses.

Small Entity Communication Policy

It is FRA's policy that all agency personnel respond in a timely and comprehensive fashion to the inquiries of small entities concerning rail safety statutes, safety regulations, and interpretations of these statutes and regulations. Also, FRA personnel provide guidance to small entities, as needed, in applying the law to specific facts and situations that arise in the course of railroad operations. These agency communications take many forms, and are tailored to meet the needs of the requesting party.

FRA inspectors provide training on the requirements of all railroad safety statutes and regulations for new and existing small businesses upon request. Also, FRA inspectors often provide impromptu training sessions in the normal course of their inspection duties. FRA believes that this sort of preventive, rather than punitive, communication greatly enhances railroad safety. FRA's Office of Safety and Office of Chief Counsel regularly provide verbal and written responses to questions raised by small entities concerning the plain meaning of the railroad safety standards, statutory requirements, and interpretations of the law. As required by the Small Business Regulatory Enforcement and Fairness Act of 1996 (SBREFA), when FRA issues a final rule that has a significant impact on a substantial number of small entities, FRA will also issue a compliance guide for small entities concerning that rule.

It is FRA's policy to maintain frequent and open communications with the national representatives of the primary small entity associations and to consult with these organizations before embarking on new policies that may impact the interests of small businesses. In some regions of the country where the concentration of small entities is particularly high, FRA Regional Administrators have established programs in which all small entities in the region meet with FRA regional specialists on a regular basis to discuss new regulations, persistent safety concerns, emerging technology, and compliance issues. Also, FRA regional offices hold periodic conferences, in which specific blocks of time are set aside to meet with small businesses and hear their concerns.

In addition to these communication practices, FRA has recently instituted innovative partnership programs that expand the extent to which small entities participate in the development of policy and process. The Railroad Safety Advisory Committee (RSAC) has been established to advise the agency on the development and revision of railroad safety standards. The committee consists of a wide range of industry representatives, including organizations that represent the interests of small business. The small entity representative groups that sit on the RSAC may appoint members of their choice to participate in the development of new safety standards. This reflects FRA's policy that small business interests must be heard and considered in the development of new standards to ensure that FRA does not impose unnecessary economic burdens, and to create more effective standards. Similarly, FRA has established Technical Resolution Committees for each railroad safety discipline, which meet throughout the country to discuss, refine, and clarify compliance policies and interpretations of existing safety standards. These committees generally include small business representation and provide another avenue of communication between FRA and small entities. Finally, FRA has established a home page on the Internet and makes pertinent agency information available to the public in that medium. FRA's internet address is http://www.fra.dot.gov and any particular FRA employee can be reached by entering the following: first name.last name@fra.dot.gov.

FRA's longstanding policy of open communication with small entities is apparent in these practices. FRA will make every effort to develop new and equally responsive communication procedures as is warranted by new developments in the railroad industry.

Small Entity Enforcement Policy

FRA has adopted an enforcement policy that addresses the unique nature of small entities in the imposition of civil penalties and resolution of those assessments. Pursuant to FRA's statutory authority and as described in 49 CFR part 209, Appendix A, it is FRA's policy to consider a variety of factors in determining whether to take enforcement action against persons, including small entities, who have violated the safety laws and regulations. In addition to the seriousness of the violation and the person's history of compliance, FRA inspectors consider ''such other factors as the immediate circumstances make relevant.'' In the context of violations by small entities, those factors include whether the violations were made in good faith (*e.g.*, based on an honest misunderstanding of the law) and whether the small entity has moved quickly and thoroughly to remedy the violation(s). In general, the presence of both good faith and prompt remedial action militates against taking a civil penalty action, especially if the violations are isolated events. On the other hand, violations involving willful actions and/or posing serious health, safety, or environmental threats should ordinarily result in enforcement actions, regardless of the entity's size.

Once FRA has assessed a civil penalty, it collects at least the statutory minimum amount ($250 for hazardous materials violations and $500 for all others) unless it must terminate the claim for some reason. However, civil penalties may be reduced from the initial assessment based on the consideration of a variety of criteria found in the railroad safety statutes and SBREFA: the severity of the safety, health or environmental risk presented; the existence of alternative methods of eliminating the safety hazard; the entity's culpability; the entity's compliance history; the entity's ability to pay the assessment; the impacts an assessment might exact on the entity's continued business; and evidence that the entity acted in good faith. FRA staff attorneys regularly invite small entities to present any information related to these factors, and reduce civil penalty assessments based on the value and integrity of the information presented. Staff attorneys conduct conference calls or meet with small entities to discuss pending violations, and explain the merits of any defenses or mitigating factors presented that may have resulted or failed to result in penalty reductions. Among the ''other factors'' FRA considers at this stage is the promptness and thoroughness of the entity's remedial action to correct the violations and prevent a recurrence. Small entities should be sure to address these factors in communications with FRA concerning civil penalty cases. Such long-term solutions to compliance problems will be given great weight in FRA's determinations of a final settlement offer.

Finally, under FRA's Safety Assurance and Compliance Program (SACP), FRA identifies systemic safety hazards that continue to occur in a carrier or shipper operation, and in cooperation with the subject business, develops an improvement plan to eliminate those safety concerns. Typically, the plan provides small entities with a reasonable time frame in which to make improvements without the threat of civil penalty. If FRA determines that the entity has failed to comply with the improvement plan, however, enforcement action is initiated.

FRA's small entity enforcement policy is flexible and comprehensive. FRA's first priority in its compliance and enforcement activities is public and employee safety. However, FRA is obtaining compliance and enhancing safety with reasoned, fair methods that do not inflict undue hardship on small entities.

Submitted in Washington, DC, on August 6, 1997.

Donald M. Itzkoff,

Deputy Administrator.

[FR Doc. 97–21155 Filed 8–8–97; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

Environmental Impact Statement on Southwest Corridor Transit Improvements in Cleveland, Ohio

AGENCY: Federal Transit Administration, DOT.

ACTION: Notice of intent to prepare an environmental impact statement (EIS).

SUMMARY: The Federal Transit Administration (FTA) and the Greater Cleveland Regional Transit Authority (GCRTA) are undertaking the preparation of an Environmental Impact Statement (EIS) in accordance with the National Environmental Policy Act (NEPA), for transit improvements. The local agency will ensure that the EIS also satisfies requirements established by the Ohio Environmental Protection Agency. The Environmental Impact Statement will evaluate alternative rail transit alignments in the corridor between the GCRTA Red Lines current terminus at Cleveland Hopkins International Airport, to the International Exposition (I–X) Center and the Central Business District (CBD) in Berea, Ohio. In addition, the EIS will evaluate Transportation System Management (TSM) improvements and a No-Build alternative and any new alternatives generated through the scoping process. Scoping will be accomplished through correspondence with interested persons, organizations, and federal, state, and local agencies and through three public meetings. See **SUPPLEMENTARY INFORMATION** below for details.

DATES: *Comment Due Date:* Written comments on the scope of the alternative alignments and impacts to be considered should be sent to the GCRTA by Saturday, September 20, 1997. *Scoping Meetings:* The public scoping meetings will be held on Monday, September 8, 1997 between 3:00 P.M. and 6:00 P.M. at the Frank J. Lausche State Office Building; Tuesday, September 9, 1997 between 3:00 P.M. and 9:00 P.M. at Berea City Hall and Wednesday, September 10, 1997 between 3:00 P.M. and 9:00 P.M. at Brook Park City Hall. See **ADDRESSES** below. People with special needs should contact Edward Taylor of the GCRTA at (216) 566–5020. A TDD number is available (216) 781–4271. The buildings are accessible to people with disabilities.

FOR FURTHER INFORMATION CONTACT: Mr. Paul Fish, Director, Office of Planning and Program Development; Federal Transit Administration, 55 East Monroe Street, Suite 1415; Chicago, Illinois 60603 (312) 353–2865.

ADDRESSES: Written comments on project scope should be sent to Mr. Edward Taylor, Deputy Project Manager, Greater Cleveland Regional Transit Authority, 615 Superior Avenue, W, Cleveland, Ohio 44113. Scoping Meetings will be held at the following locations:

1. Frank J. Lausche State Office Building, 615 Superior Avenue, W, Cleveland, Ohio 44113
2. City Hall, City of Berea, 11 Berea Commons, Berea, Ohio 44017
3. City Hall, City of Brook Park, 6161 Engle Road, Brook Park, Ohio 44142

SUPPLEMENTARY INFORMATION:

I. Scoping

FTA and the GCRTA invite interested individuals, organizations, and federal, state and local agencies to participate in defining the alternatives to be evaluated in the EIS and identifying any significant social, economic, or

environmental issues related to the alternatives. An information packet describing the purpose of the project, the proposed alternatives, the impact areas to be evaluated, the citizen involvement program and the preliminary project schedule is being mailed to affected federal, state and local agencies and to interested parties on record. Others may request the scoping materials by contacting Mr. Edward Taylor at the address above or by calling him at (216) 566–5100. Scoping comments may be made verbally at any of the public scoping meetings or in writing. See **DATES** and **ADDRESSES** sections above for location and times. During scoping, comments should focus on identifying specific social, economic, or environmental impacts to be evaluated and suggesting alternatives that are less costly or have less environmental impact while achieving similar transit objectives. Scoping is not an appropriate time to indicate a preference for a particular alternative. Comments on preferences should be communicated after the Draft EIS has been completed. The meeting will be held in an ''open house'' format and project representatives will be available to discuss the project throughout the time period given. Informational displays and written materials also will be available throughout the time period given. In addition to written comments which may be made at the meeting or as described below, a stenographer will be available at the meeting to record comments. If you wish to be placed on the mailing list to receive further information as the project develops, contact Mr. Edward Taylor as previously described.

II. Description of Study Area and Project Needs

The study area is wholly within Cuyahoga County, Ohio. It is approximately 2.5-miles long and connects the central business district of Berea, Ohio with the existing GCRTA Red Line rapid transit terminus at Cleveland Hopkins International Airport. The corridor also connects the International Exposition Center with the airport and Berea. Existing traffic is primarily carried by the Berea Freeway (OH 237), Eastland Road, Front Street and Prospect Street with high traffic volumes at many of the signalized intersections. The proposed rail extension is intended to provide a high quality connection between the existing Red Line terminus at the Airport, the I–X Center and Berea; to support economic revitalization of the Berea CBD through greater transit accessibility; to stimulate economic development at the I–X Center by improving transit access between Downtown Cleveland and the I–X Center; contribute to higher transit mode share for work trips between the southwest suburbs and Downtown Cleveland; improve opportunities for reverse commute transportation options; to help achieve regional clean air goals; and improve travel efficiencies in the Southwest Corridor.

III. Alternatives

Transportation alternatives proposed for evaluation include a No-Build Alternative which involves no change to transportation services or facilities in the corridor beyond those improvements currently programmed; a TSM alternative which includes a package of improvements to one or all elements of the transportation network intended to improve travel time, reduce congestion, and enhance land-use development or redevelopment; and a rail transit alternative which consists of extending the GCRTA Red Line utilizing varying alternative alignments, segment lengths and technologies. It is anticipated that the rail line extension would involve streetcar style operations in Berea.

IV. Probable Effects/Potential Impacts for Analysis

FTA and GCRTA plan to evaluate in the EIS all significant social, economic, and environmental impacts of the alternatives. Among the primary issues are transportation service changes including transit cost, service, patronage and its financial implications; the effect on traffic movement and railroad operations; community impacts, including land use planning and zoning compatibility, neighborhood compatibility, local and regional economic change, aesthetics, and utility relocation; cultural resource impacts, including air quality, noise and vibration, removal of pre-existing hazardous wastes, and effects on water resources and quality, natural features, and ecosystems. The proposed impact assessment and its evaluation criteria will take into account both positive and negative impacts, direct and indirect impacts, short-term (construction) and long-term (operation) impacts, and site-specific and corridor-wide impacts. Evaluation criteria will be consistent with applicable federal, State of Ohio and local standards, criteria, regulations, and policies. Mitigation measures will be explored for any adverse impacts that are identified as part of the analysis.

V. FTA Procedures

In accordance with the Federal Transit Act, as amended, and FTA policy, the Draft EIS will be prepared in conjunction with a major investment study and the Final EIS in conjunction with Preliminary Engineering. After its publication, the Draft EIS will be available for public and agency review and comment, and a public hearing will be held. On the basis of the Draft EIS and comments received, the GCRTA, in concert with the Ohio Department of Transportation and NOACA, and in consultation with Cuyahoga County, the Cities of Berea, Brook Park and Cleveland and other affected agencies, will select a locally preferred alternative. The GCRTA will then seek to have NOACA, the metropolitan planning organization for the Cleveland area, include the preferred alternative in the regional transportation plan and seek approval from FTA to continue with Preliminary Engineering and preparation of the Final EIS.

Issued on: August 6, 1997.

Joel P. Ettinger,

Regional Administrator.

[FR Doc. 97–21160 Filed 8–8–97; 8:45 am]

BILLING CODE 4910–57–U

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

[Docket No. PS–142; Notice 7]

Pipeline Safety: Communications Plan for Effective Public Communication and Involvement in the Pipeline Safety Risk Management Demonstration Program

AGENCY: Office of Pipeline Safety, DOT.

ACTION: Notice.

SUMMARY: The Research and Special Programs Administration's (RSPA) Office of Pipeline Safety (OPS) is establishing and implementing a Pipeline Risk Management Demonstration Program (Demonstration Program) in which pipeline operators will propose their pipelines as projects for the Demonstration Program. Effective communication among OPS, States, pipeline operators, community representatives, and other interested parties is a key part of this risk management initiative. Effective means for communication are vital to OPS understanding local safety and environmental conditions that may affect the demonstration projects. This document addresses how OPS intends to inform the community, seek public

input, and respond to public concerns. This document also describes how OPS will provide opportunities for meaningful public involvement, particularly for communities that may be located within a demonstration project area. Persons interested in receiving information about specific demonstration projects, or about the Demonstration Program overall can make their requests by commenting to this notice. OPS also seeks public comment on this Communications Plan.

DATES: Comments should be received no later than October 10, 1997.

ADDRESSES: Comments should be sent to the Dockets Facility, U.S. Department of Transportation, Plaza 401, 400 Seventh Street, SW, Washington, DC 20590–0001. Comments should identify the docket number (PS–142). Persons should submit the original document and one (1) copy. Persons wishing to receive confirmation of receipt of their comments must include a self-addressed stamped postcard. The Dockets Facility is located on the plaza level of the Nassif Building in Room Number 401, 400 Seventh Street, SW, Washington, DC. The Dockets Facility is open from 10:00 a.m. to 5:00 p.m., Monday through Friday, except on Federal holidays when the facility is closed.

FOR FURTHER INFORMATION CONTACT: Eben M. Wyman, (202) 366–0918, or by e-mail (eben.wyman@rspa.dot.gov), regarding the subject matter of this Notice. Contact the Dockets Unit (202) 366–5046, for other material in the docket.

SUPPLEMENTARY INFORMATION:

I. Background

Today, pipeline companies must comply with regulations that apply relatively uniformly regardless of conditions that are specific to the location and the operation of the pipeline. Although pipelines have maintained a good record of public safety and environmental protection under the current regulatory structure, government and industry are continually looking to improve the pipeline safety program.

Pipeline operators and OPS seek to achieve a better understanding of the risks related to pipelines, where the risks are, and where and how operators can use resources effectively to reduce risk across the pipeline system, thereby better protecting both people and the environment. In addition, operators seek to gain more flexibility to address system-unique problems. Both government and industry want to have a greater knowledge and understanding of how to achieve superior safety and environmental protection, as well as increase reliability of pipeline service.

Risk management offers government and industry a comprehensive decision-making process. It includes the identification and analysis of risks, the identification, analysis and selection of alternative measures to control risks, and the subsequent evaluation of performance. It is one means by which an organization systematically identifies and assigns resources to address safety and environmental risks, as well as other business risks that affect the organization's ability to meet its objectives.

The Demonstration Program will give operators the opportunity to demonstrate that their risk management programs can achieve superior safety and environmental protection over and above what they have already achieved through their compliance with existing pipeline safety regulations. Government and industry will evaluate the benefits of risk management as a regulatory alternative, and will test whether or not it should be considered as an ongoing feature of the OPS regulatory program. In a memorandum issued to the DOT Secretary on October 12, 1996, the President provided policy direction on implementing the Demonstration Program. Two goals were clarified: (1) That OPS ensure that superior protection would be achieved through the Demonstration Program and, (2) that adequate opportunity would be provided for meaningful public involvement in the overall implementation and progress of the individual demonstration projects.

To effectively implement the Demonstration Program, OPS needs to increase public awareness and understanding of the value and importance of the pipeline network nationwide, provide a broad understanding of how pipeline companies operate their systems, and allow ample opportunity to openly discuss the possible impact of these operations on public safety and the environment.

To prepare to test risk management in individual demonstration projects, the Joint Risk Management Quality Teams (JRAQT), made up of Federal and State government, industry, and public representatives, studied the benefits and limitations of risk management as a regulatory alternative. The JRAQT investigated approaches that would allow pipeline operators greater flexibility to take site-specific considerations into account in addressing both hazardous liquid and natural gas pipeline safety and environmental protection. One of its reports, ''Survey of Regulatory Agency Applications of Risk Management,'' showed that risk management is already widely and successfully used in other industry and government practices.

The JRAQT designed a structured program so that risk management could be applied carefully, with results monitored and adjustments made as needed. The team created five documents to guide implementation of the Demonstration Program: the Program Framework (62 FR 14719), the Program Standard, Performance Measures Guidance, a Training Curriculum, and this Communications Plan. These documents and related information can be obtained by contacting Eben Wyman at (202) 366–0918.

Program Framework

This document provides information on how pipeline operators can propose and get approval of risk management projects. The steps in the Program are described, as well as the program objectives, selection criteria, and requirements, including how operators must provide for communication with the public.

Risk Management Program Standard Requirements

The Program Standard calls for both internal and external communications, that is communications inside the company as well as to outside stakeholders. It describes the basic elements and characteristics that should be contained in a company's risk management program. The Standard describes two sets of key elements: program and process elements. Program elements address the corporate responsibility for the structure and procedures to administer, document, communicate, and evaluate a risk management program. Process elements describe technical and analytical methods (i.e., the tools, models, and type of analyses) used to identify possible ways to control risks, allocate resources to control risks, monitor each project's performance, and apply information learned to improve the process.

A variety of steps are involved in identifying and reducing risks on a pipeline system. First, a company conducts a risk assessment, develops a risk profile of current pipeline conditions, and identifies possible adverse events that could occur. The likelihood and severity of these possible events are also evaluated. Second, the company examines the options for controlling the risks identified in the risk assessment and decides which

actions it can take to control the risks. Third, the company establishes performance measures to track the progress of the risk control activities and to evaluate if the intended effect of these actions is being achieved.

The Program Standard provides operators the flexibility needed to develop a risk management plan appropriate to the nature and extent of the risks being addressed in a demonstration project. Because risk management is a continuous improvement process, as new data becomes available, the operator can make adjustments accordingly.

II. Purpose and Objectives of Communications Plan

This Communications Plan (Plan) describes how OPS and industry will communicate with those who may be affected by, or interested in, a demonstration project. The Plan's purpose is to help communities and the public understand the Demonstration Program's goals, processes, safety issues, safety actions and anticipated outcomes within each of the demonstration projects. This communication will be successful if OPS provides access to information, receives feedback, interacts and responds to national, state, and community issues.

Both OPS and operators will work in partnership to provide information to all who may be affected by a demonstration project so they may understand and evaluate the potential benefits and liabilities of risk management. The success of the Demonstration Program depends on the ability to demonstrate, and therefore communicate, three goals: (1) Risk management can result in superior safety, environmental protection, and service reliability than could be achieved through sole compliance with current pipeline safety regulations; (2) resources will be better prioritized and more effectively applied under risk management; and (3) government and industry's discussion of risks and risk control options, and both their ability to impact desired outcomes, will increase under risk management.

OPS is building a two-way communication system designed to collect and distribute information to and from all parties that may be affected by a demonstration project through numerous direct mail and electronic means, as well as through direct contact. The goal is to enhance communication among OPS and national organizations and agencies, State and community representatives. Additionally, pipeline operators who apply to participate in the Demonstration Program must describe in their application how they too will communicate with communities affected by their projects.

Specific benefits of public involvement in the Demonstration Program for OPS, industry, State and community representatives include:

- Exchange of information about specific and relevant local factors during the decision-making process that may not be known at the Federal or State level; and
- Feedback regarding the success of the Demonstration Program in accomplishing the goals for which it was designed.

During the demonstration period, OPS will:

- Inform and educate about risk management;
- Provide project information and methods to provide input or feedback;
- Interact in a timely manner, and
- Respond and report back to all stakeholders.

To guide national and local communication initiatives, OPS expanded the communications workgroup within the JRAQT to involve other government agencies, public interest groups, environmental groups, industry and community representatives. The workgroup currently includes:

- National League of Cities
- National Association of Towns and Townships
- National Fire Protection Association
- International Association of Fire Chiefs
- Fairfax Virginia Fire Department
- Environmental Defense Fund
- Port of Houston Authority
- International City/County Management Association
- Gas Research Institute
- Local Emergency Planning Committees
- Interstate Natural Gas Association of America
- American Petroleum Institute
- Shell Oil Products Company
- Northwest Pipeline Company
- New Hampshire Public Utilities Commission
- Arizona Corporation Commission
- National Transportation Safety Board
- Federal Emergency Management Agency

For further information about participation in the communications workgroup, contact Eben M. Wyman on (202) 366–0918.

National Communications

1. By working through national organizations and agencies on the national level, OPS will continue to provide information about the Demonstration Program to other Federal agencies and to national public interest and environmental organizations that maintain outreach programs to community representatives. Our primary means to reach federal agencies is through the National Response Teams (NRT). Comprised of fifteen Federal agencies, the NRT representatives have agreed to identify any issues of concern they may have regarding potential demonstration sites. These agencies include the Environmental Protection Agency, Federal Emergency Management Agency, General Services Administration, Nuclear Regulatory Commission, and the Departments of Agriculture, Commerce, Defense, Energy, Health and Human Services, Interior, Justice, Labor, State, Transportation, and Treasury. OPS will provide designated NRT regional officials with both national and project-specific information throughout the project review, approval, and monitoring process so they can identify issues of concern and provide feedback on individual demonstration projects in their regions.

2. **Federal Register** Notices: Opportunities for public comment will be provided following the publication of **Federal Register** notices during various stages of the Demonstration Program: (1) OPS will publish a notice describing the risk management proposals selected for consideration and consultation. This notice will describe the candidate's ''Letter of Intent'' (The number of proposals described in each notice will depend on the number submitted and screened for consultation at the time of publication.); (2) OPS will publish a follow-up notice once the consultation is underway to provide updated project information and to describe OPS outreach activities; and (3) another will be published announcing the final approval of the demonstration projects. These notices will include information describing the demonstration project, how the operator approaches external communication, and a list of contacts from whom to obtain additional information. Additionally, OPS will provide a prospectus to national, state, and community representatives that describes information specific to each demonstration project.

3. Internet Information System: PRIMIS—As part of its national communications efforts, OPS is also making information about pipeline risk management available via the Internet on the OPS Home Page (HTTP://ops.dot.gov/riskmgmt.htm). Internet access will provide additional means to locate information, as well as to solicit public comment. The OPS Home Page

will be used to disseminate information and to provide the public a central point of access to technical assistance.

OPS is creating a new data system, accessible to all interested parties through the Internet, to collect and exchange project information. It is called the Pipeline Risk Management Information System (PRIMIS). This data system will help OPS perform project consultation, approval and audit functions during the Demonstration Program, and will help facilitate communication of the resulting information. PRIMIS will serve as a repository of information on the Risk Management Program as a whole and will provide details concerning each of the demonstration projects. It is a place where interested parties can provide information, comments or questions for OPS.

Each of the incoming letters of intent, as well as other significant documentation, will be entered and retained in the PRIMIS system. PRIMIS will include a company profile developed by OPS, specific information on the company's demonstration project, including the risk control alternatives proposed in the Letter of Intent, and follow-up information through the screening, consultation, and implementation phases. The system will also be used to track significant meetings, program milestones, events, commitments, and follow-up dates during the consultation process. PRIMIS will be accessible via the OPS Home Page in September, 1997.

4. Electronic ''town meetings'': To provide further access to information on the Demonstration Program, OPS aired an electronic town meeting to discuss the risk management program and candidate projects. Based on feedback received from this effort, OPS is considering using this method as a regular feature of future communication efforts. This two-way live broadcast was aired on June 5, 1997, through the Federal Emergency Management Agency's Emergency Education Network (EENET). Use of EENET was intended to involve thousands of public safety and emergency management officials. During the live broadcast, viewers had an opportunity to pose questions and voice concerns to OPS, State, industry and community representatives. OPS is seeking ways to expand the audience to include local safety and environmental protection officials as well as other community representatives. The town meeting broadcast was also available via new Internet technology, which provided the information via linkage to personal computers. Videotapes of this broadcast will be available to loan to interested parties from their State pipeline safety office, or from OPS Headquarters. Individuals can request to borrow a copy of the videotape via the OPS Home page (http://ops.dot.gov), or by contacting OPS by e-mail (pipeline.safety@dot.gov). State emergency managements agencies will also have a copy.

5. Identifying other resources: The communications workgroup mentioned earlier will assist in identifying information that meets the needs of local communities and methods to distribute information. Use of the Internet, electronic ''town meetings'' and regional briefings to provide project status reports are examples of methods to communicate risk management activities on a national basis. We will identify other resources during the course of the Demonstration Program.

Local Communications

Both OPS and participating operators are responsible for local level communications focused on communities within a demonstration project site area. In its proposal, an operator is required to describe to OPS its external communication methods as defined in the Program Standard, including the types of information to be communicated and the audiences to receive that information. Companies will also describe the methods of communication, individuals or organizations responsible for providing information, and methods of receiving feedback from these audiences.

The operator will initiate communications at the start of the project to inform community representatives about key issues, progress and to solicit feedback. Operators will build on existing public education and outreach programs. The operator will describe to OPS how it plans to address public interests and concerns, and how it will communicate to community representatives with varied interests such as local officials, environmental organization representatives, and fire, rescue, safety and health organization representatives. These representatives could include members of organized groups that have a continuing interest in pipeline safety issues, or citizens with an interest in the projects who come forward with questions or suggestions.

OPS will work with operators to help identify interested parties and to answer questions from State officials and community representatives. OPS will also help operators gather relevant information regarding local, site-specific issues in locations of their demonstration projects. OPS and operators will provide information to effectively address issues of concern. Many channels of communication, including local media sources in various demonstration project areas, will be pursued as a means of communication. OPS seeks names of media contacts interested in following demonstration projects.

As stated earlier, OPS will provide a prospectus on each of the demonstration projects being considered to State officials and community representatives that may be interested in reviewing project information, providing input, or monitoring the progress of the project. Each prospectus will contain basic information about the company and its proposed demonstration project, describe the operator's approach to communication with States and community representatives, and identify individuals who can be contacted for information, questions or comments. These contacts will be OPS, company, and State pipeline agency representatives (if the State agrees to participate). OPS will provide additional information on project objectives, risk management alternatives, and performance measures and progress throughout the demonstration period.

III. Commonly Asked Questions

The following are two commonly asked questions regarding the Demonstration Program. OPS will continue to address these and other questions received from interested parties using the communication techniques described above.

A. What Are the Expected Benefits of the Risk Management Demonstration Program?

1. Risk Management Should Help OPS Better Protect the Public and the Environment

While the traditional approach to safety is effective in determining if prescribed safety requirements are carried out, it does not require a structured process to identify risks or to validate the solutions being implemented. Risk management is intended to provide a more complete understanding of risks and to provide methods and models to produce the most appropriate and cost effective measures to reduce risk.

2. Risk Management Is Designed To Yield Improved Information for Policy and Decision-Making

Since risk management is predicated on identifying and understanding potential threats to a pipeline system,

the risk management approach to safety is likely to generate improved data to enhance decision-making by both operators and regulators. Both government and industry should learn more from available data about a wide range of risks and system configurations to help determine the most effective methods to measure performance and monitor risk activities.

3. Risk Management Will Allow Pipeline Safety Programs To Be Tailored to Local Conditions

Risk management will permit pipeline operators and OPS to focus greater attention on those pipeline systems, or segments of those systems, where there is an opportunity to reduce risk and achieve superior safety, environmental protection and service reliability. The goal is to design risk management programs that best address pipeline-specific conditions.

4. Risk Management Should Provide Increased Operator Flexibility To Achieve Superior Safety

Through risk management, operators plan to use expert knowledge and experience to tailor company safety plans to unique system conditions, providing them with the flexibility to select the best methods to address risks.

5. The Risk Management Demonstration Program Will Be Built Through Partnerships

A partnership was formed among OPS, the pipeline industry, and State and community representatives to examine risk management principles and to evaluate if they should be tested as an alternative approach to pipeline regulation. This partnership is expected to continue to improve information exchange between all parties participating in the Demonstration Program.

B. How Will the Demonstration Program Work?

1. OPS Will Oversee the Risk Management Demonstration Program Process

OPS will carefully assess each proposed demonstration project to determine whether superior safety and environmental protection can be achieved. Before OPS issues an order approving a demonstration project, a Project Review Team (PRT), made up of OPS representatives (assisted by voluntary State support), will meet with the candidate to clarify all relevant aspects of the project. To accomplish this, OPS will seek input from other Federal agencies, affected states and other safety and environmental officials on their issues and concerns, including their knowledge of candidate companies' safety and environmental compliance records.

The selection process will involve a comprehensive review of the candidate's pipeline system and consultation with the candidate. There are two important operator submissions.

The first submission is the Letter of Intent. This initial letter is an expression of an operator's interest in participating in the Demonstration Program. It describes a specific demonstration project the operator would like OPS to consider for inclusion in the Demonstration Program. Following the receipt of the Letter of Intent, OPS will contact the company to set up a series of consultation meetings. The second submission is the Formal Application and Work Plan, which the operator will prepare after discussions with the PRT have resulted in a mutually acceptable demonstration project. This submission formally documents the terms and conditions of the project and is the basis upon which OPS will approve or reject the operator's project.

Adjustments may be necessary to specific areas of the project before it starts. Such adjustments will take into account community concerns. Other adjustments or modifications may also occur during the course of the project, and may come from periodic reviews by the PRT.

2. Basic Regulatory Roles and Responsibilities Will Not Change Under Risk Management

The Federal government's fundamental responsibilities and authority will remain the same. OPS will continue to set standards for, and independently assess, pipeline safety and integrity. Oversight will be improved as government agencies focus on better understanding how individual pipelines are operated, how risk-based decisions are made, what effective alternatives exist for reducing risk, and whether the intended results are being achieved.

3. Clear and Ambitious Performance Goals Will Be Set

OPS has worked with representatives of State pipeline safety agencies and industry to develop guidance on performance measures that will be used to evaluate the results of the demonstration projects. Many of the performance measures will be designed to evaluate at the national program level whether superior safety and environmental protection are achieved through this alternative approach to government oversight.

In addition, performance measures will be designed for government and industry to monitor the achievement of desired safety, environmental and service reliability results at the individual project level. OPS and operators should be able to demonstrate improved accountability to the community as a result of these measures.

4. The Demonstration Program Welcomes Public Input

Improving public involvement has been a Program goal from the beginning. Government and industry sought public input through the November 1995, the May 1996, and the January 1997 risk management public meetings. The public's views have also been sought through the OPS Home Page on the Internet (HTTP://ops.dot.gov), presentations to groups representing emergency responders and State and community representatives, and through newsletters and **Federal Register** notices. The previously described Communications Plan has been designed to continue and enhance the public's involvement.

5. Opportunities to Address Public Concerns

The demonstration project review, consultation, approval, and communication process is designed to give appropriate opportunities to raise concerns and to seek information about particular demonstration projects. Participating companies will facilitate this process by coordinating with Federal, State and local authorities to provide methods of information sharing to community representatives.

6. Safeguards Will Be Maintained

The OPS regulatory program that has been in place for 25 years will continue to be the means of oversight of all pipelines not participating in the Demonstration Program. Pipelines participating in demonstration projects will also continue to be safeguarded. OPS and State pipeline agencies will maintain regulatory oversight activities on all existing pipelines involved inside and outside the Demonstration Program.

7. The Focus Will Be on Those Who Can Succeed

The previously described Program Standard and Framework processes are designed to provide many checks and balances in the selection process. The process is intended to identify companies that will comply with the Program Standard, achieve superior

safety and environmental protection through risk management, work in partnership with OPS to evaluate the merits of risk management, and show a corporate commitment to use the risk management process as a day-to-day part of their business practices. The selection criteria for the Demonstration Program favors those proposals that are the most comprehensive. The company must also have a clear and established record of compliance in the existing program in order to be considered for participation.

8. Enforceable Agreements and Incentives To Perform

Just as the traditional regulatory system provides a clear process to monitor performance, so must the risk management alternative. Once OPS approves a Formal Application and Work Plan, an order will be issued and notice made to the public through the **Federal Register**. The order will specify the pipeline safety regulatory requirements for the period of the demonstration, and set forth the terms and conditions for the operator's participation in the project.

OPS will have an audit plan to monitor how well the operator is meeting the performance goals. OPS's full statutory authority to inspect pipeline facilities remains in effect.

Should any unsafe conditions arise, OPS will work with participating companies to see that such conditions are quickly remedied.

OPS invites comments on ways we can make the communications program more meaningful.

Issued in Washington, DC, on August 5, 1997.

Richard B. Felder,

Associate Administrator for Pipeline Safety.

[FR Doc. 97–21117 Filed 8–8–97; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB–477 (Sub–No. 2X)]

Owensville Terminal Company, Inc—Abandonment Exemption—in Gibson and Posey Counties, IN

On July 22, 1997, Owensville Terminal Company, Inc. (OTC) filed with the Surface Transportation Board (Board) a petition under 49 U.S.C. 10502 for exemption from the provisions of 49 U.S.C. 10903 to abandon a line of railroad known as the Cynthiana-Owensville line, extending from railroad milepost 277.0 north of Cynthiana to railroad milepost 271.0 north of Owensville, a distance of 6.0 miles, in Gibson and Posey Counties, IN. The line traverses U.S. Postal Service Zip Code 47665 and includes the station of Owensville at railroad milepost 271.5.

The line does not contain federally granted rights-of-way. Any documentation in the railroad's possession will be made available promptly to those requesting it. The interest of railroad employees will be protected by *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979).

By issuance of this notice, the Board is instituting an exemption proceeding pursuant to 49 U.S.C. 10502(b). A final decision will be issued by November 7, 1997.

Any offer of financial assistance under 49 CFR 1152.27(b)(2) will be due no later than 10 days after service of a decision granting the petition for exemption. Each offer of financial assistance must be accompanied by the filing fee, which currently is set at $900. *See* 49 CFR 1002.2(f)(25).

All interested persons should be aware that, following abandonment of rail service and salvage of the line, the line may be suitable for other public use, including interim trail use. Any request for a public use condition under 49 CFR 1152.28 or for trail use/rail banking under 49 CFR 1152.29 will be due no later than September 2, 1997. Each trail use request must be accompanied by a $150 filing fee. *See* 49 CFR 1002.2(f)(27).

All filings in response to this notice must refer to STB Docket No. AB–477 (Sub-No. 2X) and must be sent to: (1) Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, N.W., Washington, DC 20423–0001, and (2) Thomas F. McFarland, Jr., McFarland & Herman, 20 North Wacker Drive, Suite 1330, Chicago, IL 60606–2902.

Persons seeking further information concerning abandonment procedures may contact the Board's Office of Public Services at (202) 565–1592 or refer to the full abandonment or discontinuance regulations at 49 CFR part 1152. Questions concerning environmental issues may be directed to the Board's Section of Environmental Analysis (SEA) at (202) 565–1545. [TDD for the hearing impaired is available at (202) 565–1695.]

An environmental assessment (EA) (or environmental impact statement (EIS), if necessary) prepared by SEA will be served upon all parties of record and upon any agencies or other persons who commented during its preparation. Other interested persons may contact SEA to obtain a copy of the EA (or EIS). EAs in these abandonment proceedings normally will be available within 60 days of the filing of the petition. The deadline for submission of comments on the EA will generally be within 30 days of its service.

Decided: August 1, 1997.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 97–21127 Filed 8–8–97; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

Proposed Collection; Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the Bureau of Alcohol, Tobacco and Firearms within the Department of the Treasury is soliciting comments concerning the Firearms Transaction Record, Part II Non-Over-The-Counter.

DATES: Written comments should be received on or before October 10, 1997 to be assured of consideration.

ADDRESSES: Direct all written comments to Linda Barnes, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–8930.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to Nicholas Colucci, Firearms and Explosives Operations Branch, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–8310.

SUPPLEMENTARY INFORMATION:

Title: Firearms Transaction Record, Part II Non-Over-The Counter.

OMB Number: 1512–0130.

Form Number: ATF F 4473 (5300.9) Part II.

Abstract: ATF F 4473 (5300.9) Part II is used to determine the eligibility under the Gun Control Act (GCA) of a

person to receive a firearm from a Federal firearms licensee. It is also used to establish the identity of the buyer. The form is also used in law enforcement in investigations/inspections to trace firearms or to confirm criminal activity of persons violating the GCA. The record retention requirement for this information collection is 20 years.

Current Actions: Revisions have been made to the form in accordance with new laws and regulations. Question 8a. on the form asks whether the transferee of the firearm is the actual purchaser. This question implements the GCA, which precludes licensees from transferring firearms without making a record of this disposition, including the identity, place of residence, and date of birth of firearms purchasers. Question 8j. is being added as a result of the Violent Crime Control and Law Enforcement Act of 1994. This statute amended the GCA to make it unlawful for any person subject to a court order restraining them from harassing, stalking, or threatening an intimate partner or child of such partner to ship, transport, possess, or receive firearms. Definition 4. defines intimate partner. Question 8k. of the form is added as a result of the Omnibus Consolidated Appropriations Act of 1997. This statute amended the GCA to make it unlawful for any person to ship, transport, possess, or receive firearms. Definition 5. defines a misdemeanor crime of domestic violence. The form has been amended to advise law enforcement officers that they must certify that they have not been convicted of a misdemeanor crime of domestic violence. There has been a change in the certification statement on the front of the form, in which the firearm purchaser certifies that he/she understands that the repetitive purchase of firearms for resale requires a Federal Firearms license. Important Notice 7. has been added, advising purchasers acquiring firearms for the purpose of exportation that the State Department may require a license to be obtained prior to exportation. Additional information is being requested on the form as a result of changes to the firearms regulations. These changes will require that a transferee identify his/her citizenship status and State of residence. These changes will also require that aliens legally in the United States show photo identification and documentation (such as utility bills or lease agreements) establishing that they have resided in the United States at least 90 days as required by the regulations.

Type of Review: Extension with changes.

Affected Public: Individuals or households.

Estimated Number of Respondents: 20,900.

Estimated Time Per Respondent: 6 minutes.

Estimated Total Annual Burden Hours: 9,057.

REQUEST FOR COMMENTS: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: August 6, 1997.

John W. Magaw,

Director.

[FR Doc. 97–21171 Filed 8–8–97; 8:45 am]

BILLING CODE 4810–31–P

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

Proposed Collection; Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the Bureau of Alcohol, Tobacco and Firearms within the Department of the Treasury is soliciting comments concerning the Licensed Firearms Dealers Records of Acquisition, Disposition and Supporting Data.

DATES: Written comments should be received on or before October 10, 1997 to be assured of consideration.

ADDRESSES: Direct all written comments to Linda Barnes, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–8930.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to Nicholas Colucci, Firearms and Explosives Operations Branch, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–8310.

SUPPLEMENTARY INFORMATION:

Title: Licensed Firearms Dealers Records of Acquisition, Disposition and Supporting Data.

OMB Number: 1512–0490.

Form Number: ATF F 4473(5300.24)Part I(LV), Firearms Transaction Record Part I Low Volume, Over-the-Counter and ATF F 4473(5300.25)Part II(LV), Firearms Transaction Record Part II Low Volume, Intra-State Non-Over-the-Counter.

Recordkeeping Requirement ID Number: ATF REC 7570/2.

Abstract: These records furnish specific information indispensable to ATF's mission to enforce the firearms laws and regulations. The low volume forms are used only by Federal firearms licensees disposing of 50 or fewer firearms per 12-month period. They are kept at the licensee's option, in lieu of ATF 4473 and records of acquisition and disposition. The record retention requirement for this information collection is 20 years.

Current Actions: Revisions have been made to these forms as a result of new laws and regulations. A new question in item 13a. of both Part I and Part II of the form asks whether the transferee of the firearms is the actual purchaser. This item implements the Gun Control Act (GCA), which precludes licensees from transferring firearms without making a record of this disposition, including the identity, place of residence, and date of birth of firearms purchasers. A new question in item 13j. of both Part I and Part II of the form is added as a result of the Violent Crime Control and Law Enforcement Act of 1994. This statute amended the GCA to make it unlawful for any person subject to a court order restraining them from harassing, stalking, or threatening an intimate partner or child of such partner to ship, transport, possess, or receive firearms. Definition 4. on both forms defines intimate partner. A new question in item 13k. on both Part I and Part II of

the form is added as a result of the Omnibus Consolidated Appropriations Act of 1997. This statute amended the GCA to make it unlawful for any person convicted of a misdemeanor crime of domestic violence to ship, transport, possess, or receive firearms. Definition 6. on both forms defines a misdemeanor crime of domestic violence. Instruction to Transferee 3. is added to advise law enforcement officers that they must certify that they have not been convicted of a misdemeanor crime of domestic violence. Two new questions, in items 13l. and 13m. of both Part I and Part II of the form, are added as the result of amendments to the firearms regulations which require that aliens purchasing firearms provide residency certification and documentation. Definition 7. defines State of Residence and gives three examples for the purpose of illustration. A new question, enumerated as item 18. on Part I of the form only, is added for identifying the name and location of the gun show at which the transfer was made, if applicable.

This item is added to help dealers comply with GCA regulations which require them to record this information in their acquisition and disposition records. Because low volume dealers use ATF F 4473 LV in lieu of the acquisition and disposition records, the form will now accommodate this recordkeeping requirement.

Type of Review: Extension with changes.

Affected Public: Business or other for-profit, individuals or households

Estimated Number of Respondents: 5,000.

Estimated Time Per Respondent: 6 minutes.

Estimated Total Annual Burden Hours: 1,042.

REQUEST FOR COMMENTS: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: August 6, 1997

John W. Magaw,

Director.

[FR Doc. 97–21172 Filed 8–8–97; 8:45 am]

BILLING CODE 4810–31–P

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

Proposed Collection; Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the Bureau of Alcohol, Tobacco and Firearms within the Department of the Treasury is soliciting comments concerning the Firearms Transaction Record, Part I, Over the Counter.

DATES: Written comments should be received on or before October 10, 1997 to be assured of consideration.

ADDRESSES: Direct all written comments to Bureau of Alcohol, Tobacco and Firearms, Linda Barnes, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–8930.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to Nicholas Colucci, Firearms and Explosives Operations Branch, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–8310.

SUPPLEMENTARY INFORMATION:

Title: Firearms Transaction Record, Part I, Over the Counter.

OMB Number: 1512–0129.

Form Number: ATF F 4473 (5300.9) Part I.

Abstract: The form is used to determine the eligibility under the Gun Control Act (GCA) of a person to receive a firearm from a Federal firearms licensee. It is also used to establish the identity of the buyer. Additionally, the form is used in law enforcement for the purpose of investigations/inspections to trace firearms or to confirm criminal activity of persons violating the GCA. The record retention requirement for this information collection is 20 years.

Current Actions: Revisions have been made to the form in accordance with new laws and regulations. Question 8a. was added to prevent ''straw purchases'' in which someone other than the actual buyer poses as the buyer and fills out the form in place of the buyer. Question 8j. was added as a result of the Violent Crime Control and Law Enforcement Act of 1994. This statute amended the GCA to make it unlawful for any person subject to a court order restraining them from harassing, stalking, or threatening an imtimate partner or child of such partner to ship, transport, possess, or receive firearms. Question 8k. was added as a result of Omnibus Consolidated Appropriations Act of 1997. This statute amended the GCA to make it unlawful for any person convicted of a ''misdemeanor crime of domestic violence'' to ship, transport, possess, or receive firearms. The form has been amended to make it necessary for purchasers to attest that they are, in fact, residents of the state in which they are purchasing the firearm. In the case of aliens, it requires that they meet the 90 day residency requirements currently stipulated in the regulations. The form has been further revised to require aliens to present documentation establishing residency (utility bills or lease agreements) in addition to photo identification.

Type of Review: Extension with changes.

Affected Public: Individuals or households, business or other for-profit.

Estimated Number of Respondents: 6,000,000.

Estimated Time Per Respondent: 6 minutes.

Estimated Total Annual Burden Hours: 1,026,000.

REQUEST FOR COMMENTS: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation,

maintenance, and purchase of services to provide information.

Dated: August 6, 1997.

John W. Magaw,

Director.

[FR Doc. 97–21173 Filed 8–8–97; 8:45 am]

BILLING CODE 4810–31–P

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

Proposed Collection; Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Pub. L. 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the Bureau of Alcohol, Tobacco and Firearms within the Department of the Treasury is soliciting comments concerning the Application to Make and Register a Firearm.

DATES: Written comments should be received on or before October 10, 1997 to be assured of consideration.

ADDRESSES: Direct all written comments to Bureau of Alcohol, Tobacco and Firearms, Linda Barnes, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–8930.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to Denise Brown, National Firearms Act Branch, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–8330.

SUPPLEMENTARY INFORMATION:

Title: Application to Make and Register a Firearm.

OMB Number: 1512–0024.

Form Number: ATF F 1 (5320.1).

Abstract: Under the provisions of 26 U.S.C. 5822, no one can ''make'' a firearm that requires Federal registration under the National Firearms Act until he or she has applied for and received approval from the Secretary of the Treasury. The information supplied by the applicant on the form helps to establish the applicant's eligibility for approval of the request.

Current Actions: Revisions have been made to the ATF F 1 to reflect the establishment of two new categories of persons prohibited from receiving firearms. Question 8f. asks whether the applicant is subject to a court order restraining him or her from harassing, stalking or threatening an intimate partner or child of such partner. Instruction 5.(8) explains that persons subject to such court orders may not lawfully possess a firearm. Question 9e. asks whether the applicant has been convicted in any court of a misdemeanor crime of domestic violence. The question explains this term, and then refers to definition 1.d which defines the term ''misdemeanor crime of domestic violence.'' Finally, instruction 5.(9) explains that persons convicted of such misdemeanor crimes of domestic violence may not lawfully possess a firearm. Other clarifying changes have been made in order to achieve consistency with other firearms forms.

Type of Review: Extension with changes.

Affected Public: Individuals or households, business or other for-profit organizations.

Estimated Number of Respondents: 1271.

Estimated Time Per Respondent: 4 hours.

Estimated Total Annual Burden Hours: 5,084.

REQUEST FOR COMMENTS: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: August 6, 1997.

John W. Magaw,

Director.

[FR Doc. 97–21174 Filed 8–8–97; 8:45 am]

BILLING CODE 4810–31–P

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

Proposed Collection; Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Pub. L. 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the Bureau of Alcohol, Tobacco and Firearms within the Department of the Treasury is soliciting comments concerning the Statement of Intent to Obtain a Handgun(s).

DATES: Written comments should be received on or before October 10, 1997 to be assured of consideration.

ADDRESSES: Direct all written comments to Linda Barnes, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–8930.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to Nicholas Colucci, Firearms and Explosives Operations Branch, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–8310.

SUPPLEMENTARY INFORMATION:

Title: Statement of Intent to Obtain a Handgun(s)

OMB Number: 1512–0520

Form Number: ATF F 5300.35

Abstract: ATF F 5300.35 is used to establish the eligibility of the buyer to determine if the handgun sale is legal, prior to the actual delivery of the handgun. It becomes part of the dealer's records and is used by the Office of Enforcement in compliance inspections and criminal investigations to trace firearms or to confirm criminal activity of persons who violate the Gun Control Act. Licensees are required to maintain records for 5 years or until business operations are discontinued.

Current Actions: Revisions have been made to the form in accordance with new laws and regulations. Question 8i. has been added as a result of the Omnibus Consolidated Appropriations Act of 1997. This statute amended the Gun Control Act to make it unlawful for any person convicted of a

''misdemeanor crime of domestic violence'' to ship, transport, possess, or receive firearms. Definition 4 was added to define the term ''misdemeanor crime of domestic violence.'' The word ''alien'' was added to question 8g. to clarify a question that had previously asked ''Are you illegally in the United States?'' This item was necessary in order to implement current law. The form has also been amended to clarify that law enforcement officers purchasing firearms for official use must certify that they have not been convicted of a misdemeanor crime of domestic violence. This change has been made by adding Instruction 4. to ''Instructions to Transferee (Buyer).'' If the transferee (buyer) is a government employee acquiring a firearm for personal use, he or she must complete Section A. in its entirety.'' As a result of changes to Federal firearms regulations, the form will request, as optional information, an affirmative statement of the purchaser's state of residence, and whether the purchaser is a citizen of the United States. Also, the form will provide for the submission of additional optional information that would establish that alien purchasers have resided in the State for at least 90 days.

Type of Review: Extension with changes.

Affected Public: Individuals or households, business or other for-profit.

Estimated Number of Respondents: 2,000,000

Estimated Time Per Respondent: 6 minutes.

Estimated Total Annual Burden Hours: 478,300.

REQUEST FOR COMMENTS: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: August 6, 1997.

John W. Magaw,

Director.

[FR Doc. 97–21175 Filed 8–8–97; 8:45 am]

BILLING CODE 4810–31–P

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

Proposed Collection; Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Pub. L. 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the Bureau of Alcohol, Tobacco and Firearms within the Department of the Treasury is soliciting comments concerning the Records of Acquisition and Disposition, Collectors of Firearms.

DATES: Written comments should be received on or before October 10, 1997 to be assured of consideration.

ADDRESSES: Direct all written comments to Bureau of Alcohol, Tobacco and Firearms, Linda Barnes, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–8930.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to Nick Colucci, Firearms and Explosives Operations Branch, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–8310.

SUPPLEMENTARY INFORMATION:

Title: Records of Acquisition and Disposition, Collectors of Firearms.

OMB Number: 1512–0387.

Recordkeeping Requirement ID Number: ATF REC 7570/2 and ATF REC 7570/3.

Abstract: These records are used by ATF in criminal investigations and compliance inspections in fulfilling the Bureau's mission to enforce the gun control laws. The record retention requirement for this information collection is 20 years.

Current Actions: This information collection has been revised because the regulations governing residency requirements for persons acquiring firearms have been amended to include specifically the requirements that all aliens must establish proof of residency through the use of substantiating documentation (utility bills or a lease agreement) in addition to photo identification.

Type of Review: Extension with changes.

Affected Public: Business or other for-profit.

Estimated Number of Respondents: 172,250.

Estimated Time Per Respondent: 3 hours.

Estimated Total Annual Burden Hours: 559,791.

REQUEST FOR COMMENTS: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: August 6, 1997.

John W. Magaw,

Director.

[FR Doc. 97–21176 Filed 8–8–97; 8:45 am]

BILLING CODE 4810–31–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Revenue Procedures 97–36, 97–37, 97–38, and 97–39

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the

Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Revenue Procedures 97–36, 97–37, 97–38, and 97–39, Changes in Methods of Accounting.

DATES: Written comments should be received on or before October 10, 1997 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection should be directed to Carol Savage, (202) 622–3945, Internal Revenue Service, room 5569, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Changes in Methods of Accounting.

OMB Number: 1545–1551.

Revenue Procedure Number: Revenue Procedures 97–36, 97–37, 97–38, and 97–39.

Abstract: The information collected in the four revenue procedures is required in order for the Commissioner to determine whether the taxpayer properly is requesting to change its method of accounting and the terms and conditions of the change.

Current Actions: There are no changes being made to the revenue procedures at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households, business or other for-profit organizations, not-for-profit institutions, and farms.

Estimated Number of Respondents: 12,350.

Estimated Time Per Respondent: 17 hours, 20 minutes.

Estimated Total Annual Burden Hours: 214,114.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

REQUEST FOR COMMENTS: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: August 1, 1997.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 97–21040 Filed 8–8–97; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

[AC–25; OTS No. 6755]

Dollar Savings Bank, Newark, New Jersey; Approval of Conversion Application

Notice is hereby given that on July 31, 1997, the Director, Corporate Activities, Office of Thrift Supervision, or her designee, acting pursuant to delegated authority, approved the application of Dollar Savings Bank, Newark, New Jersey, to convert to the stock form of organization. Copies of the application are available for inspection at the Dissemination Branch, Office of Thrift Supervision, 1700 G Street, N.W., Washington, D.C. 20552, and the Northeast Regional Office, Office of Thrift Supervision, 10 Exchange Place, 18th Floor, Jersey City, New Jersey 07302.

Dated: August 6, 1997.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 97–21106 Filed 8–8–97; 8:45 am]

BILLING CODE 6720–01–M

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

[AC–24; OTS No. 4727]

Hopkinsville Federal Savings Bank, Hopkinsville, Kentucky; Approval of Conversion Application

Notice is hereby given that on July 31, 1997, the Director, Corporate Activities, Office of Thrift Supervision, or her designee, acting pursuant to delegated authority, approved the application of Hopkinsville Federal Savings Bank, Hopkinsville, Kentucky, to convert to the stock form of organization. Copies of the application are available for inspection at the Dissemination Branch, Office of Thrift Supervision, 1700 G Street, N.W., Washington, D.C. 20552, and the Central Regional Office, Office of Thrift Supervision, 200 West Madison Street, Suite 1300, Chicago, Illinois 60606.

Dated: August 6, 1997.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 97–21104 Filed 8–8–97; 8:45 am]

BILLING CODE 6720–01–M

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

[AC–23; OTS No. 7635]

Landmark Community Bank, Canajoharie, New York; Approval of Conversion Application

Notice is hereby given that on July 30, 1997, the Director, Corporate Activities, Office of Thrift Supervision, or her designee, acting pursuant to delegated authority, approved the application of Landmark Community Bank, Canajoharie, New York, to convert to the stock form of organization. Copies of the application are available for inspection at the Dissemination Branch, Office of Thrift Supervision, 1700 G Street, N.W., Washington, D.C. 20552, and the Northeast Regional Office, Office of Thrift Supervision, 10 Exchange Place, 18th Floor, Jersey City, New Jersey 07302.

Dated: August 6, 1997.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 97–21103 Filed 8–8–97; 8:45 am]

BILLING CODE 6720–01–M

DEPARTMENT OF VETERANS AFFAIRS

Enhanced-Use Development at the Richard L. Roudebush VAMC, Indianapolis, IN

AGENCY: Department of Veterans Affairs.

ACTION: Notice of Designation.

SUMMARY: The Secretary of the Department of Veterans Affairs is designating the Richard L. Roudebush Department of Veterans Affairs Medical Center, at 1481 West Tenth Street, Indianapolis, Indiana, as a site for an Enhanced-Use lease development. The Department intends to enter into a 35-year lease of real property to the developer who provides the Department with the greatest economic advantages. As part of the development, the Department will be seeking to obtain skilled nursing home care services and other ''in-kind'' considerations, as well as promoting the sharing of services.

FOR FURTHER INFORMATION CONTACT: Renee Badey, Office of Asset and Enterprise Development (189), Veterans Health Administration, Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC, 20420, (202) 565–4307.

SUPPLEMENTARY INFORMATION: 38 U.S.C. Sec 8161 *et seq*., specifically provides that the Secretary may enter into an Enhanced-Use Lease, if the Secretary determines that at least part of the use of the property under the lease will be to provide appropriate space for an activity contributing to the mission of the Department; the lease will not be inconsistent with and will not adversely affect the mission of the Department; and the lease will enhance the property. This project meets these requirements.

Approved: July 31, 1997.

Hershel W. Gober,

Acting Secretary of Veterans Affairs.

[FR Doc. 97–21049 Filed 8–8–97; 8:45 am]

BILLING CODE 8320–01–M

federal register

Monday
August 11, 1997

Part II

Department of the Interior

Fish and Wildlife Service

50 CFR Part 20

Migratory Bird Hunting; Proposed Migratory Bird Hunting Regulations on Certain Federal Indian Reservations and Ceded Lands for the 1997–98 Season; Proposed Rule

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 20

RIN 1018–AE14

Migratory Bird Hunting; Proposed Migratory Bird Hunting Regulations on Certain Federal Indian Reservations and Ceded Lands for the 1997–98 Season

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: This rule proposes special migratory bird hunting regulations for certain tribes on Federal Indian reservations, off-reservation trust lands, and ceded lands for the 1997–98 migratory bird hunting season.

DATES: The comment period for these proposed regulations will end on August 21, 1997.

ADDRESSES: Comments should be sent to: Chief, Office of Migratory Bird Management, U.S. Fish and Wildlife Service, ms 634—ARLSQ, 1849 C St., NW., Washington, DC 20240. Comments received, if any, on these proposed special hunting regulations and tribal proposals will be available for public inspection during normal business hours in Room 634—Arlington Square Building, 4401 N. Fairfax Drive, Arlington, VA.

FOR FURTHER INFORMATION CONTACT: Ron W. Kokel, Office of Migratory Bird Management, U.S. Fish and Wildlife Service, (703/358–1714).

SUPPLEMENTARY INFORMATION: In the March 13, 1997, **Federal Register** (62 FR 12054), the Service requested proposals from Indian tribes wishing to establish special migratory bird hunting regulations for the 1997–98 hunting season, under the guidelines described in the June 4, 1985, **Federal Register** (50 FR 23467). The Service developed guidelines in response to tribal requests for recognition of their reserved hunting rights and, for some tribes, recognition of their authority to regulate hunting by both tribal and non-tribal members on their reservations. The guidelines include possibilities for:

(1) on-reservation hunting by both tribal and nontribal members, with hunting by nontribal members on some reservations to take place within Federal frameworks but on dates different from those selected by the surrounding State(s);

(2) on-reservation hunting by tribal members only, outside of usual Federal frameworks for season dates and length, and for daily bag and possession limits; and

(3) off-reservation hunting by tribal members on ceded lands, outside of usual framework dates and season length, with some added flexibility in daily bag and possession limits.

In all cases, the regulations established under the guidelines must be consistent with the March 10 to September 1 closed season mandated by the 1916 Migratory Bird Treaty with Canada. The guidelines apply to those tribes having recognized reserved hunting rights on Federal Indian reservations (including off-reservation trust lands) and on ceded lands. They also apply to establishing migratory bird hunting regulations for nontribal members on all lands within the exterior boundaries of reservations where tribes have full wildlife management authority over such hunting or where the tribes and affected States otherwise have reached agreement over hunting by nontribal members on lands owned by non-Indians within the reservation.

Tribes usually have the authority to regulate migratory bird hunting by nonmembers on Indian-owned reservation lands, subject to Service approval. The question of jurisdiction is more complex on reservations that include lands owned by non-Indians, especially when the surrounding States have established or intend to establish regulations governing hunting by non-Indians on these lands. In such cases, the Service encourages the tribes and States to reach agreement on regulations that would apply throughout the reservations. When appropriate, the Service will consult with a tribe and State with the aim of facilitating an accord. The Service also will consult jointly with tribal and State officials in the affected States where tribes wish to establish special hunting regulations for tribal members on ceded lands.

Because of past questions regarding interpretation of what events trigger the consultation process, as well as who initiates it, the Service provides the following clarification. The Service routinely provides copies of **Federal Register** publications to all State Directors, tribes and others interested parties. It is the responsibility of the States, tribes and others to notify the Service of any concern regarding any feature(s) of any regulations to the attention of the Service. When the Service receives such notification, we will initiate consultation.

Service guidelines provide for the continued harvest of waterfowl and other migratory game birds by tribal members on reservations where it has been a customary practice. The Service does not oppose this harvest, provided it does not take place during the closed season defined by the 1916 Migratory Bird Convention with Canada, and does not adversely affect the status of the migratory bird resource.

Before developing the guidelines, the Service reviewed available information on the current status of migratory bird populations; reviewed the current status of migratory bird hunting on Federal Indian reservations; and evaluated the potential impact of such guidelines on migratory birds. The Service concluded that the impact of migratory bird harvest by tribal members hunting on their reservations is minimal.

One area of interest in Indian migratory bird hunting regulations relates to hunting seasons for nontribal members on dates that are within Federal frameworks, but which are different from those established by the State(s) where the reservation is located. A large influx of nontribal hunters onto a reservation at a time when the season is closed in the surrounding State(s) could result in adverse population impacts on one or more migratory bird species. The guidelines make this unlikely, however, because tribal proposals must include:

(a) details on the harvest anticipated under the requested regulations;

(b) methods to be used in measuring or monitoring harvest (such as bag checks, mail questionnaires, etc.);

(c) steps to be used to limit level of harvest, where it could be shown that failure to limit such harvest would adversely impact the migratory bird resource; and

(d) the tribes ability to establish and enforce migratory bird hunting regulations.

The Service may modify or establish regulations experimentally, after evaluation and confirmation of harvest information obtained by the tribes.

The Service believes the guidelines provide appropriate opportunity to accommodate the reserved hunting rights and management authority of Indian tribes while ensuring that the migratory bird resource receives necessary protection. The conservation of this important international resource is paramount. The guidelines should not be viewed as inflexible. In this regard, the Service notes that they have been employed successfully since 1985. The Service believes they have been tested adequately and therefore, made them final beginning with the 1988–89 hunting season. It should be stressed here, however, that use of the guidelines is not mandatory and no action is required if a tribe wishes to observe the

hunting regulations established by the State(s) in which the reservation is located.

In summary, this document proposes 1997–98 season migratory bird hunting regulations for participating tribes.

Hunting Season Proposals from Indian Tribes and Organizations

For the 1997–98 hunting season, the Service received requests from twenty tribes and Indian organizations appropriate for **Federal Register** publication.

The Service actively solicits regulatory proposals from other tribal groups that have are interested in working cooperatively for the benefit of waterfowl and other migratory game birds. The Service encourages tribes to work with us to develop agreements for management of migratory bird resources on tribal lands.

It should be noted that this proposed rule includes generalized regulations for both early- and late-season hunting. A final rule will be published later in an August 1997 **Federal Register** that will include tribal regulations for the early-hunting season. The early season begins on September 1 each year and most commonly includes such species as mourning doves and white-winged doves. A final rule will also be published in a September 1997 **Federal Register** that will include regulations for late-season hunting. The late season begins on or around October 1 and most commonly includes waterfowl species.

In this current rulemaking, because of the compressed timeframe for establishing regulations for Indian tribes and because final frameworks dates and other specific information are not available, the regulations for many tribal hunting seasons are described in relation to the season dates, season length and limits that will be permitted when final Federal frameworks are announced for early- and late-season regulations. For example, daily bag and possession limits for ducks on some areas are shown as ''Same as permitted Pacific Flyway States under final Federal frameworks,'' and limits for geese will be shown as the same permitted by the State(s) in which the tribal hunting area is located.

The proposed frameworks for early-season regulations were published in the **Federal Register** on July 23, 1997 (62 FR 39712); early-season final frameworks will be published in mid-August. Proposed late-season frameworks for waterfowl and coots will be published in mid-August, and the final frameworks for the late seasons will be published in mid-September. The Service will notify affected tribes of season dates, bag limits, etc., as soon as final frameworks are established.

As previously discussed, no action is required by tribes wishing to observe migratory bird hunting regulations established by the State(s) where they are located.

The proposed regulations for the twenty tribes with proposals that meet the established criteria are shown below.

(a) Colorado River Indian Tribes, Colorado River Indian Reservation, Parker, Arizona (Tribal Members and Non-tribal Hunters)

The Colorado River Indian Reservation is located in Arizona and California. The tribes own almost all lands on the reservation, and have full wildlife management authority.

In their 1997–98 proposal, dated June 3, 1997, the Colorado River Indian Tribes requested split dove seasons. They propose their early season begin September 1 and end September 15, 1997. Daily bag limits would be 10 mourning or 10 white-winged doves either singly or in the aggregate. The late season for doves is proposed to open November 16, 1997, and close January 15, 1998. A daily bag limit would be 10 mourning doves. The possession limit would be twice the daily bag limit. Shooting hours would be from one-half hour before sunrise to noon. Other special tribally set regulations would apply.

The tribes also propose duck hunting seasons. The season would run from October 4, 1997, through January 5, 1998. The tribes propose the same season dates for coots and common moorhens. The daily bag limit for ducks, including mergansers, would be 7 birds, which would include no more than 2 redheads, 2 pintails, 1 canvasback, 2 Mexican ducks, and 2 mallard hens. The possession limit would be twice the daily bag limit. The daily bag limit for coots and common moorhens would be 25, singly or in the aggregate. The possession limit for coots and common moorhens would be twice the daily bag limit.

For geese, the Colorado River Indian Tribes propose a season of October 18, 1997, through January 18, 1998. The daily bag and possession limits for geese would be 5, which would include no more than 3 white geese (snow and/or Ross and blue geese) and not more than 2 dark geese (Canada geese).

Under the proposed regulations described here and, based upon past seasons, the tribes and the Service estimate harvest will be less than 400 ducks and 100 geese.

Hunters must have a valid Colorado River Indian Reservation hunting permit in their possession while hunting. As in the past, the regulations would apply both to tribal and non-tribal hunters, and non-toxic shot is required for waterfowl hunting. The Service proposes to approve the Colorado River Indian Tribes regulations for the 1997–98 hunting season.

(b) Confederated Salish and Kootenai Tribes, Flathead Indian Reservation, Pablo, Montana (Non-tribal Hunters)

For the past several years, the Confederated Salish and Kootenai Tribes and the State of Montana have entered into cooperative agreements for the regulation of hunting on the Flathead Indian Reservation. The State and the tribes are currently operating under a cooperative agreement signed in 1990 that addresses fishing and hunting management and regulation issues of mutual concern. This agreement enables all hunters to utilize waterfowl hunting opportunities on the reservation. The tribes proposed special regulations for waterfowl hunting were submitted to the Service in a April 22, 1997, proposal.

As in the past, tribal regulations for nontribal members would be at least as restrictive as those established for the Pacific Flyway portion of Montana. Goose season dates would also be at least as restrictive as those established for the Pacific Flyway portion of Montana.

Shooting hours for waterfowl hunting on the Flathead Reservation are sunrise to sunset. Steel, bismuth-tin, or other Federally-approved non-toxic shots are the only legal shotgun loads on the reservation for waterfowl or other gamebirds.

The requested season dates and bag limits are generally similar to past regulations. Harvest levels are not expected to change significantly. Standardized check station data from the 1993–94 and 1994–95 hunting seasons indicated no significant changes in harvest levels and that the large majority of the harvest is by non-tribal hunters.

The Service proposes to approve the tribes' request for special migratory bird regulations for the 1997–98 hunting season.

(c) Crow Creek Sioux Tribe, Crow Creek Indian Reservation, Fort Thompson, South Dakota (Tribal Members and Non-tribal Hunters)

The Crow Creek Indian Reservation has a checkerboard pattern of land ownership, with much of the land owned by non-Indians. Since the 1993–

94 season, the tribe has selected special waterfowl hunting regulations independent of the State of South Dakota. The tribe observes migratory bird hunting regulations contained in 50 CFR part 20.

In a July 22, 1997, proposal, the tribe requested duck season dates of October 4, 1997, to January 8, 1998, with the same daily bag and possession limits permitted by the final Federal frameworks. The season and bag limits would be essentially the same as last year, given the final Federal frameworks, and harvest is again expected to be low because of the small number of hunters. In 1994–95, duck harvest was 48 birds, down from 67 in 1993–94.

For geese, the tribe requested a goose hunting season of October 4, 1997, through January 4, 1998, with the daily bag and possession limits the same as those permitted by final Federal frameworks. In addition to the above goose season, the tribe has also proposed a light goose only season from February 18 through March 10, 1998. The tribe's harvest during recent past seasons has been less than 100 geese. Harvest for the 1997–98 coming season should be similar.

The Service proposes to approve the tribal requests for duck and goose hunting regulations. As with all other groups, the Service requests the tribe continue to survey and report harvest.

(d) Fond du Lac Band of Lake Superior Chippewa Indians, Cloquet, Minnesota (Tribal Members Only)

In 1996, for the first time, the Service and the Fond du Lac Band of Lake Superior Chippewa Indians cooperated to establish special migratory bird hunting regulations for tribal members. The Fond du Lac's May 27, 1997, proposal covers land ceded to the band under the Treaty of 1854 in northeast Minnesota.

The band's proposal for 1997–98 is essentially the same as that approved by the Service last year. Specifically, the Fond du Lac Band proposes a September 13 to November 23, 1997, season on ducks, mergansers, coots and moorhens, and a September 6 to November 23, 1997, season for geese. For sora and virginia rails, snipe, and woodcock, the Fond du Lac Band proposes a September 1 to November 23, 1997, season. Proposed bag limits would consist of the following:

Ducks

Daily Bag Limit: 20 ducks, including no more than 10 mallards (only 5 of which may be hens), 4 black ducks, 4 redheads, 4 pintails, and 2 canvasbacks.

Mergansers

Daily Bag Limit: 5 mergansers, including no more than 1 hooded merganser.

Geese

Daily Bag Limit: 10 geese.

Coots and Common Moorhens (Common Gallinules)

Daily Bag Limit: 20 coots and common moorhens, singly or in the aggregate.

Sora and Virginia Rails

Daily Bag and Possession Limit: 25 sora and Virginia rails singly, or in the aggregate.

Common Snipe

Daily Bag Limit: 8 common snipe.

Woodcock

Daily Bag Limit: 5 woodcock.

The following general conditions apply:

1. While hunting waterfowl, a tribal member must carry on his/her person a valid tribal waterfowl hunting permit.

2. Except as otherwise noted, tribal members will be required to comply with tribal codes that will be no less restrictive than the provisions of Chapter 10 of the Model Off-Reservation Code. Except as modified by the Service rules adopted in response to this proposal, these amended regulations parallel Federal requirements in 50 CFR part 20 as to hunting methods, transportation, sale, exportation and other conditions generally applicable to migratory bird hunting.

3. Band members in each zone will comply with State regulations providing for closed and restricted waterfowl hunting areas.

4. Possession limits for each species are double the daily bag limit, except on the opening day of the season, when the possession limit equals the daily bag limit, unless otherwise noted above. Possession limits are applicable only to transportation and do not include birds which are cleaned, dressed, and at a member's primary residence. For purposes of enforcing bag and possession limits, all migratory birds in the possession or custody of band members on ceded lands will be considered to have been taken on those lands unless tagged by a tribal or State conservation warden as having been taken on-reservation. All migratory birds which fall on reservation lands will not count as part of any off-reservation bag or possession limit.

The Band and the Service anticipate harvest will be fewer than 500 ducks and geese and 150 coots.

The Service proposes to approve the request for special migratory bird hunting regulations for the Fond du Lac Band of Lake Superior Chippewas.

(e) Grand Traverse Band of Ottawa and Chippewa Indians, Suttons Bay, Michigan (Tribal Members Only)

In the 1995–96 migratory bird seasons, the Grand Traverse Band of Ottawa and Chippewa Indians and the Service first cooperated to establish special regulations for waterfowl. The Grand Traverse Band is a self-governing, federally recognized tribe located on the west arm of Grand Traverse Bay in Leelanau County, Michigan. The Grand Traverse Band is a signatory tribe of the Treaty of 1836. The Service has approved special regulations for tribal members of the 1836 treaty's signatory tribes on ceded lands in Michigan since the 1986–87 hunting season.

For the 1997–98 season, the Grand Traverse Band of Ottawa and Chippewa Indians proposes a tribal member duck season that would run from September 20, 1997, through January 20, 1998. A daily bag limit of 10 would include no more than 1 pintail, 1 canvasback, 1 hooded merganser, 2 black ducks, 2 wood ducks, 2 redheads, and 5 mallards (only 2 of which may be hens).

For Canada geese, the tribe proposes a September 1 through November 30, 1997, and a January 1 through February 8, 1998, season. For white-fronted geese, brant, and snow geese, the tribe proposes an October 1 through November 30, 1997, season. The daily bag limit for all geese (including brant) would be 5 birds. Based on Service information, it is unlikely that any Canada geese from the Southern James Bay Population would be harvested by the tribe.

For woodcock, snipe, and sora rail, the tribe proposes a September 1 to November 14, 1997, season. The daily bag limit shall not exceed 5 birds per species.

All other Federal regulations contained in 50 CFR part 20 would apply.

The tribe proposes to closely monitor harvest through game bag checks, patrols, and mail surveys. In particular, the tribe proposes monitoring the harvest of Southern James Bay Canada geese to assess any impacts of tribal hunting on the population.

The Service proposes to approve the Grand Traverse Band of Ottawa and Chippewa Indian's requested 1997–98 special migratory bird hunting regulations.

(f) Great Lakes Indian Fish and Wildlife Commission, Odanah, Wisconsin (Tribal Members Only)

Since 1985, various bands of the Lake Superior Tribe of Chippewa Indians have exercised judicially recognized off-reservation hunting rights for migratory birds in Wisconsin. The specific regulations were established by the Service in consultation with the Wisconsin Department of Natural Resources and the Great Lakes Indian Fish and Wildlife Commission (GLIFWC, which represents the various bands). Beginning in 1986, a tribal season on ceded lands in the western portion of the State's Upper Peninsula was developed in coordination with the Michigan Department of Natural Resources, and the Service has approved special regulations for tribal members in both Michigan and Wisconsin since the 1986–87, hunting season. In 1987, the GLIFWC requested and the Service approved special regulations to permit tribal members to hunt on ceded lands in Minnesota, as well as in Michigan and Wisconsin. The States of Michigan and Wisconsin concurred with the regulations, although Wisconsin has raised some concerns each year. Minnesota did not concur with the regulations, stressing that the State would not recognize Chippewa Indian hunting rights in Minnesota's treaty area until a court with jurisdiction over the State acknowledges and defines the extent of these rights. The Service acknowledged the State's concern, but pointed out that the United States Government has recognized the Indian hunting rights decided in the Voigt case, and that acceptable hunting regulations have been negotiated successfully in both Michigan and Wisconsin even though the Voigt decision did not specifically address ceded land outside Wisconsin. The Service believes this is appropriate because the treaties in question cover ceded lands in Michigan (and Minnesota), as well as in Wisconsin. Consequently, in view of the above, the Service has approved special regulations since the 1987–88 hunting season on ceded lands in all three States. In fact, this recognition of the principle of reserved treaty rights for band members to hunt and fish was pivotal in a Service decision to approve a special 1991–92 season for the 1836 ceded area in Michigan.

Recently, certain GLIFWC member bands have brought suit to resolve the issue of hunting, fishing and gathering rights in the Minnesota ceded areas covered under the 1837 and 1854 treaties. The Federal Government has intervened in support of the bands.

In a May 27, 1997, letter, the GLIFWC proposed off-reservation special migratory bird hunting regulations for the 1997–98 seasons. Details of the proposed regulations are shown below. In general, the proposal is essentially the same as the regulations approved for the 1996–97 season for ducks (including mergansers) and geese for all of the Minnesota and Wisconsin ceded areas except that the proposed seasons have been extended for ducks and associated species. Bag limits for ducks and geese in these areas would be 20 and 10, respectively, although certain sex and species restrictions would apply. Regulations proposed for the 1836 and 1842 Treaty areas located in Michigan will, for the first time, be largely different from those permitted for the State of Michigan.

Results of the 1995–96 hunter survey show that 1278 ducks and 92 geese were actually harvested. Under the proposed regulations, harvest is expected to be similar to last year and most likely would not exceed 3000 ducks and 900 geese.

The Service believes that regulations advanced by the GLIFWC for the 1997–98 hunting season are biologically acceptable and recommends approval. If the regulations are finalized as proposed, the Service would request that the GLIFWC closely monitor the member band duck harvest and take any actions necessary to reduce harvest if locally nesting populations are being significantly impacted.

The Commission and the Service are parties to a Memorandum of Agreement (MOA) designed to facilitate the ongoing enforcement of Service-approved tribal migratory bird regulations. Its intent is to provide long-term cooperative application.

Also, as in recent seasons, the proposal contains references to Chapter 10 of the Migratory Bird Harvesting Regulations of the Model Off-Reservation Conservation Code. Chapter 10 regulations parallel State and Federal regulations and, in effect, are not changed by this proposal.

The GLIFWC's proposed 1997–98 waterfowl hunting season regulations are as follows:

Ducks

A. Wisconsin and Minnesota 1837 and 1842 Zones:

Season Dates: Begin September 15 and end December 1, 1997.

Daily Bag Limit: 20 ducks, including no more than 10 mallards (only 5 of which may be hens), 4 black ducks, 4 redheads, 4 pintails, and 2 canvasbacks.

B. Michigan 1836 and 1842 Treaty Zones:

Season Dates: Begin September 15 and end December 1, 1997.

Daily Bag Limit: 10 ducks, including no more than 5 mallards (only 2 of which may be hens), 2 black ducks, 2 redheads, 2 pintails, and 1 canvasbacks.

Mergansers

A. Wisconsin and Minnesota 1837 and 1842 Zones:

Season Dates: Begin September 15 and end December 1, 1997.

Daily Bag Limit: 5 mergansers.

B. Michigan 1836 and 1842 Treaty Zones:

Season Dates: Begin September 15 and end December 1, 1997.

Daily Bag Limit: 5 mergansers, including no more than 1 hooded merganser.

Geese: Canada Geese

A. Wisconsin and Minnesota 1837 and 1842 Zones:

Season Dates: Begin September 15 and end December 1, 1997.

Daily Bag Limit: 10 Canada geese, minus the number of blue, snow or white-fronted geese taken.

B. Michigan, 1836 and 1842 Treaty Zones:

Season Dates: Begin September 15 and end December 1, 1997. In addition, the same dates and season length permitted the State of Michigan during the Special September Canada goose Season.

Daily Bag Limit: 10 Canada geese, minus the number of blue, snow or white-fronted geese taken. In addition, the same bag limit permitted the State of Michigan during the Special September Canada goose Season.

Geese: Blue, Snow and White-fronted Geese

A. Wisconsin and Minnesota 1837 and 1842 Zones:

Season Dates: Begin September 15 and end December 1, 1997.

Daily Bag Limit: 10 geese, minus the number of Canada geese taken.

B. Michigan 1836 and 1842 Treaty Zones:

Season Dates: Begin September 15 and end December 1, 1997.

Daily Bag Limit: 10 geese, minus the number of Canada geese taken.

Other Migratory Birds: Coots and Common Moorhens (Common Gallinules)

A. Wisconsin and Minnesota 1837 and 1842 Zones:

Season Dates: Begin September 15 and end December 1, 1997.

Daily Bag Limit: 20 coots and common moorhens (common gallinules), singly or in the aggregate.

B. Michigan 1836 and 1842 Treaty Zones:

Season Dates: Begin September 15 and end December 1, 1997.

Daily Bag Limit: 20 coots and common moorhens (common gallinules), singly or in the aggregate.

Sora and Virginia Rails

A. Wisconsin and Minnesota 1837 and 1842 Zones:

Season Dates: Begin September 15 and end December 1, 1997.

Daily Bag Limit: 25 sora and Virginia rails singly, or in the aggregate.

B. Michigan 1836 and 1842 Treaty Zones:

Season Dates: Begin September 15 and end December 1, 1997.

Daily Bag Limit: 25 sora and Virginia rails singly, or in the aggregate.

Common Snipe

A. Wisconsin and Minnesota 1837 and 1842 Zones:

Season Dates: Begin September 15 and end December 1, 1997.

Daily Bag Limit: 8 common snipe.

B. Michigan 1836 and 1842 Treaty Zones:

Season Dates: Begin September 15 and end December 1, 1997.

Daily Bag Limit: 8 common snipe.

Woodcock

A. Wisconsin and Minnesota 1837 and 1842 Zones:

Season Dates: Begin September 2 and end November 30, 1997.

Daily Bag Limit: 5 woodcock.

B. Michigan 1836 and 1842 Treaty Zones:

Season Dates: Begin September 1 and end December 1, 1997.

Daily Bag Limit: 5 woodcock.

D. General Conditions

1. While hunting waterfowl, a tribal member must carry on his/her person a valid tribal waterfowl hunting permit.

2. Except as otherwise noted, tribal members will be required to comply with tribal codes that will be no less restrictive than the provisions of Chapter 10 of the Model Off-Reservation Code. Except as modified by the Service rules adopted in response to this proposal, these amended regulations parallel Federal requirements in 50 CFR Part 20 as to hunting methods, transportation, sale, exportation and other conditions generally applicable to migratory bird hunting.

3. Tribal members in each zone will comply with State regulations providing for closed and restricted waterfowl hunting areas.

4. Possession limits for each species are double the daily bag limit, except on the opening day of the season, when the possession limit equals the daily bag limit, unless otherwise noted above. Possession limits are applicable only to transportation and do not include birds which are cleaned, dressed, and at a member's primary residence. For purposes of enforcing bag and possession limits, all migratory birds in the possession or custody of tribal members on ceded lands will be considered to have been taken on those lands unless tagged by a tribal or State conservation warden as having been taken on-reservation. In Wisconsin, such tagging will comply with applicable State laws. All migratory birds which fall on reservation lands will not count as part of any off-reservation bag or possession limit.

5. Minnesota and Michigan--Duck Blinds and Decoys. Tribal members hunting in Michigan and Minnesota will comply with tribal codes that contain provisions that parallel applicable State laws concerning duck blinds and/or decoys.

(g) Jicarilla Apache Tribe, Jicarilla Indian Reservation, Dulce, New Mexico (Tribal Members and Non-tribal Hunters)

The Jicarilla Apache Tribe has had special migratory bird hunting regulations for tribal members and nonmembers since the 1986–87 hunting season. The tribe owns all lands on the reservation and has recognized full wildlife management authority. In general, the proposed seasons would be more conservative than allowed by the Federal frameworks of last season and by States in the Pacific Flyway.

In a May 16, 1997, proposal, the tribe proposed a 1997–98 waterfowl season opening date of October 4 and a closing date of November 30, 1997. Daily bag and possession limits would be the same as Pacific Flyway States. The tribe proposes, however, a closed season on Canada geese. Other regulations specific to the Pacific Flyway guidelines for New Mexico would be in effect.

The Jicarilla Game and Fish Department's annual estimate of waterfowl harvest is relatively small. In the 1996–97 season, estimated duck harvest was 1,234, a slight increase from 1,104 in 1995–96. The species composition in the past has included mainly mallards, gadwall, and teal. Northern pintail comprised only 7 percent of the total harvest in 1996.

The proposed regulations are essentially the same as were established last year and the tribe anticipates the maximum 1997–98 waterfowl harvest would be around 1,400 ducks.

The Service proposes to approve the tribe's requested 1997–98 hunting seasons.

(h) Kalispel Tribe, Kalispel Reservation, Usk, Washington (Tribal Members and Non-tribal Hunters)

The Kalispel Reservation was established by Executive Order in 1914, and currently comprises approximately 4600 acres. The tribe owns all Reservation land and has full management authority. The Kalispel Tribe has a fully developed wildlife program with hunting and fishing codes. The tribe enjoys excellent wildlife management relations with the State. The tribe and the State have an operational Memorandum of Understanding with emphasis on fisheries but also for wildlife. The non-tribal member seasons described below pertain to a 176-acre waterfowl management unit. The tribe is utilizing this opportunity to rehabilitate an area that needs protection because of past land use practices, as well as to provide additional waterfowl hunting in the area.

In 1996, for the first time, the requested regulations also included a proposal for Kalispel-member only migratory bird hunting on Kalispel-ceded lands within Washington, Montana, and Idaho.

For the 1997–98 migratory bird hunting seasons, the Kalispel Tribe proposed, in a May 22, 1997, letter, tribal and non-tribal member waterfowl seasons. For non-tribal members, the tribe requests seasons which begin 2 weeks earlier and end 2 weeks later than those for the State of Washington in the same area. The outside frameworks, however, for ducks and geese would run from October 1, 1997, through January 31, 1998. In that period, non-tribal hunters would be allowed to hunt on weekends, holidays and continuously in the month of December for a total of 95 days. Hunters should obtain further information on days from the Kalispel Tribe. Daily bag and possession limits would be the same as those for the State of Washington. Harvest is expected to be less than 200 geese and 250 ducks.

All other State and Federal regulations contained in 50 CFR part 20, such as use of steel shot and possession of a signed migratory bird hunting stamp, would be required.

For tribal members on Kalispel-ceded lands, the Kalispel proposes outside frameworks for ducks and geese of September 15, 1997, through January 31, 1998. However, during that period, the tribe proposes that the season run continuously. Daily bag and possession limits would be the same as those for the States of Washington and Idaho. Harvest is expected to be less than 200 geese and 250 ducks.

Tribal members would be required to possess a signed Federal migratory bird stamp and a tribal ceded lands permit.

The Service proposes to approve the regulations requested by the Kalispel Tribe.

(i) Klamath Tribe, Chiloquin, Oregon (Tribal Members Only)

The Klamath Tribe currently has no reservation, per se. However, the Klamath Tribe has reserved hunting, fishing and gathering rights within its former reservation boundary. This area of former reservation, granted to the Klamaths by the Treaty of 1864, is over 1 million acres. Tribal natural resource management authority is derived from the Treaty of 1864, and carried out cooperatively under the judicially enforced Consent Decree of 1981. The parties to this Consent Decree are the Federal Government, the State of Oregon and the Klamaths. The Klamath Indian Game Commission sets the seasons. The tribal biological staff and tribal Regulatory Enforcement Officers monitor tribal harvest by frequent bag checks and hunter interviews.

In a May 21, 1997, letter, the Klamath Tribe proposed season dates that run from October 1, 1997, through January 31, 1998. Daily bag limits would be 9 for ducks and 6 for geese with possession limits twice the daily bag limit. The daily bag and possession limit for coots would be 25. Shooting hours would be one-half hour before sunrise to one-half hour after sunset.

Based on the number of birds produced in the Klamath Basin, the tribe expects that this year's duck harvest will be similar to last year's while goose harvest will most likely be above 1995 levels. Information on tribal harvest suggests that more than 70 percent of the annual goose harvest is local birds produced in the Klamath basin.

The Service proposes to approve the regulations of the Klamath Tribe.

(j) Lower Brule Sioux Tribe, Lower Brule Reservation, Lower Brule, South Dakota (Tribal Members and Non-tribal Hunters)

The Lower Brule Sioux Tribe first established tribal migratory bird hunting regulations for the Lower Brule Reservation in 1994. The Lower Brule Reservation is about 214,000 acres in size and is located on and adjacent to the Missouri River, south of Pierre. Land ownership on the reservation is mixed, and until recently, the Lower Brule Tribe had full management authority over fish and wildlife via a MOA with the State of South Dakota. The MOA provided the tribe jurisdiction over fish and wildlife on reservation lands, including deeded and Corps of Engineers taken lands. However, the tribe is currently in litigation with the State of South Dakota regarding jurisdiction. A recent Federal District Court ruling has and consequent Circuit Court decisions have jeopardized the Tribal/State Agreement that had been in place from 1986 to 1996. At this time, the ruling is being appealed to the U.S. Supreme Court and a motion for a stay has been filed. For the 1997–98 season, the two parties have come to a tentative agreement and meetings between the Lower Brule Sioux Tribe, the South Dakota Department of Game, Fish and Parks and the Service are continuing. It is anticipated that an agreement will be established and management authority clarified to allow the public a clear understanding of the Lower Brule Sioux Wildlife Department license requirements and hunting season regulations. The Lower Brule Reservation waterfowl season is open to tribal and non-tribal hunters.

For the 1997–98 migratory bird hunting season, the Lower Brule Sioux Tribe proposes a duck season length of 86 days, the same number of days as allowed in the High Plains Management Unit. The tribe's proposed season would run from October 4, 1997, through January 8, 1998. The daily bag limit would be the same as that allowed by South Dakota. Possession limits would be twice the daily bag limits.

The tribe's proposed dark goose season would run from October 18, 1997, through January 11, 1998, with a daily bag limit of 3 dark geese, which may not include more than 2 white-fronted geese. The tribe's proposed light goose season would run from October 18, 1997, through January 11, 1998, and February 18 through March 10, 1998. The light goose daily bag limit would be 10. Possession limits would be twice the daily bag limits.

In the 1996–97 season, hunters harvested an estimated 264 geese and 323 ducks. In 1994, duck harvest species composition was primarily mallard (57 percent), gadwall (10 percent), and green-winged teal (10 percent). Goose harvest was 98 percent Canada geese. Additionally, 1996 tribal goose camp harvest was 1,249 geese, down from 2,511 geese in 1995. For the past 3 years prior to 1996, goose camp harvest averaged approximately 3,000 geese. In 1994, 97 percent of this traditional harvest was Canada geese.

The tribe anticipates a duck harvest of 500 birds and a goose harvest similar to the 3-year average if its 1997–98 regulations are approved. All basic Federal regulations contained in 50 CFR part 20, including the use of steel shot, Migratory Waterfowl Hunting and Conservation Stamp, etc., would be observed by the tribe's proposed regulations. In addition, the Lower Brule Sioux Tribe has an official Conservation Code that was established by Tribal Council Resolution on June 1982 and updated in 1996.

The Service proposes to approve the tribe's proposed regulations for the Lower Brule Reservation.

(k) Navajo Nation, Navajo Indian Reservation, Window Rock, Arizona (Tribal Members and Non-tribal Hunters)

Since 1985, the Service has established uniform migratory bird hunting regulations for tribal members and nonmembers on the Navajo Indian Reservation (in parts of Arizona, New Mexico, and Utah). The nation owns almost all lands on the reservation and has full wildlife management authority.

In a July 29, 1997, communication, the tribe proposed special migratory bird hunting regulations on the reservation for both tribal and non-tribal members for the 1997–98 hunting season for ducks (including mergansers), Canada geese, coots, band-tailed pigeons, and mourning doves. For waterfowl, the Navajo Nation requests the earliest opening dates and longest seasons, and the same daily bag and possession limits, permitted Pacific Flyway States under final Federal frameworks.

For both mourning dove and band-tailed pigeons, the Navajo Nation proposes seasons of September 1 through 30. The Navajo Nation also proposes daily bag limits of 10 and 5 for mourning dove and band-tailed pigeon, respectively. Possession limits would be twice the daily bag limits.

In addition, the nation proposes to require tribal members and non-members to comply with all basic Federal migratory bird hunting regulations in 50 CFR part 20 pertaining to shooting hours and manner of taking. In addition, each waterfowl hunter 16 years of age or over must carry on his/her person a valid Migratory Bird Hunting and Conservation Stamp (Duck Stamp) signed in ink across the face.

Special regulations established by the Navajo Nation also apply on the reservation.

The Service proposes to approve the Navajo Nation request for these special regulations for the 1997–98 migratory bird hunting seasons.

(l) Oneida Tribe of Indians of Wisconsin, Oneida, Wisconsin (Tribal Members Only)

Since 1991–92, the Oneida Tribe of Indians of Wisconsin and the Service have cooperated to establish uniform regulations for migratory bird hunting by tribal and non-tribal hunters within the original Oneida Reservation boundaries. Since 1985, the Oneida Tribe's Conservation Department has enforced their own hunting regulations within those original reservation limits. The Oneida Tribe also has a good working relationship with the State of Wisconsin and the majority of the seasons and limits are the same for the tribe and Wisconsin.

In a June 27, 1997, letter to the Service, the tribe proposed special migratory bird hunting regulations. For ducks, the tribe described the general ''outside dates'' as being September 15 through November 20, 1997, inclusive. The tribe proposes a daily bag limit of 5 birds, which could include no more than 3 mallards, 1 hen mallard, 4 wood ducks, 1 canvasback, 1 redhead, 2 pintails, and 1 hooded merganser.

For geese, the tribe recommends a season between September 1 and December 31, 1997, with a quota of 150 Canada geese. Canada goose bag limits would be 3 tribally-tagged geese per day. The tribe will reissue 3 tags when 3 birds are registered. The possession limit for Canada geese is 6. If the quota is attained before the season concludes, the tribe will recommend closing the season early.

For woodcock, the tribe proposes a season between September 1 and November 16, 1997, with a daily bag and possession limit of 5 and 10, respectively.

The tribe proposes shooting hours be one-half hour before sunrise to sunset. Tribal members and non-tribal members hunting on the Reservation or on lands under the jurisdiction of the tribe will observe all basic Federal migratory bird hunting regulations found in 50 CFR, with the following exceptions. Indian hunters would be exempt from the purchase of the Migratory Waterfowl Hunting and Conservation Stamp (Duck Stamp); and shotgun capacity would not be limited to 3 shells.

The Service proposes to approve the request for special migratory bird hunting regulations for the Oneida Tribe of Indians of Wisconsin, provided the tribe continues to delay the opening of their duck season until September 15. The Oneida tribe has traditionally delayed the opening of their duck season to September 15 to avoid possible significant impacts on local nesting duck populations. The Service commends the tribe for these conservation efforts.

(m) Point No Point Treaty Tribes, Kingston, Washington (Tribal Members and Non-tribal Hunters)

For the first time in 1996, the Service and the Point No Point Treaty Tribes, consisting of the Skokomish, Port Gamble Sklallam, Jamestown Sklallam, and Elwha Sklallam tribes, cooperated to establish special regulations for migratory bird hunting. The four tribes have reservations located on the Olympic Peninsula in Washington. All four tribes have successfully administered tribal hunting regulations since 1985 and each tribe has a comprehensive hunting ordinance.

The tribes' May 27, 1997, proposal requests seasons for ducks, geese, brant, coots, snipe, and mourning doves.

For ducks, coots, brant, and geese, the tribes request a September 15, 1997, to January 15, 1998, season with a daily bag limit of 7 ducks, 25 coots, 2 brant, and 4 geese. The duck daily bag limit would include mergansers and could include no more than 1 hen mallard, 2 pintails, 1 canvasback, and 2 redheads. The tribes proposed daily bag limit of 4 geese could include no more than 3 light geese.

For mourning doves, the tribes propose a September 1 to September 30, 1997, season with a daily bag limit of 10.

All possession limits would be twice the daily bag limit. For conservation, the tribes request a closed season on wood ducks, harlequin ducks, Aleutian Canada geese, and cackling Canada geese.

Tribal harvest last year under similar regulations was approximately 125 ducks, 30 geese and 30 coots.

The Service proposes to approve the Point No Point Treaty Tribes requested 1997–98 regulations.

(n) Seminole Tribe of Florida, Big Cypress Seminole Reservation, Clewiston, Florida (Tribal Members and Non-tribal Hunters)

The Seminole Tribe of Florida and the Service have cooperated since 1995 to establish regulations for the 70,000 acre Big Cypress Seminole Reservation. Located northwest of Miami, the Big Cypress Seminole Reservation is totally tribally owned and the tribe has full wildlife management authority.

For the 1997–98 season, the Seminole Tribe proposes establishing a mourning dove season from September 14, 1997, through January 18, 1998. Hunting would be allowed for tribal and non-tribal members, but would be on Sundays only from 1:00 p.m. to sunset. Daily bag limits would be the same as those allowed within the Federal frameworks for the State of Florida. All other Federal regulations contained in 50 CFR part 20 would apply.

Last year, the hunters harvested 2,078 doves. The tribe controls all entry to the hunt area.

The Service proposes to approve the Seminole Tribe's requested 1997–98 special migratory bird hunting regulations.

(o) Shoshone-Bannock Tribes, Fort Hall Indian Reservation, Fort Hall, Idaho (Non-tribal Hunters)

Almost all of the Fort Hall Indian Reservation is tribally-owned. The tribes claim full wildlife management authority throughout the reservation, but the Idaho Fish and Game Department has disputed tribal jurisdiction, especially for hunting by non-tribal members on reservation lands owned by non-Indians. As a compromise, since 1985, the Service has established the same waterfowl hunting regulations on the reservation and in a surrounding off-reservation State zone. The regulations were requested by the tribes and provided for different season dates than in the remainder of the State. The Service agreed to the season dates because they seemed to provide additional protection to mallards and pintails. The State of Idaho concurred with the zoning arrangement. The Service has no objection to the State's use of this zone again in the 1996–97 hunting season, provided the duck and goose hunting season dates are the same as on the reservation.

In a June 3, 1997, proposal for the 1997–98 hunting season, the Shoshone-Bannock Tribes requested a continuous duck (including mergansers) season with the maximum number of days and the same daily bag and possession limits permitted Pacific Flyway States, under final Federal frameworks. The tribes propose that, if the same number of hunting days (93) are permitted as last year, the season would have an opening date of October 4, 1997, and a closing date of January 11, 1998. Coot and snipe season dates would be the same as for ducks, with the same daily bag and possession limits permitted Pacific Flyway States. The tribes anticipate

harvest will be between 2,000 and 5,000 ducks.

The tribes also requested a continuous goose season with the maximum number of days and the same daily bag and possession limits permitted Idaho under Federal frameworks. The tribes propose that, if the same number of hunting days (93) are permitted as in previous years, the season would have an opening date of October 4, 1997, and a closing date of January 11, 1998. The tribes anticipate harvest will be between 4,000 and 6,000 geese.

Non-tribal hunters must comply with all basic Federal migratory bird hunting regulations in 50 CFR part 20, pertaining to shooting hours, use of steel shot, and manner of taking. Special regulations established by the Shoshone-Bannock Tribes also apply on the reservation.

The Service notes that the requested regulations are nearly identical to those of last year and proposes they be approved for the 1997–98 hunting season.

(p) Squaxin Island Tribe, Squaxin Island Reservation, Shelton, Washington (Tribal Members Only)

The Squaxin Island Tribe of Washington and the Service have cooperated since 1995 to establish special tribal migratory bird hunting regulations. These special regulations would apply to tribal members on the Squaxin Island Reservation, located in western Washington near Olympia, and all lands within the traditional hunting grounds of the Squaxin Island Tribe.

For the 1997–98 season, the tribe proposes establishing duck, coot, and snipe seasons that would run from September 15, 1997, through January 15, 1998. The daily bag limit for ducks would be 5 per day and could include only 1 canvasback. The season on harlequin ducks would be closed. For coots and snipe, the daily bag limit would be 25 and 8, respectively.

For geese, the tribe proposes establishing a season that would run from September 15, 1997, through January 15, 1998. The daily bag limit for geese would be 4 per day and could include only 2 snow geese and 1 dusky Canada goose. The season on Aleutian and Cackling Canada geese would be closed.

For brant, the tribe proposes establishing a September 15 to December 31, 1997, season with a daily bag limits of 2 birds per day. The tribe also proposes a September 15 to December 1, 1997, season for band-tailed pigeons with a daily bag limit of 2 per day.

In all cases, the possession limit would be twice the daily bag limit. Shooting hours would be from one-half hour before sunrise to one-half hour after sunset and steel shot would be required for migratory bird hunting. Further, the tribe requires all harvest be reported to their Natural Resources Office within 72 hours.

In 1995, the tribe reported that there was no harvest of any species. Tribal regulations are enforced by the tribe's Law Enforcement Department.

The Service proposes to approve the Squaxin Island Tribe's requested 1997–98 special migratory bird hunting regulations.

(q) The Tulalip Tribes of Washington, Tulalip Indian Reservation, Marysville, Washington (Tribal Members and Non-tribal Hunters)

The Tulalip Tribes are the successors in interest to the tribes and bands signatory to the Treaty of Point Elliott of January 22, 1855. The Tulalip Tribes' government is located on the Tulalip Indian Reservation at Marysville, Washington. The tribes or individual tribal members own all of the land on the reservation, and they have full wildlife management authority. All lands within the boundaries of the Tulalip Tribes Reservation are closed to non-member hunting unless opened by Tulalip Tribal regulations.

In a June 5, 1997, letter, the Tulalip Tribes proposed tribal and non-tribal hunting regulations for the 1997–98 seasons as follows:

For ducks and coot, the proposed season for tribal members would be from September 15, 1997, through February 1, 1998. In the case of non-tribal hunters hunting on the reservation, the season would be the latest closing date and the longest period of time allowed for the State of Washington under final Pacific Flyway Federal frameworks. Daily bag and possession limits for Tulalip Tribal members would be 6 and 12 ducks, respectively, except that for blue-winged teal, canvasback, harlequin, pintail, and wood duck, the bag and possession limits would be the same as those established for the State of Washington in accordance with final Federal frameworks. For non-tribal hunters, bag and possession limits would be the same as those permitted the State of Washington under final Federal frameworks. Non-tribal members should check with the Tulalip tribal authorities regarding additional conservation measures which may apply to specific species managed within the region.

For geese, tribal members are proposed to be allowed to hunt from September 15, 1997, through February 1, 1998. Non-tribal hunters would be allowed the longest season and the latest closing date permitted for the State of Washington under final Federal frameworks. For tribal hunters, the goose daily bag and possession limits would be 6 and 12, respectively, except that the bag limits for brant, cackling Canada geese and dusky Canada geese would be those established for the Pacific Flyway in accordance with final Federal frameworks. For non-tribal hunters hunting on reservation lands, the daily bag and possession limits would be those established in accordance with final Federal frameworks for the State of Washington. The Tulalip Tribes also set a maximum annual bag limit on ducks and geese for those tribal members who engage in subsistence hunting.

All hunters on Tulalip Tribal lands are required to adhere to shooting hour regulations set at one-half hour before sunrise to sunset, special tribal permit requirements, and a number of other tribal regulations enforced by the tribe. Non-tribal hunters sixteen years of age and older, hunting pursuant to Tulalip Tribes' Ordinance No. 67, must possess a valid Federal Migratory Bird Hunting and Conservation Stamp and a valid State of Washington Migratory Waterfowl Stamp. Both stamps must be validated by signing across the face.

Although the season length requested by the Tulalip Tribes appears to be quite liberal, harvest information indicates a total take by tribal and non-tribal hunters under 1,000 ducks and 500 geese, annually. The Service proposes approval of the Tulalip Tribes request for the above seasons. The Service requests that harvest be monitored closely and regulations be reevaluated for future years if harvest becomes too great in relation to population numbers.

(r) White Mountain Apache Tribe, Fort Apache Indian Reservation, Whiteriver, Arizona (Tribal Members and Non-tribal Hunters)

The White Mountain Apache Tribe owns all reservation lands, and the tribe has recognized full wildlife management authority. The White Mountain Apache Tribe has requested regulations that are essentially unchanged from those agreed to for the 1996–97 hunting year.

The hunting zone for waterfowl is restricted and is described as: the entire length of the Black and Salt Rivers forming the southern boundary of the reservation; the White River, extending from the Canyon Day Stockman Station

to the Salt River; and all stock ponds located within Wildlife Management Units 4, 6 and 7. Tanks located below the Mogollon Rim, within Wildlife Management Units 2 and 3 will be open to waterfowl hunting during the 1997–98 season. All other waters of the reservation would be closed to waterfowl hunting for the 1997–98 season.

For non-tribal and tribal hunters, the tribe proposes a continuous duck, coot, merganser, gallinule and moorhen hunting season, with an opening date of October 25, 1997, and a closing date of January 18, 1998. The tribe proposes a daily duck (including mergansers) bag limit of 4, which may include no more than 2 redheads or 1 canvasback and 1 redhead, 1 pintail, and 3 mallards (including no more than 1 hen mallard). The daily bag limit for coots, gallinules and moorhens would be 25 singly, or in the aggregate.

For geese, the season is proposing a season from October 25, 1997, through January 18, 1998. Hunting would be limited to Canada geese, and the daily bag limit would be 2.

Season dates for band-tailed pigeons and mourning doves would run concurrently from September 1 through September 10, 1997, in Wildlife Management Units 7 and 10, only. Proposed daily bag limits for band-tailed pigeons and mourning doves would be 3 and 8, respectively.

Possession limits for the above species are twice the daily bag limits. Shooting hours would be from one-half hour before sunrise to sunset. There would be no open season for sandhill cranes, rails and snipe on the White Mountain Apache lands under this proposal. A number of special regulations apply to tribal and non-tribal hunters, which may be obtained from the White Mountain Apache Tribe Game and Fish Department.

The Service proposes to approve the regulations requested by the tribe for the 1997–98 seasons.

(s) Yankton Sioux Tribe, Marty, South Dakota (Tribal Members and Non-tribal Hunters)

On May 21, 1997, the Yankton Sioux Tribe submitted a waterfowl hunting proposal for the 1997–98 season. The Yankton Sioux tribal waterfowl hunting season would be open to both tribal members and non-tribal hunters. The waterfowl hunting regulations would apply to tribal and trust lands within the external boundaries of the reservation.

For duck (including mergansers) and coots, the Yankton Sioux Tribe proposes a season starting October 18, 1997, and running for the maximum amount of days allowed under the final Federal frameworks. Daily bag and possession limits would be the same as those adopted by the State of South Dakota.

For geese, the tribe has requested a dark geese (Canada geese, brant, white-fronts) and snow geese hunting season starting November 1, 1997, and ending January 31, 1998. Daily bag and possession limits would be the same as those adopted by the State of South Dakota.

All hunters would have to be in possession of a valid tribal license while hunting on Yankton Sioux trust lands. Tribal and non-tribal hunters must comply with all basic Federal migratory bird hunting regulations in 50 CFR part 20, pertaining to shooting hours and the manner of taking. Special regulations established by the Yankton Sioux Tribe also apply on the reservation.

During the 1996–97 hunting season, the tribe reported that 45 non-tribal hunters took 125 Canada geese, 25 snow geese, and 50 ducks. Tribal members harvested less than 60 geese and 50 ducks.

The Service concurs with the Yankton Sioux proposal for the 1997–98 hunting season, and requests that the tribe continue monitoring and reporting the harvest of Canada, snow and white-fronted geese.

(t) Swinomish Indian Tribal Community, LaConner, Washington (Tribal Members Only)

In 1996, the Service and the Swinomish Indian Tribal Community began cooperating to establish special regulations for migratory bird hunting. The Swinomish Indian Tribal Community is a federally recognized Indian tribe consisting of the Suiattle, Skagit, and Kikialos tribes. The Swinomish Reservation was established by the Point Elliott Treaty of 1855 and lies in the Puget Sound area north of Seattle, Washington.

The Tribal Community proposes an off-reservation duck, merganser, Canada goose, brant, and coot season opening on the earliest possible date allowed by the final Federal frameworks for the Pacific Flyway and closing 30 days after the State of Washington closes. Daily bag and possession limits would be the same as those allowed by the State except that the Swinomish request an additional three birds of each species over that allowed by the State.

The Community anticipates that the proposed regulations will result in the harvest of approximately 200 to 300 ducks, 25 to 50 Canada geese, 75 mergansers, 100 brant, and 50 coot. The Swinomish propose a tag and permit system to monitor harvest and will implement steps to limit harvest where conservation is needed. All tribal regulations will be enforced by tribal fish and game officers.

On reservation, the Tribal Community proposes a hunting season for the above mentioned species beginning on the earliest possible opening date and closing March 9, 1998. The Swinomish propose to manage harvest by a tagging system and anticipate harvest will be similar to that expected off reservation.

The Service believes the estimated harvest by the Swinomish will be minimal and will not adversely effect migratory bird populations. The Service proposes to approve the Tribal Community's proposed regulations for the 1997–98 season.

Public Comment

The Service intends that adopted final rules be as responsive as possible to all concerned interests and wants to obtain comments from all interested areas of the public, as well as other government agencies. Such comments, and any additional information received, may lead to final regulations that differ from these proposals.

However, special circumstances involved in the establishment of these regulations limit the amount of time the Service can allow for public comment. Specifically, two considerations compress the time in which the rulemaking process must operate: the need to establish final rules before September 1, 1997, and the unavailability until late July of specific reliable data for each year's status of waterfowl. Therefore, the Service believes allowing comment periods past the dates specified is contrary to the public interest.

No public comment was provided to the Service regarding the Notice of Intent published on March 13, 1997, which announced rulemaking on regulations for migratory bird hunting by American Indian tribal members.

Comment Procedure

It is the policy of the Department of the Interior to afford the public an opportunity to participate in the rulemaking process, whenever practical. Accordingly, interested persons may participate by submitting written comments to the Chief, Office of Migratory Bird Management, U.S. Fish and Wildlife Service, Department of the Interior, ms 634—ARLSQ, 1849 C Street, NW., Washington, D.C. 20240. The public may inspect comments during normal business hours at the Service's office in Room 634, Arlington Square Building, 4401 N. Fairfax Drive,

Arlington, VA. The Service will consider all comments received and will try to acknowledge received comments, but may not provide an individual response to each commenter.

NEPA Consideration

Pursuant to the requirements of section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(C)), the ''Final Environmental Statement for the Issuance of Annual Regulations Permitting the Sport Hunting of Migratory Birds (FES-75–74)'' was filed with the Council on Environmental Quality on June 6, 1975, and notice of availability was published in the **Federal Register** on June 13, 1975, (40 FR 25241). A supplement to the final environmental statement, the ''Final Supplemental Environmental Impact Statement: Issuance of Annual Regulations Permitting the Sport Hunting of Migratory Birds (SEIS 88-14)'' was filed on June 9, 1988, and notice of availability was published in the **Federal Register** on June 16, 1988 (53 FR 22582), and June 17, 1988 (53 FR 22727). Copies of these documents are available from the Service at the address indicated under the caption **ADDRESSES**. In addition, an August 1985 Environmental Assessment titled ''Guidelines for Migratory Bird Hunting Regulations on Federal Indian Reservations and Ceded Lands'' is available from the Service.

Endangered Species Act Considerations

Section 7 of the Endangered Species Act, as amended (16 U.S.C. 1531-1543; 87 Stat. 884), provides that, ''The Secretary shall review other programs administered by him and utilize such programs in furtherance of the purposes of this Act'' (and) shall ''insure that any action authorized, funded or carried out ... is not likely to jeopardize the continued existence of any endangered species or threatened species or result in the destruction or adverse modification of [critical] habitat...'' Consequently, the Service has initiated Section 7 consultation under the Endangered Species Act for the proposed migratory bird hunting seasons including those which occur on Federally recognized Indian reservations and ceded lands.

Findings from these consultations will be included in a biological opinion and may cause modification of some regulatory measures proposed in this document. The final rule will reflect any modifications. The Service's biological opinion resulting from its Section 7 consultation are public documents available for public inspection in the Service's Division of Endangered Species and Office of Migratory Bird Management, U.S. Fish and Wildlife Service, at the address indicated under the caption **ADDRESSES.**

Regulatory Flexibility Act, Executive Order 12866, and the Paperwork Reduction Act

In the March 13 **Federal Register**, the Service reported measures it took to comply with requirements of the Regulatory Flexibility Act and Executive Order 12866. One measure was to prepare a Small Entity Flexibility Analysis (Analysis) in 1996 documenting the significant beneficial economic effect on a substantial number of small entities. The Analysis estimated that migratory bird hunters would spend between $258 and $586 million at small businesses. Copies of the Analysis are available from the Office of Migratory Bird Management.

This rule was not subject to review by the Office of Management and Budget under Executive Order 12866.

The Service has examined these proposed regulations under the Paperwork Reduction Act of 1995 and found no information collection requirements.

Unfunded Mandates

The Service has determined and certifies in compliance with the requirements of the Unfunded Mandates Act, 2 U.S.C. 1502 *et seq.*, that this rulemaking will not impose a cost of $100 million or more in any given year on local or State government or private entities.

Civil Justice Reform—Executive Order 12988

The Department, in promulgating this proposed rule, has determined that these regulations meet the applicable standards provided in Sections 3(a) and 3(b)(2) of Executive Order 12988.

Authorship

The primary author of this rule is Ronald W. Kokel, Office of Migratory Bird Management.

List of Subjects in 50 CFR Part 20

Exports, Hunting, Imports, Reporting and recordkeeping requirements, Transportation, Wildlife.

Based on the results of soon to be completed migratory game bird studies, and having due consideration for any data or views submitted by interested parties, this proposed rulemaking may result in the adoption of special hunting regulations for migratory birds beginning as early as September 1, 1997, on certain Federal Indian reservations, off-reservation trust lands, and ceded lands. Taking into account both reserved hunting rights and the degree to which tribes have full wildlife management authority, the regulations only for tribal members or for both tribal and non-tribal members may differ from those established by States in which the reservations, off-reservation trust lands, and ceded lands are located. The regulations will specify open seasons, shooting hours, and bag and possession limits for rails, coot, gallinules (including moorhen), woodcock, common snipe, band-tailed pigeons, mourning doves, white-winged doves, ducks (including mergansers) and geese.

The rules that eventually will be promulgated for the 1997–98 hunting season are authorized under the Migratory Bird Treaty Act (MBTA) of July 3, 1918 (40 Stat. 755; 16 U.S.C. 703 *et seq.*), as amended. The MBTA authorizes and directs the Secretary of the Interior, having due regard for the zones of temperature and for the distribution, abundance, economic value, breeding habits, and times and lines of flight of migratory game birds, to determine when, to what extent, and by what means such birds or any part, nest or egg thereof may be taken, hunted, captured, killed, possessed, sold, purchased, shipped, carried, exported or transported.

Dated: August 4, 1997.

Donald J. Barry,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 97–21137 Filed 8–8–97; 8:45 am]

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federal register

Monday
August 11, 1997

Part III

Department of Agriculture

Forest Service

Fee Schedule for Communication Facilities Authorized To Use and Occupy National Forest System Lands in Regions 8, 9, and 10; Notice

DEPARTMENT OF AGRICULTURE

Forest Service

RIN 0596–AB60

Fee Schedule for Communications Facilities Authorized To Use and Occupy National Forest System Lands in Regions 8, 9, and 10

AGENCY: Forest Service, USDA.

ACTION: Notice of proposed policy; request for public comment.

SUMMARY: The Forest Service proposes to adopt for the Southern and Eastern States and Alaska (Regions 8, 9, and 10, respectively) the same fee schedule and policies currently in effect for the Western States in Regions 1 to 6 for communications facilities authorized to use and occupy National Forest System lands. The Forest Service and the Bureau of Land Management in the Department of the Interior jointly developed identical fee schedules, the same definitions for use categories, and similar administrative procedures for administering and determining fees for communications uses, which are in effect in Regions 1 to 6 for the Forest Service and nationally for the Bureau of Land Management. The Forest Service fee schedule for Regions 1 to 6 was published as a final policy in the **Federal Register** October 27, 1995 (60 FR 55089), and the Bureau of Land Management schedule was published as a final rule November 13, 1995 (60 FR 57057). The proposed implementation of this fee schedule for Regions 8, 9, and 10 would complete the Forest Service efforts to establish annual fees for all communications uses on National Forest System lands that are consistent throughout all States, are based on sound business management principles, and reflect fair market value, as required by Title V of the Federal Land Policy and Management Act of 1976, the Independent Offices Appropriations Act of 1952, and the Office of Management and Budget Circular A–25. Public comment is invited.

DATES: Comments must be received in writing by October 10, 1997.

ADDRESSES: Send written comments to the Director, Lands Staff (2720), Forest Service, USDA, P.O. Box 96090, Washington, DC 20090–6090. The public may inspect comments received on this proposed policy in the Office of the Director, Lands Staff, 4th Floor-South, Auditors Building, 201 14th Street S.W., Washington, DC. Those who submit comments should be aware that all comments, including names and addresses when provided, are placed in the record and are available for public inspection. To facilitate entrance into the building, those wishing to inspect comments are encouraged to call ahead at (202) 205–1367.

FOR FURTHER INFORMATION CONTACT: Mark Scheibel, Lands Staff, (202) 205–1264.

SUPPLEMENTARY INFORMATION:

Background

Use of National Forest System lands for transmission of electronic signals, commonly called communications uses, is authorized by Title V of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1761–1771). This use involves buildings, towers, or other physical improvements built, installed, or established to support communications equipment.

From 1987 to 1992, through various notices in the **Federal Register**, the Forest Service began publishing final and revised fee schedules on a regional basis for selected categories of communications uses on sites serving rural areas. The notices explained the need for further analysis to complete the fee schedules for the remaining use categories. In the interim, on-site appraisals would determine commercial mobile radio and cellular telephone fees for sites serving urban areas (Los Angeles, Albuquerque, and Boise, for example) and for television and FM radio broadcast.

To forestall the effect of significant fee increases on authorization holders, especially in rural areas, Congress adopted administrative provisions in the Appropriations Acts for Interior and Related Agencies for fiscal years 1990 through 1994 preventing the Forest Service from raising fees over the amount in effect on January 1, 1989. In the fiscal year 1992 Appropriations Act, Congress extended the prohibition to include those authorizations issued by the Department of the Interior, Bureau of Land Management (BLM). In addition, the conference report for the Appropriations Act directed the Secretaries of Agriculture and Interior to establish a broad-based Radio and Television Broadcast Use Fee Advisory Committee (Advisory Committee). The Advisory Committee's charge was to review the schedules, with particular emphasis on their impact on rural communities in the Western United States.

The Forest Service and BLM entered into a joint agency agreement in April 1991 to develop parallel procedures and standards for establishing fair market rental values for communications uses on lands they administer. The objective of the effort was to develop joint market-based fee schedules. At that time, the Forest Service decided to proceed with a fee schedule for only the Western States (Regions 1 to 6) and to develop fee schedules for the Southern and Eastern States and Alaska at a later date.

The Advisory Committee submitted its report to the Secretaries on December 11, 1992. The report made several recommendations: (1) Use of fee schedules instead of individual site appraisals to improve cost efficiency and administration, (2) acceptance of industry-recognized market ranking systems, (3) a phase-in period for rent increases greater than $1,000, (4) collection of 25 percent of the gross sublease income received from tenants by facility owners, (5) issuance of a ''footprint'' lease in which only facility owners would hold authorizations, and (6) annual fee increases based on the Consumer Price Index (Urban Consumer, U.S. City Average).

On July 13, 1993, the Forest Service published a **Federal Register** notice (58 FR 37840) requesting public comments on a proposed fee schedule for the four categories of commercial uses previously excluded from the regional schedules. The uses included television broadcast, FM radio broadcast, commercial mobile radio, and cellular telephone uses. The adoption of a final revised fee schedule would complete the regional schedules in place in Forest Service Regions 1 through 6 in the Western United States. Additionally, the agency stated its intention that its fee schedule be fully consistent with that of BLM and acknowledged that BLM planned to issue a separate **Federal Register** notice proposing the use of fee schedules for all communications uses applicable to lands under its jurisdiction.

The Forest Service and BLM jointly reviewed and considered the comments received by the Forest Service on its July 1993 proposed policy (58 FR 37840, July 13, 1993), incorporating and adopting the comments as appropriate in the development of the BLM proposed rule. On July 12, 1994, BLM published a proposed rule in the **Federal Register** (59 FR 35596), requesting comments on amendments to its right-of-way regulations. The proposed rule contained procedures for setting fair market rent for communications uses on public land and established schedules and procedures for eleven categories of communications service.

The Forest Service and BLM developed the final fee schedule and similar policies and procedures for administering communications

authorizations using information gained from public responses to the proposed Forest Service policy (58 FR 37840, July 13, 1993) and the proposed BLM rule (59 FR 35596, July 12, 1994). The agencies also used the Advisory Committee report; the General Accounting Office report; discussions with hundreds of industry representatives and private lessors, commercial communications site managers, State and local government representatives, and appraisers; and nearly 2,000 confirmed private lease transactions. The final Forest Service fee schedule, policy, and procedures for communications fees for Regions 1 through 6 were issued as amendments to Forest Service Handbook (FSH) 2709.11, Special Uses Handbook, chapter 30, Fee Determinations, and chapter 40, Special Uses Administration (60 FR 55089, October 27, 1995).

Proposed Fee Schedule for Regions 8, 9, and 10

The proposed fee schedule and policy for communications uses in Regions 8, 9 and 10 are identical to the final policy and fee schedule implemented for Forest Service Regions 1 through 6 (60 FR 55089, October 27, 1995).

Regions 8, 9, and 10 used existing data gathered for developing the fee schedule in Regions 1 through 6 and additional data gathered in areas of concentrated uses in Regions 8, 9, and 10 to determine if this fee schedule implemented in Regions 1 through 6 is valid for the Southern and Eastern States and Alaska. Analysis of the market survey concluded that the fee schedule for Regions 1 through 6 is appropriate for use in Regions 8, 9, and 10.

Method for Determining Fees

The proposed method to determine fees in Regions 8, 9, and 10 is the method currently used in Regions 1 through 6 and set out in Forest Service Handbook (FSH) 2709.11, Special Uses Handbook, chapter 40, Special Uses Administration, section 48, Communications. The fee policy and schedule, including implementation, phase-in, and updating procedures, are included in FSH 2709.11, chapter 30, Fee Determinations, section 36.2, Communications Site Fee Schedule. The text of the proposed policy and the fee schedule in FSH 2709.11 are set forth at the end of this notice.

Fee Schedule

1. Categories of Use

The proposed fee schedule for Regions 8, 9 and 10 contains nine categories of communications uses that are identical to the categories in the current fee schedule for Regions 1 to 6. These categories of uses include: (1) Television broadcast, (2) AM/FM radio broadcast, (3) cable television, (4) broadcast translators, low power television and low power FM radio, (5) commercial mobile radio service and facility manager, (6) cellular telephone, (7) private mobile radio service, (8) microwave, and (9) other communications uses. Two use categories, passive reflector and local exchange network, will remain as regional fee schedules.

2. Community Served

The current fee policy in Regions 1 through 6 contains criteria for determining the community served. The proposed fee schedule for Regions 8, 9, and 10 contains identical criteria as follows:

a. The fee schedule is based on a ranking of Ranally Metro Areas (RMAs) as identified in the current edition of the ''Rand McNally Commercial Atlas and Marketing Guide.'' An RMA represents Rand McNally's definition of metropolitan areas in the United States. There are 452 RMAs, of which 417 have a population of 50,000 or more; 35 have a population near 50,000 and are included as RMAs because they include a central city of an official Metropolitan Statistical Area.

b. The fee is based on the location of the communications site and whether or not it serves an RMA, serves a community not listed as an RMA, or is in a remote, sparsely populated area that does not serve any individual community.

c. If the communications site serves an RMA, the fee is determined by the category of use and the population range on the schedule that includes the RMA population.

d. If the communications site serves a community not listed as an RMA, the fee is determined by the category of use and the population range on the schedule that includes the population for the largest community served by the site, as indicated in the current edition of the ''Rand McNally Road Atlas.''

e. If the communications site does not serve a community, the fee is based on the minimum scheduled fee for the type of facility and use. The fee schedule used for Regions 1 to 6 and proposed for Regions 8, 9, and 10 is shown in section 36.21, exhibit 01.

3. Fee Indexing

The fees for Regions 1 to 6, which the Forest Service proposes to apply to Regions 8, 9, and 10, are subject to an annual index to ensure the fee is kept current with fair market value. The Forest Service found that use of an index is common practice in the private lease market. Accordingly, the Bureau of Labor Statistics' Consumer Price Index for All Urban Consumers (CPI–U) is used as an annual index for communications site fees in the current schedule for Regions 1 to 6. Annual rents for communications site uses on private leases are linked to changes in the CPI–U instead of increases in land value. Because of inflation and time factors, use of the CPI–U could cause higher than normal increases in land rents in the private market. To offset potentially high increases in CPI–U and minimize any potential inflation of fees, the agency has to limit the CPI–U increases in the current schedule to no more than 5 percent per year.

4. Lease Authorization

Regions 8, 9, and 10 would utilize the same communications site lease, Form FS–2700–4a, already used by the Forest Service in Regions 1 through 6 and nationally by the Bureau of Land Management. This authorization allows the holder to lease space in the holder's facility to other communications users. The fee is determined by the highest value use in the facility (base fee), plus 25 percent of the schedule fee for the type of use and community served for all tenant uses. Additional provisions of the lease are as follows:

a. The lease authorizes tenant occupancy, if desired by the holder and consistent with site plans or agency direction, without prior written consent of the Forest Service.

(1) In a facility with tenants, the holder's base fee is determined by the use that generates the highest fee on the schedule (highest valued use) of any of the uses in the facility, excluding those uses that would qualify for a fee exemption and/or waiver. If the schedule fee for another use in the facility is higher than the holder's, the holder's use is subordinated for purposes of calculating total fees for the facility. By October 15 each year, the holder is required to provide the authorized officer with a certified statement listing the name and type of use for each occupant in the holder's facility on September 30 of that year.

(2) Uses defined as ''customer'' (including private (other) and internal (PMRS) categories), rental of space in a communications facility, and uses that would qualify for a fee exemption and/or waiver are not used to calculate total fees for the facility.

(3) An additional fee for tenant occupancy applies to all other use

categories in every population strata not identified in the preceding paragraph (2). The additional fee is calculated on 25 percent of the scheduled fee.

(4) The total fee for the facility is the base fee (the highest value use), plus the additional fee based on 25 percent of the schedule fee for all tenant uses in the facility. (These requirements are in sec. 36.21.)

b. The fee for a facility with no tenants is the schedule fee for the holder's category of use.

c. A tenant in a facility may hold a separate authorization at the full schedule fee based on the tenant's category of use. A tenant is defined in the policy as a communications user who rents space in a communications facility and operates communications equipment for the purpose of re-selling communications services to others for profit (sec. 48.1, para. 5).

d. The lease is transferable with prior approval of the authorized officer.

5. Phase-in of Fee Schedule

The Forest Service recognizes that the proposed implementation of the fee schedule could significantly raise fees for some permittees in Regions 8, 9, and 10. The agency thus proposes for Regions 8, 9, and 10 to phase in the fee schedule according to the same procedure already in place for Regions 1 to 6 as follows: Fee increases of $1,000 or more would be phased in over a 5-year period, with a maximum increase of $1,000 in year one of implementation of the schedule. The balance would be phased in during years two through five. The full fee, as indicated in the fee schedule, plus adjustments based on annual CPI–U indexing and changes in tenant uses, would be reached in the fifth year. The phase-in policy does not apply for new uses (new construction).

As stated in the proposed policy for Regions 1 to 6, the reason for phasing in the fee schedule is to minimize the possible significant economic burden on users (58 FR 37840, July 13, 1993). The agency also recognizes that a phase-in policy results in reduced receipts to the Treasury in the initial years of the fee schedule implementation. However, the agency believes that the magnitude of some fee increases under the proposed fee schedule, due in part to the length of time the fee schedule has been under development and debate, and its decision to change the method of determining fair market value to obtain more accurate fees, could impose an economic burden on some permittees with an associated risk of adverse impact on their business. A phase-in policy minimizes this risk to the permittee.

The following is an example of a phase-in fee schedule:

Year 1 (1998):
$700+$1,000=$1,700
Year 2 (1999):
($1,700+$250)×1.02=$1,989
Year 3 (2000):
($1,989+$250)×1.02=$2,284
Year 4 (2001):
($2,284+$250)×1.02=$2,584
Year 5 (2002):
($2,584+$250)×1.02=$2,891
Year 6 (2003):
($2,891+$0)×1.02=$2,949

This example of a phase-in fee schedule assumes a 2 percent increase each year in the CPI–U.

6. Reevaluation of Fee Schedule

The policy in effect for Regions 1 to 6, which the Forest Service proposes to adopt in Regions 8, 9, and 10, provides for review and updating of the communications fee schedule no later than 10 years from the date of implementation, and at least every 10 years thereafter, to ensure the fees reflect fair market value (60 FR 55097). Each holder's annual fee established as a result of this schedule would be reviewed.

7. Other Provisions of the Policy

The policy for Regions 1 to 6, which the Forest Service proposes to adopt for Regions 8, 9, and 10, allows exceptions to the fee schedule in certain situations. The fee policy for Regions 1 through 6 provides that the authorized officer may deviate from the schedule and use other methods, including appraisals and competitive bids, to determine fair market value fees for communications uses when one or more of the following criteria applies (FSH 2709.11, sec. 36.21a):

a. The fee or use is not covered by the fee schedule.

b. The fee has been or will be established through competitive bid or appraisal and will be updated in accordance with the terms and conditions of the authorization.

c. The Regional Forester concurs with the authorized officer that the communications site serves a population of 1 million or more and the expected fee for the communications use is more than $10,000 above the established fee schedule.

d. The expected fee exceeds the schedule rate fee by five times or more.

Fee waivers and exemptions are allowed but must follow the policy addressing all land uses, as set forth in FSH 2709.11, chapter 30 and Forest Service Manual (FSM) chapter 2710, section FSM 2715. The authority to set criteria for and grant exemptions from fees is either reserved to Federal agencies or set by law. The authorized officer determines fee waivers on a case-by-case basis and may grant a fee waiver when it is equitable and in the public interest.

Summary

The Forest Service is proposing to implement the same fee schedule and policies in the Southern and Eastern States and Alaska (Regions 8, 9, and 10, respectively) as are currently in use in the Western United States (Regions 1 through 6). The agency believes the proposed fee schedule meets the statutory and regulatory requirements to obtain fair market value fees from authorized commercial and private communications uses on National Forest System lands, and that its adoption would be in the public interest.

If this fee schedule is adopted for Regions 8, 9, and 10, it would place most communications uses on National Forest System lands in these Regions under a fee schedule. Exceptions to use of the fee schedule would be allowed in certain situations. It is the agency's intention that its fee schedule for Regions 8, 9, and 10 be fully consistent with the schedule currently implemented in Regions 1 through 6 (60 FR 55089, October 27, 1995) and with the corresponding fee schedule for lands under the jurisdiction of the Bureau of Land Management (60 FR 57057, November 13, 1995).

Controlling Paperwork Burdens on the Public

This policy does not contain any record keeping or reporting requirements or other information collection requirements as defined in 5 CFR part 1320 which are not already required by law or not already approved for use. The information collection being requested as a result of this action has been approved by OMB (Number 0596–0082, expiration date June 30, 1999). Accordingly, further review is not required under provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), and implementing regulations at 5 CFR part 1320 do not apply.

Environmental Impact

This proposed policy would establish a fee schedule to guide the administrative process of calculating annual fees to be charged holders of authorizations for communications uses on National Forest System lands in Forest Service Regions 8, 9, and 10 (Southern and Eastern States and

Alaska, respectively). The existing regional fee schedules for communications uses in Regions 8, 9, and 10 would be replaced by the fee schedule already in effect for the Western States in Regions 1 to 6. Upon adoption of a final fee schedule, individual authorization holders would be notified of the changes in their annual fees.

Section 31.1b of Forest Service Handbook 1909.15 (57 FR 43180, September 18, 1992) excludes from documentation in an environmental assessment or impact statement, ''rules, regulations, or policies to establish Service-wide administrative procedures, program processes, or instructions.'' The agency's preliminary assessment is that this policy falls within this category of actions and that no extraordinary circumstances exist which would require preparation of an environmental assessment or environmental impact statement. A final determination will be made upon adoption of the final policy.

Regulatory Impact

This proposed policy has been reviewed under USDA procedures and Executive Order 12866 on Regulatory Planning and Review. It has been determined that this is not a significant policy. This policy will not have an annual effect of $100 million or more on the economy nor adversely affect productivity, competition, jobs, the environment, public health or safety, nor State or local governments. This policy will not interfere with an action taken or planned by another agency nor raise new legal or policy issues. Finally, this action will not alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients of such programs. Accordingly, this proposed policy is not subject to OMB review under Executive Order 12866.

Moreover, this proposed policy has been considered in light of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), and it has been determined that this action will not have a significant economic impact on a substantial number of small entities as defined by that act. The phase-in of annual fees proposed in this notice will allow small entities to adjust to the new fees over a period of time, and thus minimize the risk of adverse impact on some businesses because of the magnitude of the increases in some fees.

No Takings Implications

This policy has been analyzed in accordance with the principles and criteria contained in Executive Order 12630, and it has been determined that the policy does not pose the risk of a taking of Constitutionally protected private property.

Civil Justice Reform Act

This proposed policy has been reviewed under Executive Order 12778, Civil Justice Reform. If this proposed policy were adopted, (1) all State and local laws and regulations that are in conflict with this proposed policy or which would impede its full implementation would be preempted; (2) no retroactive effect would be given to this proposed policy; and (3) it would not require administrative proceedings before parties may file suit in court challenging its provisions.

Unfunded Mandates Reform

Pursuant to Title II of the Unfunded Mandates Reform Act of 1995, which the President signed into law on March 22, 1995, the Department has assessed the effects of this policy on State, local, and tribal governments and the private sector. This policy does not compel the expenditure of $100 million or more by any State, local, or tribal governments or anyone in the private sector. Therefore, a statement under section 202 of the Act is not required.

Dated: July 8, 1997.

Robert C. Joslin,

Acting Chief.

Note: The Forest Service organizes its directive system by alpa-numeric codes and subject headings. Only those sections of the Forest Service Handbook (FSH) 2709.11, Special Uses Handbook, including policy direction that is the subject of this notice are set out here. The intended audience for this direction is Forest Service employees charged with issuing and administering communications use authorizations. The text of the proposed policy and fee schedule follows:

FSH 2709.11—Special Uses Handbook

Chapter 30—Fee Determination

36.2—Communications Site Fee Schedule. This section provides direction for use of the fee schedule for communications uses on National Forest System lands.

36.21—Determination of Fees. The authorized officer shall request that the holder provide a certified statement by October 15 of each year containing a list of tenants, by category of use, in the facility on September 30 of that year.

Calculate the annual fee using the fee schedule (ex. 01) and the population strata based on the Ranally Metro Area (RMA) population and city listing (ex. 02). The fee schedule provides fees by category of use and population. See § 36.21a for exceptions to using the fee schedule.

1. Consider the following when determining fees:

a. If the communications site serves an RMA community (ex. 02), determine the fee by the category of use and the corresponding population range on the fee schedule (ex. 01).

b. If the communications site does not serve a listed RMA community (ex. 02), determine the fee based on the population of the largest community (according to the most current ''Rand McNally Road Atlas'') served by the site.

c. If the communications site does not serve a community, determine the fee based on the lowest schedule fee (ex. 01) for the category of use, except in situations described in § 36.21a.

d. Consider co-owned AM and FM stations located in the same facility as two radio stations in determining fees.

e. Do not apply the 25 percent schedule rate for customers (sec. 48.1, para. 5), including internal and private users, renting space in a communications facility.

2. Apply the fee schedule to communications uses providing the following services:

a. *Television Broadcast.* (Sec. 48.11a of this Handbook).

b. *AM and FM Radio Broadcast.* (Sec. 48.11b).

c. *Cable Television.* (Sec. 48.11c).

d. *Broadcast Translator, Low Power Television, and Low Power FM Radio.* (Sec. 48.11d).

e. *Commercial Mobile Radio Service (CMRS) and Facility Manager.* (Sec. 48.12a).

f. *Cellular Telephone.* (Sec. 48.12b).

g. *Private Mobile Radio Service.* Stand alone operations only. (Sec. 48.12c).

h. *Microwave.* Common carrier microwave relay and industrial microwave. (Sec. 48.12d).

i. *Other Communications Uses.* Stand alone operations only. This category includes the following uses: amateur radio; personal/private receive only; and natural resource and environmental monitoring. (Sec. 48.13).

3. Except for fees that apply to a facility manager (para. 4), assess fees for all the preceding uses in paragraphs 2a to 2i providing space to tenants as follows:

a. Determine a base fee from the schedule rate fee for the building owner or the use generating the highest schedule fee in the facility. If a facility owner's fee is equal to or greater than any other schedule fee in the facility, the facility owner's use is the base fee. If the highest schedule fee is a ''tenant'' fee, the ''tenant'' fee becomes the base fee and the facility owner's schedule rate fee is used as a tenant fee for calculating additional fees (following para. b).

b. Add 25 percent of the schedule fee for each ''tenant'' (ex. 01). Include 25 percent of the building owner's schedule fee if it is not the highest fee and, therefore, not used as the base fee.

Sample fee calculations are provided as follows:

Example 1: A communications facility serving an RMA population area of 200,000, with a CMRS provider (building owner), one TV broadcaster, two FM broadcasters, one cellular telephone, and two private mobile radio users.

Base fee=$6,000 (TV broadcast is the highest value use in the facility) + $750 (25% CMRS provider (building owner) + $2,000 (25% of two FM broadcasters) + $1,000 (25% cellular telephone) + $0.00 (no charge for PMRS)=Total fee for the facility: $9,750.

Example 2: A communications facility serving an RMA population area of 800,000, with a TV station (building owner), one FM broadcaster, and three private mobile radio users.

Base fee=$14,000 (TV broadcast is the highest value use in the facility) + $2,500 (25% FM broadcaster) + $0.00 (no charge for PMRS)=Total fee for the facility: $16,500.

4. Fees for facility managers are calculated differently from other uses. Facility managers provide space for other communications uses; they do not directly provide communications services to others. Determine the base fee as described in the preceding paragraph. If a facility manager's fee is equal to or greater than any other schedule fee in the facility, the facility manager's use is the base fee. However, if the highest valued schedule fee for the facility is not the facility manager's, do not ''substitute'' the 25 percent facility manager fee for the tenant fee used for the base fee.

Sample fee calculations for facility manager uses are provided as follows:

Example 1: A facility manager serving an RMA population area of 200,000, with three microwave providers and two amateur radio operators.

Base fee=$3,000 (the facility manager schedule rate is the highest valued use in the facility) + $1,500 (25% three microwave users) + $0.00 (no charge for amateur radio)=Total fee for the facility: $4,500.

Example 2: A facility manager serving an RMA population area of 800,000, with a TV station, three FM broadcasters, and three private mobile radio users.

Base fee=$14,000 (TV broadcast is the highest value use in the facility) + $7,500 (25% FM broadcaster) + $0.00 (no charge for PMRS)=Total fee for the facility: $21,500.

5. Charge a full fee based on the type of use and population served and complete a separate authorization, Form FS–2700–4, Special Use Permit, for tenants and customers in Federal facilities.

6. Authorize and bill separately for stand-alone facilities under different ownerships that depend on each other. For example, Holder A owns a communications tower (no building); Holder B owns a communications building (no tower). Because each facility is dependent upon the other, Holder A and Holder B share common tenants and customers as occupants in their facilities. In these situations, consider each improvement as a separate facility and calculate a fee based on the fee schedule and policy.

36.21a—Exceptions to Fee Schedule. Fees not established by use of the fee schedule shall be based on comparative market surveys, appraisals, or other reasonable methods. All such fee determinations shall be documented, supported, and approved by the authorized officer. The following are exceptions to the fee schedule:

1. The fee or use is not covered by the fee schedule.

2. The fee has been or will be established through competitive bid or appraisal and will be updated in accordance with the terms and conditions of the authorization.

3. The Regional Forester concurs with the authorized officer's determination that the communications site serves a population of 1 million or more and the expected fee for the communications use is more than $10,000 above the established fee schedule.

4. The expected fee exceeds the schedule rate fee by 5 times or more.

36.22—Phase-in of Fees. Fees for new uses (new construction) do not qualify for a phase-in. For existing uses, phase in first-year increases in fees of more than $1,000 over a 5-year period. For example, if the current total fee is $700, and the new total fee is $2,700, calculate the 5-year phase-in as follows:

1. *Year 1.* $700 (current total fee in preceding year)+$1,000 (limit of first year increase)=$1,700 (first year's fee);

2. *Year 2.* [$1,700 (first year fee)+$250 (1/4 of remaining increase ($1,000) greater than $1,000)] ×1.02*=$1,989 (second year's fee);

3. *Year 3.* [$1,989 (second year's fee)+$250 (1/4 of remaining increase ($1,000) greater than $1,000)] ×1.02*=$2,284 (third year's fee);

4. *Year 4.* [$2,284 (third year's fee)+$250 (1/4 of remaining increase ($1,000) greater than $1,000)] ×1.02*=$2,584 (fourth year's fee);

5. *Year 5.* [$2,584 (fourth year's fee)+$250 (1/4 of remaining increase ($1,000) greater than $1,000)] ×1.02*=$2,891 (fifth year's fee);

6. *Year 6.* Phase-in of the fee schedule has been completed. In year six calculate fees on the building inventory and new fee schedule. In succeeding years, apply only the CPI–U to the previous year's fee and adjust to reflect changes in building inventory if necessary.

36.23—Updating Fee Schedule. The Director of Lands, Washington Office, shall update the fee schedule (sec. 36.21, ex. 01) annually, based on the CPI–U published in July of each year. Annual adjustments based on the CPI–U shall be limited to 5 percent. The Director of Lands shall review the fee schedule no later than 10 years after the date of implementation of this schedule, and at least every 10 years thereafter, to ensure that fees reflect fair market value.

The Director of Lands shall review and update the RMA city and population table (sec. 36.21, ex. 02) annually.

36.24—Fee Waivers and Exemptions. For direction on fee waivers and exemptions, see sections 31.2 through 31.4.

36.25—Fee Adjustment for Required Free Use. In no circumstance require a private holder to provide free space to Federal agencies or any other entity. In order to rectify past situations in which the Forest Service required the holder to provide free rental space, discount the annual fee by the same percentage that the entity receiving free use occupies (in square feet) in that building. For example, if the Forest Service previously required a building owner to provide free use for 20 percent of the building, discount the annual fee by 20 percent. Such a discount is valid for the period of time specified in an existing agreement between the parties.

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* Assumed 2 percent increase each year in the United States Department of Labor Consumer Price Index for All Urban Consumers—U.S. City Average (CPI–U).

36.21 - Exhibit 01

FEE SCHEDULE FOR COMMUNICATIONS USES

Billing Year 1997

POPULATION	TELEVISION	AM/FM RADIO *	CABLE TELEVISION	BROADCAST TRANSLATOR/ LPTV/LPFM	CMRS/ FACILITY MANAGER	CELLULAR TELEPHONE	PRIVATE MOBILE RADIO SERVICE	MICROWAVE	OTHER	PASSIVE REF. & LOCAL EXCH. NETWORKS	SAMPLE RMA'S
5,000,000 plus	$46,350.00	$35,020.00	*INSUFFICIENT*	*INSUFFICIENT*	$12,360.00	$12,360.00	$10,300.00	$10,300.00	$77.25		Los Angeles, CA
2,500,000 to 4,999,999	$30,900.00	$21,630.00	*MARKET DATA*	*MARKET DATA*	$10,300.00	$10,300.00	$6,180.00	$8,240.00	$77.25		Seattle, WA
1,000,000 to 2,499,999	$18,540.00	$14,420.00	*FEE TO BE DETERMINED*	*FEE TO BE DETERMINED*	$8,240.00	$8,240.00	$6,180.00	$7,210.00	$77.25	*FEES FOR*	Phoenix, AZ San Diego, CA Portland, OR Riverside, CA
500,000 to 999,999	$14,420.00	$10,300.00	*BY APPRAISAL OR OTHER*	*BY APPRAISAL OR OTHER*	$5,150.00	$6,180.00	$4,120.00	$5,665.00	$77.25	*THESE*	Las Vegas, NV Salt Lake City, UT Tucson, AZ Albuquerque, NM
300,000 to 499,999	$12,360.00	$8,240.00	*METHODS*	*METHODS*	$4,120.00	$5,150.00	$2,575.00	$2,575.00	$77.25	*USES*	Bakersfield, CA Spokane, WA
100,000 to 299,999	$6,180.00	$4,120.00	$2,472.00	$2,472.00	$3,090.00	$4,120.00	$2,060.00	$2,060.00	$77.25	*ARE DETERMINED*	Boise, ID Anchorage, AK Reno, NV Palm Springs, CA Yakima, WA Yuma, AZ Billings, MT
50,000 to 99,999	$3,090.00	$2,060.00	$1,236.00	$1,236.00	$1,236.00	$3,090.00	$1,030.00	$1,545.00	$77.25	*BY EACH REGION*	Las Cruces, NM Grand Junction, C Idaho Falls, ID Missoula, MT Santa Fe, NM Pocatello, ID Farmington, NM Roswell, NM
25,000 to 49,999	$1,545.00	$1,236.00	$1,030.00	$515.00	$1,030.00	$2,575.00	$618.00	$1,545.00	$77.25		Butte, MT
LESS THAN 25,000	$1,236.00	$927.00	$618.00	$103.00	$618.00	$2,575.00	$360.50	$1,545.00	$77.25		

**FEE FOR AM RADIO IS 70% OF THE FM SCHEDULED FEE*

Index Factor: 1.0300

36.21 - Exhibit 02

LISTING OF CITIES BY POPULATION STRATA

5,000,000 plus	2,500,000 to 4,999,999	1,000,000 to 2,499,999	500,000 to 999,999
Chicago, IL-IN-WI	Atlanta, GA	Baltimore, MD	Akron, OH
Los Angeles, CA	Boston, MA-NH (incl. Brockton Haverhill, Lawrence, Salem and Lowell, MA and Nashua, NH)	Buffalo, NY-CAN (incl. St. Cathannes-Niagara Falls, CAN)	Albany, NY (incl. Schenectady, and Troy)
New York, NY-NJ-CT (incl. Newark, NJ) and Danbury, CT)	Dallas, TX (incl. Fort Worth)	Cincinnati, OH-KY-IN	Albuquerque, NM
Philadelphia, PA-NJ-DC-MD (incl. Trenton, NJ Wilmington, DE, Coatesville, PA	Detroit, MI-CAN (incl. Ann Arbor, MI and Windsor, CAN)	Cleveland, OH	Allentown, PA-NJ (incl. Bethlehem,PA
San Francisco, CA (incl. Antioch, Oakland, and San Jose)	Houston, TX	Columbus, OH	Austin, TX
	Miami, FL (incl. Ft. Lauderdale)	Denver, CO	Birmingham, AL
	San Diego, CA-MEX (incl. Tijuana, MEX)	El Paso, TX-NM-MEX (incl. Ciudad Juarez, MEX)	Calexico, CA-MEX (incl. Mexicali, MEX)
	Seattle, WA (Tacoma)	Hartford, CT (incl. New Britain)	Charlotte, NC-SC
	Wash, DC-MD-VA	Indianapolis, IN	Dayton, OH
		Kansas City, MO-KS	El Paso, TX-NM
		Milwaukee, WI	Flint, MI
		Minneapolis, MN-WI (incl. St. Paul, MN)	Fresno, CA
		New Orleans, LA	Grand Rapids, MI
		Norfolk, VA (incl. Portsmouth)	Honolulu, HI
		Phoenix, AZ	Jacksonville, FL
		Pittsburg, PA	Knoxville, TN
		Portland, OR	Las Vegas, NV
		Riverside, CA (incl. San Bernadino)	Louisville, KY-IN
		Sacramento, CA	McAllen, TX (incl. Reynosa, MEX and Edinburg, TX)
		St. Louis, MO-IL	Memphis, TN-AR-MS
		St. Petersburg, FL (incl. Clearwater)	Nashville, TN
		San Antonio, TX	New Haven, CT
		San Diego, CA	Oklahoma City, OK
			Omaha, NE-AI
			Orlando, FL
			Providence, RI-MA
			Raleigh, NC
			Richmond, VA (incl. Petersburg)
			Rochester, NY
			Salt Lake City, UT
			Springfield, MA
			Syracuse, NY
			Tampa, FL
			Toledo, OH-MI
			Tucson, AZ
			West Palm Beach, FL

36.21 - Exhibit 02--Continued

LISTING OF CITIES BY POPULATION STRATA

300,000 to 499,999	100,000 to 299,999			
Augusta, GA-SC	Abilene, TX	Fayetteville, AR (incl. Springdale)	Monroe, LA	Springfield, IL
Bakersfield, CA	Albany, GA	Fayettsville, NC	Monterey, CA (incl. Seaside)	Springfield, MO
Baton Rouge, LA	Altoona, PA (incl. Bethlehem)	Fitchburg, MA (incl. Leominster)	Montgomery, AL	Springfield, OH
Beaumont, TX (incl. Port Arthur)	Amarillo, TX	Fort Collins, CO (incl. Loveland)	Muncie, IN	Steubenville, OH-WV (incl. Weirton, WV)
Bridgeport, CT	Anchorage, AK	Fort Myers. FL (incl. Cape Coral)	Muskegon, MI	Tallahassee, FL
Brownsville, TX-MEX (incl. Matamoros, MEX)	Anderson, IN	Fort Pierce, FL	Myrtle Beach, SC (incl. Conway)	Terre Haute, IN
Canton, OH	Appleton, WI	Fort Smith, AK-OK	Naples, FL	Topeka, KS
Charleston, SC	Asheville, NC	Fort Walton Bch, FL	New Bedford, MA	Tuscaloosa, AL
Chattanooga, TN-GA	Athens, GA	Frederick, MD	Newburgh, NY	Tyler, TX
Colorado Springs, CO	Atlantic City, NJ	Gainesville, FL	New London, CT-RI (incl. Norwich, CT)	Utica, NY (incl. Rome)
Columbia, SC	Battle Creek, MI	Galveston, TX (incl. Texas City)	Nogales, AZ-MEX (incl. Nogales, MX)	Vineland, NJ
Corpus Christi, TX	Billings, MT	Gastonia, NC	Ocala, FL	Visalia, CA
Des Moines, IA	Biloxi, MI (incl. Gulfport)	Green Bay, WI	Oceanside, CA	Waco, TX
Fort Wayne, IN	Binghamton, NY-PA	Hagerstown, MD-PA-WV	Odessa, TX	Waterbury, CT
Greensboro, NC (incl. High Point)	Bloomington, IL (incl. Normal)	Harlingen, TX	Ogden, UT	Waterloo, IA
Greenville, SC	Bloomington, IN	Hemet, CA	Olympia, WA	Wheeling, WV-OH
Harrisburg, PA	Boise, ID	Hickory, NC	Palm Springs, CA	Wichita Falls, TX
Jackson, MS	Boulder, CO (incl. Longmont)	Houma, LA (incl. Thibodaux)	Panama City, FL	Williamsport, PA
Johnson City, TN-VA (incl. Kingsport and Bristol)	Bremerton, WA	Huntington, WV-KY-OH	Peoria, IL	Wilmington, NC
Lansing, MI	Brownsville, TX	Huntsville, AL	Port Huron, MI-CAN (incl. Sarnia, CAN)	Winter Haven, FL
Laredo, TX-MEX (incl. Nuevo Laredo, MEX)	Bryan, TX (incl. College Station)	Jackson, MS	Portland, ME	Yakima, WA
Little Rock, AR	Burlington, NC	Jacksonville, NC (incl. Dover and Rochester, NH)	Portsmouth, NH-ME	York, PA
McAllen, TX (incl. Edinburg)	Burlington, VT	Johnstown, PA	Poughkeepsie, NY	Yuma, AZ-CA
Madison, WI	Cedar Rpaids, IA	Kalamazoo, MI	Provo, UT (incl. Orem)	
Melbourne, FL (incl. Cocoa)	Champaign, IL (incl. Urbana)	Kannapolis, NC (incl. Concord)	Pueblo, CO	
Mobile, AL	Charleston, WV	Kenosha, WI	Racine, WI	
Newport News, VA (incl. Hampton)	Clarksville, TN-KY	Killeen, TX	Reading, PA	
Oxnard, CA (incl. Ventura)	Columbus, GA-AL	Lafayette, IN (incl. W. Lafayette)	Redding, CA	
Pensacola, FL	Corvallis, OR (incl. Albany)	Lafayette, LA	Reno, NV	
Rockford, IL-WI	Davenport, IA-IL (incl. Rock Island and Moline, IL)	Lake Charles, LA	Richland, WA (incl. Kennewick and Pasco)	
Saginaw, MI (incl. Bay City and Midland)	Daytona Beach, FL	Lakeland, FL	Roanoke, VA	
Sarasota, FL (incl. Bradenton)	Decatur, IL	Lancaster, PA	Salem, OR	
Scranton, PA (incl. Wilkes-Barre)	Duluth, MN-WI	Laredo, TX	Salinas, CA	
Spokane, WA-ID	Durham, NC (incl. Chapel Hill)	Lexington, KY	Santa Barbara, CA	
Wichita, KS	Elkhart, IN-MI	Lima, OH	Santa Cruz, CA	
Winston-Salem, NC	Erie, PA	Lincoln, NE	Santa Rosa, CA	
Worcester, MA	Eugene, OR	Longview, TX	Sault Ste. Marie, MI-CAN (incl. Sault Ste. Marie, CAN)	
Youngstown, OH-PA (incl. Warren, OH)	Evansville, IN-KY	Lubbock, TX	Savannah, GA	
	Fairfield, CA (incl. Vacaville)	Lynchburg, VA	Shreveport, LA-TX	
	Fall River, MA-RI	Macon, GA	Sioux City, IA-NE-SD	
	Fargo, ND-MN (incl. Moorehead MN)	Manchester, NH	Sioux Falls, SD	
		Mansfield, OH	South Bend, IN-MI	
		Medford, OR	Spartanburg, SC	
		Merced, CA		
		Middletown, OH		
		Midland, TX		
		Modesto, CA		

36.21 - Exhibit 02--Continued

LISTING OF CITIES BY POPULATION STRATA

50,000 to 99,999			25,000 to 49,999	Less than 25,000
Alexandria, LA	Goldsboro, NC	New Castle, PA	Amherst, MA	Calexico, CA
Alliance, OH	Grand Forks, ND-MN	New Ibena, LA	Ashtabula, OH	Nogales, AZ
Ames, IA	Grand Junction, CO	Newport, RI	Bartiesville, OK	Sauit Ste. Marie,-MI
Anderson, SC	Great Falls, MT	Oshkosh, WI	Brunswick, ME (incl. Bath)	
Annapolis, MD	Greeley, CO	Owensboro, KY	Burlington, IA	
Anniston, AL	Hanover, PA	Paducah, KY-IL	Butte, MTIA-IL	
Auburn, AL (incl. Opelika)	Hattiesburg, MS	Parkersburg, WV-OH	Clinton, IA-IL	
Auburn, NY	Hazleton, PA	Pascagoula, MS-AL	Clovis, NM	
Augusta, ME	Hilo, HI	Pine Bluff, AR	E. Liverpool, OH-WV	
Bangor, ME	Holland, MI	Pittsfield, MA	Enid, OK	
Beckley, WV	Hot Springs, AR	Pocatello, ID	Findley, OH	
Bellingham, WA	Idaho Falls, ID	Porterville, CA	Fort Dodge, IA	
Benton Harbor, MI (incl. St. Joseph)	Iowa City, IA	Port Huron, MI	Galesburg, IL	
Bismark, ND	Ithaca, NY	Portsmouth, OH-KY	Grand Island, NE	
Bowling Green, KY	Jackson, TN	Pottstown, PA	Greenville, MS	
Brunswick, GA	Jamestown, NY	Pottsville, PA	Hopkinsville, KY	
Butler, PA	Janesville, WI	Quincy, IL	Hutchinson, KS	
Cape Girardeau, MO	Jefferson City, MO	Rapid City, SD	Laurel, MS	
Carbondale, IL	Jonesboro, AR	Richmond, IN-OH	Leavenworth, KS	
Carlisle, PA	Joplin, MO-KS	Rochester, MN	Lewiston, ID-WA	
Casper, WY	Kankakee, IL	Rock Hill, SC	Manhattan, KS	
Charlottesville, VA	Kingston, NY	Rocky Mount, NC	Mankato, MN	
Cheyenne, WY	Kokomo, IN	Rome, GA	Marietta, OH-WV	
Chico, CA	La Crosse, WI-MN	Roswell, NM	Marshall, TX	
Clarkburg, WV	Lancaster, OH	Rutland, VT	Minot, ND	
Cleveland, TN	Las Cruces, NM	St. Cloud, MN	Natchez, MS-LA	
Columbia, MO	Latrobe, PA	St. Joseph, MO-KS	Northampton, MA	
Columbus, IN	Lawrence, KS	Salisbury, MD-DE	Oil City, PA (incl. Franklin)	
Columbus, MS	Lawton, OK	Salisbury, NC	Salina, KS	
Concord, NH	Lebanon, PA	San Angelo, TX	Stillwater, OK	
Cumberland, MD-WV	Lewiston, ME (incl. Auburn)	Sandusky, OH	Vicksburg, MS-LA	
Danville, IL	Lockport, NY	Santa Fe, NM	Waterville, ME	
Danville, VA-NC	Logan, UT	Sharon, PA-OH		
Davis, CA	Lompoc, CA	Sheboygan, WI		
Decatur, AL	Longview, WA-OR	Sherman, TX (incl. Denison)		
De Kalb, IL	Lufkin, TX	State College, PA		
De Land, FL	Manitowoc, WI	Sumter, SC		
Dothan, AL	Marion, IN	Taunton, MA		
Dover, DE	Marion, OH	Temple, TX		
Dubuque, IA-WI-IL	Martinsville, VA	Texarkan, TX-AR		
Eau Claire, WI	Meridian, MS	Titusville, FL		
Elmira, NY	Michigan City, IN-MI	Torrington, CT		
Eureka, CA (incl. Arcata)	Middletown, NY	Uniontown, PA		
Fairbanks, AKM	Missoula, MT	Valdosta, GA		
Fairmont, WV	Monroe, MI	Venice, FL		
Farmington, NM	Montpelier, VT (incl. Barre)	Victoria, TX		
Florence, AL	Morgantown, WV-PA	Washington, PA		
Florence, SC	Morristown, TN	Watertown, NY		
Fond du Lac,WI	Murfreesboro, TN	Watsonville, CA		
Freeport, TX (incl. Lake Jackson)	Muskogee, OK	Wausau, WI		
Gadsden, AL	Nampa, ID (incl. Caldwell)	Yuba City, CA (incl. Marysville)		
Glen Falls, NY	Napa, CA	Zanesville, OH		
	Newark, OH			

BILLING CODE 3410–11–C

Chapter 40—Special Uses Administration

48—Communications.

48.1—Communications Uses. This special-uses group includes a variety of communications use categories which utilize National Forest System lands. Typically the use occurs on a designated site and includes buildings, towers, and other support improvements.

1. *Authority.* Authorizations for all communications uses are issued under the authority of the Act of October 21, 1976 (43 U.S.C. 1761). This authority must be cited on all authorizations issued for communications uses.

2. *Objectives.* The objectives of communications use management are to authorize only those uses which meet forest land and resource management plan objectives; to facilitate the orderly development of sites to provide a safe and high quality communications environment; to maximize efficient use of the communications site; and to collect fair market value fees for communications uses on National Forest System lands.

3. *Policy.* Except for single uses which involve minor development (such as personal receive only use, resource monitoring use, or temporary use), communications sites must be designated before a new authorization for communications use can be issued. Communications site designation is a land use allocation and shall be made through the land and resource management planning process (FSM 1920).

Fees for communications uses shall be assessed in accordance with direction in chapter 30 of this Handbook.

Authorized officers shall not consider or issue authorizations that involve bartering or augmentation of goods or services, such as requiring the holder to provide free Government use of facilities or construction of other improvements not associated with the use.

4. *Responsibility.* The Regional Forester is responsible for approval of communications site plans; this responsibility may be delegated to the Forest Supervisor. Following communications site plan approval, Forest Supervisors have the authority to issue special-use permits, within the guidelines of the site plan. This responsibility may be delegated to the District Ranger.

5. *Definitions.* Definitions for other technical terms not listed in this section may be found in Federal Standard 1037 (FS 1037A), a standard glossary of telecommunication terms available from the General Services Administration.

Attenuation. Decrease in magnitude of current, voltage, or power of a signal in transmission between points. May be expressed in decibels (dB).

Band Width. A portion of the frequency spectrum authorized for use by a specific license; measured in kilohertz (KHz) or megahertz (MHz). Of concern is the amount of spectrum authorized; that is, a small amount (15 KHz) for two-way radio, a larger amount (6 MHz) for television broadcast, and a very large amount (many MHz) for radar.

Base Rent. The fee amount determined by the highest value use in a communications site facility. Base rent is applicable only to a facility owner's fee. If a facility owner or facility managers' fee is equal to or greater than any other schedule fee in the facility, the facility owner or facility manager's use is the base fee.

Beam Path. Direction or corridor of energy radiated from a directional antenna. Usually refers to microwave, which requires an unobstructed point-to-point corridor.

Continuous Broadcast or Constant Carrier. A continuously operating transmitter, not a microwave.

Communications Site. An area of National Forest System land designated through the land and resource management planning process. A communications site may be limited to a single communications facility, but most often encompasses more than one. Each site is identified by name; usually a local prominent landmark, such as Bald Mountain Communications Site.

Customer. An individual, business, organization, or agency that is paying a facility owner or tenant for communications services and is not re-selling communication services to others. Private (other use category) and internal (private mobile radio services category) communication uses leasing space in a building and not re-selling communication services to others are considered customers for fee calculation purposes.

Effective Radiated Power. The power supplied to the antenna multiplied by the relative gain of the antenna in a given direction.

Effective Receiver Sensitivity. The signal level required to detect and reproduce usable information from the local electromagnetic environment.

Electromagnetic Compatibility. The ability of telecommunications equipment, subsystems, or system to operate in their intended operational environments without suffering or causing unacceptable degradation because of electromagnetic radiation or response. Refers to coexistence of different types of equipment in the same area.

Facility. A building, tower, and/or other physical improvement that is built, installed, or established to house and support authorized communications uses.

Facility Manager. The holder of a Forest Service communications use authorization who leases space for other communication users. A facility manager does not directly provide communications services to third parties.

Frequency Assignment. The process of authorizing a specific frequency, group of frequencies, or frequency band to be used at a certain location under specific conditions such as band width, power, azimuth, duty cycle, or modulation.

Gain. The increase in effective signal power in transmission under stated conditions. (Note: Power gain is expressed in decibels.)

Harmful Interference. Any transmission, radiation, or induction which specifically degrades, obstructs, or interrupts the services provided by such stations.

High Gain Antenna. An antenna whose effective radiated power in a given direction is greater than the input power.

Microwave. High frequencies commonly between 900 and 30,000 megahertz.

Mobile Station. A two-way radio station designed for operation when in motion or at unspecified points.

Noise. An undesired disturbance within the useful frequency band.

Noise Floor. Existing volume (magnitude) of electronic noise power measured in decibels and referred to as an electronic value (such as milliwatt).

Omnidirectional Antenna. An antenna whose radiation pattern is nondirectional in azimuth (meaning it radiates or receives in 360 degrees).

Point-to-point Radio Communications. Radio communications between two fixed stations.

Polarization (Polarity). Term referring to antenna radiation polarity, which can be horizontal, vertical, or circular.

Radiation Pattern. A graphical representation of power radiation of an antenna, usually shown for the two principal planes, vertical and horizontal.

Receiver Desensitivity. A consequence of undesired reradiated frequency energy entering a receiver. Reduces the ability to receive weaker signals.

Repeater. A device that simultaneously transmits all properly coded input signals received, or in the case of pulses, amplifies, reshapes,

retimes, or performs a combination of any of these functions on an input signal for retransmission.

Reradiation. Energy radiated by a galvanic junction in a nonlinear manner. Sources may include radio equipment, antennas, metallic debris, defective structural components, unterminated antenna cables, or passive repeater.

Tenant. A communications user who rents space in a communications facility and operates communications equipment for the purpose of re-selling communications services to others for profit. Tenants may hold separate authorizations, without subtenancy rights, at the full schedule fee based on the category of use.

Trunking. A system which allows a number of radio channels to be operated as a single system allowing service to multiple users.

Wave guide. A hollow metallic conduit within which electromagnetic waves may be propagated.

7. *Authorization and Administration.*

(4) *Issuance of Authorizations.* Use Form FS–2700–4a, Communications Use Lease, to authorize use of National Forest System lands for communications uses by facility owners and facility managers. Use Form FS–2700–4, Special Use Permit, to authorize tenant and customer use in Federal facilities and charge the full schedule fee for that use (ch. 30).

Tenants and customers in non-Federal facilities are not required to have a separate authorization. However, tenants and customers in non-Federal facilities may retain their current authorizations until they expire at the end of the term. In these situations, charge the tenant or customer the full schedule rate for their type of use and population served (ch. 30). Do not issue new authorizations for tenants and customers in non-Federal facilities.

(5) *Fee Calculation.* Calculate fees for communications uses in accordance with the direction in chapter 30. Fees for new sites may be established using a prospectus.

48.11—Broadcast Uses.

48.11a—Television Broadcast. This category includes facilities licensed by the Federal Communications Commission (FCC) that broadcast UHF and VHF audio and video signals for general public reception and the communications equipment directly related to the operation, maintenance, and monitoring of the use.

Users include television stations (major and independent networks) that generate income through commercial advertisement and public television stations whose operations are supported by subscriptions, grants, and donations. Broadcast areas may overlap State boundaries. This category of use relates only to primary transmitters and not to any rebroadcast systems such as translators, transmitting devices such as microwave relays serving broadcast translators, or holders licensed by the FCC as low power television (LPTV).

48.11b—AM and FM Radio Broadcast. This category includes FCC-licensed facilities that broadcast AM and FM audio signals for general public reception and the communications equipment directly related to the operation, maintenance, and monitoring of the use.

Users include radio stations which generate revenues from commercial advertising and public radio stations whose revenues are supported by subscriptions, grants, and donations. Broadcast areas often overlap State boundaries. This category of use relates only to primary transmitters and not to any rebroadcast systems such as translators, microwave relays serving broadcast translators, or holders licensed by the FCC as low power FM radio.

48.11c—Cable Television. This category includes FCC-licensed facilities that transmit video programming to multiple subscribers in a community over a wired or wireless network, and the communications equipment directly related to the operation, maintenance, or monitoring of the use. These systems normally operate as a commercial entity within an authorized franchise area. The category does not include rebroadcast devices, or personal or internal antenna systems such as private systems serving hotels or residences.

48.11d—Broadcast Translator, Low Power Television, and Low Power FM Radio. This category of use consists of FCC-licensed translators, low power television (LPTV), low power FM radio (LPFM), and communications equipment directly related to the operation, maintenance, or monitoring of the use. Microwave facilities used in conjunction with the systems are included in the category. Translators receive a television or FM radio broadcast signal and rebroadcast it on a different channel or frequency for local reception. In some cases the translator relays the signal to another amplifier or translator. Low power television and FM radio stations are broadcast translators that originate programming. This category of use includes translators associated with public telecommunications service.

48.12—Non-Broadcast Uses.

48.12a—Commercial Mobile Radio Service (CMRS) and Facility Manager. This category of use includes FCC-licensed facilities providing mobile radio communications service to individual customers, and the communications equipment directly related to the operation, maintenance, or monitoring of the use. Examples of mobile radio systems in this category are two-way voice and paging services such as community repeaters, trunked radio (specialized mobile radio), two-way radio dispatch, public switched network (telephone/data) interconnect service, microwave communications link equipment, and internal and private communications uses not sold for a profit (that is, private mobile radio, internal microwave, and so forth). Some holders may not hold FCC licenses or operate communications equipment, but they may lease building, tower, and related facility space as part of their business enterprise and act as facility managers.

48.12b—Cellular Telephone. Cellular telephone includes holders of FCC-licensed systems and related technologies for mobile communications that use a blend of radio and telephone switching technology to provide public switched network services for fixed and mobile users within a geographic area. The system consists of cell sites containing transmitting and receiving antennas, cellular base station radio, telephone equipment, and often microwave communications link equipment, and the communications equipment directly related to the maintenance and monitoring of the use.

48.12c—Private Mobile Radio Service. This use category includes holders of FCC-licensed private mobile radio systems primarily used by a single entity for the purposes of mobile internal communications, and the communications equipment directly related to the operation, maintenance, or monitoring of the use. The communications service is not sold to others and is limited to the user. Services generally include private local radio dispatch, private paging services, and ancillary microwave communications equipment for the control of the mobile facilities.

48.12d—Microwave. This use includes holders of FCC-licensed facilities used for long-line intrastate and interstate public telephone, television, information, and data transmissions, or used by pipeline and power companies, railroads, and land resource management companies in support of the holder's primary business. Also included is communications equipment directly related to the operation, maintenance, or

monitoring of the use, such as mobile radio service.

48.12e—Local Exchange Network. This use refers to a radio service which provides basic telephone service, primarily to rural communities.

48.12f—Passive Reflector. Passive reflectors include various types of nonpowered reflector devices used to bend or ricochet electronic signals between active relay stations or between an active relay station and a terminal. A passive reflector commonly serves a microwave communications system. The reflector requires point-to-point line-of-sight with the connecting relay stations, but does not require electric power. Maintenance is minimal and reflectors seldom require site visits for maintenance or monitoring.

48.13—Other Communications Uses. This category includes holders of FCC-licensed private communications uses such as amateur radio; personal/private receive-only antennas designed for the reception of electronic signals to serve private homes; natural resource and environmental monitoring equipment used by weather stations, seismic stations, and snow measurement courses; and other small, low power devices used to monitor or control remote activities. These facilities are personally owned and not operated for profit.

[FR Doc. 97–21082 Filed 8–8–97; 8:45 am]

BILLING CODE 3410–11–P

Reader Aids

Federal Register

Vol. 62, No. 154

Monday, August 11, 1997

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General Information, indexes and other finding aids **202–523–5227**

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At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

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The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

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The text of laws is not published in the **Federal Register** but may be ordered in ''slip law'' (individual pamphlet) form from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–2470). The text will also be made available on the Internet from GPO Access at http://www.access.gpo.gov/su_docs/. Some laws may not yet be available.

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CFR CHECKLIST

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[1] Because Title 3 is an annual compilation, this volume and all previous volumes should be retained as a permanent reference source.

[2] The July 1, 1985 edition of 32 CFR Parts 1–189 contains a note only for Parts 1–39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1–39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[3] The July 1, 1985 edition of 41 CFR Chapters 1–100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.

[4] No amendments to this volume were promulgated during the period Apr. 1, 1990 to Mar. 31, 1997. The CFR volume issued April 1, 1990, should be retained.

[5] No amendments to this volume were promulgated during the period July 1, 1991 to June 30, 1996. The CFR volume issued July 1, 1991, should be retained.

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