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February 26, 1996

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WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them. There will be no discussion of specific agency regulations.

WASHINGTON, DC

[Two Sessions]

WHEN: March 12, 1996 at 9:00 am and March 26, 1996 at 9:00 am

WHERE: Office of the Federal Register Conference Room, 800 North Capitol Street, NW., Washington, DC (3 blocks north of Union Station Metro)

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

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

5 CFR Chapter LXII

29 CFR Parts 1600 and 1650

RIN 3209–AA15

Supplemental Standards of Ethical Conduct for Employees of the Equal Employment Opportunity Commission

AGENCY: Equal Employment Opportunity Commission (EEOC or Commission).

ACTION: Interim rule with request for comments.

SUMMARY: The Equal Employment Opportunity Commission, with the concurrence of the Office of Government Ethics (OGE), is issuing a regulation for employees of EEOC that supplements the Standards of Ethical Conduct for Employees of the Executive Branch issued by OGE. The EEOC is also repealing its existing agency standards of conduct regulations that have been superseded by OGE's Standards of Ethical Conduct, OGE's financial disclosure regulation and this interim rule.

DATES: This rule is effective on February 26, 1996. Written comments on the interim rule must be received on or before April 26, 1996.

ADDRESSES: Comments should be submitted to the Office of the Executive Secretariat, Equal Employment Opportunity Commission, 1801 L Street, NW., Washington, DC 20507. Copies of comments submitted by the public will be available for review at the Commission's Library, room 6502, 1801 L Street, NW., Washington, DC between the hours of 9:30 a.m. and 5:00 p.m.

FOR FURTHER INFORMATION CONTACT: Nicholas M. Inzeo, Associate Legal Counsel, Thomas J. Schlageter, Assistant Legal Counsel, or Kathleen Oram, Senior Attorney, at (202) 663–4669 or TDD (202) 663–7026. This notice is also available in the following formats: large print, braille, audio tape and electronic file on computer disk. Requests for this notice in an alternative format should be made to EEOC's Publications Center at 1–800–669–3362.

SUPPLEMENTARY INFORMATION:

I. Background

On August 7, 1992, the Office of Government Ethics published the Standards of Ethical Conduct for Employees of the Executive Branch (Standards) for codification at 5 CFR part 2635. See 57 FR 35006–35067, as corrected at 57 FR 48557 and 57 FR 52583 with an additional grace period extension at 59 FR 4779–4780. The Standards, effective February 3, 1993, set uniform ethical conduct standards applicable to all executive branch personnel.

Section 2635.105 of the uniform Standards authorizes agencies, with the concurrence of OGE, to publish agency-specific supplemental regulations that are necessary to properly implement their respective ethics programs. The Commission, with OGE's concurrence, has determined that the following interim supplemental rule is necessary for successful implementation of its ethics program.

II. Analysis of the Regulations

Section 7201.101 General

Section 7201.101 explains that the regulations apply to all employees of the EEOC, including members of the Commission and the General Counsel, and that they supplement the OGE Standards.

Section 7201.102 Prohibited Outside Employment

5 CFR 2635.802 provides that an employee shall not engage in outside employment if it is prohibited by agency supplemental regulation. The Commission is issuing § 7201.102 as a supplemental regulation. This section details three categories of prohibited outside employment for EEOC employees. First, the section prohibits EEOC employees from engaging in any outside employment with persons currently and substantially affected by the employee's performance of his or her official duties because the person is a party or representative of a party to a particular matter involving specific parties. This provision prohibits employees from working for a charging party, respondent, or attorney representing either. Second, the section prohibits EEOC employees from receiving any compensation for representational services or the rendering of advice or analysis regarding any equal employment law or its application. Finally, the section prohibits EEOC employees from engaging in outside employment involving any particular matter pending at EEOC or any equal employment opportunity case in which EEOC or the Federal government is a party. This final prohibition is not intended to prevent EEOC employees from providing behind-the-scenes assistance (e.g., conducting legal research, drafting documents, giving advice or other non-advocacy work) to immediate family members in matters pending at EEOC or any equal employment opportunity case in which EEOC or the Federal government is a party. The Commission has determined that these three prohibitions, which are similar to prohibitions that have applied to EEOC employees under superseded 29 CFR 1600.735–204, will help to ensure that reasonable persons will not questions the impartiality and objectivity of EEOC's employees.

While the second and third prohibitions of this section do no apply to special Government employees, the prior approval section discussed below does apply to them. This acknowledges the transitory or part-time nature of the service special Government employees provide EEOC, but also enables EEOC to carefully review all outside employment interests of special Government employees on a case-by-case basis to ensure that violations of applicable statutes and regulations do not occur.

Section 7201.103 Prior Approval for Outside Employment

Under 5 CFR 2635.803, agencies may, by supplemental regulation, require employees to obtain prior approval before engaging in outside employment or activities. Under superseded 29 CFR 1600.735–204, the Commission has had a requirement for prior approval of compensated and other outside employment activities. Because this requirement has helped to ensure that employees' outside activities conform to

applicable statutes and regulations, the Commission will continue to require prior approval. Section 7201.103 provides that an EEOC employee, including a special Government employee, must obtain advance written approval from his or her Deputy Ethics Counselor or designee before engaging in any outside employment. In addition to that approval, employees must also obtain prior written approval from the Designated Agency Ethics Official or designee to engage in compensated outside employment, the uncompensated practice of law or uncompensated outside employment that involves representational services or the rendering of advice or analysis regarding any equal employment law, or to serve as an officer or director of an organization whose activities are devoted substantially to equal employment opportunity matters.

''Employment'' is broadly defined in § 7201.103(d) to cover any form of non-Federal employment or business relationship involving the provision of personal services, including writing when done under an arrangement with another person for production or publication of the written product. It does not, however, include participation in the activities of nonprofit charitable, religious, professional, social, fraternal, educational, recreational, public service or civic organizations, unless such activities involve the provision of professional services or advice, are for compensation other than reimbursement of expenses, or the organization's activities are devoted substantially to matters relating to equal employment law and the employee will serve as officer or director of the organization.

Section 7201.103(c) provides that approval will not be granted if the outside employment is expected to involve conduct inconsistent with or prohibited by any statute or federal regulation, including 5 CFR part 2635 and these supplemental regulations.

III. Repeal and Redesignation of Portions of the EEOC Conduct Regulations and Related Modifications

The Commission is replacing its existing standards of conduct regulations at 29 CFR part 1600 and replacing them with a cross-reference to 5 CFR parts 2634 and 2635 and to the supplemental regulations at 5 CFR part 7201 adopted by this interim rule. With the exception of subpart E and the material that was preserved pending the issuance of this interim rule by the notes following 5 CFR 2635.403(a) and 2635.803, part 1600 was superseded by OGE's two executive branch-wide regulations, the Standards of Ethical Conduct for Employees of the Executive Branch, 5 CFR part 2635, and Financial Disclosure, Qualified Trusts, and Certificates of Divestiture For Executive Branch Employees, 5 CFR part 2634. See 57 FR 11800–1130, as amended at 57 FR 21854–21855 and 57 FR 62605. EEOC is redesignating subpart E of part 1600, Procedures for the Collection of Debts by Salary Offset, as subpart A of 29 CFR part 1650.

IV. Matters of Regulatory Procedure

The Commission has determined that these rules relate solely to agency organization, procedure and practice. In addition, similar rules have been applicable to Commission employees under EEOC's superseded standards of conduct contained at 29 CFR part 1600. Therefore, the requirements of the Administrative Procedure Act are not applicable. EEOC is publishing its supplemental ethics regulation as an interim rule to effect a smooth transition from its standards of conduct to OGE's Government-wide standards of conduct regulation.

In promulgating this interim rule, the Commission has adhered to the regulatory philosophy and the applicable principles of regulation set forth in section 1 of Executive Order 12866, Regulatory Planning and Review. This regulation has not been reviewed by the Office of Management and Budget under that Executive order as it deals with agency organization, management, and personnel matters and is not, in any event, deemed ''significant'' thereunder. As required by the Regulatory Flexibility Act (5 U.S.C. chapter 6), it is hereby certified that this interim rule will not have a significant impact on small business entities. In addition, the Commission has determined that this interim rule does not impose any information collection requirements as defined by the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*

List of Subjects

5 CFR Part 7201

Conflict of interests, Government employees.

29 CFR Part 1600

Conflict of interests, Government employees.

29 CFR Part 1650

Debt collection.

Dated at Washington, DC, this 8th day of February 1996.

For the Equal Employment Opportunity Commission.

Gilbert F. Casellas,

Chairman.

Approved: February 16, 1996.

Stephen D. Potts,

Director, Office of Government Ethics.

For the reasons set forth in the preamble, the Equal Employment Opportunity Commission, with the concurrence of the Office of Government Ethics, is amending title 5 of the Code of Federal Regulations and title 29, chapter XIV, of the Code of Federal Regulations as follows:

TITLE 5—[AMENDED]

1. A new chapter LXII, consisting of part 7201, is added to Title 5 of the Code of Federal Regulations to read as follows:

5 CFR Chapter LXII—Equal Employment Opportunity Commission

PART 7201—SUPPLEMENTAL STANDARDS OF ETHICAL CONDUCT FOR EMPLOYEES OF THE EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Sec.
7201.101 General.
7201.102 Prohibited outside employment.
7201.103 Prior approval for outside employment.

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, 2635.403(a), 2635.802 and 2635.803.

§ 7201.101 General.

In accordance with 5 CFR 2635.105, the regulations in this part apply to all employees of the Equal Employment Opportunity Commission (EEOC), including members of the Commission and the General Counsel, and supplement the Standards of Ethical Conduct for Employees of the Executive Branch contained in 5 CFR part 2635.

§ 7201.102 Prohibited outside employment.

(a) No employee of the Equal Employment Opportunity Commission may engage in outside employment with a person who is currently and substantially affected by the employee's performance of his or her official duties because the person is a party or representative of a party to a particular matter involving specific parties.

(b) No employee of the Equal Employment Opportunity Commission, other than a special Government employee, may receive compensation for representational services, or the rendering of advice or analysis,

regarding any equal employment law or its application.

(c) No employee of the Equal Employment Opportunity Commission, other than a special Government employee, may engage in outside employment involving a particular matter pending at EEOC or an equal employment opportunity matter in which EEOC or the Federal Government is a party. An employee may, however, provide behind-the-scenes assistance to immediate family members in matters pending at EEOC or equal employment opportunity matters in which EEOC or the Federal government is a party.

§ 7201.103 Prior approval for outside employment.

(a) Before engaging in any outside employment, with or without compensation, an employee of the Equal Employment Opportunity Commission must obtain written approval from his or her Deputy Ethics Counselor or designee.

(b) In addition to approval under paragraph (a) of this section, an employee must obtain prior written approval from the Designated Agency Ethics Official or designee to engage in:

(1) Compensated outside employment;

(2) The uncompensated practice of law; or

(3) Uncompensated outside employment that involves representation or the rendering of advice or analysis regarding any equal employment law, or serving as an officer or director of an organization whose activities are devoted substantially to equal employment opportunity matters.

(c) Approval will not be granted if the outside employment is expected to involve conduct inconsistent with or prohibited by a statute or Federal regulation, including 5 CFR part 2635 and this part.

(d) For purposes of this section, ''employment'' means any form of non-Federal employment or business relationship involving the provision of personal services by the employee. It includes, but is not limited to personal services as an officer, director, employee, agent, attorney, consultant, contractor, general partner, trustee, teacher or speaker. It includes writing when done under an arrangement with another person for production or publication of the written product. It does not, however, include participation in the activities of a nonprofit charitable, religious, professional, social, fraternal, educational, recreational, public service or civic organization unless:

(1) The employee's participation involves the provision of professional services or advice;

(2) The employee will receive compensation other than reimbursement of expenses; or

(3) The organization's activities are devoted substantially to matters relating to equal employment law and the employee will serve as officer or director of the organization.

29 CFR CHAPTER XIV—EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

PART 1600—[AMENDED]

2. The authority citation for part 1600 is revised to read as follows:

Authority: 5 U.S.C. 7301.

3. Subparts A through D, consisting of §§ 1600.735–101 through 1600.735–106, 1600.735–201 through 1600.735–206, 1600.735–301, and 1600.735–401 through 1600.735–406, respectively, and appendix A to part 1600 are removed.

4. A new § 1600.101 is added to read as follows:

§ 1600.101 Cross-reference to employee ethical conduct standards and financial disclosure regulations.

Employees of the Equal Employment Opportunity Commission (EEOC) are subject to the executive branch-wide Standards of Ethical Conduct at 5 CFR part 2635, the EEOC regulation at 5 CFR part 7201, which supplements the executive branch-wide standards, and the executive branch-wide financial disclosure regulations at 5 CFR part 2634.

PART 1650—[AMENDED]

1. The authority citation for part 1650 is revised to read as follows:

Authority: 5 U.S.C. 5514; 31 U.S.C. 3720A; 5 CFR 550.1101.

2. Subpart E of part 1600 is redesignated as new subpart A in part 1650 as indicated in the table below:

Old section	New section
1600.735–501	1650.101
1600.735–502	1650.102
1600.735–503	1650.103
1600.735–504	1650.104
1600.735–505	1650.105
1600.735–506	1650.106
1600.735–507	1650.107
1600.735–508	1650.108
1600.735–509	1650.109
1600.735–510	1650.110
1600.735–511	1650.111
1600.735–512	1650.112
1600.735–513	1650.113
1600.735–514	1650.114
1600.735–515	1650.115
1600.735–516	1650.116
1600.735–517	1650.117
1600.735–518	1650.118
1600.735–519	1650.119

[FR Doc. 96–4115 Filed 2–23–96; 8:45 am]

BILLING CODE 6750–06–M

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 989

[FV96–989–1IFR]

Raisins Produced From Grapes Grown in California; Final Free and Reserve Percentages for the 1995–96 Crop Year for Natural (Sun-Dried) Seedless, Zante Currant, and Other Seedless Raisins

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim final rule with request for comments.

SUMMARY: This interim final rule establishes final free and reserve percentages for 1995–96 crop Natural (sun-dried) Seedless (NS), Zante Currant (ZC), and Other Seedless (OS) raisins. The percentages are 79 percent free and 21 percent reserve, 70 percent free and 30 percent reserve, and 51 percent free and 49 percent reserve for NS, ZC, and OS raisins, respectively. These percentages are intended to stabilize supplies and prices and to help counter the destabilizing effects of the burdensome oversupply situation facing the raisin industry. This rule was unanimously recommended by the Raisin Administrative Committee (Committee), the body which locally administers the marketing order.

DATES: This interim final rule becomes effective February 26, 1996, and applies to all NS, ZC, and OS raisins acquired from the beginning of the 1995–96 crop year. Comments which are received by March 27, 1996 will be considered prior to any finalization of this interim final rule.

ADDRESSES: Interested persons are invited to submit written comments concerning this action. Comments must be sent in triplicate to the Docket Clerk, Fruit and Vegetable Division, AMS, USDA, room 2525–S, P.O. Box 96456, Washington, DC 20090–6456, or faxed to 202–720–5698. Comments should reference the docket number and the date and page number of this issue of the Federal Register and will be made available for public inspection in the Office of the Docket Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: Richard P. Van Diest, Marketing Specialist, California Marketing Field Office, Fruit and Vegetable Division, AMS, USDA, 2202 Monterey Street, suite 102B, Fresno, California 93721; telephone: 209–487–5901 or Mark A. Slupek, Marketing Specialist, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, room 2523–S, P.O. Box 96456, Washington, DC 20090–6456; telephone: 202–205–2830.

SUPPLEMENTARY INFORMATION: This interim final rule is issued under marketing agreement and Order No. 989 (7 CFR part 989), both as amended, regulating the handling of raisins produced from grapes grown in California, hereinafter referred to as the ''order.'' The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act.''

The Department of Agriculture (Department) is issuing this rule in conformance with Executive Order 12866.

This interim final rule has been reviewed under Executive Order 12778, Civil Justice Reform. Under the marketing order provisions now in effect, final free and reserve percentages may be established for raisins acquired by handlers during the crop year. This rule establishes final free and reserve percentages for NS, ZC, and OS raisins for the 1995–96 crop year, beginning August 1, 1995, through July 31, 1996. This interim final rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

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

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

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

There are approximately 20 handlers of California raisins who are subject to regulation under the raisin marketing order, and approximately 4,500 producers in the production area. Small agricultural service firms have been defined by the Small Business Administration (13 CFR 121.601) as those whose annual receipts (from all sources) are less than $5,000,000, and small agricultural producers are defined as those having annual receipts of less than $500,000. No more than eight handlers, and a majority of producers, of California raisins may be classified as small entities. Twelve of the 20 handlers subject to regulation have annual sales estimated to be at least $5,000,000, and the remaining eight handlers have sales less than $5,000,000, excluding receipts from any other sources.

The order prescribes procedures for computing trade demands and preliminary and final percentages that establish the amount of raisins that can be marketed throughout the season. The regulations apply to all handlers of California raisins. Raisins in the free percentage category may be shipped immediately to any market, while reserve raisins must be held by handlers in a reserve pool for the account of the Committee. Under the order, reserve raisins may be: Sold at a later date by the Committee to handlers for free use; used in diversion programs; exported to authorized countries; carried over as a hedge against a short crop the following year; or disposed of in other outlets noncompetitive with those for free tonnage raisins.

While this rule may restrict the amount of NS, ZC, and OS raisins that enter domestic markets, final free and reserve percentages are intended to lessen the impact of the oversupply situation facing the industry and promote stronger marketing conditions, thus stabilizing prices and supplies and improving grower returns. In addition to the quantity of raisins released under the preliminary percentages and the final percentages, the order specifies methods to make available additional raisins to handlers by requiring sales of reserve pool raisins for use as free tonnage raisins under ''10 plus 10'' offers, and authorizing sales of reserve raisins under certain conditions.

The Department's ''Guidelines for Fruit, Vegetable, and Specialty Crop Marketing Orders'' specifies that 110 percent of recent years' sales should be made available to primary markets each season before recommendations for volume regulation are approved. This goal is met by the establishment of a final percentage which releases 100 percent of the computed trade demand and the additional release of reserve raisins to handlers under ''10 plus 10'' offers. The ''10 plus 10'' offers are two simultaneous offers of reserve pool raisins which are made available to handlers each season. For each such offer, a quantity of raisins equal to 10 percent of the prior year's shipments is made available for free use.

Pursuant to section 989.54(a) of the order, the Committee, which is responsible for local administration of the order, met on August 15, 1995, to review shipment and inventory data, and other matters relating to the supplies of raisins of all varietal types. The Committee computed a trade demand for each varietal type for which a free tonnage percentage might be recommended. The trade demand is 90 percent of the prior year's shipments of free tonnage and reserve tonnage raisins sold for free use for each varietal type into all market outlets, adjusted by subtracting the carryin of each varietal type on August 1 of the current crop year and by adding to the trade demand the desirable carryout for each varietal type at the end of that crop year. As specified in section 989.154, the desirable carryout for each varietal type shall be equal to the shipments of free tonnage raisins of the prior crop year during the months of August, September, and one fourth of October. If the prior year's shipments are limited because of crop conditions, the total shipments during that period of time during one of the three years preceding the prior crop year may be used. In accordance with these provisions, the Committee computed and announced 1995–96 trade demands of 257,314 tons, 2,208 tons, and 1,047 tons for NS, ZC, and OS raisins, respectively.

As required under section 989.54(b) of the order, the Committee met on October 3, 1995, and computed and announced preliminary crop estimates and preliminary free and reserve percentages for NS and ZC raisins which released 65 percent of the trade demand since the field prices had not

been established, and 85 percent of the trade demand for OS raisins because the field price had been established. The preliminary crop estimates and preliminary free and reserve percentages were as follows: 335,118 tons, 50 percent free, and 50 percent reserve for NS raisins; 3,696 tons, 39 percent free, and 61 percent reserve for ZC raisins; and 2,197 tons, 40 percent free, and 60 percent reserve for OS raisins. The Committee authorized the Committee staff to modify the preliminary percentages to release 85 percent of the trade demand when the field prices were established for NS and ZC raisins. The preliminary percentages for NS and ZC raisins were adjusted soon thereafter to 65 percent free, 35 percent reserve, and 51 percent free and 49 percent reserve, respectively.

Also at that meeting, the Committee computed and announced preliminary crop estimates and preliminary free and reserve percentages for Dipped Seedless, Oleate and Related Seedless, Golden Seedless, Sultana, Muscat, and Monukka raisins. It determined that the supplies of these varietal types would be less than or close enough to the computed trade demands for each variety, and that volume control percentages would not be necessary to maintain market stability for these varietal types.

On January 12, 1996, the Committee recommended final percentages of 79 percent free, 21 percent reserve for NS raisins; 70 percent free, 30 percent reserve for ZC raisins; and 51 percent free, 49 percent reserve for OS raisins.

Pursuant to section 989.54(c), the Committee may adopt interim free and reserve percentages. Interim percentages may release less than the computed trade demand for each varietal type. The Committee also computed interim free and reserve percentages at the January 12, 1996, meeting.

Interim percentages were announced as 78.75 percent free, 21.25 percent reserve for NS raisins; 69.75 percent free, 30.25 percent reserve for ZC raisins; and 50.75 percent free, 49.25 percent reserve for OS raisins. That action released most, but not all, of the computed trade demand for NS, ZC, and OS raisins.

Under section 989.54(d) of the order, the Committee is required to recommend to the Secretary, no later than February 15 of each crop year, final free and reserve percentages which, when applied to the final production estimate of a varietal type, will tend to release the full trade demand for any varietal type.

The Committee's final estimate of 1995–96 production of NS raisins is 325,808 tons. Dividing the computed trade demand of 257,314 tons by the final estimate of production results in a final free percentage of 79 percent and a final reserve percentage of 21 percent for NS raisins.

The Committee's final estimate of 1995–96 production of ZC raisins is 3,158 tons. Dividing the computed trade demand of 2,208 tons by the final estimate of production results in a final free percentage of 70 percent and a final reserve percentage of 30 percent for ZC raisins.

The Committee's final estimate of 1995–96 production of OS raisins is 2,048 tons. Dividing the computed trade demand of 1,047 tons by the final estimate of production results in a final free percentage of 51 percent and a final reserve percentage of 49 percent for OS raisins.

The free and reserve percentages established by this interim final rule will apply uniformly to all handlers in the industry, whether small or large, and there are no known additional costs incurred by small handlers. Although raisin markets are limited, they are available to all handlers, regardless of size. The stabilizing effects of the percentages impact both small and large handlers positively by helping them maintain and expand markets.

Based on available information, the Administrator of the AMS has determined that the issuance of this interim final rule will not have a significant economic impact on a substantial number of small entities.

After consideration of all relevant information presented, including the Committee's recommendations and other information, it is found that this regulation, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

Pursuant to 5 U.S.C. 553, it is also found and determined that upon good cause it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice prior to putting this rule into effect, and that good cause exists for not postponing the effective date of this rule until 30 days after publication in the Federal Register because: (1) The relevant provisions of this part require that the percentages designated herein for the 1995–96 crop year apply to all NS, ZC, and OS raisins acquired from the beginning of that crop year; (2) handlers are currently marketing 1995–96 crop raisins of these varietal types and this action should be taken promptly to achieve the intended purpose of making the full trade demand quantities computed by the Committee available to handlers; (3) handlers are aware of this action, which was unanimously recommended by the Committee at an open meeting, and need no additional time to comply with these percentages; and (4) this interim final rule provides a 30-day period for written comments and all comments received will be considered prior to finalization of this interim final rule.

List of Subjects in 7 CFR Part 989

Grapes, Marketing agreements, Raisins, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 989 is amended to read as follows:

PART 989—RAISINS PRODUCED FROM GRAPES GROWN IN CALIFORNIA

1. The authority citation for 7 CFR part 989 continues to read as follows:

Authority: 7 U.S.C. 601–674.

2. Section 989.249 is added to Subpart—Supplementary Regulations to read as follows:

Note: This section will not appear in the annual Code of Federal Regulations.

§ 989.249 Final free and reserve percentages for the 1995–96 crop year.

The final percentages for standard Natural (sun-dried) Seedless, Zante Currant, and Other Seedless raisins acquired by handlers during the crop year beginning on August 1, 1995, which shall be free tonnage and reserve tonnage, respectively, are designated as follows:

Varietal type	Free percentage	Reserve percentage
Natural (sun-dried) Seedless	79	21
Zante Currant	70	30
Other Seedless	51	49

Dated: February 20, 1996.

Sharon Bomer Lauritsen,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 96–4180 Filed 2–23–96; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF STATE

Bureau of Consular Affairs, Overseas Citizens Services

[Public Notice 2337]

22 CFR Part 94

International Child Abduction

AGENCY: Department of State.

ACTION: Final rule.

SUMMARY: This rule amends regulations regarding incoming parental abduction cases pursuant to the Hague Convention on the Civil Aspects of International Child Abduction. Incoming cases will be processed by a non-governmental organization with oversight by the Department of State.

EFFECTIVE DATE: December 21, 1995.

FOR FURTHER INFORMATION CONTACT: Leslie Rowe, Director of the Office of Children's Issues, Room 4811, U.S. Department of State, Washington, D.C. 20520. Tele: 202–647–2688.

SUPPLEMENTARY INFORMATION: Since 1988, the Bureau of Consular Affairs has served as the U.S. Central Authority under the Hague Convention on the Civil Aspects of International Child Abduction. As U.S. Central Authority, the Office of Children's Issues is responsible for processing all Hague Convention applications seeking the return of children wrongfully removed or retained in the United States or any other Hague Convention contracting state. In addition, the U.S. Central Authority is responsible for facilitating access rights under the Convention. The Office of Children's Issues processes approximately 700 Hague Convention applications annually; roughly 300 of these cases are incoming cases, i.e., applications for the return of a child wrongfully removed to or retained in the United States.

The processing of incoming Hague applications requires case officers to communicate with foreign Central Authorities about incoming cases, to determine the whereabouts of children wrongfully taken to the United States, to attempt to promote voluntary return of abducted children, and to facilitate the initiation of judicial proceedings with a view toward securing the return of abducted children. Many of the case officer functions involve extensive contact with local law enforcement officials, social service agencies, legal aid organizations and local bar associations.

The Office of Children's Issues has recently entered into an agreement with the Department of Justice's Office of Juvenile Justice and Delinquency Prevention, and the National Center for Missing and Exploited Children (National Center). Under this agreement, the National Center will assist the U.S. Central Authority in fulfilling its responsibilities under the Hague Convention.

The National Center, a non-governmental organization, is a national resource center and clearinghouse that provides technical assistance to parents seeking to locate and recover children missing in the United States. For more than ten years, the National Center has been performing case management and analysis functions for domestic abductions; it handles more than 1,200 parental child abduction cases annually. By agreement with the Department of Justice, the National Center provides legal technical assistance, maintains a toll-free hotline as well as an online information network, and operates a photo distribution service.

Transferring specified case officer functions to the National Center with respect to incoming Hague Convention cases will result in the provision of better service to parents seeking the return of children under the Convention. Parents will benefit from the National Center's expertise in finding missing children and liaising with contacts in the local law enforcement and social services communities.

This transfer of case officer functions to the National Center will not in any way alter the role of the State Department as U.S. Central Authority under the Hague Convention. The Office of Children's Issues will continue as the U.S. Central Authority under the Convention and will retain ultimate responsibility for all incoming cases. Under the agreement, all inherently governmental functions, including matters of Hague Convention interpretation and policy direction are to be carried out by the Department of State. Congressional and White House correspondence as well as media relations will continue to be handled by the Office of Children's Issues.

This rule was published as an interim rule in the Federal Register on December 21, 1995. Comments were requested, and none were received. It is being adopted without change. This rule was published as an interim rule rather than a proposed rule because the Department of State determined that publication of a proposed rule was unnecessary, as the transfer of responsibility over incoming Hague Convention cases to the National Center would primarily affect workload distribution and management of U.S. Central Authority functions. The Department of State's Office of Children's Issues will continue to perform all inherently governmental functions of the U.S. Central Authority.

This rule is exempt from E.O. 12866, but nonetheless has been reviewed and found to be consistent with the objectives and policies thereof. This rule is not expected to have a significant impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act, 5. U.S.C. 605(b). In addition, this rule will not impose information collection requirements under the provisions of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended. Nor does this rule have federalism implications warranting the preparation of a Federalism Assessment in accordance with E.O. 12612. This rule has been reviewed as required by E.O. 12778 and certified to be in compliance therewith.

List of Subjects in 22 CFR Part 94

Infants and children.

For the reasons set forth in the preamble, the interim rule amending 22 CFR part 94 published on December 21, 1995 (60 FR 66073), is adopted as a final rule without change.

Dated: February 13, 1996.

Mary A. Ryan,

Assistant Secretary of State for Consular Affairs.

[FR Doc. 96–4192 Filed 2–23–96; 8:45 am]

BILLING CODE 4710–06–M

Office of the Legal Adviser

22 CFR Part 181

[Public Notice 2344]

Coordination and Reporting of International Agreements: Determination Not To Publish Certain Agreements

AGENCY: Department of State.

ACTION: Final rule.

SUMMARY: The Department of State is issuing final regulations providing that certain international agreements other than treaties will not be published in United States Treaties and Other International Agreements or in the Treaties and Other International Acts Series.

EFFECTIVE DATE: February 26, 1996.

ADDRESSES: Inquiries should be sent to the Assistant Legal Adviser for Treaty Affairs, Office of the Legal Adviser, Department of State, Washington, DC 20520.

FOR FURTHER INFORMATION CONTACT: Karen Ghaffarkhan or Wynne Teel, Office of the Legal Adviser, (202) 647–2044.

SUPPLEMENTARY INFORMATION:

Background

In the Federal Register of October 23, 1995, the Department of State proposed regulations to amend 22 CFR Part 181 to list categories of international agreements that will not be published in

the United States Treaties and Other Agreements. No comments were received on the proposed regulations. Accordingly, the Department adopts the proposed regulations, effective immediately. Technical corrections have been made in two areas of the regulations. The authorities cited have been revised to reflect the replacement of 22 U.S.C. 2658 by 22 U.S.C. 2251a, as well as the codification of Public Law 103–236. An incorrect reference in the authority for the regulations as previously issued (22 U.S.C. 3312) has also been deleted. In addition, the regulations' reference in Section 181.8(a)(9) to Executive Order No. 12356 has been changed to Executive Order No. 12958, which currently governs classification of documents for national security purposes. Further background on these regulations may be found in the Department's notice of proposed regulations.

List of Subjects in 22 CFR Part 181

Treaties.

For the reasons set forth above, Part 181 is amended as follows:

1. The authority citation for Part 181 is revised to read:

Authority: 1 U.S.C. 112a, 112b; and 22 U.S.C. 2651a.

2. The heading of Part 181 is revised to read:

PART 181—COORDINATION, REPORTING AND PUBLICATION OF INTERNATIONAL AGREEMENTS

3. The first sentence of § 181.1(a) is revised to read:

§ 181.1 Purpose and application.

(a) The purpose of this part is to implement the provisions of 1 U.S.C. 112a and 112b, popularly known as the Case-Zablocki Act (hereinafter ''the Act''), on the reporting to Congress, coordination with the Secretary of State and publication of international agreements. * * *

* * * * *

4. A new § 181.8 is added to read:

§ 181.8 Publication.

(a) The following categories of international agreements will not be published in United States Treaties and Other International Agreements:

(1) Bilateral agreements for the rescheduling of intergovernmental debt payments;

(2) Bilateral textile agreements concerning the importation of products containing specified textile fibers done under the Agricultural Act of 1956, as amended;

(3) Bilateral agreements between postal administrations governing technical arrangements;

(4) Bilateral agreements that apply to specified military exercises;

(5) Bilateral military personnel exchange agreements;

(6) Bilateral judicial assistance agreements that apply only to specified civil or criminal investigations or prosecutions;

(7) Bilateral mapping agreements;

(8) Tariff and other schedules under the General Agreement on Tariffs and Trade and under the Agreement of the World Trade Organization;

(9) Agreements that have been given a national security classification pursuant to Executive Order No. 12958 or its successors; and

(b) Agreements on the subjects listed in paragraphs (a) (1) through (9) of this section that had not been published as of February 26, 1996.

(c) Any international agreements in the possession of the Department of State, other than those in paragraph (a)(9) of this section, but not published will be made available upon request by the Department of State.

Dated: February 16, 1996.

Robert E. Dalton,

Assistant Legal Adviser for Treaty Affairs.

[FR Doc. 96–4235 Filed 2–23–96; 8:45 am]

BILLING CODE 4710–08–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Parts 100 and 165

[CGD 96–005]

Safety Zones, Security Zones, and Special Local Regulations

AGENCY: Coast Guard, DOT.

ACTION: Notice of temporary rules issued.

SUMMARY: This document provides required notice of substantive rules adopted by the Coast Guard and temporarily effective between October 1, 1995 and December 31, 1995, which were not published in the Federal Register. This quarterly notice lists temporary local regulations, security zones, and safety zones, which were of limited duration and for which timely publication in the Federal Register was not possible.

DATES: This notice lists temporary Coast Guard regulations that became effective and were terminated between October 1, 1995 and December 31, 1995, as well as several regulations which were not included in the previous quarterly list.

ADDRESSES: The complete text of these temporary regulations may be examined at, and is available on request, from Executive Secretary, Marine Safety Council (G–LRA), U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, DC 20593–0001.

FOR FURTHER INFORMATION CONTACT: Commander Stephen J. Darmody, Executive Secretary, Marine Safety Council at (202) 267–1477 between the hours of 8 a.m. and 3 p.m., Monday through Friday.

SUPPLEMENTARY INFORMATION: District Commanders and Captains of the Port (COTP) must be immediately responsive to the safety needs of the waters within their jurisdiction; therefore, District Commanders and COTPs have been delegated the authority to issue certain local regulations. Safety zones may be established for safety or environmental purposes. A safety zone may be stationary and described by fixed limits or it may be described as a zone around a vessel in motion. Security zones limit access to vessels, ports, or waterfront facilities to prevent injury or damage. Special local regulations are issued to enhance the safety of participants and spectators at regattas and other marine events. Timely publication of these regulations in the Federal Register is often precluded when a regulation responds to an emergency, or when an event occurs without sufficient advance notice. However, the affected public is informed of these regulations through Local Notices to Mariners, press releases, and other means. Moreover, actual notification is provided by Coast Guard patrol vessels enforcing the restrictions imposed by the regulation.

Because mariners are notified by Coast Guard officials on-scene prior to enforcement action, Federal Register notice is not required to place the special local regulation, security zone, or safety zone in effect. However, the Coast Guard, by law, must publish in the Federal Register notice of substantive rules adopted. To discharge this legal obligation without imposing undue expense on the public, the Coast Guard periodically publishes a list of these temporary special local regulations, security zones, and safety zones. Permanent regulations are not included in this list because they are published in their entirety in the Federal Register. Temporary regulations may also be published in their entirety if sufficient time is available to do so before they are placed in effect or terminated. These safety zones, special local regulations and security zones have been exempted from review under E.O. 12866 because of their emergency

nature, or limited scope and temporary effectiveness.

The following regulations were placed in effect temporarily during the period October 1, 1995 and December 31, 1995, unless otherwise indicated.

Stephen J. Darmody,

Commander, U.S. Coast Guard, Executive Secretary, Marine Safety Council.

QUARTERLY REPORT

Docket No.	Location	Type	Effective date
Charleston 95–072	Charleston, SC	Safety Zone	12/2/95
Corpus Christi 95–004	Corpus Christi, TX	Safety Zone	8/31/95
Corpus Christi 95–005	Corpus Christi, TX	Safety Zone	9/15/95
Hampton Roads 95–071	Hampton Roads, VA	Safety Zone	10/3/95
Hampton Roads 95–072	Hampton Roads, VA	Safety Zone	10/24/95
Hampton Roads 95–075	Hampton Roads, VA	Safety Zone	10/16/95
Honolulu 95–005	Mamala Bay, Oahu, HI	Safety Zone	12/20/95
Honolulu 95–006	Oahu, HI	Safety Zone	12/31/95
Houston 95–007	Houston, TX	Safety Zone	8/23/95
Houston 95–008	Houston, TX	Safety Zone	8/27/95
Huntington 95–003	Kanawha River, M. 31.1 to M. 67.7	Safety Zone	12/5/95
LA/Long Beach 95–009	San Pedro Bay, CA	Safety Zone	10/27/95
LA/Long Beach 95–010	San Pedro Bay, CA	Safety Zone	11/18/95
LA/Long Beach 95–011	San Pedro Bay, CA	Safety Zone	12/7/95
LA/Long Beach 95–012	San Pedro Bay, CA	Safety Zone	12/25/95
Miami 95–063	Fort Lauderdale, FL	Safety Zone	10/9/95
Miami 95–067	Fort Lauderdale, FL	Safety Zone	11/6/95
Miami 95–074	Miami, FL	Security Zone	12/8/95
New Orleans 95–029	Mississippi River, M. 92.5 to M. 93.5	Safety Zone	10/10/95
New Orleans 95–024	New Orleans, LA	Security Zone	8/1/95
New Orleans 95–027	Florida Avenue Bridge, New Orleans, LA	Safety Zone	10/18/95
New Orleans 95–028	Mississippi River, M. 332.5 to M. 334.5	Safety Zone	10/20/95
New Orleans 95–036	Mississippi River, M. 228.5 to M. 230.6	Safety Zone	12/16/95
Philadelphia 95–076	Marcus Hook, PA	Safety Zone	10/24/95
Philadelphia 95–082	Delaware Bay, Salem River, NJ	Safety Zone	12/12/95
Philadelphia 95–088	Marcus Hook, PA	Safety Zone	12/16/95
San Francisco Bay 95–006	San Francisco, CA	Safety Zone	10/5/95
San Francisco Bay 95–007	San Francisco, CA	Safety Zone	10/7/95
San Francisco Bay 95–008	San Francisco, CA	Safety Zone	10/10/95
San Francisco Bay 95–009	San Francisco, CA	Safety Zone	10/7/95
01–95–150	East River, NY	Security Zone	10/4/95
01–95–154	Hudson River, NY	Safety Zone	10/26/95
01–95–155	Hudson River, NY and NJ	Security Zone	10/21/95
01–95–157	East River, NY	Security Zone	10/21/95
01–95–158	Greenwich Harbor, CT; Oyster Bay, NY	Safety Zone	10/8/95
01–95–158	Boston, MA	Safety Zone	12/31/95
01–95–159	Martha's Vineyard, MA	Safety Zone	10/6/95
01–95–160	Martha's Vineyard, MA	Safety Zone	10/6/95
01–95–162	Bayville, NY	Safety Zone	11/18/95
01–95–166	Boston, MA	Security Zone	10/28/95
01–95–172	Port of New York and New Jersey	Security Zone	11/29/95
01–95–175	New Bedford, MA	Safety Zone	12/31/95
01–95–184	Queens, NY	Security Zone	10/20/95
01–95–187	Morgan, NJ	Safety Zone	11/3/95
02–95–019	Allegheny, Monongahela, M. .3; Ohio, M. .5	Special Local	10/7/95
05–95–068	Camp Lejeune, NC	Safety Zone	10/31/95
05–95–077	Marcus Hook Range Channel, Philadelphia, PA	Anchorage Area	10/31/95
05–95–078	Norfolk, VA	Special Local	11/25/95
05–95–083	Gibbstown, NJ	Safety Zone	12/5/95
07–95–063	San Juan, PR	Special Local	10/8/95
07–95–066	San Juan, PR	Special Local	10/22/95
07–95–070	Pompano Beach, FL	Special Local	12/10/95
07–95–071	Charleston, SC	Safety Zone	12/2/95
07–95–075	Rada Fajardo, PR	Special Local	12/16/95
08–95–025	Clear Lake, TX	Special Local	12/9/95
13–95–046	Benton, WA	Safety Zone	10/4/95
13–95–047	Benton, WA	Safety Zone	10/12/95
13–95–048	Queets, WA	Safety Zone	10/3/95
13–95–049	Queets, WA	Safety Zone	10/11/95
13–95–052	Benton, WA	Safety Zone	10/18/95
13–95–053	Benton, WA	Safety Zone	10/26/95
13–95–054	Queets, WA	Safety Zone	10/17/95
13–95–056	Queets, WA	Safety Zone	10/24/95
13–95–057	Seattle, WA	Safety Zone	12/20/95

[FR Doc. 96–4277 Filed 2–23–96; 8:45 am]

BILLING CODE 4910–14–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 70

[AD–FRL–5425–4]

Clean Air Act (CAA) Operating Permit Program Revision for the State of Nebraska, City of Omaha, and Lincoln-Lancaster County Health Department (LLCHD)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; correction.

SUMMARY: Final full approval of Nebraska's Title V program was published on October 18, 1995. The document contains three administrative errors and omits two items, all in Appendix A of 40 CFR part 70, ''Approval Status of State and Local Operating Permit Programs.'' This document corrects those deficiencies.

EFFECTIVE DATE: This rule will become effective on March 27, 1996.

ADDRESSES: Copies of the documents relevant to this action are available for public inspection during normal business hours at the: Environmental Protection Agency, Air Planning and Development Branch, 726 Minnesota Avenue, Kansas City, Kansas 66101; and EPA Air & Radiation Docket and Information Center, 401 M Street SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Christopher D. Hess at (913) 551–7213.

SUPPLEMENTARY INFORMATION: At 60 FR 53875, published October 18, 1995, items (a), (b), and (c) in Appendix A contain the following errors or omissions:

(a) Concerning the Nebraska Department of Environmental Quality, this section should have cited the state's amended Title V rules submitted June 14, 1995 (referenced in section III.A and III.C.1 of the notice). Also, in III.A.C.1.a, the regulations included should read ''41'' instead of ''40–44'';

(b) Concerning the city of Omaha, this section lists a submission dated April 19, 1995. Instead, the correct date is April 19, 1994. Additionally, a finalized delegation contract between the state and the city of Omaha effective June 26, 1995, should have been cited; and

(c) LLCHD submitted its Title V program on November 12, 1993, instead of the notice's date of November 15, 1993. Finally, the cited supplemental correspondence is dated June 23, 1994, not June 27, 1994.

List of Subjects in 40 CFR Part 70

Environmental protection, Administrative practice and procedure, Air pollution control, Intergovernmental relations, Operating permits, and Reporting and recordkeeping requirements.

Dated: February 6, 1996.

Dennis Grams,

Regional Administrator.

Correction of Publication

Accordingly, the regulations (FR Doc. 95–25844) published at 60 FR 53872–53875 on October 18, 1995, are corrected as follows:

Appendix A to Part 70—[Corrected]

On page 53875, in the second column, in appendix A to part 70, the entry for the state of Nebraska, the city of Omaha, and Lincoln-Lancaster County Health Department is corrected to read as follows:

* * * * *

State of Nebraska; City of Omaha; Lincoln-Lancaster County Health Department

(a) The Nebraska Department of Environmental Quality submitted on November 15, 1993, supplemented by correspondence dated November 2, 1994, and August 29, 1995, and amended Title V rules submitted June 14, 1995.

(b) Omaha Public Works Department submitted on November 15, 1993, supplemented by correspondence dated April 18, 1994; April 19, 1994; May 13, 1994; August 12, 1994; and April 13, 1995. A delegation contract between the state and the city of Omaha became effective on June 6, 1995.

(c) Lincoln-Lancaster County Health Department submitted on November 12, 1993, supplemented by correspondence dated June 23, 1994. Full approval effective on November 17, 1995.

* * * * *

[FR Doc. 96–3859 Filed 2–23–96; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Part 70

[PR001; FRL–5428–8]

Clean Air Act Final Full Approval of Operating Permits Program: The Commonwealth of Puerto Rico

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final full approval.

SUMMARY: The EPA is promulgating full approval of the operating permits program submitted by the Commonwealth of Puerto Rico for the purpose of complying with Federal requirements which mandate that States develop, and submit to EPA, programs for issuing operating permits to all major stationary sources, and to certain other sources.

EFFECTIVE DATE: This action is effective March 27, 1996.

ADDRESSES: Copies of the State's submittal and other supporting information used in developing the final full approval as well as the Technical Support Document are available for inspection during normal business hours at the following locations:

EPA Region II, 290 Broadway, 21st Floor, New York, New York 10007–1866, Attention: Steven C. Riva.

EPA Region II, Caribbean Field Office, Centro Europa Building, Suite 417, 1492 Ponce de Leon Avenue, Stop 22, San Juan, Puerto Rico 00907–4127, Attention: Jose Ivan Guzman.

Puerto Rico Environmental Quality Board, Air Programs Area, Eurobank Building, 431 Ponce de Leon Avenue, Hato Rey, PR 00910, Attention: Francisco Claudio.

FOR FURTHER INFORMATION CONTACT: Christine Fazio, Permitting and Toxics Support Section, at the above EPA office in New York or at telephone number (212) 637–4015. Jose Ivan Guzman of the Caribbean Field Office can be reached at (809) 729–6951, extension 223.

SUPPLEMENTARY INFORMATION:

I. Background and Purpose

Title V of the Clean Air Act (''the Act''), and implementing regulations at 40 Code of Federal Regulations (CFR) part 70 require that States develop and submit operating permits programs to the EPA by November 15, 1993, and that the EPA act to approve or disapprove each program within one year after receiving the submittal. The EPA's program review occurs pursuant to section 502 of the Act and the part 70 regulations, which together outline criteria for approval or disapproval. If a state does not have an approved program by two years after the November 15, 1993 date, EPA must establish and implement a Federal program.

On November 14, 1995, the EPA proposed full approval of the Operating Permits Program submitted for Puerto Rico. (See 60 FR 57204). Two comment letters were received on the Proposed Approval Notice. None of the comments regarded EPA's proposed approval of Puerto Rico's Title V program; in fact, both commenters supported EPA's proposed full approval. The comments,

however, deal with implementation of the program and EPA's responses are below. In this notice, the EPA is taking final action to promulgate full approval of the Operating Permits Program for Puerto Rico.

II. Final Action and Implications

A. Analysis of State Submission

On November 14, 1995, the EPA proposed full approval of PREQB's Title V Operating Permits Program. The program elements discussed in the proposed notice are unchanged from the analysis in the Full Approval Notice and continue to fully meet the requirements of 40 CFR part 70.

B. Response to Public Comments

1. Comment by Eli Lilly and Company

Eli Lilly and Company (Lilly) asked EPA to clarify that the terms ''modifications under any provision of Title I of the Act'' and ''case by case determination'' as they appear in Puerto Rico's Title V regulation (Part VI of the Regulation for the Control of Atmospheric Pollution (RCAP)) do not include minor new source review requirements. As stated by Lilly, in both a June 20, 1995 letter from Mary Nichols, Assistant Administrator for Air and Radiation, to members of Congress and a November 7, 1995 letter from Lydia Wegman, Deputy Director of the Office of Air Quality Planning and Standards, to William Becker of STAPPA/ALAPCO, the EPA has clarified that EPA's current interpretation of Title I modification does not include modifications subject to minor new source review. While the Puerto Rico Environmental Quality Board (PREQB) did not define Title I modification in its regulation, by letter dated January 24, 1996, PREQB confirmed that it plans to follow EPA's current interpretation of Title I modification. PREQB, therefore, does not consider modifications subject to its minor new source review program to be Title I modifications. Accordingly, under Puerto Rico's Title V program, changes subject to minor new source review can be processed following minor modification procedures (See RCAP Rule 606(b)(2)) and are eligible for the operational flexibility provisions of RCAP Rule 607 provided the changes meet the other eligibility criteria of RCAP Rules 606(b)(2) and 607.

2. Comment by the Puerto Rico Manufacturer's Association

The Puerto Rico Manufacturer's Association (PRMA) raised several questions regarding implementation of the Title V program.

a. The PRMA requested that PREQB adopt EPA's July 10, 1995 ''White Paper for Streamlined Development of Part 70 Permit Applications'' (''White Paper'') as part of the Title V approval process in order to provide sources a clear and duly notified directive and to avoid random application of the White Paper. PRMA requested that EPA Region II assist PREQB in the implementation of Puerto Rico's Title V program consistent with the White Paper guidelines.

Although EPA encourages states to implement the White Paper, EPA does not require a state to adopt the White Paper as part of EPA's program approval. The White Paper was drafted as guidance and, therefore, cannot be relied upon to create any rights enforceable by any party. Nevertheless, PREQB has ''adopted'' the White Paper. In other words, PREQB has included the White Paper as part of its Title V docket and has committed, at least during the early phases of program implementation, to follow all the guidelines of the White Paper. The EPA does agree with the commenter that EPA should work with Puerto Rico on the implementation of the Program consistent with the White Paper and EPA will work closely with PREQB (as well as the PRMA) on this streamlined implementation.

b. The PRMA proposed that the current state operating permits which Title V applicants are complying with (issued under RCAP Rule 204) be presumptively defined to incorporate new source review (NSR) permit terms and conditions. Because PREQB often revises the operating permit without first reviewing the terms of the corresponding preconstruction permit, this practice has resulted in operating permits with terms and conditions which supersede and render obsolete the original preconstruction permits. In addition, searching for the old NSR permits would be extremely burdensome to both PREQB and the applicant.

The EPA agrees that for minor NSR requirements, applicants and PREQB can use the existing state operating permits in lieu of minor NSR permits in defining the applicable requirements under minor New Source Review. PREQB's practice is that the minor NSR permit expires after one year and all conditions roll into the operating permit, and then only the operating permit conditions are revised as a result of plant modifications. Therefore, it would be impractical to require applicants to use only minor NSR permits, instead of the operating permits, as the basis for determining their applicable requirements. EPA supports PRMA's suggestion and has stated on page 15 of the White Paper: ''Where a permitting authority has already converted the NSR permit into an existing State operating permit before incorporation into the part 70 permit, the terms of the current permit to operate will presumptively define how NSR permit terms should be incorporated into part 70 permits.'' However, this flexibility does not necessarily apply to Major NSR and PSD or to minor NSR permits which were used in a final PSD non-applicability determination. First, if there are inconsistencies between the source's operating permit and a Major NSR or PSD permit, the conditions in the NSR or PSD permit take precedence and must be included as an applicable requirement in the source's Title V application. Second, the flexibility to use the state operating permit in lieu of the minor NSR permit to define the applicable requirement when the minor NSR permit was used in a final PSD non-applicability determination will be decided on a case by case basis.

c. The PRMA suggested that current operating permit terms that are environmentally insignificant and irrelevant and are not required under federal laws or regulations or under federally enforceable conditions of the RCAP (''the SIP'') should be considered as appropriate exclusions from part 70 permits (or could remain on the state-only side of part 70 permits). PRMA also suggested that current operating permit conditions that do not implement federal regulatory requirements and objectives, or that may have been provided in good faith by sources in permit applications, are also good candidates for exclusion from part 70 permits.

As correctly cited by PRMA, the White Paper states that NSR permit terms (or operating permit terms if being used in lieu of a minor NSR permit) that are obsolete, extraneous, environmentally insignificant or otherwise not required by the SIP or a federally enforceable NSR program need not be incorporated into part 70 permits. The White Paper also explains and provides examples of the above types of permit conditions. For instance, NSR terms regulating construction activity during the building or modification of a source, where the construction is long completed and the statute of limitations on construction-phase activities has run out, may no longer be necessary for inclusion in a part 70 permit. Another example of information that may not need to be incorporated into a part 70 permit is information incorporated by reference from an application for a

preconstruction permit, as long as this information is not needed to enforce NSR permit terms. The White Paper states that sources as part of their Title V application could propose which conditions of the minor NSR permit (or operating permit if being used in lieu of minor NSR permit) should be considered for revision, deletion or state-only status. PREQB could then agree or disagree with the suggestions while reviewing and drafting the permit (note: this process could be delayed until the first renewal if necessary). PREQB as part of its issuance of the part 70 permit (including the public participation process) could then simultaneously revise the minor NSR (or operating) permit. As a note, EPA does not believe that most of Puerto Rico's operating permits include irrelevant or extraneous terms. EPA believes there should only be a few cases where the procedure discussed in the White Paper will take place. Because most decisions will need to be made on a case by case basis, EPA will work closely with PREQB on the issuance of these permits. It should be noted that PSD permits are not minor NSR permits. If any applicant believes their PSD permit contains extraneous conditions, the applicant must request a revision of the PSD permit from EPA (the permitting authority for PSD in Puerto Rico) before excluding the condition from its Title V application.

d. The PRMA requested that certain rules of the RCAP which are currently included as part of Puerto Rico's approved SIP be considered state enforceable only as those rules are not necessary for Puerto Rico's strategy to achieve and maintain compliance with the National Ambient Air Quality Standards. The rules suggested for deletion include Rule 404—Fugitive Emissions, Rule 411—Hydrogen Sulfide, Rule 418—Waste Gas Disposal, Rule 419—Volatile Organic Compounds, Rule 420—Objectionable Odors, Rule 421—Increment Of Progress, and Rule 424—Roof Surface Coating.

With Puerto Rico's submittal of the revised RCAP for approval into the SIP, Puerto Rico requested that the above rules be deleted from the SIP. The EPA agrees that all the above rules except Rule 404 should be state enforceable only. Rule 404 is required for compliance with Puerto Rico's PM–10 SIP (See 60 FR 28333, May 31, 1995). EPA plans to delete Rules 411, 418, 419, 420, and 421 from the SIP when EPA makes its final SIP determination on the revised RCAP. Rule 424 on Roof Surface Coating was never approved into the SIP and is currently state enforceable only. In the meantime, while EPA processes Puerto Rico's regulation for SIP approval, applicants can, for purpose of application completeness, propose to address requirements of Rules 411, 418, 419, 420, and 421 as state enforceable only. If requesting that the conditions of these 5 rules be state enforceable only, applicants should provide a notation in their application which states ''pending deletion from the SIP''. However, PREQB may not issue Title V permits with state enforceable only conditions for these five rules until after EPA has approved Puerto Rico's SIP revision. EPA will expedite the processing of this SIP in order not to adversely impact Puerto Rico's schedule for issuing permits.

C. Options for Approval/Disapproval

The EPA is promulgating full approval of the Operating Permits Program submitted to the EPA by the PREQB on November 15, 1993 with supplemental packages on March 22, 1994 and April 11, 1994 and a revised regulation on September 29, 1995. Among other things, the PREQB has demonstrated that the program will be adequate to meet the minimum elements of a State operating permits program as specified in 40 CFR part 70.

Requirements for approval, specified in 40 CFR § 70.4(b), encompass section 112(l)(5) requirements for approval of a program for delegation of section 112 standards as promulgated by the EPA as they apply to part 70 sources. Section 112(l)(5) requires that the State's program contain adequate authorities, adequate resources for implementation, an expeditious compliance schedule, and adequate enforcement ability, which are also requirements under part 70. In a letter dated December 29, 1994, PREQB requested delegation through 112(l) of all existing 112 standards and all future 112 standards for both part 70 and non-part 70 sources and infrastructure programs. In the letter, PREQB demonstrated that they have sufficient legal authorities, adequate resources, the capability for automatic delegation of future standards, and adequate enforcement ability for implementation of section 112 of the Act for both part 70 sources and non-part 70 sources. Therefore, the EPA is also promulgating full approval under section 112(l)(5) and 40 CFR part 63.91 to Puerto Rico for its program mechanism for receiving delegation of all existing and future section 112(d) standards for both part 70 and non-part 70 sources, and section 112 infrastructure programs that are unchanged from Federal rules as promulgated.

III. Administrative Requirements

A. Docket

Copies of the State's submittal and other information relied upon for the final full approval, including the public comments received and reviewed by EPA on the proposal, are contained in the docket maintained at the EPA Regional Offices in New York and Puerto Rico and at PREQB. The docket is an organized and complete file of all the information submitted to, or otherwise considered by, EPA in the development of this final full approval. The docket is available for public inspection at the location listed under the ADDRESSES section of this document.

B. Executive Order 12866

The Office of Management and Budget has exempted this action from Executive Order 12866 review.

C. Regulatory Flexibility Act

The EPA's actions under section 502 of the Act do not create any new requirements, but simply address operating permits programs submitted to satisfy the requirements of 40 CFR part 70. Because this action does not impose any new requirements, it does not have a significant impact on a substantial number of small entities.

D. Unfunded Mandates

Under Section 202 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), signed into law on March 22, 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 most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 of the Unfunded Mandates Act 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 approval 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. This Federal action approves pre-existing requirements under State or local law, and imposes no new Federal requirements. Accordingly, no additional costs to

State, local, or tribal governments, or to the private sector, result from this action.

List of Subjects in 40 CFR Part 70

Environmental protection, Administrative practice and procedure, Air pollution control, Intergovernmental relations, Operating permits, Reporting and recordkeeping requirements.

Dated: February 6, 1996.

Jeanne M. Fox,

Regional Administrator.

40 CFR part 70 is amended as follows:

PART 70—[AMENDED]

1. The authority citation for part 70 continues to read as follows:

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

2. Appendix A to part 70 is amended by adding the entry for Puerto Rico in alphabetical order to read as follows:

Appendix A to Part 70—Approval Status of State and Local Operating Permits Programs

* * * * *

Puerto Rico

(a) The Puerto Rico Environmental Quality Board submitted an operating permits program on November 15, 1993 with supplements on March 22, 1994 and April 11, 1994 and revised on September 29, 1995; full approval effective on March 27, 1996.

(b) [Reserved]

* * * * *

[FR Doc. 96–4255 Filed 2–23–96; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Part 704

[OPPTS–82047; FRL–4982–7]

Revocation of Anthraquinone Recordkeeping and Reporting Requirements

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This document announces the revocation of the Toxic Substances Control Act (TSCA) section 8(a) information gathering rule on anthraquinone (CAS number 84–65–1), issued in the Federal Register of June 4, 1987. Data, as developed under the first tier of testing of an associated TSCA section 4 test rule (40 CFR 799.500), did not meet the hazard triggers for the second tier of testing under that rule. Thus, the section 8(a) reporting requirement, which has served as a mechanism to gather production/import level information that provided the basis for a production/import level trigger for the second tier of testing, is no longer needed.

EFFECTIVE DATE: This final rule takes effect on February 26, 1996.

FOR FURTHER INFORMATION CONTACT: Susan B. Hazen, Director, Environmental Assistance Division (7408), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460, Telephone: (202) 554–1404, TDD: (202) 554–0551, e-mail: TSCA-Hotline@epamail.epa.gov.

SUPPLEMENTARY INFORMATION:

I. Regulatory History

On November 29, 1984 (49 FR 46931), the Interagency Testing Committee (ITC) designated anthraquinone for priority testing consideration and recommended chemical fate and ecological effects testing. In response, EPA proposed a TSCA section 4 test rule and a TSCA section 8(a) reporting and recordkeeping rule for anthraquinone (50 FR 46090, November 6, 1985). These rules were finalized on June 4, 1987 (52 FR 21018), and codified at 40 CFR 799.500 and 704.30, respectively.

Under section 4(a)(1)(B) of TSCA, EPA required tiered testing. The first tier included: Water solubility; acute toxicity to chinook salmon or coho salmon, bluegill, and rainbow trout; acute toxicity to the invertebrates *Daphnia magna* or *D. pulex* and oyster; marine sediment toxicity to the amphipod *Rhepoxynius abronius*; and oyster bioconcentration. A second tier of testing would have been triggered if the Tier I test results met certain criteria and if the information reported under the section 8(a) rule indicated production/import volume in excess of 3 million lbs/yr. The second tier of tests included: Chronic toxicity in fish, chronic toxicity in Daphnia, biodegradability in sludge systems, and biodegradation rate. In the section 8(a) rule, EPA required that manufacturers (including importers) of anthraquinone submit an annual report to EPA stating the volume of anthraquinone manufactured or imported during their latest corporate fiscal year.

The last Tier I testing was submitted to EPA on August 21, 1989. Results of the Tier 1 tests, as conducted, did not meet the hazard triggers for Tier 2 testing, and Tier 2 testing was not triggered. The anthraquinone test rule had a sunset date of August 21, 1994, and was removed from the Code of Federal Regulations (CFR) by a final rule issued on June 19, 1995 (60 FR 21917). Because requirements under the test rule ended on August 21, 1994, there is no need for the continued annual reporting of production and import volumes of anthraquinone under 40 CFR 704.30.

II. Revocation of Anthraquinone Recordkeeping and Reporting Requirements

EPA is revoking the section 8(a) recordkeeping and reporting requirements at 40 CFR 704.30.

III. Analyses Under E.O. 12866, the Unfunded Mandates Act of 1995, the Regulatory Flexibility Act, and the Paperwork Reduction Act

Because this action eliminates certain requirements, this action is not significant within the meaning of Executive Order 12866 (58 FR 51735, October 4, 1993), and does not impose any Federal mandate on any State, local, or tribal governments or the private sector within the meaning of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4). For the same reasons, pursuant to the Regulatory Flexibility Act (5 U.S.C. 605(b)), it has been determined that this action will not have a significant impact on a substantial number of small entities. Additionally, because this rule eliminates reporting requirements, this action does not affect requirements under the Paperwork Reduction Act, 44 U.S.C. 3501.

IV. Public Docket

A record has been established for this rulemaking under docket number ''OPPTS–82047.'' A public version of this record, which does not include any information claimed as confidential business information (CBI), is available for inspection from 12 noon to 4 p.m., Monday through Friday, excluding legal holidays. The public record is located in the TSCA Nonconfidential Information Center, Rm. NE–B607, 401 M St., SW., Washington, DC.

List of Subjects in 40 CFR Part 704

Environmental protection, Chemicals, Hazardous substances, Reporting and recordkeeping requirements.

Dated: January 31, 1996.

Lynn R. Goldman,

Assistant Administrator for Prevention, Pesticides and Toxic Substances.

Therefore, 40 CFR chapter I is amended to read as follows:

PART 704—[AMENDED]

1. The authority citation for part 704 continues to read as follows:

Authority: 15 U.S.C. 2607(a).

§ 704.30 [Removed]

2. Section 704.30 is removed.

[FR Doc. 96–4251 Filed 2–23–96; 8:45 am]

BILLING CODE 6560–50–F

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Part 8364

[CA–059–1220–00]

Closure and Restriction Orders

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Emergency closure of certain public lands to motorized vehicle use in Shasta County, California.

SUMMARY: The BLM is prohibiting persons for an indefinite period from operating motorized vehicles on approximately 882 acres of public land that has been acquired from a private landowner through an exchange. This closure on motorized vehicle use will protect the natural environment of the public lands until BLM has conducted site specific inventories on the property and designated suitable roads for motorized vehicles to travel.

DATES: This emergency motorized vehicle closure will take effect February 26, 1996.

FOR FURTHER INFORMATION CONTACT: Charles M. Schultz, Area Manager, Bureau of Land Management, 355 Hemsted Drive, Redding, CA 96002.

SUPPLEMENTARY INFORMATION: The BLM acquired 882 acres of private land within sections 26, 27, 34 and 36 of T. 31 N., R. 6 W., of the M.D.M on January 31, 1996 from Sierra Pacific Industries, Inc. Appropriate uses of this property will be determined, in part, through the preparation of a management plan for the region. Until this management plan is completed and appropriate roads and trails are delineated, the four parcels are closed from entry and use by motorized vehicles. Exceptions to this closure include: emergency vehicles, fire suppression and rescue vehicles, BLM operation and maintenance vehicles, law enforcement vehicles, and other motorized vehicles specifically approved by an authorized officer of the Bureau of Land Management.

The authority for this closure and rule making is 43 CFR 8364.1. Any person who fails to comply with a closure order or rule making is subject to arrest and fines of up to $100.000 and/or imprisonment not to exceed 12 months.

Charles M. Schultz,

Redding Area Manager.

[FR Doc. 96–4193 Filed 2–23–96; 8:45 am]

BILLING CODE 4310–40–M

DEPARTMENT OF DEFENSE

48 CFR Part 231

[DFARS Case 95–D309]

Defense Federal Acquisition Regulation Supplement; Allowability of Costs

AGENCY: Department of Defense (DOD).

ACTION: Interim rule with request for comments.

SUMMARY: The Director of Defense Procurement has issued an interim rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to prohibit use of fiscal year 1996 funds to reimburse a contractor for costs paid by the contractor to an employee for a bonus or other payment in excess of the normal salary paid to the employee, when such payment is part of restructuring costs associated with a business combination.

DATES: *Effective date:* February 26, 1996.

Comment date: Comments on the interim rule should be submitted in writing to the address shown below on or before April 26, 1996, to be considered in the formulation of the final rule.

ADDRESSES: Interested parties should submit written comments to: Defense Acquisition Regulation Council, Attn: Ms. Sandra G. Haberlin, PDUSD(A&T)DP(DAR), IMD 3D139, 3062 Defense Pentagon, Washington, DC 20301–3062. Telefax number (703) 602–0350. Please cite DFARS Case 95–D309 in all correspondence related to this issue.

FOR FURTHER INFORMATION CONTACT: Ms. Sandra G. Haberlin (703) 602–0131.

SUPPLEMENTARY INFORMATION:

A. Background

This interim rule adds paragraph (f)(1) to DFARS Section 231.205–6 to implement Section 8122 of the Fiscal Year 1996 Defense Appropriations Act (Pub. L. 104–61). Section 8122 prohibits DOD from using fiscal year 1996 funds to reimburse a contractor for costs paid by the contractor to an employee for a bonus or other payment in excess of the normal salary paid by the contractor to the employee, when such payment is part of restructuring costs associated with a business combination. The interim rule clarifies that the prohibition does not apply to severance and early retirement incentive payments.

B. Determination To Issue an Interim Rule

A determination has been made under the authority of the Secretary of Defense to issue this rule as an interim rule. Compelling reasons exist to promulgate this rule without prior opportunity for public comment. This rule implements Section 8122 of the Defense Appropriations Act for Fiscal Year 1996 (Pub. L. 104–61), which was effective upon enactment on December 1, 1995. However, comments received in response to the publication of this rule will be considered in formulating the final rule.

C. Regulatory Flexibility Act

The interim rule is not expected to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, because most contracts awarded to small entities are awarded on a competitive fixed-price basis and cost principles, therefore, do not apply.

D. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the interim rule does not impose any new reporting or recordkeeping requirements which require Office of Management and Budget approval under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Part 231

Government procurement.

Michele P. Peterson,

Executive Editor, Defense Acquisition Regulations Council.

Therefore, 48 CFR part 231 is amended as follows:

1. The authority citation for 48 CFR part 231 continues to read as follows:

Authority: 41 U.S.C. 421 and 48 CFR Chapter 1.

PART 231—CONTRACT COST PRINCIPLES AND PROCEDURES

2. Section 231.205–6 is amended by adding paragraph (f)(1) to read as follows:

231.205–6 Compensation for personal services.

* * * * *

(f)(1) Costs for bonuses or other payments, that are in excess of the normal salary paid by the contractor to the employee and that are part of

restructuring costs associated with a business combination, are unallowable under DOD contracts funded by fiscal year 1996 appropriations (Pub. L. 104–61). This limitation does not apply to severance payments or early retirement incentive payments. (See 231.205–70(b) for the definitions of ''business combination'' and ''restructuring costs.'')

[FR Doc. 96–4197 Filed 2–23–96; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 642

[Docket No. 950725189–5260–02; I.D. 022096C]

Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic; Closure of a Commercial Fishery

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

ACTION: Closure of a commercial fishery for king mackerel.

SUMMARY: NMFS closes the commercial hook-and-line fishery for king mackerel in the exclusive economic zone (EEZ) in the Florida west coast sub-zone. This closure is necessary to protect the overfished Gulf king mackerel resource.

EFFECTIVE DATE: February 21, 1996, through June 30, 1996.

FOR FURTHER INFORMATION CONTACT: Mark F. Godcharles, 813–570–5305.

SUPPLEMENTARY INFORMATION: The fishery for coastal migratory pelagic fish (king mackerel, Spanish mackerel, cero, cobia, little tunny, dolphin, and, in the Gulf of Mexico only, bluefish) is managed under the Fishery Management Plan for the Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic (FMP). The FMP was prepared by the Gulf of Mexico and South Atlantic Fishery Management Councils (Councils) and is implemented by regulations at 50 CFR part 642 under the authority of the Magnuson Fishery Conservation and Management Act.

Catch limits recommended by the Councils and implemented by NMFS for the Gulf of Mexico migratory group of king mackerel set the commercial quota of king mackerel in the Florida west coast sub-zone at 865,000 pounds (392,357 kg). That quota was further divided into two equal quotas of 432,500 pounds (196,179 kg) for vessels in each of two groups by gear types—vessels fishing with run-around gillnets and those using hook-and-line gear.

Under 50 CFR 642.26(a), NMFS is required to close any segment of the king mackerel commercial fishery when its allocation or quota is reached, or is projected to be reached, by publishing notification in the Federal Register. NMFS has determined that the commercial quota of 432,500 pounds (196,179 kg) for Gulf group king mackerel for vessels using hook-and-line gear in the Florida west coast sub-zone was reached on February 20, 1996. The trip limit was previously reduced to 50 fish on January 24, 1996, when 75 percent of the quota was taken (January 29, 1996; 61 FR 2728). Hence, the commercial fishery for king mackerel for such vessels in the Florida west coast sub-zone is closed effective 12:01 a.m., local time, February 21, 1996, through June 30, 1996, the end of the fishing year.

The Florida west coast sub-zone extends from the Alabama/Florida boundary (87°31′06″ W. long.) to: (1) the Dade/Monroe County, Florida boundary (25°20.4′ N. lat.) from November 1 through March 31; and (2) the Monroe/Collier County, Florida boundary (25°48′ N. lat.) from April 1 through October 31.

NMFS previously determined that the commercial quota of king mackerel from the western zone of the Gulf of Mexico was reached and closed that segment of the fishery on September 5, 1995 (60 FR 47100, September 11, 1995). Subsequently, NMFS determined that the commercial quota of king mackerel for vessels using run-around gillnet gear in the Florida west coast sub-zone of the eastern zone of the Gulf of Mexico was reached and closed that segment of the fishery at noon on February 12, 1996. Thus, with this closure, all commercial fisheries for king mackerel in the EEZ are closed from the U.S./Mexico border through the Florida west coast sub-zone through June 30, 1996.

Except for a person aboard a charter vessel, during the closure, no person on board a vessel permitted to fish under a commercial allocation may fish for, retain, or have in possession in the EEZ Gulf group king mackerel from the closed zones. A person on board a charter vessel may continue to fish for king mackerel in the closed zones under the bag limit set forth in § 642.24(a)(1)(i), provided the vessel is under charter and the vessel has an annual charter vessel permit, as specified in § 642.4(a)(2). A charter vessel with a permit to fish on a commercial allocation is under charter when it carries a passenger who fishes for a fee or when there are more than three persons aboard, including operator and crew.

During the closure, king mackerel from the closed zones taken in the EEZ, including those harvested under the bag limit, may not be purchased, bartered, traded, or sold. This prohibition does not apply to trade in king mackerel from the closed zones that were harvested, landed, and bartered, traded, or sold prior to the closure and held in cold storage by a dealer or processor.

Classification

This action is taken under 50 CFR 642.26(a) and is exempt from review under E.O. 12866.

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

Dated: February 20, 1996.

Richard H. Schaefer,

Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 96–4216 Filed 2–21–96; 9:31 am]

BILLING CODE 3510–22–F

Proposed Rules

Federal Register
Vol. 61, No. 38
Monday, February 26, 1996

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

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 92

[Docket No. 95–084–1]

RIN 0579–AA77

Permanent Private Quarantine Facilities for Horses

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Advance notice of proposed rulemaking; withdrawal.

SUMMARY: We are soliciting public comment on the need for and appropriate standards for the establishment of permanent private quarantine facilities for horses imported into the United States. We are also giving notice that we are withdrawing a previously published proposed rule that would have allowed the operation of permanent private quarantine facilities for horses, added new requirements for approval of temporary private quarantine facilities for horses, and required the government to collect payment from each privately operated quarantine facility for services provided by the government at the facility.

DATES: Consideration will be given only to comments received on or before April 26, 1996.

ADDRESSES: Please send an original and three copies of your comments to Docket No. 95–084–1, Regulatory Analysis and Development, PPD, APHIS, suite 3C03, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Please state that your comments refer to Docket No. 95–084–1. Comments received may be inspected at USDA, room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Persons wishing to inspect comments are requested to call ahead on (202) 690–2817 to facilitate entry into the comment reading room.

FOR FURTHER INFORMATION CONTACT: Dr. David Vogt, Senior Staff Veterinarian, Import/Export Animals, National Center for Import and Export, VS, APHIS, Unit 39, 4700 River Road, Riverdale, MD 20737, (301) 734–8170.

SUPPLEMENTARY INFORMATION:

Background

The regulations in 9 CFR part 92 (referred to below as the regulations) govern the importation into the United States of specified animals and animal products in order to prevent the introduction into the United States of various communicable diseases. The regulations require that certain animals be quarantined upon arrival in the United States as a condition of importation. There are two types of quarantine facilities for animals being imported into the United States: Government operated facilities and privately operated facilities. The regulations contain requirements for the approval of temporary private quarantine facilities for horses; however, the regulations do not provide for the approval of permanent private quarantine facilities for horses.

Withdrawal of Previous Proposal

On September 6, 1989, we published in the Federal Register (54 FR 36986–36996, Docket No. 85–061) a proposed rule that would have allowed the operation of permanent private quarantine facilities for horses, added new requirements for approval of temporary private quarantine facilities for horses, and required the government to collect payment from each privately operated quarantine facility for services provided by the government at the facility. However, on August 2, 1990, we published in the Federal Register (55 FR 31484–31562, Docket No. 90–023) a final rule that reorganized all of part 92, including those sections concerning quarantine facilities for horses, so that the proposed provisions are no longer consistent with the current part 92 format. In addition, because of the amount of time that has elapsed since publication of the proposed rule, some of the proposed provisions may no longer be appropriate. For these reasons, we are withdrawing the proposed rule and reopening public discussion of the issues.

Comments Requested

There appears to be occasional public demand for quarantine services for horses other than those available at existing federal facilities. It also appears that temporary private quarantine facilities may not be able to fill this demand because such facilities are established, approved, and operated by importers to handle horses imported for a particular event. We are requesting comments on the need for permanent private quarantine facilities for horses. We are also requesting comments on appropriate specific standards for the establishment of permanent private quarantine facilities for horses in order to meet any existing unfulfilled demand for quarantine services.

Authority: 7 U.S.C. 1622; 19 U.S.C. 1306; 21 U.S.C. 102–105, 111, 114a, 134a, 134b, 134c, 134d, 134f, 135, 136, and 136a; 31 U.S.C. 9701; 7 CFR 2.22, 2.80, and 371.2(d).

Done in Washington, DC, this 21st day of February 1996.

Terry L. Medley,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 96–4247 Filed 2–23–96; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 95–AWP–14]

Proposed Establishment of Class E Airspace; Auburn, CA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to establish a Class E airspace area at Auburn, CA. The development of a Global Positioning System (GPS) Standard Instrument Approach Procedure (SIAP) to Runway (RWY) 7 has made this proposal necessary. The intended effect of this proposal is to provide adequate controlled airspace for Instrument Flight Rules (IFR) operations at Auburn Municipal Airport, Auburn, CA.

DATES: Comments must be received on or before March 25, 1996.

ADDRESSES: Send comments on the proposal in triplicate to: Federal

Aviation Administration, Attn: Manager, System Management Branch, AWP–530, Docket No. 95–AWP–14, Air Traffic Division, P.O. Box 92007, Worldway Postal Center, Los Angeles, California, 90009.

The official docket may be examined in the Office of the Assistant Chief Counsel, Western Pacific Region, Federal Aviation Administration, Room 6007, 15000 Aviation Boulevard, Lawndale, California 90261.

An informal docket may also be examined during normal business at the Office of the Manager, System Management Branch, Air Traffic Division at the above address.

FOR FURTHER INFORMATION CONTACT: Scott Speer, Airspace Specialist, System Management Branch, AWP–530, Air Traffic Division, Western Pacific Region, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, California 90261, telephone (310) 725–6533.

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 as self-addressed, stamped postcard on which the following statement is made: ''Comments to Airspace Docket No. 95–AWP–14.'' The postcard will be date/time stamped and returned to the commenter. All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination in the System Management Branch, Air Traffic Division, 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, System Management 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) by establishing a Class E airspace area at Auburn, CA. The development of GPS SIAP at Auburn Municipal Airport has made this proposal necessary. The intended effect of this proposal is to provide adequate Class E airspace for aircraft executing the Instrument Departure Procedure and the GPS RWY 7 SIAP at Auburn Municipal Airport, Auburn, CA. Class E airspace designations for airspace areas extending upward from 700 feet or more above the surface of the earth are published in Paragraph 6005 of FAA Order 7400.9C dated August 17, 1995, and effective September 16, 1995, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document would be published subsequently in this Order.

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

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

PART 71—[AMENDED]

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

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9C, Airspace Designations and Reporting Points, dated August 17, 1995, and effective September 16, 1995, is amended as follows:

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

* * * * *

AWP CA E5 Auburn, CA [New]

Auburn Municipal Airport, CA
(Lat. 38°57′10″N, long. 121°04′55″W)

That airspace extending upward from 700 feet above the surface within a 4.3-mile radius of Auburn Municipal Airport and within 4.3 miles each side of the 291° bearing from the Auburn Municipal Airport extending from the 4.3-mile radius to 5.6 miles northwest of the Auburn Municipal Airport.

* * * * *

Issued in Los Angeles, California, on February 8, 1996.

James H. Snow,

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

[FR Doc. 96–4269 Filed 2–23–96; 8:45 am]

BILLING CODE 4910–13–M

COMMODITY FUTURES TRADING COMMISSION

17 CFR Parts 1, 3, 145 and 147

Financial Reporting and Debt-Equity Ratio Requirements for Futures Commission Merchants and Introducing Brokers

AGENCY: Commodity Futures Trading Commission.

ACTION: Proposed rules.

SUMMARY: The Commodity Futures Trading Commission (Commission or CFTC) is proposing to amend several provisions of its Rule 1.10, which governs financial reporting requirements for futures commission merchants (FCMs) and introducing brokers (IBs). The proposed rule

amendments would require that financial reports which need not be certified by an independent public accountant be filed within 17 business days of the end of the reporting period, which is generally the end of a month, a quarter or a six-month period. The Commission is also proposing to require that certified financial reports be filed within 60 calendar days of the fiscal year end. Currently, the Commission allows 45 and 90 calendar days for the filing of uncertified and certified financial reports, respectively. In addition, the Commission is proposing to delete the provision which permits a self-regulatory organization to allow its member FCMs file financial reports on a semiannual rather than a quarterly basis. The Commission is further proposing to amend the debt-equity ratio rule such that the 30 percent minimum equity requirement would apply to all of a firm's capital, rather than only to that portion of a firm's capital necessary to meet the minimum financial requirement. These proposed rule amendments would conform the Commission's rules to the corresponding rules of the Securities and Exchange Commission (SEC) and the Commission's proposals are part of its ongoing efforts to harmonize its financial rules with those of the SEC to the extent practicable. These proposals are also part of a series of rulemaking proceedings related to the discussions at the Commission's roundtable on capital issues last September. The Commission anticipates that it will next address harmonization of early warning notices among the Commission, the SEC and self-regulatory organizations as well as capital charge based upon five percent of unsecured receivables from foreign brokers.

DATES: Comments on the proposed amendments must be received on or before March 27, 1996.

ADDRESSES: Comments should be sent to Jean A. Webb, Secretary of the Commission, Commodity Futures Trading Commission, 1155 21st Street, N.W., Washington, D.C. 20581. Please refer to ''Financial Reporting Cycle/ Debt-Equity Ratio Amendments.''

FOR FURTHER INFORMATION CONTACT: Lawrence B. Patent, Associate Chief Counsel, Division of Trading and Markets, Commodity Futures Trading Commission, at the address listed above. Telephone: (202) 418–5439.

SUPPLEMENTARY INFORMATION:

I. Financial Reporting Requirements for FCMs and IBs

A. Background

The Commission's minimum financial requirements are premised upon the concept that an FCM or an IB must maintain compliance with these requirements at all times.[1] An FCM or IB that is not in compliance with the minimum financial requirements, or is unable to demonstrate such compliance, must immediately cease doing business unless it can immediately demonstrate an ability to achieve compliance, in which case the Commission or the firm's designated self-regulatory organization (DSRO)[2] may, in its discretion, allow the firm up to 10 business days to achieve compliance without having to cease doing business.[3]

As part of the system of surveillance to assure that FCMs and IBs are maintaining compliance with their financial requirements, the Commission has established various reporting and recordkeeping requirements, and these begin when a firm applies for registration. An applicant for registration as an FCM must file a financial report certified by an independent public accountant[4] which shows that the applicant meets the minimum financial requirement for an FCM.[5] An applicant can meet this requirement in either of two ways, by filing: (1) A certified financial report as of a date not more than 45 days preceding its filing; or (2) an uncertified financial report as of a date not more than 45 days preceding its filing, accompanied by a certified financial report as of a date not more than one year preceding its filing.[6] After a firm is granted registration as an FCM, it generally must file uncertified financial reports on a quarterly or semiannual basis and a certified financial report as of its fiscal yearend.[7] If an FCM's adjusted net capital is below the ''early warning'' level (*i.e.*, 150 percent of the minimum requirement), it must file a financial report as of the close of business for the month during which such event takes place and as of the close of business for each month thereafter until three successive months have elapsed during which its adjusted net capital is at all times equal to or in excess of the early warning level.[8]

Commission rules also provide that the Commission or a DSRO can request a special financial report upon written notice.[9] In addition to the required financial reports, the Commission requires FCMs to make and keep as a record, but not file, a monthly computation of its adjusted net capital

[1] The statutory authority for the minimum financial requirements, Section 4f(b) of the Commodity Exchange Act (Act), 7 U.S.C. 6f(b) (1994), provides in pertinent part that:

Notwithstanding any other provisions of this chapter, no person desiring to register as futures commission merchant or as introducing broker shall be so registered unless he meets such minimum financial requirements as the Commission may by regulation prescribe as necessary to insure his meeting his obligation as a registrant, and each person so registered shall at all times continue to meet such prescribed minimum financial requirements * * *.

[2] The term ''self-regulatory organization'' (SRO) means a contract market or a registered futures association (National Futures Association (NFA) is currently the only registered futures association). 17 CFR 1.3(ee)(1995). A DSRO is the SRO, where an FCM or IB is a member of more than one SRO, that is delegated the responsibility under a plan approved by the Commission to monitor and audit such FCM or IB for compliance with minimum financial and related reporting requirements and to receive the financial reports necessitated by such requirements. 17 CFR 1.3(ff)(1995); see also 17 CFR 1.52(1995).

[3] See 17 CFR 1.17 (a)(3), (a)(4) and (a)(5) (1995).

[4] The Commission's rules relating to qualifications and reports of accountants are set forth in 17 CFR 1.16 (1995).

[5] The Commission recently proposed to increase the minimum required dollar amount of adjusted net capital for an FCM from $50,000 to $250,000. 60 FR 63995 (Dec. 13, 1995).

[6] An FCM or applicant therefor generally must file its financial report on Form 1–FR–FCM. However, the Commission also provides an FCM or applicant therefor that is also a securities broker or dealer the option of filing a copy of its Financial and Operational Combined Uniform Single (FOCUS) Report, Part II, filed with the SEC in lieu of Form 1–FR–FCM. See Commission Rule 1.10(h), 17 CFR 1.10(h)(1995). The Commission and the SEC are continuing to pursue efforts to develop a single financial reporting form that would be adopted by both agencies. If such a form were to require statements and schedules in addition to those currently required, the agencies may revisit the filing timetables but would continue to pursue harmonization to the extent practicable.

[7] Although Commission Rule 1.10(b)(1)(i) specifies a quarterly financial reporting requirement for FCMs, Commission Rule 1.52(a) permits a DSRO to determine the number of financial reports it receives from member FCMs so long as such reports are required on at least a semiannual basis. Currently, the New York Mercantile Exchange, the New York Cotton Exchange and the Kansas City Board of Trade permit member FCMs to file semiannual financial reports. Less than ten percent of FCMs (approximately 20 out of 258) file semiannually. As discussed below, the Commission is proposing to delete that provision of Rule 1.52(a).

[8] Commission Rule 1.12(b)(3). The Commission has proposed to redesignate paragraph (b)(3) of Rule 1.12 as paragraph (b)(4) and to add a new paragraph (b)(3). 60 FR 63995, 63999. If the Commission adopts those rule changes proposed last December prior to or simultaneously with the proposed amendment to Rule 1.12 concerning the due date for filing monthly financial reports set forth in this release, the latter amendment would appear in the redesignated Rule 1.12(b)(4).

[9] Commission Rule 1.10(b)(4). The Commission would generally make such a request if a firm were experiencing financial difficulties. In extraordinary circumstances, such as the October 1987 market break, the Commission has requested all firms to file a special financial report.

and its minimum financial requirement.[10]

An applicant for registration as an IB, in addition to the filing options available to an FCM applicant with respect to submitting a certified financial report no more than 45 days old or an uncertified financial report no more than 45 days old accompanied by a certified financial report no more than one year old, has the option of submitting a guarantee agreement entered into with an FCM. Most IBs choose the guarantee agreement option and when registered are often referred to as ''guaranteed introducing brokers'' or ''IBGs.'' [11] As such, they have no further financial reporting requirements. The minority of registered IBs which raise their own capital and are often referred to as ''independent introducing brokers'' or ''IBIs,'' are subject to financial reporting and recordkeeping requirements. An IBI must file an unaudited financial report as of mid-year and a certified financial report as of the fiscal yearend.[12] An IBI is not subject to that portion of the early warning requirements in Commission Rule 1.12 which mandates that notice and monthly financial reports be filed when adjusted net capital is less than 150 percent of the minimum requirement.[13] However, like an FCM, an IBI is subject to a request for a special financial report upon written notice by the Commission or a DSRO pursuant to Commission Rule 1.10(b)(4) and must prepare and maintain a monthly adjusted net capital and minimum financial requirement computation in accordance with Commission Rule 1.18.

The time frame within which registered FCMs and IBIs must submit interim unaudited financial reports is 45 days after the quarter or six-month period, and the certified yearend financial report must be filed within 90 days. FCMs subject to monthly reporting under the early warning rule must file reports within 30 days, and the monthly adjusted net capital and minimum financial requirement computations must be prepared by FCMs and IBIs within 30 days. If a special report is requested upon written notice by the Commission or a DSRO pursuant to Commission Rule 1.10(b)(4), such a report must be furnished within the time period specified in the notice.

B. Proposed Rule Amendments

1. Financial Reporting Cycle

The Commission is proposing to amend its financial reporting requirements for FCMs and IBIs such that interim unaudited financial reports would be due within 17 business days, rather than the current 45 calendar days, of the ''as of'' date, and the certified financial report as of the fiscal yearend would be due within 60, rather than 90, calendar days of the fiscal yearend. *See* proposed amendments to Commission Rules 1.10(b)(1) (i) and (ii). There will be no change in the requirement that applicants for registration as an FCM or an IB submitting only a certified financial report file such a report as of a date not more than 45 days prior to the date on which the report is filed, since that is a shorter timeframe than the proposed 60-day period for certified reports of registered firms.[14] However, if an applicant for registration as an FCM or an IB chooses the option of submitting a certified financial report that is no more than one year old accompanied by a recent uncertified financial report, the Commission's proposed amendments to Rules 1.10 (a)(2)(i)(B) and (a)(2)(ii)(B) would require that the latter have an ''as of'' date not more than 17 business days, rather the current 45 calendar days, prior to the date upon which it is filed. Similar treatment would be accorded to an IBG whose guarantee agreement with an FCM is terminated and who is seeking to become an IBI under proposed amendments to Commission Rules 1.10 (j)(8)(i)(B) and (j)(8)(ii)(B).

Certain unaudited financial reports are filed as of a monthend, where an FCM is filing financial reports under the early warning provision and where a firm succeeds to the business of an FCM or IBI (Rule 1.10 (a)(3)(i) and (a)(3)(ii)(A)). Such reports are now due within 30 and 45 calendar days, respectively. The Commission is proposing to amend these rules so that such unaudited financial reports, like a normal quarterly or semiannual report, would be due within 17 business days.

The monthly computation of adjusted net capital and minimum financial requirement which FCMs and IBIs must prepare in accordance with Commission Rule 1.18 is currently required to be made available for inspection within 30 days. Since these computations do not involve the preparation of all of the statements and schedules included in a Form 1–FR–FCM or a Form 1–FR–IB, the Commission is proposing to shorten the time period within which FCMs and IBIs must make available for inspection their monthly computations to 10 business days. The Commission also notes that this proposed shorter time period would conform the requirement pertaining to monthly computations to the SEC's requirement for filing Part I of the FOCUS Report, which is discussed below.

The Commission is also proposing to delete that portion of Rule 1.52(a) which permits an SRO to allow its member FCMs to file financial reports semiannually rather than quarterly. The Commission believes that this rule amendment would be consistent with the concept that financial reporting should be made more quickly than currently required so that such data does not become stale when it is reported to regulators. As noted above, relatively few firms are now filing only semiannually so the Commission does not believe that this rule amendment would cause undue hardship for a substantial number of FCMs.

The Commission was prompted to review its rules relating to the financial reporting cycle to assure that such rules are up-to-date in light of the speed and complexity of today's markets and available information technology following the roundtable on capital issues held on September 18, 1995, during which several matters relating to minimum financial and related reporting requirements were discussed. Several participants in the roundtable discussion stated that there should be greater harmonization of CFTC/SEC requirements in several areas such as financial reporting cycles.[15] The

[10] Commission Rule 1.18. As with other records required to be kept by the Act or rules thereunder, such record is open to inspection by any representative of the Commission or the U.S. Department of Justice. 17 CFR 1.31 (1995).

[11] As of November 30, 1995, of the registered IBs, 1,087 operated pursuant to a guarantee agreement with an FCM and 390 were raising their own capital. An IBG must introduce all accounts to its guarantor FCM. 17 CFR 1.57(a)(1)(1995).

[12] An IBI can file its financial reports using Form 1–FR–IB, which is shorter than Form 1–FR–FCM largely because an IBI, unlike an FCM, cannot handle customer funds and thus schedules related to segregation of customer funds are irrelevant to an IBI. For an IBI that is also a securities broker or dealer, it has the option under Commission Rule 1.10(h) to file a copy of its FOCUS Report, Part IIA, filed with the SEC in lieu of Form 1–FR–IB.

[13] The Commission recently proposed to increase the minimum required dollar amount of adjusted net capital for an IBI from $20,000 to $30,000. 60 FR 63995, 63996, 64000.

[14] The Commission has also determined not to propose an amendment to the timeframe for filing an uncertified financial report that must accompany an FCM's or IBI's request to withdraw its registration where such request is based upon the firm's having ceased engaging in activities requiring registration. Such a financial report must have an ''as of'' date not more than 30 days prior to the date of the withdrawal request. See Commission Rule 3.33(c)(1) which, as discussed below, is proposed to be amended for another reason.

[15] The other areas mentioned at the roundtable with respect to harmonization included debt-equity ratio requirements, which are discussed more fully below, early warning requirements and risk assessment data elements. The Commission is expecting to receive more input from the industry concerning harmonization of CFTC, SEC, and self-

proposed rule amendments that would make the CFTC reporting cycle for registered FCMs and IBIs 17 business days for unaudited financial reports and 60 calendar days for certified financial reports would conform Commission Rule 1.10 to the corresponding SEC rules governing the filing of the FOCUS Report, Part II or Part IIA.[16]

The SEC also requires monthly filing within 10 business days after the end of each month of Part I of the FOCUS Report by every securities broker or dealer who clears or carries customer accounts.[17] Although the Commission's requirement under Rule 1.18(b) that FCMs and IBIs prepare and make available for inspection monthly computations of adjusted net capital and the minimum financial requirement is not precisely analogous to the SEC requirement for filing a FOCUS Report, Part I on a monthly basis, the proposed amendment of Commission Rule 1.18 to require preparation of the monthly computations within 10 business days, rather than the current 30 calendar days, is also intended to promote harmonization between CFTC and SEC rules.

There is no specific analogue in the SEC's early warning rule[18] to the requirement under the CFTC's early warning rule for monthly filings of financial reports referred to above. (As noted in the preceding paragraph, SEC rules require that all firms which clear or carry customer accounts file a monthly FOCUS Report, Part I.) Since the Commission is proposing to require that routine interim financial reports be submitted within 17 business days of the ''as of'' date, the Commission believes that financial reports on firms that are required to report under the early warning provisions and thereby subject to enhanced scrutiny should not be filed on a longer time cycle. The Commission is therefore proposing that monthly financial reports required by Rule 1.12 be submitted within 17 business days of the monthend, rather than the current 30 calendar days.

The Commission does not believe that these amendments to the financial reporting cycle should be an undue hardship for FCMs and IBIs. Many of these firms are dually registered as securities broker-dealers or introducing brokers and are thus already subject to the SEC reporting timeframes.[19] Beyond the issue of conforming the filing cycles with the SEC, the Commission also believes that these proposed rule amendments are appropriate in light of the increasing rapidity and complexity of today's financial markets. FCMs and IBIs are required to be in compliance with minimum financial standards on a moment-to-moment basis and being required to formally demonstrate such compliance on a quicker schedule than is currently required is appropriate and achievable given advances in information technology.

2. Other Proposed Amendments

The Commission is also proposing two other minor amendments to the financial reporting requirements in Rule 1.10, both of which pertain to IBs. Currently, an applicant for registration as an IB that intends to operate pursuant to a guarantee agreement with an FCM must file a copy of the guarantee agreement with the regional office of the Commission nearest the principal place of business of the applicant (except that an applicant under the jurisdiction of the Commission's Western Regional Office in Los Angeles must file a copy with the Commission's Southwestern Regional Office in Kansas City).[20] This requirement is in addition to the requirement to file the original of the guarantee agreement with the registration application submitted to NFA. The Commission is proposing to amend Rule 1.10(c) to eliminate the requirement that a copy of a guarantee agreement be filed with a Commission regional office. An IB's status as an IBG can be readily discerned by Commission staff from contacting NFA's Information Center or by accessing the registration database. An IBG has no ongoing financial reporting requirements, so the Commission believes that no purpose is served by continuing to maintain copies of guarantee agreements. The Commission further believes that this amendment to Rule 1.10(c) will ease filing burdens on IB applicants and record maintenance burdens on the Commission's staff.

The other proposed amendment to the financial reporting requirements would eliminate Rule 1.10(i). Rule 1.10(i) provides an IBI or an applicant which is also a country elevator an alternative to satisfy its financial reporting obligation by filing, in lieu of filing a Form 1–FR–IB, a copy of a compilation report of financial statements of warehousemen for purposes of Uniform Grain Storage Agreements, prepared in accordance with requirements of the U.S. Department of Agriculture. This provision was adopted when the Commission first adopted rules to govern IBs in 1983[21] and has never been utilized. The Commission believes it is appropriate to delete this provision as a means of streamlining and simplifying Rule 1.10. References to Rule 1.10(i) in other Commission rules would likewise be eliminated.[22]

II. Proposed Amendments to Debt-Equity Ratio Requirements

A. Proposed Rule Amendments

Commission Rule 1.17(d) sets forth the debt-equity ratio requirement, which requires that at least 30 percent of an FCM's or IBI's *required* debt-equity total must consist of equity capital.[23] Thus, if

regulatory organization rules relating to early warning notices following the next meeting of the Intermarket Financial Surveillance Group (IFSG). IFSG was formed in 1988 to provide a coordinating body to address financial surveillance issues relevant to both futures and securities markets and includes representatives of the principal futures and securities exchanges as well as NFA and the National Association of Securities Dealers, Inc. The Commission has outstanding proposals to amend the early warning notice requirements. 59 FR 66822 (Dec. 28, 1994). As to risk assessment data elements, the Commission's staff will continue to consult with staff from the SEC and other financial regulators concerning appropriate data elements. See also 60 FR 63995, 63998.

[16] *See* 17 CFR 240.17a–5 (a)(2)(ii), (a)(2)(iii), and (d)(5)(1995). As to an applicant for registration as a securities broker or dealer or an introducing broker, the SEC does not require submission of a financial report with the registration application. Instead, an inspection is conducted by a self-regulatory organization within six months after a firm is registered to determine whether the firm is operating in conformity with applicable financial responsibility rules. See 17 CFR 240.15b1–1 and 240.15b2–2 (1995).

[17] Part I of the FOCUS Report consists of two pages upon which a firm reports key financial and operational data in summary form including items such as subordinated debt, net profit or loss, ownership equity, partners' capital, non-allowable assets, net capital and haircuts. The FOCUS Report Part I contains side-by-side columns for each month of the year to allow visual month-to-month comparison of key items. Part II or Part IIA of the FOCUS Report requires several pages of in-depth computations of a firm's financial condition and minimum requirements.

[18] 17 CFR 240.17a–11 (1995).

[19] As of November 30, 1995, almost one-half of FCMs (approximately 120 out of 258) and one-third of IBIs (approximately 141 out of 390) were dually registered with the SEC.

[20] The geographic coverage of jurisdiction of the Commission's regional offices is set forth in 17 CFR 140.2 (1995).

[21] 48 FR 35248, 35263, 35282 (Aug. 3, 1983).

[22] See proposed deletions of Rules 1.10(g)(3), 145.5(d)(1)(i)(G) and 147.3(b)(4)(i)(A)(*7*) as well as proposed amendments to Rules 1.10(g)(5), 1.18 (a) and (b), and 3.33(c)(1).

[23] In addition to certain subordinated debt as described more fully below, equity capital includes the following:

(1) In the case of a corporation, the sum of its par or stated value of capital stock, paid in capital in excess of par, retained earnings, unrealized profit and loss, and other capital accounts;

(2) In the case of a partnership, the sum of its capital accounts of partners (inclusive of such partners' commodity interest and securities accounts subject to the provisions of Rule 1.17(e) concerning restrictions on withdrawals of equity capital), and unrealized profit and loss; and

(3) In the case of a sole proprietorship, the sum of its capital accounts and unrealized profit and loss.

Continued

an FCM's required debt-equity total amount is $1 million, it must maintain equity capital as defined in the Commission's rules of $300,000. No matter how much adjusted net capital is actually maintained by an FCM or IBI, the thirty percent equity requirement currently applies only to the amount of required debt-equity total. Accordingly, if an FCM has a $1 million adjusted net capital requirement and actually maintains $5 million in adjusted net capital (*i.e.*, it has $4 million in ''excess'' adjusted net capital), the entire $4 million amount above the minimum requirement could consist of debt subject to satisfactory subordination agreements in accordance with Commission Rule 1.17(h).[24]

When the Commission originally proposed what is now Rule 1.17(d) in 1977, the debt-equity ratio requirement was patterned upon the SEC rule and would have applied to a firm's debt-equity total.[25] However, in response to comments that ''it would be inappropriate to penalize a firm that maintains capital in the form of satisfactory subordination agreements, which is in excess of the minimum required by regulation,'' the Commission revised its proposal. As adopted, Rule 1.17(d) provides that the required debt-equity total to which the 30 percent equity capital requirement applies means a firm's debt-equity total less its excess adjusted net capital.[26]

Several of the panelists at the capital roundtable on September 18, 1995 urged the Commission to pursue greater harmonization between CFTC and SEC financial rules and related reporting requirements and the debt-equity ratio requirement was one area referred to in this regard. The Commission also notes that the general international standard is to apply the debt-equity ratio requirement to all of a firm's capital.[27] The Commission believes that it is important for its rules to conform to international standards with respect to the quality of capital.

Accordingly, in light of these developments and its own reconsideration of the issue, the Commission has determined to propose to amend Rule 1.17(d) to require that the 30 percent debt-equity ratio requirement apply to an FCM's or IBI's debt-equity total. The Commission notes that, as referred to above, a large proportion of FCMs and IBIs are also securities brokers or dealers and thus already subject to the SEC rule concerning the debt-equity ratio.[28] The Commission further notes that Rule 1.17(d)(1) provides that certain subordinated debt may qualify as equity capital if specified conditions are met, in addition to those which apply to subordinated debt in general. These additional conditions are: (1) The lender must be a partner or stockholder of the FCM or IBI; (2) the initial term of the debt must be at least three years, and there must be a remaining term of not less than twelve months;[29] (3) the governing subordination agreement does not contain most of the otherwise permissible provisions relating to accelerated maturity; (4) the governing subordination agreement allows no special prepayment of the debt (*i.e.*, prepayment before one year from the date such subordination agreement becomes effective); and (5) the debt in question is maintained as equity capital subject to the provisions on withdrawal of equity capital contained in Commission Rule 1.17(e). If a firm is organized as a partnership, however, additional conditions (3) and (4) need not be met for subordinated debt to qualify as equity capital, if the partnership agreement provides that the capital contributed pursuant to a satisfactory subordination agreement as defined in Commission Rule 1.17(h) shall in all respects be partnership capital subject to the provisions restricting the withdrawal thereof set forth in Commission Rule 1.17(e).

B. Request for Comment

Following the capital roundtable in September, the Chicago Mercantile Exchange (CME), on behalf of the IFSG, submitted a letter to the Commission's Division of Trading and Markets dated October 31, 1995 supporting the goal of conforming the rules of the Commission and the SEC concerning the debt-equity ratio requirement. CME also requested in that letter, and in a similar letter of the same date to the SEC's Division of Market Regulation, that the financial rules of each agency be amended such that goodwill net of amortization could be subtracted from the denominator when a firm calculates its debt-equity ratio.[30] Since the SEC has not yet made such a change in its rule and since the Commission's intention in this proposal is to conform its rule to that of the SEC concerning the debt-equity ratio requirement, the Commission is not proposing to incorporate the CME's request in the proposed amendment to Rule 1.17(d). However, the Commission's staff will discuss this matter with staff of the SEC. The Commission also specifically requests comment upon the CME's suggestion, which could be accommodated by amending Rule 1.17(d)(2) to define debt-equity total as equity capital as defined in Rule 1.17(d)(1) *less goodwill net of amortization* plus total subordinated debt, and whether the Commission should adopt such a rule amendment in conjunction with or irrespective of action taken by the SEC. The Commission staff also notes, however, that information provided by CME based upon studies of several SROs indicates that the number of firms reporting goodwill as an asset is quite small.

III. Related Matters

A. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA), 5 U.S.C. 601 *et seq.*, requires that agencies, in proposing rules, consider the impact of those rules on small businesses. The rule amendments proposed herein would affect FCMs and IBIs. The Commission has previously determined that, based upon the fiduciary nature of FCM/customer relationships, as well as the requirement that FCMs meet minimum financial requirements, FCMs should be excluded from the definition of small entity.[31]

With respect to IBs, the Commission has stated that it is appropriate to evaluate within the context of a particular rule proposal whether some or all IBs should be considered to be small entities and, if so, to analyze the economic impact on such entities at that

''Debt-equity total'' means equity capital as described above plus the outstanding principal amount of subordinated debt which does not qualify as equity capital. The ''required debt-equity total'' means debt-equity total less the amount by which a firm's adjusted net capital exceeds the minimum required. 17 CFR 1.17(d)(1995).

[24] 17 CFR 1.17(h) (1995).

[25] 42 FR 27166, 27177 (May 26, 1977).

[26] 43 FR 39956, 39965, 39976 (Sept. 8, 1978).

[27] This is the recommendation of Working Party No. 3 of the Technical Committee of the International Organization of Securities Commissions (IOSCO). See Report of the Technical Committee of IOSCO, ''Capital Requirements for Multinational Securities Firms,'' XV Annual Conference of IOSCO, Santiago, Chile 1990.

[28] See n.19 *supra.* The Commission notes that the SEC definition of equity capital does not include, in the case of a partnership, partners' securities accounts. See 17 CFR 240.15c3–1(d)(1995).

[29] Subordinated debt entered into today with a maturity date of January 1, 2000 could, therefore, qualify as equity capital if all other requirements were met. On January 1, 1999, however, such subordinated debt would no longer be counted as equity capital unless an extension of the maturity date had been agreed to by the parties, since the remaining term of the debt would be less than one year at that time.

[30] CME stated in its letters that it was making this request because, by definition, goodwill is an intangible asset acquired in a business combination which represents the excess ''going concern'' value over the fair value of a firm's net assets, it lacks separability from the firm itself, and its value is often indefinite, indeterminate and subject to wide fluctuation.

[31] See 47 FR 18618, 18619 (Apr. 30, 1982.)

time.[32] The proposed amendments to Rules 1.10 and 1.18 relate to the time within which financial reports must be filed and monthly financial computations must be prepared, but would not increase the number of reports or records. Accordingly, these proposed amendments should impose no additional requirements on an IBI. In addition, the proposed amendment to Rule 1.17(d) for an IBI would conform the Commission's requirement to that of the SEC. More than one-third of the IBIs are also subject to the jurisdiction of the SEC and therefore the proposed amendment to Rule 1.17(d) should have no impact on the financial operations of these IBIs. Thus, if adopted, these proposals would not have a significant economic impact on a substantial number of IBs. Therefore, pursuant to Section 3(a) of the RFA, 5 U.S.C. 605(b), the Chairman certifies that these proposed rule amendments will not have a significant economic impact on a substantial number of small entities.

B. Paperwork Reduction Act

The Paperwork Reduction Act of 1990, (PRA) 44 U.S.C. 3501 *et seq.*, imposes certain requirements on federal agencies (including the Commission) in connection with their conducting or sponsoring any collection of information as defined by the PRA. While the amendments proposed herein have no burden, Rules 1.10, 1.12, 1.17, and 1.18 are part of a group of rules with the following burden.

The burden associated with the collection required by Rules 1.10, 1.12, 1.17 and 1.18 (3038–0024), including these proposed amendments, is as follows:

Average Burden Hours Per Response (FCMs)	7.00
Average Burden Hours Per Response (IBs)	5.00
Number of FCM Respondents	785.00
Number of IB Respondents	542.00
Frequency of Response	5.00

Persons wishing to comment on the estimated paperwork burden associated with these proposed rule amendments should contact Jeff Hill, Office of Management and Budget, Room 3228, NEOB, Washington, DC 20503, (202) 395–7340. Copies of the information collection submission to OMB are available from Joe F. Mink, CFTC Clearance Officer, 1155 21st Street, NW., Washington, DC 20581, (202) 418–5170.

[32] See 48 FR 35248, 35275–78 (Aug. 3, 1983).

List of Subjects

17 CFR Part 1

Commodity futures, minimum financial requirements.

17 CFR Part 3

Commodity futures, reporting and recordkeeping requirements.

17 CFR Part 145

Freedom of information, exceptions.

17 CFR Part 147

Sunshine Act, exceptions.

In consideration of the foregoing and pursuant to the authority contained in the Commodity Exchange Act and, in particular, Sections 4f, 4g and 8a(5) thereof, 7 U.S.C. 6f, 6g and 12a(5), the Commission hereby proposes to amend Chapter I of Title 17 of the Code of Federal Regulations as follows:

PART 1—GENERAL REGULATIONS UNDER THE COMMODITY EXCHANGE ACT

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

Authority: 7 U.S.C. 1a, 2, 2a, 4, 4a, 6, 6a, 6b, 6c, 6d, 6e, 6f, 6g, 6h, 6i, 6j, 6k, 6l, 6m, 6n, 6o, 6p, 7, 7a, 7b, 8, 9, 12, 12a, 12c, 13a, 13a–1, 16, 16a, 19, 21, 23 and 24.

2. Section 1.10 is amended by revising paragraphs (a)(2)(i) (A) and (B), (a)(2)(ii) (A) and (B), (a)(3)(i), (a)(3)(ii)(A), (b)(1)(i), (b)(1)(ii) and (c), by removing and reserving paragraph (g)(3), by revising paragraph (g)(5), by removing and reserving paragraph (i), and by revising paragraphs (j)(8)(i)(B) and (j)(8)(ii)(B) to read as follows:

§ 1.10 Financial reports of futures commission merchants and introducing brokers.

(a) * * *

(2) * * *

(i) * * *

(A) A Form 1–FR–FCM certified by an independent public accountant in accordance with § 1.16 as of a date not more than 45 days prior to the date on which such report is filed; or

(B) A Form 1–FR–FCM as of a date not more than 17 business days prior to the date on which such report is filed and a Form 1–FR–FCM certified by an independent public accountant in accordance with § 1.16 as of a date not more than 1 year prior to the date on which such report is filed.

(ii) * * *

(A) A Form 1–FR–IB certified by an independent public accountant in accordance with § 1.16 as of a date not more than 45 days prior to the date on which such report is filed; or

(B) A Form 1–FR–IB as of a date not more than 17 business days prior to the date on which such report is filed and a Form 1–FR–IB certified by an independent public accountant in accordance with § 1.16 as of a date not more than 1 year prior to the date on which such report is filed; or

* * * * *

(3)(i) The provisions of paragraph (a)(2) of this section do not apply to any person succeeding to and continuing the business of another futures commission merchant. Each such person who files an application for registration as a futures commission merchant and who is not so registered in that capacity at the time of such filing must file a Form 1–FR as of the first monthend following the date on which his registration is approved. Such report must be filed with the National Futures Association, the Commission and the designated self-regulatory organization, if any, not more than 17 business days after the date for which the report is made.

(ii) * * *

(A) Each such person who succeeds to and continues the business of an introducing broker which was not operating pursuant to a guarantee agreement, or which was operating pursuant to a guarantee agreement and was also a securities broker or dealer at the time of succession, who files an application for registration as an introducing broker, and who is not so registered in that capacity at the time of such filing, must file with the National Futures Association either a guarantee agreement with his application for registration or a Form 1–FR–IB as of the first monthend following the date on which his registration is approved. Such Form 1–FR–IB must be filed not more than 17 business days after the date for which the report is made.

* * * * *

(b) *Filing of financial reports.* (1)(i) Except as provided in paragraphs (b)(3) and (h) of this section, each person registered as a futures commission merchant must file a Form 1–FR–FCM for each fiscal quarter of each fiscal year unless the futures commission merchant elects, pursuant to paragraph (e)(2) of this section, to file a Form 1–FR–FCM for each calendar quarter of each calendar year. Each Form 1–FR–FCM must be filed no later than 17 business days after the date for which the report is made: *Provided, however,* That any Form 1–FR–FCM which must be certified by an independent public accountant pursuant to paragraph (b)(2) of this section must be filed no later than 60 days after the close of each

futures commission merchant's fiscal year.

(ii) Except as provided in paragraphs (b)(3) and (h) of this section, and except for an introducing broker operating pursuant to a guarantee agreement which is not also a securities broker or dealer, each person registered as an introducing broker must file a Form 1–FR–IB semiannually as of the middle and the close of each fiscal year unless the introducing broker elects pursuant to paragraph (e)(2) of this section to file a Form 1–FR–IB semiannually as of the middle and the close of each calendar year. Each Form 1–FR–IB must be filed no later than 17 business days after the date for which the report is made: *Provided, however,* That any Form 1–FR–IB which must be certified by an independent public accountant pursuant to paragraph (b)(2) of this section must be filed no later than 60 days after the close of each introducing broker's fiscal year.

* * * * *

(c) *Where to file reports.* The reports provided for in this section will be considered filed when received by the regional office of the Commission nearest the principal place of business of the registrant (except that a registrant under the jurisdiction of the Commission's Western Regional Office must file such reports with the Southwestern Regional Office) and by the designated self-regulatory organization, if any; and reports required to be filed by this section by an applicant for registration will be considered filed when received by the National Futures Association and by the regional office of the Commission nearest the principal place of business of the applicant (except that an applicant under the jurisdiction of the Commission's Western Regional Office must file such reports with the Southwestern Regional Office): *Provided, however,* That information required of a registrant pursuant to paragraph (b)(4) of this section need be furnished only to the self-regulatory organization requesting such information and the Commission, and that information required of an applicant pursuant to paragraph (b)(4) of this section need be furnished only to the National Futures Association and the Commission: *And, provided further,* That any guarantee agreement entered into between a futures commission merchant and an introducing broker in accordance with the provisions of this section need be filed only with and will be considered filed when received by the National Futures Association.

* * * * *

(g) * * *

(3) [Reserved]

* * * * *

(5) The independent accountant's opinion and a guarantee agreement filed pursuant to this section will be deemed public information.

* * * * *

(i) [Reserved]

(j) * * *

(8) * * *

(i) * * *

(B) A Form 1–FR–IB as of a date not more than 17 business days prior to the date on which the report is filed and a Form 1–FR–IB certified by an independent public accountant in accordance with § 1.16 as of a date not more than one year prior to the date on which the report is filed.

* * * * *

(ii) * * *

(B) A Form 1–FR–IB as of a date not more than 17 business days prior to the date on which the report is filed and a Form 1–FR–IB certified by an independent public accountant in accordance with § 1.16 as of a date not more than one year prior to the date on which the report is filed.

* * * * *

3. Section 1.12 is amended by revising paragraph (b)(3) to read as follows:

§ 1.12 Maintenance of minimum financial requirements by futures commission merchants and introducing brokers.

* * * * *

(b) * * *

(3) For securities brokers or dealers, the amount of net capital specified in Rule 17a–11(b) of the Securities and Exchange Commission (17 CFR 240.17a–11(b)), must file written notice to that effect as set forth in paragraph (g) of this section within five (5) business days of such event. Such applicant or registrant must also file a Form 1–FR–FCM (or, if such applicant or registrant is registered with the Securities and Exchange Commission as a securities broker or dealer, it may file, in accordance with § 1.10(h), a copy of its Financial and Operational Combined Uniform Single Report under the Securities Exchange Act of 1934, Part II, in lieu of Form 1–FR–FCM) or such other financial statement designated by the National Futures Association, in the case of an applicant, or by the Commission or the designated self-regulatory organization, if any, in the case of a registrant, as of the close of business for the month during which such event takes place and as of the close of business for each month thereafter until three (3) successive months have elapsed during which the applicant's or registrant's adjusted net capital is at all times equal to or in the excess of the minimums set forth in this paragraph (b) which are applicable to such applicant or registrant. Each financial statement required by this paragraph (b) must be filed within 17 business days after the end of the month for which such report is being made.

* * * * *

4. Section 1.17 is amended by revising the introductory text of paragraph (d) and by removing paragraph (d)(3) to read as follows:

§ 1.17 Minimum financial requirements for futures commission merchants and introducing brokers.

* * * * *

(d) Each applicant or registrant shall have equity capital (inclusive of satisfactory subordination agreements which qualify under this paragraph (d) as equity capital) of not less than 30 percent of the debt-equity total, provided, an applicant or registrant may be exempted from the provisions of this paragraph (d) for a period not to exceed 90 days or for such longer period which the Commission may, upon application of the applicant or registrant, grant in the public interest or for the protection of investors. For the purposes of this paragraph (d):

* * * * *

5. Section 1.18 is amended by revising paragraphs (a) and (b) to read as follows:

§ 1.18 Records for and relating to financial reporting and monthly computation by futures commission merchants and introducing brokers.

(a) No person shall be registered as a futures commission merchant or as an introducing broker under the Act unless, commencing on the date his application for such registration is filed, he prepares and keeps current ledgers or other similar records which show or summarize, with appropriate references to supporting documents, each transaction affecting his asset, liability, income, expense and capital accounts, and in which (except as otherwise permitted in writing by the Commission) all his asset, liability and capital accounts are classified into either the account classification subdivisions specified on Form 1–FR–FCM or Form 1–FR–IB, respectively, or, if such person is registered with the Securities and Exchange Commission as a securities broker or dealer and he files (in accordance with § 1.10(h)) a copy of his Financial and Operational Combined Uniform Single Report under the Securities Exchange Act of 1934, Part II or Part IIA, in lieu of Form 1–FR–FCM or Form 1–FR–IB, the account

classification subdivisions specified on such Report, or categories that are in accord with generally accepted account ing principles. Each person so registered shall prepare and keep current such records.

(b) Each applicant or registrant must make and keep as a record in accordance with § 1.31 formal computations of its adjusted net capital and of its minimum financial requirements pursuant to § 1.17 or the requirements of the designated self-regulatory organization to which it is subject as of the close of business each month. An applicant or registrant which is also registered as a securities broker or dealer with the Securities and Exchange Commission may meet the computation requirements of this paragraph (b) by completing the Statement of Financial and Operational Combined Uniform Single Report under the Securities Exchange Act of 1934, Part II or Part IIA. Such computations must be completed and made available for inspection by any representative of the National Futures Association, in the case of an applicant, or of the Commission or designated self-regulatory organization, if any, in the case of a registrant, within 10 business days after the date for which the computations are made, commencing the first monthend after the date the application for registration is filed.

* * * * *

6. Section 1.52 is amended by revising paragraph (a) to read as follows:

§ 1.52 Self-regulatory organization adoption and surveillance of minimum financial requirements.

(a) Each self-regulatory organization must adopt, and submit for Commission approval, rules prescribing minimum financial and related reporting requirements for all its members who are registered futures commission merchants. Each self-regulatory organization other than a contract market must adopt, and submit for Commission approval, rules prescribing minimum financial and related reporting requirements for all its members who are registered introducing brokers. Each contract market which elects to have a category of membership for introducing brokers must adopt, and submit for Commission approval, rules prescribing minimum financial and related reporting requirements for all its members who are registered introducing brokers. Each self-regulatory organization shall submit for Commission approval any modification or other amendments to such rules. Such requirements must be the same as, or more stringent than, those contained in §§ 1.10 and 1.17 of this part and the definition of adjusted net capital must be the same as that prescribed in § 1.17(c) of this part: *Provided, however,* A designated self-regulatory organization may permit its member registrants which are registered with the Securities and Exchange Commission as securities brokers or dealers to file (in accordance with § 1.10(h) of this part) a copy of their Financial and Operational Combined Uniform Single Report under the Securities Exchange Act of 1934, Part II or Part IIA, in lieu of Form 1–FR: And, provided further, A designated self-regulatory organization may permit its member introducing brokers to file a Form 1–FR–IB in lieu of a Form 1–FR–FCM.

* * * * *

PART 3—REGISTRATION

7. The authority citation for Part 3 is revised to read as follows:

Authority: 7 U.S.C. 1a, 2, 4, 4a, 6, 6a, 6b, 6c, 6d, 6e, 6f, 6g, 6h, 6i, 6k, 6m, 6o, 6p, 8, 9, 9a, 12, 12a, 13b, 13c, 16a, 18, 19, 21, 23; 5 U.S.C. 552, 552b.

Subpart A—Registration

8. Section 3.33 is amended by revising paragraph (c)(1) to read as follows:

§ 3.33 Withdrawal from registration.

* * * * *

(c)(1) Where a futures commission merchant or an introducing broker which is not operating pursuant to a guarantee agreement is requesting withdrawal from registration in that capacity and the basis for withdrawal under paragraph (a)(1) of this section is that it has ceased engaging in activities requiring registration, the request for withdrawal must be accompanied by a Form 1–FR–FCM or a Form 1–FR–IB, respectively, which contains the information specified in § 1.10(d)(1) of this chapter as of a date not more than 30 days prior to the date of the withdrawal request: *Provided, however,* That if such registrant is also registered with the Securities and Exchange Commission as a securities broker or dealer, it may file a copy of its Financial and Operational Combined Uniform Single Report under the Securities Exchange Act of 1934, Part II or Part IIA (in accordance with § 1.10(h) of this chapter), in lieu of Form 1–FR–FCM or Form 1–FR–IB. Any financial report submitted pursuant to this paragraph (c)(1) must contain the information specified in § 1.10(d)(1) of this chapter as of a date not more than 30 days prior to the date of the withdrawal request.

* * * * *

PART 145—COMMISSION RECORDS AND INFORMATION

9. The authority citation for Part 145 continues to read as follows:

Authority: Pub. L. 89–554, 80 Stat. 383, Pub. L. 90–23, 81 Stat. 54, Pub. L. 93–502, 88 Stat. 1561–1564 (5 U.S.C. 552); Sec. 101(a), Pub. L. 93–463, 88 Stat. 1389 (5 U.S.C. 4a(j)); Pub. L. 99–570, unless otherwise noted.

§ 145.5 [Amended]

10. Section 145.5 is amended by removing and reserving paragraph (d)(1)(i)(G).

PART 147—OPEN COMMISSION MEETINGS

11. The authority citation for Part 147 continues to read as follows:

Authority: Sec. 3(a), Pub. L. 94–409, 90 Stat. 1241 (5 U.S.C. 552b); Sec. 101(a)(11), Pub. L. 93–463, 88 Stat. 1391 (7 U.S.C. 4a(j)(Supp. V 1975)), unless otherwise noted.

§ 147.3 [Amended]

12. Section 147.3 is amended by removing and reserving paragraph (b)(4)(i)(A)(*7*).

Issued in Washington, D.C. on February 20, 1996 by the Commission.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 96–4236 Filed 2–23–96; 8:45 am]

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Chapter I

[Docket No. 96N–0002]

''Draft Document Concerning the Regulation of Placental/Umbilical Cord Blood Stem Cell Products Intended for Transplantation or Further Manufacture into Injectable Products;'' Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Availability of draft document.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a draft document entitled ''Draft Document Concerning the Regulation of Placental/Umbilical Cord Blood Stem Cell Products Intended for Transplantation or Further Manufacture into Injectable Products (December 1995).'' This draft document is intended to identify an approach that FDA believes is appropriate for the regulation of placental/umbilical cord blood stem

cell products for transplantation and to provide an opportunity for interested persons to submit written comments on the draft document. This document is in response to numerous inquiries regarding the agency's regulatory approach to cord blood stem cell products. The draft document was distributed at the public workshop held on December 13, 1995, as announced in the Federal Register of November 24, 1995 (60 FR 58088). FDA has since made editorial changes to the draft document but the content and technical information remains unchanged.

DATES: Written comments by April 26, 1996.

ADDRESSES: Submit written requests for single copies of the draft document entitled ''Draft Document Concerning the Regulation of Placental/Umbilical Cord Blood Stem Cell Products for Transplantation or Further Manufacture into Injectable Products'' to the Division of Congressional and Public Affairs (HFM–44), Office of Communication, Training and Manufacturers Assistance, Center for Biologics Evaluation and Research, Food and Drug Administration, 1401 Rockville Pike, suite 200N, Rockville, MD 20852–1448, or call FDA's automated information system at 1–800–835–4709. Send one self-addressed adhesive label to assist that office in processing your requests. Persons with access to the INTERNET may request the document be sent by return E-mail by sending a message to ''CORDSTEM@A1..CBER.FDA.GOV''. The draft document may also be obtained through INTERNET via File Transfer Protocol (FTP). Requesters should connect to the Center for Drug Evaluation and Research (CDER) FTP using the FTP. The Center for Biologics Evaluation and Research (CBER) documents are maintained in a subdirectory called CBER on the server, ''CDVS2.CDER.FDA.GOV'' (150.148.24.202). The ''READ.ME'' file in that subdirectory describes the available documents, which may be available as an ASCII text file (*.TXT), or WordPerfect 5.1 document (*.w51), or both. A sample dialogue for obtaining the READ.ME file with a test based FTP program would be:

FTP CDVS2.CBER.FDA.GOV
LOGIN ANONYMOUS
<ANY PASSWORD> <''YOUR EMAIL ADDRESS''>
BINARY
CD CBER
GET READ.ME
EXIT

The draft document may also be obtained by calling the CBER FAX information system (FAX-On-Demand) at 1–800–835–4709 from a touch tone telephone. Submit written comments on the draft document to the Dockets Management Branch (HFA–305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857. Two copies of all comments are to be submitted, except that individuals may submit one copy. Requests and comments should be identified with the docket number found in brackets in the heading of this document. A copy of the draft document and received comments are available for public examination in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Sharon A. Carayiannis, Center for Biologics Evaluation and Research (HFM–630), Food and Drug Administration, 1401 Rockville Pike, suite 200N, Rockville, MD 20852–1448, 301–594–3074.

SUPPLEMENTARY INFORMATION:

I. Introduction

Traditional bone marrow transplantation, involving the extraction of bone marrow by aspiration from bone cavities and processing by density gradient centrifugation, is increasingly being supplanted by novel sources of stem cells and biotechnologic procedures to purify and expand hematopoietic stem cells. Human cord blood, which is enriched with pluripotent hematopoietic stem cells, has recently emerged as an alternative source of hematopoietic stem cells for patients who are unable to obtain stem cells from allogeneic donors. Although availability of cord blood stem cells may reduce some constraints on bone marrow transplantation, the ultimate safety and efficacy of cord blood stem cell transplantation has yet to be determined.

Recently, the agency has received numerous inquiries regarding the regulatory approach to cord blood stem cell products. Cord blood stem cells for transplantation in autologous or allogeneic recipients is an emerging area with complex medical issues, including issues raised by the banking of such cells for possible future transplantation. Unlike bone marrow donors who are at least several years old with a medical history, cord blood is obtained from a newborn donor without an established medical history. Existing FDA statutory authorities apply to these new products and allow FDA to see that areas such as quality control, quality assurance, safety, purity, potency, and efficacy are appropriately addressed prior to marketing.

FDA is announcing the availability of a draft document that includes discussions of the following: (1) The applicable legal authorities in the Federal Food, Drug, and Cosmetic Act and the Public Health Service Act; (2) FDA's approach to the regulation of human cord blood stem cells intended for transplantation; (3) FDA's approach to the regulation of cord blood stem cells as source material for further manufacture; (4) FDA's approach to the regulation of ancillary products used for production of cord blood stem cells; and (5) a request for public comments on the regulatory approach.

II. Comments

FDA is providing for comment the draft document prepared by the Office of Blood Research and Review and the Office of Therapeutics Research and Review in CBER. FDA does not intend the draft document to be all-inclusive. This draft document does not bind FDA and does not create or confer any rights, privileges, or benefits on or for any person.

FDA recognizes that cord blood stem cell products used for hematologic transplantation constitute a new and emerging scientific area. FDA will review and consider written comments on the regulatory approach set forth in the draft document. FDA specifically invites public comment on the approach for regulation of cord blood stem cells as source material for further manufacture and for regulation of ancillary products used in the production of cord blood stem cells, as discussed in the draft document.

Interested persons may, on or before April 26, 1996, submit to the Dockets Management Branch (address above) comments on the draft document. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. A copy of the draft document and received comments are available for public examination in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

FDA will consider any written comments received in determining whether amendments to, or revisions of, the document are warranted.

Dated: February 13, 1996.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 96–4065 Filed 2–23–96; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF THE INTERIOR

Minerals Management Service

30 CFR Parts 203, 256, and 260

Announcement of Public Meeting on Public Law 104–58, Outer Continental Shelf (OCS) Deep Water Royalty Relief Act, and Its Effect on OCS Natural Gas and Oil Resource Management

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of meeting.

SUMMARY: The Outer Continental Shelf Deep Water Royalty Relief Act (Act) authorized the Secretary of the Interior to modify the terms of certain existing leases and to establish new terms for leases in water depths of 200 meters or greater in the Gulf of Mexico west of 87 degrees 30 minutes West longitude. The Minerals Management Service (MMS) will hold a public meeting at the Westin Canal Place, Vieux Carré Theatre, 100 Rue Iberville, New Orleans, Louisiana 70130, on March 12–13, 1996 to receive written and oral comments on this topic.

Both individual and joint MMS-industry panel discussions will be used to cover the full range of options. The first day will concentrate on tracts offered for lease after November 28, 1995. The second day will be reserved for detailed discussion of options for royalty volume suspensions on existing leases. Topics will include options for: (1) Application and eligibility requirements; (2) review and approval process; (3) economic viability; and (4) definition of ''new production.'' These topics are also the subject of an Advance Notice of Proposed Rulemaking, which will be published in the Federal Register February 23, 1996 and which will be accessible on the MMS homepage on the World Wide Web.

All interested parties are invited to attend both sessions, but it would be especially valuable for those who may prepare the bids for upcoming Gulf of Mexico lease sales or who may want to apply for relief on existing leases to attend. Those wishing to attend any part of the 2-day session may register in advance and should indicate which day(s) they plan to be present. (Seating is limited to 295.) Reservations should be made no later than March 6, 1996, to Mary Carter, Gulf of Mexico Regional Office, Minerals Management Service, Elmwood Towers Building, 1201 Elmwood Park Boulevard, Jefferson, Louisiana 70123—(504) 736–2675, or facsimile (504) 736–2647.

DATES: Tuesday, March 12 and Wednesday, March 13, 1996, 9 a.m. to 4:30 p.m.

ADDRESSES: The Westin Canal Place, Vieux Carré Theatre, 100 Rue Iberville, New Orleans, Louisiana 70130—(504) 566–7006 or 1–800–228–3000. Contact person: Mary Carter, (504) 736–2675.

FOR FURTHER INFORMATION CONTACT: Mr. Walter Cruickshank, Chief, Offshore Minerals Analysis Division, Minerals Management Service, at either Mail Stop 4013, 1849 C Street, NW., Washington, DC 20240 or telephone: (202) 208–3822. You may access the text of the Advance Notice of Proposed Rulemaking from the MMS homepage on the World Wide Web at http://www.mms.gov/whatsnew.html.

Dated: February 20, 1996.

Thomas Gernhofer,

Associate Director for Offshore Minerals Management.

[FR Doc. 96–4215 Filed 2–23–96; 8:45 am]

BILLING CODE 4310–MR–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD01–96–008]

RIN 2115–AE46

Special Local Regulation: Winter Harbor Lobster Boat Race, Winter Harbor, ME

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to establish a permanent special local regulation for the Winter Harbor Lobster Boat Race. The event is held annually on the second Saturday in August, in the waters of Winter Harbor, Winter Harbor, ME. This regulation is needed to protect the boating public from the hazards associated with high speed powerboat racing in confined waters.

DATES: Comments must be received on or before April 26, 1996.

ADDRESSES: Comments should be mailed to Commander (b), First Coast Guard District, Captain John Foster Williams Federal Building, 408 Atlantic Ave., Boston, MA 02110–3350, or may be hand delivered to Room 428 at the same address, between 8 a.m. and 4 p.m., Monday through Friday, except federal holidays. Comments will become part of this docket and will be available for inspection or copying at the above address.

FOR FURTHER INFORMATION CONTACT: Lieutenant (jg) B.M. Algeo, Chief, Boating Affairs Branch, First Coast Guard District, (617) 223–8311.

SUPPLEMENTARY INFORMATION:

Request for Comments

The Coast Guard encourages interested persons to participate in this rulemaking by submitting written data, views, or arguments. Persons submitting comments should include their names and addresses, identify this notice (CGD01–96–008), the specific section of the proposal to which each comment applies, and give reasons for each comment. The Coast Guard requests that all comments and attachments be submitted in an 8½″ x 11″ unbound format suitable for copying and electronic filing. If that is not practical, a second copy of any bound material is requested. Persons requesting acknowledgment of receipt of comments should enclose a stamped, self-addressed postcard or envelope.

The Coast Guard will consider all comments received during the comment period. It may change this proposal in view of the comments. The Coast Guard plans no public hearing. Persons may request a public hearing by writing to Commander (b), First Coast Guard District at the address under **ADDRESSES**. The request should include reasons why a hearing would be beneficial. If it is determined that the opportunity for oral presentations will aid this rulemaking, the Coast Guard will hold a public hearing at a time and place announced by a later notice in the Federal Register.

Discussion of Proposed Amendments

The Winter Harbor Lobster Boat Race is a local, traditional event that has been held for more than thirty years in Winter Harbor, ME. In the past, the Coast Guard has promulgated individual regulations for each year's running of the race. Given the recurring nature of the event, the Coast Guard desires to establish a permanent regulation for this event. The proposed regulation would establish a regulated area on Winter Harbor and would provide specific guidance to control vessel movement during the race.

This event includes up to 50 power-driven lobster boats and draggers competing in heats on a marked course at speeds approaching 25 m.p.h. The event typically attracts approximately 75 spectator craft. The Coast Guard will assign a patrol to the event, and the race course will be marked. However, due to the speed, large wakes, and proximity of the participating vessels, it is necessary to establish a special local regulation to

control spectator and commercial vessel movement within this confined area. Spectator craft are authorized to watch the race from any area as long as they remain outside the designated regulated area.

The proposed section will be effective annually on the second Saturday in August, between 8 a.m. and 2 p.m. or as published in a Coast Guard Notice to Mariners. A rain date is established for the following Sunday during the same time period. In emergency situations, provisions may be made to establish safe escort by a Coast Guard or designated Coast Guard vessel for vessels requiring transit through the regulated area.

Regulatory Evaluation

This proposal is not a significant regulatory action under section 3(f) of Executive Order 12866, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has been exempted from review by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact to be so minimal that a full Regulatory Evaluation, under paragraph 10e of the regulatory policies and procedures of DOT, is unnecessary. This conclusion is based on the limited duration of the race, the extensive advisories that will be made to the affected maritime community, and the minimal restrictions which the regulation places on vessel traffic.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard must consider the economic impact on small entities of a rule for which a general notice of proposed rulemaking is required. ''Small entities'' may include (1) small businesses and not-for-profit organizations that are independently owned and operated and are not dominant in their fields and (2) governmental jurisdictions with populations of less than 50,000.

For the reasons discussed in the Regulatory Evaluation, the Coast Guard certifies under 5 U.S.C. 605(b) that this proposal will not have a significant economic impact on a substantial number of small entities.

Collection of Information

This proposal contains no collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

Federalism

The Coast Guard has analyzed this proposal under the principles and criteria contained in Executive Order 12612 and has determined that this proposal does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environment

The Coast Guard has considered the environmental impacts of this proposal and concluded that, under paragraph 2.B.2.e.34(h) of COMDTINST 16475.1B, (as revised by 59 FR 38654, July 29, 1994) this proposal is a regulation issued in conjunction with an annually issued regatta or marine parade permit and is categorically excluded from further environmental documentation.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water), Reporting and recordkeeping requirements, Waterways.

Proposed Regulation

For the reasons set out in the preamble, the Coast Guard proposes to amend 33 CFR part 100 as follows:

1. The authority citation for Part 100 continues to read as follows:

Authority: 33 U.S.C. 1233; 49 CFR 1.46 and 33 CFR 100.35.

2. Section 100.114, is added to read as follows:

§ 100.114 Winter Harbor Lobster Boat Race, Winter Harbor, ME.

(a) *Regulated Area*. The regulated area includes all waters of Winter Harbor, ME, within the following points (NAD 83):

Latitude	*Longitude*
44°23′07″ N.	068°04′52″ W.
44°22′12″ N.	068°04′52″ W.
44°22′12″ N.	068°05′08″ W.
44°23′07″ N.	068°05′08″ W.

(b) *Special Local Regulations*. (1) The Coast Guard patrol commander may delay, modify, or cancel the race as conditions or circumstances require.

(2) No person or vessel may enter, transit, or remain in the regulated area unless participating in the event or unless authorized by the Coast Guard patrol commander.

(3) Vessels encountering emergencies which require transit through the regulated area should contact the Coast Guard patrol commander on VHF Channel 16. In the event of an emergency, the Coast Guard patrol commander may authorize a vessel to transit through the regulated area with a Coast Guard designated escort.

(4) All persons and vessels shall comply with the instructions of the Coast Guard on-scene patrol commander. On-scene patrol personnel include commissioned, warrant, and petty officers of the U.S. Coast Guard. Upon hearing five or more short blasts from a U.S. Coast Guard vessel, the operator of a vessel shall proceed as directed. Members of the Coast Guard Auxiliary may also be present to inform vessel operators of this regulation and other applicable laws.

(c) *Effective period*. This section is in effect from 8 a.m. to 2 p.m. annually on the second Saturday in August, unless otherwise specified in a Coast Guard Notice to Mariners. In case of inclement weather, this section will be in effect the following Sunday at the same time, unless otherwise specified in a Coast Guard Notice to Mariners.

Dated: February 13, 1996.

J.L. Linnon,

Rear Admiral, U.S. Coast Guard Commander, First Coast Guard District.

[FR Doc. 96–4276 Filed 2–23–96; 8:45 am]

BILLING CODE 4910–14–M

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46 CFR Part 108, 110, 111, 112, 113, and 161

[CGD 94–108]

RIN 2115–AF24

Electrical Engineering Requirements for Merchant Vessels

AGENCY: Coast Guard, DOT.

ACTION: Notice of meeting; extension of comment period.

SUMMARY: As a result of requests from a national trade association, the Coast Guard will hold a public meeting and extend the comment period for a proposed rule published on February 2, 1996, an additional 15 days beyond the original 45 day comment period on its proposed electrical engineering regulations for merchant vessels.

DATES: The meeting will be held March 25, 1996, and will begin at 9 a.m. Comments must be received on or before April 2, 1996.

ADDRESSES: The meeting will be held in room 2230, Department of Transportation, Nassif Building, 400 Seventh Street SW., Washington, DC 20590. Written comments may be mailed to the Executive Secretary, Marine Safety Council (G–LRA/3406) (CGD 94–108), U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, DC 20593–0001 or may be delivered to room 3406 at the above address between 8 a.m. and 3 p.m.,

Monday through Friday, except Federal holidays. The telephone number is (202) 267–1477.

The Executive Secretary maintains the public docket for this rulemaking. Comments will become part of this docket and will be available for inspection or copying at room 3406, U.S. Coast Guard Headquarters.

FOR FURTHER INFORMATION CONTACT: Mr. Gerald P. Miante, Project Manager, Design and Engineering Standards Division (G–MMS), (202) 267–2206.

BACKGROUND INFORMATION:

Proposed Electrical Engineering Regulations

As a part of the President's Regulatory Reinvention Initiative, the Coast Guard issued a notice of proposed rulemaking published on February 2, 1996 (61 FR 4132) to amend its current electrical engineering regulations to reduce the regulatory burden on the marine industry, purge obsolete and out-of-date regulations, and eliminate requirements that create an unwarranted differential between domestic and international standards. The proposed rulemaking would harmonize, where possible, the electrical engineering regulations with the recent amendments to the International Convention for the Safety of Life at Sea, 1974, as amended. Additionally, the proposed rulemaking would dramatically revise certain prescriptive electrical equipment design, specification, and approval requirements and replace them with performance-based requirements that incorporate international standards.

Public Meeting

A national trade association requested a public meeting to afford vessel and equipment designers, builders, and owners the opportunity to present comments in person and to let the project managers interact with the affected industry segments. The national trade association also indicated that many of its vessel owners will be affected by these proposed electrical engineering regulations and have not had adequate time to fully evaluate their impact.

The Coast Guard will hold a public meeting on March 25, 1996. The public is invited to comment on the technological and economic feasibility of the proposed electrical engineering regulations.

Attendance is open to the public. With advance notice, and as time permits, members of the public may make oral presentations during the meeting. Persons wishing to make oral presentations should notify the person listed above under **FOR FURTHER INFORMATION CONTACT** no later than the day before the meeting. Written material may be submitted prior to, during, or after the meeting.

Extension of Comment Period

To accommodate the request for a public meeting, the Coast Guard is extending the comment period and holding a public meeting. Persons unable to attend the public meeting are encouraged to submit written comments. The comment period is extended until April 2, 1996.

Dated: February 20, 1996.

Joseph J. Angelo,

Director for Standards, Office of Marine Safety, Security and Environmental Protection.

[FR Doc. 96–4275 Filed 2–23–96; 8:45 am]

BILLING CODE 4910–14–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR PART 73

[MM Docket No. 91–151; RM–7557]

Television Broadcasting Services; Victoria and New Braunfels, TX

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; withdrawal.

SUMMARY: This document denies a proposal by KVCT(TV), Inc., former licensee of television Station KVCT, Channel 19, Victoria, Texas, proposing the reallotment of Channel 19 to New Braunfels, Texas, and modification of the Station KVCT license to specify New Braunfels as the community of license. *See* 56 FR 269681, June 12, 1991. With this action, the proceeding is terminated.

DATES: The proposed rule is withdrawn February 26, 1996.

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

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Report and Order* in MM Docket No. 91–151, adopted January 25, 1996, and released February 16, 1996. The full text is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, Inc., (202) 857–3800, 1919 M Street, NW., Room 246, or 2100 M Street, NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Television broadcasting.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 96–3945 Filed 2–23–96; 8:45 am]

BILLING CODE 6712–01–F

Notices

Federal Register
Vol. 61, No. 38
Monday, February 26, 1996

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF COMMERCE

International Trade Administration

Export Trade Certificate of Review; Notice of Application

SUMMARY: The Office of Export Trading Company Affairs (''OETCA''), International Trade Administration, Department of Commerce, has received an application for an Export Trade Certificate of Review. This notice summarizes the conduct for which certification is sought and requests comments relevant to whether the Certificate should be issued.

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 (15 U.S.C. 4001–21) authorizes the Secretary of Commerce to issue Export Trade Certificates of Review. A Certificate of Review protects the holder and the members identified in the Certificate from state and federal government antitrust actions and from private, treble damage antitrust actions for the export conduct specified in the Certificate and carried out in compliance with its terms and conditions. Section 302(b)(1) of the Act and 15 CFR 325.6(a) require the Secretary to publish a notice in the Federal Register identifying the applicant and summarizing its proposed export conduct.

Request for Public Comments

Interested parties may submit written comments relevant to the determination whether a Certificate should be issued. An original and five (5) copies should be submitted no later than 20 days after the date of this notice to: Office of Export Trading Company Affairs, International Trade Administration, Department of Commerce, Room 1800H, Washington, D.C. 20230. Information submitted by any person is exempt from disclosure under the Freedom of Information Act (5 U.S.C. 552). Comments should refer to this application as ''Export Trade Certificate of Review, application number 96–00001.'' A summary of the application follows.

Summary of the Application

Applicant: Trustech, Inc., 611 West 6th Street, AT&T Center #2151, Los Angeles, California 90017–3101.

Contact: Don K. Pyon, Chief Executive Officer.

Telephone: (213) 896–0099.

Application No.: 96–00001.

Date Deemed Submitted: February 15, 1996.

Members (in addition to applicant): Don K. Pyon, Chief Executive Officer and Ik Hwan Son, President.

Trustech, Inc. seeks a Certificate to cover the following specific Export Trade, Export Markets, and Export Trade Activities and Methods of Operations.

Export Trade

1. Products

(A) U.S. MADE WEAPON SYSTEMS AND THEIR SPARE PARTS (including but not limited to: All Types of Small Arms and Equipment for Army Special Operations Forces (ARSOF), Thermal Imaging Airborne Laser Designation (TIALD) System, Special Operations Communication Assemblages (SOCA), Tactical Missile and Precision Strike Munitions, Brilliant Anti-Armor Submission (BAT), Improved TOW Weapon System (TOW–2B), Multiple Launch Rocket System (MLRS)-M270, Improved Fire Control System (IFCS), Sense and Destroy Armor (SADARM), Hellfire II Missile, and HYDRA 70 Rocket System for Cobra Helicopters);

(B) MILITARY AIRCRAFT COMPONENTS AND SPARE PARTS;

(C) MILITARY COMMUNICATION SYSTEMS INCLUDING FIELD TRANSMITTERS AND RADARS (including but not limited to: Battlefield Surveillance Systems, Upgraded E–3 AWACS Sentry with situation display consoles (SDC), a better Radar Jamming System, Upgraded Joint Tactical Information Distribution System (JTIDS), Tactical Digital Information Link (TADIL), AN/TPQ–36(37) Mortar Locating Radar, Hunter Short-Range Unmanned Aerial Vehicle (UAV), NAVSTAR Global Positioning Systems (GPS), Artillery Target Survey Systems, Moving Target Firing Systems, Fire Range Distance Surveyor Systems, Battlefield Communications (Tactical Transmitters), Digital Transmission Assemblages (AN/TRC Series), Advanced Field Artillery Tactical Data System (AFATDS), Army Data Distribution System (ADDS), Satellite Tactical Communications (SATCOM), Single Channel Ground and Airborne Radio Systems (SINCGARS), and Army Tactical Command and Control System (ATCCS));

(D) NIGHT VISIONS FOR COMBAT PERSONNELS AND THERMO WEAPON SIGHT (including but not limited to: Second Generation Forward-Looking Infrared Radar (FLIR), Night Visions for Aviators, Mini Eyesafe Laser Infrared Observation Set, Thermo Weapon Sight, and Night Vision Goggle and Infra Red Aiming Light);

(E) MILITARY TRAINING AND SIMULATION SYSTEMS (including but not limited to: Tank/APC Driving Training System, War Game Simulation-Short Range, Tracking Training Set, Artillery L/O Set, Electronic Warfare Training Systems, and TOW Firing Training Systems);

(F) C4I SYSTEMS AND ITS COMPONENTS; and

(G) ALL KINDS OF DEPARTMENT OF DEFENSE SURPLUS ITEMS-SALES BY THE U.S. DEPARTMENT OF DEFENSE'S DEFENSE REUTILIZATION MARKETING SERVICE (including but not limited to: metal scrap, waste paper-recyclable, used and unused aircraft parts and components).

2. Services

All services.

3. Export Trade Facilitation Services (as They Relate to the Export of Products and Services)

All trade-facilitating services in connection with the export of Products, including but not limited to consulting, financing, insurance, advertising, foreign exhibiting and demonstration, trade documentation, countertrade and offsetting services, packing and crating, assembly, customs brokerage, market research and coordination.

Export Markets

The Export Markets include all parts of the world except the United States

(the fifty states of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands).

Export Trade Activities and Methods of Operation

Trustech, Inc. may:

1. Coordinate the participation of various domestic Suppliers in foreign trade exhibitions through the sharing of trade information that is generally available to the public.

2. Provide Export Trade Facilitation Services to domestic Suppliers.

3. Enter into exclusive agreements with domestic Suppliers to arrange for the export of Products to foreign customers in response to foreign invitations to bid. ''Exclusive'' means that Trustech, Inc. may agree not to represent any competitors of the Supplier without the Supplier's authorization, and the Supplier may agree not to otherwise sell, directly or indirectly, into Export Markets in which Trustech, Inc. serves the Supplier.

4. Enter into exclusive agreements with foreign customers to select domestic Suppliers of Products in order to match foreign buyer specifications. ''Exclusive'' means that Trustech, Inc. may agree to sell Products only to that foreign customer, and that foreign customer may agree not to buy those Products from anyone other than Trustech, Inc.

5. Establish export prices for domestic Suppliers seeking to respond to a foreign bid opportunity.

6. Contract with other Export Intermediaries and consultants for the arrangement of the export of the Products of domestic Suppliers to the Export Markets.

7. Meet and negotiate with domestic Suppliers concerning the terms of their participation in each bid, invitation or request to bid, or other sales opportunity in the Export Markets.

Definitions

1. ''Export Intermediary'' means a person who acts as a distributor, sales representative, sales or marketing agent, or broker, or who performs similar functions, including providing or arranging for the provision of Export Trade Facilitation Services.

2. ''Supplier'' means a person who produces, provides, or sells a Product and/or Service.

Dated: February 20, 1996.

W. Dawn Busby,

Director, Office of Export Trading Company Affairs.

[FR Doc. 96–4284 Filed 2–23–96; 8:45 am]

BILLING CODE 3510–DR–P

Minority Business Development Agency

Business Development Center Applications: West Palm Beach, Oklahoma City, and San Diego

AGENCY: Minority Business Development Agency, Commerce.

ACTION: Cancellations.

SUMMARY: The Minority Business Development Agency is cancelling the announcements to solicit competitive applications under its Minority Business Development Center (MBDC) Program to operate the West Palm Beach, Oklahoma City, and San Diego MBDCs. These solicitations were originally published in the Federal Register, Monday, December 4, 1995, Vol. 60, No. 232, 62073 and Thursday, December 7, 1995, Vol. 60, No. 235, 62826.

11.800 Minority Business Development Center

(Catalog of Federal Domestic Assistance)

Dated: February 15, 1996.

Donald L. Powers,

Federal Register Liaison Officer, Minority Business Development Agency.

[FR Doc. 96–4202 Filed 2–23–96; 8:45 am]

BILLING CODE 3510–21–M

National Institute of Standards and Technology

Visiting Committee on Advanced Technology; Meeting

AGENCY: National Institute of Standards and Technology, Commerce.

ACTION: Notice of public meeting.

SUMMARY: Pursuant to the Federal Advisory Committee Act, 5 U.S.C. app. 2, notice is hereby given that the National Institute of Standards and Technology Visiting Committee on Advanced Technology will meet on Tuesday, March 12, 1996, from 8:30 a.m. to 5:00 p.m. The Visiting Committee on Advanced Technology is composed of nine members appointed by the Director of the National Institute of Standards and Technology who are eminent in such fields as business, research, new product development, engineering, labor, education, management consulting, environment, and international relations. The purpose of this meeting is to review and make recommendations regarding general policy for the Institute, its organization, its budget, and its programs within the framework of applicable national policies as set forth by the President and the Congress. The agenda will include presentations on the impact of the recent Federal Government shutdown on industry, the public, and NIST; the NIST mission; the impact of advancing technology on metrology needs; the search for productivity improvements at United Technologies; and a laboratory tour.

DATES: The meeting will convene March 12, 1996, at 8:30 a.m. and will adjourn at 5:00 p.m.

ADDRESSES: The meeting will be held in Lecture Room A, Administration Building, National Institute of Standards and Technology, Gaithersburg, Maryland.

FOR FURTHER INFORMATION CONTACT: Chris E. Kuyatt, Visiting Committee Executive Director, National Institute of Standards and Technology, Gaithersburg, Maryland 20899, (301) 975–6090.

Dated: February 20, 1996.

Samuel Kramer,

Associate Director.

[FR Doc. 96–4282 Filed 2–23–96; 8:45 am]

BILLING CODE 3510–13–M

National Oceanic and Atmospheric Administration

[I.D. 021396D]

Mid-Atlantic Fishery Management Council; Meetings

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

ACTION: Notice of public meetings.

SUMMARY: The Mid-Atlantic Fishery Management Council will hold meetings.

DATES: The meetings will be held on March 12, 1996. See **SUPPLEMENTARY INFORMATION** for specific meetings and times.

ADDRESSES: The meetings will be held at the Norfolk Airport Hilton, 1500 N. Military Highway, Norfolk, VA 23502.

Council Address: Mid-Atlantic Fishery Management Council, 300 S. New Street, Dover, DE 19901; telephone: 302–674–2331.

FOR FURTHER INFORMATION CONTACT: David R. Keifer, Executive Director; telephone: 302–674–2331.

SUPPLEMENTARY INFORMATION: The Council's Bluefish Industry Advisory Subcommittee (Subcommittee) will meet on March 12, from 8:00 a.m. until 12 noon. The Subcommittee will meet jointly with the Atlantic States Marine Fisheries Commission (ASMFC) Bluefish Advisory Panel. The Council's Coastal Migratory Committee (Committee) will meet on March 12, from 1:00 p.m. and will adjourn at approximately 5:00 p.m. The Committee will meet jointly with the ASMFC Bluefish Management Board.

The purpose of the meetings is to review scoping comments and management issues for Amendment 1 to the Bluefish Fishery Management Plan.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Joanna Davis on (302) 674–2331, at least 5 days prior to the meeting date.

Dated: February 20, 1996.

Richard W. Surdi,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 96–4285 Filed 2–23–96; 8:45 am]

BILLING CODE 3510–22–F

[I.D. 021696B]

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) newly appointed Improved Retention/Improved Utilization Committee (Committee) will hold their first meeting February 27–28, 1996.

DATES: The meeting will be held on February 27–28, 1996, beginning at 9:00 a.m. on February 27, and concluding by 5:00 p.m. on February 28.

ADDRESSES: The meeting will be held at the Alaska Fisheries Science Center, 7600 Sand Point Way NE., Seattle, WA, Room 2079, Building 4.

Council address: North Pacific Fishery Management Council, 605 W. 4th Ave., Suite 306, Anchorage, AK 99501–2252.

FOR FURTHER INFORMATION CONTACT: Council staff; telephone: 907–271–2809.

SUPPLEMENTARY INFORMATION: The Committee will review proposed measures to improve retention and utilization in the groundfish fisheries and discuss implementation aspects of the measures. The Committee is scheduled to provide recommendations to the Council in April.

Special Accommodations

This 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: February 21, 1996.

Richard W. Surdi,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 96–4283 Filed 2–21–96; 2:50 pm]

BILLING CODE 3510–22–F

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Science Board Task Force on C4ISR Integration

ACTION: Notice of Advisory Committee meeting.

SUMMARY: The Defense Science Board Task Force on C4ISR Integration will meet in closed session on April 3, 1996 at Strategic Analysis, Inc., Arlington, Virginia.

The mission of the Defense Science Board is to advise the Secretary of Defense through the Under Secretary of Defense for Acquisition and Technology on scientific and technical matters as they affect the perceived needs of the Department of Defense. At this meeting the Task Force will assist the internal DoD process by providing advice to the DoD on all aspects of C4ISR integration.

In accordance with Section 10(d) of the Federal Advisory Committee Act, P.L. No. 92–463, as amended (5 U.S.C. App. II, (1988)), it has been determined that this DSB Task Force meeting concerns matters listed in 5 U.S.C. § 552b(c)(1) (1988), and that accordingly this meeting will be closed to the public.

Dated: February 20, 1996.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 96–4206 Filed 2–23–96; 8:45 am]

BILLING CODE 5000–04–M

Defense Science Board FFRDC & UARC Independent Advisory Task Force

AGENCY: Notice of Advisory Committee meeting.

SUMMARY: The Defense Science Board FFRDC & UARC Independent Advisory Task Force will meet on March 1, 1996 at The MITRE Corporation, 202 Burlington Road, Bedford, Massachusetts, in Open session from 8:00 a.m.–2:00 p.m. and in Closed session from 2:00 p.m.–4:00 p.m.

The mission of the Defense Science Board is to advise the Secretary of Defense through the Under Secretary of Defense for Acquisition and Technology on scientific and technical matters as they affect the perceived needs of the Department of Defense. At the closed portion of this meeting the Task Force will receive classified briefings. For further information or if you would like to attend the open session, contact the DSB Secretariat at (703) 695–4157.

In accordance with Section 10(d) of the Federal Advisory Committee Act, Public Law 92–463, as amended (5 U.S.C. App. II, (1988)), it has been determined that this DSB Task Force meeting concerns matters listed in 5 U.S.C. 552b(c)(1) (1988), and that accordingly a portion of this meeting will be closed to the public.

Dated: February 20, 1996.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 96–4207 Filed 2–23–96; 8:45 am]

BILLING CODE 5000–04–M

Defense Science Board Task Force on Logistics Modernization

ACTION: Notice of Advisory Committee meeting.

SUMMARY: The Defense Science Board Task Force on Logistics Modernization will meet in open session on March 18–19, 1996 at the Institute for Defense Analyses (IDA), 1801 N. Beauregard Street, Alexandria, Virginia.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Acquisition & Technology on scientific and technical matters as they affect the perceived needs of the Department of Defense.

Persons interested in further information should call LTC Kerry M. Brown at (703) 697–7980.

Dated: February 20, 1996.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Office, Department of Defense.

[FR Doc. 96–4208 Filed 2–23–96; 8:45 am]

BILLING CODE 5000–04–M

Department of the Army

U.S. Army Command and General Staff College (CGSC) Advisory Committee

AGENCY: U.S. Army Command and General Staff College.

ACTION: Notice of Open Meeting.

SUMMARY: In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463) announcement is made of the following committee meeting:

Name: U.S. Army Command and General Staff College (CGSC) Advisory Committee.

Date: 1–3 April 1996.

Place: Bell Hall, Room 113, Fort Leavenworth, Kansas 66027–1352.

Time: 1700–2200, 1 April 1996; 0730–2100, 2 April 1996; 0730–1400, 3 April 1996.

Proposed Agenda

1700–2200, 1 April: Review of CGSC educational program.

0730–2100, 2 April: Continuation of review.

0730–1030, 3 April: Continuation of review.

1030–1130, 3 April: Executive Session.

1300–1400, 3 April: Report to Commandant.

The purpose of the meeting is for the Advisory Committee to examine the entire range of college operations and, where appropriate, to provide advice and recommendations to the College Commandant and faculty.

The meeting will be open to the public to the extent that space limitations of the meeting location permit. Because of these limitations, interested parties are requested to reserve space by contacting the Committee's Executive Secretary: Phillip J. Brooks, USACGSC Advisory Committee, Bell Hall, Room 123, Fort Leavenworth, Kansas 66027–1352; Phone: (913) 684–2741.

Gregory D. Showalter,

Army Federal Register Liaison Officer.

[FR Doc. 96–4219 Filed 2–23–96; 8:45 am]

BILLING CODE 3710–08–M

Availability of Non-Exclusive, Exclusive or Partially Exclusive Licenses (Azabicyclooctanes, Preparations and Derivatives)

AGENCY: U.S. Army, ARDEC, Picatinny Arsenal, New Jersey.

ACTION: Notice.

SUMMARY: The Department of the Army announces the general availability of exclusive, partially exclusive or non-exclusive licenses under the following patent applications and any continuations, divisions or continuations in part of the same—

Attorney Doc. No. DAR 36–93
Attorney Doc. No. DAR 36–93A
Attorney Doc. No. DAR 36–93B
Attorney Doc. No. DAR 36–93C
Attorney Doc. No. DAR 36–93D
Subject: Azabicyclooctanes, Preparations and Derivatives
Inventors: P. Dave, et al
Field: 10 March 1995

Licenses shall comply with 35 U.S.C. 209 and 37 CFR 404.

FOR FURTHER INFORMATION CONTACT: Mr. Edward Goldberg, Chief, Intellectual Property Division, Legal Office, AMSTA–AR–GCL, U.S. Army ARDEC, Picatinny Arsenal, NJ 07806–5000. Phone: (201) 724–6590.

SUPPLEMENTARY INFORMATION: Written objections must be filed within three (3) months from the date of this notice in the Federal Register.

Gregory D. Showalter,

Army Federal Register Liaison Officer.

[FR Doc. 96–4222 Filed 2–23–96; 8:45 am]

BILLING CODE 3710–08–M′

Availability of Non-Exclusive, Exclusive or Partially Exclusive Licenses (Organo-Fluoro Compounds and Processes)

AGENCY: U.S. Army, ARDEC, Picatinny Arsenal, New Jersey.

ACTION: Notice.

SUMMARY: The Department of the Army announces the general availability of exclusive, partially exclusive or non-exclusive licenses under the following patent applications and any continuations, divisions or continuations in part of the same—

Attorney Doc. No. DAR 29–95AP
Attorney Doc. No. DAR 29–95BP
Attorney Doc. No. DAR 29–95CP
Attorney Doc. No. DAR 29–95DP
Subject: Organo-Fluoro Compounds and Processes
Inventors: F. Forohar, et al
Filed: 22 November 1995

Licenses shall comply with 35 U.S.C. 209 and 37 CFR 404.

FOR FURTHER INFORMATION CONTACT: Mr. Edward Goldberg, Chief, Intellectual Property Division, Legal Office, AMSTA–AR–GCL, U.S. Army, ARDEC, Picatinny Arsenal, NJ 07806–5000. Phone: (201) 724–6590.

SUPPLEMENTARY INFORMATION: Written objections must be filed within three (3) months from the date of this notice in the Federal Register.

Gregory D. Showalter,

Army Federal Register Liaison Officer.

[FR Doc. 96–4220 Filed 2–23–96; 8:45 am]

BILLING CODE 3710–08–M

Availability of Non-Exclusive, Exclusive or Partially Exclusive Licenses (Selective Nitration)

AGENCY: U.S. Army, ARDEC, Picatinny Arsenal, New Jersey.

ACTION: Notice.

SUMMARY: The Department of the Army announces the general availability of exclusive, partially exclusive or non-exclusive licenses under the following patent applications and any continuations, divisions or continuations in part of the same—

Attorney Doc. No. DAR 29–94P
Title: Selective Nitration of Aromatic Rings, etc.
Inventors: T. Kwok, et al
Filed: 22 Aug 1995

Attorney Doc. No. DAR 13–95P
Title: Selective Nitration of Aromatic Compounds
Inventors: T. Kwok, et al
Filed: 22 Aug 1995

Licenses shall comply with 35 U.S.C. 209 and 37 CFR 404.

FOR FURTHER INFORMATION CONTACT: Mr. Edward Goldberg, Chief, Intellectual Property Division, Legal Office, AMSTA–AR–GCL, U.S. Army, ARDEC, Picatinny Arsenal, NJ 07806–5000. Phone: (201) 724–6590.

SUPPLEMENTARY INFORMATION: Written objections must be filed within three (3) months from the date of this notice in the Federal Register.

Gregory D. Showalter,

Army Federal Register Liaison Officer.

[FR Doc. 96–4221 Filed 2–23–96; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF ENERGY

Bonneville Power Administration

Decision to Interconnect With Sierra Pacific Power Company's Alturas Transmission Line Project

AGENCY: Bonneville Power Administration (BPA), Department of Energy (DOE).

ACTION: Notice of Availability of Record of Decision (ROD).

SUMMARY: On February 16, 1996, BPA made a final decision to execute an

Interconnection and Operations and Maintenance Agreement with Sierra Pacific Power Company (SPPCo) and PacifiCorp to interconnect BPA's Malin-Warner 230-kilovolt (kV) line at the proposed SPPCo's Hilltop Substation. BPA also decided to sign a Construction Reimbursable Agreement with SPPCo to achieve the interconnection. Pursuant to such reimbursable agreement, BPA will construct a 2.81-kilometer (1.8-mile), 230-kV double circuit H-frame transmission line from BPA's existing line to the proposed SPPCo's Hilltop Substation. BPA will also build part of a 230-kV substation in SPPCo's proposed Hilltop Substation. BPA has prepared a Record of Decision describing these decisions in accordance with the National Environmental Policy Act (NEPA), Council on Environmental Quality regulations implementing NEPA (40 CFR 1500 et seg.), and Department of Energy regulations implementing the statute (10 CFR 1021). The Bureau of Land Management (BLM), Susanville, California, was the lead federal agency for the Environmental Impact Report/Environmental Impact Statement (EIR/EIS) preparation, and BPA was a cooperating agency. The BLM executed a separate ROD for their decisions on February 9, 1996. BPA adopted the Alturas Transmission Line Environmental Impact Statement (DOE/EIS–0256) and published an adoption notice in the Federal Register on February 2, 1996 (61 FR 3933, Feb. 2, 1996).

ADDRESSES: Copies of the ROD and EIS may be obtained by calling BPA's toll-free document request line: 1–800–622–4520.

FOR FURTHER INFORMATION, CONTACT: Richard Stone, Environmental Specialist—ECN, Bonneville Power Administration, P.O. Box 3621, Portland, Oregon, 97208–3621, phone number (503) 230–3797, fax number (503) 230–5699.

Public Availability: This ROD was distributed to agencies and individuals on the project mailing list on February 23, 1996.

Issued in Portland, Oregon, on February 15, 1996.

Randall W. Hardy,

Administrator and Chief Executive Officer.

[FR Doc. 96–4279 Filed 2–23–96; 8:45 am]

BILLING CODE 6450–01–P

Amendatory Agreement to the 1981 Power Sales Contracts

AGENCY: Bonneville Power Administration (BPA), Department of Energy (DOE).

ACTION: Notice of Availability of Record of Decision (ROD).

SUMMARY: BPA has decided to provide certain of its Federal and public agency customers with an opportunity to amend their 1981 Power Sales Contracts. The Amendatory Agreement addresses changes in the electric power marketplace and the changing needs of BPA's customers. In offering the Amendatory Agreement, BPA will facilitate business relationships with its customers, improve the long-term attractiveness of BPA as a power supplier, enhance BPA's competitiveness, and provide public benefits. This decision is a direct application of BPA's earlier decision to use a market-driven approach for participation in the increasingly competitive electric power market.

This notice announces the availability of the ROD to offer the Amendatory Agreement to the 1981 Power Sales Contracts. This decision is consistent with BPA's Business Plan, the Business Plan Final Environmental Impact Statement (BP EIS) (DOE/EIS–0183, June 1995), and the Business Plan ROD (August 15, 1995).

ADDRESSES: Copies of this ROD, the BP EIS, and the Business Plan ROD may be obtained by calling BPA's toll-free document request line: 1–800–622–4520.

FOR FURTHER INFORMATION, CONTACT: Katherine S. Pierce—ECN, Bonneville Power Administration, P.O. Box 3621, Portland, Oregon, 97208–3621, phone number (503) 230–3962, fax number (503) 230–5699.

Issued in Portland, Oregon, on February 16, 1996.

Randall W. Hardy,

Administrator and Chief Executive Officer.

[FR Doc. 96–4280 Filed 2–23–96; 8:45 am]

BILLING CODE 6450–01–P

Federal Energy Regulatory Commission

[Docket No. ER96–1049–000]

Allegheny Power Service Corporation on Behalf of Monongahela Power Company, The Potomac Edison Company, and West Penn Power Company; Notice of Filing

February 20, 1996.

Take notice that on February 8, 1996, Allegheny Power Service Corporation on behalf of Monongahela Power Company, the Potomac Edison Company and West Penn Power Company (Allegheny Power), filed Service Agreements to add Aquila Power Corporation, Enron Power Marketing, Inc., Heartland Energy Services, Koch Power Services, Inc., Morgan Stanley Capital Group Inc., Phibro Inc., and Rainbow Energy Marketing Corporation as Customers under Allegheny Power's Point-to-Point Transmission Service Tariff which has been accepted for filing by the Federal Energy Regulatory Commission. Allegheny Power proposes to make service available to Aquila Power Corporation, Enron Power Marketing, Inc., Heartland Energy Services, Phibro Inc., and Rainbow Marketing Corporation as of January 8, 1996. Service will be made available to Koch Power Services, Inc. as of January 26, 1996, and to Morgan Stanley Capital Group Inc. as of January 29, 1996.

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, and the West Virginia Public Service Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before March 12, 1996. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the

Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 96–4212 Filed 2–23–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket Nos. ER94–1328–007, ER94–1450–009, ER94–1539–008, ER94–1597–005, ER95–378–002, ER95–784–002, ER96–359–001 (not consolidated)]

Global Petroleum Corporation, Coastal Electric Services Company, Equitable Power Service Company, Gulfstream Energy, LLC, Westcoast Power Marketing, Inc., J. Anthony & Associates Ltd. and Global Petroleum Corporation; Notice of Filing

February 20, 1996.

Take notice that the following informational filings have been made with the Commission and are on file and available for inspection and copying in the Commission's Public Reference Room:

On January 31, 1996, Global Petroleum Corporation filed certain information as required by the Commission's July 12, 1994, order in Docket No. ER94–1328–000.

On February 12, 1996, Coastal Electric Services Company filed certain information as required by the Commission's September 29, 1994, order in Docket No. ER94–1450–000.

On February 5, 1996, Equitable Power Service Company filed certain information as required by the Commission's September 8, 1994, order in Docket No. ER94–1539–000.

On January 31, 1996, Gulfstream Energy, LLC filed certain information as required by the Commission's November 21, 1994, order in Docket No. ER94–1597–000.

On February 9, 1996, Westcoast Power Marketing, Inc. filed certain information as required by the Commission's April 20, 1995, order in Docket No. ER95–378–000.

On February 5, 1996, J. Anthony & Associates Ltd. filed certain information as required by the Commission's May 31, 1995, order in Docket No. ER95–784–000.

On February 5, 1996, Global Petroleum Corporation filed certain information as required by the Commission's December 20, 1995, order in Docket No. ER96–359–000.

Lois D. Cashell,

Secretary.

[FR Doc. 96–4211 Filed 2–23–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ID–2943–000]

David M. Lawrence; Notice of Filing

February 20, 1996.

Take notice that on February 13, 1996, David M. Lawrence (Applicant) tendered for filing an application under Section 305(b) of the Federal Power Act to hold the following positions:

Director—Pacific Gas and Electric Company
Director—Hewlett-Packard Company

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 March 12, 1996. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 96–4213 Filed 2–23–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP96–179–000]

Pacific Gas Transmission Company; Notice of Request Under Blanket Authorization

February 20, 1996.

Take notice that on February 8, 1996, Pacific Gas Transmission Company (PGT), 2100 Southwest River Parkway, Portland, Oregon 97201, filed in Docket No. CP96–179–000 a request pursuant to §§ 157.205 and 157.211 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.211) for authorization to install a new tap and meter set near Moyie Springs, Idaho for delivery of gas to The Washington Water Power Company (WWP), under PGT's blanket certificate issued in Docket No. CP82–530–000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in request on file with the Commission and open to public inspection.

According to PGT, WWP requested that a 2-inch tap and meter set with appurtenant facilities be constructed to allow WWP an additional supply point for its Bonners Ferry distribution system. These needed facilities will let WWP provide more reliable service to the Moyie Springs and Bonners Ferry area which has been experiencing supply disruptions from flooding on the Kootenai River.

PGT states that the facilities will be located immediately adjacent to PGT's existing right-of-way near Moyie Springs on land owned by WWP. The station will consist of a fenced and graveled yard, an 8-by-16 foot building housing gas pressure regulation and metering facilities, approximately 150 feet of 2-inch buried pipe and a slab-mounted gas heater. Construction will be from April 1, 1996 to June 1, 1996. The proposed tap will have no impact on PGT's peak day or annual deliveries and there is sufficient capacity to accomplish deliveries without detriment or disadvantage to existing customers.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 96–4210 Filed 2–23–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TX96–5–000]

United States Department of Energy, Western Area Power Administration (Colorado River Storage Project—Customer Service Center); Notice of Filing

February 20, 1996.

On February 14, 1996, the United States Department of Energy, Western Area Power Administration, Colorado River Storage Project—Customer Service Center (Western) filed with the Federal Energy Regulatory Commission an application requesting that the Commission order Public Service Company of New Mexico (PNM) to provide transmission services pursuant to Section 211 of the Federal Power Act.

Western is seeking 107 megawatts of firm, flexible bidirectional point-to-point transmission between the Four Corners/Shiprock area and its customers' points of receipt in New Mexico, extending until June 1, 2047.

Copies of this notice have been sent to PNM Plains Electric Generation and Transmission Cooperative, Inc.; the County of Los Alamos; the United States Department of Energy; Kirtland Air Force Base (AFB); the City of Gallup; Holloman AFB; Lea County Electric Cooperative; Roosevelt County Electric Cooperative; Farmers Electric Cooperative; Central Valley Electric Cooperative; Cannon AFB; and the New Mexico Public Utility Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, 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 March 15, 1996. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 96–4214 Filed 2–23–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER94–152–008, et al.]

North American Energy Conservation, et al.; Electric Rate and Corporate Regulation Filings

February 16, 1996.

Take notice that the following filings have been made with the Commission:

1. North American Energy Conservation, Calpine Power Marketing, Inc., Proven Alternatives, Inc., Wilson Power & Gas Smart, Inc., K Power Company, Duke Energy Marketing Corporation

[Docket No. ER94–152–008, Docket No. ER94–1545–004, Docket No. ER95–473–003, Docket No. ER95–751–004, Docket No. ER95–792–002, Docket No. ER96–109–003 (not consolidated)]

Take notice that the following informational filings have been made with the Commission and are on file and available for inspection and copying in the Commission's Public Reference Room:

On January 30, 1996, North American Energy Conservation filed certain information as required by the Commission's February 10, 1994 order in Docket No. ER94–152–000.

On January 29, 1996, Calpine Power Marketing, Inc. filed certain information as required by the Commission's March 9, 1995 order in Docket No. ER94–1545–000.

On February 5, 1996, Proven Alternatives, Inc. filed certain information as required by the Commission's March 29, 1995 order in Docket No. ER95–473–000.

On January 17, 1996, Wilson Power & Gas Smart, Inc. filed certain information as required by the Commission's April 25, 1995 order in Docket No. ER95–751–000.

On January 17, 1996, K Power Company filed certain information as required by the Commission's June 19, 1995 order in Docket No. ER95–792–000.

On January 30, 1996, Duke Energy Marketing Corporation filed certain information as required by the Commission's December 14, 1995 order in Docket No. ER96–109–000.

2. Wisconsin Electric Power Company

[Docket No. ER96–19–000]

Take notice that Wisconsin Electric Power Company (Wisconsin Electric) on February 12, 1996, tendered for filing a revised Western Joint Use of Transmission Agreement (Agreement) between itself and Upper Peninsula Power Company (UPPCO). The November 20 Agreement increases the compensation that Wisconsin Electric will pay UPPCO for the use of its facilities in Michigan's Upper Peninsula. A Certificate of Concurrence from UPPCO is included in the filing.

Wisconsin Electric requests an April 1, 1996 effective date.

Copies of the filing have been served on UPPCO, the Cooper Range Company, the Michigan Public Service Commission, and the Public Service Commission of Wisconsin.

Comment date: February 29, 1996, in accordance with Standard Paragraph E at the end of this notice.

3. PECO Energy Company

[Docket No. ER96–641–000]

Take notice that on February 8, 1996, PECO Energy Company (PECO) amended its filing in this docket by submitting substitute new versions of its Network Integration Service Tariff and its Point-to-Point Transmission Service Tariff to replace those originally tendered for filing on December 20, 1995.

PECO requests an effective date of February 18, 1996, which was the date originally requested for effectiveness on December 20, 1995.

PECO states that copies of this filing have been supplied to all parties in this docket and to the Pennsylvania Public Utility Commission.

Comment date: February 29, 1996, in accordance with Standard Paragraph E at the end of this notice.

4. Alabama Power Company

[Docket No. ER96–671–000]

Take notice that on February 2, 1996, Alabama Power Company tendered for an amendment in the above-referenced docket.

Comment date: February 29, 1996, in accordance with Standard Paragraph E at the end of this notice.

5. Gateway Energy Marketing

[Docket No. ER96–795–000]

Take notice that on February 6, 1996, Gateway Energy Marketing tendered for filing an amendment to its January 16, 1996 filing in the above-referenced docket.

Comment date: February 29, 1996, in accordance with Standard Paragraph E at the end of this notice.

6. American Electric Power Service Corporation

[Docket Nos. ER96–1032–000 and ER95–1596–001]

Take notice that on February 7, 1996, the American Electric Power Service Corporation (AEPSC) tendered for filing a request to transfer Service Agreements under Point-to-Point Transmission Service Tariff filed in Docket ER95–1596–000, to a new Docket (referenced above) to be considered separately.

AEPSC expects the Point-to-Point Transmission Tariff will be designated in Docket No. ER93–540–000 to supplement or replace AEPSC FERC Electric Tariff Original Volume No. 1. AEPSC requests waiver of notice to permit the Service Agreements to be made effective as of January 1, 1996.

A copy of the filing was served upon the Parties and the State Utility Regulatory Commissions of Indiana, Kentucky, Michigan, Ohio, Tennessee, Virginia and West Virginia.

Comment date: February 29, 1996, in accordance with Standard Paragraph E at the end of this notice.

7. Minnesota Power & Light Company

[Docket No. ER96–1038–000]

Take notice that on February 5, 1996, Minnesota Power & Light Company,

tendered for filing signed Service Agreements with the following:

Coastal Electric Services Company
Delhi Energy Services, Inc.
KN Marketing
Tennessee Valley Authority
Industrial Energy Applications, Inc.
Koch Power Services, Inc.
Wisconsin Public Service Corporation

Under its Wholesale Coordination Sales Tariff to satisfy its filing requirements under this tariff.

Comment date: March 1, 1996, in accordance with Standard Paragraph E at the end of this notice.

8. Cinergy Services, Inc.

[Docket No. ER96–1039–000]

Take notice that on February 8, 1996, Cinergy Services, Inc. (CIN), tendered for filing on behalf of its operating company, PSI Energy, Inc. (PSI), a First Supplemental Agreement, dated January 1, 1996, to the Interconnection Agreement, dated July 1, 1994, between Rainbow Energy Marketing Corporation (REMC) and PSI.

The First Supplemental Agreement revises the definitions for Emission Allowances and provides for Cinergy Services to act as agent for PSI. The following Exhibit has also been revised:

B. Power Sales by Cinergy

Cinergy and REMC have requested an effective date of March 1, 1996.

Copies of the filing were served on Rainbow Energy Marketing Corporation, the Public Service Commission, the Kentucky Public Service Commission, Public Utilities Commission of Ohio and the Indiana Utility Regulatory Commission.

Comment date: March 1, 1996, in accordance with Standard Paragraph E at the end of this notice.

9. CoEnergy Trading Company

[Docket No. ER96–1040–000]

Take notice that on February 8, 1996, CoEnergy Trading Company (CTC), tendered for filing pursuant to Rule 205, 18 CFR 385.205, a petition for waivers and blanket approvals under various regulations of the Commission and for an order accepting its FERC Electric Rate Schedule No. 1 to be effective no later than 60 days from the date of its filing.

CTC intends to engage in electric power and energy transactions as a marketer and a broker. In transactions where CTC sells electric energy, it proposes to make such sales on rates, terms, and conditions to be mutually agreed to with the purchasing party. CTC is not in the business of generating, transmitting, or distributing electric power.

Comment date: March 1, 1996, in accordance with Standard Paragraph E at the end of this notice.

10. Northern States Power Company (Minnesota), Northern States Power Company (Wisconsin)

[Docket No. ER96–1041–000]

Take notice that on February 8, 1996, Northern States Power Company-Minnesota (NSP–M) and Northern States Power Company-Wisconsin (NSP–W) jointly tendered and request the Commission to accept two Transmission Service Agreements which provide for Limited and Interruptible Transmission Service to Electric Clearinghouse, Inc.

NSP requests that the Commission accept for filing the Transmission Service Agreements effective as of January 9, 1996. NSP requests a waiver of the Commission's notice requirements pursuant to Part 35 so the Agreements may be accepted for filing effective on the date requested.

Comment date: March 1, 1996, in accordance with Standard Paragraph E at the end of this notice.

11. American Electric Power Service Corporation

[Docket No. ER96–1042–000]

Take notice that on February 8, 1996, the American Electric Power Service Corporation (AEPSC), tendered for filing service agreements, executed by AEPSC and the following parties, under the AEP Companies' Power Sales Tariffs: (1) Carolina Power & Light Company, (2) Edison Sault Electric, and (3) PECO Energy Services Company (Parties).

The Power Sales Tariff has been designated as FERC Electric Tariff, Original Volume No. 2, effective October 1, 1995. AEPSC requests waiver of notice to permit the Service Agreements to be made effective as of January 1, 1996.

A copy of the filing was served upon the Parties and the State Utility Regulatory Commission of Indiana, Kentucky, Michigan, Ohio, Tennessee, Virginia and West Virginia.

Comment date: March 1, 1996, in accordance with Standard Paragraph E at the end of this notice.

12. Wisconsin Public Service Corporation

[Docket No. ER96–1043–000]

Take notice that on February 8, 1996, Wisconsin Public Service Corporation, tendered for filing an executed service agreement with JPower, Inc. and PECO Energy Company under its CS–1 Coordination Sales Tariff.

Comment date: March 1, 1996, in accordance with Standard Paragraph E at the end of this notice.

13. Wisconsin Public Service Corporation

[Docket No. ER96–1044–000]

Take notice that on February 8, 1996, Wisconsin Public Service Corporation (WPSC), tendered for filing an executed Transmission Service Agreement between WPSC and JPower, Inc. The Agreement provides for transmission service under the Comparable Transmission Service Tariff, FERC Original Volume No. 7.

WPSC asks that the agreement become effective retroactively to the date of execution by WPSC.

Comment date: March 1, 1996, in accordance with Standard Paragraph E at the end of this notice.

14. Central Power and Light Company, West Texas Utilities Company, Public Service Company of Oklahoma, Southwestern Electric Power Company

[Docket No. ER96–1046–000]

Take notice that on February 9, 1996, Central Power and Light Company, West Texas Utilities Company, Public Service Company of Oklahoma, and Southwestern Electric Power Company (the CSW Operating Companies) tendered for filing Point-to-Point Transmission Service Tariffs and Network Integration Transmission Service Tariffs for their transmission systems. The CSW Operating Companies state that the Tariffs are submitted to offer the transmission and ancillary services that are contemplated by the *pro forma* tariffs published in the Commission's Open Access NOPR in Docket No. RM95–8–000.

The CSW Operating Companies state that the Tariffs were served on the Public Utility Commission of Texas, the Oklahoma Corporation Commission, the Louisiana Public Service Commission, and the Arkansas Public Service Commission.

Comment date: March 1, 1996, in accordance with Standard Paragraph E at the end of this notice.

15. Houston Lighting & Power Company

[Docket No. ER96–1047–000]

Take notice that on February 9, 1996, Houston Lighting & Power Company (HL&P), tendered for filing an executed transmission service agreement (TSA) with Delhi Energy Services, Inc. (Delhi) for Economy Energy and Emergency Power Transmission Service under HL&P's FERC Electric Tariff, Original Volume No. 1, for Transmission Service to, from and over certain HVDC

Interconnections. HL&P has requested an effective date of January 19, 1996.

Copies of the filing were served on Delhi and the Public Utility Commission of Texas.

Comment date: March 1, 1996, in accordance with Standard Paragraph E at the end of this notice.

16. Wisconsin Public Service Corporation

[Docket No. ER96–1050–000]

Take notice that on February 9, 1996, Wisconsin Public Service Corporation (WPSC), tendered for filing executed Transmission Service Agreements between WPSC and LG&E Power Marketing Inc. The Agreements provide for transmission service under the Comparable Transmission Service Tariff, FERC Original Volume No. 7.

WPSC asks that the agreements become effective retroactively to the date of execution by WPSC.

Comment date: March 1, 1996, in accordance with Standard Paragraph E at the end of this notice.

17. Southern Company Services, Inc.

[Docket No. ER96–1051–000]

Take notice that on February 9, 1996, Southern Company Services, Inc., acting on behalf of Alabama Power Company, Georgia Power Company, Gulf Power Company, Mississippi Power Company, and Savannah Electric and Power Company (collectively referred to as Southern Companies) filed a revised Sheet No. 12 to Southern Companies' Network Integration Service Transmission Tariff and a revised Sheet No. 21 to Southern Companies' Point-to-Point Transmission Service Tariff. The purpose of the revisions is to delete a provision in order to conform the tariffs to the Commission's *pro forma* tariffs.

Comment date: March 1, 1996, in accordance with Standard Paragraph E at the end of this notice.

18. Northern States Power Company (Minnesota), Northern States Power Company (Wisconsin)

[Docket No. ER96–1052–000]

Take notice that on February 9, 1996, Northern States Power-Minnesota (NSP–M) and Northern States Power Company-Wisconsin (NSP–W) jointly tendered and request the Commission to accept two Transmission Service Agreements which provide for Limited and Interruptible Transmission Service to LG&E Power Marketing Inc.

NSP requests that the Commission accept for filing the Transmission Service Agreements effective as of January 19, 1996. NSP requests a waiver of the Commission's notice requirements pursuant to Part 35 so the Agreements may be accepted for filing effective on the date requested.

Comment date: March 1, 1996, in accordance with Standard Paragraph E at the end of this notice.

19. Northeast Utilities Service Company

[Docket No. ER96–1053–000]

Take notice that on February 12, 1996, Northeast Utilities Service Company (NUSCO), tendered for filing, a Service Agreement to provide short-term firm transmission service to CNG Power Services Corporation (CNG) under the NU System Companies' Transmission Service Tariff No. 5.

NUSCO states that a copy of this filing has been mailed to CNG.

NUSCO requests that the Service Agreement become effective February 15, 1996.

Comment date: March 1, 1996, in accordance with Standard Paragraph E at the end of this notice.

20. Public Service Electric and Gas Company

[Docket No. ER96–1054–000]

Take notice that on February 12, 1996, Public Service Electric and Gas Company (PSE&G), tendered for filing an initial rate schedule to provide fully interruptible transmission service to Catex Vitol Electric, L.L.C., for delivery of non-firm wholesale electrical power and associated energy output utilizing the PSE&G bulk power transmission system.

Comment date: March 1, 1996, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 96–4230 Filed 2–23–96; 8:45 am]

BILLING CODE 6717–01–P

[Project No. 2225–008 Washington]

PUD No. 1 of Pend Oreille County; Notice of Public Scoping Meeting

February 20, 1996.

The Federal Energy Regulatory Commission (FERC or Commission) will hold a public scoping meeting on March 20, 1996, pursuant to the preparation of an Environmental Impact Statement (EIS) under the National Environmental Policy Act (NEPA) for a license amendment for the Sullivan Creek Project on Sullivan Creek near Metaline Falls, Washington. The proposed amendment is add hydroelectric generation facilities to a non-generating project.

Scoping Meetings

The scoping meeting will be held on Wednesday March 20, 1996 at the Cutter Building, 302 Park Avenue, Metaline Falls, Washington. The scoping meeting will begin at 7:00 p.m. and is expected to last until approximately 10:00 pm. Prior to the meeting a notice will be published in the Spokane Chronicle.

Objectives

At the scoping meeting, staff will: (1) Summarize the environmental issues tentatively identified for analysis in the EIS; (2) determine the relative depth of analysis for issues to be addressed in the EIS; (3) identify resource issues that are not important and do not require detailed analysis; (4) solicit all available information from the meeting participants, especially quantifiable data on site-specific and cumulative impacts on the resources at issue; and (5) listen to statements from experts and the public on issues that should be analyzed in the EIS.

Procedures

The meetings will be recorded by a stenographer and the notes will become part of the formal record of the Commission proceeding on the Sullivan Creek Project. Before each meeting starts, individuals who intend to make statements during the meeting will be asked to sign in to clearly identify themselves for the record.

Everyone in attendance is encouraged to participate during public meetings. Speaking time allowed for individuals will be determined before each meeting, based on the number of persons wishing to speak and the approximate amount of time available for the session. All speakers will be provided at least five minutes to present their views.

People choosing not to speak or are unable to attend the scoping meetings but wish to express an opinion, as well as speakers unable to summarize their

positions within their allotted time, may submit written statements at the meeting for inclusion in the public record.

Information Requested

Federal, state, and local resource agencies and other interested groups or individuals are requested to forward to the Commission, or to present at the scoping meetings, any information they believe will assist us in conducting an accurate and thorough analysis of the environmental consequences of amending the license for the Sullivan Creek Project. The types of information requested include, but are not limited to, the following:

- Existing information, data, reports, any other EIS or similar study, or resource plans relevant to the licensing activities for the Sullivan Creek Project; and
- Information, data, or professional opinions that may contribute to identifying significant environmental issues and other environmental issues that are determined not significant.

To be useful in preparing the EIS, the Commission must receive written information no later than April 22, 1996. Additionally, any information that can be submitted before the scoping meeting would be greatly appreciated. Written comments should be addressed to: Lois Cashell, Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

All filings sent to the Secretary of the Commission should contain an original and eight copies. Failure to file an original and eight copies may result in appropriate staff not receiving the benefit of your comments in a timely manner. The first page of all filings should prominently display the words ''Sullivan Creek Hydroelectric Project, Project No. 2225–008'' at the top of the page. For further information, please contact Rebecca Martin at (202) 219–2650.

Lois D. Cashell,

Secretary.

[FR Doc. 96–4209 Filed 2–23–96; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5429–8]

Agency Information Collection Activities Under OMB Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3507(a)(1)(D)), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and its expected cost and burden; where appropriate, it includes the actual data collection instrument.

DATES: Comments must be submitted on or before March 27, 1996.

FOR FURTHER INFORMATION OR A COPY CALL: Sandy Farmer at EPA, (202) 260–2740, and refer to EPA ICR No. 1772.01.

SUPPLEMENTARY INFORMATION:

Title: Information Collection Activities Associated with EPA's Energy Star Buildings Program; EPA ICR No. 1772.01. This is a new collection.

Abstract: EPA's Energy Star Buildings Program is a voluntary program for increasing the energy efficiency of existing commercial and industrial buildings. The program encourages businesses, state and local governments, and other organizations to participate in a partnership with EPA to make cost-effective energy-efficiency improvements in their buildings. In return, EPA provides technical support to help program participants apply proven technologies to achieve maximum efficiency at the lowest cost. EPA also publicly recognizes participants for their efforts and publicizes their achievements. The goal of the program is to reduce utility-generated emissions by reducing the energy consumed in commercial and industrial buildings.

Participation in the program is initiated by signing an Energy Star Buildings Memorandum of Understanding (MOU). The MOU is used to establish participation in the program and agreement to the terms of participation. Other than the name of the organization, signature, and date, no other information is requested on the MOU. The Energy Star Buildings MOU is an addendum to the Green Lights MOU, which requests more detailed information. The burden associated with the Green Lights MOU was covered in ICR No. 1614 and is not covered in this ICR.

As a condition of program participation, partners agree to complete and submit to EPA an annual facility report on each building undergoing energy efficiency improvements. On the annual reports, partners provide information such as building name, building use, building size, stage of project completion, project cost, and historical and current energy use and cost. EPA uses the annual facility reports to track project implementation efforts and to obtain data on the costs and benefits of the energy efficiency improvements made. This information is used to calculate the amount of utility-generated emissions prevented, evaluate program effectiveness, and publicize partner achievements and program results.

EPA will also collect additional technical information from some partners concerning the specific energy-efficiency improvements made. This collection will include information such as systems upgraded, technologies used, equipment costs, building age and construction, utility and fuel rates, financial and economic criteria used to evaluate and select energy-efficiency upgrades, types and sources of project financing, and rates of return. EPA will use this information to evaluate and refine its technical strategies and implementation support tools. An Agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The OMB control number for EPA's regulations are listed in 40 CFR part 9. The Federal Register Notice with a 60-day comment period soliciting comments on this collection of information was published on November 17, 1995 and no comments were received.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 7.25 hours for the MOU, 4.8 hours for the Annual Facility Report, and 8 hours for the Additional Technical Information. These estimates include the time needed to review instructions, develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

MOU

Respondents/Affected Entities: Those entities who voluntarily join the EPA Energy Star Buildings program.

Estimated Number of Respondents: 191.

Estimated Total Annual Burden on Respondents: 1,385 hours.

Frequency of Collection: One time per respondent.

Annual Facility Report

Respondents/Affected Entities: Participants in the EPA Energy Star Buildings program.

Estimated Number of Respondents: 353.

Estimated Total Annual Burden on Respondents: 2,697 hours.

Frequency of Collection: Annually.

Additional Technical Information

Respondents/Affected Entities: Selected participants in the EPA Energy Star Buildings program.

Estimated Number of Respondents: 35.

Estimated Total Annual Burden on Respondents: 280 hours.

Frequency of Collection: Annually.

Total Number of Respondents and Hours

Total Number of Responses: 579.

Total Burden Hours: 4,362 hours.

Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques to the following addresses. Please refer to EPA ICR No. 1772.01 and OMB Control No. 2060–XXXX in any correspondence.

Ms. Sandy Farmer, U.S. Environmental Protection Agency, OPPE, Regulatory Information Division (2136), 401 M. Street, SW, Washington, DC 20460 and

Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for EPA, 725 17th Street, NW, Washington, DC 20503

Dated: February 20, 1996.

Joseph Retzer,

Director, Regulatory Information Division.

[FR Doc. 96–4260 Filed 2–23–96; 8:45 am]

BILLING CODE 6560–50–M

[FRL–5429–7]

Good Neighbor Environmental Board

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Pursuant to the Federal Advisory Committee Act (P.L. 92–463), the U.S. Environmental Protection Agency gives notice of a meeting of the Good Neighbor Environmental Board.

The Good Neighbor Environmental Board was created by the Enterprise for the Americas Initiative Act of 1992. An Executive Order delegates implementing authority to the Administrator of EPA. The Board is responsible for providing advice to the President and the Congress on environmental and infrastructure issues and needs within the States contiguous to Mexico in order to improve the quality of life of persons residing on the United States side of the border. The statute calls for the Board to have representatives from U.S. Government agencies; the governments of the States of Arizona, California, New Mexico and Texas; and private organizations with expertise on environmental and infrastructure problems along the southwest border. The Board meets twice annually.

Members of the public are invited to provide oral and/or written comments to the Board. Time will be provided at the meeting to obtain input from the public.

DATES: The Board will meet on April 4–5, 1996. The Board will meet on April 4 from 8:30 a.m. to 5:00 p.m. and on April 5 from 8:30 a.m. to 2p.m.

ADDRESSES: Las Cruces Hilton Hotel, 705 S. Telshor Blvd, Las Cruces, New Mexico 88011. The meeting is open to the public, with limited seating on a first-come, first-served basis.

FOR FURTHER INFORMATION: Contact Mr. Robert Hardaker, Designated Federal Officer, U.S. EPA, Office of Cooperative Environmental Management, telephone 202–260–2477.

Dated: February 8, 1996.

Robert Hardaker,

Designated Federal Officer, Good Neighbor Environmental Board.

[FR Doc. 96–4259 Filed 2–23–96; 8:45 am]

BILLING CODE 6560–50–M

[FRL–54302]

Proposed Administrative Settlement under the Comprehensive Environmental Response, Compensation, and Liability Act; in the Matter of: Groveland Wells Nos. 1 and 2 Superfund Site; Groveland, MA

AGENCY: Environmental Protection Agency.

ACTION: Notice of proposed administrative order on consent to Bardon Trimount, Inc. and request for public comment.

SUMMARY: The U.S. Environmental Protection Agency (EPA) is proposing to enter into an administrative order on consent to address claims under the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (CERCLA), 42 U.S.C. 9601 *et seq.* Notice is being published to inform the public of the proposed *de minimis* landowner settlement and of the opportunity to comment. The *de minimis* landowner settlement is intended to resolve the liability under CERCLA of Bardon Trimount, Inc. for injunctive relief or for reimbursement of response costs under Sections 106 or 107(a) with regard to the remedial action, and the EPA response costs associated with the remedial action at the Groveland Wells Nos. 1 and 2 Superfund Site in Groveland, Massachusetts.

DATES: Comments must be provided on or before March 27, 1996.

ADDRESSES: Comments should be addressed to the Docket Clerk, U.S. Environmental Protection Agency, Region I, JFK Federal Building, Mailcode RCH, Boston, Massachusetts 02203, and should refer to: In the matter of: Groveland Wells Nos. 1 and 2 Superfund Site, Groveland, MA, U.S. EPA Docket No. CERCLA–I–96–1014.

FOR FURTHER INFORMATION CONTACT: Rona H. Gregory, U.S. Environmental Protection Agency, J.F.K. Federal Building, Mailcode RCH, Boston, Massachusetts 02203, (617) 565–3051.

SUPPLEMENTARY INFORMATION: In accordance with the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (CERCLA), 42 U.S.C. § 9601 *et seq.*, notice is hereby given of a proposed administrative order on consent concerning the Groveland Wells Nos. 1 and 2 Superfund Site in Groveland, MA. The *de minimis* landowner settlement was approved by EPA Region I on October 16, 1995, subject to review by the public pursuant to this Notice. Bardon Trimount, Inc., the Settling Respondent, has executed a signature page committing it to participate in the settlement. Under the proposed settlement, the Settling Respondent is required to give EPA an irrevocable right of access to its property, to secure all institutional controls and not to assert any claims of taking or inverse condemnation of private property. EPA believes the settlement is fair and in the public interest.

EPA is entering into this agreement under the authority of CERCLA Section 101 *et seq.* which provides EPA with authority to consider, compromise, and settle a claim under Sections 106 and 107 of CERCLA for costs incurred by the United States if the claim has not been referred to the U.S. Department of Justice for further action. The U.S. Department of Justice will have approved this settlement in writing prior to the agreement becoming

effective. EPA will receive written comments relating to this settlement for thirty (30) days from the date of publication of this Notice.

A copy of the proposed administrative settlement may be obtained in person or by mail from Rona H. Gregory, U.S. Environmental Protection Agency, JFK Federal Building, Mailcode RCH, Boston, Massachusetts 02203, 617–565–3051.

The Agency's response to any comments received will be available for public inspection with the Docket Clerk, U.S. Environmental Protection Agency, Region I, JFK Federal Building, Mailcode RCH, Boston, Massachusetts (U.S. EPA Docket No. CERCLA–I–96–1014).

Dated: January 25, 1996.

John DeVillars,

Regional Administrator.

[FR Doc. 96–4257 Filed 2–23–96; 8:45 am]

BILLING CODE 6560–50–M

[FRL–5429–6]

Notice of Proposed Administrative Cost Recovery Agreement Under Section 122(h)(1) of the Comprehensive Environmental Response, Compensation and Liability Act, Regarding the Hi View Terrace Site, West Seneca, NY

AGENCY: Environmental Protection Agency.

ACTION: Notice of proposed administrative agreement and opportunity for public comment.

SUMMARY: In accordance with Section 122(i) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (''CERCLA''), 42 U.S.C. 9622(i), the U.S. Environmental Protection Agency (''EPA'') Region II announces a proposed administrative settlement pursuant to Section 122(h)(1) of CERCLA, 42 U.S.C. 9622(h)(1), and the inherent settlement authority of the Attorney General of the United States, relating to the Hi View Terrace Site (the ''Site''), West Seneca, Erie County, New York. This notice is being published to inform the public of the proposed settlement and of the opportunity to comment.

The settlement, memorialized in an Administrative Cost Recovery Agreement (''Agreement''), is being entered into by EPA and the National Fuel Gas Distribution Corporation (the ''Respondent''). Under the Agreement, the Respondent shall pay EPA the sum of $75,000 in reimbursement of a portion of the response costs incurred by EPA with respect to the Site. Respondent shall also pay the Department of the Interior $25,000 to settle potential claims for natural resource damages at the Site.

DATES: EPA will accept written comments relating to the proposed settlement for a period of thirty days from the date of publication of this notice.

ADDRESSES: Comments should reference the Hi View Terrace Superfund Site and EPA Index No. II–CERCLA–95–0225. Comments should be sent to: Carol Y. Berns, New York/Caribbean Superfund Branch, Office of Regional Counsel, U.S. Environmental Protection Agency, 290 Broadway, 17th Floor, New York, New York, 10007–1866, Telephone: (212) 637–3177.

FOR FURTHER INFORMATION CONTACT: Carol Y. Berns, New York/Caribbean Superfund Branch, Office of Regional Counsel, U.S. Environmental Protection Agency, 290 Broadway, 17th Floor, New York, New York, 10007–1866, Telephone: (212) 637–3177.

Dated: February 2, 1996.

William J. Muszynski

Acting Regional Administrator.

[FR Doc. 96–4256 Filed 2–23–96; 8:45 am]

BILLING CODE 6560–50–M

[FRL–5429–9]

Proposed CERCLA Section 122(h) Administrative Order on Consent for the Old City Landfill Site in Columbus, IN

AGENCY: U.S. Environmental Protection Agency (''U.S. EPA'').

ACTION: Proposal of CERCLA Section 122(h) Administrative Order on Consent for the Old City Landfill Site in Columbus, Indiana.

SUMMARY: US EPA proposes to address the potential liability of three parties under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (''CERCLA''), 42 U.S.C. 9601 *et seq.*, as amended by the Superfund Amendments and Reauthorization Act of 1986 (''SARA''), Pub. L. 99–499, for past costs incurred in connection with the Old City Landfill Site (''the Site'') located in Columbus, Indiana. The U.S. EPA proposes to address the potential liability of Arvin Industries, Inc., the City of Columbus, Indiana, and Cummins Engine Company by execution of a CERCLA Section 122(h) Administrative Order on Consent (''AOC'') prepared pursuant to 42 U.S.C. 9622(h). The key terms and conditions of the AOC may be briefly summarized as follows: (1) The parties agree to pay U.S. EPA $42,071.00 in satisfaction of claims for past costs incurred at the Site by U.S. EPA; (2) The parties agree to waive all claims against the United States that arise out of response activities conducted at the Site; and (3) U.S. EPA affords the parties a covenant not to sue for past costs incurred at the Site and contribution protection as provided by CERCLA Sections 113(f)(2) and 122(h)(4) upon satisfactory completion of obligations under the AOC. The Site is on the National Priorities List, and no further response activities by US EPA are anticipated at this time. U.S. EPA previously transferred responsibility for the Site to the State of Indiana. The Attorney General has approved the Settlement.

DATES: Comments on the proposed AOC must be received by U.S. EPA by March 27, 1996.

ADDRESSES: A copy of the proposed AOC is available for review at U.S. EPA, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604. Please contact Andrew Warren at (312) 353–5485, prior to visiting the Region 5 office.

Comments on the proposed AOC should be addressed to Andrew Warren, Office of Regional Counsel, U.S. EPA, Region 5, 77 West Jackson Boulevard (Mail Code CS–29A), Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Andrew Warren at (312) 353–5485, of the U.S. EPA Region 5 Office of Regional Counsel.

A 30-day period, commencing on the date of publication of this notice, is open pursuant to Section 122(i) of CERCLA, 42 U.S.C. 9622(i), for comments on the proposed AOC. Comments should be sent to the addressee identified in this notice.

David A. Ullrich,

Acting Regional Administrator, U.S. Environmental Protection Agency, Region 5.

[FR Doc. 96–4258 Filed 2–23–96; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL COMMUNICATIONS COMMISSION

Public Information Collection Approved by Office of Management and Budget

February 16, 1996.

The Federal Communications Commission (FCC) has received Office of Management and Budget (OMB) approval for the following public information collections pursuant to the Paperwork Reduction Act of 1995, Pub.

L. 96–511. An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid control number. For further information contact Shoko B. Hair, Federal Communications Commission, (202) 418–1379.

Federal Communications Commission

OMB Control No.: 3060–0421.

Expiration Date: 02/28/99.

Title: New Service Reporting Requirements Under Price Cap Regulation.

Estimated Annual Burden: 1280 total annual hours; 20 hours per respondent; 16 respondents.

Description: Price cap carriers filing new service tariffs are subject to a quarterly reporting requirement which commences six months after initiation of new services. The net revenue data report is useful to the public and the Commission in determining the reasonableness of rates for new services. These reports are used to compare actual operating results with projections.

OMB Control No.: 3060–0536.

Expiration Date: 05/31/96.

Title: Rules and Requirements for Telecommunications Relay Services (TRS) Interstate Cost Recovery.

Form No.: FCC Form 431.

Estimated Annual Burden: 46,3000; 9.26 hours per respondent (average); 5000 respondents.

Description: The Americans with Disabilities Act of 1990 requires the Commission to ensure that telecommunications relay services are available, to the extent possible, to individuals with hearing and speech disabilities in the United States. To fulfill this mandate, the Commission adopted rules which require the provision of TRS services, set minimum standards for telecommunications relay services (TRS) providers and establish a shared-funding mechanism for recovering the costs of providing interstate TRS. See 47 CFR Sections 64.601–64.605. FCC Form 431 is used in implementing the shared-funding program for the recovery of interstate TRS relay services costs. All common carriers must contribute to the TRS fund and complete FCC Form 431. The information is used to administer the program. The 1995 TRS Fund Worksheet (FCC Form 431) has been updated to include the new expiration date. Please note that the 1996 edition of the FCC Form 431 is not available for public use.

OMB Control No.: 3060–0540.

Expiration Date: 05/31/96.

Title: Tariff Filing Requirements for Nondominant Common Carriers.

Estimated Annual Burden: 202,500 total annual hours; 40.5 hours per respondent; 5000 respondents.

Description: 47 CFR Part 61, Sections 61.20 - 61.23 contain tariff filing requirements for nondominant common carriers. Section 203 of the Communications Act requires that carriers file schedules indicating the rates, terms, and conditions of their service offerings. The purpose of the filing requirement is so that the Commission, customers, and interested parties can ensure that the service offerings of communications common carriers comply with the requirements of the Communications Act.

OMB Control No.: 3060–0681.

Expiration Date: 02/28/99.

Title: Toll-Free Service Access Codes—CC Docket No. 95–155.

Estimated Annual Burden: 664,070 total annual responses; .166 hours per response (average); 4,000,000 respondents.

Description: In the Notice of Proposed Rulemaking issued in CC Docket No. 95–155, the Commission solicited public comment on how toll free numbers should be reserved, assigned, and used. The NPRM also proposed several information collections to advance the efficient use of toll free numbers, facilitate planning, permit more effective analysis of anticipated number exhaustion and prevent fraud. The entities affected include Responsible Organizations, 800 service providers, third party agents, individuals, and/or the administrator of the SMS/800 database. OMB approved several of the proposed requirements including the proposed recordkeeping, reporting and certification requirements contained in the NPRM.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 96–4181 Filed 2–23–96; 8:45 am]

BILLING CODE 6712–01–F

Second Meeting of the WRC–97 Advisory Committee

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: In accordance with the Federal Advisory Committee Act, this notice advises interested persons that the next meeting of the WRC–97 Advisory Committee will be held on Friday, March 8, 1996, at the Federal Communications Commission. The purpose of the meeting is to continue preparations for the 1997 World Radiocommunication Conference.

DATES: March 8, 1996; 2:30 p.m.–5:00 p.m.

ADDRESSES: Federal Communications Commission, 1919 M Street, N.W., Room 856, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Cecily C. Holiday, FCC International Bureau, Satellite and Radiocommunication Division, at (202) 418–0719.

SUPPLEMENTARY INFORMATION: The Federal Communications Commission (FCC) established the Advisory Committee for the 1997 World Radiocommunication Conference to provide advice, technical support and recommendations relating to the preparation of recommended United States proposals and positions for the 1997 World Radiocommunication Conference (WRC–97). In accordance with the Federal Advisory Committee Act, Public Law 92–463, as amended, this notice advises interested persons of the second meeting of the WRC–97 Advisory Committee.

This meeting will continue the organization of the Advisory Committee. It will also review the results of recent meetings of the International Telecommunication Union Radiocommunication Sector relating to international preparations for WRC–97 and provide an update on the FCC's preparatory process for WRC–97.

The WRC–97 Advisory Committee has an open membership. All interested parties are invited to participate in the Advisory Committee and to attend its meetings. Further information regarding the WRC–97 Advisory Committee is available on the World Wide Web at: http://www.fcc.gov/Bureaus/International/WWW/WRC97/wrc97.html.

The proposed agenda for the first meeting is as follows:

Agenda

Second Meeting of the WRC–97 Advisory Committee, Federal Communications Commission, 1919 M Street, N.W., Room 856, Washington, D.C. 20554, March 8, 1996; 2:30 p.m.–5:00 p.m.

1. Opening Remarks
2. Approval of Agenda
3. Report on Recent ITU–R Meetings (CPM, RAG, SCRPM)
4. Update on FCC Preparatory Process for WRC–97
5. Final Advisory Committee Structure & Introduction of IWG Chairs
6. Advisory Committee Meeting Schedule

7. Other Business

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 96–4183 Filed 2–23–96; 8:45 am]

BILLING CODE 6712–01–M

FEDERAL TRADE COMMISSION

[File No. 961 0022]

Litton Industries, Inc.; Consent Agreement With Analysis to Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Consent agreement.

SUMMARY: This Consent Agreement, accepted subject to final Commission approval, settles alleged violations of federal law prohibiting unfair or deceptive acts or practices and unfair methods of competition arising from Litton's proposed acquisition of all of the voting securities of PRC Inc., in a transaction valued at approximately $425 million. The proposed complaint alleges that the acquisition, if consummated, would violate Section 7 of the Clayton Act, as amended, and Section 5 of the Federal Trade Commission Act, as amended, in the market for the research, development, manufacture and sale of Aegis destroyers for the United States Department of the Navy. The proposed consent order would, among other things, require Litton to divest all of the assets relating to the provision of systems engineering and technical assistance services (''SETA Services'') in support of the U.S. Department of the Navy's Aegis destroyer program. In addition, Litton has signed an Interim Agreement providing that the terms of the Consent Agreement will become effective immediately.

DATES: Comments must be received on or before April 26, 1996.

ADDRESSES: Comments should be directed to: FTC/Office of the Secretary, Room H–159, Sixth Street and Pennsylvania Avenue, NW., Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: Ann B. Malester, FTC/S–2308, Washington, DC 20580 (202) 326–2682.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46, and Section 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the following consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with Section 4.9(b)(6)(ii) of the Commission's Rules of Practice (16 CFR 4.9(b)(6)(ii)).

In the Matter of: Litton Industries, Inc., a corporation. File No. 961–0022.

Agreement Containing Consent Order

The Federal Trade Commission (''Commission''), having initiated an investigation of the proposed acquisition by Litton Industries, Inc. (''Litton'') of PRC Inc. (''PRC''), and it now appearing that Litton, hereinafter sometimes referred to as ''Proposed Respondent,'' is willing to enter into an agreement containing an order to divest certain assets, and providing for certain other relief:

It is hereby agreed by and between Proposed Respondent Litton, by its duly authorized officers and attorneys, and counsel for the Commission that:

1. Proposed Respondent Litton is a corporation organized, existing, and doing business under and by virtue of the laws of the state of Delaware with its principal executive offices located at 21240 Burbank Boulevard, Woodland Hills, California, 91367–6675.

2. Proposed Respondent admits all the jurisdictional facts set forth in the draft of complaint here attached.

3. Proposed Respondent waives:

a. any further procedural steps;

b. the requirement that the Commission's decision contain a statement of findings of fact and conclusions of law;

c. all rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement; and

d. any claims under the Equal Access to Justice Act.

4. Proposed Respondent shall submit, within thirty (30) days of the date this Agreement is signed by Proposed Respondent, an initial compliance report, as contemplated by Rules 2.33 and 4.9(b)(7) of the Commission's Rules of Practice and Procedure, 16 CFR 2.33 and 4.9(b)(7), duly signed by the Proposed Respondent, setting forth in precise detail the manner in which Proposed Respondent will comply with Paragraphs II and III of the proposed consent order, when and if entered. Among other things, the report shall include a full and complete description of the efforts planned or underway to comply with the terms and conditions of the proposed order, including:

(1) a list of the firms to which Proposed Respondent (i) has offered, and (ii) intends to offer, the SETA Services Operations;

(2) the actions, procedures and directives Litton will employ to comply with Paragraphs II.G., II.H., II.I., and III of the proposed consent order.

5. This agreement shall not become part of the public record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission it, together with the draft of complaint contemplated thereby, will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify the Proposed Respondent, in which event it will take such action as it may consider appropriate, or issue and serve its complaint (in such form as the circumstances may require) and decision, in disposition of the proceeding.

6. This agreement is for settlement purposes only and does not constitute an admission by Proposed Respondent that the law has been violated as alleged in the draft of complaint here attached, or that the facts as alleged in the draft complaint, other than jurisdictional facts, are true.

7. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of Section 2.34 of the Commission's Rules, the Commission may, without further notice to Proposed Respondent, (1) issue its complaint corresponding in form and substance with the draft of complaint here attached and its decision containing the following order to divest in disposition of the proceeding, and (2) make information public with respect thereto. When so entered, the order shall have the same force and effect and may be altered, modified, or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Delivery by the U.S. Postal Service of the complaint and decision containing the agreed-to order to Proposed Respondent shall constitute service. Proposed Respondent waives any right it may have to any other manner of service. The complaint may be used in construing the terms of the order, and no agreement, understanding, representation, or interpretation not contained in the order or the agreement may be used to vary or contradict the terms of the order.

8. Proposed Respondent has read the proposed complaint and order contemplated hereby. Proposed Respondent understands that once the order has been issued, it will be required to file one or more compliance reports showing that it has fully complied with the order. Proposed Respondent further understands it may be liable for civil penalties in the amount provided by law for each violation of the order after it becomes final. By signing this Agreement, Proposed Respondent represents that the relief contemplated by this Agreement can be accomplished.

Order

I

It is ordered that, as used in this order, the following definitions shall apply:

A. ''Respondent'' or ''Litton'' means Litton Industries, Inc., its directors, officers, employees, agents and representatives, predecessors, successors and assigns; its subsidiaries, divisions, groups and affiliates controlled by Litton, and their respective directors, officers, employees, agents and representatives, successors, and assigns.

B. ''Ingalls'' means Ingalls Shipbuilding, Inc., a subsidiary of Litton, with its principal place of business at 100 W. River Road, Pascagoula, Mississippi, 39568–0149, which is engaged in, among other things, the research, development, manufacture and sale of Aegis destroyers to the United States Department of the Navy, and its subsidiaries, divisions, groups and affiliates controlled by Ingalls, and their respective directors, officers, employees, agents and representatives, successors and assigns.

C. ''Bath Iron Works'' means Bath Iron Works Corporation, a subsidiary of General Dynamics Corporation, with its principal place of business at 700 Washington Street, Bath, Maine, 04530, which is engaged in, among other things, the research, development, manufacture and sale of Aegis destroyers to the United States Department of the Navy, and its subsidiaries, divisions, groups and affiliates controlled by Bath Iron Works, and their respective directors, officers, employees, agents and representatives, successors and assigns.

D. ''PRC'' means PRC Inc., a Delaware corporation with its principal place of business at 1500 Planning Research Boulevard, McLean, Virginia, 22102, which is engaged in, among other things, the provision of SETA Services to the United States Department of the Navy in support of the Aegis destroyer shipbuilding program, its directors, officers, employees, agents and representatives, predecessors, successors and assigns; its subsidiaries, divisions, groups and affiliates controlled by PRC, and their respective directors, officers, employees, agents and representatives, successors, and assigns.

E. ''Commission'' means the Federal Trade Commission.

F. ''Acquisition'' means Litton's acquisition of all of the voting securities of PRC pursuant to a Stock Purchase Agreement dated December 13, 1995.

G. ''SETA Services Operations'' means all assets, properties, business and goodwill, tangible and intangible, held by PRC and used in the provision of SETA Services to the United States Department of the Navy under contract N00024–94–C–6430, including, without limitation, the following:

1. all rights, obligations and interests in contract N00024–94–C–6430 between the Naval Sea Systems Command and PRC;

2. all customer lists, vendor lists, catalogs, sales promotion literature, advertising materials, research materials, financial information, technical information, management information and systems, software, software licenses, inventions, trade secrets, intellectual property, patents, technology, know-how, specifications, designs, drawings, processes and quality control data;

3. all rights, title and interests in and to owned or leased real property, together with appurtenances, licenses and permits;

4. all rights, title and interests in and to the contracts entered into in the ordinary course of business with customers (together with associated bid and performance bonds), suppliers, sales representatives, distributors, agents, personal property lessors, personal property lessees, licensors, licensees, consignors and consignees;

5. all rights under warranties and guarantees, express or implied;

6. all books, records, and files;

7. all data developed, prepared, received, stored or maintained under contract N00024–94–C–6430 or any predecessor contract or subcontract to support the Aegis shipbuilding program, including the Aegis technical library; and

8. all items of prepaid expense.

H. ''SETA Services'' means systems engineering and technical assistance services provided by PRC to the United States Department of the Navy in support of the Aegis destroyer shipbuilding program.

I. ''Non-public Aegis Information'' means any information not in the public domain furnished by Ingalls or Bath Iron Works or any other company to PRC in its capacity as provider of SETA Services under contract N00024–94–C–6430 and any predecessor contract.

II

It is further ordered That:

A. Litton shall divest, absolutely and in good faith, within ninety (90) days of the date Litton signs this order, the SETA Services Operations, and shall also divest such additional ancillary PRC assets as are necessary to assure the continued ability of the acquirer to provide SETA Services.

B. Litton shall divest the SETA Services Operations only to an acquirer that receives the prior approval of the Commission and of the United States Department of the Navy, and only in a manner that receives the prior approval of the Commission. The purpose of the divestiture is to ensure the continued provision of SETA Services in the same manner as provided by PRC at the time of the proposed divestiture, at no increased cost to the United States Department of the Navy, and to remedy the lessening of competition alleged in the Commission's complaint.

C. Pending divestiture of the SETA Services Operations, Litton shall take such actions as are necessary to ensure the continued provision of SETA Services, and to maintain the viability and marketability of the assets used to provide SETA Services, and to prevent the destruction, removal, wasting, deterioration or impairment of the assets used to provide SETA Services, and to prevent the disclosure of Non-public Aegis Information.

D. Upon reasonable notice from the acquirer or from the United States Department of the Navy to respondent, respondent shall provide such technical assistance to the acquirer as is reasonably necessary to enable the acquirer to provide SETA Services in substantially the same manner and quality as provided by PRC prior to divestiture. Such assistance shall include reasonable consultation with knowledgeable employees and training at the acquirer's facility for a period of time sufficient to satisfy the acquirer's management that its personnel are appropriately trained in the skills necessary to perform the SETA Services Operations. Respondent shall convey all know-how necessary to perform the SETA Services Operations in substantially the same manner and quality employed or achieved by PRC

prior to divestiture. However, respondent shall not be required to continue providing such assistance for more than one (1) year from the date of the divestiture. Respondent shall charge the acquirer at a rate no more than its own costs for providing such technical assistance.

E. At the time of the execution of a purchase agreement between Litton and a proposed acquirer of the SETA Services Operations, Litton shall provide the acquirer with a complete list of all current full-time, non-clerical, salaried employees of PRC engaged in the provision of SETA Services on the date of the purchase agreement. Such list shall state each such individual's name, position, address, telephone number, and a description of the duties of and work performed by the individual in connection with the SETA Services Operations.

F. Litton shall provide the proposed acquirer with an opportunity to inspect the personnel files and other documentation relating to the individuals identified in Paragraph II.E. of this order to the extent permissible under applicable laws. For a period of six (6) months following the divestiture, Litton shall further provide the acquirer with an opportunity to interview such individuals and negotiate employment contracts with them.

G. Litton shall provide all current employees identified in Paragraph II.E. of this order with financial incentives to continue in their employment positions pending divestiture of the SETA Services Operations, and to accept employment with the acquirer at the time of the divestiture. Such incentives shall include continuation of all employee benefits offered by Litton until the date of the divestiture, and vesting of all pension benefits.

H. For a period of two (2) years commencing on the date of the individual's employment by the acquirer, Litton shall not rehire any of the individuals identified in Paragraph II.E. of this order who accept employment with the acquirer.

I. Prior to divestiture, Litton shall not transfer any of the individuals identified in Paragraph II.E. of this order whose employment responsibilities involve access to Non-public Aegis Information from SETA Services Operations to any other positions.

III

It is further ordered That:

A. Respondent shall not, absent the prior written consent of the proprietor of Non-Public Aegis Information, provide, disclose, or otherwise make available to Ingalls or any other entity any Non-Public Aegis Information.

B. PRC shall use any Non-Public Aegis Information only in its capacity as provider of technical assistance to the acquirer, pursuant to Paragraph II.D. of this Order, unless PRC obtains the prior written consent of the proprietor of the Non-Public Aegis Information.

IV

It is further ordered That:

A. If Litton has not divested, absolutely and in good faith, and with the prior approval of the Commission and the United States Department of the Navy, the SETA Services Operations within ninety (90) days of the date Litton signs this order, the Commission may appoint a trustee to divest the SETA Services Operations. In the event that the Commission or the Attorney General brings an action pursuant to section 5(*l*) of the Federal Trade Commission Act, 15 U.S.C. 45(*l*), or any other statute enforced by the Commission, Litton shall consent to the appointment of a trustee in such action. Neither the appointment of a trustee nor a decision not to appoint a trustee under this Paragraph IV shall preclude the Commission or the Attorney General from seeking civil penalties or any other relief available to it, including a court-appointed trustee, pursuant to section 5(*l*) of the Federal Trade Commission Act, or any other statute enforced by the Commission, for any failure by Litton to comply with this order.

B. If a trustee is appointed by the Commission or a court pursuant to Paragraph IV.A., Litton shall consent to the following terms and conditions regarding the trustee's powers, duties, authority, and responsibilities:

1. The Commission shall select the trustee, subject to the consent of Litton, which consent shall not be unreasonably withheld. The trustee shall be a person with experience and expertise in acquisitions and divestitures. If Litton has not opposed, in writing, including the reasons for opposing, the selection of any proposed trustee within ten (10) days after notice by the staff of the Commission to Litton of the identity of any proposed trustee, Litton shall be deemed to have consented to the selection of the proposed trustee.

2. Subject to the prior approval of the Commission, the trustee shall have the exclusive power and authority to divest the SETA Services Operations.

3. Within ten (10) days after appointment of the trustee, Litton shall execute a trust agreement that, subject to the prior approval of the Commission and, in the case of a court-appointed trustee, of the court, transfers to the trustee all rights and powers necessary to permit the trustee to effect the divestiture required by this order.

4. The trustee shall have twelve (12) months from the date the Commission approves the trust agreement described in Paragraph IV.B.3. to accomplish the divestiture, which shall be subject to the prior approval of the Commission and of the United States Department of the Navy. If, however, at the end of the twelve month period, the trustee has submitted a plan of divestiture or believes that divestiture can be achieved within a reasonable time, the divestiture period may be extended by the Commission, or, in the case of a court-appointed trustee, by the court; provided, however, the Commission may extend this period only two (2) times.

5. The trustee shall have full and complete access to the personnel, books, records and facilities related to the SETA Services Operations, or to any other relevant information, as the trustee may request. Litton shall develop such financial or other information as the trustee may request and shall cooperate with the trustee. Litton shall take no action to interfere with or impede the trustee's accomplishment of the divestiture. Any delays in divestiture caused by Litton shall extend the time for divestiture under this Paragraph in an amount equal to the delay, as determined by the Commission or, for a court-appointed trustee, by the court.

6. The trustee shall use his or her best efforts to negotiate the most favorable price and terms available in each contract that is submitted to the Commission and to the United States Department of the Navy, subject to Litton's absolute and unconditional obligation to divest at no minimum price. The divestiture shall be made in the manner and to the acquirer as set out in Paragraph II of this order, provided, however, if the trustee receives bona fide offers from more than one acquiring entity, and if the Commission and the United States Department of the Navy determine to approve more than one such acquiring entity, the trustee shall divest the SETA Services Operations to the acquiring entity or entities selected by Litton from among those approved by the Commission and the United States Department of the Navy.

7. The trustee shall serve at the cost and expense of Litton, without bond or other security unless paid for by Litton, on such reasonable and customary terms and conditions as the Commission or a count may set. The trustee shall have

the authority to employ, at the cost and expense of Litton, such consultants, accountants, attorneys, investment bankers, business brokers, appraisers, and other representatives and assistants as are necessary to carry out the trustee's duties and responsibilities. The trustee shall account for all monies derived from the divestiture and all expenses incurred. After approval by the Commission and, in the case of a court-appointed trustee, by the court, of the account of the trustee, including fees for his or her services, all remaining monies shall be paid at the direction of Litton, and the trustee's power shall be terminated. The trustee's compensation shall be based at least in significant part on a commission arrangement contingent on the trustee's divesting the SETA Services Operations.

8. Litton shall indemnify the trustee and hold the trustee harmless against any losses, claims, damages, liabilities, or expenses arising out of, or in connection with, the performance of the trustee's duties, including all reasonable fees of counsel and other expenses incurred in connection with the preparation for, or defense of any claim, whether or not resulting in any liability, except to the extent that such liabilities, losses, damages, claims, or expenses result from misfeasance, gross negligence, willful or wanton acts, or bad faith by the trustee.

9. If the trustee ceases to act or fails to act diligently, a substitute trustee shall be appointed in the same manner as provided in Paragraph IV.A. of this order.

10. The Commission or, in the case of a court-appointed trustee, the court, may on its own initiative or at the request of the trustee issue such additional orders or directions as may be necessary or appropriate to accomplish the divestiture required by this order.

11. The trustee shall have no obligation or authority to operate or maintain the SETA Services Operations.

12. The trustee shall also divest such additional ancillary assets and businesses and effect such arrangements as are necessary to assure the marketability, viability and competitiveness of the SETA Services Operations.

13. The trustee shall report in writing to Litton and the Commission every sixty (60) days concerning the trustee's efforts to accomplish divestiture.

V

It is further ordered That Respondents shall comply with all terms of the Interim Agreement, attached to this order and made a part hereof as Appendix I. Said Interim Agreement shall continue in effect until the provisions in Paragraphs II and III are complied with or until such other time as is stated in said Interim Agreement.

VI

It is further ordered That within thirty (30) days after the date this order becomes final and every thirty (30) days thereafter until Litton has fully complied with Paragraph II and IV of this order, Litton shall submit to the Commission a verified written report setting forth in detail the manner and form in which it intends to comply, is complying, and has complied with Paragraphs II and IV of this order. Litton shall include in its compliance reports, among other things that are required from time to time, a full description of the efforts being made to comply with Paragraphs II and IV including a description of all substantive contacts or negotiations for the divestiture required by this order, including the identity of all parties contacted. Litton shall include in its compliance reports copies of all written communications to and from such parties, all internal memoranda, and all reports and recommendations concerning the divestiture.

VII

It is further ordered That, for the purpose of determining or securing compliance with this order, Litton shall permit any duly authorized representatives of the Commission:

A. Access, during office hours and in the presence of counsel, to inspect and copy all books, ledgers, accounts, correspondence, memoranda and other records and documents in the possession or under the control of Litton, relating to any matters contained in this order; and

B. Upon five (5) days' notice to Litton, and without restraint or interference from Litton, to interview officers, directors, or employees of Litton, who may have counsel present, regarding any such matters.

VIII

It is further ordered That until Litton has completed all of its obligations under this order, Litton shall notify the Commission at least thirty (30) days prior to any proposed change in the Respondent such as dissolution, assignment, sale resulting in the emergence of a successor corporation, or the creation or dissolution of subsidiaries or any other change in the corporation that may affect compliance obligations arising out of the order.

IX

It is further ordered That, notwithstanding any other provision of this Order, this Order shall terminate ten (10) years from the date this Order becomes final.

Appendix I

In the Matter of: Litton Industries, Inc., a corporation. File No. 961–0022.

Interim Agreement

This Interim Agreement is by and between Litton Industries, Inc. (''Litton''), a corporation organized and existing under the laws of the State of Delaware, and the Federal Trade Commission (the ''Commission''), an independent agency of the United States Government, established under the Federal Trade Commission Act of 1914, 15 U.S.C. 41, *et seq.*

Premises

Whereas, Litton has proposed to acquire one hundred percent of the voting securities of PRC Inc., a subsidiary of Black & Decker Corporation; and

Whereas, the Commission is now investigating the proposed acquisition to determine if it would violate any of the statutes the Commission enforces; and

Whereas, if the Commission accepts the Agreement Containing Consent Order (''Consent Agreement''), the Commission will place it on the public record for a period of at least sixty (60) days and subsequently may either withdraw such acceptance or issue and serve its Complaint and decision in disposition of the proceeding pursuant to the provisions of Section 2.34 of the Commission's Rules; and

Whereas, the Commission is concerned that if an understanding is not reached, preserving competition during the period prior to the final issuance of the Consent Agreement by the Commission (after the 60-day public notice period), there may be interim competitive harm and divestiture or other relief resulting from a proceeding challenging the legality of the proposed acquisition might not be possible, or might be less than an effective remedy; and

Whereas, Litton entering into this Interim Agreement shall in no way be construed as an admission by Litton that the proposed acquisition constitutes a violation of any statute; and

Whereas, Litton understands that no act or transaction contemplated by this Interim Agreement shall be deemed immune or exempt from the provisions of the antitrust laws or the Federal Trade Commission Act by reason of

anything contained in this Interim Agreement.

Now, Therefore, Litton agrees, upon the understanding that the Commission has not yet determined whether the proposed acquisition will be challenged, and in consideration of the Commission's agreement that, at the time it accepts the Consent Agreement for public comment, it will grant early termination of the Hart-Scott-Rodino waiting period, as follows:

1. Litton agrees to execute and be bound by the terms of the Order contained in the Consent Agreement, as if it were final, from the date Litton signs the Consent Agreement.

2. Litton agrees to deliver, within three (3) days of the date the Consent Agreement is accepted for public comment by the Commission, a copy of the Consent Agreement and a copy of this Interim Agreement to the United States Department of Defense and to General Dynamics Corporation.

3. Litton agrees to submit, within thirty (30) days of the date the Consent Agreement is signed by Litton, an initial report, pursuant to Section 2.33 of the Commission's Rules, signed by Litton setting forth in detail the manner in which Litton will comply with Paragraphs II and III of the Consent Agreement.

4. Litton agrees that, from the date Litton signs the Consent Agreement until the first of the dates listed in subparagraphs 4.a and 4.b, it will comply with the provisions of this Interim Agreement:

a. Ten (10) business days after the Commission withdraws its acceptance of the Consent Agreement pursuant to the provisions of Section 2.34 of the Commission's Rules;

b. The date the Commission finally issues its Complaint and its Decision and Order.

5. Litton waives all rights to contest the validity of this Interim Agreement.

6. For the purpose of determining or securing compliance with this Interim Agreement, subject to any legally recognized privilege and applicable United States Government national security requirements, and upon written request, and on reasonable notice, to Litton made to its principal office, Litton shall permit any duly authorized representative or representatives of the Commission:

a. Access during the office hours of Litton and in the presence of counsel to inspect and copy all books, ledgers, accounts, correspondence, memoranda, and other records and documents in the possession or under the control of Litton relating to compliance with this Interim Agreement; and

b. Upon five (5) days' notice to Litton and without restraint or interference from it, to interview officers, directors, or employees of Litton, who may have counsel present, regarding any such matters.

7. This Interim Agreement shall not be binding until accepted by the Commission.

Analysis of Proposed Consent Order To Aid Public Comment

The Federal Trade Commission (''Commission'') has accepted subject to final approval an agreement containing a proposed Consent Order from Litton Industries, Inc. (''Litton''), under which Litton will be required to divest all of the assets relating to the provision of systems engineering and technical assistance services (''SETA Services'') in support of the United States Department of the Navy's Aegis destroyer program. In addition, Litton has signed an Interim Agreement providing that the terms of the Consent Agreement will become effective immediately.

The proposed Consent Order has been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the proposed Consent Order and the comments received, and will decide whether it should withdraw from the proposed Consent Order or make final the proposed Order.

Pursuant to a Stock Purchase Agreement dated December 13, 1995, Litton proposed to acquire all of the voting securities of PRC Inc., in a transaction valued at approximately $425 million. The proposed Complaint alleges that the acquisition, if consummated, would violate Section 7 of the Clayton Act, as amended, 15 U.S.C. 18, and Section 5 of the Federal Trade Commission Act, as amended, 15 U.S.C. 45, in the market for the research, development, manufacture and sale of Aegis destroyers for the United States Department of the Navy.

Litton is one of only two manufacturers of the Aegis destroyer, and PRC is the Navy's sole supplier of SETA Services for the Aegis program. In its capacity as SETA contractor for the Aegis program, PRC is charged with the responsibility for, among other things, developing technical and other specifications for Aegis destroyer procurements, assessing bid and other proposals submitted by the two Aegis destroyer manufacturers, and evaluating the cost and quality performance of the two Aegis destroyer producers. If the proposed acquisition takes place, Litton, one of the two Aegis destroyer manufacturers, would become the Aegis SETA contractor as well.

The proposed acquisition of PRC by Litton raises antitrust concerns in two areas. First, to perform the function of SETA contractor for the Aegis program, it is necessary for PRC to obtain a great deal of highly competitively sensitive information, including detailed cost data, from the two Aegis destroyer manufacturers, Litton and General Dynamics. If Litton acquires PRC, and thus becomes the SETA contractor, Litton will have access to this information from its only Aegis destroyer competitor, General Dynamics. Access to this information may enable Litton to raise Aegis destroyer prices by bidding less aggressively than it otherwise would. Second, if Litton assumes the role of Aegis SETA contractor, it may be able to anticompetitively favor itself and disfavor General Dynamics in a variety of ways, such as setting unfair procurement specifications or submitting unfair performance evaluations.

The proposed Consent Order requires Litton to divest PRC's SETA contract for the Aegis program, and all of PRC's assets associated with the performance of that contract, within ninety (90) days of the date Litton signed the Consent Order. The proposed Consent Order states that this divestiture shall be to an acquirer approved by the Commission and the United States Department of the Navy. If Litton fails to divest the assets within ninety (90) days, a trustee may be appointed to accomplish the divestiture. The proposed Consent Order also requires Litton to provide technical assistance to the acquirer for a period of one (1) year, at the request of the United States Department of the Navy or of the acquirer.

The Order also requires Litton to provide the Commission a report of compliance with the divestiture provisions of the Order within thirty (30) days following the date the Order becomes final, and every thirty (30) days thereafter until Litton has completed the required divestiture.

The purpose of this analysis is to facilitate the public comment on the proposed Order, and it is not intended to constitute an official interpretation of the agreement and proposed Order or to modify in any way their terms.

By direction of the Commission.

Donald S. Clark,

Secretary.

Concurring Statement of Commissioner Mary L. Azcuenaga, Litton Industries/PRC, File No. 961 0022

I agree with my colleagues that the consent agreement that the Commission accepts today for purposes of soliciting public comment properly addresses the anticompetitive implications of the proposed transaction. I concur in the Commission's action except to the extent that Paragraph II.B. of the proposed order makes the Department of the Navy a participant with the Commission in giving antitrust approval to any divestiture proposed under Paragraph II.A. of the order.

With due deference to the Department of Defense and in full recognition that the Department of the Navy has the power to decide with which firms it will contract for the provision of goods and services vital to the national security, no persuasive argument has been presented to suggest that the Navy has or should have a role in deciding the competitive implications of a particular divestiture. In addition, no showing has been made that this case is unique, that national security issues or concerns relating to the integrity of the AEGIS destroyer program, to the extent they may be affected by this order, could not have been addressed, as they apparently have been in other defense-related transactions,[1] without inclusion of the Department of the Navy as a necessary participant in a decision committed by statute to the Commission.

The need to obtain technical assistance in reviewing commercial transactions in sophisticated markets is not uncommon. Nor should the Commission forget that national security is the province of the country's defense agencies. The Commission might well find it necessary to consult with the Department of the Navy both to assess the viability of a proposed buyer of the PRC assets to be divested and to ensure that a proposed transaction is not inconsistent with national security. I would have preferred, however, to accommodate that need in this case by means other than making the Department of the Navy a partner with the Commission in interpreting and applying a final order of the Commission.

[FR Doc. 96–4186 Filed 2–23–96; 8:45 am]

BILLING CODE 6750–01–M

[1] *See* Lockheed Corporation, C–3576, decision and order (May 9, 1995); *See also* ARKLA, Inc., 112 F.T.C. 509 (1989).

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Advisory Committee for Injury Prevention and Control: Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces the following committee meeting.

Name: Advisory Committee for Injury Prevention and Control (ACIPC).

Times and Dates: 1 p.m.–4 p.m., March 18, 1996. 8:30–3:30 p.m., March 19, 1996.

Place: Wyndham Garden Hotel-Buckhead, 3340 Peachtree Road, NE, Atlanta, Georgia 30326.

Status: Closed: 1–2 p.m., March 18, 1996, and 8:30–9 a.m., March 19, 1996; Open: 2–4 p.m., March 18, 1996, and 9 a.m.–3:30 p.m., March 19, 1996.

Purpose: The Committee will continue to make recommendations on policy, strategy, objectives, and priorities including the balance and mix of intramural and extramural research; advise on the implementation of a national plan for inquiry prevention and control, the development of new technologies and their application; and review progress toward injury prevention and control.

Matters to be Discussed: The meeting will convene in closed session from 1–2 p.m. on March 18, 1996. The purpose of this closed session is for the Science and Program Review Work Group to consider Injury Control Research Center grant applications recommended for further consideration by the CDC Injury Research Grant Review Committee. On March 19, 1996, from 8:30 a.m. to 9 a.m., the meeting will convene in closed session in order for the full Committee to vote on a funding recommendation. These portions of the meeting will be closed to the public in accordance with provisions set forth in section 552(c) (4) and (6) title 5 U.S.C., and the Determination of the Associate Director for Management and Operations, CDC, pursuant to Public Law 92–463. Following the closed session of the Work Group, there will be discussions on future grant program announcements, ad hoc committee reports, and updates on further progress on standing Work Group issues. Following the closed session of the full Committee, the Committee will discuss (1) an update from the Director, National Center for Injury Prevention and Control (NCIPC); (2) biomechanics and injury control; (3) reports from the Family and Intimate Violence Subcommittee and the Science and Program Review Work Group; and (4) updates on injury issues from other Federal agencies.

Agenda items are subject to change as priorities dictate.

Contact Person for More Information: Mr. Thomas A. Bartenfeld, Acting Executive Secretary, ACIPC, NCIPC, CDC, 4770 Buford Highway, NE, M/S K60, Atlanta, Georgia 30341–3724, telephone 770/488–4230.

Dated: February 15, 1996.

Carolyn J. Russell,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 96–4239 Filed 2–23–96; 8:45 am]

BILLING CODE 4163–18–M

Advisory Committee for Injury Prevention and Control (ACIPC): Family and Intimate Violence Prevention Subcommittee: 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 subcommittee meeting.

Name: ACIPC Family and Intimate Violence Prevention Subcommittee.

Time and Date: 9 a.m.–11:45 a.m., March 18, 1996.

Place: Wyndham Garden Hotel-Buckhead, 3340 Peachtree Road, NE, Atlanta, Georgia 30326.

Status: Open to the public, limited only by the space available.

Purpose: To provide and make recommendations to ACIPC and the Director, National Center for Injury Prevention and Control (NCIPC), regarding feasible goals for prevention and control of family and intimate violence. The Subcommittee makes recommendations regarding policies, strategies, objectives and priorities; and advises on the development of a national plan for family and intimate violence and the development of new technologies and their subsequent application.

Matters to be Discussed: The Subcommittee will discuss the funding of community-based and extramurual research projects as well as discuss the Subcommittee's role on issues related to charter renewal.

Agenda items are subject to change as priorities dictate.

Contact Person for More Information: Ms. Denise Johnson, Acting Team Leader, Family and Intimate Violence Prevention Team, Division of Violence Prevention, NCIPC, CDC, 4770 Buford Highway, NE, M/S K60, Atlanta, Georgia 30341–3724, telephone 770/488–4410.

Dated: February 15, 1996.

Carolyn J. Russell,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 96–4238 Filed 2–23–95; 8:45 am]

BILLING CODE 4163–18–M

Request for Nominations of Candidates to Serve on the National Vaccine Advisory Committee, Department of Health and Human Services

The Public Health Service (PHS) is soliciting nominations for possible

membership on the National Vaccine Advisory Committee (NVAC). This committee studies and recommends ways to encourage the availability of an adequate supply of safe and effective vaccination products in the States; recommends research priorities and other measures the Director of the National Vaccine Program should take to enhance the safety and efficacy of vaccines; advises the Director of the Program in the implementation of sections 2102, 2103, and 2104, of the PHS Act; and identifies annually for the Director of the Program the most important areas of government and non-government cooperation that should be considered in implementing sections 2102, 2103, and 2104, of the PHS Act.

Nominations are being sought for individuals engaged in vaccine research or the manufacture of vaccines or who are physicians, members of parent organizations concerned with immunizations, or representatives of State or local health agencies, or public health organizations. Federal employees will not be considered for membership. Members may be invited to serve a four-year term.

Close attention will be given to minority and female representation; therefore nominations from these groups are encouraged.

The following information is requested: name, affiliation, address, telephone number, and a current curriculum vitae. Nominations should be sent, in writing, and postmarked by March 15, 1996, to: Gloria A. Kovach, Committee Management Specialist, NVAC, National Vaccine Program Office, Centers for Disease Control and Prevention, 1600 Clifton Road, NE, M/S D28, Atlanta, Georgia 30333. Telephone or facsimile submission cannot be accepted.

Dated: February 15, 1996.

Carolyn J. Russell,

Director, Management Services and Analysis Office, Centers for Disease Control and Prevention.

[FR Doc. 96–4217 Filed 2–23–96; 8:45 am]

BILLING CODE 4163–18–M

Food and Drug Administration

[Docket No. 96F–0053]

Eastman Chemical Co.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Eastman Chemical Co. has filed a petition proposing that the food additive regulations be amended to provide for the safe use of dimethyl 1,4-cyclohexanedicarboxylate as a monomer in polyester resins employed in adhesives as components of articles intended for use in contact with food.

DATES: Written comments on the petitioner's environmental assessment by March 27, 1996.

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

FOR FURTHER INFORMATION CONTACT: Vir D. Anand, Center for Food Safety and Applied Nutrition (HFS–216), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–418–3081.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5) (21 U.S.C. 348(b)(5))), notice is given that a food additive petition (FAP 5B4481) has been filed by Eastman Chemical Co., P.O. Box 1994, Kingsport, TN 37662. The petition proposes to amend the food additive regulations in § 175.105 Adhesives (21 CFR 175.105) to provide for the safe use of dimethyl 1,4-cyclohexanedicarboxylate as a monomer in polyester resins employed in adhesives as components of articles intended for use in contact with food.

The potential environmental impact of this action is being reviewed. To encourage public participation consistent with regulations promulgated under the National Environmental Policy Act (40 CFR 1501.4(b)), the agency is placing the environmental assessment submitted with the petition that is the subject of this notice on display at the Dockets Management Branch (address above) for public review and comment. Interested persons may, on or before March 27, 1996, submit to the Dockets Management Branch (address above) written comments. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday. FDA will also place on public display any amendments to, or comments on, the petitioner's environmental assessment without further announcement in the Federal Register. If, based on its review, the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the Federal Register in accordance with 21 CFR 25.40(c).

Dated: February 8, 1996.

Alan M. Rulis,

Director, Office of Premarket Approval, Center for Food Safety and Applied Nutrition.

[FR Doc. 96–4286 Filed 2–23–96; 8:45 am]

BILLING CODE 4160–01–F

[Docket No. 96F–0052]

Milliken & Co.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Milliken & Co. has filed a petition proposing that the food additive regulations be amended to provide for the additional safe use of dimethyldibenzylidene sorbitol as a clarifying agent for propylene homopolymers and high-propylene copolymers articles intended for use in contact with food.

DATES: Written comments on the petitioner's environmental assessment by March 27, 1996.

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

FOR FURTHER INFORMATION CONTACT: Vir D. Anand, Center for Food Safety and Applied Nutrition (HFS–216), Food and Drug Administration, 200 C Street SW., Washington, DC 20204, 202–418–3081.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5) (21 U.S.C. 348(b)(5))), notice is given that a food additive petition (FAP 6B4495) has been filed by Milliken & Co., c/o Keller and Heckman, 1001 G St. NW., suite 500 West, Washington, DC 20001. The petition proposes to amend the food additive regulations in § 178.3295 *Clarifying agents for polymers* (21 CFR 178.3295) to provide for the additional safe use of dimethyldibenzylidene sorbitol as a clarifying agent for olefin polymers complying with § 177.1520 (21 CFR 177.1520), items 1.1, 3.1, and 3.2, for contact with food under condition of use A, described in Table 2 of § 176.170(c) of this chapter.

The potential environmental impact of this action is being reviewed. To

encourage public participation consistent with regulations promulgated under the National Environmental Policy Act (40 CFR 1501.4(b)), the agency is placing the environmental assessment submitted with the petition that is the subject of this notice on public display at the Dockets Management Branch (address above) for public review and comment. Interested persons may, on or before March 27, 1996, submit to the Dockets Management Branch (address above) written comments. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday. FDA will also place on public display any amendments to, or comments on, the petitioner's environmental assessment without further announcement in the Federal Register. If, based on its review, the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the Federal Register in accordance with 21 CFR 25.40(c).

Dated: February 8, 1996.

Alan M. Rulis,

Director, Office of Premarket Approval, Center for Food Safety and Applied Nutrition.

[FR Doc. 96–4188 Filed 2–23–96; 8:45 am]

BILLING CODE 4160–01–P

Cooperative Arrangement Between the Food and Drug Administration and New Zealand Covering Seafood

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is providing notice of a Cooperative Arrangement between FDA and the Ministry of Health and the Ministry of Agriculture of New Zealand. The purpose of the Cooperative Arrangement is the recognition of each as competent authorities, having systems to ensure safe, wholesome, and truthfully labeled fish and fishery products.

DATES: The agreement became effective December 20, 1995.

FOR FURTHER INFORMATION CONTACT: Janet J. Walraven, Office of Seafood (HFS–416), Food and Drug Administration, 200 C. St., SW., Washington DC 20204, 202–418–3160.

SUPPLEMENTARY INFORMATION: In accordance with 21 CFR 20.108(c), which states that all written agreements and memoranda of understanding between FDA and others shall be published in the Federal Register, the agency is publishing notice of this cooperative arrangement. Because this arrangement only encourages each party to achieve compliance with the other's regulatory requirements, it does not contain a determination of equivalency subject to the Uruguay Round Agreements Act (see 19 U.S.C. 2578a).

Dated: February 16, 1996.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

225–96–2004

Cooperative Arrangement Between Department of Health and Human Services, The Food and Drug Administration, United States of America and The Ministry of Agriculture and The Ministry of Health, New Zealand, to Ensure The Safety of Imported Fish and Fishery Products

The Department of Health and Human Services, Food and Drug Administration of the United States of America
on the one part, and
The Ministry of Agriculture, and The Ministry of Health of New Zealand
on the other part,
Desiring to safeguard public health and to ensure wholesomeness and properly labeled fish and fishery products;
Recognizing that the United States, represented by the Department of Health and Human Services, Food and Drug Administration (FDA), and New Zealand represented by the Ministry of Agriculture (MAF) and the Ministry of Health (MH), as competent authorities, each have systems to ensure safe, wholesome and properly labeled fish and fishery products;
Noting that these control measures arise from authorities that are the United States Federal Food, Drug, and Cosmetic Act (FFD&C Act), Public Health Service Act (PHS Act), and Fair Packaging and Labeling Act; and the New Zealand Meat Act 1981 and Food Act 1981;
Noting that these control measures are implemented by regulations under the aforementioned authorities that are the New Zealand Fish Export Processing Regulations 1995 and Title 21 of the United States Code of Federal Regulations;
Reaffirming that training programs and audits are in place in both countries that provide trained and qualified inspection forces which are the New Zealand Circuit Inspector Training program, supported by an inspector audit program, and FDA investigator and laboratory analyst education and training requirements with ongoing performance evaluation;
Noting that the organizations, FDA and MAF and MH, have resources to carry out the compliance programs, policies and laboratory support activities that are funded in New Zealand by government appropriation and fee-for-service arrangements and funded in the United States by government appropriation at the Federal and State level;
Noting that the United States FDA has carried out extensive comparative reviews of the New Zealand control system and has verified the performance of that system, and New Zealand has issued a finding of acceptability of the United States FDA control system;
Noting that New Zealand fish and fishery products have met U.S. FDA standards in the past based on FDA import inspections;
Noting that this arrangement offers benefits for both consumer protection and trade in that it is an effective and efficient tool for enhancing the safety of imports while reducing the resources that need to be expended to monitor imports from the countries involved.
Have reached an understanding that the NZ export controls enhance the likelihood of compliance by NZ seafood with FDA's safety, quality, and labeling requirements; that the FDA processor controls for seafood enhance the likelihood of compliance by US seafood with NZ MH safety, quality, and labeling requirements; and that the FDA, MAF and MH plan to take this understanding into account in determining frequency of border checks when fish and fishery products are offered for entry into their respective countries.

I. Substance of Arrangement

A. Definitions

1. *Fish* means fresh or saltwater finfish, crustaceans, mollusks, and other forms of aquatic animal life (including, but not limited to, jellyfish, sea cucumber, sea urchin, frog, alligator, aquatic turtle), but excluding birds and mammals, where such animals are intended for human consumption.
2. *Fishery* products means any edible human food product consisting in whole of fish or a product containing a portion of fish, including fish that has been processed in any manner, in which the characterizing ingredient is fish.
3. *Fresh* means or implies that the food is unprocessed, that the food is in its raw state, and that it has not been frozen or subjected to any form of thermal processing or any other form of preservation.
4. *Fresh frozen* means that the food was quickly frozen while still fresh.
5. *Participants* means the United States Food and Drug Administration (FDA) and New Zealand's Ministry of Agriculture (MAF) and New Zealand Ministry of Health (MH).
6. *Transparency* refers to the ability to have access to relevant information about regulatory and technical measures so that their meanings, applications, and requirements are clear. It can be accomplished through the mutual exchange of information and assistance between trading partners, whereby each provides the other with the texts of legal, regulatory (except in-process legal and

regulatory actions), and technical measures, guidance documents, and other information that apply to the commodities subject to the arrangement.

7. *Wholesomeness* means the food is not filthy, putrid, decomposed, or otherwise unfit for food.

B. Scope

This arrangement covers:

1. Fish and fishery products intended for human consumption except fresh and fresh frozen (molluscan) shellfish.
2. Food safety, wholesomeness, and labeling requirements for the fish and fishery products covered.

C. General Principles

1. The participants understand that each one of their country's systems to ensure safe, wholesome and properly labeled fish and fishery products enhances the likelihood that exported fish and fishery products will comply with the other country's safety, quality and labeling requirements. The participants intend to take this understanding into account in determining the frequency of border checks when fish and fishery products are offered for entry into their respective countries.
2. The participants intend to exchange information to ensure transparency as described in Annex A.
3. The participants intend to establish procedures for cooperation as described below.
   a. The participants plan to meet regularly, at least every two years, to ensure that the basis for the arrangement continues to exist.
   b. In cases of serious and immediate concern with respect to public health or safety, the participants intend to notify the designated Liaison Officers immediately, and written confirmation of the concerns to the Liaison Officers should follow within 48 hours.
   c. Where a Participant has concerns regarding a potential risk to public health, consultations regarding the situation should, upon request of that Participant, take place as soon as possible, and in any case within 14 days, of such a request. Each Participant will endeavor in such situations to provide all the information necessary to reach a mutually acceptable solution.
4. Nothing in this arrangement will in any way abrogate the responsibility or authority of the U.S. Food and Drug Administration under section 801 of the Federal Food, Drug and Cosmetic Act to examine any food product being offered for entry into the United States or under any other law administered by FDA. Neither will it abrogate the responsibility or authority of the New Zealand Government Minister of Agriculture pursuant to The Meat Act 1981 or the Minister of Health pursuant to the Food Act 1981.
5. Nothing in this arrangement precludes either the U.S. FDA, MAF or MH of New Zealand from exercising responsibility to ensure the safety, wholesomeness, or properly labeled seafood and seafood products being allowed to enter that country's commercial marketing channels.
6. All activities undertaken pursuant to this arrangement are to be conducted in accordance with the laws and regulations of the United States and of New Zealand and are subject to the availability of personnel, resources and appropriated funds.

D. Specific Responsibilities

1. MAF intends to provide FDA with:
   a. a list of premises licensed by MAF to process fish and fishery products for export. MAF intends to update this list as needed for the FDA Liaison, Office of Seafood.
   b. a government health certificate for each consignment of fish and fishery products exported to the United States.
   c. an annual summary showing results of compliance audits conducted by the MAF Compliance Group for fish and fishery products, to the attention of the FDA Liaison, Office of Seafood.
   d. in the event that the U.S. establishes a mandatory U.S. seafood Hazard Analysis Critical Control Points (HACCP) program, N.Z. MAF intends to demonstrate to the FDA Liaison, Office of Seafood, how their system implements and ensures that fish and fishery products are produced under a HACCP-based program in compliance or equivalent with the U.S. seafood HACCP program.
2. FDA intends to provide MAF with:
   a. a list of U.S. seafood processing firms found to require official U.S. Government regulatory action and further details upon request. FDA intends to update this list as needed.
   b. an annual report of FDA Field Seafood Accomplishments.
   c. in the event that the U.S. establishes a mandatory U.S. seafood HACCP program, a copy of the requirements of that program.

E. Audits

It is understood that each participant will strive to facilitate the other participant's reasonable access to any sites in the exporting country that are involved in the export of fish and fishery products for the purpose of auditing the exporting country's seafood regulatory system, of verifying that applicable elements of the arrangement are being met, and of carrying out checks on the continued compliance with the arrangement and system by producers and exporters of fish and fishery products to the importing country. The cost of on-site visits will be the responsibility of the visiting participant.

Some factors to be considered in auditing both countries' seafood regulatory systems are presented in Annex A.

F. Cooperation procedures

The Participants undertake to resolve differences by:

1. Use of professional judgment as well as objective criteria, with attempts made to resolve differences by technical discussions at the appropriate level; and
2. Where issues remain unsolved after technical discussions as stipulated above, the participants intend to schedule discussions between the Director, Office of Seafood of the U.S. FDA and either the Chief Meat Veterinary Officer of the New Zealand Ministry of Agriculture, or the Manager of Food Administration, New Zealand Ministry of Health, or their designees. The nature of the issue will determine the competent New Zealand authority.

G. Application

1. The Participants plan to maintain communications so that the terms of this arrangement are fulfilled.
2. The Participants intend to document communications and decisions. Those matters that need to be referred to a higher level will be identified and referred to that level.
3. Whenever specific issues requiring attention are identified, the participants intend to establish a timetable to resolve those issues.

II. Participants

a. The U.S. Food and Drug Administration, 5600 Fishers Lane, Rockville, Maryland 20857, U.S.

b. Ministry of Agriculture, ASB Bank House, 101–103 The Terrace, P.O. Box 2526, Wellington, New Zealand; Ministry of Health, Food Administration, P.O Box 5013, 133 Molesworth St., Wellington, New Zealand

III. Liaison Officers

A. New Zealand Ministry of Agriculture:

The Ministry of Health, the body responsible for the safety of domestic and imported food products, defers to the Ministry of Agriculture to act as liaison officers with the U.S. FDA related to matters of U.S. fish and fishery products imported to New Zealand.

Chief Meat Veterinary Officer, Ministry of Agriculture, ASB Bank House, 101–103 The Terrace, P.O. Box 2526, Wellington, New Zealand, Phone: 011–64–4–4744125, FAX: 011–64–4–4744240

Counsellor (Veterinary Services), New Zealand Embassy, 37 Observatory Circle N.W., Washington, DC 20008, United States of America, Phone: (202) 328–4861, FAX: (202) 332–4309

B. United States Food and Drug Administration:

Director, Office of Seafood, Center for Food Safety and Applied Nutrition, 200 C Street, S.W., Washington, DC 20204, United States of America, Phone: (202) 418–3133, FAX: (202) 418–3196

Director, International Activities Staff, Center for Food Safety and Applied Nutrition, 200 C Street, S.W., Washington, DC 20204, United States of America, Phone: (202) 205–5042, FAX: (202) 205–0165

IV. Period of Arrangement

Cooperation under this arrangement will begin on the last date of signature of the

participants. After the first year the participants plan to evaluate the arrangement, thereafter, no less than once every five years. It may be amended by mutual written consent or terminated by either participant upon a 60 day written notice to the other participant.

This Arrangement is not intended to create any legal obligations under international law. In Witness Whereof the undersigned, being duly authorized by their respective Government agencies, have signed this Cooperative Arrangement.

FOR THE FOOD AND DRUG ADMINISTRATION
DEPARTMENT OF HEALTH AND HUMAN SERVICES
UNITED STATES OF AMERICA
William B. Schultz,
Title: Deputy Commissioner for Policy.
Date: December 20, 1995
Place: Rockville, Maryland

FOR THE MINISTRY OF AGRICULTURE
NEW ZEALAND
L. J. Wood
Title: Ambassador of New Zealand
Date: December 20, 1995
Place: Rockville, Maryland

FOR THE MINISTRY OF HEALTH
NEW ZEALAND
L. J. Wood
Title: Ambassador of New Zealand
Date: December 20, 1995
Place: Rockville, Maryland

Annex A

I. Performance Verification

The United States FDA, and the New Zealand's MAF and MH, understand that the participants of the importing country can audit the exporting country's seafood control system to verify that the terms of the arrangement are being met. These system checks may take place upon request of the participants of the importing country. The costs of system check visits are the responsibility of the visiting participant.

Verification may take the form of:

- ongoing exchange of information toward continuing transparency;
- reviewing the competent authorities' compliance/audit programs;
- verifying the efficacy of the total program in meeting the requirements of the importing country;
- checks of products on importation at an appropriate frequency;
- program checks.

II. Information Exchange/Transparency

A. Participants intend to cooperate and exchange information in scientific areas.

B. The participants intend to put in place a system for the uniform and systematic exchange of information, so as to provide assurance and engender confidence in each other and to demonstrate the efficacy of the programs controlled.

C. In particular the liaison officials intend to provide each other copies of:

1. Proposed changes in requirements developed by each side where they affect the other party before they become effective.
2. Changes in requirements including:
   a. legislation
   b. rules
   c. enforcement policy documents
   d. guidelines
   e. methods and procedures for sampling and analysis
   f. inspection procedures
   g. notice of surveillance programs or assignments requiring sampling at importation of a fish or fishery product (i.e., for data base development)
3. Documentation regarding any fish or fishery products from the other country found to be in non-compliance with requirements upon importation including information on:
   a. product name
   b. manufacturer/shipper name
   c. processor name
   d. reason for detention
   e. product lot and certificate number (if applicable)
   f. sampling procedures
   g. methods of analysis and confirmation
   h. port of entry
4. Documents regarding any fish or fishery product found to be in non-compliance by the exporting country after exportation to the other (e.g., recalls):
   a. product
   b. manufacturer/shipper name
   c. processor name
   d. reason for recall
   e. product lot and certificate number (if applicable)
   f. consignee(s)
   g. dates
   h. amount shipped

[FR Doc. 96–4187 Filed 2–23–96; 8:45 am]
BILLING CODE 4160–01–F

[Docket No. 94P–0206]

Determination that Evans Blue Dye Injection Was Not Withdrawn from Sale for Reasons of Safety or Effectiveness

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has determined that Evans Blue Dye Injection, an approved new drug application (NDA) held by Parke-Davis & Co., a division of Warner-Lambert Co., was not withdrawn from sale for reasons of safety or effectiveness and is relisting the drug in its publication entitled ''Approved Drug Products with Therapeutic Equivalence Evaluations.'' This will allow sponsors to submit abbreviated new drug applications (ANDA's) for Evans Blue Dye Injection.

FOR FURTHER INFORMATION CONTACT: Wayne H. Mitchell, Center for Drug Evaluation and Research (HFD–7), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–594–1049.

SUPPLEMENTARY INFORMATION: In 1984, Congress passed into law the Drug Price Competition and Patent Term Restoration Act of 1984 (Pub. L. 98–417) (the 1984 amendments), which authorized the approval of duplicate versions of drug products under an ANDA procedure. ANDA sponsors must, with certain exceptions, show that the drug for which they are seeking approval contains the same active ingredient in the same strength and dosage form as the listed drug, which is a version of the drug that was previously approved under an NDA. Sponsors of ANDA's do not have to repeat the extensive clinical testing otherwise necessary to gain approval of an NDA. The only clinical data required in an ANDA are data to show that the drug that is the subject of the ANDA is bioequivalent to the listed drug.

The 1984 amendments included what is now section 505(j)(6) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 355(j)(6)), which requires FDA to publish a list of all approved drugs. FDA publishes this list as part of the ''Approved Drug Products with Therapeutic Equivalence Evaluations,'' which is generally known as the ''Orange Book.'' Under FDA regulations, drugs are withdrawn from the list if the agency withdraws or suspends approval of the drug's NDA or ANDA for reasons of safety or effectiveness, or if FDA determines that the listed drug was withdrawn from sale for reasons of safety or effectiveness (§ 314.162 (21 CFR 314.162)). Regulations also provide that the agency must make a determination as to whether a listed drug was withdrawn from sale for reasons of safety or effectiveness before an ANDA that refers to that listed drug may be approved (§ 314.161(a)(1) (21 CFR 314.161(a)(1))). FDA may not approve an ANDA that does not refer to a listed drug.

On June 6, 1994, the New World Trading Corp. submitted a citizen petition (Docket No. 94P–0206/CP1) under 21 CFR 10.25(a) and 10.30 requesting that the agency determine whether Evans Blue Dye Injection was withdrawn from sale for reasons of safety or effectiveness and, if the agency determines that the drug was not withdrawn from sale for reasons of safety or effectiveness, to relist the drug in the ''Approved Drug Products with Therapeutic Equivalence Evaluations.'' Evans Blue Dye Injection was the subject of approved NDA 8–041 held by Parke-Davis & Co., a division of Warner Lambert Co. Evans Blue Dye Injection was withdrawn from sale in June 1978, and the NDA was withdrawn, with the consent of the sponsor, in a notice

published in the Federal Register of November 15, 1990 (55 FR 47807).

FDA has reviewed its records and, under §§ 314.161 and 314.162(c), has determined that Evans Blue Dye Injection was not withdrawn from sale for reasons of safety or effectiveness and will relist Evans Blue Dye Injection in the ''Discontinued Drug Product List'' contained in the ''Approved Drug Products with Therapeutic Equivalence Evaluations.'' The ''Discontinued Drug Product List'' lists, among other items, drug products that have had their approvals withdrawn for reasons other than safety and efficacy subsequent to being discontinued from marketing. ANDA's that refer to Evans Blue Dye Injection may be submitted to the agency.

Dated: February 15, 1996.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 96–4287 Filed 2–23–96; 8:45 am]

BILLING CODE 4160–01–F

Advisory Committees; Notice of Meetings

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: This notice announces forthcoming meetings of public advisory committees of the Food and Drug Administration (FDA). This notice also summarizes the procedures for the meetings and methods by which interested persons may participate in open public hearings before FDA's advisory committees.

FDA has established an Advisory Committee Information Hotline (the hotline) using a voice-mail telephone system. The hotline provides the public with access to the most current information on FDA advisory committee meetings. The advisory committee hotline, which will disseminate current information and information updates, can be accessed by dialing 1–800–741–8138 or 301–443–0572. Each advisory committee is assigned a 5-digit number. This 5-digit number will appear in each individual notice of meeting. The hotline will enable the public to obtain information about a particular advisory committee by using the committee's 5-digit number. Information in the hotline is preliminary and may change before a meeting is actually held. The hotline will be updated when such changes are made.

MEETINGS: The following advisory committee meetings are announced:

Circulatory System Devices Panel of the Medical Devices Advisory Committee

Date, time, and place. March 4, 1996, 8:30 a.m., Gaithersburg Hilton, Salons D and E, 620 Perry Pkwy., Gaithersburg, MD. A limited number of overnight accommodations have been reserved at the Gaithersburg Hilton. Attendees requiring overnight accommodations may contact the hotel at 301–977–8900 and reference the FDA Panel meeting block. Reservations will be confirmed at the group rate based on availability. Attendees with a disability requiring special accommodations should contact Sociometrics, Inc., 301–608–2151. The availability of appropriate accommodations cannot be assured unless prior notification is received.

Type of meeting and contact person. Open public hearing, 8:30 a.m. to 9:30 a.m., unless public participation does not last that long; open committee discussion, 9:30 a.m. to 4:30 p.m.; Ramiah Subramanian, Center for Devices and Radiological Health (HFZ–450), Food and Drug Administration, 9200 Corporate Blvd., Rockville, MD 20850, 301–443–8320, or FDA Advisory Committee Information Hotline, 1–800–741–8138 (301–443–0572 in the Washington, DC area), Circulatory Systems Devices Panel of the Medical Devices Advisory Committee, code 12625.

General function of the committee. The committee reviews and evaluates data on the safety and effectiveness of marketed and investigational devices and makes recommendations for their regulation.

Agenda—Open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Those desiring to make formal presentations should notify the contact person before February 26, 1996, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time required to make their comments.

Open committee discussion. The committee will discuss general issues related to two premarket approval applications: (1) A stent for a peripheral vascular use, and (2) an angioplasty balloon.

FDA regrets that it was unable to publish this notice 15 days prior to the March 4, 1996, Circulatory System Devices Panel of the Medical Devices Advisory Committee meeting. Because the agency feels that the issue needs to be brought to public discussion urgently, and qualified members of the Circulatory System Devices Panel of the Medical Devices Advisory Committee were available at this time, the agency decided that it was in the public interest to hold this meeting even if there was not sufficient time for the customary 15-day public notice.

Vaccines and Related Biological Products Advisory Committee

Date, time, and place. March 7, l996, 3 p.m., Food and Drug Administration, Bldg. 29, conference room 121, 8800 Rockville Pike, Bethesda, MD.

Type of meeting and contact person. This meeting will be held by a telephone conference call. A speaker telephone will be provided in the conference room to allow public participation in the meeting. Open committee discussion, 3 p.m. to 4:30 p.m.; open public hearing, 4:30 p.m. to 5:30 p.m., unless public participation does not last that long; Nancy T. Cherry or Sandy Salins, Center for Biologics Evaluation and Research (HFM–21), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852, 301–827–0314, or FDA Advisory Committee Information Hotline, 1–800–741–8138 (301–443–0572 in the Washington, DC area), Vaccines and Related Biological Products Advisory Committee, code 12388.

General function of the committee. The committee reviews and evaluates data on the safety and effectiveness of vaccines intended for use in the diagnosis, prevention, or treatment of human diseases.

Agenda—Open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Those desiring to make formal presentations should notify the contact person.

Open committee discussion. The committee will discuss the influenza virus vaccine formulation for 1996 and 1997.

FDA regrets that it was unable to publish this notice 15 days prior to the March 7, 1996, Vaccines and Related Biological Products Advisory Committee meeting. Because the agency feels that the issue needs to be brought to public discussion urgently, and qualified members of the Vaccines and Related Biological Products Advisory Committee were available at this time, the agency decided that it was in the public interest to hold this meeting even if there was not sufficient time for the customary 15-day public notice.

Pulmonary-Allergy Drugs Advisory Committee

Date, time, and place. March 28 and 29, 1996, 8:30 a.m., Quality Hotel, Maryland Ballroom, 8727 Colesville Rd., Silver Spring, MD.

Type of meeting and contact person. Open public hearing, March 28, 1996, 8:30 a.m. to 9 a.m., unless public participation does not last that long; open committee discussion, 9 a.m. to 5 p.m.; open public hearing, March 29, 1996, 8:30 a.m. to 9 a.m., unless public participation does not last that long; open committee discussion, 9 a.m. to 5 p.m.; Leander B. Madoo, Center for Drug Evaluation and Research (HFD–21), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4695, or FDA Advisory Committee Information Hotline, 1–800–741–8138 (301–443–0572 in the Washington, DC area), Pulmonary-Allergy Drugs Advisory Committee, code 12545.

General function of the committee. The committee reviews and evaluates data on the safety and effectiveness of marketed and investigational human drugs for use in the treatment of pulmonary disease and diseases with allergic and/or immunologic mechanisms.

Agenda—Open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Those desiring to make formal presentations should notify the contact person before March 15, 1996, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time required to make their comments.

Open committee discussion. On March 28, 1996, the committee will discuss Zeneca Pharmaceuticals' new drug application (NDA) 20–547 for Accolate® (zafirlukast) tablets. The proposed indication for Accolate® is as an oral anti-inflammatory agent for use in the prophylaxis and chronic treatment of asthma and as a first-line maintenance therapy in patients with asthma who are not adequately controlled by PRN β2-agonist alone. On March 29, 1996, the committee will discuss 3M Pharmaceuticals' NDA 20–503 for Epaq™, an albuterol metered-dose inhaler which is the first to utilize a hydrofluoroalkane propellent. The proposed indication is for treatment or prevention of bronchospasm in patients with reversible obstructive airway disease.

FDA public advisory committee meetings may have as many as four separable portions: (1) An open public hearing, (2) an open committee discussion, (3) a closed presentation of data, and (4) a closed committee deliberation. Every advisory committee meeting shall have an open public hearing portion. Whether or not it also includes any of the other three portions will depend upon the specific meeting involved. There are no closed portions for the meetings announced in this notice. The dates and times reserved for the open portions of each committee meeting are listed above.

The open public hearing portion of each meeting shall be at least 1 hour long unless public participation does not last that long. It is emphasized, however, that the 1 hour time limit for an open public hearing represents a minimum rather than a maximum time for public participation, and an open public hearing may last for whatever longer period the committee chairperson determines will facilitate the committee's work.

Public hearings are subject to FDA's guideline (subpart C of 21 CFR part 10) concerning the policy and procedures for electronic media coverage of FDA's public administrative proceedings, including hearings before public advisory committees under 21 CFR part 14. Under 21 CFR 10.205, representatives of the electronic media may be permitted, subject to certain limitations, to videotape, film, or otherwise record FDA's public administrative proceedings, including presentations by participants.

Meetings of advisory committees shall be conducted, insofar as is practical, in accordance with the agenda published in this Federal Register notice. Changes in the agenda will be announced at the beginning of the open portion of a meeting.

Any interested person who wishes to be assured of the right to make an oral presentation at the open public hearing portion of a meeting shall inform the contact person listed above, either orally or in writing, prior to the meeting. Any person attending the hearing who does not in advance of the meeting request an opportunity to speak will be allowed to make an oral presentation at the hearing's conclusion, if time permits, at the chairperson's discretion.

The agenda, the questions to be addressed by the committee, and a current list of committee members will be available at the meeting location on the day of the meeting.

Transcripts of the open portion of the meeting may be requested in writing from the Freedom of Information Office (HFI–35), Food and Drug Administration, rm. 12A–16, 5600 Fishers Lane, Rockville, MD 20857, approximately 15 working days after the meeting, at a cost of 10 cents per page. The transcript may be viewed at the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857, approximately 15 working days after the meeting, between the hours of 9 a.m. and 4 p.m., Monday through Friday. Summary minutes of the open portion of the meeting may be requested in writing from the Freedom of Information Office (address above) beginning approximately 90 days after the meeting.

This notice is issued under section 10(a)(1) and (2) of the Federal Advisory Committee Act (5 U.S.C. app. 2), and FDA's regulations (21 CFR part 14) on advisory committees.

Dated: February 16, 1996.

Michael A. Friedman,

Deputy Commissioner for Operations.

[FR Doc. 96–4189 Filed 2–23–96; 8:45 am]

BILLING CODE 4160–01–F

Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). This notice also summarizes the procedures for the meeting and methods by which interested persons may participate in open public hearings before FDA's advisory committees.

FDA has established an Advisory Committee Information Hotline (the hotline) using a voice-mail telephone system. The hotline provides the public with access to the most current information on FDA advisory committee meetings. The advisory committee hotline, which will disseminate current information and information updates, can be accessed by dialing 1–800–741–8138 or 301–443–0572. Each advisory committee is assigned a 5-digit number. This 5-digit number will appear in each individual notice of meeting. The hotline will enable the public to obtain information about a particular advisory committee by using the committee's 5-digit number. Information in the hotline is preliminary and may change before a meeting is actually held. The hotline will be updated when such changes are made.

MEETING: The following advisory committee meeting is announced:

Science Board to the Food and Drug Administration

Date, time, and place. March 28 and 29, 1996, 8:30 a.m., Sheraton National Hotel, North Ballroom, 900 South Orme St. (Columbia Pike and Washington Blvd.), Arlington, VA.

Type of meeting and contact person. Open committee discussion, March 28, 1996, 8:30 a.m. to 2:30 p.m.; open public hearing, 2:30 p.m. to 3:30 p.m., unless public participation does not last that long; open committee discussion, 3:30 p.m. to 5 p.m.; open committee discussion, March 29, 1996, 8:30 a.m. to 10:30 a.m.; open public hearing 10:30 a.m. to 11:30 a.m., unless public participation does not last that long; open committee discussion, 11:30 a.m. to 1:30 p.m. For the March 28, 1996, agenda contact Susan Homire, Office of Science (HF–33), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD, 20857, 301–827–3340; for the March 29, 1996, agenda contact Mary Gross, Office of External Affairs (HF–24), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD, 20857, 301–827–3440; or, FDA Advisory Committee Information Hotline, 1–800–741–8138 (301–443–0572 in the Washington, DC area), Science Board to the Food and Drug Administration, code 12603.

General function of the board. The board shall provide advice primarily to the agency's Senior Science Advisor, and, as needed, to the Commissioner and other appropriate officials on specific complex and technical issues as well as emerging issues within the scientific community in industry and academia. Additionally, the board will provide advice to the agency on keeping pace with technical and scientific evolutions in the fields of regulatory science; on formulating an appropriate research agenda; and on upgrading its scientific and research facilities to keep pace with these changes. It will also provide the means for critical review of agency-sponsored intramural and extramural scientific research programs.

Agenda—Open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the board. Those desiring to make formal presentations must notify the contact person before March 14, 1996, and submit a brief statement of the general nature of the evidence or arguments they wish to present, and the names and addresses of proposed participants. Each presenter will be limited in time and not all requests to speak may be able to be accommodated. All written statements submitted in a timely fashion will be provided to the board.

Open board discussion. On March 28, 1996, the board will discuss issues related to the safety in the testing of biomaterials used in products regulated by FDA; including strategies by which the agency can prepare for new developments in biomaterials science and the use of novel materials in device and medical implant products. On March 29, 1996, the board will discuss financial disclosure by clinical investigators. For further information on the agenda of this meeting see a document entitled ''Financial Disclosure by Clinical Investigators; Reopening of the Comment Period and Notice of Meeting,'' published elsewhere in this issue of the Federal Register.

FDA public advisory committee meetings may have as many as four separable portions: (1) An open public hearing, (2) an open committee discussion, (3) a closed presentation of data, and (4) a closed committee deliberation. Every advisory committee meeting shall have an open public hearing portion. Whether or not it also includes any of the other three portions will depend upon the specific meeting involved. There are no closed portions for the meetings announced in this notice. The dates and times reserved for the open portions of each committee meeting are listed above.

The open public hearing portion of each meeting shall be at least 1 hour long unless public participation does not last that long. It is emphasized, however, that the 1 hour time limit for an open public hearing represents a minimum rather than a maximum time for public participation, and an open public hearing may last for whatever longer period the committee chairperson determines will facilitate the committee's work.

Public hearings are subject to FDA's guideline (subpart C of 21 CFR part 10) concerning the policy and procedures for electronic media coverage of FDA's public administrative proceedings, including hearings before public advisory committees under 21 CFR part 14. Under 21 CFR 10.205, representatives of the electronic media may be permitted, subject to certain limitations, to videotape, film, or otherwise record FDA's public administrative proceedings, including presentations by participants.

Meetings of advisory committees shall be conducted, insofar as is practical, in accordance with the agenda published in this Federal Register notice. Changes in the agenda will be announced at the beginning of the open portion of a meeting.

Any interested person who wishes to be assured of the right to make an oral presentation at the open public hearing portion of a meeting shall inform the contact person listed above, either orally or in writing, prior to the meeting. Any person attending the hearing who does not in advance of the meeting request an opportunity to speak will be allowed to make an oral presentation at the hearing's conclusion, if time permits, at the chairperson's discretion.

The agenda, the questions to be addressed by the committee, and a current list of committee members will be available at the meeting location on the day of the meeting.

Transcripts of the open portion of the meeting may be requested in writing from the Freedom of Information Office (HFI–35), Food and Drug Administration, rm. 12A–16, 5600 Fishers Lane, Rockville, MD 20857, approximately 15 working days after the meeting, at a cost of 10 cents per page. The transcript may be viewed at the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857, approximately 15 working days after the meeting, between the hours of 9 a.m. and 4 p.m., Monday through Friday. Summary minutes of the open portion of the meeting may be requested in writing from the Freedom of Information Office (address above) beginning approximately 90 days after the meeting.

This notice is issued under section 10(a)(1) and (2) of the Federal Advisory Committee Act (5 U.S.C. app. 2), and FDA's regulations (21 CFR part 14) on advisory committees.

Dated: February 16, 1996.

Michael A. Friedman,

Deputy Commissioner for Operations.

[FR Doc. 96–4288 Filed 2–23–96; 8:45 am]

BILLING CODE 4160–01–F

National Institutes of Health

Alternative Medicine Program Advisory Council; Notice of Meeting

Pursuant to sec. 10(d) of the Federal Advisory Committee Act (FACA), as amended (Title 5, U.S.C. Appendix 2), notice is hereby given of the meeting of the Alternative Medicine Program Advisory Council on February 26, 1996, from 8 am to 5 pm and on February 27 from 8 am to 11 am in Conference Room 6, Building 31A, the National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland.

The entire meeting will be open to the public. The purpose of the meeting will be to discuss activities of the Office of Alternative Medicine and strategic planning for alternative medicine research. Attendance by the public will be limited to space available.

Ms. Beth Clay, Committee Management Officer, Office of Alternative Medicine, NIH, 6120 Executive Boulevard, Suite 450, Rockville, Maryland 20892–9904, phone (301) 594–1990, fax (301) 402–4741, E–Mail: bethclay@helix.nih.gov, will finish the meeting agenda, roster of committee members, and substantive program information upon request. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should contact Ms. Clay at the above location immediately.

This notice is being published less than15 days prior to the meeting due to the partial shutdown of the Federal Government and resultant administrative difficulties, and the need to proceed with the meeting as scheduled to address important issues in a timely manner.

Dated: February 21, 1996.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 96–4357 Filed 2–23–96; 8:45 am]

BILLING CODE 4140–01–M

Substance Abuse and Mental Health Services Administration

Center for Substance Abuse Prevention; Notice of Meeting

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the Drug Testing Advisory Board of the Center for Substance Abuse Prevention in March 1996.

The meeting agenda will include discussion of announcements and reports of administrative, legislative, and program developments. It will also include reviews of sensitive National Laboratory Certification Program (NLCP) internal operating procedures and program development issues. Therefore, a portion of this meeting will be closed to the public as determined by the Administrator, SAMHSA, in accordance with 5 U.S.C. 552b(c)(2), (4), and (6) and 5 U.S.C. Appendix 2, section 10(d).

A summary of this meeting and roster of committee members may be obtained from: Ms. Vera L. Jones, Committee Management Officer, CSAP, Rockwall II Building, Room 7A 140, 5600 Fishers Lane, Rockville, MD 20857, Telephone: (301) 443–9542.

Substantive program information may be obtained from the contact whose name, room number, and telephone number is listed below.

Committee Name: Drug Testing Advisory Board.

Meeting Date(s): March 27, 1996.

Place: Ramada Inn—Rockville, 1775 Rockville Pike, Rockville, Maryland 20857.

Open: March 27, 1996 8:30 a.m.–10:00 a.m.

Closed: March 27, 1996 10:00 a.m.—Adjournment.

Contact: Donna M. Bush, Ph.D.; Parklawn Building, Room 13A–54; Telephone: (301) 443–6014.

Dated: February 20, 1996.

Jeri Lipov,

Committee Management Officer, Substance Abuse and Mental Health Services Administration.

[FR Doc. 96–4231 Filed 2–23–96; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Availability of an Environmental Assessment and Receipt of an Application for an Incidental Take Permit From Brett Real Estate, Robinson Development Company, Incorporated, Orange Beach, Alabama—Correction

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice; correction.

SUMMARY: The Fish and Wildlife Service is correcting an error placed in the Notice of Availability of an Environmental Assessment and Receipt of an Application for an Incidental Take Permit from Brett Real Estate/Robinson Development Company, Incorporated, Orange Beach, Alabama, which appeared in the Federal Register on January 20, 1996 (61 FR 1400).

FOR FURTHER INFORMATION CONTACT: Mr. Rick G. Gooch at (404) 679–7110.

SUPPLEMENTARY INFORMATION: In January 19, 1996, the Service announced the availability of an Environmental Assessment and Receipt of an Application for an Incidental Take Permit from Brett Real Estate, Robinson Development Company, Incorporated (61 FR 1400). The permit number PRT–809898 was assigned to the application. Within the Supplementary Information of the original Federal Register notice, a statement was made that: ''The Applicant's property contains designated critical habitat for the Alabama beach mouse (ABM).'' Upon review of the designated critical habitat of the ABM (§ 17.95(a) of title 50, Code of Federal Regulations), it has been determined that the land encompassed by the pending application does not contain designated critical habitat for the ABM. The statement is in error and is not germane to the Service's review of the application for effects to the ABM. Comments on the application must be received on or before February 20, 1996.

Dated: February 20, 1996.

Jerome M. Butler,

Acting Regional Director.

[FR Doc. 96–4240 Filed 2–23–96; 8:45 am]

BILLING CODE 4310–55–M

Bureau of Land Management

[WY–930–5101–00–K012, WYW–128830]

Notice of Availability of the Final Environmental Impact Statement for the Express Pipeline

AGENCY: Bureau of Land Management, Interior.

SUMMARY: A Final Environmental Impact Statement (EIS) for Express Pipeline, Inc., to construct, operate, and maintain a 24-inch pipeline on public lands to transport crude oil between Wild Horse, Alberta, and Casper, Wyoming. A right-of-way grant for the pipeline to cross public lands in Montana, and Wyoming, would be issued by the Bureau of Land Management, Worland District, in accordance with Section 501 of the Federal Land Policy and Management Act of 1976.

The Bureau of Land Management and the Montana Department of Environmental Quality (DEQ) are co-leads for the EIS. Other cooperating agencies for the EIS include the Army Corps of Engineers and the Bureau of Reclamation. The final EIS document was prepared by Greystone, a third-party contractor, under the provisions of Section 102(2)(C) of the National Environmental Policy Act (NEPA) of 1969, as amended. The EIS has been prepared in an abbreviated format; that is, the alternatives considered in the draft EIS and the environmental effects of those alternatives, have not been reprinted in the EIS. It is necessary, therefore, to use both the draft and final documents for a complete review. Copies of the draft EIS and the final EIS can be obtained from the BLM's Worland District Office or the Montana Department of Environmental Quality at the addresses listed below.

DATES: Written comments on the EIS will be accepted for 30 days following the date the Environmental Protection Agency (EPA) publishes the notice of filing of the final EIS in the Federal Register, which is expected to be between February 23, 1996, and March 1, 1996.

ADDRESSES: Copies of the final EIS may be reviewed at the following locations: Lewistown District BLM Office, 80 Airport Road, (contact Robert Padilla, Realty Specialist), Lewistown, Montana; Worland District BLM Office, 101 South 23rd Street, (Don Ogaard, BLM Project Manager), Worland, Wyoming; Casper District BLM Office, 1701 East ''E'' Street, (Pat Moore, Realty Specialist), Casper, Wyoming; Montana State Department of Environmental Quality (DEQ) (Art Compton), 1520 East 6th Avenue, Helena, Montana, and county and city libraries along the proposed pipeline route.

FOR FURTHER INFORMATION CONTACT: Don Ogaard, BLM Project Manager, Bureau of Land Management, Worland District Office, P.O. Box 119, 101 South 23rd Street, Worland, Wyoming 82401–0119, telephone 307–347–9871; or Art Compton, Chief, Energy Division, Montana Department of Environmental Quality, 1520 East 6th Avenue, Helena, Montana, telephone 406–444–6791.

SUPPLEMENTARY INFORMATION: Express Pipeline, Inc., proposes to construct, operate, and maintain a 24-inch pipeline from Wild Horse (located on the border between Montana and Canada) to Casper, Wyoming, to transport Canadian crude oil. Nationwide, the demand for and consumption of petroleum in the United States has exceeded production for more than 20 years. In recent years, this gap has been widening as the demand for crude oil increases while domestic production declines.

Because of this, the United States needs to locate additional, dependable sources of crude oil. The overall purpose of the proposed pipeline is to address the needs of refineries in the United States, particularly in the Rocky Mountain Region, and the producers of Western Canada. The Express Pipeline, Inc., would provide a new source of crude oil to refineries located throughout the Rocky Mountain Region and other parts of the United States through the existing network of pipelines. Before Express Pipeline can construct the pipeline, it must obtain numerous Federal, State, county, and local permits. Because the route crosses public land administered by the BLM and the Bureau of Reclamation, Express Pipeline must obtain a right-of-way grant from the Federal Government. As part of the process for granting the permits, these agencies must consider Express's proposal under NEPA. Regulations implementing NEPA (40 CFR 1500) encourage agencies to incorporate any previous NEPA analyses by reference to eliminate repetitive discussions of the same issues and to focus on specific issues of the proposal. The proposed pipeline would follow the routes of two other pipelines for which EIS's were previously issued by Federal agencies. Accordingly, this final EIS incorporates by reference the PGT/PG&E and Altamont Natural Gas Pipeline Projects Final EIS (FERC 1991) and the Amoco Carbon Dioxide Projects Final EIS (BLM 1989).

The final EIS is a supplement to the draft EIS, published on August 18, 1995, and contains the following material:

◆ Incorporates by reference most of the material presented in the draft EIS and identifies the changes to the draft EIS required as a result of additional information.

◆ Public comments subsequent to publishing of the draft EIS.

◆ The corrections and additions to the draft EIS.

◆ Comments received on the draft EIS.

◆ Responses to the comments.

The BLM and Montana DEQ received 161 comments on the draft EIS. Ten supported the project, six provided information and did not state a position on the project, and 145 either opposed the project, suggested alternative routes, or expressed various concerns with the draft EIS. Of the latter 145 comments, all but 12 were concerned with the adequacy of the socio-economic impact analysis. Three express primarily environmental concerns and nine were from landowners concerned with effects on private lands. The Environmental Protection Agency, based on procedures they use to evaluate the adequacy of the information in an EIS, gave the draft EIS a rating of EC–2 (Environmental Concern, Insufficient Information).

No substantive changes were made to the proposed action. The BLM has agreed to evaluate all subsequent phases under complete NEPA procedures. This final EIS is not a decision document.

A Record of Decision will be prepared and made available to the public following the 30 day comment period provided above.

Dated: February 20, 1996.

Alan L. Kesterke,

Associate State Director.

[FR Doc. 96–4237 Filed 2–23–96; 8:45 am]

BILLING CODE 4310–22–P

[OR–050–06–1220–00; GP6–0060]

Notice of Oregon Off-Highway Vehicle Designation

AGENCY: Prineville District Office, Deschutes Resource Area, Interior.

ACTION: Notice given relating to limiting motorized vehicle use on public lands north of Prineville Reservoir.

SUMMARY: Notice is hereby given relating to limiting the use of motorized vehicle use on approximately 2,200 acres of public lands in accordance with the authority and requirements of Executive Orders 11644 and 11989 and regulations contained in 43 CFR Part 8340.

The following lands under administration of Bureau of Land Management are designated as limited, as a result of decisions made in the BLM Upper Prineville Reservoir Activity Plan and Record of Decision for the Brothers/LaPine Resource Management Plan/Environmental Impact Statement.

These public lands are all located in T. 16S, R. 17E., W.M.:

Section 11: public lands south of O'Neil Cr. and west of Paulina Highway, Section 13: public lands west of Paulina Highway, and all public lands in Sections 14, 15, 22, 23, 24 and 27. All motorized vehicle use (includes passenger, four-wheel drive, motorcycle, three-wheel and quad) is limited in the following manner on these public lands:

1. No motorized vehicle use is permitted from December 1st through March 31st.

2. Motorized vehicle use is restricted to designated routes marked with ''designated route'' signs.

These restrictions are being implemented in a cooperative effort with the Bureau of Reclamation, Oregon Department of Fish and Wildlife and adjacent private land owners to reduce soil erosion and improve mule deer winter range.

This designation is effective upon publication in the Federal Register and will remain in effect until rescinded or modified by the Prineville District Manager. Information and maps of this area are available at the BLM Prineville District Office, 3050 East Third Street, Prineville, Oregon, 97754, Telephone (541) 416–6700.

Dated: January 26, 1996.

Donald L. Smith,

Acting District Manager.

[FR Doc. 96–4070 Filed 2–23–96; 8:45 am]

BILLING CODE 4310–33–M

National Park Service

Notice of Inventory Completion for Native American Human Remains and Funerary Objects in the Possession of Big Cypress National Preserve, National Park Service, Ochopee, FL

AGENCY: National Park Service.

ACTION: Notice.

Notice is hereby given in accordance with provisions of the Native American Graves Protection and Repatriation Act, 25 U.S.C. 3003(d), of the completion of an inventory of human remains and funerary objects in the possession of Big Cypress National Preserve, National Park Service, Ochopee, FL.

The human remains and funerary objects were collected from seven sites by National Park Service archeologists in 1977. A detailed inventory and assessment of the human remains and funerary objects has been made by the staff of Big Cypress National Preserve and representatives of the Miccosukee Tribe of Indians and the Seminole Tribe of Florida. No known individuals were identified.

Twenty-seven human cranial bone fragments representing the remains of at least one individual were surface collected from a site near U.S. Highway 41 in Collier County. Also collected from the vicinity of the grave were one lead fragment, one iron container, and one safety pin. The site was identified as a historic period grave dating to the early 20th Century. The name of the site is being withheld at the request of the Miccosukee Tribe of Indians.

Eleven human cranial bone fragments representing at least two individuals were surface collected from the Seminole Camp site. In addition to the bone fragments, one side plate from a percussion rifle, one bullet, fourteen plastic buttons, one bone pin, one iron nail, one brass barrel hoop, one brass boot buckle, one iron fragment, and 434 glass beads were collected from the vicinity of the grave. This site was identified as a grave dating to the late 19th or early 20th Century.

One iron nail, three iron fragments, and 4,565 glass beads were collected from a back country site in Monroe County. Several human bone fragments and a casket bier were noted by the archeologists investigating the site but were not collected. The site was identified as a historic period (early 20th Century) grave site. The name of the site is being withheld at the request of the Miccosukee Tribe of Indians.

Three glass beads and one piece of whiteware ceramic were collected from the vicinity of the grave at a site north of East Slough. Human remains were observed by the archeologists but not collected. This site was identified as a historic period grave dating between 1920 and 1930. The name of the site is being withheld at the request of the Miccosukee Tribe of Indians.

A china doll and two glass beads were collected from the vicinity of a grave at the Doll Site. No human remains were observed by the archeologists, but subsequent consultation with representatives of the Miccosukee Tribe of Indians identify the site as the location of a burial dating to the early 20th Century.

One iron nail, one metal pan, one stoneware jug fragment, a Dietz glass kerosene lantern vase, one brass kettle base modified to use as a dish, one animal bone, and one piece of Busycon shell were collected from the vicinity of a grave at the Dietz Site. Human remains were observed by the archeologists but not collected. This site was identified as a historic period grave dating to the late 19th or early 20th Century.

The six sites listed above are located within the territory historically occupied by the Miccosukee and have been identified as earlier occupation areas by representatives of the Miccosukee Tribe of Indians. No lineal descendants have been identified by representatives of the Miccosukee Tribe of Indians.

Three cranial fragments and over one hundred other skeletal fragments representing at least one individual were collected at Turner River #5, a burial island site. One fragment of glazed earthenware was recovered with the human remains. Based on the state of preservation and the type of objects collected, this burial has been dated sometime before A.D. 1860. Representatives of the Miccosukee Tribe of Indians have identified the area around Turner River #5 as being occupied by the Seminole at the time the site was in use. In addition, possible lineal descendants may exist among the unaffiliated, independent Seminole and Miccosukee people who currently reside in the area. Good faith efforts to consult with representatives of the Seminole Tribe of Florida have been unsuccessful.

Based on the above mentioned information, officials of the Big Cypress National Preserve have determined that, pursuant to 43 CFR 10 (d)(1), the human remains listed above represent the physical remains of at least four individuals of Native American ancestry. Officials of the Big Cypress National Preserve have also determined that, pursuant to 25 U.S.C 3001(3)(A) and (B), the 5,042 objects listed above are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony. Lastly, officials of the Big Cypress National Preserve have determined that, pursuant to 25 U.S.C. 3001 (2), there is a relationship of shared group identity which can be reasonably traced between the human remains and funerary objects from the first six sites and the Miccosukee Tribe of Indians. Officials of the Big Cypress National Preserve have determined that there is a relationship of shared group identity which can be reasonably traced between the human remains and the funerary object from Turner River #5 and the Seminole Tribe of Florida.

This notice is being sent to the Miccosukee Tribe of Indians and the Seminole Tribe of Florida. Representatives of any other Indian tribe that believes itself to be culturally affiliated with the human remains and funerary objects should contact Wallace Hibbard, Superintendent, Big Cypress National Preserve, HCR 61, Box 110, Ochopee, FL 33943, telephone: (813) 695–2000, before March 27, 1996. Repatriation of the human remains and funerary objects to the Miccosukee Tribe of Indians and the Seminole Tribe of Florida may begin after that date if no additional claimants come forward.

Dated: February 16, 1996

C. Timothy McKeown,

Acting Departmental Consulting Archeologist, Archeology and Ethnography Program.

[FR Doc. 96–4198 Filed 2–23–96; 8:45 am]

BILLING CODE 4310–70–F

Notice of Inventory Completion for Native American Human Remains and Associated Funerary Objects from Indian Gardens Cemetery (Cross Village) in Emmet County, Michigan, in the Possession and Control of the Putnam Museum of History and Natural Science, Davenport, IA

AGENCY: National Park Service.

ACTION: Notice.

Notice is hereby given in accordance with provisions of the Native American Graves Protection and Repatriation Act, 25 U.S.C 3003 (d), of the completion of the Inventory of Human Remains and Associated Funerary Objects from Indian Gardens Cemetery (Cross Village), Emmet County, Michigan, which are in the possession and control of the Putnam Museum of History and Natural Science, Davenport, IA.

The detailed inventory and assessment of the partial remains of a burial from a cemetery in the historical

Cross Village area has been made by the Putnam Museum professional staff and the Michigan State Archeologist professional staff in consultation with the Grand Traverse Bay Band of Chippewa and Ottawa and the Little Traverse Bay Band of Odawa Indians. Although the skull and mandibles are currently curated at the Michigan Historical Center, the Michigan Historical Center acknowledges the Putnam Museum's continued control over the disposition of these remains.

The human remains from Indian Gardens Cemetery (site 20EM77) consist of a minimum of two individuals. No known individuals were identified. The 281 cultural items associated with these individuals include: trade silver (Astor fur trade money, bracelets, armbands, earrings, buttons, a two-bar cross, and washer broaches); one copper bell; one pair of scissors; one pewter spoon; one brass spoon; one spyglass; one rifle barrel; one pistol; one gun stock; one brass gun plate with partial stock; one brass gun decoration; one pocket knife; one clay pipe; one mirror in wooden frame; loomed wampum; knives; cloth, ribbon and leather fragments; iron and copper kettles; lock of hair with silver ornaments; six strike-a-lights; wood comb; four ax heads; and a locket with chain.

Site 20EM77, known as Indian Gardens Cemetery, has been identified as part of Cross village, a known Odawa village in the 18th and 19th centuries. The cultural items with this burial place the time of interment to the early 19th century. The Putnam Museum's accession records indicate the burial was disturbed in 1897 by Henry J. Atkinson. In 1900, Mr. Atkinson sold the burial to E.D. and W.C. Putnam in Habour Springs, MI and donated the same year to the then-Davenport Academy of Sciences (now the Putnam Museum). Visual examination of the human remains by the Michigan State Archeologist's Office professional staff indicate these individuals are Native American. Evidence from both the Grand Traverse Band and the Little Traverse Band indicates this village is directly affiliated with the Little Traverse Band of Odawa.

Based on the above information, officials of the Putnam Museum of History and Natural Science have determined that, pursuant to 43 CFR 10 (d)(1), the human remains listed above represent the physical remains of at least two individuals of Native American ancestry. Putnam Museum officials have also determined that, pursuant to 25 U.S.C. 3001 (3)(A) and (B), the 281 items listed above are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of a death rite or ceremony. Lastly, Putnam Museum officials have determined that, pursuant to 25 U.S.C. 3001 (2), there is a relationship of shared group identity which can be reasonably traced between the Native American human remains and associated funerary objects and the Little Traverse Bay Band of Odawa Indians.

This notice has been sent to officials of the Little Traverse Bay Bands of Odawa Indians and the Grand Traverse Bay Band of Chippewa and Ottawa. Representatives of any other Indian tribe which believes itself to be culturally affiliated with these human remains and associated funerary objects should contact Carmen Langel, Curatorial Assistant, Putnam Museum of History and Natural Science, 1717 West 12th Street, Davenport, Iowa, 52804, telephone (319) 324–1934 before March 27, 1996. Repatriation of these human remains and associated funerary objects to the Little Traverse Bay Bands of Odawa Indians may begin after this date if no additional claimants come forward.

Dated: February 16, 1996.

C. Timothy McKeown,

Acting Departmental Consulting Archeologist, Archeology and Ethnography Program.

[FR Doc. 96–4199 Filed 2–23–96; 8:45 am]

BILLING CODE 4310–70–F

Notice of Inventory Completion for Native American Human Remains and Associated Funerary Objects in the Control of Hubbell Trading Post National Historic Site, National Park Service, Ganado, AZ

AGENCY: National Park Service.

ACTION: Notice.

Notice is hereby given in accordance with provisions of the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003(d), of the completion of the inventory of human remains and associated funerary objects in the control of the National Park Service, Hubbell Trading Post National Historic Site, Ganado, AZ.

A detailed assessment and inventory of the human remains and associated funerary objects has been made by professional staff of the National Park Service in consultation with representatives of the Apache Tribe of Oklahoma, the Fort McDowell Mohave-Apache Tribe, the Fort Sill Apache Tribe, the Hopi Tribe, the Jicarilla Apache Tribe, the Mescalero Apache Tribe, the Kaibab Paiute Tribe, the Navajo Nation, the San Carlos Apache Tribe, the Pueblo of Jemez, the Pueblo of Laguna, the Pueblo of Nambe, the Pueblo of Pojoaque, the Pueblo of San Ildefonso, the Pueblo of Tesuque, the Southern Ute Tribe, the Ute Mountain Ute Tribe, the White Mountain Apache Tribe, and the Zuni Tribe.

Human remains representing four individuals were recovered along with 970 funerary objects from a site approximately half a mile from Hubbell Trading Post in 1971 and 1978. No known individuals were identified. Funerary objects include one hemispherical bowl resembling later Zuni ware, one Kana'a bowl, one White Mound bowl, two Lino bowls, one Lino seed jar, 135 potsherds, two pieces of yellow ochre, five olivella shell beads, 808 beads possibly made from juniper berry seed, one flake, one grinding stone, one polishing stone, nine chipped stone fragments, and two animal bone fragments.

The above-mentioned materials have been dated between AD 400 and the Basketmaker/Pueblo Period transition in AD 900. This period is recognized as the time the territorial units of the western Anasazi were still in development. Because Anasazi territories in this region did not become well-defined until after AD 900, artifactual evidence does not allow specific identification of a single culturally affiliated Indian tribe. However, examination of cultural materials (e.g., ceramics, stone tools, and other items) and oral history regarding traditional and religious practice indicate probable cultural affiliation between the human remains and associated funerary objects and various Pueblo Indian groups. The oral traditions of both the Hopi Tribe and the Zuni Tribe indicate affiliation with Basketmaker and Anasazi sites.

Human remains representing one individual were recovered in 1972 from Wide Reed, a pueblo ruin located east of Hubbell Trading Post. No known individual was identified. No funerary objects are present.

The Wide Reed site has been identified as a Pueblo III Period Kayenta Anasazi site, dating to AD 1145–1345. Archeological evidence—including ceramics and architecture—and oral traditions suggests that Kayenta Anasazi are culturally affiliated with the Hopi Tribe. The Zuni Tribe also claim affiliation with this site based on oral tradition. The National Park Service evidence shows that in addition to the traditional data linking the descendants of Wide Reed with modern Hopi and Zuni, Navajo oral tradition indicates ancestral ties to this site.

Based on the above mentioned information, officials of the Hubbell Trading Post National Historic Site have determined that, pursuant to 43 CFR 10 (d)(1), the human remains listed above represent the physical remains of at least five individuals of Native American ancestry. Historic Site officials have also determined that, pursuant to 25 U.S.C. 3001 (3)(A) and (B), the 970 items listed above are reasonably believed to have been placed with or near individual human remains at or near the time of death as part of the death rite or ceremony. Historic Site officials have determined that, pursuant to 25 U.S.C. 3001 (2), there is a relationship of shared group identity which can be reasonably traced between the four Native American human remains and 970 associated funerary objects from the site one half mile from Hubbell Trading Post and the Hopi Tribe and the Zuni Tribe. Further, Historic Site officials have determined that, pursuant to 25 U.S.C. 3001 (2), there is a relationship of shared group identity which can be reasonably traced between the one individual from Wide Reed and the Hopi Tribe, the Zuni Tribe, and the Navajo Nation.

This notice has been sent to officials of the Apache Tribe of Oklahoma, the Fort McDowell Mohave-Apache Tribe, the Fort Sill Apache Tribe, the Hopi Tribe, the Jicarilla Apache Tribe, the Mescalero Apache Tribe, the Kaibab Paiute Tribe, the Navajo Nation, the San Carlos Apache Tribe, the Pueblo of Jemez, the Pueblo of Laguna, the Pueblo of Nambe, the Pueblo of Pojoaque, the Pueblo of San Ildefonso, the Pueblo of Tesuque, the Southern Ute Tribe, the Ute Mountain Ute Tribe, the White Mountain Apache Tribe, and the Zuni Tribe. Representatives of any other Indian tribe that believes itself to be culturally affiliated with these human remains and associated funerary objects should contact Nancy Stone, Superintendent, Hubbell Trading Post National Historic Site, P.O. Box 150, Ganado, AZ 86505; telephone: (520) 755–3254, before *thirty days after publication in the* Federal Register. Repatriation of the human remains and associated funerary objects to the Hopi Tribe, Zuni Tribe, or Navajo Nation may begin after that date if no additional claimants come forward.

Dated: February 16, 1996.

C. Timothy McKeown,

Acting Departmental Consulting Archeologist, Archeology and Ethnography Program.

[FR Doc. 96–4200 Filed 2–23–96; 8:45 am]

BILLING CODE 4310–70–F

Notice of Intent to Repatriate a Cultural Item in the Possession of the Cheney Cowles Museum, Spokane, WA

AGENCY: National Park Service

ACTION: Notice

Notice is hereby given under the Native American Graves Protection and Repatriation Act, 25 U.S.C. 3005(a)(2), of the intent to repatriate a cultural item in the possession of the Cheney Cowles Museum, Spokane, WA which meets the definition of ''sacred object'' under Section 2 of the Act.

The Thunder Bundle consists of weasel and ermine skins, two feather fans, small hide and cloth bundles, drum, four pipe stems, grizzly claw necklace, six rattles, whip, and a parfleche pouch.

Authorized representatives of the Blackfeet Business Council acting on behalf of the Blackfeet Confederacy (including the Piegan and Blood First Nations of Canada) have been provided copies of museum records and have viewed the bundle in person. These representatives, including traditional religious leaders and a direct descendent of one of the original keepers of the bundle, have verified it is the Thunder Bundle of the Blackfeet Confederacy. Evidence submitted by the representatives of the Blackfeet Nation indicates the last proper keeper of the bundle was No Coat in 1899.

The whereabouts of the bundle were not known between 1899 and 1977 when the Thunder Bundle was donated to the Museum of Native American Cultures by Mr. Myron Sammons of Scottsdale, AZ. In 1992, the Cheney Cowles Museum assumed stewardship of the Museum of Native American Cultures collections by permission of the Washington State Attorney General.

Based on the above-mentioned information, officials of the Eastern Washington State Historical Society/Cheney Cowles Museum have determined that, pursuant to 25 U.S.C. 3001(3)(C), this cultural item is a specific ceremonial object which is needed by traditional Native American religious leaders for the practice of traditional Native American religions by their present-day adherents. Officials of the Eastern Washington State Historical Society/Cheney Cowles Museum have also determined that, pursuant to 25 U.S.C. 3001(2), there is a relationship of shared group identity which can be reasonably traced between this item and the Blackfeet Nation.

This notice has been sent to officials of the Blackfeet Nation. Representatives of any other Indian tribe that believes itself to be culturally affiliated with this object should contact Mr. Glenn Mason, Director, Cheney Cowles Museum, 2316 W. First Avenue, Spokane, WA 99204, telephone (509) 456–4931 ext. 104 before March 27, 1996.Repatriation of this object to the Blackfeet Nation on behalf of the Blackfeet Confederacy may begin after that date if no additional claimants come forward.

Dated: February 16, 1996.

C. Timothy McKeown,

Acting Departmental Consulting Archeologist, Archeology and Ethnography Program.

[FR Doc. 96–4201 Filed 2–23–96; 8:45 am]

BILLING CODE 4310–70–F

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–382]

Certain Flash Memory Circuits and Products Containing Same; Notice of Investigation

AGENCY: International Trade Commission.

ACTION: Institution of investigation pursuant to 19 U.S.C. 1337 and provisional acceptance of motion for temporary relief.

SUMMARY: Notice is hereby given that a complaint and a motion for temporary relief were filed with the U.S. International Trade Commission on January 11, 1996, under section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, on behalf of SanDisk Corporation, 3270 Jay Street, Santa Clara, CA 95054. The complaint alleges violations of section 337 in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain flash memory circuits and products containing same by reason of alleged infringement of claims 1, 2, 3 or 4 of U.S. Letters Patent 5,418,752 and claims 27, 32, or 44 of U.S. Letters Patent 5,172,338. The complaint further alleges that there exists an industry in the United States as required by subsection (a)(2) of section 337. The complainant requests that the Commission institute an investigation and, after a full investigation, issue a permanent exclusion order and permanent cease and desist orders.

The motion for temporary relief requests that the Commission issue a temporary exclusion order and temporary cease and desist orders prohibiting the importation into and the sale within the United States after importation of certain flash memory circuits and products containing same

that infringe claim 1 of U.S. Letters Patent 5,418,752 during the course of the Commission's investigation.

ADDRESSES: The complaint and motion for temporary relief, except for any confidential information contained therein, are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, S.W., Room 112, Washington, D.C. 20436, telephone 202–205–1802. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–205–1810.

FOR FURTHER INFORMATION CONTACT: John M. Whealan, Esq., Office of Unfair Import Investigations, U.S. International Trade Commission, telephone 202–205–2574.

Authority: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930, as amended, and in section 210.10 of the Commission's Final Rules of Practice and Procedure, 19 CFR 210.10. The authority for provisional acceptance of the motion for temporary relief is contained in section 210.58, 19 CFR 210.58.

Scope of Investigation

Having considered the complaint and the motion for temporary relief, the U.S. International Trade Commission, on February 20, 1996, ORDERED THAT—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended, an investigation be instituted to determine whether there is a violation of subsection (a)(1)(B) of section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain flash memory circuits and products containing same by reason of infringement of claims 1, 2, 3 or 4 of U.S. Letters Patent 5,418,752 or claims 27, 32, or 44 of U.S. Letters Patent 5,172,338, and whether there exists an industry in the United States as required by subsection (a)(2) of section 337.

(2) Pursuant to section 210.58 of the Commission's Final Rules of Practice and Procedure, 19 CFR 210.58, the motion for temporary relief under subsection (e) of section 337 of the Tariff Act of 1930, which was filed with the complaint, be provisionally accepted and referred to the presiding administrative law judge for investigation.

(3) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainant is—SanDisk Corporation, 3270 Jay Street, Santa Clara, California 95054.

(b) The respondents are the following companies alleged to be in violation of section 337, and are the parties upon which the complaint and motion for temporary relief are to be served:

Samsung Electronics Company, Ltd., Samsung Main Building, 10th Floor, 250, 2–ka Taepyung-Ro Chung-Ku, Seoul, Korea

Samsung Semiconductor, Inc., 3655 North First Street, San Jose, California 95134–1707

(c) John M. Whealan, Esq., Office of Unfair Import Investigations, U.S. International Trade Commission, 500 E Street, S.W., Room 401P, Washington, D.C. 20436, shall be the Commission investigative attorney, party to this investigation; and

(4) For the investigation and temporary relief proceedings instituted, the Honorable Sidney Harris is designated as the presiding Administrative Law Judge.

Responses to the complaint, the motion for temporary relief, and the notice of investigation must be submitted by the named respondents in accordance with sections 210.13 and 210.59 of the Commission's Final Rules of Practice and Procedure, 19 CFR 210.13 and 210.59. Pursuant to 19 CFR 201.16(d), 210.13(a) and 210.59 of the Commission's Final Rules of Practice and Procedure, such responses will be considered by the Commission if received not later than 10 days after the date of service by the Commission of the complaint, the motion for temporary relief, and the notice of investigation. Extensions of time for submitting responses to the complaint will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint, in the motion for temporary relief, and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint, the motion for temporary relief, and this notice, and to authorize the administrative law judge and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint, motion for temporary relief, and this notice and to enter both an initial determination and a final determination containing such findings, and may result in the issuance of a limited exclusion order or a cease and desist order or both directed against such respondent.

Issued: February 20, 1996.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 96–4223 Filed 2–23–96; 8:45 am]

BILLING CODE 7020–02–P

NUCLEAR REGULATORY COMMISSION

Report to Congress on Abnormal Occurrences July–September 1995; Dissemination of Information

Section 208 of the Energy Reorganization Act of 1974, as amended, requires NRC to disseminate information on abnormal occurrences (AOs) (i.e., unscheduled incidents or events that the Commission determines are significant from the standpoint of public health and safety). During the third quarter of CY 1995, the following incidents at NRC licensed facilities were determined to be AOs and are described below, together with the remedial actions taken. Each event is also being included in NUREG–0090, Vol. 18, No. 3 (''Report to Congress on Abnormal Occurrences: July–September 1995''). This report will be available at NRC's Public Document Room, 2120 L Street NW. (Lower Level), Washington, DC, about three weeks after the publication date of this Federal Register Notice.

Other NRC Licensees (Industrial Radiographers, Medical Institutions, Industrial Users, etc.)

95–7 Medical Brachytherapy Misadministration at Marshfield Clinic in Marshfield, Wisconsin

One of the AO reporting guidelines notes that administering a therapeutic dose from a sealed source such that the calculated total treatment dose differs from the prescribed total treatment dose by more than 10 percent and the actual dose is greater than 1.5 times the prescribed dose can be considered an AO.

Date and Place—June 8, 1995; Marshfield Clinic; Marshfield, Wisconsin.

Nature and Probable Consequences—A patient was prescribed a dose of 1640 centigray (cGy) (1640 rad) for a low dose rate brachytherapy treatment of the cervix using cesium-137 sources.

After the sources were implanted, but prior to completion of the treatment, the physician entered the wrong date for removal of the sources into the final treatment plan. Because of this error the treatment was extended for an additional day. As a result, the calculated administered dose was 2440 cGy (2440 rad) which was

approximately 50 percent greater than the prescribed dose.

The physician informed the patient of the misadministration both verbally and in writing. The licensee evaluated the consequences of the misadministration and determined that there would be no adverse health effects.

An NRC medical consultant evaluated the consequences of the misadministration and agreed with the licensee's conclusion.

Cause or Causes—The licensee failed to notice that the planned explant time documented in the final treatment plan did not represent the prescribed treatment time documented in the written directive. Also, the licensee's written directive/low dose rate brachytherapy log form, used to record events occurring during low dose rate brachytherapy treatments, did not contain a location to document the prescribed time for source removal.

Actions Taken To Prevent Recurrence

Licensee—The licensee revised its written directive/low dose rate brachytherapy log form to include documentation of the actual implantation time, and the time for the prescribed and actual removal of sources. Additionally, the revised form will include verification of such times by a licensee staff member.

NRC—NRC conducted an inspection and reviewed the circumstances surrounding the misadministration. NRC also retained a medical consultant to review the case. A Confirmatory Action Letter was issued which confirms that the licensee will verify that its authorized users meet training and experience requirements. A Notice of Violation was issued with five Severity Level IV violations.

* * * * *

95–8 Medical Brachytherapy Misadministration at Providence Hospital in Southfield, Michigan

One of the AO reporting guidelines notes that a therapeutic exposure to any part of the body not scheduled to receive radiation can be considered an AO.

Date and Place—July 25, 1995; Providence Hospital; Southfield, Michigan.

Nature and Probable Consequences—A patient was prescribed a dose of 1230 centigray (cGy) (1230 rad) for a palliative manual brachytherapy treatment of the brain using an iridium-192 seed.

After implantation, confirmatory x-rays were taken but could not confirm the location of the seed and the treatment was terminated about 31 hours after implantation. The licensee determined that the seed was implanted about 4 centimeters (1.57 inches) from the intended treatment site of the brain. Consequently, the wrong treatment site received an unintended radiation dose of about 739 cGy (739 rad) and the tumor received only about 72 cGy (72 rad).

The licensee determined that no adverse health effects would result from the misadministration. An NRC medical consultant has reviewed the case but has not yet submitted a report to NRC. The licensee notified the referring physician and the patient about the misadministration.

Cause or Causes—The licensee said that the seed became detained at the elbow of the applicator during implantation and changed direction. The physician consequently encountered resistance while inserting the source and assumed that it reached the intended treatment site. A confirmatory x-ray taken at the time of insertion did not show the location of the source. (The licensee had used a fluoroscope [real time imaging] during simulation of the treatment, but a fluoroscope was not used to observe the actual seed implantation.)

Actions Taken To Prevent Recurrence

Licensee—The licensee reported that when using this type of applicator in the future, fluoroscopy will be used to assure proper implantation of radioactive material.

NRC—NRC conducted an investigation to review the circumstances surrounding the misadministration. The NRC staff is currently reviewing the inspection results for possible violations, and enforcement action is pending.

* * * * *

95–9 Ingestion of Radioactive Material by Research Workers at the National Institutes of Health in Bethesda, Maryland

One of the AO reporting guidelines notes that a moderate exposure to, or release of, radioactive material licensed by or otherwise regulated by the Commission can be an abnormal occurrence.

Date and Place—June 28, 1995; National Institutes of Health (NIH); Bethesda, Maryland.

Nature and Probable Consequences—A pregnant research employee became internally contaminated with phosphorus-32 (P–32) and was sent to a local hospital for treatment.

NRC formed an Augmented Inspection Team (AIT), which included a medical consultant, to review the incident. The medical consultant stated, based on the licensee's initial report, that there would not be any adverse health consequences to the researcher or the fetus. Also, an NRC scientific consultant at the Oak Ridge Institute for Science and Education's Radiation Internal Dose Information Center was consulted. An independent assessment was also performed by Lawrence Livermore National Laboratories.

The licensee subsequently found that 26 individuals (in addition to the pregnant researcher) were also contaminated. The Federal Bureau of Investigation (FBI), the NRC's Office of Investigations (OI), and the NIH Police Department are currently investigating the event. The AIT has concluded its inspection efforts. OI continues to work with the FBI.

Cause or Causes—Because of the ongoing investigation, NRC has not reached a final conclusion as to the cause of the event.

Actions Taken to Prevent Recurrence

Licensee—The licensee continues to investigate the incident. The licensee performed bioassay sampling to identify the isotope, calculate preliminary estimates of intake, and determine the scope of the contamination. In addition, the licensee will take actions to enhance security for handling radioactive materials.

NRC—In addition to forming an AIT, NRC subsequently conducted a special inspection to determine the effectiveness of NIH security over radioactive materials.

NRC also issued two Confirmatory Action Letters. The first confirmed the actions that the licensee would take to reduce the possibility of further ingestion and to determine the extent of the contamination. The second confirmed the actions that the licensee would take in response to the special inspection that reviewed the NIH security policy for handling radioactive materials.

* * * * *

Dated at Rockville, MD, this 20th day of February 1996.

For the Nuclear Regulatory Commission.

John C. Hoyle,

Secretary of the Commission.

[FR Doc. 96–4227 Filed 2–23–96; 8:45 am]

BILLING CODE 7590–01–P

[Docket No. 50–400]

Shearon Harris Nuclear Power Plant; Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. NPF–63, issued to the Carolina Power & Light Company (the licensee), for operation of the Shearon Harris Nuclear Power Plant located in Wake and Chatham Counties, North Carolina.

The proposed amendment would allow a one-time extension for the performance of the trip actuating device operational test for one of the safety injection manual initiation switches. Technical Specification (TS) 4.3.2.1, Engineered Safety Features Actuation System (ESFAS) Instrumentation, requires that each instrumentation channel and interlock and the automatic actuation logic and relays be demonstrated operable by performance of surveillance requirements specified in TS Table 4.3–2. Table 4.3–2, Item 1.a requires that a trip actuating device operational test be performed for Safety Injection (SI) manual initiation at least every 18 months. The licensee discovered on February 12, 1996, that only three of the four switch contacts have been tested in the required 18-month periodicity. The fourth switch contact was last tested on May 3, 1994. With the advent of the surveillance requirement grace period, this surveillance test for the fourth switch contact would have to be performed prior to March 16, 1996. However, this surveillance test cannot be performed at power. Therefore, the licensee is requesting a one-time extension of the surveillance test interval to avoid a plant shutdown. The exigent circumstances exist because the licensee did not discover the test discrepancy until February 12, 1996.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

Pursuant to 10 CFR 50.91(a)(6) for amendments to be granted under exigent circumstances, the NRC staff must determine that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

This change does not involve a significant hazards consideration for the following reasons:

1. The proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed amendment does not involve any design or material changes to the plant. The change does not in any way affect the automatic ESFAS [Engineered Safety Features Actuation System] initiation; it only affects one of the two redundant switches. If one switch fails to function, operators can use the other switch. This change simply requests a one-time extension for the surveillance interval for one of two contacts from the manual Safety Injection [SI] switch on Main Control Board panel C. A redundant switch is available with two operable contacts on Main Control Board panel A.

2. The proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed amendment does not alter the performance of the Engineered Safety Features Actuation System. The proposed change does not involve any new equipment or modifications to existing plant equipment. Further, the change will not affect the manner in which any safety related systems perform their functions. Extension of the surveillance frequency of the manual SI actuation switch does not affect or create any new accident scenarios. Therefore, the proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. The proposed amendment does not involve a significant reduction in the margin of safety.

The proposed change does not affect a margin of safety as defined in the Bases to the Technical Specifications. The automatic ESFAS is not affected by this one-time technical specification change. The change does not alter the setpoints for any plant parameters that initiate safety injection, nor does it alter any coincidental logic. Sufficient system functional capability is still available from diverse parameters.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 15 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of the 15-day notice period. However, should circumstances change during the notice period, such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 15-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish in the Federal Register a notice of issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Rules Review and Directives Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC, and should cite the publication date and page number of this Federal Register notice. Written comments may also be delivered to Room 6D22, Two White Flint North, 11545 Rockville Pike, Rockville Maryland, from 7:30 a.m. to 4:15 p.m. Federal workdays. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street NW., Washington, DC.

The filing of requests for hearing and petitions for leave to intervene is discussed below.

By March 27, 1996, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's ''Rules of Practice for Domestic Licensing Proceedings'' in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC and at the local public

document room located at the Cameron Village Regional Library, 1930 Clark Avenue, Raleigh, North Carolina. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing.

The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If the amendment is issued before the expiration of the 30-day hearing period, the Commission will make a final determination on the issue of no significant hazards consideration. If a hearing is requested, the final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC, Attention: Docketing and Services Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street NW., Washington, DC, by the above date. Where petitions are filed during the last 10 days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1–(800) 248–5100 (in Missouri 1–(800) 342–6700). The Western Union operator should be given Datagram Identification Number N1023 and the following message addressed to Mr. Eugene V. Imbro: petitioner's name and telephone number, date petition was mailed, plant name, and publication date and page number of this Federal Register notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC, and to W.D. Johnson, Vice President and Senior counsel, Carolina Power & Light Company, Post Office Box 1551, Raleigh, North Carolina, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1) (i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated February 16, 1996, which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street NW., Washington, DC, and at the local public document room, located at the Cameron Village Regional Library, 1930 Clark Avenue, Raleigh, North Carolina.

Dated at Rockville, Maryland, this 20th day of February 1996.

For the Nuclear Regulatory Commission.

Ngoc B. Le,

Project Manager, Project Directorate II–1, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 96–4225 Filed 2–23–96; 8:45 am]

BILLING CODE 7590–01–P

[Docket No. Part 110]

Notice of Receipt of Assurances From EURATOM Under Section 109B of the Atomic Energy Act

In the matter of general and specific licenses authorizing exports of nuclear reactor components, substances, and items under section 190b of the Atomic Energy Act to EURATOM.

By order issued December 28, 1995, effective January 1, 1996, the Nuclear Regulatory Commission (''Commission'') suspended general and specific licenses issued under Section 109b of the Atomic Energy Act of 1954, as amended (AEA), and 10 CFR Part 110, to export nuclear reactor components, substances, and items to EURATOM. The suspension was necessary due to the expiration on December 31, 1995 of the safeguards, peaceful use, and retransfer assurances required for such exports under Section 109b. The Commission suspended the licenses until such time that EURATOM provided the necessary assurances to the U.S. This notice is to inform section 109b specific and general licensees that, on February 16, 1996, the assurances required under Section 109b were received from EURATOM. On that date,

accordingly, the Commission's suspension order expired by operation of law.

Dated at Rockville, Maryland this 20th day of February 1996.

For the Nuclear Regulatory Commission.

Carlton R. Stoiber,

Director, Office of International Programs.

[FR Doc. 96–4226 Filed 2–23–96; 8:45 am]

BILLING CODE 7590–01–M

Uranium Mill Facilities: Availability of Final ''Staff Technical Position on Alternate Concentration Limits for Title II Uranium Mills''

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of availability.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is announcing the availability of its final ''Staff Technical Position on Alternate Concentration Limits for Title II Uranium Mills.'' The purposes of this final Staff Technical Position (STP) are to provide: (1) Guidance on NRC staff's interpretation of the applicable regulations for establishing alternate concentration limits (ACLs) at uranium mills and tailings impoundment sites regulated under Title II of the Uranium Mill Tailings Radiation Control Act (UMTRCA) of 1978; (2) a Standard Format and Content Guide for ACL applications; and (3) standard criteria and procedures for ACL application reviews by NRC and Agreement States.

The final STP on ACLs for Title II uranium mills represents a revised and updated version of NRC's draft final STP, which was announced in the Federal Register on March 21, 1994 (59 FR 13345). The revisions were made largely in response to comments that NRC received on the draft final STP.

The final STP on ACLs for Title II uranium mills was prepared pursuant to the regulatory requirements for ground-water protection in Criterion 5 of Appendix A to 10 CFR Part 40, and is therefore only applicable to uranium mills and mill tailings impoundment sites regulated under Title II of UMTRCA. However, NRC will use the same technical approach in reviewing ACL applications for uranium mills and mill tailings impoundment sites that are regulated under Title I of UMTRCA, with modifications to reflect differences between UMTRCA's Title I and Title II programs.

Effective immediately, the staff will use this final STP instead of the draft final STP in reviewing ACL applications on file as well as new ACL applications.

ADDRESSES: Copies of the final STP on ACLs for Title II uranium mills may be requested by writing to: Mr. Joseph J. Holonich, Chief, Uranium Recovery Branch, Division of Waste Management, Office of Nuclear Material Safety and Safeguards, Mailstop T7J–9, U.S. Nuclear Regulatory Commission, Washington, DC 20555, or by calling (301) 415–7238.

FOR FURTHER INFORMATION CONTACT: Dr. Latif S. Hamdan, Uranium Recovery Branch, Division of Waste Management, Office of Nuclear Material Safety and Safeguards, Mailstop T7J–9, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Telephone: (301) 415–6639.

SUPPLEMENTARY INFORMATION: Persons interested in commenting on the final STP on ACLs for Title II uranium mills may provide written comments to Chief, Uranium Recovery Branch, Division of Waste Management, Office of Nuclear Material Safety and Safeguards, Mailstop T7J–9, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Comments received will be considered in any future revisions of the STP. There is no date set for expiration of the comment period.

Dated at Rockville, Maryland, this 14th day of Febuary, 1996.

For the Nuclear Regulatory Commission.

Joseph J. Holonich,

Chief, Uranium Recovery Branch, Division of Waste Management, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 96–4224 Filed 2–23–96; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–36859; File No. SR–NASD–95–62]

Self-Regulatory Organizations; National Association of Securities Dealers, Inc.; Order Granting Accelerated Approval of Proposed Rule Change Amending the Prompt Receipt and Delivery of Securities Interpretation Relating to Short Sales

February 20, 1996.

I. Introduction

On January 11, 1996, the National Association of Securities Dealers, Inc. (''NASD'' or ''Association'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') a proposed rule change [1] pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Exchange Act'') [2] and Rule 19b–4 thereunder.[3] The rule change amends the Prompt Receipt and Delivery of Securities Interpretation (''Interpretation'') issued by the NASD Board of Governors under Article III, Section 1 of the NASD Rules of Fair Practice.[4] The NASD proposes to amend the Interpretation to provide that under certain circumstances members may rely on ''blanket'' or standing assurances as to stock availability to satisfy their affirmative determination requirements under the Interpretation.

Notice of the proposed rule change, as amended, together with its terms of substance was provided by issuance of a Commission release [5] and by publication in the Federal Register.[6] One comment letter was received in response to the Commission release, in support of the NASD's proposal. This order approves the proposed rule change.

II. Description

On September 12, 1994, the SEC approved an NASD rule change that amended the Interpretation.[7] As part of that rule change, the NASD amended the Interpretation to make clear that the use of a ''blanket'' or standing assurance that securities are available for borrowing is not acceptable to satisfy the affirmative determination requirement (''standing assurance provision'').[8] Based upon feedback from a broad spectrum of NASD members, the effective date of the standing assurance provision was postponed so as to give the NASD an opportunity to reexamine the issue.[9]

Accordingly, after reexamination, the NASD is now proposing to replace the standing assurance provision with a new provision. Specifically, under the amendment, a member may rely on a ''blanket'' or standing assurance that securities will be available for borrowing on settlement date to satisfy its affirmative determination

[1] The proposed rule change initially was submitted on December 27, 1995, but was amended subsequent to its original filing. The amendment corrected a technical error in the proposed amended language and is available for copying in the Commission's Public Reference Room.

[2] 15 U.S.C. § 78s(b)(1).

[3] 17 CFR 240.19b–4.

[4] NASD Manual, Rules of Fair Practice, Art. III, Sec. 1, (CCH) ¶2151.04.

[5] Securities Exchange Act Release No. 36717 (January 16, 1996).

[6] 61 FR 1805 (January 23, 1996).

[7] Securities Exchange Act Release No. 34653 (September 12, 1994), 59 FR 47965 (September 19, 1994).

[8] These ''blanket'' or standing assurances often are sent via facsimile to member firms.

[9] See Securities Exchange Act Release Nos. 35207 (January 10, 1995), 60 FR 3445 (January 17, 1995); and 36245 (September 18, 1995), 60 FR 49307 (September 22, 1995).

requirement under the Interpretation, provided: (1) The information used to generate the ''blanket'' or standing assurance is less than 24 hours old; and (2) the member delivers the security on settlement date. The amendment also provides that, should a member relying on a ''blanket'' or standing assurance fail to deliver the security on settlement date, the NASD will deem such conduct inconsistent with the terms of the Interpretation, absent mitigating circumstances adequately documented by the member.

III. Comments

As noted above, the Commission received one comment letter in response to the NASD's proposed rule change. The law firm of Rosenman & Colin, on behalf of a number of firms, expressed strong support for the NASD's proposal.[10] The Firms believe that the ability to rely on ''blanket'' or standing assurances that securities are available for borrowing avoids the potential burdens that would be placed on the systems and personnel of clearing firms, institutional lenders, and introducing firms if the ban on such standing assurances becomes effective. The Firms believe that reliance on standing assurances will enable firms to continue to conduct business effectively, while minimizing situations where a member fails to deliver securities on settlement date. In addition, the Firms support the provision that will allow a member that relies on a standing assurance to present mitigating circumstances if a fail to deliver situation occurs. Further, the Firms note that it is important for the policies of the NASD and the New York Stock Exchange (''NYSE'') to be consistent with respect to the affirmative determination requirement, especially for firms with dual membership.

IV. Discussion

The Commission has determined to approve the NASD's proposal. The Commission finds that the rule change is consistent with the requirements of the Exchange Act and the rules and regulations thereunder applicable to the NASD, including the requirements of Section 15A(b)(6) of the Exchange Act.[11] Section 15A(b)(6) requires that the rules of a national securities association be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and in general to protect investors and the public interest.

The amendment allows firms to utilize standing assurances in satisfying their affirmative determination requirements. According to the commenter, many firms have effective compliance procedures that incorporate the use of standing assurances. The amendment provides members the flexibility to determine whether it is appropriate to rely on a standing assurance in a given situation. The proposal, however, also puts members on notice that reliance on standing assurances may be deemed conduct inconsistent with the Interpretation under certain circumstances. The Commission believes that this flexible approach will act not only to ease compliance burdens where appropriate, but also to protect against conduct inconsistent with the purposes of the Interpretation.

In addition, the NASD's amendment conforms the Interpretation to the NYSE's interpretation of its own affirmative determination rule.[12] The Commission believes that consistent application of both rules will result in more efficient compliance with such rules.

V. Conclusion

The Commission finds good cause for approving the proposed rule change prior to the 30th day after the date of publication of notice of filing thereof in the Federal Register. The Commission believes that accelerated approval is appropriate given the fact that the amendment provides for greater flexibility while not compromising the integrity of the Interpretation, and conforms the NASD's Interpretation with current NYSE practice.

It is therefore ordered, pursuant to Section 19(b)(2) of the Exchange Act, that the instant rule change SR–NASD–95–62 be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[13]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–4261 Filed 2–26–96; 8:45 am]

BILLING CODE 8010–01–M

[10] Letter from Donald M. Nisonoff, Special Counsel, Rosenman & Colin, to Jonathan G. Katz, Secretary, SEC (February 15, 1996). The letter was submitted on behalf of Nomura Securities International, Inc., CS First Boston, Bear, Stearns & Co., PaineWebber Incorporated, Pershing Division of Donaldson, Lufkin & Jenrette, Jefferies & Company, Inc., OTA Limited Partnership, and Susquehanna Brokerage Services, Inc. (''the Firms'').

[11] 15 U.S.C. 78*o*–3(b)(6).

[12] See NYSE Rule 440C; NYSE Information Memo 91–41 (October 18, 1991).

[13] 17 CFR 200.30–3(a)(12).

SOCIAL SECURITY ADMINISTRATION

Agency Information Collection Activities: Proposed Collection Request

Normally on Fridays, the Social Security Administration publishes a list of information collection packages that will require submission to the Office of Management and Budget (OMB) for clearance in compliance with P.L. 96–511, as amended (Pub. L. 104–13 effective October 1, 1995), The Paperwork Reduction Act. Since the last list was published in the Federal Register on February 16, 1996, the information collections listed below have been proposed or will require extension of the current OMB approvals:

(Call the SSA Reports Clearance Officer on (410) 965–4142 for a copy of the form(s) or package(s), or write to her at the address listed below)

SSA Reports Clearance Officer: Charlotte S. Whitenight.

Missing & Discrepant Wage Reports Letter & Questionnaire—0960–0432. The information collected on forms SSA–L93, SSA–95 and SSA–97 will be used by the Social Security Administration to contact employers reporting more wages to IRS than they reported to SSA. Employers' compliance with the SSA request will enable SSA to properly post employees' wage records. The respondents are employers with missing or discrepant wage reports.

Number of Respondents: 385,000.

Frequency of Response: 1.

Average Burden Per Response: 30 minutes.

Estimated Annual Burden: 192,500 hours.

Written comments and recommendations regarding these information collections should be sent within 60 days from the date of this publication, directly to the SSA Reports Clearance Officer at the following address: Social Security Administration, DCFAM, Attn: Charlotte S. Whitenight, 6401 Security Blvd., 1–A–21 Operations Bldg., Baltimore, MD 21235.

In addition to your comments on the accuracy of the agency's burden estimate, we are soliciting comments on the need for the information; its practical utility; ways to enhance its quality, utility and clarity; and on ways to minimize burden on respondents, including the use of automated

collection techniques or other forms of information technology.

Dated: February 20, 1996.

Charlotte Whitenight,

Reports Clearance Officer, Social Security Administration.

[FR Doc. 96–4246 Filed 2–23–96; 8:45 am]

BILLING CODE 4190–29–P

DEPARTMENT OF STATE

[Public Notice 2342]

Agency Information Collection Activities; Form JF–45 Overseas Schools—Approval of Funding to Support Special Educational Programs Plan for Activities During the School Year: Proposed Collection; Comment Request (for the Advance 60-Day Notice): Office of Overseas Schools

The proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for sixty days from the date of publication in the Federal Register. Request written and suggestions from the public and affected agencies concerning the proposed collection of information. Your comments should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

If a copy of the proposed collection instrument with instructions is not published in this notice please contact the agency representative listed below if you wish to receive a copy.

Overview of this information collection:

Action: The Department of State has submitted the following public information collection requirements to OMB for review and clearance under the Paperwork Reduction Act of 1980, 44 U.S.C. Chapter 35.

Summary: The Office of Overseas Schools of the Department of State (A/OS) is responsible: (a) For supporting our overseas missions by determining that adequate educational opportunities exist for dependents of U.S. government personnel stationed abroad and when necessary providing financial and technical assistance to improve elementary and secondary education at post for USG dependents; and (b) for assisting American-sponsored overseas schools demonstrate U.S. educational philosophy and practice. The following summarizes the information collection proposal submitted to OMB:

Type of request—Reinstatement.

Originating office—Office of Overseas Schools.

Title of information collection—U.S. State Department Overseas School—Approval of Funding To Support Special Educational Programs Plan For Activities During the School Year.

Frequency—Annually.

Form Number—JF–45.

Respondents—The 190 Overseas American sponsored schools.

Estimated number of respondents—190.

Average hours per response—0.25.

Total estimated burden hours—47.50.

44 U.S.C. 3504(h) does not apply.

Additional Information or Comments: Copies of the proposed forms and supporting documents may be obtained from Charles S. Cunningham (202) 647–0596. Comments and questions should be directed to (OMB) Jefferson Hill (202) 395–3176.

Dated: February 12, 1996.

Patrick F. Kennedy,

Assistant Secretary for Administration.

[FR Doc. 96–4234 Filed 2–23–96; 8:45 am]

BILLING CODE 4710–24–M

[Public Notice No. 2343]

Agency Information Collection Activities: Form JF–61 Overseas Schools—Grant Status Report: Proposed Collection; Comment Request (for the Advance 60-Day Notice): Office of Overseas Schools

The proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for sixty days from the date of publication in the Federal Register. Request written and suggestions from the public and affected agencies concerning the proposed collection of information. Your comments should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

If a copy of the proposed collection instrument with instructions is not published in this notice please contact the agency representative listed below if you wish to receive a copy.

Overview of this information collection:

Action: The Department of State has submitted the following public information collection requirements to OMB for review and clearance under the Paperwork Reduction Act of 1980, 44 U.S.C. Chapter 35.

Summary: The Office of Overseas Schools of the Department of State (A/OS) is responsible: (a) For supporting our overseas missions by determining that adequate educational opportunities exist for dependents of U.S. government personnel stationed abroad and when necessary providing financial and technical assistance to improve elementary and secondary education at post for USG dependents; and (b) for assisting American-sponsored overseas schools demonstrate U.S. educational philosophy and practice. The following summarizes the information collection proposal submitted to OMB:

Type of request—Reinstatement.

Originating office—Office of Overseas Schools.

Title of information collection—U.S. State Department.

Overseas School—Grant Status Report.

Frequency—Annually.

Form Number—JF–61.

Respondents—The 190 Overseas American sponsored schools.

Estimated number of respondents—190.

Average hours per response—0.25.

Total estimated burden hours—47.50.

44 U.S.C. 3504(h) does not apply.

Additional Information or Comments: Copies of the proposed forms and

supporting documents may be obtained from Charles S. Cunningham (202) 647–0596. Comments and questions should be directed to (OMB) Jefferson Hill (202) 395–3176.

Dated: February 12, 1996.

Patrick F. Kennedy,

Assistant Secretary for Administration.

[FR Doc. 96–4233 Filed 2–23–96; 8:45 am]

BILLING CODE 4710–24–M

[Public Notice 2339]

Bureau of Political-Military Affairs, Office of Nuclear Energy Affairs; Interagency Procedures for the Implementation of the U.S.-IAEA Safeguards Agreement

This notice sets forth U.S. agency procedures for implementation of the Agreement Between the United States of America and the International Atomic Energy Agency for the Application of Safeguards in the United States of America, with Protocol (IAEA INFCIRC/288), hereinafter referred to as the Agreement.

For additional information, contact Alex Burkart (phone: 202–647–4413). Office of Nuclear Energy Affairs, Bureau of Political-Military Affairs (PM/NE), Department of State, Washington, DC 20520.

A. Coordination

(1) IAEA Steering Committee.

(a) The interagency mechanism for coordinating policy and resolving disputes relating to the implementation of the Agreement shall be the IAEA Steering Committee (ISC), which is concerned generally with IAEA policy matters. The ISC is composed of representatives from the Department of State (State), the Department of Energy (DOE), the Nuclear Regulatory Commission (NRC), the Arms Control and Disarmament Agency (ACDA), the Department of Defense (DOD), the Office of Management and Budget (OMB), and the staff of the National Security Council (NSC) and the intelligence community (IC). The ISC is chaired by the U.S. Representative to the IAEA or such other official as may be designated by the Secretary of State. Representatives of the agencies which are ISC members are designated by the respective heads of such agencies. The ISC shall meet at such intervals set by the ISC and at any time at the request of any ISC member.

(b) In the event any question of interpretation of the Agreement affecting NRC arises which is not resolved by the ISC, the NRC shall seek and be bound by guidance from the President. Neither this provision, nor any other provision in these procedures, shall in any way alter the responsibilities of the NRC or in any way limit the existing authorities and responsibilities of the NRC.

(2) Subgroup on IAEA Safeguards in the U.S.

(a) The ISC shall establish a subcommittee known as the Subcommittee on International Safeguards and Monitoring (SISM). This subcommittee will, in turn, establish the Subgroup on IAEA Safeguards in the U.S. (SISUS). SISUS shall be composed of representatives from State, ACDA, the NRC and DOE. The NRC will appoint the Chair of the SISUS. Each agency shall designate its respective representatives to serve on the SISUS.

(b) The SISUS shall monitor implementation of the Agreement, carry out responsibilities specifically prescribed in these procedures, and undertake such other working level activities as may be designated by the SISM or the ISC.

(3) Negotiating Team.

(a) The Negotiating Team shall be composed of the members of the Subgroup or their designates. Designates must be full-time Government employees of the Agency of the member. For negotiations with regard to NRC licensed or certified facilities, the NRC member will be the head of the Negotiating Team. For negotiations with regard to DOE facilities not licensed and subject to DOE orders, the DOE member will be the head of the Negotiating Team.

(b) The Negotiating Team shall negotiate with the IAEA the Subsidiary Arrangements and the Transitional Subsidiary Arrangements (collectively referred to as the Arrangements), and undertake such other responsibilities as may be designated by the SISM or the ISC.

(c) Counsel and other agency officials may participate in Negotiating Team activities at the request of their respective agency representative.

B. Communications

As provided in the Arrangements, normally, official communications on matters relating to implementation of the Agreement from the IAEA are to be addressed to State through the Mission of the United States of America to the IAEA (Mission), and from State are to be addressed to the IAEA through the Mission. An officer in PM/NE and an officer in the Mission shall be assigned responsibility for communications to and from the IAEA in connection with implementation of the Agreement. In the event of the occurrence of unexpected circumstances, communications may be undertaken, as appropriate, other than as set forth in this Section of the procedures.

C. Regulation of NRC Licensed or Certified Facilities and Management of DOE License-Exempt Facilities

(1) For implementation of the Agreement.

(a) The NRC shall be responsible for maintaining necessary regulations applicable to NRC licensed or certified facilities; and

(b) DOE shall be responsible for maintaining appropriate mechanisms applicable to DOE license-exempt facilities.

(2) Requirements contained in the Arrangements shall be implemented as follows:

(a) With respect to an NRC licensed or certified facility, through the promulgation of regulations, the incorporation of appropriate amendments to licenses and the issuance of such orders as may be necessary to assure compliance; and

(b) With respect to a DOE license-exempt facility, through the promulgation of appropriate mechanisms.

D. Facility Attachments and Transitional Facility Attachments

The responsible agency (RA) is the NRC for NRC licensed or certified facilities and the DOE for DOE license-exempt facilities.

(1) Preparation. The RA shall participate with the IAEA in preparation of the material for the draft facility attachment and transitional facility attachment (collectively referred to as the draft attachment) for each facility selected by IAEA, under Article 39 of the Agreement or Article 2 of the Protocol. The RA shall consult with the facility operator and, as appropriate, arrange for such operator to participate in the preparation of the material for the draft attachment for such facility. The RA shall provide the Negotiating Team an opportunity to take part in preparation with the IAEA of the draft facility attachment for use in negotiation.

(2) Negotiation. The draft attachment shall be approved by the Negotiating Team for negotiation. Each facility attachment or transitional facility attachment (collectively referred to as the attachment) shall be negotiated with the IAEA by the Negotiating Team under the guidance of the SISM. In the course of these negotiations, the operator of the facility will be consulted and views and interests of each such operator will be considered. The facility

operator will be given the opportunity to review and comment on the attachment before it is agreed to by the U.S. Agreement shall be indicated by the ISC Chair or his designee initialing the attachment.

E. Information To Be Provided to the IAEA

(1) Reports on the status of nuclear material required to be submitted to the IAEA pursuant to the Agreement at specified intervals or occasions shall be compiled and submitted as follows:

(a) Review and transmission of initial reports and periodic accounting reports, including amplifications and clarifications thereof, in accordance with Codes 3.3 and 3.4 of the Arrangements, shall be the obligation of the RA. These reports shall be prepared on computer diskette by the Nuclear Materials Management and Safeguards System (NMMSS) operated jointly by NRC and DOE. The RA shall make arrangements for submission of the necessary data from each facility operator to NMMSS, which shall compile consolidated reports and send the diskette to the RA for review and transmission to PM/NE for delivery to the IAEA. The RA shall consult and provide to PM/NE, and PM/NE shall provide to the IAEA, the telex address and the telephone number of appropriate personnel to be available for use by the IAEA in seeking clarifications and amplifications (including questions concerning reported data) of the accounting reports.

(b) The RA shall prepare and transmit special reports, including amplifications and clarification thereof, in accordance with Code 3.5 of the Subsidiary Arrangements. The RA shall send each report to PM/NE to permit PM/NE to decide if any further review is needed prior to transmission by PM/NE to the IAEA and whether the report should be referred to the ISC for its consideration.

(c) In the event a material unaccounted for (MUF) at any facility selected by the IAEA under the Agreement exceeds the IAEA limits or the limits specified in 74.31(c)(5) or 74.59(f)(1)(i), whichever is smaller, the ISC shall determine in satisfying the terms of the Agreement what information if any relating to any U.S. investigation of the MUF is to be transmitted to the IAEA.

(2) Information other than reports described in paragraph (1) of this Section includes completed Design Information Questionnaires and other information needed in connection with design review, changes in design, and requirements with respect to radiological protection; and notification of an intended withdrawal (Agreement Article 12(a)) and of an international transfer (Agreement Article 89). The RA shall be responsible for obtaining such required information and ensuring that it is prepared in prescribed format for transmission to the IAEA in accordance with Codes 3.1, 3.2, 3.6, and 3.7 of the Subsidiary Arrangements and Codes 3.1 and 3.2 of the Transitional Subsidiary Arrangements. Such information and notification shall be transmitted to the IAEA by State.

(3) The Agreement shall not be construed to permit the communication to the IAEA of Restricted Data controlled by the Atomic Energy Act of 1954, as amended.

F. Eligible List

(1) The list of eligible U.S. facilities provided to the IAEA under Agreement Article 1(b) (eligible list) shall be reviewed by the SISUS from time to time to determine if any addition or removal of a facility should be made. The RA shall be responsible for informing the SISUS of any change in the status of any facility, relative to possible addition to, or removal from, the eligible list. The SISUS shall recommend to the ISC changes to be made in the eligible list. In the event that any ISC member agency believes that for national security reasons a particular urgency exists relative to the removal of a facility from the eligible list, such agency may, where disagreement develops or where immediate affirmative action is deemed essential and cannot be accommodated by the ISC, seek to have the President decide regarding such proposed removal.

(2) Any changes in the eligible list shall be submitted to the IAEA by PM/NE through the Mission as provided in Agreement Article 34, after the following notification by State to the Congress:

(a) For any addition, after 60 days notice to the Senate Committee on Foreign Relations and the House Committee on Foreign Affairs, which notice shall include an explanation of the basis on which the determination to make the addition was made, and if the Congress has not during said 60-day period passed a concurrent resolution of disapproval; and

(b) For any deletion, after notification to the Senate Committee on Foreign Relations and the House Committee on Foreign Affairs.

(3) State shall provide each of the ISC member agencies with a copy of the eligible list and changes thereto. The NRC shall make it available for inspection in the NRC Public Document Room.

G. IAEA Consultants

(1) The Director General of the IAEA, in selecting any facility under the Agreement, may seek to consult with the United States in the interest of avoiding discrimination among U.S. facilities in accordance with Agreement Article 2(c). Moreover, the U.S. and IAEA may likely consult to insure compliance with Agreement Article 22; and the United States may request consultations in accordance with Agreement Article 80. All matters concerning any such consultation shall be considered by the SISM on the basis of recommendations by the SISUS.

(2) In addition to consultations contemplated in paragraph (a) of this Section, PM/NE shall arrange for periodic consultations between the SISUS and the IAEA, in accordance with Agreement Article 19, to review progress in implementation of the Agreement and to consider any matter relevant to the Agreement which either party to the Agreement may raise.

H. Matters Raised by Facility Operators

Any question, complaint or request from a facility operator shall be directed to the RA. The RA shall consider the matter in accordance with its established procedures. Any questions from a facility operator concerning any interpretation of the Agreement or the Arrangements, any question relating to the payment of invoices by the IAEA to the facility operator, and any request from a facility operator with respect to exemption or termination of safeguards, other than as provided for in an attachment, shall be addressed to the RA. The RA will advise SISUS of such question or request for consideration. If necessary the matter will be referred to the SISUS, the Negotiating Team, or the SISM/ISC for consideration or resolution.

I. Matters Raised by the IAEA

Any question, complaint, or request concerning implementation of the Agreement which is received from IAEA Headquarters by the Mission in accordance with Codes 1.1 of the Arrangements, and is not otherwise provided for in these procedures, shall be transmitted to PM/NE. PM/NE shall refer such matters to the SISUS for consideration and recommendation or resolution. The Chair of the SISUS will communicate these matters to the Negotiating Team, the SISM, and the RA, as appropriate.

J. Matters Concerning IAEA Inspectors

(1) Any question, complaint or request for assistance from any IAEA inspector, while performing inspection activities in the United States, which is not resolved by personnel at the facility in question or through the RA contact, shall be referred to SISUS. The IAEA shall be provided with the names of designated officials in the NRC, DOE and PM/NE for this purpose, including 24-hour telephone number information. The designated official contacted shall advise the RA as soon as possible whenever so contacted, to determine whether any immediate action is appropriate and to obtain any necessary assistance from the appropriate RA official. If time and circumstances permit, the matter may be referred to the SISUS and, in any event, the SISUS shall be advised of the matter and its resolution.

(2) Any question, complaint or request from a facility operator concerning an action by an IAEA inspector shall be addressed to the RA. This shall be undertaken in the first instance by contacting an appropriate RA official, if present at the facility. If necessary, a designated official at RA headquarters shall be consulted. If not resolved by such consultation, the matter will then be addressed as described in Section H above.

(3) The RA shall be responsible for ensuring compliance with footnotes to Codes 3.2 of the Arrangements with respect to safety, radiation protection, and medical care of IAEA staff members carrying out functions under the Agreement.

K. Designation of IAEA Inspectors

Each proposal by the IAEA for designation of one or more inspectors for service in the United States which is received by the Mission shall be referred to the SISUS for consideration. If consensus cannot be reached, the matter will be referred to the SISM. State shall provide the U.S. response to each such proposal to the Mission for transmittal to the IAEA. PM/NE shall maintain the list of IAEA inspectors formally designated for service in the United States and shall provide copies of the list, and changes as they occur, to each ISC member agency. The NRC and DOE may provide copies of such lists to facility operators under their respective jurisdictions for their information.

L. Notification of IAEA Inspections and Visits

NRC and DOE shall consult and provide to PM/NE, and PM/NE shall provide the IAEA, the name, telex address, and telephone number of an appropriate official and alternate to be contacted by the IAEA for advance, informal coordination and planning of any inspection or visit. This official shall coordinate preparation for each inspection or visit with any facility involved and provide timely responses directly to the IAEA. Such coordination shall be in preparation for the formal advance notification of each IAEA inspection and visit (Agreement Article 81 and Protocol Article 11(b)) which, when received by the Mission, shall be provided to State by telegram, with the NRC and DOE as information addresses. SISUS shall maintain a schedule of each planned IAEA inspection or visit and provide copies to the ISC member agencies upon request. The operator of each facility to be inspected or visited shall be so informed by the RA. The RA shall also arrange for the IAEA inspector to be accompanied by one or more RA representatives. The RA shall, to the extent possible, accommodate requests by SISUS members to be present during inspections. Should the IAEA elect to perform unannounced inspections, the RA, when notified by the facility, shall make a determination of the need to send a representative to the site as soon as practical.

M. Reports by the IAEA

Reports by the IAEA, in accordance with Agreement Articles 41, 64 and 88, of its inspections and other safeguards activities in the United States, when received by the Mission, shall be transmitted to State. PM/NE shall provide copies to the ISC member agencies and the Chair of the SISIS, and shall also maintain a file of such reports. The SISUS shall review these reports and determine any needed action.

N. Implementation Reports

SISUS, on the basis of information collected by the NRC and DOE and information obtained from the IAEA, may prepare periodic reports concerning implementation of the Agreement, including, inter alia, pertinent statistics, lists of facilities inspected, and other relevant data for the information of government agencies, the Congress and the public.

O. Agreement Article 22

State shall institute steps as necessary to suspend, for the duration of the Agreement, the application of IAEA safeguards in the United States under other safeguards agreements with the IAEA. State shall maintain a list of the agreements, required by Code 3.8.1 of the Subsidiary Arrangements, under which the application of such safeguards has been suspended and shall provide this list and all subsequent changes to each ISC member agency. DOE shall prepare the reports required by Codes 3.8.2 and 3.8.3 of the Subsidiary Arrangements for delivery of these reports to State for transmission by State to the IAEA within the time limits stipulated in Codes 3.8.2 and 3.8.3 DOE shall also be responsible for the monitoring function called for in footnote 3 of Code 3.8 of the Subsidiary Arrangements and for reporting, at least annually, to State the results of such monitoring.

P. Role of These Procedures and Their Modification

(1) Scope. These procedures are for the purpose of interagency coordination and shall not affect the internal coordination mechanism of any agency. These procedures establish requirements solely applicable to certain agencies of the United States Government, rather than individuals, and, accordingly, are not rules within the meaning of the Administrative Procedure Act.

(2) Amendment. These procedures may be amended from time to time by the ISC.

Dated: February 15, 1996.

Richard J.K. Stratford,

Director, Office of Nuclear Energy Affairs, Bureau of Political-Military Affairs, United States Department of State.

[FR Doc. 96–4232 Filed 2–23–96; 8:45 am]

BILLING CODE 4710–25–M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

[Dockets OST–95–676 and OST–95–677]

Applications of Falcon Air Express, Inc., for Certificate Authority

AGENCY: Department of Transportation.

ACTION: Notice of order to show cause (order 96–2–34).

SUMMARY: The Department of Transportation is directing all interested persons to show cause why it should not issue an order finding Falcon Air Express, Inc., fit, willing, and able, and awarding it certificates of public convenience and necessity to engage in interstate and foreign charter air transportation of persons, property, and mail.

DATES: Persons wishing to file objections should do so no later than March 4, 1996.

ADDRESSES: Objections and answers to objections should be filed in Dockets

OST–95–676 and OST–95–677 and addressed to the Documentary Services Division (C–55, Room PL–401), U.S. Department of Transportation, 400 Seventh Street SW., Washington, D.C. 20590, and should be served upon the parties listed in Attachment A to the order.

FOR FURTHER INFORMATION CONTACT: Ms. Delores King, Air Carrier Fitness Division (X–56, Room 6401), U.S. Department of Transportation, 400 Seventh Street SW., Washington, D.C. 20590, (202) 366–2343.

Dated: February 20, 1996.

Charles A. Hunnicutt,

Assistant Secretary for Aviation and International Affairs.

[FR Doc. 96–4250 Filed 2–23–96; 8:45 am]

BILLING CODE 4910–62–P

Federal Aviation Administration

Proposed Information Collection; Request Submitted for Public Comment; Federal Aviation Administration Acquisition Management System

ACTION: Notice of intent to comment on the Federal Aviation Administration Acquisition Management System.

SUMMARY: The Federal Aviation Administration is submitting for public comment the following proposal for collection of information under the provisions of the Paperwork Reduction Act [44 USC Chapter 35].

DATES: Written comments must be submitted on or before 22 April 1996. Written comments should address the accuracy of the burden estimates and ways to minimize the burden including the use of automated collection techniques or the use of other forms of information technology, as well as other relevant aspects of the information collection request.

ADDRESSES: Comments on any of these collections may be mailed or delivered in duplicate to the FAA at the following address: Ms. Judith Street, Federal Aviation Administration, Office of Business Information and Consultation, Corporate Information Division, 800 Independence Avenue, Washington, D.C. SW 20591.

FOR FURTHER INFORMATION CONTACT: Ms. Judith Street at (202) 267–9895.

In addition, the proposed Acquisition Management System and executive summary are located: On the internet @: http://www.faa.gov/asu/asu100/acq-reform/acq__home.htm. The internet E-Mail address is 9__Acquisition __Reform @ mail.hq.faa.gov.

SUPPLEMENTARY INFORMATION: The FAA has developed the new Acquisition Management System that makes it necessary for information collection in order to comply with Public Law 104–50. FAA's new acquisition management system was developed to address the unique needs of the agency and, at a minimum, provide for more timely and cost-effective acquisitions of equipment and materials.

Type of Review: New.

OMB Number: 2120–TBD.

Number of Respondents: 3,338.

Responses per respondent: varies: 1 to 12.

Annual responses: 4,500.

Average burden per response: varies: 15 min. to 2 weeks.

Annual burden hours: 333,292.

Affected Public: Individuals, businesses, not-for-profit institutions, federal government.

Frequency: varies: on occasion and monthly.

Respondent's Obligation: varies: voluntary, required to obtain or retain benefits, mandatory.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Issued in Washington, DC., on February 22, 1996.

Steve Hopkins,

Acting Manager, Corporate Information Division, ABC–100.

[FR Doc. 96–4262 Filed 2–21–96; 4:27 pm]

BILLING CODE 4910–13–M

Kansas City International Airport, Kansas City, Missouri, Noise Exposure Map Notice; Receipt of Noise Compatibility Program and Request for Review

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice.

SUMMARY: The Federal Aviation Administration (FAA) announces its determination that the noise exposure maps submitted by Kansas City, Missouri, for Kansas City International Airport under the provisions of Title I of the Aviation Safety and Noise Abatement Act of 1979 (Pub. L. 96–193) and 14 CFR Part 150 are in compliance with applicable requirements. The FAA also announces that it is reviewing a proposed noise compatibility program that was submitted for Kansas City International Airport under Part 150 in conjunction with the noise exposure map, and that this program will be approved or disapproved on or before August 7, 1996.

EFFECTIVE DATE: The effective date of the FAA's determination on the noise exposure maps and of the start of its review of the associated noise compatibility program is February 9, 1996. The public comment period ends April 9, 1996.

FOR FURTHER INFORMATION CONTACT: Ms. Moira D. Keane, Federal Aviation Administration, Airports Division, ACE–615B, 601 E. 12th Street, Kansas City, MO 64106 (816) 426–4731. Comments on the proposed noise compatibility program should also be submitted to the above office.

SUPPLEMENTARY INFORMATION: This notice announces that the FAA finds that the noise exposure maps submitted for Kansas City International Airport are in compliance with applicable requirements of Part 150, effective February 9, 1996. Further, FAA is reviewing a proposed noise compatibility program for that airport which will be approved or disapproved on or before August 7, 1996. This notice also announces the availability of this program for public review and comment.

Under section 103 of Title I of the Aviation Safety and Noise Abatement Act of 1979 (hereinafter referred to as ''the Act''), an airport operator may submit to the FAA noise exposure maps which meet applicable regulations and which depict noncompatible land uses as of the date of submission of such maps, a description of projected aircraft operations, and the ways in which such operations will affect such maps. The Act requires such maps to be developed in consultation with interested and affected parties in the local community, government agencies, and persons using the airport.

An airport operator who has submitted noise exposure maps that are found by FAA to be in compliance with the requirements of Federal Aviation Regulations (FAR) Part 150, promulgated pursuant to Title I of the Act, may submit a noise compatibility program for FAA approval which sets forth the measures the operator has taken or proposes for the reduction of existing noncompatible uses and for the prevention of the introduction of additional noncompatible uses.

Kansas City, Missouri, submitted to the FAA on August 14, 1995, noise exposure maps, descriptions and other documentation which were produced during the Kansas City International Airport Master Plan and F.A.R. Part 150 Noise Compatibility Study. It was requested that the FAA review this

material as the noise exposure maps, as described in section 103(a)(1) of the Act, and that the noise mitigation measures, to be implemented jointly by the airport and surrounding communities, be approved as a noise compatibility program under section 104(b) of the Act.

The FAA has completed its review of the noise exposure maps and related descriptions submitted by Kansas City, Missouri. The specific maps under consideration are 1998 aircraft Noise Exposure Maps in the submission. The FAA has determined that these maps for Kansas City International Airport are in compliance with applicable requirements. This determination is effective on February 9, 1996. FAA's determination on an airport operator's noise exposure maps is limited to a finding that the maps were developed in accordance with the procedures contained in appendix A of FAR Part 150. Such determination does not constitute approval of the applicant's data, information or plans, or a commitment to approve a noise compatibility program or to fund the implementation of that program.

If questions arise concerning the precise relationship of specific properties to noise exposure contours depicted on a noise exposure map submitted under section 103 of the Act, it should be noted that the FAA is not involved in any way in determining the relative locations of specific properties with regard to the depicted noise contours, or in interpreting the noise exposure maps to resolve questions concerning, for example, which properties should be covered by the provisions of section 107 of the Act. These functions are inseparable from the ultimate land use control and planning responsibilities of local government. These local responsibilities are not changed in any way under Part 150 or through FAA's review of noise exposure maps. Therefore, the responsibility for the detailed overlaying of noise exposure contours onto the map depicting properties on the surface rests exclusively with the airport operator which submitted those maps, or with those public agencies and planning agencies with which consultation is required under section 103 of the Act. The FAA has relied on the certification by the airport operator, under section 150.21 of FAR Part 150, that the statutorily required consultation has been accomplished.

The FAA has formally received the noise compatibility program for Kansas City International Airport, also effective on February 9, 1996. Preliminary review of the submitted material indicates that it conforms to the requirements for the submittal of noise compatibility programs, but that further review will be necessary prior to approval or disapproval of the program. The formal review period, limited by law to a maximum of 180 days, will be completed on or before August 7, 1996.

The FAA's detailed evaluation will be conducted under the provisions of 14 CFR Part 150, section 150.33. The primary considerations in the evaluation process are whether the proposed measures may reduce the level of aviation safety, create an undue burden on interstate or foreign commerce, or be reasonably consistent with obtaining the goal of reducing existing noncompatible land uses and preventing the introduction of additional noncompatible land uses.

Interested persons are invited to comment on the proposed program with specific reference to these factors. All comments, other than those properly addressed to local land use authorities, will be considered by the FAA to the extent practicable. Copies of the noise exposure maps, the FAA's evaluation of the maps, and the proposed noise compatibility program are available for examination at the following locations:

Federal Aviation Administration, 800 Independence Avenue SW., Room 617, Washington, D.C. 20591

Federal Aviation Administration, Airports Division, 601 E. 12th Street, Kansas City, MO 64106

Aviation Department, Administrative Offices, Department of Planning & Development, Kansas City International Airport, 1 International Square, Kansas City, MO 64153.

Questions may be directed to the individual named above under the heading, **FOR FURTHER INFORMATION CONTACT.**

Issued in Kansas City, Missouri on February 9, 1996.

George A. Hendon,

Manager, Airports Division.

[FR Doc. 96–4266 Filed 2–23–96; 8:45 am]

BILLING CODE 4910–13–M

[Docket No. 28472]

Policy and Procedures Concerning the Use of Airport Revenue

AGENCY: Federal Aviation Administration (FAA), Transportation.

ACTION: Notice of proposed policy; request for comments.

SUMMARY: This document proposes a statement of policy and procedures concerning the use of airport revenue. This document discusses in detail the requirement that revenue at public airports that have received Federal grants generally be used only for airport purposes. The document proposes definitions of ''airport revenue'' and ''revenue diversion,'' and discusses the permitted and prohibited uses of airport revenue, and the procedures for monitoring compliance with the revenue use requirement. A statement of policy is required by the Federal Aviation Administration Authorization Act of 1994. The FAA is issuing a proposed policy and requesting public comment because of substantial public and industry interest in the subject matter. While the policy statement proposed is not made effective at this time, statutory requirements relating to the use of airport revenue remain in effect and will be enforced by the FAA. Airport sponsors may assume that the FAA would act consistently with the views expressed in this document in any enforcement action for revenue diversion taken before a final policy statement is issued.

DATES: Comments must be received by April 26, 1996.

ADDRESSES: Comments should be mailed, in quadruplicate, to: Federal Aviation Administration, Office of Chief Counsel, Attention: Rules Docket (AGC–200), Docket No. 28472, 800 Independence Avenue, SW., Washington, DC 20591. All comments must be marked: ''Docket No. 28472.'' Commenters wishing the FAA to acknowledge receipt of their comments must include a pre-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. 28472.'' The postcard will be date stamped and mailed to the commenter.

Comments on this Notice may be examined in room 915G on weekdays, except on Federal holidays, between 8:30 a.m. and 5 p.m.

FOR FURTHER INFORMATION CONTACT: Benedict D. Castellano, Manager, Airport Safety and Compliance Branch, AAS–310, Federal Aviation Administration, 800 Independence Ave. SW., Washington, DC 20591, telephone (202) 267–8728; or Jonathan W. Cross, Airports Law Branch, AGC–610, Office of the Chief Counsel, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, telephone (202) 267–3473.

SUPPLEMENTARY INFORMATION: This proposed statement of policy and related procedures is being published pursuant to section 112(a) of the Federal Aviation Administration Authorization Act of 1994, Pub. L. No. 103–305 (August 23, 1994) (1994 Authorization Act). That section requires the Secretary

to establish policies and procedures assuring the ''prompt and effective enforcement'' of the requirement relating to the use of airport revenue (also called the ''revenue retention requirement'') (49 U.S.C. 47107(b)) and the requirement that airports be as self-sustaining as possible (49 U.S.C. 47107(a)(13)), and of the Airport Improvement Program (AIP) sponsor assurances made under these sections. Section 112 includes specific guidance and requirements for the mandated policies and procedures.

For convenience, the term ''sponsor'' is used throughout this document to mean the state or local government body obligated under an airport grant agreement. For purposes of the proposed policy statement the term is generally interchangeable with the term ''airport owner or operator'' used in some statutes. A sponsor may be an entity that exists only to operate the airport, such as an airport authority established by state law. Other airports are owned by a state, county, or city government and operated by an agency of that government, in which case the state, county, or city is the sponsor, rather than the subordinate agency.

The Airport and Airway Improvement Act of 1982

Under the Airport and Airway Improvement Act of 1982, as amended (AAIA), part of title V of the Tax Equity and Fiscal Responsibility Act, Public Law 97–248, repealed and reenacted without substantive change, Public Law 103–272 (July 5, 1994), 49 U.S.C. 47101, et seq., as amended by Public Law 103–305 (August 23, 1994), public agencies receiving Federal grants for airport development since September 3, 1982, are required to comply with the revenue retention requirement, section 511(a)(12) of the AAIA, now codified at 49 U.S.C. 47107(b).

As originally enacted in 1982, the revenue retention assurance required airport owners to use ''* * * all revenues generated by the airport * * * for the capital or operating costs of the airport, the local airport system, or other local facilities which are owned or operated by the owner or operator of the airport and directly related to the actual transportation of passengers or property.'' The plain purpose of section 511(a)(12) was to prevent an airport owner or operator who receives Federal assistance from using airport revenues for expenditures unrelated to the airport. Thus, according to the requirement, a grant recipient could not use airport revenues to pay for ''capital or operating costs'' that were not airport-related. According to a recent House Report,

> The rationale for [the revenue retention requirement] is that the Federal AIP program can underwrite only about 20% to 30% of the total capital development needed by airports. To ensure the maximum effectiveness of the AIP program, airports should also spend all of the money they generate to operate and develop the airport. A federal grant should not furnish an opportunity for an airport to use federal funds to replace other airport generated funds, and then use the latter for general governmental purposes, resulting in no net capital improvements for the federal grant dollars expended.

H.R. Rep. No. 103–240, 103d Cong., 1st Sess. 14 (1993).

The original revenue retention requirement also contained an exception, or ''grandfather'' provision, permitting the use of airport revenue for non-airport purposes in certain cases in which the use predates the AAIA. Specifically, revenue use restrictions did not apply where pre-September 3, 1982, covenants or assurances in debt obligations previously issued by the airport owner or operator, or provisions in governing statutes enacted before September 3, 1982, that control the owner's or operator's financing, provided for the use of revenues from any of the airport owner's or operator's facilities, including the airport, to support not only the airport but also the airport owner's or operator's general debt obligations or other facilities.

The House and Senate Conference Reports on the AAIA describe the revenue retention requirement in section 511(a)(12) as follows:

> One [requirement] is that airports receiving assistance under this program must dedicate all revenues generated by the airport for the capital [and] operating costs of that airport, the local airport system, or other local facilities which are owned by the owner or operator of the airport and used for the transportation of passengers or property. The provision is designed to ensure that airport systems which are receiving Federal assistance are utilizing all locally generated revenue for the systems which they operate. Airports that are part of a unified ports authority are exempt from this requirement if covenants or assurances in previously issued debt obligations or controlling statutes require that these funds are available for use at other port facilities.

However, airport users should not be burdened with ''hidden taxation'' for unrelated municipal services.

This provision is not intended to apply to revenue generated by facilities which are located on airport property but are unrelated to air operations or services which support or facilitate air transportation. It would accordingly not apply to revenue generated by such facilities as a water reservoir or a convention center which happen to be located on airport property, but which serve neither the airport nor any air transportation purpose. It would apply to such facilities as terminal concessions and parking lots serving the terminal or other air transportation purposes.

H.R. Conf. Rep. No. 97–760, 97th Cong., 2d Sess. pt. 3,697,712 (1982); see also, S. Rep. No. 97–494, vol. 2, 97th Cong., 2d Sess. 28 (1982).

The Airport and Airway Safety and Capacity Expansion Act of 1987

The Airport and Airway Safety and Capacity Expansion Act of 1987, Public Law 100–223 (December 30, 1987), amended the revenue retention requirement by requiring that such local facilities be ''directly and substantially related to actual air transportation of passengers or property.'' This amendment narrowed the permissible uses of airport revenues to expenditures that are not only ''directly'' but also ''substantially'' related to actual air transportation, to further assure that such revenues are not diverted for general expenses. The 1987 Act also required local taxes on aviation fuel enacted after December 30, 1987, to be spent on the airport, and slightly modified the grandfathering language to clarify its application only to pre-September 3, 1982, debt obligations or legislation controlling financing. The 1987 Act's legislative history reaffirms the earlier statement that § 511(a)(12) is not intended to apply to revenue generated by facilities located on airport property but unrelated to air operations or services that support or facilitate air transportation. H.R. Conf. Rep. No. 100–484, 100th Cong., 2d Sess. 63 (1987), reprinted in 1987 U.S.C.C.A.N. 2638; see also, H.R. Rep. No. 100–123 (II), 100th Cong., 2d Sess. 14, reprinted in 1987 U.S.C.C.A.N. 2601, 2613.

The Federal Aviation Administration Authorization Act of 1994

Several provisions of the Federal Aviation Administration Authorization Act of 1994, Public Law 103–305 (August 23, 1994), address revenue diversion. Section 110 adds a policy statement to Title 49, Chapter 471, ''Airport Development,'' concerning the requirement that airports be as self-sustaining as possible. That section restates the requirement and also states that in establishing new fees, rates, and charges, and generating revenues from all sources, airport owners and operators should not seek to create revenue surpluses that exceed the amounts to be used for airport system

purposes and for other purposes for which airport revenues may be spent under section 47107(b) of this title, including reasonable reserves and other funds to facilitate financing and cover contingencies.

Section 111 adds a new sponsor assurance. Airport owners or operators will now be required to submit to the Secretary and make available to the public an annual report listing all amounts paid by the airport to other units of government and the purposes for the payments. Airport owners or operators must also make available a listing of all services and property provided to other units of government and the amount of compensation received for provision of each such service and property. Section 111 also requires the Secretary to issue a simplified format for reporting applicable to airports to assist in public understanding of airport finances and to provide information concerning the amount of any revenue surplus, the amount of concession-generated revenue, and other information required by the Secretary. The Secretary is also required to provide an annual summary of the financial reports to various Congressional committees. See, H.R. Conf. Rep. No. 103–677, 103d Cong., 2d Sess. 68 (1994).

Section 112(a) requires the Secretary to establish policies and procedures that will assure the prompt and effective enforcement of the statutory provisions in 49 U.S.C. 47107, subsections (a)(13) (the requirement that airports be as self-sustaining as possible) and (b) (the revenue retention requirement) and the sponsor assurances made under such subsections. Section 112(a) also sets forth four prohibited forms of revenue diversion, which are included in the proposed policy statement.

Section 112(b) amends 49 U.S.C. 47111, ''Payments under project grant agreements,'' and requires the Secretary to withhold approval of any new grant application, or any proposed modification that would increase funding, and withhold approval of any new application to impose a Passenger Facility Charge (PFC), if after notice and opportunity for hearing, the Secretary has found a violation of 49 U.S.C. 47107(b), as further defined by 49 U.S.C. 47107(l), or a violation of the assurance made under 49 U.S.C. 47107(b), and the sponsor has not taken corrective action to cure the violation. Section 112(b) also authorizes the Secretary to seek enforcement through writ of injunction in United States district court for any violation of Title 49, Chapter 471, or the sponsor assurances made under that Chapter.

Section 112(c) authorizes the Secretary to impose civil penalties up to a maximum of $50,000 on airport sponsors for violations of the revenue retention requirement. Civil penalties may not be imposed on any individual and the Secretary has the authority to compromise the penalties. See, H.R. Conf. Rep. No. 103–677, 103d Cong., 2d Sess. 67–68 (1994).

Section 112(d) requires the Secretary, in administering the 1994 Authorization Act's revenue diversion provisions and the AIP discretionary grants, to consider the amount being lawfully diverted pursuant to the grandfathering provision by the sponsor compared to the amount being sought in discretionary grants in reviewing the grant application. Consequently, in addition to the prohibition against awarding grants to airport sponsors that have illegally diverted revenue, the Secretary must now consider the lawful-diversion of airport revenues by airport sponsors under the grandfather provision as a factor militating against the distribution of discretionary grants to the airport, if the amounts being lawfully diverted exceed the amounts so lawfully diverted in the first year after enactment of section 112, adjusted for inflation.

Section 112(e), which amends the Anti-Head Tax Act, 49 U.S.C. 40116(d)(2)(A), prohibits a State, political subdivision, or an authority acting for a State or political subdivision from collecting a new tax, fee, or charge which is imposed exclusively upon any business located at an airport or operating as a permittee of the airport, other than a tax, fee, or charge utilized for airport or aeronautical purposes.

Investigation by the House Committee on Appropriations

In December 1993, the Surveys and Investigations Staff of the United States House of Representatives presented a report to the Committee on Appropriations concerning the diversion of airport revenues from commercial air service airports in the United States. The staff stated in the report that out of 30 airports investigated, airport revenue was being diverted at 17 airports. The staff recognized, however, that most of the revenue was being diverted lawfully under the grandfather provision. The report stated that of the approximately $900 million that was diverted, $641.3 million was lawfully diverted under the grandfather exception (according to the DOT General Counsel's Office), and $140.8 million was diverted under the grandfather exception where the sponsors themselves proclaimed the exception. The report stated that $111.7 million of the $900 million total was diverted at airports where the sponsors did not appear to meet the statutory exception. The report stated that more FAA oversight was needed to assure that sponsors comply with the conditions required by Federal law on the use of airport revenue. The DOT Office of the Inspector General (OIG) has conducted audits of 13 of the 30 airports investigated by the committee staff.

Investigation by the Department of Transportation's Office of the Inspector General

On March 7, 1994, the DOT OIG released a report concerning the FAA's monitoring of the use of airport revenues at 22 airports throughout the United States. That report concluded that FAA monitoring was not adequate to ensure fee and rental structures were maintained that made airports as self-sustaining as possible, or that airport revenues were used only for the capital and operating costs of the airports. Where the OIG report indicated actual cases of potential revenue diversion, the FAA has investigated and taken action to restore the sponsor to compliance. At airports where the OIG cited the failure to charge fair market value for aeronautical facilities, the FAA finds this latter practice consistent with the Policy Regarding Airport Rates and Charges issued in February 1995, which limits a sponsor's total charges to aeronautical users to the total cost of services provided, and the proposed revision of the policy issued in September 1995. The self-sustaining obligation does not require a sponsor to charge aeronautical users more than its aeronautical costs. The OIG recommended that the FAA increase its monitoring of airport sponsors. It should be noted that more than 2,500 airports are subject to such monitoring. The FAA expects to continue to work with the OIG on these issues.

Airport Revenue

Background

In addressing the requirement that airport revenue be used for certain purposes, it is first necessary to make clear which funds received by an airport sponsor ''* * * all revenues generated by the airport,'' within the meaning of 49 U.S.C. 47107(b). Airports generate revenues for the sponsor, for air carriers, and for commercial tenants. While the income received by air carriers and tenants for sales and business activity on the airport is not ''airport revenue,'' within the meaning of section 47107(b), most revenue received by the sponsor as airport owner and operator *is*

considered airport revenue. the airport sponsor receives payments for the use of the airport in the form of landing fees, land and facility rental, and, in some cases, a share of the gross receipts or profit (e.g., concession fees or royalties) from the commercial tenant. The sponsor may receive revenue from the sale of real or personal airport property. A sponsor may also receive income from an airport-related facility that is not on the airport property map, commonly referred to as ''Exhibit A,'' but that supports the operation of the airport, such as a remote parking lot or downtown terminal funded from airport revenues. Sometimes, the airport sponsor directly engages in a commercial activity and thus receives all of the gross receipts of the commercial activity rather than just the rental it would receive as landlord.

FAA Internal Orders

The FAA routinely issues internal guidance to its employees in the form of nonregulatory directives, including handbooks. Orders do not seek to prescribe conduct for persons outside the agency, and they incorporate provisions for deviation from the stated guidance by agency personnel.

The Airport Improvement Program (AIP) Handbook, FAA Order 5100.38A (October 24, 1989), and Airport Compliance Requirements, FAA Order 5190.6A (October 2, 1989), both contain provisions that address the use of airport revenue. The agency believes in most cases that the statements in these orders are consistent with the proposed policy; however, to the extent that there is any apparent inconsistency, the final policy statement will take precedence and the orders will be revised to reflect the policies adopted. The final policy would also supersede any other inconsistent statements of agency policy appearing in correspondence or other form.

Definition of Airport Revenue

Under this proposed policy, the following types of fees, charges, rents, or other payments received by or accruing to the sponsor (revenue) are considered to be ''airport revenue:''

(1) *Revenue from air carriers, tenants, transferees, and other parties.* Airport revenue includes all revenue received by the sponsor for the activities of others or the transfer of rights to others relating to the airport, including revenue received:

(a) for the right to conduct an activity on the airport or to use or occupy airport property;

(b) for the sale, transfer, or disposition of real airport property not acquired with Federal assistance or personal airport property not acquired with Federal assistance, or any interest in that property, including sale through a condemnation proceeding;

(c) for the sale of (or sale or lease of rights in) sponsor-owned mineral, natural, or agricultural products or water to be taken from the airport; or

(d) for the right to conduct an activity on, or for the use or disposition of, real or personal property or any interest therein owned or controlled by the sponsor and used for an airport-related purpose but not located on the airport;

(2) *Revenue from sponsor activities.* Airport revenue generally includes all revenue received by the sponsor for activities conducted by the sponsor itself as airport owner and operator, including revenue received:

(a) from any activity conducted by the sponsor on airport property acquired with Federal assistance;

(b) from any aeronautical activity conducted by the sponsor; or

(c) from any nonaeronautical activity conducted by the sponsor on airport property not acquired with Federal assistance, up to an amount appropriately attributable to the use of the property (such as the amount of rent that would be charged a commercial tenant).

In general, revenue received by the sponsor for an airport activity is ''airport revenue.'' However, in consideration of legislative history, a distinction is made where the sponsor itself undertakes an activity on airport property not acquired with Federal assistance, if the activity is not related to air operations or services that support or facilitate air transportation. In that case, as represented in subparagraph (2)(c) of the definition, only an amount properly attributable for the use of airport property, such as the rent that a commercial tenant would pay, would be considered airport revenue. Subparagraph (2)(c) of the definition of ''airport revenue'' results from legislative history that indicates the revenue retention requirement is not intended to apply to all revenue generated by facilities that are located on airport property but are ''* * * unrelated to air operations or services which support or facilitate air transportation.'' H.R. Conf. Rep. No. 97–760, 97th Cong., 2d Sess. pt. 3, 697,712 (1982). The language states that the requirement would therefore not apply to revenue generated by facilities such as a ''* * * water reservoir or a convention center which happen to be located on airport property, but which serve neither the airport nor any air transportation purpose.'' Id.

In a typical airport situation, a commercial enterprise earns gross income on the airport and then makes a payment to the airport sponsor for the use of the facility and the right to conduct business on the airport. The gross income to the enterprise is not airport revenue, but the payments to the sponsor are. We read the report language concerning the conference center and reservoir to apply not to this typical situation, which would result in free use of airport property, but rather to the special case in which a local government is the airport sponsor and is at the same time conducting a nonaeronautical enterprise on the airport (such as a convention center). In this latter case the sponsor is technically receiving all of the gross receipts of the enterprise. Since the report language indicates that such gross receipts should not be considered airport revenue, we read the legislative history to mean that only the amount properly attributable for the use of the airport property (such as the amount of facility or land rental a commercial tenant would pay) would be considered to constitute airport revenue. The remaining gross receipts would not be airport revenue and could be used for non-airport purposes. This interpretation is consistent with the report language, and ensures that the airport receives an equivalent amount for the commercial use of property whether the property is used by a private tenant or by the sponsor itself. If the sponsor activity is related to air transportation, then the entire amount of gross receipts would be airport revenue, as represented in subparagraphs (2)(a) and (2)(b) of the definition.

Airport revenue does not include Passenger Facility Charges received by a sponsor as public agency in accordance with 49 U.S.C. 40117 and 14 C.F.R. part 158. Also, the disposition of land acquired by Federal donation or with Federal assistance is governed by specific requirements included in the agreement between the United States and the sponsor relating to such land. Specific provisions applying in both cases are more restrictive than the general restrictions on use of airport revenue under section 47107(b).

Use of Proceeds From the Sale of Airport Land

Background

An airport sponsor that acquires real property for airport purposes may do so through any of four methods. First, the airport sponsor may receive a Federal grant which will typically pay a percentage of the project costs. Second,

the property may be conveyed to the airport sponsor by the Federal Government for no consideration through the Surplus Property Act or through cost-free transfers pursuant to airport aid statutes. Third, the airport sponsor may acquire property for the airport paid for by the general governmental or municipality funds or donated privately. Fourth, the airport sponsor may utilize airport revenues to acquire the property or to reimburse its general funds for an acquisition.

Use of proceeds resulting from the sale of real property acquired through the first and second methods described above is generally straightforward. In those examples, the use of sales proceeds is likely to be governed by special provisions contained in the agreement between the United States and the sponsor. As a general rule, such proceeds must be applied to the airport and be used for aeronautical purposes or, in the case of grant-acquired land, returned to the Aviation Trust Fund.

Use of sale proceeds resulting from the sale of real property acquired with government or municipal funds, airport revenues, or by private donation, requires greater discussion. The paramount issue is whether the sales proceeds from airport real property fall within the scope of the revenue retention requirement's language, ''* * * all revenues generated by the airport,'' 49 U.S.C. 47107(b), where the property was not donated by the United States or acquired with Federal assistance. This language is not defined in the AAIA or subsequent statutes. Thus, the Secretary has the authority to define airport revenue in a manner consistent with the purposes of 511(a)(12) of the AAIA and 49 U.S.C. 47107(b). As stated in the proposed policy, we propose that the term ''* * * all revenues generated by the airport * * *'' should include proceeds from the sale of all property donated by the United States or acquired with Federal financial assistance.

The revenue retention requirement should be read in the overall context of the statute and underlying Federal policy—i.e., that users of the airport system should pay for the cost of that system, and that airports should be self-sustaining (see, 49 U.S.C. 47107(a)(13)), and that users should not be forced to pay ''hidden taxes'' to finance other state and municipal programs. If sales proceeds from parcels of realty are treated as airport revenue, the goal of self-sustainability is furthered; more resources are available to fund the capital and operating costs of the airport system; and airport users are not indirectly providing financial support for other state and municipal programs. Finally, this interpretation alleviates the potential need for Federal discretionary grants to fund capital improvements that could be funded from the proceeds from the sale.

This treatment is especially appropriate in the context of the fourth method—property purchased with airport revenue, including the case where airport revenues are used to reimburse the sponsor's general (nonairport) fund—to assure that the sale does not lead to the use of airport revenue indirectly for non-airport purposes.

For several reasons, the proposed policy draws no distinction between property acquired with airport revenue (directly or indirectly) and property acquired with sponsor general funds or by donation. First, the inclusion of the proceeds from the sale of all airport property is most consistent with the purposes of the revenue retention and self-sustaining grant assurances. Second, in practice it may be difficult to determine whether a particular parcel of property was acquired with airport revenue, directly or indirectly. Finally, in the case of property acquired for the airport with general funds, an airport sponsor may in any event recoup its unreimbursed capital contributions and operating expenses from airport revenues, and it may do so regardless of when the expenses were incurred. This interpretation results from a February 1991, opinion from the United States Department of Justice (DOJ), Office of Legal Counsel, concerning a proposed long-term lease of the Albany Airport, Albany County, New York. The DOJ opinion is discussed further below. While an airport sponsor could not recoup from airport revenues the value of privately donated land under this policy, it could recoup its own capital contribution.

FAA Internal Orders

To avoid possible ambiguity regarding our policy concerning sales proceeds, relevant portions of FAA Order 5190.6A, ''Airport Compliance Requirements,'' (October 2, 1989), and FAA Order 5100.38A, ''Airport Improvement Handbook'' (October 24, 1989), are discussed below. To the extent that there is any inconsistency between the provisions of these orders and this Policy, the Policy takes precedence and the orders will be revised to reflect the policies adopted in this statement.

Paragraph 7–18 of the Compliance Handbook states that in the context of land not acquired with Federal assistance (appearing on Exhibit A), * * * there is no required disposition of net revenues from sale or disposal. However, in view of the ADAP [Airport Development Aid Program]/AIP requirement that airports become as financially self-sustaining as possible, the FAA should encourage the owner to use any net revenues for needed airport development and to consider an exchange of released property for needed property.

As written, this statement did not fully reflect the FAA's operational implementation of § 511(a)(12) on a day-to-day basis, and is facially inconsistent with the policy being proposed in this document. As stated above, the Compliance Handbook will be modified to conform to the final policy adopted.

In actual past practice, the FAA discouraged the use of sale proceeds for non-airport purposes, even for property acquired through private capital or sponsor donation. While paragraph 7–18 states, ''* * * there is no required disposition of net revenues from sale or disposal * * *,'' that paragraph also provides that FAA should encourage the sponsor to devote the proceeds to the airport. Thus, the agency routinely encouraged sponsors to apply sales proceeds for the capital and operating costs of the airport. Sale approvals were not generally provided without such a promise by the sponsor.

In short, although the statement ''* * * there is no required disposition of net revenues from sale or disposal * * *'' appears in the Compliance Handbook, the agency did not traditionally allow sponsors to exercise the implied discretion. Rather, the agency actively promoted the policy of strongly encouraging the sponsor to devote the proceeds to the airport, through its power to grant releases.

Paragraph 630 of the AIP Handbook provides that, ''[a]irport revenue does not include proceeds from the sale of real property owned by the sponsor.'' This statement is correct in context because it refers to real property acquired with AIP funds. In the case of such land, specific statutory provisions governing proceeds of sale take precedence over the general requirement of § 511(a)(12). Those statutory provisions are incorporated into AIP grant agreements. Again, as a general rule, such proceeds must be applied to the airport and be used for aeronautical purposes. Thus, while the statement indicates that proceeds in this context are not airport revenue, it does not mean that the use of those proceeds is not restricted.

How the Proposed Policy Addresses Use of Sale Proceeds

Proceeds from the sale of airport real property are considered airport revenue, and are addressed in the ''Definitions'' and ''Examples of Airport Revenue'' sections of the proposed policy, as discussed above.

Paragraph C of the Applicability section in the proposed policy addresses the sale, or other transfer of ownership or control, of a publicly owned airport. Paragraph C states that such a transfer would require FAA approval in accordance with the AIP sponsor assurances and general government contract law principles. Because the proceeds of a sale or other transfer of airport property are considered airport revenue, the FAA would condition its approval of the transfer on the parties' assurance that the proceeds of sale will be dedicated to airport use. However, the FAA would take into consideration the specific elements of the proposed transfer, in determining what action would represent appropriate and sufficient compliance with the revenue use requirements of 49 U.S.C. 47107(b) under the circumstances. The FAA also invites the parties to a prospective transfer of airport property to discuss with the FAA, as early as possible in the planning stages, the effect of Federal requirements on the proposed transaction. There is no intent to hinder or prevent additional private participation in the ownership, operation, or financing of airports. The FAA welcomes proposals to do so and is committed to working with interested parties to ensure compliance with Federal laws and regulations.

Recoupment of Unreimbursed Capital or Operating Costs of the Airport

In 1990, the FAA and the Department sought the assistance of the United States Department of Justice, Office of Legal Counsel (DOJ) in applying section 511(a)(12) to the situation in which an airport sponsor seeks to use airport revenue to recoup past unreimbursed contributions to the capital and operating costs of the airport. The issue arose from a request to the FAA from Albany County, New York to transfer the Albany County Airport to a private joint venture. The joint venture proposed to lease the airport for 40 years, with an option to renew. In exchange for the lease, the County was to receive annual lease payments, which would be applied to the airport. In addition, it was to receive an initial payment of $30 million, which would be applied for general expenditures. The joint venture planned to recoup the $30 million payment and lease payment from landing fees or other airport generated revenues. Albany County justified the use of the $30 million for general expenditures under section 511(a)(12) on the grounds that the County had made unreimbursed contributions to the airport of equal or greater amounts.

Prior to the Albany proposal, the FAA had not construed section 511(a)(12) to permit recoupment in the circumstances described by Albany. After reviewing the statute, its legislative history and purpose, the DOJ advised, in a memorandum dated February 12, 1991, that section 511(a)(12) did not preclude recoupment of a sponsor's past unreimbursed contributions to the capital and operating costs of an obligated airport. The DOJ also advised that the FAA could oversee the rates charged to airport users by the joint venture—including the extent to which the rates could reflect the $30 million payment to Albany County—to ensure that these rates remained fair and reasonable. The DOJ opinion was based on the facts of the Albany County case, where the County sought recoupment of the amount originally contributed and did not seek interest on that amount. To date, the FAA has not permitted recoupment of amounts in excess of the original contribution (or the value of land at the time of contribution). That policy continues in effect pending issuance of a final policy statement in this docket. In developing a final policy on revenue diversion, the FAA will consider comments on the current agency policy on recoupment of contributions, as well as on the implications of allowing recoupment of not only the original contribution but also interest or an inflationary adjustment, or, in the case of original contributions in the form of land, allowing recoupment of the current market or inflation-adjusted value of the contributed land.

Petition for Rulemaking by Lehigh-Northampton Airport Authority

On April 3, 1995, the FAA received a Petition for Notice and Comment rule Making filed by counsel on behalf of Lehigh-Northampton Airport Authority, the owner and operator of Lehigh Valley International Airport. Petitioner urged the agency to provide for ''pre-enforcement'' notice and comment procedures prior to the promulgation of this policy statement. While styled a petition for rulemaking, petition's submission does not urge the adoption of any particular rule. Rather, the petition could be more accurately described as a legal memo supporting the use of notice and comment rulemaking procedures in the promulgation of this policy.

Technically, the policy statement is not rulemaking and does not require advance publication or public comment before issuance. However, to the extent the petition requests that the FAA's revenue diversion policy statement be issued as a proposal for public comment before adoption, the petition is granted. While the proposed policy statement is not made effective at this time, it should be recognized that longstanding statutory requirements relating to the use of airport revenue remain in effect and will be enforced. Airport sponsors may assume that the FAA would act consistently with the views expressed in this document in any enforcement action for revenue diversion taken before a final policy statement is published.

Policy Statement Concerning Airport Revenue

For the reasons discussed above, the Federal Aviation Administration proposes to adopt the following statement of policy concerning the use of airport revenue:

Policies and Procedures Concerning the Use of Airport Revenue

I. Introduction

The Federal Aviation Administration (FAA) issues this document to fulfill the statutory provisions in section 112 of the Federal Aviation Administration Authorization Act of 1994, Public Law 103–305 (August 23, 1994), 49 U.S.C. 47107(l), to establish policies and procedures on the generation and use of airport revenue. The sponsor assurance prohibiting the unlawful diversion of airport revenues, also known as the revenue retention requirement, was first mandated by Congress in 1982. Simply stated, the purpose of that assurance, now codified at 49 U.S.C. 4710(b), is to prevent an airport owner or operator receiving Federal assistance from using airport revenues for expenditures unrelated to the airport. The policies outlined in this Policy Statement generally reflect the standards that the FAA has traditionally applied in determining whether airport revenue use is consistent with Federal requirements.

II. Applicability of the Policy

A. The policy and procedures on the use of airport revenue are applicable to all public agencies that have received a grant for airport development since September 3, 1982, under the Airport and Airway Improvement Act of 1982

(AAIA), as amended repealed and recodified without substantive change Public Law 103–272 (July 5, 1994), 49 U.S.C. 47101, *et seq.* Grants issued under that statutory authority are commonly referred to as Airport Improvement Program (AIP) grants.

B. The policies and procedures do not apply to:

1. Operators of privately-owned airports that have received grants while under private ownership;

2. Operators of publicly-owned airports that have received grants only for planning (*i.e.*, not for land acquisition or development/ construction of facilities).

C. FAA approval of the sale, or other transfer of ownership or control, of a publicly owned airport is required in accordance with the AIP sponsor assurances and general government contract law principles. The proceeds of a sale of airport property are considered airport revenue (except in the case of property acquired with Federal assistance, the sale of which is subject to other restrictions under the relevant grant contract or deed). When the sale proposed is the sale of an entire airport as an operating entity, the request may present the FAA with a complex transaction in which the disposition of the proceeds of the transfer is only one of many considerations. In its review of such a proposal, the FAA would condition its approval of the transfer on the parties' assurances that the proceeds of sale will be used for the purposes required under section 4717(b). Because of the complexity of an airport sale or privatization, the provisions for ensuring that the proceeds are used for the purposes of section 47107(b) may need to be adapted to the special circumstances of the transaction. For example, in the sale of a public airport to a private entity, FAA assumes that the public owner could not simply retain all proceeds for general use; however, it may also be inappropriate to simply return the proceeds to the private buyer to use for operation of the airport. Accordingly, the disposition of the proceeds would need to be structured to meet the requirements of section 47107(b) given the special conditions and constraints imposed by the fact of a change in airport ownership. In considering and approving such requests, the FAA will remain open and flexible in specifying conditions on the use of revenue that will protect the public interest and fulfill the requirements and objectives of section 47107(b) without unnecessarily interfering with the appropriate privatization of airport infrastructure.

It is not the intention of the FAA to effectively bar airport privatization initiatives through application of the statutory requirements for use of airport revenue. Proponents of a proposed privatization or other sale of airport property clearly will need to consider the effects of Federal statutory requirements on the use of airport revenue, fair and reasonable fees for airport users, disposition of airport property, and other policies incorporated in Federal grant agreements. The FAA assumes that the proposals will be structured from the outset to comply with all such requirements, and this proposed policy is not intended to add to the considerations already involved in a transfer of airport property.

Privatization proposals can be expected to be subject to great individual variation, however, and it may be difficult for prospective parties to a particular proposal to determine how the proposed transaction might be affected by various Federal requirements, including restrictions on the use of airport revenue. While any transfer of airport property or change of sponsorship at a Federally assisted airport will require FAA approval before implementation, the FAA invites parties to a prospective proposal for privatization or transfer of an entire airport to contact the FAA as early as possible in the process. At an early stage in the planning process the FAA could discuss the effect of Federal requirements and identify revisions that would avoid potential problems for the parties.

Early contact on prospective transfers would also assist the FAA. The FAA has received very few inquiries about specific proposals for the privatization of an entire airport, and we would welcome discussions on the effects of various requirements on any such transaction. (We note that the consideration by Orange County, California, of the sale of John Wayne Airport involved a transaction between two county agencies and did not involve a transfer to a private owner.) Discussion with parties interested in potential airport privatization projects will assist the FAA in developing future policy that promotes the objectives of Administration policy on public-private partnership for infrastructure development.

III. Related Requirements

A. Policy on Airport Rates and Charges

Before receiving an AIP grant for airport development, the sponsor must assure, pursuant to 49 U.S.C. 47107(a)(1), that the airport will be made available on fair and reasonable terms without unjust discrimination. Title 49 of the U.S.C. 47107(a)(13), similarly obligates the sponsor to maintain a fee and rental structure that will make the airport as self-sustaining as possible under the circumstances existing at the airport.

Pursuant to section 113 of the Federal Aviation Administration Authorization Act of 1994, the Federal Aviation Administration, in conjunction with the Office of the Secretary of Transportation, has established a ''Policy Regarding Airport Rates and Charges,'' for use in determining whether an airport fee is reasonable. This policy lists and explains the principles that the Department of Transportation (DOT) and the FAA use in defining Federal policy with respect to fair and reasonable, and not unjustly discriminatory airport fees charged by Federally-assisted airports to air carriers and other aeronautical users. See, 60 FR 6906 (February 3, 1995); 60 FR 47012 (September 8, 1995). The policy also addresses the obligation to make the airport as self-sustaining as possible.

B. The 1994 and 1995 DOT Appropriations Acts

Section 328 of the 1994 DOT Appropriations Act and section 325 of the 1995 DOT Appropriations Act included provisions mandating that no funds provided by the Acts (i.e., all transportation funding) be made available to any State, municipality, or subdivision ''* * * that [unlawfully] diverts revenue generated by a public airport.'' See, Public Law 103–122, 107 Stat. 1223 (October 27, 1993), and Public Law 103–331, 108 Stat. 2492 (September 30, 1994).

C. Rulemaking Proceedings

1. 14 C.F.R. Part 302, Subpart F—Rules Applicable to Proceedings Concerning Airport Fees

Also pursuant to section 113, the DOT recently published procedural rules for handling complaints by air carriers and foreign air carriers seeking a determination of the reasonableness of certain airport fees. It also establishes rules that would apply to requests by the owner or operator of an airport for such a determination. See, 60 FR 6919 (February 3, 1995).

2. Proposed 14 C.F.R. Part 16, ''Rules of Practice for Federally Assisted Airport Proceedings

On June 9, 1994, a notice of proposed rulemaking was issued to establish rules of practice for the filing of complaints and adjudication of compliance matters

involving Federally assisted airports. Pending completion of that rulemaking, FAA continues to employ existing 14 C.F.R. Part 13. *See*, section on ''Sanctions for Noncompliance,'' below. See also, 59 FR 29880 (June 9, 1994); 59 FR 47568 (September 16, 1994).

D. Reporting Airport Financial Data

The format to be used in reporting certain financial data in accordance with section 111(a)(4) of the 1994 Authorization Act, 49 U.S.C. 47107(a), is currently being developed.

E. Compliance Supplement for Single Audits of State and Local Governments

In an effort to augment FAA's revenue monitoring capabilities, the agency intends to review and amend, as necessary, the audit procedures set forth in the Compliance Supplement for Single Audits of State and Local Governments to address the use of airport revenue. The FAA believes that the inclusion of appropriate indicators of revenue diversion in the suggested procedures for independent financial audits will enhance the effectiveness of agency compliance efforts.

IV. Statutory Requirements for the Use of Airport Revenue

A. The General Requirement, 49 U.S.C. § 47107(b)

The current provisions restricting the use of airport revenue are found at 49 U.S.C. 47107(b), as amended by Public Law 103–305. These provisions require the Secretary, prior to approving a project grant application for airport development, to obtain written assurances. Subsection (b)(1) requires the airport owner or operator to assure that:

* * * local taxes on aviation fuel (except taxes in effect on December 30, 1987) and the revenues generated by a public airport will be expended for the capital or operating costs of—

(A) the airport;

(B) the local airport system; or

(C) other local facilities owned or operated by the airport owner or operator and directly and substantially related to the air transportation of passengers or property.

49 U.S.C. 47107(b)(1).

Subsection (b)(2) provides an exception to the requirements of Subsection (b)(1) for airport owners or operators having certain financial arrangements in effect prior to the enactment of the AAIA. This provision is commonly referred to as the ''grandfather'' provision. It states:

Paragraph (1) of this subsection does not apply if a provision enacted not later than September 2, 1982, in a law controlling financing by the airport owner or operator, or a covenant or assurance in a debt obligation issued not later than September 2, 1982, by the owner or operator, provides that the revenues, including local taxes on aviation fuel at public airports, from any of the facilities of the owner or operator, including the airport, be used to support not only the airport but also the general debt obligations or other facilities of the owner or operator.

49 U.S.C. 47107(b)(2).

B. New Statutory Revenue Diversion Prohibitions

In section 112 of the FAA Authorization Act of 1994, 49 U.S.C. § 47107(l)(2) (A–D), Congress expressly prohibited the diversion of airport revenues through:

1. Direct payments or indirect payments, other than payments reflecting the value of services and facilities provided to the airport;

2. Use of airport revenues for general economic development, marketing, and promotional activities unrelated to airports or airport systems;

3. Payments in lieu of taxes or other assessments that exceed the value of services provided; or

4. Payments to compensate non-sponsoring governmental bodies for lost tax revenues exceeding stated tax rates.

C. Passenger Facility Charges and Revenue Diversion

The Aviation Safety and Capacity Expansion Act of 1990 authorized the imposition of a passenger facility charge (PFC) of up to $3 per enplaned passenger, with the approval of the Secretary.

While PFC revenue is not characterized as ''airport revenue'' for purposes of this policy, specific statutory and regulatory guidelines govern the use of PFC revenue, as set forth at 49 U.S.C. 40117, ''Passenger Facility Fees,'' and 14 CFR Part 158, ''Passenger Facility Charges'' (for purposes of this policy, the terms ''passenger facility fees'' and ''passenger facility charges'' are synonymous). These provisions are more restrictive than 49 U.S.C. 47107(b), in that they provide that PFC revenue may only be used to finance the allowable costs of approved projects. The PFC regulation specifies the kinds of projects that can be funded by PFC revenue and the objectives these projects must achieve to receive FAA approval for use of PFC revenue. They prohibit expenditure of PFC revenue for other than approved projects, or collection of PFC revenue in excess of approved amounts.

V. Definitions

A. Airport Revenue

All fees, charges, rents, or other payments received by or accruing to the sponsor (revenue) for any one of the following reasons are considered to be ''airport revenue:''

(1) *Revenue from air carriers, tenants, transferees, and other parties.* Airport revenue includes all revenue received by the sponsor for the activities of others or the transfer of rights to others relating to the airport, including revenue received:

(a) for the right to conduct an activity on the airport or to use or occupy airport property;

(b) for the sale, transfer, or disposition of real airport property not acquired with Federal assistance or personal airport property not acquired with Federal assistance, or any interest in that property, including sale through a condemnation proceeding;

(c) for the sale of (or sale or lease of rights in) sponsor-owned mineral, natural, or agricultural products or water to be taken from the airport; or

(d) for the right to conduct an activity on, or for the use or disposition of, real or personal property or any interest therein owned or controlled by the sponsor and used for an airport-related purpose but not located on the airport;

(2) *Revenue from sponsor activities.* Airport revenue generally includes all revenue received by the sponsor for activities conducted by the sponsor itself as airport owner and operator, including revenue received:

(a) from any activity conducted by the sponsor on airport property acquired with Federal assistance;

(b) from any aeronautical activity conducted by the sponsor; or

(c) from any nonaeronautical activity conducted by the sponsor on airport property not acquired with Federal assistance, up to an amount appropriately attributable to the use of the property (such as the amount of rent that would be charged a commercial tenant).

B. Unlawful Revenue Diversion

Unlawful revenue diversion is the use of airport revenue for purposes other than the capital or operating costs of the airport, the local airport system, or other local facilities owned or operated by the airport owner or operator and directly and substantially related to the air transportation of passengers or property, unless that use is grandfathered under 49 U.S.C. 47107(b)(2) and the use does not exceed the limits of the 'grandfather' clause. When such use is so grandfathered, it is known as lawful revenue diversion.

In many cases, in their consideration of the many details of a particular airport's financial decisions and use of airport funds, the FAA or the OIG may

find that the airport could have obtained a higher value for use of airport property by the sponsor, or could have paid the sponsor less for administrative services to the airport, for example. Technically, the difference in actual and ideal amounts could be considered unlawful revenue diversion under this policy. However, the FAA will not devote enforcement resources to situations in which the amounts involved are insignificant.

VI. Examples of Airport Revenue

A. Airport revenue includes, but is not limited to, revenue from:

1. service fees, landing fees, usage fees, fuel flowage fees;

2. proceeds from lease, rental, or other contractual agreements relating to the airport;

3. proceeds from the sale of fuel or other aviation products or services by the sponsor;

4. local taxes on aviation fuel enacted after December 30, 1987;

5. interest earned on investment of surplus, escrowed, or restricted airport funds;

6. subject to the Applicability provisions and except as provided for in subparagraph B., below, sale of airport property shown on the airport property map (commonly referred to as the Exhibit A in the grant application submission) including condemnation of property for another public purpose; and,

7. net income received from Federal surplus property conveyed to the sponsor for the development of income from non-aviation businesses.

B. While not considered to be airport revenue, the proceeds from the sale of land donated by the United States or acquired with Federal grants must be used in accordance with the agreement between the FAA and the sponsor. Where such an agreement gives the FAA discretion, FAA may consider this policy as a relevant factor in specifying the permissible use or uses of the proceeds.

VII. Uses of Airport Revenue

A. Permitted Uses of Airport Revenue

Airport revenue may be used for:

1. The capital or operating costs of the airport, the local airport system, or other local facilities owned or operated by the airport owner or operator and directly and substantially related to the air transportation of passengers or property. Such costs may include reimbursements to a state or local agency for the costs of services actually received and documented, subject to the terms of this policy statement. Operating costs for an airport may be both direct and indirect and may include all of the expenses and costs that are recognized under the generally accepted accounting principles and practices that apply to the airport enterprise funds of state and local government entities.

2. The repayment to the airport owner (which may or may not be the sponsor) of funds contributed by the owner for capital and operating costs of the airport and not heretofore reimbursed.

3. Purposes other than capital and operating costs of the airport, the local airport system, or other local facilities owned or operated by the sponsor and directly and substantially related to the air transportation of passengers or property, if the ''grandfather'' provisions of 49 U.S.C. 47107(b)(2) are applicable to the sponsor and the particular use. Examples of grandfathered airport sponsors may include, but are not limited to, a port authority or state department of transportation which owns or operates other transportation facilities in addition to airports, and which have pre-September 3, 1982, debt obligations or legislation governing financing and providing for use of airport revenue for non-airport purposes. Such sponsors may have obtained legal opinions from their counsel to support a claim of grandfathering. Previous DOT interpretations have found the following examples of pre-AAIA legislation to provide for the grandfather exception:

(a) Bond obligations and city ordinances requiring a five percent ''gross receipts'' fee from airport revenues. The payments were instituted in 1954 and continued in 1968.

(b) A 1955 state statute for the assessing of a five percent surcharge on all receipts and deposits in an airport revenue fund to defray central service expenses of the state.

(c) City legislation authorizing the transfer of a percentage of airport revenues, permitting an airport-air carrier settlement agreement providing for annual payments to the city of 15 percent of the airport concession revenues.

(d) A 1957 state statutory transportation program governing the financing and operations of a multi-modal transportation authority, including airport, highway, port, rail, and transit facilities, wherein state revenues, including airport revenues, support the state's transportation-related, and other, facilities. The funds flow from the airports to a state transportation trust fund, composed of all ''taxes, fees, charges, and revenues'' collected or received by the state department of transportation.

(e) A port authority's 1956 enabling act provisions specifically permitting it to use port revenue, which includes airport revenue, to satisfy debt obligations and to use revenues from each project for the expenses of the authority. The act also exempts the authority from property taxes but requires annual payments in lieu of taxes to several local governments and gives it other corporate powers. A 1978 trust agreement recognizes the use of the authority's revenue for debt servicing, facilities of the authority, its expenses, reserves, and the payment in lieu of taxes fund.

B. Consideration of Lawful Diversion of Revenues in Awarding Discretionary Grants

Airport owners or operators who lawfully divert airport revenue in accordance with the ''grandfather'' provision should be aware that 49 U.S.C. 47115(f) requires the Secretary of Transportation to consider such usage as a factor militating against the approval of an application for discretionary funds when, in the airport's fiscal year preceding the date of application for discretionary funds, the Secretary finds that the amount of revenues used by the airport for purposes other than capital or operating costs exceeds the amount used for such purposes in the airport's first fiscal year ending after August 23, 1994, adjusted by the Secretary for changes in the Consumer Price Index of All Urban Consumers published by the Bureau of Labor Statistics of the Department of Labor.

VIII. Prohibited Uses of Airport Revenue

Prohibited uses of airport revenue include but are not limited to:

A. Direct or indirect payments, other than payments that reflect the value of services and facilities provided to the airport, that are not based on a reasonable, transparent cost allocation formula calculated consistently for other units or cost centers of government.

B. Use of airport revenues for general economic development, marketing, and promotional activities unrelated to airports or airport systems.

C. Payments in lieu of taxes, or other assessments, that exceed the value of services provided or are not based on a reasonable, transparent cost allocation formula calculated consistently for other units or cost centers of government.

D. Payments to compensate nonsponsoring governmental bodies for lost tax revenues exceeding stated tax rates.

E. Loans of airport funds to a state or local agency at less than the prevailing rate of interest.

F. Land rental to, or use of land by, the sponsor for nonaeronautical purposes at less than the amount that would be charged a commercial tenant.

G. Impact fees assessed by a nonsponsoring governmental body that the airport sponsor is not obligated to pay or that exceed such fees assessed against commercial or other governmental entities.

IX. Monitoring and Compliance

A. Detection of Revenue Diversion

To detect whether airport revenue has been diverted from an airport, the FAA will depend primarily upon four sources of information:

1. Annual report on revenue use submitted by the sponsor under the provisions of 49 U.S.C. 47107(a)(19), as amended;

2. Findings of annual single audits conducted in accordance with OMB Circular A–128, ''Audits of State and Local Governments;''

3. Investigation following a third party complaint; and

4. DOT Office of Inspector General audits.

B. Investigation of Revenue Diversion: No Formal Complaint Filed

When no formal complaint has been filed, but the FAA has an indication from one or more of these sources that airport revenue has been or is being diverted unlawfully, the FAA will notify the sponsor of the possible diversion and request that it respond to the FAA's concerns. The FAA action will depend on the response received from the sponsor:

1. *Admission of unlawful revenue diversion.* If the sponsor admits to unlawful diversion, the FAA will require the diverted amount and associated interest to be remitted to the airport account within a reasonable period of time. If the sponsor complies, the FAA will take no further action.

2. *Denial of revenue diversion or claim that diversion is ''grandfathered.''* If the sponsor denies that it has diverted airport revenue, or asserts that the diversion at issue is lawful under the exemption provisions of 49 U.S.C. 47107(b)(2), as amended, the FAA will review the information and arguments submitted by the sponsor.

(a) If the FAA determines that there is no unlawful diversion of revenue, the FAA will notify the sponsor and take no further action.

(b) If the FAA makes a preliminary finding that there has been diversion of airport revenue not exempted under Section 47107(b)(2), and the sponsor accepts that determination, the FAA will request the sponsor to take corrective action. If the sponsor complies, the FAA will take no further action.

3. *Continuing dispute.* If the FAA makes a preliminary finding that there has been diversion of airport revenue not exempted under Section 47107(b)(2), and the sponsor continues to dispute the FAA preliminary determination or does not take the corrective action requested by the FAA, the FAA will complete its investigation.

(a) If the FAA ultimately finds no occurrence of unlawful revenue diversion, the FAA will notify the sponsor and take no further enforcement action.

(b) If, after further investigation determined to be necessary, the FAA finds that there is reason to believe that there is or has been unlawful diversion of airport revenue that the sponsor refuses to terminate or correct, the FAA will issue an appropriate order proposing enforcement action.

4. *Audit or investigation by the Office of the Inspector General.* An indication of revenue diversion brought to the attention of the FAA in a report of audit or investigation issued by the DOT Office of the Inspector General (OIG) will be handled in accordance with paragraphs B.1 through B.3 above. However, the FAA will first respond to the OIG in accordance with established agency procedures and will resolve outstanding issues in the report before notifying the sponsor of the contents of the report and seeking corrective action.

C. Complaints Filed Under 14 CFR Part 13

When a formal complaint is filed against a sponsor for revenue diversion, the FAA will follow the procedures in part 13 for service of the complaint on the sponsor and investigation of the complaint. After review of submissions by the parties, investigation of the complaint, and any additional process provided in a particular case, the FAA will either dismiss the complaint or issue an appropriate order proposing enforcement action.

D. The Administrative Enforcement Process

Currently, enforcement of the requirements imposed on sponsors as a condition of the acceptance of Federal grant funds or property is accomplished through the administrative procedures set forth in 14 C.F.R. part 13, ''Investigation and Enforcement Procedures.'' Under part 13, the FAA has the authority to receive complaints, conduct informal and formal investigations, compel production of evidence, and adjudicate matters of compliance within the jurisdiction of the Administrator. If, as a result of the investigative processes described in paragraphs B and C above, the FAA finds that there is reason to proceed with enforcement action against a sponsor for unlawful revenue diversion, an order proposing enforcement action is issued by the FAA and under 14 C.F.R. 13.20. That section provides for the opportunity for a hearing on the order.

E. Sanctions for Noncompliance

As explained above, if the FAA makes a preliminary finding that airport revenue has been unlawfully diverted and the sponsor declines to take the corrective action (which usually would involve crediting the diverted amount to the airport account with interest), the FAA will propose enforcement action. A decision whether to issue a final order making the action effective is made after hearing, if a hearing is elected by the respondent. The actions required by or available to the agency for enforcement of the prohibitions against unlawful revenue diversion are:

1. *Withhold future grants.* The Secretary may withhold approval of an application in accordance with 49 U.S.C. 47106(e) if the Secretary provides the sponsor with an opportunity for a hearing and, not later than 180 days after the later of the date of the grant application or the date the Secretary discovers the noncompliance, the Secretary finds that a violation has occurred. The 180-day period may be extended by agreement of the Secretary and the sponsor or in a special case by the hearing officer.

2. *Withhold approval of the modification of existing grant agreements that would increase the amount of funds available.* A supplementary provision in section 112 of the 1994 Authorization Act, 49 U.S.C. 47111(e), makes mandatory not only the withholding of new grants but also withholding of a modification to an existing grant that would increase the amount of funds made available, if the Secretary finds a violation after hearing and opportunity to cure.

3. *Withhold payments under existing grants.* The Secretary may withhold a payment under a grant agreement for 180 days or less after the payment is due without providing for a hearing. However, in accordance with 49 U.S.C. 47111(d), the Secretary may withhold a payment for more than 180 days only if he or she notifies the sponsor and

provides an opportunity for a hearing and finds that the sponsor has violated the agreement. The 180-day period may be extended by agreement of the Secretary and the sponsor or in a special case by the hearing officer.

4. *Withhold approval of an application to impose a passenger facility charge.* Section 112 also makes mandatory the withholding of approval of any new application to impose a passenger facility charge under 49 U.S.C. 40117. Subsequent to withholding, applications could be approved only upon a finding by the Secretary that corrective action has been taken and that the violation no longer exists.

5. *Terminate availability of all Federal transportation funds appropriated in Fiscal Years 1994 and 1995.* Provisions of the DOT Appropriations Acts for Fiscal Years 1994 and 1995 prohibit the award of funds to a state or local subdivision that diverts revenue generated by a public airport. This provision would prohibit payment on any Federal transportation grant, including grants for highway and transit projects.

6. *File suit in United States district court.* Section 112(b) provides express authority for the agency to seek enforcement of an order in Federal court.

7. *Assess civil penalties.* Under section 112(c) of Public Law 103–305, codified at 49 U.S.C. 46301(a) and (d), the Secretary has statutory authority to impose civil penalties up to a maximum of $50,000 on airport sponsors for violations of the AIP sponsor assurance on revenue diversion. The Secretary intends to use this authority only after the airport sponsor has been given a reasonable period of time, after a violation has been clearly identified to the airport sponsor, to take corrective action to restore the funds or otherwise come into compliance before a penalty is assessed, and only after other enforcement actions, such as withholding of grants and payments, have failed to achieve compliance. Any civil penalty action under this section would be adjudicated under 14 C.F.R. part 13, Subpart G.

Issued in Washington, DC on February 20, 1996.

David L. Bennett,

Director, Office of Airport Safety and Standards.

[FR Doc. 96–4270 Filed 2–23–96; 8:45 am]

BILLING CODE 4910–13–M

Aviation Rulemaking Advisory Committee Meeting on Emergency Evacuation Issues

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of meeting.

SUMMARY: The FAA is issuing this notice to advise the public of a meeting of the Federal Aviation Administration's Aviation Rulemaking Advisory Committee to discuss emergency evacuation issues.

DATES: The meeting will be held on March 21, 1996 at 9 a.m. Arrange for oral presentations by March 11, 1996.

ADDRESSES: The meeting will be held at McDonnell Douglas, 1735 Jefferson-Davis Highway, suite 1200, Crystal City, Virginia.

FOR FURTHER INFORMATION CONTACT: Lewis Lebakken, Office of Rulemaking, FAA, 800 Independence Avenue SW., Washington, DC 20591, telephone (202) 267–9682.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App. II), notice is given of a meeting of the Aviation Rulemaking Advisory Committee to be held on March 21, 1996, at McDonnell Douglas, 1735 Jefferson-Davis Highway, suite 1200, Crystal City, Virginia. The agenda for the meeting will include:

- Opening Remarks.
- A review of the activities of the Performance Standards Working Group.
- A discussion of future activities and plans.

Attendance is open to the interested public, but will be limited to the space available. The public must make arrangements by March 11, 1996, to present oral statements at the meeting. The public may present written statements to the committee at any time by providing 25 copies to the Assistant Executive Director for Emergency Evacuation Issues or by bringing the copies to her at the meeting. In addition, sign and oral interpretation can be made available at the meeting, as well as an assistive listening device, if requested 10 calendar days before the meeting. Arrangements may be made by contacting the person listed under the heading **FOR FURTHER INFORMATION CONTACT.**

Issued in Washington, DC, on February 20, 1996.

Ava Robinson,

Assistant Executive Director for Emergency Evacuation Issues, Aviation Rulemaking Advisory Committee.

[FR Doc. 96–4264 Filed 2–23–96; 8:45 am]

BILLING CODE 4910–13–M

RTCA, Inc.; Technical Management Committee

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., Appendix 2), notice is hereby given for the RTCA Technical Management Committee meeting to be held March 13, 1996, starting at 9:00 a.m. The meeting will be held at RTCA, Inc., 1140 Connecticut Avenue NW., Suite 1020, Washington, DC, 20036.

The agenda will include: (1) Chairman's Remarks; (2) Review and Approval of Summary of the Previous Meeting; (3) Systems Management Working Group Report to the Technical Management Committee; (4) Consider and Approve: a. Proposed Final Draft, Standards for Airport Security Access Control Systems, RTCA Paper No. 019–96/TMC–207 (previously distributed), prepared by SC–183; b. Proposed Final Draft, Design Guidelines and Recommended Standards for the Implementation and Use of AMS(R)S Voice Services in a Data Link Environment, RTCA Paper No. 040–96/TMC–209 (previously distributed), prepared by SC–165; c. Proposed Disposition of Draft, Change 2 to RTCA DO–181A, Minimum Operational Performance Standards for Air Traffic Control Radar Beacon System/Mode Select (ATCRBS/MODE S) Airborne Equipment, RTCA Paper No. 041–96/TMC–210 (previously distributed), prepared by SC–147; (5) Take Action on Open Items from Previous Meeting; Presentation by Mr. Frank Price, Cochair of the Informal South Pacific Air Traffic Services Coordinating Group (ISPACG); (6) Other Business; (7) Date and Place of Next Meeting.

Attendance is open to the interested public but limited to space availability. With the approval of the chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the RTCA Secretariat, 1140 Connecticut Avenue, N.W., Suite 1020, Washington, D.C. 20036; (202) 833–9339 (phone) or (202) 833–9434 (fax). Members of the public may present a written statement to the committee at any time.

Issued in Washington, D.C., on February 20, 1996.

Janice L. Peters,

Designated Official.

[FR Doc. 96–4268 Filed 2–23–96; 8:45 am]

BILLING CODE 4810–13–M

Notice of Intent To Rule on Application To Impose and Use the Revenue From a Passenger Facility Charge (PFC) at Sacramento Metropolitan Airport, Sacramento, CA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Sacramento Metropolitan Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

DATES: Comments must be received on or before March 27, 1996.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Federal Aviation Administration, Airports Division, 15000 Aviation Blvd., Lawndale, CA. 90261, or San Francisco Airports District Office, 831 Mitten Road, Room 210, Burlingame, CA. 94010–1303. In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Thomas P. Engel, Director, Department of Airports, County of Sacramento, at the following address: 6900 Airport Boulevard, Sacramento, California 95837. Air carriers and foreign air carriers may submit copies of written comments previously provided to the County of Sacramento under section 158.23 of Part 158.

FOR FURTHER INFORMATION CONTACT: Mr. Joseph R. Rodriguez, Supervisor, Planning and Programming Section, Airports District Office, 831 Mitten Road, Room 210, Burlingame, CA. 94010–1303, Telephone: (415) 876–2805. the application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from Sacramento Metropolitan Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

On January 22, 1996, the FAA determined that the application to impose and use the revenue from a PFC submitted by the County of Sacramento was not substantially complete within the requirements of § 158.25 of Part 158. The following are required to complete the application: adequate information to support environmental determinations pursuant to Section 7 of the Endangered Species Act of 1973, as it relates to Terminal Road, Phase 1, and Terminal Road, Phase 2, Projects. The County of Sacramento has not submitted supplemental information to complete this application. The FAA will approve or disapprove the application, in whole or in part, no later than April 19, 1996.

The following is a brief overview of the use application number AWP–97–04–C–00–SMF.

Level of proposed PFC: $3.00.

Charge effective date: July 1, 1996.

Estimated charge expiration date: June 30, 2026.

Brief description of the impose and use projects: Terminal Roads Phase 1, Aircraft Apron Expansion, Terminal Roads Phase 2A, Terminal Roads Phase 2B, Rehabilitate Existing Roads, Airport System Revenue Bond Issuance Costs, and Debt Service Reserve Funding and Interest Expense for Projects in Passenger Facility Charge Application Number 4.

Total estimated net PFC revenue to be used on these use projects: $96,224,000.00.

Class or classes of air carriers which the public agency has requested not be required to collect PFCs: None.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT** and at the FAA Regional Airports Division located at: Federal Aviation Administration, Airports Division, 15000 Aviation Blvd., Lawndale, CA. 90261. In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the County of Sacramento.

Issued in Hawthorne, California, on February 12, 1996.

Robert C. Bloom,

Acting Manager, Airports Division, Western Pacific Region.

[FR Doc. 96–4267 Filed 2–23–96; 8:45 am]

BILLING CODE 4910–13–M

Notice of Intent To Rule on Application To Impose and Use the Revenue From a Passenger Facility Charge (PFC) at Savannah International Airport, Savannah, GA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Savannah International Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

DATES: Comments must be received on or before March 27, 1996.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Atlanta Airports District Office, Campus Building, 1701 Columbia Avenue, Suite 2–260, College Park, Georgia 30337–2747.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Patrick S. Graham, Executive Director of the Savannah Airport Commission, at the following address: 400 Airways Avenue, Savannah, Georgia 31408.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the Savannah Airport Commission under section 158.23 of Part 158.

FOR FURTHER INFORMATION CONTACT: Ms. Catherine M. Nelmes, Program Manager, 1701 Columbia Avenue, Suite 2–260, College Park, Georgia 30337–2747; (404) 305–7148. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Savannah International Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

On February 15, 1996, the FAA determined that the application to impose and use the revenue from a PFC submitted by the Savannah Airport Commission was substantially complete within the requirements of section 158.25 of Part 158. The FAA will approve or disapprove the application, in whole or in part, no later than June 5, 1996. The following is a brief overview of the application.

Level of the proposed PFC: $3.00.

Charge effective date: July 1, 1992.

Proposed charge expiration date: May 31, 2016.

Total estimated PFC revenue for projects in this application: $1,469,445.

Total estimated PFC revenue for the airport: $51,378,084.

Application number: 96–02–C–00–SAV.

Brief description of proposed project(s): Revise Master Plan; Helipad; reconstruct runway 9/27; north and south perimeter fence.

Class or classes of air carriers which the public agency has requested not be required to collect PFCs: Air taxi/commercial operators filing or required to file FAA form 1800–31.

Any person may inspect the application in person at the FAA office listed under **FOR FURTHER INFORMATION CONTACT**. In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Savannah Airport Commission.

Issued in Atlanta, Georgia on February 15, 1996.

Dell T. Jernigan,

Manager, Atlanta Airports District Office.

[FR Doc. 96–4265 Filed 2–23–96; 8:45 am]

BILLING CODE 4910–13–M

Federal Highway Administration, Federal Transit Administration

Participation in the Intelligent Transportation Systems Model Deployment Initiative

AGENCY: Federal Highway Administration (FHWA) and Federal Transit Administration (FTA), DOT.

ACTION: Notice; request for participation.

SUMMARY: On January 10, 1996 Secretary of Transportation Federico Peña announced a major Intelligent Transportation Systems (ITS) deployment goal, called Operation TimeSaver, to reduce the travel time of Americans by at least 15 percent through deployment of a complete Intelligent Transportation Infrastructure in 75 of the Nation's largest metropolitan areas. To support this goal, the DOT is seeking applications from public and private sector partnerships to demonstrate and showcase model deployments of a fully integrated, metropolitan-area Intelligent Transportation Infrastructure. These model deployments will demonstrate the benefits of integrated transportation management systems that feature a strong regional, multimodal traveler information services component.

Applications in response to this notice will be assessed, using the selection criteria set forth below, to determine (1) the proposed model deployment's potential for showcasing the benefits of an integrated Intelligent Transportation Infrastructure in metropolitan areas; (2) the proposed partnership's ability to achieve the goals of the model deployment within the required time frame; (3) the responsiveness of the proposed technical and management approaches for the model deployment; and (4) the appropriateness of the Federal role proposed for the project.

A Request for Information (RFI), published in the Commerce Business Daily on July 31, 1995, requested public comment on the proposed model deployment initiative, along with other issues potentially impacting ITS deployment. Responses to the RFI have been incorporated into this notice, which was developed jointly by the FHWA, the FTA, and the DOT ITS Joint Program Office.

DATES: Applications to participate in the model deployment initiative must be received by 4:00 p.m., e.t. on April 30, 1996.

ADDRESSES: Applications to participate in the model deployment initiative should be submitted directly to the Federal Highway Administration, Office of Traffic Management and ITS Applications, Model Deployment Team, HTV–3, 400 Seventh St. SW., Room 3400, Washington, D.C. 20590.

FOR FURTHER INFORMATION CONTACT: Ms. Toni Wilbur, FHWA, Office of Traffic Management and ITS Applications, Model Deployment Team, (202) 366–2199; or Mr. Walter Kulyk, FTA, Office of Mobility Innovation, (202) 366–4991; or Mr. Michael Halladay, ITS Joint Program Office, (202) 366–6503; or Mr. Robert Robel, FHWA Office of Contracts and Procurement, (202) 366–4227; or Ms. Beverly Russell, FHWA, Office of the Chief Counsel, (202) 366–1355, Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION: The DOT has a strong interest in improving the performance of the Nation's surface transportation system. Thus, the Department has taken the lead in conducting ITS research, development, and operational testing activities to lay the foundation for the application of existing and emerging communications, surveillance, control strategies, and position location technologies to improve the efficiency of the surface transportation system. In addition, four locations were designated as ITS Priority Corridors by the DOT in March 1993 using the specific criteria contained in Section 6056(b) of the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA) Public Law 102–240, 105 Stat. 1914 (1991), as amended. These corridors are—the Northeast Corridor centered along I–95 and stretching through six states from Maryland to Connecticut; a Midwest Corridor centered around the Chicago metropolitan area and stretching from Gary, Indiana, to Milwaukee, Wisconsin; the Houston, Texas, metropolitan area; and a southern California Corridor centered around I–5/I–10 from Los Angeles to San Diego. The ITS Priority Corridors are intended to provide national test beds for ITS systems and technologies, and, over the long term, establish an ITS infrastructure in the Nation's most congested areas that will support continuing deployment of ITS user services.

The DOT will continue to support ITS research, operational testing, and Priority Corridor activities to obtain the performance and technical data needed to support local investment decisions. Early results from this phase of the program have laid the foundation to begin deployment of a range of ITS products and services.

As a next step toward ITS deployment, the DOT is soliciting applications to establish two or three metropolitan area ''model deployments'' of an Intelligent Transportation Infrastructure that supports integrated transportation management systems and features a strong, regional, multimodal traveler information services component. These model deployments are to be demonstrations and showcases of the measurable benefits resulting from the application of an integrated, region-wide approach to transportation management and the provision of traveler information services. The model deployments will provide improved transportation management and increased levels of service to the traveling public through the integration of the traditional functions of traffic signal control; transit, freeway, and incident management; emergency services management; and regional, multimodal traveler information services. Where appropriate based on local needs, electronic fare payment and electronic toll collection functions should also be included.

It is recognized that interest in participating in the metropolitan area model deployment initiative is high. Due to funding limitations, only two or three sites can be selected, and the metropolitan area model deployment initiative will not be repeated in future years. However, preparation of a well thought-out model deployment application, whether selected for

participation in the DOT initiative or not, lays an important foundation of inter-jurisdictional, inter-agency and public/private cooperation that will greatly facilitate the deployment of an Intelligent Transportation Infrastructure in the metropolitan area. Thus, the preparation of applications, and the necessary underlying dialogue among relevant public and private entities, is encouraged.

Since metropolitan areas are the venues for much of the Nation's economic activity and offer the potential for early demonstration of ITS benefits, this first model deployment initiative is focused on metropolitan locations. A future model deployment initiative focusing on commercial vehicle operations is planned. Initiatives that focus on rural applications of ITS systems and technologies are also planned.

I. Objective

The objective of this initiative is to demonstrate two or three model deployments of a metropolitan area Intelligent Transportation Infrastructure that feature fully integrated transportation management systems and strong regional, multimodal traveler information services component. In addition to introducing the public to the benefits of ITS products and services, the sites would serve as ''showcases'' for key local decision makers across the U.S. and would support tours and seminars focused on the benefits of Intelligent Transportation Infrastructure investments by both the public and private sectors.

The model deployment sites will also provide a setting for conducting rigorous evaluations of the benefits of an integrated, metropolitan area Intelligent Transportation Infrastructure. Thus, the design of the model deployment must facilitate access to the data needed to conduct an evaluation. A separate initiative will fund one or more independent evaluation contractors to evaluate the effectiveness of the model deployments in meeting national ITS program goals as set forth in the National ITS Program Plan, dated March, 1995. These goals include—improving the safety and operational efficiency of the Nation's surface transportation system; reducing energy and environmental costs associated with traffic congestion; enhancing present and future productivity; enhancing the personal mobility, convenience and comfort of the surface transportation system; and creating an environment in which the development and deployment of ITS can flourish.

II. Approach

The DOT will select approximately two or three metropolitan areas for model deployments of an Intelligent Transportation Infrastructure that would support integrated operation and management of roadway and transit resources, and the provision of regional, multimodal traveler information services. The proposed model deployments should focus on the use of currently available technologies and strengthened institutional ties. Federal ITS funding will be used to promote partnerships with the private sector, particularly the telecommunications industry, and to integrate existing communications, traffic surveillance, and information management functions to support a regional transportation management system that features dissemination of current, multimodal traveler information.

Funding

The model deployment sites selected through this solicitation will be supported with some of the Federal funds appropriated for ITS in fiscal years (FYs) 1996 and possibly 1997. Federal ITS funding in FY 1996 for support of the model deployment initiative is expected not to exceed $20 million. The amount of available Federal ITS funding in FY 1997 is currently unknown. Thus, applications should be modular and discuss how the model deployment could be effectively implemented with only FY 96 funding, and expanded with additional funding in FY 97.

It is anticipated that available Federal ITS funding will support two, or possibly three, model deployment sites. Applications that offer the greatest potential for demonstrating all aspects of an integrated Intelligent Transportation Infrastructure (including both the institutional and technological aspects) for the least Federal ITS dollars will be considered the most desirable.

Federal ITS funding for the model deployment initiative would support—

1. System design and integration of the data collection elements of the existing transportation management functions (e.g., freeway management, traffic adaptive signal control, incident management, transit management and electronic fare collection, traveler information services, and electronic toll collection where applicable);

2. Creation of a regional multimodal transportation information system that would support public sector transportation management needs;

3. Creation of a data repository of current, multimodal traveler information for dissemination through a variety of delivery mechanisms;

4. Public relations and outreach activities to highlight the availability and benefits of the integrated transportation management system to local consumers, public transportation agencies, and other public and private organizations;

5. Project partners' activities in working with the independent evaluation contractor(s) during the system design, implementation, and operational phases to ensure that the system will provide the capabilities and data access needed to measure benefits.

Total Federal ITS funding is not to exceed 50% of the total cost of the model deployment initiative. The remaining 50% would be provided by a combination of non-ITS Federal-aid, State, local, and private funding. Specifics on funding requirements for the model deployment program are contained in Section III of this document under the heading, Financial Plan.

Eligibility

Participants in the model deployment program will be selected based upon the evaluation criteria contained in Section IV of this document. Partnerships representing any metropolitan area are eligible to apply, including metropolitan areas within one of the ITS Priority Corridors designated by the DOT under the criteria established by the ISTEA. If an ITS Priority Corridor location is selected, it is expected that any additional Federal ITS funding provided under the model deployment initiative would be used in conjunction with State, local, private, and previously authorized ISTEA Priority Corridor funds to achieve the objectives of the model deployment program.

Partnership Arrangements

The DOT will generally work with the lead public agency participating in the partnership (State, city or regional agency, depending on the site) to ensure an up front commitment to providing the needed Intelligent Transportation Infrastructure within the parameters of the emerging National ITS Architecture. The DOT will also ensure that needed institutional and partnership arrangements are in place and required funding is available, that the project can be completed within the required time frame, and that the private sector is involved as an infrastructure provider (e.g., communications), as a franchisee (e.g., for information dissemination), or in another capacity contributing significant resources to the project.

Schedule

It is the intent of the DOT that all proposed project agreements and institutional and partnership arrangements are in place by the conclusion of the National ITS Architecture development in July 1996 so that design and construction could begin immediately. The goal is for the sites to have an Intelligent Transportation Infrastructure that supports integrated transportation management systems and regional traveler information services, operational by the end of calendar year 1997.

Project Evaluation

The DOT will conduct a rigorous, independent evaluation of the consumer acceptance of traveler information services and products supported by the model deployments, and the impact and cost effectiveness of an integrated, metropolitan area Intelligent Transportation Infrastructure on achieving local and National ITS program goals. The independent evaluation may be conducted using existing DOT resources, or, as part of another solicitation, the DOT may contract with one or more independent evaluation contractor(s) to evaluate the model deployments.

Note: Successful respondents to the model deployment solicitation are not precluded from bidding on the independent evaluation contract, if such a solicitation is issued, but would not be allowed to participate in the evaluation of their own model deployment effort.

III. Instructions to Applicants

An application to participate in the model deployment initiative shall not exceed 75 pages in length including title, index, tables, maps, appendices, abstracts, and other supporting materials. A page is defined as one side of an 8½ by 11 inch paper, with a type font no smaller than 12 point. Applications greater than 75 pages will not be accepted. Twenty-five copies plus an unbound reproducible copy of the application shall be submitted. The cover sheet or front page of the application shall include the name, address, and phone number of an individual to whom correspondence and questions about the application may be directed.

Applications shall include both a Technical Plan and a Financial Plan that describe how the proposed initiative will meet the objectives of the model deployment program within the specified time frame and budget. Both the Technical and Financial Plans should describe a phased, modular approach that would effectively achieve the basic objectives of the model deployment initiative with only FY 1996 Federal ITS funding, and that could be expanded with additional FY 1997 Federal ITS funding to include other features or capabilities that would more effectively demonstrate and showcase a comprehensive, metropolitan area Intelligent Transportation Infrastructure.

Respondents are expected to provide the following information, to the extent applicable and appropriate:

Technical Plan

1. Inter-agency, Inter-jurisdictional, and Public/Private Cooperation and Partnership Arrangements

Applications should describe the existing institutional and partnership arrangements that will be integral to the performance of the functions required by the model deployment. The description should include multi-jurisdictional and multi-agency public sector partnerships, public/private sector partnerships, and private sector partnerships.

The application should also describe new institutional and partnership arrangements established to support full deployment of regional transportation management and travel information services. Emphasis should be placed on the anticipated impact of new institutional arrangements on the integration of existing transportation management systems and on the respondents ability to acquire, share, and use data across multi-modal and multi-jurisdictional boundaries. The application should describe the means to be used for converting Araw@ data into useful travel information, and the institutional arrangement for implementing these means.

All needed partnership arrangements and institutional agreements to support the proposed model deployment should be documented with signed Memorandums of Understanding (MOUs) that clearly define responsibilities and relationships. Copies of the MOUs should be included in the application.

Business relationships with the private sector, for example as infrastructure providers, or as providers of traveler information services or products, are strongly encouraged. The role of the private sector, and the financial and institutional arrangement(s) under which they are integrated into the project, must be clearly described and documented with signed MOUs.

Partners are also strongly encouraged to seek participation from certified Minority Business Enterprise firms, Women Business Enterprise firms, Disadvantaged Business Enterprise firms, Historically Black Colleges and Universities, Hispanic Serving Institutions, and other minority colleges.

2. Technical Approach for the Metropolitan Area ITS Model Deployment

Applications should provide a concise description of the proposed operational concept for the metropolitan area model deployment that will build on existing infrastructure and institutional arrangements to provide an Intelligent Transportation Infrastructure that supports *integrated* transportation management systems and the delivery of regional, multimodal traveler information services. Applications should describe the methods and capabilities included in the design of the model deployment that will allow for the measurement of expected benefits.

Applications should also specifically describe the transportation management functions, capabilities, and infrastructure that are currently planned and funded, or must be added, upgraded, or enhanced to support the model deployment, in the following areas: Traffic signal control, freeway management, transit management, incident management, regional, multimodal traveler information services, electronic fare payments (if applicable), and electronic toll collection (if applicable).

Systems integration and enhanced data/information interconnectedness supporting improved transportation management and the generation of traveler information services are crucial elements of the model deployment program. Applications should provide a comprehensive but concise description of the enhanced systems integration and data fusion/integration capabilities that will be used to interconnect existing or proposed communication channels to support improved performance of ITS transportation management functions and the provision of regional multimodal traveler information services.

The proposed system should include provisions for adherence to the privacy principles developed by, and available from, ITS AMERICA, 400 Virginia Avenue SW, Suite 800, Washington, D.C. 20024, telephone (202) 484–4847. The document is also available on the Internet at http://weber.ucsd.edu/~pagre/its-privacy.html. Where the

privacy principles conflict with applicable Federal and state law, the latter shall prevail.

3. Management and Staffing Plan

Applications should include a management and staffing plan that focuses on successfully addressing the following:

(a) Timing—A key goal of the metropolitan area ITS model deployment program is to have an operational system in place supporting improved transportation management and regional traveler information services by the end of calendar year 1997. Thus, the application should provide a management plan, schedule, and evidence of a commitment to have the system operational within 18 months of the award of funds.

(b) Compatibility with the local transportation planning and environmental clearance processes—Activities required to implement the proposed model deployment within the specified time frame should be compatible with existing transportation plans and programs. Endorsement by the Metropolitan Planning Organization (MPO) that the proposed project(s) is consistent with the adopted plan and Transportation Improvement Program (TIP) for the region is required prior to the award of federal funds.

(c) Staffing—The application should include a commitment to hire or assign a full-time program manager and adequate full-time staff to the project to ensure timely deployment and operation of an integrated system. Qualifications of proposed staff should be included in the application.

(d) Partnership arrangements—The management plan should include a clear description of the lines of responsibility, authority, and communication among the participants in the model deployment.

(e) Operations and maintenance—The application should include a commitment and operational plan to provide long-term operations and maintenance of the model deployment for at least 5 years after completion of the Federal initiative.

4. Description and Estimate of the Transportation Impacts of the Existing Metropolitan Area ITS Functions

Applications should describe the existing ITS travel information services and transportation management functions, as appropriate, in the metropolitan area, and their estimated impacts on transportation service and performance. Applications should focus on descriptions of the existing data and information integration schemes which allow interaction, if any, among these various functions:

(a) Traffic Signal Control: The description of the metropolitan area's existing traffic signal control functions should address capabilities that might include, but need not be limited to—

1. Adjusting ''green'' time for each approach to respond to demand, and coordinating signal operations to maximize person and vehicular throughput;

2. Implementing ''time of day'' signal timing patterns to optimize operations along major arterial routes throughout signalized networks;

3. Operational (or currently funded plans for Transitioning to) traffic signal systems with adaptive, ''real-time'' response capabilities;

4. Using advanced technologies to increase safety at railroad and light rail transit grade crossings;

5. Providing priority routing for emergency services vehicles;

6. Coordinated/integrated operation of arterial and freeway control systems;

7. Demonstrated inter-jurisdictional and inter-agency cooperation and the sharing of traffic flow data to expand signal coordination on a regional basis.

(b) Freeway Management: The description of the metropolitan area's existing freeway management functions should address capabilities that might include, but need not be limited to—

1. Monitoring traffic conditions on the freeway system;

2. Identifying recurring and non-recurring flow impediments;

3. Implementing control and management strategies, such as ramp metering or lane control;

4. Providing travelers with timely, critical information through infrastructure-based dissemination means currently in use in the area (e.g., changeable message signs, highway advisory radio, etc.);

5. Providing other transportation agencies and adjoining jurisdictions with traffic flow information that has the potential for impacting on their operations.

(c) Transit Management: The description of the metropolitan area's existing transit management functions should address capabilities that might include, but need not be limited to—

1. Managing transit vehicle fleets through the use of hardware/software systems, both on-board and dispatching center-based;

2. Application of automatic vehicle location, advanced communication, passenger counting, computer-aided dispatching, electronic vehicle diagnostic and security management technologies;

3. Providing real-time transit information to the traveling public and other agencies performing related transportation management functions;

4. Providing paratransit services and flexible schedule services.

(d) Incident Management: The description of the metropolitan area's existing resources and operational concept for proactively managing incident response should address capabilities that might include, but need not be limited to—

1. Accurately detecting and verifying the location of incidents occurring on freeways and major arterial routes;

2. Assisting emergency vehicles to the incident location;

3. Clearing incidents and restoring normal traffic flows while concurrently ensuring safety and optimal emergency unit access;

4. Maintaining effective and commonly accepted policies governing the roles of emergency response, law enforcement, incident clearance and traffic control entities both within the metropolitan area and the region.

(e) Electronic Fare Payments (if applicable): The description of the metropolitan area's existing electronic fare payment functions should address capabilities that might include, but need not be limited to—

1. Use (or planned and funded implementation) of payment systems not requiring exact change;

2. Use (or planned and funded implementation) of a single fare payment medium for public transportation services, perhaps including paratransit operations, publicly subsidized parking (park and ride), publicly or privately operated parking facilities, or toll facilities.

(f) Electronic Toll Collection (if applicable): The description of the metropolitan area's existing electronic toll collection functions should address capabilities that might include, but need not be limited to—

1. Use of electronic toll collection systems that enable toll payment without requiring a vehicle to stop;

2. Implementation of systems that provide vehicle classification and data collection/storage for billing;

3. Regional coordination of toll collection enabling cross jurisdictional electronic payment;

4. Use of data provided by transponder-equipped vehicles to provide travel times or other data to support transportation management functions.

(g) Multimodal Traveler Information Services: The description of the metropolitan area's regional, multimodal traveler information

services should address all aspects of this activity to the extent that they currently exist or are funded and planned for the near future. There is special interest in gaining a clear understanding of inter-jurisdictional arrangements and private sector roles, if any, in providing traveler information. The nature of institutional arrangements resulting in the provision of travel-related data streams, and/or processed information, from public sources to private sector entities is of particular interest.

5. Evaluation Plan

Applications should include a draft evaluation plan that demonstrates an understanding of the importance of ensuring that the proposed system provides the capabilities and data access needed to measure the expected benefits of the model deployment. Applications should describe low-risk methods to work with the independent evaluation contractor(s) to ensure that benefits are measurable. A demonstrated understanding of the role of the evaluation should be evident in the organizational and management approach of the application.

Applications should identify the goals of the proposed model deployment concept in terms as explicit as possible (e.g., reduce congestion by 10 percent when measured against a baseline of current levels of service). If available, applications should provide information on demonstrated benefits of existing transportation management functions already in place (e.g., favorable benefit/cost ratios, reduced congestion, increased safety, etc.).

In the absence of existing baseline data to support a rigorous evaluation of the model deployment, applications should provide a draft plan for collecting these data. Refinement of the draft plan and actual data collection will be the responsibility of the independent evaluation contractor.

6. National ITS System Architecture

Applications should provide a statement of intent to implement and demonstrate a system that is consistent with the National ITS Architecture, including any national ITS standards, protocols, or standards requirements as these emerge from the final stages of the National ITS Architecture Development Program. Paper copies of the Architecture Definition Documents, the draft Standards Requirements Document, and the Standards Development Plan from the Architecture Development Program are available from ITS AMERICA, 400 Virginia Avenue SW, Suite 800, Washington, D.C. 20024, telephone (202) 484–4847. Electronic copies are available on the ITS AMERICA Internet Home Page, http://www.itsa.org. These documents provide insight into the definition of the National Architecture, and the emerging approaches being taken towards standardizing interfaces that would support the integration of transportation management components.

Financial Plan

The application shall provide an in-depth description and assessment of the total cost of achieving the objectives of the model deployment initiative, and the partnership's plans for raising the matching funds required by this solicitation. The Financial Plan should describe a phased approach that delineates what will be accomplished with only FY 96 Federal ITS funding, and what additional features or capabilities will be added with additional Federal ITS funding in FY 97.

The application shall provide a statement of commitment from the proposed project partners that required funding levels will be available. All financial commitments, from both the public and private sectors, should be documented in signed MOUs and included in the application.

Based on the assumption that adequate funding, comprised of no more that 50 percent Federal ITS funds, plus locally matched amounts is available to support the model deployment, applications should provide a comprehensive but concise plan for design, acquisition (including innovative contracting procedures such as design-build), construction, and/or other procurement actions to improve the systems integration of the functions needed to support a regional, metropolitan area Intelligent Transportation Infrastructure. These functions include traffic signal control, freeway management, transit management, incident management, emergency response, railroad grade crossing safety, traveler information services for users in the metropolitan area and the surrounding region, and, if applicable, electronic toll collection, and electronic fare payment.

The application shall provide a sound financial plan for continued long-term operations and maintenance of the system for at least 5 years following completion of the Federal ITS model deployment initiative in December 1997.

The budget should show the requested Federal ITS funding and proposed partnership match funding by fiscal year for the activities shown on the tables below. The matching funds should be further divided into public and private contribution amounts in the tables, as well as the source and type of contribution described in the application.

TOTAL MODEL DEPLOYMENT FUNDING

Activities	Total amount		Source and description of matching funds	
	Federal ITS funds	Matching funds	Public	Private
Design Procurement/Deployment Operation/Maintenance Evaluation Support Project Management Outreach/Showcasing				
Total				

FY 96 MODEL DEPLOYMENT FUNDING

Activities	FY 96 funding		Source and description of matching funds	
	Federal ITS funds	Matching funds	Public	Private
Design Procurement/Deployment Operation/Maintenance Evaluation Support Project Management Outreach/Showcasing				
Total				

FY 97 MODEL DEPLOYMENT FUNDING

Activities	FY 97 funding		Source and description of matching funds	
	Federal ITS funds	Matching funds	Public	Private
Design Procurement/Deployment Operation/Maintenance Evaluation Support Project Management Outreach/Showcasing				
Total				

NON-FEDERAL ITS FUNDING FOR CONTINUED OPERATIONS AND MAINTENANCE, FY 1998 THRU FY 2002 BY FISCAL YEAR

FY 98		FY 99		FY 00		FY 01		FY 02	
Amount	Source	Amount	Source	Amount	Source	Amount	Source	Amount	Source

Note to applicants: In accordance with § 6058 of the ISTEA (105 Stat. 1914, 2194), the maximum share of a project funded from Federal funds, including ITS funds, cannot exceed 80 percent. In order to maximize available Federal ITS dollars and be consistent with agency policy, prospective partners in a model deployment must increase their cost share to 50 percent. Additional funds provided over the statutorily required 20 percent minimum may come from a variety of funding sources and may include the value of federally-supported projects directly associated with the model deployment. Note that funding identified to support operations and maintenance of the system beyond the components supporting the model deployment, or following completion of the Federal ITS model deployment initiative in FY 97, will not be considered as part of the partnership's cost share contribution.

The statutorily required 20 percent cost share must be from non-federally derived funding sources and must consist of either cash, substantial equipment contributions that are wholly utilized as an integral part of the project, or personnel services dedicated full-time to the model deployment project for a substantial period, as long as such personnel are not otherwise supported with Federal funds. The non-federally derived funding may come from State, local government, or private sector partners. In an ITS partnership, as with other DOT cost-share contracts, it is inappropriate for a fee to be included in the proposed budget as part of a partners' contribution to the project. This does not prohibit appropriate fee payments to vendors or others who may provide goods or services to the partnership. It also does not prohibit business relationships with the private sector which result in revenues from the sale or provision of ITS products or services.

The DOT, the Comptroller General of the U.S., and, if appropriate, the States have the right to access all documents pertaining to the use of Federal ITS funds and non-Federal contributions. Non-Federal partners must submit sufficient documentation during final negotiations and on a regular basis during the life of the model deployment project to substantiate these costs. Such items as direct labor, fringe benefits, material costs, consultant costs, subcontractor costs, and travel costs should be included in that documentation.

IV. Evaluation Criteria

Applicants must submit an acceptable Technical Plan and Financial Plan that both provide sound evidence that the proposed partnership can successfully meet the objectives of the model deployment initiative. The following criteria, listed in decreasing order of relative importance, will be used in selecting metropolitan areas for the model deployment program. Note that criteria numbers 3, 4 and 5 have equal importance in the evaluation.

Technical Plan

1. Institutional Integration and Partnership Arrangements (25 Percent)

Applications will be evaluated on the following criteria:

(a) Demonstration of a strong commitment by the State, local operating agencies, Metropolitan Planning Organization, and relevant public transportation agencies to the deployment and operation of an integrated multimodal transportation

management system that takes advantage of private resources as much as possible. In addition to the State and Metropolitan Planning Organizations, additional points will be awarded to those applications demonstrating strong commitment by those entities responsible for freeway management, arterial street management, public transportation services, incident management, and emergency management services as appropriate.

(b) Demonstration of a high degree of existing cooperation and information sharing among State and local traffic, transit, emergency management, and other relevant public agencies.

(c) Demonstration of established working relationships among city, county, and State transit and traffic agencies for management of transportation and the dissemination of travel information services.

(d) Demonstration of a public/private partnership committed to the development of a comprehensive, regional transportation management system that supports the collection and dissemination of current, intermodal traveler information from a variety of sources and through a variety of delivery mechanisms.

(e) Partnerships that involve the commitment and participation of the telecommunications industry and private-sector information service providers, as appropriate, will receive additional points. Examples of such cooperation might include the provision of privately-owned communications capacity to transportation operating agencies, partnerships involving radio or television traffic information services, or integration of traveler information applications with other privately-provided information delivery systems such as cable TV, interactive video, America Online, CompuServe, Prodigy, etc. An estimate of the number (or percentage) of homes, businesses and/or vehicles reached with such services should be provided. Private sector information delivery mechanisms or products at the participating site should be innovative and state-of-the-art, but not require additional development or extensive modification to support the traveler information system.

(f) Demonstration of participation by certified Minority Business Enterprise firms, Women Business Enterprise firms, Disadvantaged Business Enterprise firms, Historically Black Colleges and Universities, Hispanic Serving Institutions, or other minority colleges.

2. Technical Approach To Achieve Deployment of a Full Complement of Metropolitan Area ITS Functions: (20 Percent)

Applications will be evaluated on the following criteria:

(a) A technical approach that responds to demonstrated congestion, safety, and mobility needs deemed critical to the metropolitan area, and as documented in studies performed through the local transportation planning process, as part of an FHWA sponsored ITS Early Deployment Planning study, or equivalent.

(b) An operational concept and technical approach that will maximize the integration and information sharing among existing transportation management functions to achieve the goal of providing the traveling public with improved transportation management and regional, multimodal traveler information services.

3. Management and Staffing Plan: (15 Percent)

Applications will be evaluated based on the following criteria:

(a) A sound management plan and organizational approach that will ensure that an integrated transportation management system, featuring regional, multimodal traveler information services, is operational by December 1997.

(b) Applications should demonstrate that projects to support the model deployment initiative have been, or can be, included in the local transportation planning process as needed to ensure that the system is operational by December, 1997. Examples include demonstration that needed major capital improvement projects are included in a conforming Transportation Plan and listed within the annual element of the TIP for the region. Applications should also demonstrate that initiatives key to the model deployment have been, or can be, advanced through both systems and project-level environmental review processes as appropriate.

(c) A commitment to hire or assign a full-time program manager and adequate full-time staff to the project to ensure timely deployment of the project. Proposed staff should have expertise in relevant technical areas such as systems engineering and integration; telecommunications; traffic, freeway and transit management; computer science; and information management.

4. Level of Sophistication and Degree of Integration of Existing Metropolitan Area ITS Functions: (15 Percent)

Applications will be evaluated based on the degree to which both public and privately-provided communications, traffic surveillance, information management, and other components are already in place to support as many of the following ITS functions as appropriate to the specific metropolitan area: traffic signal control, freeway management, transit management, incident management, regional, multimodal traveler information services, electronic fare payment, and electronic toll collection.

Examples of specific indicators of the level of sophistication of the existing transportation management functions might include—

(a) Proactive, coordinated freeway and traffic management to respond to recurring and non-recurring congestion;

(b) The use of ITS technologies to improve safety at railroad grade crossings;

(c) Electronic sharing of traffic flow data with the general public and among adjoining jurisdictions and agencies within a metropolitan area to provide regional traffic signal coordination;

(d) A repository of current, comprehensive roadway and transit performance data that supports pre-trip and en-route traveler information services;

(e) A regional policy and operations agreement that defines specific responsibilities for all aspects of incident management and emergency response;

(f) The use of ITS technologies to improve transit fleet management and performance;

(g) Electronic sharing of real time transit information with the general public (e.g., scheduling information, on-time performance, etc.);

(h) The use of electronic toll collection systems to reduce congestion at toll facilities, and perhaps to monitor traffic flow;

(i) The use of electronic fare payment systems to increase customer convenience.

5. Draft Plan for Evaluation of the Benefits of the Model Deployment: (15 Percent)

Applications will be evaluated based upon the respondents' draft evaluation plan and the importance placed by the respondents on the ability to measure the benefits expected from the model deployment. Specific indications of the importance of measurable benefits are—

(a) Organizational and management approach for ensuring the proposed system provides the capabilities needed to measure the expected benefits of the model deployment;

(b) A draft plan for collecting baseline data from the existing system before

implementation of the model deployment. (Note that actual data collection will be the responsibility of the independent evaluation contractor);

(c) Organizational and management approach for conducting their part of evaluation activities;

(d) Demonstrated understanding of the role of evaluation in the model deployment initiative;

(e) Respondent's proposed methods for interfacing the system design process with the system evaluation process.

6. National ITS Systems Architecture: (10 Percent)

Applications will be evaluated based on a demonstrated understanding of the on-going National ITS Systems Architecture development effort, and a commitment to showcasing the architecture, especially focussing on how an integrated transportation management system will be designed with appropriate communications and interfaces consistent with the national architecture.

Financial Plan

Applications will be evaluated based on the following criteria:

(a) A sound financial plan to support timely deployment of the project and continued, long-term operations and maintenance of the system. Applications which provide a strong element of innovative financing, and/or a strong commitment by the private sector to share in funding project development and operations, will receive additional points in the scoring.

(b) A realistic identification of needed improvements or extensions to the communications, surveillance, data collection capabilities, and/or transportation management functions needed to support a fully integrated transportation management system as required by the model deployment program. Applications should identify already designated or available Federal-aid, State, local and/or private funding to provide these needed improvements or extensions.

(c) A clear identification of the proposed funding for the project, and a commitment that no more than 50% of the total project cost will be supported by Federal ITS funds.

Authority: 23 U.S.C. 315; 49 CFR 1.48; Pub. L. 102–240, Secs. 6051–6059.

Issued on: February 7, 1996.

Rodney E. Slater,

Federal Highway Administration.

Gordon J. Linton,

Federal Transit Administration.

[FR Doc. 96–4184 Filed 2–23–96; 8:45 am]

BILLING CODE 4910–13–P

Research and Special Programs Administration

[Docket PS–147]

Notice of Request for Reinstatement of an Expired Information Collection

AGENCY: Research and Special Programs Administration, DOT.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Research and Special Programs Administration's (RSPA) intention to request reinstatement of an information collection in support of the Office of Pipeline Safety (OPS) for Recordkeeping for Liquid Natural Gas (LNG) Facilities.

DATES: Comments on this notice must be received on or before April 26, 1996.

FOR FURTHER INFORMATION CONTACT: Marvin Fell, Office of Pipeline Safety, Research and Special Programs Administration, Department of Transportation, 400 Seventh Street SW., Washington, D.C. 20590, (202) 366–4046.

SUPPLEMENTARY INFORMATION:

Title: Recordkeeping for Liquid Natural Gas (LNG) Facilities.

OMB Number: 2137–0048.

Expiration Date of Approval:

Type of Request: Reinstatement of an information collection.

Abstract: 49 USC 60103 Standards for liquefied natural gas pipeline facilities delegates the responsibility for ensuring safe operation of LNG facilities to the Secretary of Transportation. Regulations for enforcing this legislation are found in 49 CFR 193 Liquefied Natural Gas Facilities: Federal Safety Standards. These regulations include recordkeeping requirements that allow Federal and State inspectors to ensure that these facilities are operated and maintained in a safe manner.

Estimate of Burden: The average burden hours per response is 120.

Respondents: LNG facility operators.

Estimated Number of Respondents: 150.

Estimated Number of Responses per Respondent: 400.

Estimated Total Annual Burden on Respondents: 18,000 hours.

Copies of this information collection can be reviewed at the Dockets Unit, Room 8421, Research and Special Programs Administration, U.S. Department of Transportation, 400 Seventh Street SW., Washington, D.C.

Comments are invited on: (a) The need for the proposed collection of information for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques. Send comments to Marvin Fell, OPS, RSPA, U.S. Department of Transportation, 400 Seventh Street SW., Room 2335, Washington, DC. 20590.

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also be a matter of public record.

Issued in Washington, DC on February 16, 1996.

Cesar De Leon,

Deputy Associate Administrator, Office of Pipeline Safety.

[FR Doc. 96–4185 Filed 2–23–96; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review.

February 15, 1996.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue NW., Washington, DC 20220.

Special Request: In order to conduct the survey described below in early March 1996, the Department of Treasury is requesting Office of Management and Budget (OMB) review and approval of this information collection by February 23, 1996. To obtain a copy of this information collection, please write to the IRS Clearance Officer at the address listed below. Internal Revenue Service (IRS)

OMB Number: 1545–1432.

Project Number: PC:V 96–001–G.

Type of Review: Revision.

Title: Performance Development System Customer Satisfaction Survey.

Description: The survey will be used to determine, before the targeted development/training experiences and Performance Development System (PDS) process are made available on a nationwide basis, whether they have a positive effect on the level of taxpayer satisfaction. The results of the survey will be used to evaluate the PDS process in decisions regarding its nationwide roll-out.

Respondents: Individuals or households.

Estimated Number of Respondents: 17,300.

Estimated Burden Hours Per Respondent: 2 minutes, 15 seconds.

Frequency of Response: Other.

Estimated Total Reporting Burden: 649 hours.

Clearance Officer: Garrick Shear, (202) 622–3869, Internal Revenue Service, Room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

OMB Reviewer: Milo Sunderhauf, (202) 395–7340, Office of Management and Budget, Room 10226, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 96–4245 Filed 2–23–96; 8:45 am]

BILLING CODE 4830–01–P

Submission for OMB Review; Comment Request

February 12, 1996.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue NW., Washington, DC 20220.

U.S. Customs Service (CUS)

OMB Number: 1515–0078.

Form Number: CF 1302 and CF 1302A.

Type of Review: Reinstatement.

Title: Cargo Declaration (1302); and Cargo Declaration (Outward with Commercial Forms) (1320A).

Description: Customs Forms 1302 and 1302A are used by the master of a vessel to list all inward cargo onboard and for the clearance of all cargo on board with commercial forms.

Respondents: Business or other for-profit.

Estimated Number of Respondents: 5,600.

Estimated Burden Hours Per Respondent: 5 minutes.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 11,662 hours.

Clearance Officer: Norman Waits, (202) 927–1551, U.S. Customs Service, Printing and Records Management Branch, Room 6426, 1301 Constitution Avenue NW., Washington, DC 20229.

OMB Reviewer: Milo Sunderhauf, (202) 395–7340, Office of Management and Budget, Room 10226, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports, Management Officer.

[FR Doc. 96–4244 Filed 2–23–96; 8:45 am]

BILLING CODE 4820–02–P

Internal Revenue Service

Proposed Collection; Comment Request

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 1120–SF, U.S. Income Tax Return for Settlement Funds (Under Section 468B).

DATES: Written comments should be received on or before April 26, 1996, 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 Martha R. Brinson, (202) 622–3869, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: U.S. Income Tax Return for Settlement Funds (Under Section 468B).

OMB Number: 1545–1394.

Form Number: 1120–SF.

Abstract: Form 1120–SF is used by settlement funds to report income and taxes on earnings of the fund. The fund may be established by court order, a breach of contract, a violation of law, an arbitration panel, or the Environmental Protection Agency. The IRS uses Form 1120–SF to determine if income and taxes are correctly computed.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of OMB approval.

Affected Public: Businesses.

Estimated Number of Respondents: 1,000.

Estimated Time Per Respondent: 26 hrs., 43 min.

Estimated Total Annual Burden Hours: 26,710.

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; 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.

Approved: February 14, 1996.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 96–4175 Filed 2–23–96; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF VETERANS AFFAIRS

Agency Information Collection: Submission for OMB Review; Comment Request

AGENCY: National Cemetery System, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The National Cemetery System (NCS), Department of Veterans Affairs, has submitted to the Office of Management and Budget (OMB) the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

OMB Number: 2900–0357.

Title and Form Number: Gravesite Reservation Survey, VA Form Letter 40–12.

Type of Information Collection: Extension of a currently approved collection.

Needs and Uses: The form letter is used to determine whether individuals holding gravesite reservations in national cemeteries wish to continue the reservation and whether their eligibility for the reservation has been affected.

Affected Public: Individuals or households.

Estimated Annual Burden: 833 hours.

Estimated Average Burden Per Respondent: 5 minutes.

Frequency of Response: Biennially.

Estimated Number of Respondents: 10,000 respondents.

ADDRESSES: Copies of these submissions may be obtained from Ron Taylor, VA Clearance Officer (045A4), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 565–4412.

Comments and recommendations concerning the submissions should be directed to VA's OMB Desk Officer, Allison Eydt, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503, (202) 395–4650. DO NOT send requests for benefits to this address.

DATES: Comments on the information collections should be directed to the OMB Desk Officer by no later than March 27, 1996.

FOR FURTHER INFORMATION CONTACT: Ron Taylor, VA Clearance Officer (045A4), (202) 565–4412.

Dated: February 14, 1996.

By direction of the Secretary.

Donald L. Neilson,

Director, Information Management Service.

[FR Doc. 96–4195 Filed 2–23–96; 8:45 am]

BILLING CODE 8320–01–P

Agency Information Collection: Submission for OMB Review; Comment Request

AGENCY: National Cemetery System, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The National Cemetery System (NCS), Department of Veterans Affairs, has submitted to the Office of Management and Budget (OMB) the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

OMB Number: 2900–0546.

Title and Form Number: Adjacent Gravesite Set-Aside Survey (1 Year), VA Form Letter 40–40.

Type of Information Collection: Extension of a currently approved collection.

Needs and Uses: The information requested by the form letter is needed to determine if individuals holding gravesite set-asides in national cemeteries wish to retain the set-aside and whether their eligibility for the set-aside has been affected.

Affected Public: Individuals or households.

Estimated Annual Burden: 6,334 hours.

Estimated Average Burden Per Respondent: 10 minutes.

Frequency of Response: Annually.

Estimated Number of Respondents: 38,000 respondents.

ADDRESSES: Copies of these submissions may be obtained from Ron Taylor, VA Clearance Officer (045A4), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 565–4412.

Comments and recommendations concerning the submissions should be directed to VA's OMB Desk Officer, Allison Eydt, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503, (202) 395–4650. DO NOT send requests for benefits to this address.

DATES: Comments on the information collections should be directed to the OMB Desk Officer by no later than March 27, 1996.

FOR FURTHER INFORMATION CONTACT: Ron Taylor, VA Clearance Officer (045A4), (202) 565–4412.

Dated: February 14, 1996.

By direction of the Secretary.

Donald L. Neilson,

Director, Information Management Service.

[FR Doc. 96–4194 Filed 2–23–96; 8:45 am]

BILLING CODE 8320–01–P

Sunshine Act Meetings

Federal Register
Vol. 61, No. 38
Monday, February 26, 1996

This section of the FEDERAL REGISTER contains notices of meetings published under the ''Government in the Sunshine Act'' (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

FEDERAL COMMUNICATIONS COMMISSION

FCC To Hold Open Commission Meeting, Thursday, February 29, 1996

The Federal Communications Commission will hold an Open Meeting on the subjects listed below on Thursday, February 29, 1996, which is scheduled to commence at 9:30 a.m., in Room 856, at 1919 M Street, N.W., Washington, D.C.

Item No., Bureau, Subject

1—International—Title: Preemption of Local Zoning Regulation of Satellite Earth Stations/Implementation of Section 207 of the Telecommunications Act of 1996 (IB Docket No. 95–59). Summary: The Commission will consider revisions to its rule preempting certain local zoning regulation of satellite earth station antennas. It also proposes an additional rule preempting private, non-governmental, restrictions that impair reception by satellite antennas less than one meter in diameter.

2—International—Title: Streamlining the International Section 214 Authorization Process and Tariff Requirements (IB Docket No. 95–119). Summary: The Commission will consider streamlining the international Section 214 authorization process and tariff requirements.

3—Office of Engineering and Technology—Title: Amendment of Parts 74, 78 and 101 of the Commission's Rules to Adopt More Flexible Standards for Directional Microwave Antennas. Summary: The Commission will consider proposing to modify the fixed service microwave rules to make them compatible with new emerging technologies for directional antennas.

4—Common Carrier—Title: Federal-State Joint Board on Universal Service. Summary: Pursuant to the Telecommunications Act of 1996, the Commission will consider referring the issue of the definition of ''universal service'' to the Federal State-Joint Board.

Additional information concerning this meeting may be obtained from Audrey Spivack or Maureen Peratino, 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 Service, Inc., at (202) 857–3800. Audio and video tapes of this meeting can be purchased from Telspan International at (301) 731–5355.

Dated: February 22, 1996.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 96–4427 Filed 2–22–96; 2:19 pm]

BILLING CODE 6712–01–P–M

Corrections

Federal Register
Vol. 61, No. 38
Monday, February 26, 1996

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP96–119–001]

Equitrans, L.P.; Notice of Corrected Tariff Sheets Filing

Correction

In notice document 96–3774 appearing on page 6638 in the issue of Wednesday, February 21, 1996, the docket number should read as set forth above.

BILLING CODE 1505–01–D

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP95-11-003]

Williams Natural Gas Company; Notice of Amendment

Correction

In notice document 96–3643 beginning on page 6366 in the issue of Tuesday, February 20, 1996 the Docket number should have appeared as set forth above.

BILLING CODE 1505–01–D

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

24 CFR Part 888

[Docket No. FR–3933–N–03]

Fair Market Rents for the Section 8 Housing Assistance Payments Program—Fiscal Year 1996

Correction

In rule document 96–3763 beginning on page 6690 in the issue of Wednesday, February 21, 1996, make the following correction:

On page 6690, in the third column, in the third paragraph, in the seventh line, ''not'' shoud read ''now''.

BILLING CODE 1505–01–D

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Application

Correction

In notice document 96–3170 beginning on page 5570 in the issue of Tuesday, February 13, 1996, make the following correction:

On page 5571, in the second column, in the seventh line from the top, ''(60 days from publication)'' should read ''April 15, 1996''.

BILLING CODE 1505–01–D

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 1, 25, 36, and 97

[Docket No. 28404; Notice No. 95–17]

RIN 2120–AD40

1–g Stall Speed as the Basis for Compliance with Part 25 of the Federal Aviation Regulations

Correction

In proposed rule document 96–415 beginning on page 1260 in the issue of Thursday, January 18, 1996, make the following corrections:

1. On page 1260, in the second column, under the heading Background, in the first paragraph, in the first line ''(V^2)'' should read ''(Vs)''.

2. On page 1261, in the second column, in the first paragraph, the fifth line from the end of paragraph should read ''g stall speeds to obtain minimum operating speeds equivalent to the speeds that have been found acceptable in ''.

§25.103 [Corrected]

3. On page 1265, in the third column, §25.103(c), in the second line from the bottom, ''patch'' should read ''path''.

BILLING CODE 1505–01–D

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 8632]

RIN 1544-AM00

Section 482 Cost Sharing Regulations

Correction

In rule document 95–30617 beginning on page 65553 in the issue of Wednesday, December 20, 1995, make the following correction:

§ 1.482-0 [Corrected]

1. On page 65557, in the 2d column, in § 1.482-0, the 24th line should read ''(d) Costs.''.

2. On the same page, in the 3d column, in the same section, the 22d line should read ''(8) Examples.''.

BILLING CODE 1505–01–D

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 8647]

RIN 1545-AS51

Withholding of Tax on Dispositions of U.S. Real Property Interests by Foreign Persons

Correction

In rule document 95–30871 beginning on page 66076 in the issue of Thursday, December 21, 1995, make the following correction:

§ 1.1445-5 [Corrected]

On page 66077, in § 1.1445-5(c)(1)(iii)(B), in the table, in the last column, in the first and last entries replace the leaders with ''-0-''.

BILLING CODE 1505–01–D

federal register

Monday
February 26, 1996

Part II

Office of Management and Budget

Cumulative Report on Rescissions and Deferrals; Notice

OFFICE OF MANAGEMENT AND BUDGET

Cumulative Report on Rescissions and Deferrals

February 1, 1996.

This report is submitted in fulfillment of the requirement of Section 1014(e) of the Congressional Budget and Impoundment Control Act of 1974 (Public Law 93–344). Section 1014(e) requires a monthly report listing all budget authority for the current fiscal year for which, as of the first day of the month, a special message had been transmitted to Congress.

This report gives the status, as of February 1, 1996, of three deferrals contained in one special message for FY 1996. This message was transmitted to Congress on October 19, 1995.

Rescissions

As of February 1, 1996, no rescission proposals were pending before the Congress.

Deferrals (Attachments A and B)

As of February 1, 1996, $113.2 million in budget authority was being deferred from obligation. Attachment B shows the status of each deferral reported during FY 1996.

Information From Special Message

The special message containing information on the deferrals that are covered by this cumulative report is printed in the Federal Register cited below:

60 FR 55154, Friday, October 27, 1995

Alice M. Rivlin,

Director.

Attachments

BILLING CODE 3110–01–P

ATTACHMENT A

STATUS OF FY 1996 DEFERRALS
(in millions of dollars)

	Budgetary Resources
Deferrals proposed by the President.....	122.8
Routine Executive releases through February 1, 1996... (OMB/Agency releases of $9.6 million, partially offset by cumulative positive adjustment of $4 thousand.)	-9.6
Overturned by the Congress.....	---
Currently before the Congress.....	113.2

ATTACHMENT B
Status of FY 1996 Deferrals - As of February 1, 1996
(Amounts in thousands of dollars)

Agency/Bureau/Account	Deferral Number	Amounts Transmitted: Original Request	Amounts Transmitted: Subsequent Change (+)	Date of Message	Releases(-): Cumulative OMB/ Agency	Releases(-): Congressionally Required	Congressional Action	Cumulative Adjustments (+)	Amount Deferred as of 2-1-96
FUNDS APPROPRIATED TO THE PRESIDENT									
International Security Assistance									
Economic support fund and International Fund for Ireland	D96-1	75,000		10-19-95	9,616			4	65,388
DEPARTMENT OF STATE									
Other									
United States emergency refugee and migration assistance fund	D96-3	40,486		10-19-95					40,486
SOCIAL SECURITY ADMINISTRATION									
Limitation on administrative expenses	D96-2	7,321		10-19-95					7,321
TOTAL, DEFERRALS		**122,807**	**0**		**9,616**			**4**	**113,194**

[FR Doc. 96–4174 Filed 2–23–96; 8:45 am]
BILLING CODE 3110–01–C

federal register

Monday
February 26, 1996

Part III

Department of Energy

10 CFR Part 600

Financial Assistance Rules; Regulatory Reduction; Final Rule

DEPARTMENT OF ENERGY

10 CFR Part 600

RIN 1991–AB23

Financial Assistance Rules; Regulatory Reduction

AGENCY: Department of Energy.

ACTION: Final rule.

SUMMARY: The Department of Energy (DOE) today issues a final rule to amend its Financial Assistance Rules (Rules) to streamline, simplify, and improve the DOE financial assistance process. The rules have been rewritten to eliminate coverage that is unnecessary and to retain only that coverage that is considered suitable for a regulation.

EFFECTIVE DATE: This final rule will be effective March 27, 1996.

FOR FURTHER INFORMATION CONTACT: Cherlyn D. Seckinger, Office of Policy (HR–51) Office of Procurement and Assistance Management, Department of Energy, 1000 Independence Avenue SE., Washington, D.C. 20585 (202) 586–8246.

SUPPLEMENTARY INFORMATION:

I. Background
II. Discussion of Changes to the Proposed Rule
III. Review Under Executive Order 12612
IV. Regulatory Review
V. Review Under the Regulatory Flexibility Act
VI. Review Under the Paperwork Reduction Act
VII. Review Under the National Environmental Policy Act
VIII. Review Under Executive Order 12778

I. Background

In the August 8, 1995 issue of the Federal Register (60 FR 40323), DOE published a proposed rule to amend its financial assistance rules by revising Subpart A to simplify and streamline the financial assistance process in keeping with Departmental and Government-wide initiatives to improve the way the Department does business. The changes that are published today with minor modifications primarily affect DOE internal procedures contained in Subpart A pertaining to the solicitation, evaluation, and award processes, and have little or no impact on requirements applicable to applicants and recipients of DOE financial assistance. In most instances, the amended rule omits detailed internal procedures for DOE officials, and instead establishes standards or basic requirements that are of primary interest to members of the public. Also, the patent, data and copyright provisions in Subparts A and B have been updated to reflect the recent changes in the Department of Energy Acquisition Regulations and to clarify how the Intangible Property provisions in Section 600.136 of Subpart B apply to commercial organizations.

This rulemaking is part of DOE's ongoing efforts to streamline its regulatory systems and re-engineer its business processes. In June 1995, the Secretary of Energy Advisory Board's Task Force on Strategic Energy Research and Development issued a report on the Department's energy research and development programs. Consistent with the recommendations provided in this report, the Department currently is examining the activities, processes, and burdens associated with awarding and administering all nonlaboratory research and development contracts and financial assistance awards. As recommendations for conducting these activities more efficiently and effectively are developed, it is possible the Department will propose further revisions to its Financial Assistance Rules.

II. Discussion of Changes to the Proposed Rule

No public comments were received in response to the Notice of Proposed Rulemaking. However, DOE has made non-substantive modifications to the proposed rule. Those modifications deserving explanation are described below. The rule has also been amended to make some minor technical changes to correct and update citations and cross-references.

First, the definition of ''project'' will be retained in Section 600.3, *Definitions.* The reason for retaining it is that the term ''project'' is a basic financial assistance term of art.

Second, it appears that the unsolicited proposal criteria contained in the existing rule at 600.14(e) were not included in the new Section 600.6, *Eligibility,* contrary to what was stated in the preamble of the proposed rule. While not specifically identified as unsolicited proposal criteria, one of the criteria for justifying noncompetitive financial assistance under Section 600.6(c)(7) provides the basis for acceptance of an unsolicited proposal. The criterion states that a proposed project must be a unique or innovative idea, method, or approach which would not be eligible for financial assistance under a recent, current, or planned solicitation, and must be inappropriate for a competitive solicitation. For purposes of clarification, we have added the term ''unsolicited proposals'' in Section 600.6(c)(7) in this criterion.

Third, the address for obtaining the guide on preparation and submission of unsolicited applications has been included in the rule under Section 600.10, *Form and content of applications.* Since DOE is moving toward the electronic submission of applications, the requirement in section 600.10(d) for a ''signed application'' has been revised. The first complete sentence in Section 600.10(d) now reads ''DOE may return an application which is not signed, either in writing or electronically, by an official authorized to bind the applicant.'' Section 600.16, *Legal authority and effect of an award,* has been revised similarly in order to permit the use of an electronic process. The requirement to send a written review summary to an applicant, upon request, in Section 600.13(c), *Merit review,* has been deleted because it duplicates the requirement in Section 600.19, *Notification to unsuccessful applicants.* Section 600.19 requires DOE to provide an applicant who is not selected for award a written notice which briefly explains why the application was not selected and offers the applicant the opportunity for a more detailed explanation upon request. Because the requirement in Section 600.19 systematically provides information to an unsuccessful applicant, we have retained that coverage, but deleted the notification requirement under merit review. Section 600.29(b)(1) has been rewritten to clarify that each fixed obligation award may *neither* exceed $100,000 nor exceed one year in length. As proposed, it could be interpreted to be *either/or.*

The existing DOE financial assistance rules applied cost sharing requirements only to cooperative agreements based on the Federal Nonnuclear Energy Research and Development Act. Since then the Energy Policy Act of 1992 was enacted which also requires cost sharing for research, development and demonstration projects carried out under this Act. The proposed rule extended cost sharing requirements to grants as a way of leveraging Federal funds in times of declining budgets. While today's final rule retains this cost sharing policy, it allows for exceptions to meet specific programmatic needs or requirements on a single-case or class basis with the approval of the cognizant program Assistant Secretary or designee.

III. Review Under Executive Order 12612

Executive Order 12612 requires that regulations, rules, legislation, and any other policy actions be reviewed for any substantial effects on States, on the relationship between the Federal Government and the States, or in the distribution of power and

responsibilities among various levels of Government.

If there are sufficient substantial direct effects, then the Executive Order requires preparation of a federalism assessment to be used in all decisions involved in promulgating and implementing a policy action. Today's rule revises certain policy and procedural requirements. However, DOE has determined that this rulemaking will not have a substantial direct effect on the institutional interests or traditional functions of States.

IV. Regulatory Review

Today's regulatory action has been determined not to be a ''significant regulatory action'' under Executive Order 12866, ''Regulatory Planning and Review,'' (58 FR 51735, October 4, 1993). Accordingly, today's action was not subject to review under the Executive Order by the Office of Information and Regulatory Affairs.

V. Review Under the Regulatory Flexibility Act

This rule was reviewed under the Regulatory Flexibility Act of 1980, Public Law 96–354, 94 Stat. 1164, which requires preparation of a regulatory flexibility analysis for any regulation that will have a significant economic impact on a substantial number of small entities, i.e., small businesses, small organizations, and small governmental jurisdictions. DOE has concluded that the rule only affects small entities as they apply for and receive financial assistance, and does not create additional economic impact on small entities as a whole. DOE certifies that this rule would not have a significant economic impact on a substantial number of small entities and, therefore, no regulatory flexibility analysis has been prepared.

VI. Review Under the Paperwork Reduction Act

No information collection or recordkeeping requirements are imposed upon the public by this rulemaking. Accordingly, no OMB clearance is required under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501, *et seq.*, or OMB implementing regulations at 5 CFR Part 1320.

VII. Review Under the National Environmental Policy Act

DOE has concluded that this rule falls into a class of actions (categorical exclusions A5) that are categorically excluded from National Environmental Policy Act (NEPA) review because they would not individually or cumulatively have significant impact on the human environment, as determined by the Department's regulations (10 CFR Part 1021, Subpart D) implementing the National Environmental Policy Act of 1969 (42 U.S.C. 4321, 4331–4335, 4341–4347 (1976)). Therefore, this rule does not require an environmental impact statement or an environmental assessment pursuant to NEPA.

VIII. Review Under Executive Order 12778

Section 2 of Executive Order 12778 instructs each agency to adhere to certain requirements in promulgating new regulations and reviewing existing regulations. These requirements, set forth in sections 2 (a) and (b)(2), include eliminating drafting errors and needless ambiguity, drafting the regulations to minimize litigation, providing clear and certain legal standards for affected conduct, and promoting simplification and burden reduction. Agencies are also instructed to make every reasonable effort to ensure that the regulation specifies clearly any preemptive effect, effect on existing Federal law or regulation, and retroactive effect; describes any administrative proceedings to be available prior to judicial review and any revisions for the exhaustion of such administrative proceedings, and defines the terms. DOE certifies that today's rule meets the requirements of sections 2 (a) and (b) of Executive Order 12778.

List of Subjects in 10 CFR Part 600

Accounting; Administrative practice and procedure; Government contracts; Grant programs, Indians, Intergovernmental relations; Loan programs, Lobbying; Penalties; Reporting and recordkeeping requirements.

Richard H. Hopf,

Deputy Assistant Secretary for Procurement and Assistance Management.

For the reasons set out in the preamble, Part 600 of Chapter II, Title 10 of the Code of Federal Regulations is amended as set forth below:

PART 600—FINANCIAL ASSISTANCE RULES

1. The authority citation for Part 600 continues to read as follows:

Authority: Secs. 644 and 646, Pub. L. 95–91, 91 Stat. 599 (42 U.S.C. 7254 and 7256); Pub. L. 97–258, 96 Stat. 1003–1005 (31 U.S.C. 6301–6308), unless otherwise noted.

Subpart D—[Removed and Reserved]

2. The existing Subpart D Cooperative Agreements (§§ 600.300 through 600.307) is removed and reserved.

Part 600 is further amended as set forth below:

§ 600.112 [Amended]

3. Section 600.112(c) is amended by revising the parenthetical phrase ''(see § 600.31 (b) and (c))'' to read ''(see § 600.26 (b) and (c)).''

4. Section 600.136 is revised to read as follows:

§ 600.136 Intangible property.

(a) Recipients that are institutions of higher education, hospitals, and other non-profit organizations are subject to the following:

(1) The recipient may copyright any work that is subject to copyright and was developed, or for which ownership was purchased, under an award. DOE reserves a royalty-free, nonexclusive and irrevocable right to reproduce, publish or otherwise use the work for Federal purposes, and to authorize others to do so.

(2) Recipients are subject to applicable regulations governing patents and inventions. (See 10 CFR 600.27)

(3) DOE has the right to:

(i) Obtain, reproduce, publish or otherwise use the data first produced under an award.

(ii) Authorize others to receive, reproduce, publish, or otherwise use such data for Federal purposes.

(4) Title to intangible property and debt instruments acquired under an award or subaward vests upon acquisition in the recipient. The recipient shall use that property for the originally-authorized purpose, and the recipient shall not encumber the property without approval of DOE. When no longer needed for the originally authorized purpose, disposition of the intangible property shall occur in accordance with the provisions of § 600.134(g).

(b) Recipients that are commercial entities shall follow the provisions set forth at 10 CFR 600.27.

§ 600.204 [Amended]

5. In § 600.204 revise ''§ 600.405'' to read ''§ 600.205''.

§ 600.221 [Amended]

6. In § 600.221(g)(2) revise ''§ 600.443(c)'' to read ''§ 600.243(c)''.

§ 600.224 [Amended]

7. In § 600.224(b)(4) revise ''§ 600.425(g) to read ''§ 600.225(g)''.

8. In § 600.224(e)(2)(ii) revise ''§ 600.422'' to read ''§ 600.222''.

§ 600.225 [Amended]

9. In paragraph (e) of § 600.225, revise ''§ 600.434'' to read ''§ 600.234''.

10. In paragraph (f) of § 600.225, revise ''§§ 600.431 and 600.432'' to read ''§§ 600.231 and 600.232''.

§ 600.226 [Amended]

11. In paragraph (c) of § 600.226 revise ''§ 600.436'' to read ''§ 600.236''.

§ 600.230 [Amended]

12. In paragraph (b) of § 600.230 revise the parenthetical expression ''(see § 600.422)'' to read ''(see § 600.222)''.

13. In § 600.230(d)(4) revise ''§ 600.436'' to read ''§ 600.236''.

14. In § 600.230(f)(2) revise ''§ 600.422'' to read ''§ 600.222''.

§ 600.232 [Amended]

15. In § 600.232(c)(3) revise ''§ 600.425(a)'' to read ''§ 600.225(a)''.

16. In § 600.232((g)(2) revise ''§ 600.432(e)'' to read ''§ 600.232(e)''.

§ 600.236 [Amended]

17. In paragraph (c) introductory text of § 600.236, revise ''§ 600.436'' to read ''§ 600.236''.

18. In § 600.236(d)(2) revise ''§ 600.436(d)(2)(i)'' to read ''§ 600.236(d)(2)(i)''.

§ 600.237 [Amended]

19. In § 600.237(a)(3) revise ''§ 600.442'' to read ''§ 600.242''.

20. In § 600.237(c) revise ''§ 600.410'', ''§ 600.411'', ''§ 600.421'', and ''§ 600.450'' to read ''§ 600.210'', ''§ 600.211'', ''§ 600.221'', and ''§ 600.250'' respectively.

§ 600.241 [Amended]

21. In paragraph (b) of § 600.241 revise ''§ 600.441(e)(2)(iii)'' to read ''§ 600.241(e)(2)(iii)''.

22. In § 600.241(e)(1)(i) revise ''§ 600.441(d)'' to read ''§ 600.241(d)''.

23. In § 600.241(e)(1)(ii) revise ''§ 600.441(b)(3)'' to read ''§ 600.241(b)(3)''.

24. In § 600.241(e)(2)(ii) revise ''§ 600.41(d)'' to read ''§ 600.241(d)''.

25. In § 600.241(e)(2)(iii) revise ''§ 600.441(b)'' to read ''§ 600.241(b)''.

26. In § 600.241(e)(3) revise ''§ 600.441(b)(2)'' to read ''§ 600.241(b)(2)''.

§ 600.243 [Amended]

27. In paragraph (d) of § 600.243, revise the parenthetical expression ''(see § 600.435)'' to read ''(see § 600.235)''.

§ 600.244 [Amended]

28. In paragraph (b) of § 600.244, revise ''§ 600.443'' to read ''§ 600.243''.

§ 600.250 [Amended]

29. In § 600.250(b)(5) revise ''§ 600.432(f)'' to read ''§ 600.232(f)''.

§ 600.251 [Amended]

30. In § 600.251 (c) revise ''§ 600.442'' to ''§ 600.242''.

31. In paragraph (d) of § 600.251 revise ''§§ 600.431 and 600.432'' to read ''§§ 600.231 and 600.232''.

32. In paragraph (e) of § 600.251 revise ''§ 600.426'' to read ''§ 600.226''.

§ 600.402 [Amended]

33. § 600.402 is amended in paragraph (d) by revising ''§§ 600.25, 600.153, 600.242, and 600.305'' to read ''§§ 600.21, 600.153, and 600.242''.

§ 600.403 [Amended]

34. In paragraph (c), of § 600.403 revise ''§§ 600.126, 600.226, and 600.305'' to read ''§§ 600.126 and 600.226''.

§ 600.405 [Amended]

35. In § 600.405(b)(2)(ii)(C), revise ''§ 600.424 of subpart E'' to read ''§ 600.224 of subpart C''.

§ 600.415 [Amended]

36. Section 600.415 is amended, in the first sentence, by revising ''§ 600.436 of subpart E'' to read ''§ 600.236 of subpart C''.

Part 600 is further amended as set forth below:

37. Subpart A is revised to read as follows:

Subpart A—General

Sec.
600.1 Purpose.
600.2 Applicability.
600.3 Definitions.
600.4 Deviations.
600.5 Selection of award instrument.
600.6 Eligibility.
600.7 Small and disadvantaged and women-owned business participation.
600.8 Solicitation.
600.9 Notice of program interest.
600.10 Form and content of applications.
600.11 Intergovernmental review.
600.12 Generally applicable requirements.
600.13 Objective merit review.
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600.15 Authorized uses of information.
600.16 Legal authority and effect of an award.
600.17 Contents of award.
600.18 Recipient acknowledgement of award.
600.19 Notification to unsuccessful applicants.
600.20 Maximum DOE obligation.
600.21 Access to records.
600.22 Disputes and appeals.
600.23 Debarment and suspension.
600.24 Noncompliance.
600.25 Suspension and termination.
600.26 Funding.
600.27 Patent and data provisions.
600.28 Restrictions on lobbying.
600.29 Fixed obligation awards.
600.30 Cost sharing.

Subpart A—General

§ 600.1 Purpose.

This part implements the Federal Grant and Cooperative Agreement Act, Pub. L. 95–224, as amended by Pub. L. 97–258 (31 U.S.C. 6301–6308), and establishes uniform policies and procedures for the award and administration of DOE grants and cooperative agreements. This subpart (Subpart A) sets forth the policies and procedures applicable to the award and administration of grants and cooperative agreements.

§ 600.2 Applicability.

(a) Except as otherwise provided by Federal statute or program rule, this part applies to applications, solicitations, and new, continuation, and renewal awards (and any subsequent subawards).

(b) Any new, continuation, or renewal award (and any subsequent subaward) shall comply with any applicable Federal statute, Federal rule, Office of Management and Budget (OMB) Circular and Governmentwide guidance in effect as of the date of such award.

(c) Financial assistance to foreign entities is governed, to the extent appropriate, by this part and by the administrative requirements and cost principles applicable to their respective recipient type, e.g, governmental, non-profit, commercial.

§ 600.3 Definitions.

Amendment means the written document executed by a DOE contracting officer that changes one or more terms or conditions of an existing financial assistance award.

Award means the written document executed by a DOE Contracting Officer, after an application is approved, which contains the terms and conditions for providing financial assistance to the recipient.

Budget period means the interval of time, specified in the award, into which a project is divided for budgeting and funding purposes.

Continuation award means an award for a succeeding or subsequent budget period after the initial budget period of either an approved project period or renewal thereof.

Contract means a written procurement contract executed by a recipient or subrecipient for the acquisition of property or services under a financial assistance award.

Contracting Officer means the DOE official authorized to execute awards on behalf of DOE and who is responsible for the business management and non-program aspects of the financial assistance process.

DOE Patent Counsel means the Department of Energy Patent Counsel assisting the Contracting Officer in the review and coordination of patents and data related items.

Financial Assistance means the transfer of money or property to a recipient or subrecipient to accomplish a public purpose of support or stimulation authorized by Federal statute. For purposes of this part, financial assistance instruments are grants and cooperative agreements and subawards.

Head of Contracting Activity or HCA means a DOE official with senior management authority for the award and administration of financial assistance instruments within one or more DOE organizational elements.

Nonprofit organization means any corporation, trust, foundation, or institution which is entitled to exemption under section 501(c)(3) of the Internal Revenue Code, or which is not organized for profit and no part of the net earnings of which inure to the benefit of any private shareholder or individual (except that the definition of ''nonprofit organization'' at 48 CFR 27.301 shall apply to the use of the patent clause at Section 600.27).

Objective merit review means a thorough, consistent and independent examination of applications based on pre-established criteria by persons knowledgeable in the field of endeavor for which support is requested.

Program rule means a rule issued by a DOE program office for the award and administration of financial assistance which may describe the program's purpose or objectives, eligibility requirements for applicants, types of program activities or areas to be supported, evaluation and selection process, cost sharing requirements, etc. These rules usually supplement the generic policies and procedures for financial assistance contained in this part.

Project means the set of activities described in an application, State plan, or other document that is approved by DOE for financial assistance (whether such financial assistance represents all or only a portion of the support necessary to carry out those activities.)

Project period means the total period of time indicated in an award during which DOE expects to provide financial assistance. A project period may consist of one or more budget periods and may be extended by DOE.

Recipient means the organization, individual, or other entity that receives an award from DOE and is financially accountable for the use of any DOE funds or property provided for the performance of the project, and is legally responsible for carrying out the terms and conditions of the award.

Renewal award means an award which adds one or more additional budget periods to an existing project period.

Research and development means all research activities, both basic and applied, and all development activities that are supported at universities, colleges, and other non-profit institutions and commercial organizations. ''Research'' is defined as a systematic study directed toward fuller scientific knowledge or understanding of the subject studied. The term research also includes activities involving the training of individuals in research techniques where such activities utilize the same facilities as other research and development activities and where such activities are not included in the instruction function. ''Development'' is the systematic use of knowledge and understanding gained from research directed toward the production of useful materials, devices, systems, or methods, including design and development of prototypes and processes.

§ 600.4 Deviations.

(a) General. (1) A deviation is the use of any policy, procedure, form, standard, term, or condition which varies from a requirement of this part, or the waiver of any such requirement, unless such use or waiver is authorized or precluded by Federal statute. The use of optional or discretionary provisions of this part, including special restrictive conditions used in accordance with §§ 600.114 and 600.212, are not deviations. Awards to foreign entities and the waiver of the cost sharing requirements in § 600.30 or the patent requirements of § 600.27 are not subject to this section.

(2) A single-case deviation is a deviation which applies to one financial assistance transaction and one applicant, recipient, or subrecipient only.

(3) A class deviation is a deviation which applies to more than one financial assistance transaction, applicant, recipient, or subrecipient.

(b) The DOE officials specified in paragraph (c) of this section may authorize a deviation only upon a written determination that the deviation is—

(1) Necessary to achieve program objectives;

(2) Necessary to conserve public funds;

(3) Otherwise essential to the public interest; or

(4) Necessary to achieve equity.

(c) Approval procedures. (1) A deviation request must be in writing and must be submitted to the responsible DOE Contracting Officer. An applicant for a subaward or a subrecipient shall submit any such request through the recipient.

(2) Except as provided in paragraph (c)(3) of this section—

(i) A single-case deviation may be authorized by the responsible HCA. Any proposed single-case deviation from the requirements of § 600.27 concerning patents or data shall be referred to the DOE Patent Counsel for review and concurrence prior to submission to the HCA.

(ii) A class deviation may be authorized by the Deputy Assistant Secretary for Procurement and Assistance Management or designee. Any proposed class deviation from the requirements of § 600.27 concerning patents or data shall be forwarded through the Assistant General Counsel for Technology Transfer and Intellectual Property or designee.

(3) Whenever the approval of OMB, other Federal agency, or other DOE office is required to authorize a deviation, the proposed deviation must be submitted to the Deputy Assistant Secretary for Procurement and Assistance Management or designee for concurrence prior to submission to the authorizing official.

(d) Notice. Whenever a request for a class deviation is approved, DOE shall publish a notice in the Federal Register at least 15 days before the class deviation becomes effective. Whenever a class deviation is contained in a proposed program rule, the preamble to the proposed rule shall describe the purpose and scope of the deviation.

(e) Subawards. A recipient may use a deviation in a subaward only with the prior written approval of a DOE Contracting Officer.

§ 600.5 Selection of award instrument.

(a) If DOE has administrative discretion in the selection of the award instrument, the DOE decision as to whether the relationship is principally one of procurement or financial assistance shall be made pursuant to the Federal Grant and Cooperative Agreement Act as codified at 31 U.S.C. 6301–6306. A grant or cooperative agreement shall be the appropriate instrument, in accordance with this part, when the principal purpose of the relationship is the transfer of money or property to accomplish a public purpose of support or stimulation authorized by Federal statute. In selecting the type of financial assistance instrument, DOE

shall limit involvement between itself and the recipient in the performance of a project to the minimum necessary to achieve DOE program objectives.

(b) When it is anticipated that substantial involvement will be necessary between DOE and the recipient during performance of the contemplated activity, the award instrument shall be a cooperative agreement rather than a grant. Every cooperative agreement shall explicitly state the substantial involvement anticipated between DOE and the recipient during the performance of the project. Substantial involvement exists if:

(1) Responsibility for the management, control, or direction of the project is shared by DOE and the recipient; or

(2) Responsibility for the performance of the project is shared by DOE and the recipient.

(c) Providing technical assistance or guidance of a programmatic nature to a recipient does not constitute substantial involvement if:

(1) the recipient is not required to follow such guidance;

(2) the technical assistance or guidance is not expected to result in continuing DOE involvement in the performance of the project; or

(3) The technical assistance or guidance pertains solely to the administrative requirements of the award.

(d) In cooperative agreements, DOE has the right to intervene in the conduct or performance of project activities for programmatic reasons. Intervention includes the interruption or modification of the conduct or performance of project activities. Suspension or termination of the cooperative agreement under §§ 600.162 and 600.243 does not constitute intervention in the conduct or performance of project activities.

§ 600.6 Eligibility.

(a) General. DOE shall solicit applications for financial assistance in a manner which provides for the maximum amount of competition feasible.

(b) Restricted eligibility. If DOE restricts eligibility, an explanation of why the restriction of eligibility is considered necessary shall be included in the solicitation, program rule, or published notice. Except when authorized by statute or program rule, if the aggregate amount of DOE funds available for award under a solicitation or published notice is $1,000,000 or more, such restriction of eligibility shall be supported by a written determination initiated by the program office and approved by an official no less than two levels above the initiating program official and concurred in by the Contracting Officer and legal counsel. Where the amount of DOE funds is less than $1,000,000, the cognizant HCA and the Contracting Officer may approve the determination.

(c) Noncompetitive financial assistance. DOE may award a grant or cooperative agreement on a noncompetitive basis only if the application satisfies one or more of the following selection criteria:

(1) The activity to be funded is necessary to the satisfactory completion of, or is a continuation or renewal of, an activity presently being funded by DOE or another Federal agency, and for which competition for support would have a significant adverse effect on continuity or completion of the activity.

(2) The activity is being or would be conducted by the applicant using its own resources or those donated or provided by third parties; however, DOE support of that activity would enhance the public benefits to be derived and DOE knows of no other entity which is conducting or is planning to conduct such an activity.

(3) The applicant is a unit of government and the activity to be supported is related to performance of a governmental function within the subject jurisdiction, thereby precluding DOE provision of support to another entity.

(4) The applicant has exclusive domestic capability to perform the activity successfully, based upon unique equipment, proprietary data, technical expertise, or other such unique qualifications.

(5) The award implements an agreement between the United States Government and a foreign government to fund a foreign applicant.

(6) Time constraints associated with a public health, safety, welfare or national security requirement preclude competition.

(7) The proposed project was submitted as an unsolicited proposal and represents a unique or innovative idea, method, or approach which would not be eligible for financial assistance under a recent, current, or planned solicitation, and if, as determined by DOE, a competitive solicitation would not be appropriate.

(8) The responsible program Assistant Secretary (or official of equivalent authority), with the approval of the Deputy Assistant Secretary for Procurement and Assistance Management, determines that a noncompetitive award is in the public interest. This authority may not be delegated.

(d) Approval requirements. Determinations of noncompetitive awards shall be approved, prior to award, by the initiating program official, by the responsible program Assistant Secretary (or official of equivalent authority) or designee, who shall be not less than two organizational levels above that of the project officer, by the Contracting Officer and shall be concurred in by local legal counsel. Where the amount of DOE funds is less than $1,000,000 for a noncompetitive financial assistance award, the determination shall be approved by the cognizant HCA and the Contracting Officer. Concurrence for a particular award or class of awards of $1,000,000 or less may be waived by local legal counsel.

(e) Documentation requirements. A determination of noncompetitive financial assistance (normally prepared by the responsible program official) explaining the basis for the proposed noncompetitive award shall be placed in the award file.

§ 600.7 Small and disadvantaged and women-owned business participation.

(a) DOE encourages the participation in financial assistance awards of small businesses, including those owned by socially and economically disadvantaged individuals and women, of historically black colleges, and of colleges and universities with substantial minority enrollments.

(b) For definitions of the terms in paragraph (a) of this section, see the Higher Education Act of 1965, and 15 U.S.C. 644, as amended by the Federal Acquisition Streamlining Act (FASA), and implementing regulations under FASA issued by the Office of Federal Procurement Policy.

(c) When entering into contracts under financial assistance awards, recipients and subrecipients shall comply with the requirements of Section 600.144 or Section 600.236, as applicable.

§ 600.8 Solicitation.

(a) General. A solicitation for financial assistance applications shall be in the form of a program rule or other publicly available document which invites the submission of applications by a common due date or within a prescribed period of time.

(1) A Program Assistant Secretary (or official of equivalent authority) may annually issue a program notice describing research areas in which financial assistance is being made available. Such notice shall also state

whether the research areas covered by the notice are to be added to those listed in a previously issued program rule. If they are to be included, then applications received as a result of the notice may be treated as having been in response to that previously published program rule. If they are not to be included, then applications received in response to the notice are to be treated as unsolicited applications. Solicitations may be issued by a DOE Contracting Officer or program office with prior concurrence of the contracting office.

(2) DOE shall publish either a copy or a notice of the availability of a financial assistance solicitation in the Federal Register. DOE shall publish solicitations or notices in the Commerce Business Daily when potential applicants include for-profit organizations or when there is the potential for significant contracting opportunities under the resulting financial assistance awards.

(b) Subawards. In accordance with the provisions of the applicable statute and program rules, if a DOE financial assistance program involves the award of financial assistance by a recipient to a subrecipient, the recipient shall provide sufficient advance notice so that potential subrecipients may prepare timely applications and secure prerequisite reviews and approvals.

(c) Contents of solicitation. Each solicitation shall provide information as may be necessary to allow potential applicants to decide whether to submit an application, to understand how applications will be evaluated, and to know what the obligations of a recipient would be. At a minimum, each solicitation must include:

(1) A control number assigned by the issuing DOE office;

(2) The amount of money available for award and, if appropriate, the expected size of individual awards broken down by areas of priority or emphasis, and the expected number of awards;

(3) The type of award instrument or instruments to be used;

(4) The Catalog of Federal Domestic Assistance number for the program;

(5) Who is eligible to apply;

(6) The expected duration of DOE support or the period of performance;

(7) An application form or the format to be used, location for application submission, and number of copies required;

(8) The name of the responsible DOE Contracting Officer (or, for program notices or solicitations issued by the program office, the program office contact) to contact for additional information, and, as appropriate, an address where application forms may be obtained;

(9) Whether loans are available under the DOE Minority Economic Impact (MEI) loan program, 10 CFR part 800, to finance the cost of preparing a financial assistance application, and, if MEI loans are available, a general description of the eligibility requirements for such a loan, a reference to Catalog of Federal Domestic Assistance Number 81.063, and the name and address of the DOE office from which additional information and loan application forms can be obtained;

(10) Appropriate periods or due dates for submission of applications and a statement describing the consequences of late submission. If programs have established a series of due dates to allow for the comparison of applications against each other, these dates shall be indicated in the solicitation;

(11) The types of projects or activities eligible for support;

(12) Evaluation criteria and the weight or relative importance of each, which may include one or more of the following or other criteria, as appropriate:

(i) Qualifications of the applicant's personnel who will be working on the project;

(ii) Adequacy of the applicant's facilities and resources;

(iii) Cost-effectiveness of the project;

(iv) Adequacy of the project plan or methodology;

(v) Management capability of the applicant;

(vi) Sources of financing available to the project. Any requirement concerning cost sharing shall be clearly stated (See also § 600.30, Cost Sharing). Cost sharing is generally encouraged. However, unless cost sharing is required by the solicitation, it shall not be considered in the evaluation process and shall be considered only at the time the award is negotiated.

(vii) Relationship of the proposed project to the objectives of the solicitation;

(13) A listing of program policy factors, if any, indicating the relative importance of each, if appropriate. Examples of program policy factors are:

(i) Geographic distribution;

(ii) Diverse types and sizes of applicant entities;

(iii) A diversity of methods, approaches, or kinds of work; and

(iv) Projects which are complementary to other DOE programs or projects;

(14) References to or copies of:

(i) Statutory authority for the program;

(ii) Applicable rules, including the appropriate subparts of this part;

(iii) Other terms and conditions applicable to awards to be made under the solicitation, including allowable and unallowable costs and reporting requirements;

(iv) Policies and procedures for patents, data, copyrights, audiovisual productions and exhibits;

(v) Any required assurances not included in the application form;

(15) The deadline for submission of required or optional preapplications;

(16) Date, time, and location of any briefing for applicants;

(17) Required presubmission reviews and clearances, including a statement as to whether review under E.O. 12372, ''Intergovernmental Review of Federal Programs'', is required.

(18) Dates by which selections and awards are expected to be made and whether unsuccessful applications will be returned to the applicant or be retained by DOE and for what period of time;

(19) A statement that DOE is under no obligation to pay for any costs associated with preparation or submission of applications if an award is not made. If an award is made, such costs may be allowable as provided in the applicable cost principles (See §§ 600.127 and 600.222);

(20) A statement that DOE reserves the right to fund, in whole or in part, any, all, or none of the applications submitted in response to the solicitation; and

(21) Any other relevant information, including explanatory information or factual basis for justifications required by this part.

§ 600.9 Notice of program interest.

(a) General. (1) DOE may publish periodic Notices of Program Interest in the Federal Register and other media, as appropriate, which describes broad, general, technical problems and areas of investigation for which DOE may award grants or cooperative agreements.

(2) DOE shall evaluate any application submitted under a Notice of Program Interest as an unsolicited application.

(b) Contents. The notice shall include:

(1) A brief description of the areas of interest for which DOE may provide financial assistance;

(2) A statement about how resulting applications will be evaluated and the criteria for selection and funding;

(3) An expiration date with an explanation that such a date does not represent a common deadline for applications but rather that applications may be submitted at any time before the notice expires; and

(4) The location for application submission.

§ 600.10 Form and content of applications.

(a) General. Applications shall be required for all financial assistance projects or programs.

(b) Forms. Applications shall be on the form or in the format and in the number of copies specified in a program rule, in the solicitation, or in these regulations. (See also §§ 600.112 and 600.210.) For unsolicited applications, a guide for preparation and submission is available from Field/Headquarters Support Division, Office of Procurement and Assistance Management, Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585.

(c) Contents of an application. In general, a financial assistance application shall include:

(1) A facesheet containing basic identifying information. The facesheet shall be the Standard Form (SF)424 or other approved DOE application form;

(2) A detailed narrative description of the proposed project, including the objectives of the project and the applicant's plan for carrying it out;

(3) A budget with supporting justification; and

(4) Any required preaward assurances.

(d) Incomplete applications. DOE may return an application that:

(1) Is not signed, either in writing or electronically, by an official authorized to bind the applicant; or

(2) Omits any information or documentation required by statute, program rule, or the solicitation, if the nature of the omission precludes review of the application.

(e) Supplemental information. During the review of a complete application, DOE may request the submission of additional information only if the information is essential to evaluate the application.

§ 600.11 Intergovernmental review.

Intergovernmental review of DOE financial assistance shall be conducted in accordance with 10 CFR part 1005.

§ 600.12 Generally applicable requirements.

(a) Except as expressly exempted by Federal statute or program rule, recipients and subrecipients of DOE financial assistance shall comply with all generally applicable requirements to which they are subject. Generally applicable requirements include, but are not limited to, the requirements of this part, Federal statutes, the OMB Circulars and other Governmentwide guidance implemented by this part, Executive Orders, and the requirements identified in appendix A of this part.

(b) Provisions shall be made to design and construct all buildings, in which DOE funds are used, to meet appropriate seismic design and construction standards. Seismic codes and standards meeting or exceeding the provisions of each of the model codes listed in this paragraph are considered to be appropriate for purposes of this part. These codes provide a level of seismic safety that is substantially equivalent to the National Earthquake Hazards Reduction Program (NEHRP) Recommended Provisions for the Development of Seismic Regulations for New Buildings, 1988 Edition (Federal Emergency Management Administration 222 and 223). Revisions of these model codes that are substantially equivalent to or exceed the then current or immediately preceding edition of the NEHRP Recommended Provisions (which are updated triennially) shall be considered to be appropriate standards. The model codes are as follows:

(1) 1991 Uniform Building Code, of the International Council of Building Officials,

(2) 1992 Supplement to the National Building Code, of the Building Official and Code Administrators International.

(3) 1992 Amendments to the Standard Building Code, of the Southern Building Code Congress International.

§ 600.13 Objective merit review.

(a) General. (1) It is the policy of DOE that any financial assistance be awarded through a merit-based selection process. Objective merit review means a thorough, consistent and independent examination of applications based on pre-established criteria by persons knowledgeable in the field of endeavor for which support is requested.

(2) Each program office must establish an objective merit review system covering the financial assistance programs it administers. Objective merit review of financial assistance applications is intended to be advisory and is not intended to replace the authority of the project/program official with responsibility for deciding whether an award will be made. It is expected that the cognizant project/program officer(s) who will select or be in the direct chain of supervision recommending selection or rejection of applications will not be a part of the objective review group. The objective merit review system must set forth the relationship between the reviewing individuals, or the review committees or groups, program/project management involved with directly advising the selection official with respect to program/project policy considerations and the selection official who has the final decision-making authority. In defining this relationship, the system must set out, as a minimum, the decision-making and documentation processes to be followed by the selection official in accepting or rejecting objective merit review recommendations.

(b) Each formal review system must contain the following elements:

(1) Basic review standards. Applications should undergo an initial review for conformance with technical and administrative requirements stated in the notice or solicitation and for funding availability. For applications which pass the initial review, the DOE evaluation shall be in accordance with stated evaluation criteria set forth in the applicable program rule or notice, solicitation, or, where appropriate, the unsolicited proposal criteria in § 600.6(c)(7).

(2) Applications which have successfully completed an initial review are normally subjected to an objective merit review by a group comprised of three or more professionally and technically qualified persons. This advisory review is limited to technical and/or cost matters and should be separate from any programmatic review of program/policy factors involved in making a selection/rejection decision.

(3) The reviewers of any particular application may be any mixture of federal or non-federal experts, including individuals from within the cognizant program office, except those involved in approving/disapproving the application. The DOE shall select external (non-DOE Federal or non-federal) reviewers on the basis of their professional qualifications and expertise.

(c) Reviewers with interest in application being reviewed. Reviewers must comply with the requirements for the avoidance of conflict of interest established in § 600.14.

(d) Outside reviewers. An outside reviewer shall be required to sign, either in writing or electronically, a written statement agreeing to use the application information only for review and to treat it in confidence except to the extent that the information is available to the general public without restriction as to its use from any source, including the applicant. Further, the reviewer shall be required to agree to comply with any notice or restriction placed on the application. Upon completion of the review, the reviewer shall return all copies of the application (or abstracts, if any) to DOE; and unless authorized by DOE, the reviewer shall not contact the applicant concerning any aspect of the application.

§ 600.14 Conflict of interest.

Any person who participates in the review of applications for DOE financial assistance or in the administration of DOE financial assistance shall comply with 1010.101(a) and 1010.302(a)(1) of the DOE rules on the conduct of employees and special employees (consultants) at 10 CFR part 1010. Current and former DOE employees who participate in any aspect of the financial assistance process shall comply with all applicable requirements of 10 CFR part 1010.

§ 600.15 Authorized uses of information.

(a) General. Information contained in applications shall be used only for evaluation purposes unless such information is generally available to the public or is already the property of the Government. The Trade Secrets Act, 18 U.S.C. 1905, prohibits the unauthorized disclosure by Federal employees of trade secret and confidential business information.

(b) Treatment of application information. (1) An application may include technical data and other data, including trade secrets and/or privileged or confidential commercial or financial information, which the applicant does not want disclosed to the public or used by the Government for any purpose other than application evaluation. To protect such data, the applicant should specifically identify each page including each line or paragraph thereof containing the data to be protected and mark the cover sheet of the application with the following Notice as well as referring to the Notice on each page to which the Notice applies:

Notice of Restriction on Disclosure and Use of Data

The data contained in pages _____ of this application have been submitted in confidence and contain trade secrets or proprietary information, and such data shall be used or disclosed only for evaluation purposes, provided that if this applicant receives an award as a result of or in connection with the submission of this application, DOE shall have the right to use or disclose the data herein to the extent provided in the award. This restriction does not limit the Government's right to use or disclose data obtained without restriction from any source, including the applicant.

(2) Unless a solicitation specifies otherwise, DOE shall not refuse to consider an application solely on the basis that the application is restrictively marked.

(3) Data (or abstracts of data) marked with the Notice under paragraph (b)(1) of this section shall be retained in confidence and used by DOE or its designated representatives as specified in § 600.13 solely for the purpose of evaluating the proposal. The data so marked shall not be disclosed or used for any other purpose except to the extent provided in any resulting award, or to the extent required by law, including the Freedom of Information Act (5 U.S.C. 552) (10 CFR part 1004). The Government shall not be liable for disclosure or use of unmarked data and may use or disclose such data for any purpose.

(4) The Government shall obtain unlimited rights in the technical data contained in any application which results in an award except those portions of the technical data which the applicant asserts and properly marks as proprietary data, or which are not directly related to or will not be utilized in the project and are deleted from the application with the concurrence of DOE.

(5) The clause at 48 CFR 52.227–23, which applies only to technical data and not to other data such as privileged or confidential commercial or financial information shall apply to every award.

§ 600.16 Legal authority and effect of an award.

(a) A DOE financial assistance award is valid only if it is in writing and is signed, either in writing or electronically, by a DOE Contracting Officer.

(b) DOE funds awarded under a grant or cooperative agreement shall be obligated as of the date the DOE Contracting Officer signs the award; however, the recipient is not authorized to incur costs under an award prior to the beginning date of the budget period shown in the award except as may be authorized in accordance with §§ 600.125(e) or 600.230 of this part. The duration of the DOE financial obligation shall not extend beyond the expiration date of the budget period shown in the award unless authorized by a DOE Contracting Officer by means of a continuation or renewal award or other extension of the budget period.

§ 600.17 Contents of award.

Each financial assistance award shall be made on a Notice of Financial Assistance Award (DOE F 4600.1) which contains basic identifying and funding information together with attachments including a budget, any special terms and conditions, and any other provisions necessary to establish the respective right, duties, obligation, and responsibilities of DOE and the recipient, consistent with the requirements of this part.

§ 600.18 Recipient acknowledgement of award.

(a) After signature by the DOE Contracting Officer, the award shall be sent to the recipient. The recipient shall acknowledge acceptance by returning a copy signed either in writing or electronically. No DOE funds shall be disbursed until the award document signed by the recipient is received by DOE.

(b) In the event a recipient declines an award, DOE shall deobligate the funds obligated by the award after providing the applicant with at least two weeks written notice of DOE's intention to deobligate.

(c) After the recipient acknowledges the award, the terms and conditions of the award may be amended only upon the written request or with the written concurrence of the recipient unless the amendment is one which DOE may make unilaterally in accordance with a program rule or this part.

§ 600.19 Notification to unsuccessful applicants.

DOE shall promptly notify in writing each applicant whose application has not been selected for award or whose application cannot be funded because of the unavailability of appropriated funds. If the application was not selected, the written notice shall briefly explain why the application was not selected and, if for grounds other than unavailability of funds, shall offer the unsuccessful applicant the opportunity for a more detailed explanation upon request.

§ 600.20 Maximum DOE obligation.

(a) The maximum DOE obligation to the recipient is—

(1) For monetary awards, the amount shown in the award as the amount of DOE funds obligated, and

(2) Any designated property.

(b) DOE shall not be obligated to make any additional, supplemental, continuation, renewal, or other award for the same or any other purpose.

§ 600.21 Access to records.

(a) In addition to recipient and subrecipient responsibilities relative to access to records specified in §§ 600.153 and 600.242, for any negotiated contract or subcontract in excess of $10,000 under a grant or cooperative agreement, DOE, the Comptroller General of the United States, the recipient and the subrecipient (if the contract was awarded under a financial assistance subaward), or any of their authorized representatives shall have the right of access to any books, documents, papers, or other records of the contractor or subcontractor which are pertinent to

that contract or subcontract, in order to make audit, examination, excerpts, and copies.

(b) The right of access may be exercised for as long as the applicable records are retained by the recipient, subrecipient, contractor, or subcontractor.

§ 600.22 Disputes and appeals.

(a) Informal dispute resolution. Whenever practicable, DOE shall attempt to resolve informally any dispute over the award or administration of financial assistance. Informal resolution, including resolution through an alternative dispute resolution mechanism, shall be preferred over formal procedures available in 10 CFR Part 1024, to the extent practicable.

(b) Alternative dispute resolution (ADR). Before issuing a final determination in any dispute in which informal resolution has not been achieved, the Contracting Officer shall suggest that the other party consider the use of voluntary consensual methods of dispute resolution, such as mediation. The DOE dispute resolution specialist is available to provide assistance for such disputes, as are trained mediators of other federal agencies. ADR may be used at any stage of a dispute.

(c) Final determination. Whenever a dispute is not resolved informally or through an alternative dispute resolution process, DOE shall mail (by certified mail) a brief written determination signed by a Contracting Officer, setting forth DOE's final disposition of such dispute. Such determination shall contain the following information:

(1) A summary of the dispute, including a statement of the issues and of the positions taken by the Department and the party or parties to the dispute; and

(2) The factual, legal and, if appropriate, policy reasons for DOE's disposition of the dispute.

(d) Right of appeal. (1) Except as provided in paragraph (f)(1) of this section, the final determination under paragraph (c) of this section may be appealed to the Financial Assistance Appeals Board (the Board) in accordance with the procedures set forth in 10 CFR part 1024.

(2) If the final determination under paragraph (c) of this section involves a dispute over which the Board has jurisdiction as provided in paragraph (f)(2) of this section, the Contracting Officer's determination shall state that, with respect to such dispute, the determination shall be the final decision of the Department unless, within 60 days, a written notice of appeal is filed.

(3) If the final determination under paragraph (c) of this section involves a dispute over which the Board has no jurisdiction as provided in paragraph (f)(1) of this section, the Contracting Officer's determination shall state that, effective immediately or on a later date specified therein, the determination shall, with respect to such dispute, be the final decision of the Department.

(e) Effect of appeal. The filing of an appeal with the Board shall not stay any determination or action taken by DOE which is the subject of the appeal. Consistent with its obligation to protect the interests of the Federal Government, DOE may take such authorized actions as may be necessary to preserve the status quo pending decision by the Board, or to preserve its ability to provide relief in the event the Board decides in favor of the appellant.

(f) Review on appeal. (1) The Board shall have no jurisdiction to review:

(i) Any preaward dispute (except as provided in paragraph (f)(2)(ii) of this section), including use of any special restrictive condition pursuant to §§ 600.114 or 600.212;

(ii) DOE denial of a request for a deviation under §§ 600.4, 600.103, or 600.205 of this part;

(iii) DOE denial of a request for a budget revision or other change in the approved project under §§ 600.125, 600.127, 600.222, or 600.230 of this part or under another term or condition of the award;

(iv) Any DOE action authorized under §§ 600.162(a) (1), (2), (3) or (5); or §§ 600.243 (a)(1), (a)(3) for suspensions only; or § 600.162(a)(4) or § 600.243(a)(4) for actions disapproving renewal applications or other requests for extension of time or additional funding for the same project when related to recipient noncompliance, or such actions authorized by program rule;

(v) Any DOE decision about an action requiring prior DOE approval under § 600.144, or § 600.236 of this part or under another term or condition of the award;

(vi) A DOE decision not to make a continuation award, which decision is based on the insufficiency of available appropriations;

(vii) Any matter which is under the jurisdiction of the Patent Compensation Board (10 CFR 780.3);

(viii) Any matter which may be heard by the Invention Licensing Appeals Board (10 CFR 781.65 and 781.66); and

(ix) Any other dispute not described in paragraph (f)(2) of this section.

(2) In addition to any right of appeal established by program rule, or by the terms and conditions (not inconsistent with paragraph (f)(1) of this section) of an award, the Board shall have jurisdiction to review:

(i) A DOE determination that the recipient has failed to comply with the applicable requirements of this part, the program statute or rules, or other terms and conditions of the award;

(ii) A DOE decision not to make a continuation award based on any of the determinations described in paragraph (f)(2)(i) of this section;

(iii) Termination of an award for cause, in whole or in part, by DOE;

(iv) A DOE determination that an award is void or invalid;

(v) The application by DOE of an indirect cost rate; and

(vi) DOE disallowance of costs.

(3) In reviewing disputes authorized under paragraph (f)(2) of this section, the Board shall be bound by the applicable law, statutes, and rules, including the requirements of this part, and by the terms and conditions of the award.

(4) The decision of the Board shall be the final decision of the Department.

§ 600.23 Debarment and suspension.

Applicants, recipients, subrecipients, and contractors under financial assistance awards may be debarred and suspended for the causes and in accordance with the procedures set forth in 10 CFR part 1036.

§ 600.24 Noncompliance.

(a) Except for noncompliance with nondiscrimination requirements under 10 CFR part 1040, whenever DOE determines that a recipient has not complied with the applicable requirements of this part, with the requirements of any applicable program statute or rule, or with any other term or condition of the award, a DOE Contracting Officer shall provide to the recipient (by certified mail, return receipt requested) a written notice setting forth:

(1) The factual and legal bases for the determination of noncompliance;

(2) The corrective actions and the date (not less than 30 days after the date of the notice) by which they must be taken.

(3) Which of the actions authorized under §§600.122(n), 600.162(a) or § 600.243(a) of this part DOE may take if the recipient does not achieve compliance within the time specified in the notice, or does not provide satisfactory assurances that actions have been initiated which will achieve compliance in a timely manner.

(b) DOE may take any of the actions set forth in § 600.121(n,), § 600.162(a),

or § 600.243(a) of this part concurrent with the written notice required under paragraph (a) of this section or with less than 30 days written notice to the recipient whenever:

(1) There is evidence the award was obtained by fraud;

(2) The recipient ceases to exist or becomes legally incapable of performing its responsibilities under the financial assistance award; or

(3) There is a serious mismanagement or misuse of financial assistance award funds necessitating immediate action.

§ 600.25 Suspension and termination.

(a) Suspension and termination for cause. DOE may suspend or terminate an award for cause on the basis of:

(1) a noncompliance determination under §§ 600.24, 600.122(n), 600.162(a), or § 600.243(a); or

(2) an suspension or debarment of the awardee under § 600.23.

(b) Notification requirements. Except as provided in § 600.24, 600.162(a), or § 600.243(a) before suspending or terminating a award for cause, DOE shall mail to the awardee (by certified mail, return receipt requested) a separate written notice in addition to that required by §§ 600.24(a), 600.162(a), or § 600.243(a) at least ten days prior to the effective date of the suspension or termination. Such notice shall include, as appropriate:

(1) The factual and legal bases for the suspension or termination;

(2) The effective date or dates of the DOE action;

(3) If the action does not apply to the entire award, a description of the activities affected by the action;

(4) Instructions concerning which costs shall be allowable during the period of suspension, or instructions concerning allowable termination costs, including in either case, instructions concerning any subgrants or contracts;

(5) Instructions concerning required final reports and other closeout actions for terminated awards (see §§ 600.170 through 600.173 and §§ 600.250 through 600.252);

(6) A statement of the awardee's right to appeal a termination for cause pursuant to § 600.22; and

(7) The dated signature of a DOE Contracting Officer.

(c) Suspension. (1) Unless DOE and the awardee agree otherwise, no period of suspension shall exceed 90 days.

(2) DOE may cancel the suspension at any time, up to and including the date of expiration of the period of suspension, if the awardee takes satisfactory corrective action before the expiration date of the suspension or gives DOE satisfactory evidence that such corrective action will be taken.

(3) If the suspension has not been cancelled by the expiration date of the period of suspension, the awardee shall resume the suspended activities or project unless, prior to the expiration date, DOE notifies the awardee in writing that the period of suspension shall be extended consistent with paragraph (c)(1) of this section or that the award shall be terminated.

(4) As of the effective date of the suspension, DOE shall withhold further payments and shall allow new obligations incurred by the awardee during the period of suspension only if such costs were authorized in the notice of suspension or in a subsequent letter.

(5) If the suspension is cancelled or expires and the award is not terminated, DOE shall reimburse the awardee for any authorized allowable costs incurred during the suspension and, if necessary, may amend the award to extend the period of performance.

(d) Termination by mutual agreement. In addition to any situation where a termination for cause pursuant to §§ 600.24, 600.160 through 600.162 or §§ 600.243 through 600.244 is appropriate, either DOE or the awardee may initiate a termination of an award (or portion thereof) as described in this paragraph. If the awardee initiates a termination, the awardee must notify DOE in writing and specify the awardee's reasons for requesting the termination, the proposed effective date of the termination, and, in the case of a partial termination, a description of the activities to be terminated, and an appropriate budget revision. DOE shall terminate an award or portion thereof under this paragraph only if both parties agree to the termination and the conditions under which it shall occur. If DOE determines that the remaining activities under a partially terminated award would not accomplish the purpose for which the award was originally awarded, DOE may terminate the entire award.

(e) Effect of termination. The awardee shall incur no new obligations after the effective date of the termination of an award (or portion thereof), and shall cancel as many outstanding obligations as possible. DOE shall allow full credit to the awardee for the DOE share of noncancellable obligations properly incurred by the awardee prior to the effective date of the termination.

(f) Subgrants. Awardees shall follow the policies and procedures in this section and in §§ 600.24, 600.160 through 600.162 or §§ 600.243 through 600.244 for suspending and terminating subgrants.

§ 600.26 Funding.

(a) General. The project period during which DOE expects to provide award support for an approved project shall be specified on the Notice of Financial Assistance Award (DOE Form 4600.1).

(b) Budget period and continuation awards. If the project period is 12 months or less, the budget period and the project period shall be coextensive. Multiyear awards, including formula awards, shall generally be funded annually within the approved project period. Funding for each budget period within the project period shall be contingent on DOE approval of a continuation application submitted in accordance with a schedule specified by DOE. A continuation application shall include:

(1) A statement of technical progress or status of the project to date;

(2) A detailed description of the awardee's plans for the conduct of the project during the coming year; and

(3) A detailed budget for the upcoming budget period, including an estimate of unobligated balances. A detailed budget need not be submitted if the new or renewal application contained future-year budgets sufficiently detailed to allow DOE to review and approve the categories and elements of cost. Should the award have a change in scope or significant change in the budget, DOE may request a detailed budget.

(4) DOE shall review a continuation application for the adequacy of the awardee's progress and planned conduct of the project in the subsequent budget period. DOE shall not require a continuation application to compete against any other application. The amount and award of continuation funding is subject to the availability of appropriations.

(c) Renewal awards. Discretionary renewal awards may be made either on the basis of a solicitation or on a noncompetitive basis. If DOE proposes to restrict eligibility for a discretionary renewal award to the incumbent grantee, the noncompetitive award must be justified in accordance with § 600.6(b)(2). Renewal applications must be submitted no later than 6 months prior to the scheduled expiration of the project period unless a program rule or other published instruction establishes a different application deadline.

(d) Extensions. Unless otherwise specified in the award terms and conditions, recipients of financial assistance awards, except recipients of SBIR awards (See § 600.181), may extend the expiration date of the final budget period of the project (thereby extending the project period) if

additional time beyond the established expiration date is needed to assure adequate completion of the original scope of work within the funds already made available. A single extension, which shall not exceed twelve (12) months, may be made for this purpose, and must be made prior to the originally established expiration date. The recipient must notify the cognizant DOE Contracting Officer in the awarding office in writing within ten (10) days of making the extension.

§ 600.27 Patent and data provisions.

(a) General. Financial assistance shall be awarded and administered by DOE in compliance with the patent and data provisions of this section (See also §§ 600.136 and 600.234.) To the extent not otherwise provided in this part, the policies, procedures and clauses referenced for contracts in 48 CFR part 927 and 41 CFR part 9–9 shall normally be applicable to the award and administration of Departmental grants and cooperative agreements. Copies of 41 CFR part 9–9 are available by contacting the DOE Patent Counsel.

(b) Required clauses. In all solicitations and awards both for the support of research, development, and demonstration and for other efforts, the DOE Contracting Officer shall consult the DOE Patent Counsel for applicable patent and data clauses from those listed below and/or for modifications thereto. In reading each 48 CFR part 27 and 48 CFR part 952 patent and data clause selected for inclusion in a solicitation or award, the term ''contract'' when referring to a prime contract shall be read as ''award.'' The term ''contractor'' shall be read as referring to the ''awardee.'' The term ''subcontract'' shall be read as ''subaward or a procurement contract under an award or subaward and/or a procurement subcontract under an awardee's or subawardee's contract.'' The term ''Acquisition'' with respect to the Long Form Patent Rights Clause shall be read as ''Retention.'' The terms ''offerors'' and ''quoters'' shall be read as ''applicants,'' and ''proposal'' and ''quotation'' shall be read as ''application.''

(1) *Patent clauses.* (i) (Short Form Patent Clause). Incorporate the clause at 48 CFR 952.227–11 for awards to a domestic small business firm or nonprofit organization as defined at 48 CFR 27.301. In accordance with 35 U.S.C. 202(a)(ii), the DOE may issue an exceptional circumstances determination. To implement any exceptional circumstances determination, DOE will modify 48 CFR 952.227–11 to retain greater rights in subject inventions. Such modifications will be only to the extent necessary to implement the exceptional circumstances determination.

(ii) (Long Form Patent Clause). For awards to a large business firm or other organization, other than a domestic small business firm or nonprofit organization as set forth in 48 CFR 27.301, incorporate the clause at 48 CFR 952.227–13.

(iii) The notice of Right to Request Patent Waiver at 48 CFR 952.227–84 shall also be inserted in all solicitations to advise applicants of their rights to request in advance of, or within 30 days after the award is signed, a waiver of all or any part of the rights of the United States with respect to subject inventions. For unsolicited applications, DOE shall provide this notice to the applicant prior to award.

(2) *Data Clauses (includes copyright provisions)* (i) Rights in Data—General. (A) Incorporate 48 CFR 52.227–14 with Alternates I and V. Solicitations shall also include the Representation of Limited Rights Data and Restricted Computer Software clause at 48 CFR 52.227–15.

(B) In awards for grants and cooperative agreements with institutions of higher education, hospitals, and other non-profit organizations, the following paragraph (c) will be used in lieu of the provisions in 48 CFR 52.227–14(c):

(c) Copyright. (1) Data first produced in the performance of the award. Except as otherwise specifically provided in this award, the recipient may establish claim to copyright subsisting in any data first produced in the performance of this award. When claim to copyright is made, the Recipient shall affix the applicable copyright notice of 17 U.S.C. 401 or 402 and acknowledgement of Government sponsorship (including award number) to the data when such data are delivered to the Government, as well as when the data are published or deposited for registration as a published work in the U.S. Copyright Office. The recipient grants to the Government a royalty-free, nonexclusive and irrevocable right to reproduce, publish, or otherwise use the work for Federal purposes, and to authorize others to do so. The right to publish includes the right to publicly distribute. The right to use the work for Federal purposes includes the right to prepare derivative works.

(C) For grants and cooperative agreements with commercial organizations, foreign governments, organizations under the jurisdiction of foreign governments, and international organizations, the provisions of the following paragraph (d)(3) shall be used in addition to the provisions in 48 CFR 52.227–14:

(d)(3) The Recipient agrees not to establish claim to copyright in computer software first produced in the performance of this award without prior written permission of the Contracting Officer. When such permission is granted, the Contracting Officer shall specify appropriate terms to assure dissemination of the software. The recipient shall promptly deliver to the Contracting Officer or to the DOE Patent Counsel designated by the Contracting Officer a duly executed and approved instrument fully confirmatory of all rights to which the Government is entitled, and other terms pertaining to the computer software to which claim to copyright is made.

(D) If programmatic needs on a particular award require the delivery to the Government of limited rights data or restricted computer software, Alternates II or III of 48 CFR 52.227–14 shall also be added.

(ii) Restriction on Disclosure and Use of Data. Insert the Notice at § 600.15(b)(1) in all solicitations.

(iii) Rights to Application Data. As discussed at § 600.15(b)(5), incorporate 48 CFR 52.227–23.

(iv) Additional data requirements. Incorporate 48 CFR 52.227–16. In the event all technical data requirements are known in advance of and are set forth in the agreement or, the award is for the performance of basic or applied research and is to be performed solely by a university or college as discussed in 48 CFR 27.406(b), 48 CFR 52.227–16 does not need to be incorporated.

(3) *Authorization and consent.* Incorporate 48 CFR 52.227–1 or Alternates I or II, as appropriate, in accordance with the guidance in 48 CFR 927.201–1 and 48 CFR 27.201.

(4) *Patent indemnity.* Incorporate the clause set forth in 48 CFR 52.227–3, as appropriate, in accordance with the guidance in 48 CFR 27.203–1 and 48 CFR 27.203–3.

(5) *Filing of Patent Applications-Classified Subject Matter.* Incorporate the following paragraphs in any solicitation or award which covers, or is likely to cover, classified subject matter:

Classified Inventions

(a) The recipient shall not file or cause to be filed on any invention or discovery conceived or first actually reduced to practice in the course of or under this award in any country other than the United States, an application or registration for a patent without first obtaining written approval of the Contracting Officer.

(b) When filing a patent application in the United States on any invention or discovery conceived of or first actually reduced to practice in the course of or under this award, the subject matter of which is classified for reasons of security, the awardee shall observe all applicable security regulations covering the transmission of classified subject matter. When transmitting the patent application to the United States Patent and Trademark

Office, the awardee shall, by separate letter, identify by agency and agreement number the award(s) which require security classification markings to be placed on the application.

(6) *Notice and Assistance Regarding Patent and Copyright Infringement.* Incorporate the clause at 48 CFR 52.227–2, in accordance with the guidance in 48 CFR 27.202, in all awards in excess of $100,000 for construction, research, development, and demonstration work which is to be performed within the United States, its possessions, or Puerto Rico.

(7) *Royalty Information.* Incorporate 48 CFR 52.227–6.

(8) *Refund of Royalties.* As discussed in 48 CFR 927.206, incorporate the clause at 48 CFR 952.227–9 in solicitations and awards where the Contracting Officer believes royalties will have to be paid by the awardees or subawardee or contractor at any tier.

(9) *Subawards and contracts under award.* The recipient shall include the applicable clauses of this section in any subaward or contract awarded under the award and assure that the applicable clauses are also included by subrecipients in contracts.

§ 600.28 Restrictions on lobbying.

Procedures regarding restrictions on lobbying activities of applicants and recipients are contained in 10 CFR 601.110.

§ 600.29 Fixed obligation awards.

(a) General. This section contains provisions applicable to the award of financial assistance instruments on a fixed amount basis. Under a fixed obligation award, funds are issued in support of a project without a requirement for Federal monitoring of actual costs subsequently incurred.

(b) Provisions applicable to fixed obligation awards. Financial assistance awards may be made on a fixed obligation basis subject to the following requirements:

(1) Each fixed obligation award may neither exceed $100,000 nor exceed one year in length.

(2) Programs which require mandatory cost sharing are not eligible.

(3) Proposed costs must be analyzed in detail to ensure consistency with applicable cost principles.

(4) Budget categories are not stipulated in making an award. However, budgets are submitted by an applicant and reviewed for purposes of establishing the amount to be awarded.

(5) Payments must be made in the same manner as other financial assistance awards, except that when determined appropriate by the cognizant program official and contracting officer a lump sum payment may be made.

(6) Recipients must certify in writing to the contracting officer at the end of the project that the activity was completed or the level of effort was expended, however should the activity or effort not be carried out, the recipient would be expected to make appropriate reimbursements.

(7) Periodic reports may be established for each award so long as they are not more frequently than quarterly.

(8) Changes in principal investigator or project leader, scope of effort, or institution, must receive the prior approval of the Department.

§ 600.30 Cost sharing.

In addition to the requirements of § 600.123 or § 600.224, the following requirements apply to research, development, and demonstration projects:

(a) When DOE awards financial assistance for research, development, and demonstration projects where the primary purpose of the project is the ultimate commercialization and utilization of technology by the private sector and when there are reasonable expectations that the recipient will receive significant present or future economic benefits beyond the instant award as a result of the performance of the project, cost sharing shall be required. Unless the cost sharing is required by statute, a waiver of the requirement on a single-case or class basis may be approved by the cognizant Program Assistant Secretary or designee.

(b) Except as provided in section 3002 of the Energy Policy Act of 1992, 42 U.S.C. 13542, or program rule, DOE will decide, on a case-by-case basis, the amount of cost sharing required for a particular project.

(c) Factors in addition to those specified in § 600.123 or § 600.224, which may be considered when negotiating cost sharing for research, development, and demonstration projects include the potential benefits to a recipient resulting from the project and the length of time before a project is likely to be commercially successful.

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February 26, 1996

Part IV

Department of Transportation

Research and Special Programs Administration

49 CFR Part 107

Hazardous Materials Pilot Ticketing Program; Final Rule

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Part 107

[Docket No. HM–207E, Amdt No. 107–36]

RIN 2137–AC70

Hazardous Materials Pilot Ticketing Program

AGENCY: Research and Special Programs Administration (RSPA), DOT.

ACTION: Final rule.

SUMMARY: To streamline administrative procedures, cut costs, and reduce regulatory burdens on persons subject to Federal hazardous materials transportation law, RSPA is implementing a pilot program for ticketing of certain hazardous materials transportation violations. RSPA will issue tickets for violations that have little or no direct impacts on safety. Persons receiving a ticket may pay the ticket, respond informally to RSPA or request a formal hearing before a Department of Transportation Administrative Law Judge (ALJ). Penalties will be substantially reduced for persons who elect to pay the amounts assessed in the tickets.

This final rule is consistent with the recommendation in the National Performance Review (DOT02.01) to streamline the enforcement process by implementing pilot programs to offer greater flexibility in enforcement methods. RSPA's pilot ticketing program will cut costs, simplify the processing of certain Hazardous Materials Regulations (HMR) violations, and achieve compliance through more efficient and effective processes. The pilot ticketing program allows recipients to more easily respond to allegations of HMR violations.

EFFECTIVE DATE: May 15, 1996.

FOR FURTHER INFORMATION CONTACT: John J. O'Connell, Jr., Director, Office of Hazardous Materials Enforcement, (202) 366–4700; or Nancy E. Machado, Office of the Chief Counsel, (202) 366–4400, Research and Special Programs Administration, U.S. Department of Transportation, 400 Seventh Street SW, Washington DC 20590–0001.

SUPPLEMENTARY INFORMATION:

I. Background

The Research and Special Programs Administration (RSPA) is the administration within the Department of Transportation (DOT) primarily responsible for implementing the Federal hazardous material transportation law (Federal hazmat law), 49 U.S.C. 5101–5127. RSPA does this by issuing and enforcing the Hazardous Materials Regulations (HMR), 49 CFR Parts 171–180. Under delegations from the Secretary of Transportation [49 CFR Part 1], the authority for enforcement under Federal hazardous materials transportation law (Federal hazmat law), 49 U.S.C. 5101–5127, is shared by RSPA and each of the four modal administrations: the Federal Highway Administration, the Federal Railroad Administration, the Federal Aviation Administration, and the United States Coast Guard. RSPA has primary jurisdiction over packaging manufacturers, reconditioners, and retesters (except with respect to bulk packagings, which are the responsibility of the applicable modal administration) and a shared authority over shippers of hazardous materials. RSPA does not enforce regulations applicable exclusively to motor carriers, rail carriers, air carriers or vessel carriers.

RSPA's Office of the Chief Counsel (OCC) may initiate administrative proceedings for violations of the HMR, and these proceedings may result in a civil penalty, an order directing compliance actions, or both. 49 CFR 107.307. Administrative proceedings are initiated by mailing a notice of probable violation (NOPV) to a person believed to have violated the HMR. 49 CFR 107.311. The notice specifies the alleged violation(s) of the HMR, states the proposed penalty, and includes a copy of the inspection/investigation report. Within 30 days of receiving the notice, the recipient of the notice may admit the allegations by paying the proposed penalty, make an informal response, or request a formal hearing. 49 CFR 107.313, 107.315.

The recipient who chooses to respond informally submits a written response to the OCC to contest the alleged violations or the proposed penalty. The OCC considers the inspection report, the response, and any additional evidence obtained to determine whether the recipient committed the alleged violations and, if so, the appropriate penalty in accordance with the statutory criteria for penalty determination, 49 U.S.C. 5123(c). See also RSPA's civil penalty guidelines at 60 FR 12139 [March 6, 1995]. If the recipient requests an informal conference, an opportunity is provided to supplement the written response in person or by telephone with the OCC attorney and the inspector. Information obtained by the OCC during the informal conference becomes part of the case file. The Chief Counsel then issues an order finding a violation or violations and, for each violation found, assesses a civil penalty. The order may be appealed to the RSPA Administrator. See generally 49 CFR 107.317, 107.325(b).

Alternatively, the recipient may request a formal administrative hearing on the record before an ALJ from DOT's Office of Hearings. At the conclusion of the hearing, the ALJ determines whether the alleged violations have been committed and, if so, imposes a penalty in accordance with the statutory assessment criteria. Either party may appeal a decision of the ALJ to the RSPA Administrator. See generally 49 CFR 107.319, 107.325(a).

At any time during an informal or a formal proceeding, RSPA and the recipient of the notice may agree upon an appropriate resolution of the case. 49 CFR 107.327.

II. Proposed Rule

On August 21, 1995, RSPA published a notice of proposed rulemaking (NPRM) under Docket HM–207E [60 FR 43430] seeking public comment on a proposal to implement a pilot program for ticketing certain violations of the HMR. On October 17, 1995, RSPA extended the comment period for an additional 30 days. *See* 60 FR 53729.

Under the proposed rule, the Associate Administrator for Hazardous Materials Safety would be authorized to issue tickets for certain HMR violations that are currently handled through the civil penalty process. Violations eligible for inclusion in the pilot ticketing program would be those that do not have a substantial impact on safety. Because this program is designed to ease administrative and regulatory burdens on persons subject to enforcement proceedings under the HMR, violations currently eligible, under 49 CFR 107.309, for letters of warning generally would not be included in the pilot ticketing program.

The NPRM contained a proposal for a two-year pilot program. At the end of two years, RSPA would evaluate the program in terms of cost savings, time savings, and impact on the effectiveness of its compliance program. The proposed rule also suggested a number of violations for inclusion in the pilot ticketing program, including, among others, operating under an expired exemption, failing to register, failing to maintain training records, and failing to file incident reports. RSPA indicated that, based on comments received and experience gained through administration of the pilot ticketing program, additional types of violations might be added to the program. These violations would not be processed under the pilot ticketing program if

more serious violations also are alleged. Furthermore, a previous ticketing violation will be considered a ''prior'' violation in the event of a future violation of the HMR by the same party.

In the proposed rule, RSPA indicated an expectation that the Associate Administrator for Hazardous Materials Safety would delegate ticketing authority to the Director, Office of Hazardous Materials Enforcement (OHME), who may redelegate that authority. RSPA field inspectors would conduct inspections as at present. Supervisory inspectors then would evaluate field inspector reports and issue tickets to parties when appropriate. Consequently, tickets would not be issued on the spot by inspectors following an inspection but would be issued shortly thereafter. The ticketing process would be limited to those cases involving violations identified as meeting safety risk criteria for ticketing established by the Associate Administrator.

A ticket would include a statement of the facts supporting the alleged violation. In addition, the ticket would set forth the maximum penalty provided by statute, the proposed penalty determined according to the RSPA civil penalty guidelines, *see* 60 FR 12139 [March 6, 1995], and the ticket penalty amount. The ticket would state that the recipient must pay the penalty or request a hearing within 30 days of receipt of the ticket.

RSPA proposed that the civil penalty contained in the ticket would be substantially less than the penalty that would be proposed under current procedures or that could be imposed by an ALJ at a hearing. RSPA also stated that if the recipient pays the ticket amount and states that action to correct the violation has been taken, the matter would be closed and there would be no further agency action. If the recipient elects not to pay the ticket and requests a hearing, RSPA would forward the case file to a Coast Guard Hearing Officer who would review the case in accordance with Coast Guard procedures set forth at 33 CFR 1.07. The Hearing Officer would not be bound by the reduced penalty amount in the ticket and could impose a civil penalty as high as the proposed penalty determined under RSPA's civil penalty guidelines. The Hearing Officer's factual findings and legal conclusions in a particular case would apply solely to that case. A person could appeal the decision of the Hearing Officer to the Commandant, United States Coast Guard.

RSPA also stated in the proposed rule that a recipient would waive a right to a hearing by failing to respond to the ticket within 30 days. Moveover, failure to respond would be deemed an admission of the violation, and the reduced penalty would be owed to RSPA. An unpaid penalty or a penalty imposed by the Coast Guard Hearing Officer or the Commandant on appeal would constitute a debt owed to the United States Government.

III. Discussion of Comments

RSPA received 31 written comments on the NPRM. The comments were submitted by chemical manufacturing companies, trade associations, transporters and private individuals. Commenters uniformly supported RSPA's efforts to streamline administrative procedures, cut costs and reduce regulatory burdens.

Approximately half of the commenters supported RSPA's proposal but with various recommended changes. The remainder opposed the proposal, and some suggested alternative means of improving current enforcement procedures.

The commenters predominantly addressed the following issues: (1) Violations under the pilot ticketing program; (2) authority to issue tickets; (3) the time-frame for issuing a ticket; (4) the time-frame for responding to a ticket; (5) the option to respond informally; (6) processing by Coast Guard Hearing Officers; (7) civil penalty amounts; and (8) reduced cost/burden.

A detailed discussion of the comments, and RSPA's response to them, is provided in the following summary.

A. Violations Under the Pilot Ticketing Program

1. Impact on Safety

RSPA received numerous comments concerning RSPA's statement in the NPRM that, under the pilot ticketing program, it would issue tickets for violations that do not have ''substantial impacts'' on safety. RSPA stated that these violations might include, among others, operating under an expired exemption, failing to register, failing to maintain training records, and failing to file incident reports.

The commenters generally questioned why the agency would expend limited resources on enforcing regulations that do not have substantial impacts on safety. Several suggested that the regulations in question either be eliminated or that enforcement efforts with respect to violations of those regulations be limited to the issuance of warning letters.

RSPA disagrees that these regulations should be deleted from the HMR or that enforcement actions should be limited to warning letters. The registration, exemption renewal and training record requirements are mandated by Federal hazmat law, which also mandates that a civil penalty be imposed for violations of any provisions of that law or the HMR. In addition, although violations of these regulations, in and of themselves, may not have a substantial or direct impact on safety, their enforcement has important, indirect effects on safety.

An exemption is an official authorization to do something, for a two-year period, that is not authorized under the HMR. 49 U.S.C. 5117(a)(2). See also 49 CFR 107.119(a). Renewal is necessary to keep the exemption in effect and to allow RSPA to ascertain that practices authorized under the exemption still provide an equal or greater level of safety than the HMR. As part of the renewal process, an application must contain all relevant shipping and accident experience related to activities under an exemption. 49 U.S.C. 5117(b). See also 49 CFR 107.105(a)(5).

The failure of hazardous materials offerors or transporters to register with RSPA, when required, affects RSPA's ability to identify and monitor those who are subject to the registration requirements. It also affects RSPA's ability to collect fees that are distributed for public sector planning and training for States, Indian tribes and local communities, to deal with hazardous materials emergencies, particularly those involving transportation. See 49 U.S.C. 5108(g); 49 CFR Part 110. These State and local programs affect safety. Failure to register directly affects these programs.

Failing to maintain training records, similarly, does not directly impact safety. Nevertheless, training records are the means of verifying that hazmat employees have been trained to recognize and identify hazardous materials, have knowledge of specific requirements of the HMR applicable to functions they perform, and have knowledge of emergency response information, self-protection measures and accident prevention methods and procedures. Federal hazmat law states:

> After completing the training, each hazmat employer shall certify, with documentation the Secretary of Transportation may require by regulation, that the hazmat employees of the employer have received training and have been tested on appropriate transportation areas of responsibility * * *

49 U.S.C. 5107(c). See also 49 CFR 172.704(d). Unquestionably, the training required under the HMR directly impacts safety, and the training records

requirement enables verification that the training is being conducted.

Generally, failing to file incident reports also does not directly impact safety. Nonetheless, RSPA requires that incident reports be filed as a means for it to evaluate the effectiveness of its regulatory program and to determine the need for regulatory changes to address new or emerging hazardous materials transportation safety problems. The requirement to file incident reports directly supports RSPA's safety initiatives and is one of the only means for RSPA to obtain detailed information concerning hazardous materials incidents.

As supported by the above discussion, RSPA does not agree that regulations that do not have a direct or substantial impact on safety, in and of themselves, necessarily should be deleted from the HMR or enforced only through the issuance of warning letters.

2. Definitive List of Violations Subject to Ticketing

Five commenters asked that RSPA establish a definitive list of violations subject to the pilot ticketing program. RSPA believes that there is a legitimate need for flexibility during the initial two years of this program. Consequently, RSPA will not establish a definitive list of violations, but will begin the program by addressing the violations discussed above. Based on experience gained through administration of the pilot ticketing program, additional types of violations may be added or certain types of violations deleted from the program. At the end of the two-year pilot program, RSPA will evaluate the program in terms of cost savings, time savings, and effectiveness.

Finally, at the request of one commenter, RSPA wishes to clarify that tickets will not be issued for violations it believes to be willful.

B. Authority To Issue Tickets

One commenter asked that RSPA clarify who would issue tickets under the pilot program. Another commenter expressed concern that RSPA might delegate ticketing authority to ''others,'' including States. The NPRM indicated that the Associate Administrator for Hazardous Materials Safety would issue tickets. It is common practice to provide authority in regulations to the highest level agency official responsible for a particular program. It is then that official's choice whether to retain that authority or to delegate it. Presently, it is contemplated that the Associate Administrator will delegate this authority to the Director, OHME, who will delegate this authority to OHME supervisory inspectors. RSPA does not intend to delegate ticket-writing authority to any entity outside the agency. Although States, local governments and Indian tribes often incorporate the HMR by reference into their own regulations, they usually do not incorporate RSPA's procedural regulations but instead use their own existing procedures for handling violations of State and local and Indian tribe regulations.

Three commenters also expressed concern that the proposed pilot ticketing program would lead to a ticket-writing frenzy by RSPA inspectors, who would find it easy to write tickets in order to provide a tangible record of the inspectors' enforcement activities. One of the three commenters stated that the program may encourage inspectors to focus on ''perceived non-threatening technical violations that have in the past often been cooperatively and summarily addressed.''

RSPA does not require its inspectors to initiate a certain number of enforcement actions, and job performance is not measured by the number of enforcement actions that result from their inspections. Also, at the inspector level, discovery of ticketing or other types of violations results in the same amount of work for that inspector. Consequently, there is no incentive for an inspector to focus on ticketing violations to the exclusion of other, more serious violations.

C. Time-Frame for Issuing a Ticket

Several commenters were concerned that the NPRM did not specify a time-frame within which tickets would be issued after the agency's discovery of an apparent violation. One commenter suggested that RSPA issue tickets within 60 days of discovery of an apparent violation. RSPA agrees that establishing a goal for the timely issuance of tickets would be useful to both the agency and the regulated community. Consequently, RSPA will endeavor to issue tickets as expeditiously as possible, generally within 60 days after an apparent violation has been discovered.

D. Time-Frame for Responding to a Ticket

In the NPRM, RSPA proposed to require a response to a ticket within 30 days of the date the ticket was received. Several commenters remarked that the 30-day time period was too short and asked that it be extended to either 45 or 60 days in order to allow sufficient time for the ticket recipient to investigate the violations alleged in the ticket. One commenter remarked that 30 days would not be sufficient time for a ticket to ''find its way through [an] organization to the right place to be either appealed or paid.'' Others cited mail delays, holidays and business travel as reasons why the response time should be longer than 30 days. RSPA agrees that a 30-day response time may be too short in some instances and, therefore, agrees that 45 days is a more suitable time-frame for responding to a ticket.

E. Option to Respond Informally; Processing by Coast Guard Hearing Officers

Numerous commenters objected to the two limited options for responding to a ticket, as proposed in the NPRM. RSPA proposed to allow persons to either pay the ticket or to request a hearing before a Coast Guard Hearing Officer who would review the case in accordance with Coast Guard procedures. One commenter strongly recommended that DOT consider an intermediate option for resolving tickets prior to burdensome, costly, last-resort court proceedings. Another stated that the two-year pilot program is worthwhile, but that the proposed rule should be modified to ensure that due process rights are preserved where there is a reasonable basis to dispute alleged violations. This commenter asked that RSPA's pilot ticketing program include procedures for filing an informal response or request for hearing under RSPA's current informal response and hearing procedures at 49 CFR 107.317 and 49 CFR 107.319, respectively. The commenter added that the informal response option eliminates the need to engage an attorney and to go through the costly hearing process.

Many of these same commenters, in addition to others, also objected to RSPA's proposal to forward cases to Coast Guard Hearing Officers for processing under Coast Guard procedures where a person elects not to pay a ticket and requests a hearing. These objections were based on the fact RSPA's proposal would require the industry to familiarize itself with a new set of procedures, thereby increasing the regulatory burden on the industry. Also, many commenters questioned the Coast Guard's familiarity with the HMR to the extent it applies to transportation other than by water. One commenter stated that RSPA's proposal should be modified to include the right to appeal to the RSPA Administrator, rather than to the Commandant of the Coast Guard, in order to have some uniformity in penalty amounts for similar violations. Another commenter stated that the OCC and DOT's ALJs are well qualified to evaluate the substance of HMR

violations and to assess appropriate penalty levels and should be involved in the pilot ticketing program rather than the Coast Guard.

RSPA does not agree with those commenters who question Coast Guard Hearing Officers' ability to efficiently process RSPA ticketing cases. The HMR requirements with respect to exemption renewal, registration, incident reporting and training records apply to, among others, carriers by vessel. Nevertheless, after reviewing all the comments, RSPA has decided that it would be more efficient and cost-effective, and in the interest of the industry and the agency, to keep the pilot ticketing program within RSPA and to use essentially the same current procedures outlined above, if a person elects to contest a ticket. Specifically, if a person elects to contest a ticket, that person may do so, within 45 days of receiving the ticket, by making an informal response under 49 CFR 107.317 or requesting a formal hearing under 49 CFR 107.319.

The ticket will be the functional equivalent of an NOPV, and contested matters will be handled by the OCC as at present. The OCC will not be bound by the reduced penalty amount shown on the ticket and could impose a penalty as high as the proposed penalty determined under RSPA's civil penalty guidelines, which is also shown on the ticket. In no case will the OCC seek a penalty greater than the highest penalty amount shown on the ticket.

Anyone choosing to contest a ticket will have the case processed by the OCC as at present. In this way, RSPA provides a streamlined process for those who do not wish to contest an alleged violation and leaves the present system intact for those who wish to contest an alleged violation and avail themselves of the current, familiar procedures.

F. Civil Penalty Amounts

1. Amount of Penalty Reductions

RSPA stated in the NPRM that penalties under the pilot ticketing program would be ''substantially less than the penalty that would be proposed under current procedures or that could be imposed by an ALJ at a hearing.'' Several commenters noted that RSPA did not quantify the percentage or dollar amount of the reduced penalties. Two commenters stated that the key to a successful pilot ticketing program is substantially reduced penalties that serve as an inducement for companies to accept civil penalty responsibility in return for eliminating costs associated with contesting the violation. Commenters suggested that penalties assessed under the pilot ticketing program be at least 50 percent less than the penalties that would be assessed under current procedures.

RSPA agrees that penalties under the pilot ticketing program should be sufficiently low to provide an incentive to pay. Therefore, RSPA will continue to calculate a penalty as it does under its current procedures and guidelines, but it will reduce that penalty by 50 percent where the violation at issue is processed under this program. Nevertheless, the ticketing program is a pilot program and RSPA later may decide to reduce ticketing penalties by more or by less than 50 percent of the penalty calculated under current procedures and guidelines, based on experience with the program. In no case will a penalty be less than $250.

One commenter suggested that RSPA waive or reduce penalties even further when ticket recipients demonstrate compliance, within a specific time period, with the HMR. Federal hazmat law requires that a penalty be assessed where a violation of the regulations occurs. Specifically, Section 5123 of Federal hazmat law states:

> A person that knowingly violates this chapter or a regulation prescribed or order issued under this chapter is liable to the United States Government for a civil penalty of at least $250 but not more than $25,000 for each violation.

49 U.S.C. 5123.

2. Incentives to Pay or Not Pay Tickets

Several commenters voiced concern regarding RSPA's proposal to assess penalties under the pilot ticketing program that are substantially less than the penalties that would be proposed under current procedures or that could be imposed by an ALJ at a hearing. They stated that the disparity in civil penalty amounts, plus the threat of having the penalty increase if a person contests a ticket, serves to create an economic incentive to simply pay the ticket despite the violation history that doing so would create. Several other commenters reached the opposite conclusion and stated that the disparity would not create an economic incentive to pay the ticket because paying the penalty would affect one's violation history and could result in higher penalties for future violations. Instead, these commenters predicted a rise in the numbers of hearings and suggested that, to avoid this result, RSPA not count ticketing violations as prior violations. Some commenters also voiced concern that lower penalties would provide an economic incentive for companies not to comply with the HMR; in other words, it would cost less to pay the penalty than to comply with the HMR.

RSPA does not agree that reduced penalties for ticketing violations will be an economic incentive to pay tickets at the expense of one's violation history. The pilot ticketing program, with its reduced penalties, provides a streamlined procedure for those who might not dispute that a violation has occurred—for example, failure to register or to renew an exemption—but who would dispute the proposed penalty, under current procedures, as too high. Under the pilot ticketing program, these people have the option of admitting the violation and paying a substantially lower civil penalty. Because RSPA has decided, in response to numerous comments, to authorize an informal response and to leave the pilot ticketing program within RSPA, those who dispute a ticket can choose to make an informal response or they may request a formal hearing and the case will be handled under current OCC procedures. Consequently, lower ticket penalties provide an opportunity for those who do not contest the violation but who would contest the amount of the penalty under current procedures to pay lower ticket penalties and avoid OCC involvement. Nevertheless, any person who receives a ticket may choose to have the case processed under existing OCC procedures.

Likewise, RSPA does not agree that counting ticketing violations as prior violations in future cases will result in an increased number of requests for formal hearings, or even in an increase in the number of informal responses. Under current OCC procedures, the violations that have been identified for processing under the pilot ticketing program already count as prior violations. Indeed, Federal hazmat law requires RSPA to consider violation histories when assessing civil penalties. 49 U.S.C. 5123.

In the NPRM, RSPA proposed to continue counting ticketing violations as prior violations, and RSPA reaffirms that position here. Nevertheless, RSPA agrees that ticketing violations should be given less weight, in the event of future violations, than more serious non-ticketing violations. Therefore, RSPA intends initially to give prior ticketing violations only one-half the weight of prior non-ticketing violations. In the future, RSPA may decide to give more or less weight to ticketing violations as it gains experience with this pilot program.

Finally, RSPA does not agree that lower ticket penalties will provide an economic incentive for people not to comply with the HMR. The amount of the penalty, the violation history that will result from non-compliance, and

the processing of repeat violations by the OCC should be incentive enough to comply with the HMR.

3. Penalty Guidelines

Two commenters questioned whether using RSPA's March 6, 1995 civil penalty guidelines as proposed in the NPRM is contrary to RSPA's own pronouncements regarding the meaning and use of its guidelines. One commenter noted that RSPA proposed to have the ticket include ''the proposed penalty determined according to the RSPA civil penalty guidelines'' but that RSPA stated in the preamble to the guidelines that they were ''merely informational, [and] not finally determinative of any issues or rights, and do not have the force of law.'' 60 FR 12139. The commenter questioned whether utilizing the penalty guidelines to discourage ticket recipients from contesting alleged violations converts those guidelines into determinative rules under *United States Telephone Association* v. *FCC,* 28 F.3d 1232 (D.C.Cir. 1994) and *Used Equipment Sales, Inc.* v. *Department of Transportation,* 54 F.3d 862 (D.C. Cir 1995).

RSPA did not intend to imply in the NPRM that the penalty guidelines would be used in any way that differs from current procedure. As noted in the preamble to the penalty guidelines:

> These guidelines are a preliminary assessment tool used by RSPA personnel, and they create no rights in any party. They contain baseline amounts or ranges for violations that frequently have been cited in RSPA hazmat NOPVs. When a violation not described in the guidelines is encountered, it sometimes is possible to determine a baseline penalty by analogy to a similar violation in the guidelines.
>
> Even when the guidelines are applicable to a violation, the use of the guidelines is only a starting point. They promote consistency and generally are used to provide some standard for imposing similar penalties in similar cases. However, no two cases are identical, and ritualistic use of the guidelines would produce arbitrary results and, most significantly, would ignore the statutory mandate to consider several specific assessment criteria. Therefore, regardless of whether the guidelines are used to determine a baseline amount for a violation, RSPA enforcement and legal personnel must apply the statutory assessment criteria to all relevant information in the record concerning any alleged violation and the apparent violator. These criteria are in 49 U.S.C. 5123 and 49 CFR 107.331.
>
> * * * the guidelines are not binding on RSPA or Department of Transportation personnel. Enforcement personnel and staff attorneys generally use the guidelines as a starting point for penalty assessment. However, they, the Chief Counsel, administrative law judges (ALJs) and the RSPA Administrator may deviate from the guidelines where appropriate, and are legally bound only by the statutory assessment criteria.

60 FR 12139. At the time the penalty guidelines final rule and the NPRM in this matter were published, RSPA was aware of the D.C. Circuit Court opinion in *United States Telephone Ass'n* v. *FCC,* cited above. RSPA reviewed the *FCC* case and discussed, in the preamble to the penalty guidelines final rule, why the penalty guidelines are a policy statement and, therefore, not subject to the notice and comment requirements of the Administrative Procedure Act, 5 U.S.C. 551 *et seq. See* 60 FR 12139.

In fact, RSPA published its guidelines as an informational appendix to its rules and not as a regulation. Also, RSPA does not use its guidelines in a rote fashion to automatically determine a proposed penalty but instead applies the statutory criteria and the guidelines to all of the particular evidence in each case to arrive at a proposed penalty. Consequently, use of RSPA's penalty guidelines as a starting point when assessing civil penalties either under current procedures or under the pilot ticketing program does not turn the guidelines into rules that would require notice and comment. RSPA's actions are consistent with both of the cited cases.

G. Reduced Cost/Burden

A significant number of commenters stated that the pilot ticketing program, as proposed, would not accomplish RSPA's stated goals of streamlining administrative procedures, cutting costs and reducing regulatory burdens on persons subject to the HMR. These commenters said that the pilot ticketing program, as proposed, could be counterproductive and would ultimately create another layer of administrative procedures, add costs and increase regulatory burdens on the industry. Many commenters thought that the pilot ticketing program, as proposed, would unnecessarily complicate the enforcement process for ticketing violations. Many commenters stated that they did not see any real savings to either the Federal Government or the regulated industry under the proposal.

As discussed above, RSPA agrees that the pilot ticketing program, as proposed, would have added another layer of procedures and might not have resulted in the cost savings RSPA originally anticipated. Consequently, RSPA has modified the proposal as outlined above, *i.e.*, RSPA will keep the pilot ticketing program within the agency and will continue to have the OCC process contested cases under current procedures. RSPA believes that this streamlined procedure will result in the cost savings and reduced regulatory burden that RSPA originally anticipated when it published its proposal.

Specifically, anyone who opts to pay a ticket will realize immediate cost savings in that the proposed penalty will be half of what it would have been under current procedures. Also, the ticket recipient avoids the need to make a detailed written response to the agency (other than a statement of corrective action) and avoids the subsequent written and oral communications that arise during OCC processing of cases. The formal hearing process is bypassed, and legal fees are avoided. Furthermore, there is no OCC or post-ticket OHME involvement in the enforcement action where a ticket recipient opts to pay a ticket. The OCC avoids having to issue an NOPV, hold an informal conference, respond to compromise offers, issue an order, participate in ALJ proceedings, draft a decision on appeal, and issue a close-out letter. OHME avoids involvement in the informal conference and formal hearings, and will not have to interact with the OCC on factual and technical issues.

Where a ticket is contested, current procedures would apply. Nevertheless, there will be some savings to the OCC who will not be required to issue an NOPV but can rely on the ticket to have provided notice of the alleged violations to the ticket recipient. Furthermore, when the OCC receives a case from OHME, the package will not only contain the ticket but a response to the ticket which may set forth corrective action and may contain a compromise offer. This information will allow the OCC to begin processing the case at a more advanced stage than otherwise would be the case and will reduce overall processing time.

H. Miscellaneous

In discussing the pilot ticketing program, one commenter made two statements that require a response. First, the commenter stated that the NPRM is silent on the consequences of paying a civil penalty without ''the requested admission of guilt.'' RSPA does not require an admission of guilt either under the pilot ticketing program or under current procedures. In either case, when a person pays a civil penalty, the case is closed and counts as a prior violation in the event of a future violation of the HMR. No admission of guilt is required.

The same commenter questioned whether the agency will require evidence of corrective action under the

pilot ticketing program. RSPA currently requests and encourages persons who have violated the HMR to submit evidence of corrective action to the agency. RSPA will continue this practice under the pilot ticketing program. The exit briefing form that RSPA inspectors leave with a person at the end of an inspection contains language encouraging the submission of documented corrective action to the agency as soon as possible. The ticket, like an NOPV, will also contain similar language. In the event that a ticket is paid but no evidence of corrective action has been submitted, the agency will send a letter to the ticket recipient again encouraging the submission of documented corrective action—just as it does in non-ticketing cases where payment is made in response to an NOPV. Under current procedures, RSPA receives some documented corrective action in virtually all of its enforcement cases.

Several commenters also questioned the relationship between RSPA's pilot ticketing program and tickets issued for violations of State and Federal motor carrier safety regulations. As stated above, the authority for enforcement under Federal hazmat law, 49 U.S.C. 5101–5127, is shared by RSPA and each of the four modal administrations. RSPA has primary jurisdiction over packaging manufacturers, reconditioners and retesters (except with respect to single-mode bulk packagings, which are primarily the responsibility of the applicable modal administration) and a shared authority over shippers of hazardous materials. RSPA does not enforce Federal or State motor carrier safety regulations. To the extent that motor carriers are affected by RSPA's pilot ticketing program, it generally will be because of: (1) Their shipper activities; (2) their failure to comply with the HMR's carrier incident reporting requirements; or (3) their failure to comply with the HMR's registration requirements.

IV. Rulemaking Analyses and Notices

Executive Order 12866 and DOT Regulatory Policies and Procedures

This final rule is not considered a significant regulatory action under section 3(f) of Executive Order 12866 and therefore is not subject to review by the Office of Management and Budget. The rule is not significant according to the Regulatory Policies and Procedures of the Department of Transportation (44 FR 11034).

The changes adopted in this rule do not result in any additional costs to persons subject to the HMR, but result in modest cost savings to a small number of them and to the agency. Because of the minimal economic impact of this rule, preparation of a regulatory impact analysis or a regulatory evaluation is not warranted.

Executive Order 12612

This final rule has been analyzed in accordance with the principles and criteria in Executive Order 12612 (''Federalism'') and does not have sufficient Federalism impacts to warrant the preparation of a federalism assessment.

Regulatory Flexibility Act

I certify that this final rule will not have a significant economic impact on a substantial number of small entities. This rule does not impose any new requirements on persons subject to the HMR; thus, there are no direct or indirect adverse economic impacts for small units of government, businesses or other organizations.

Paperwork Reduction Act

There are no new information collection requirements in this final rule.

Regulation Identifier Number

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

List of Subjects in 49 CFR Part 107

Administrative practice and procedure, Hazardous materials transportation, Packaging and containers, Penalties, Reporting and recordkeeping requirements.

In consideration of the foregoing, 49 CFR Part 107 is amended as follows:

PART 107—HAZARDOUS MATERIALS PROGRAM PROCEDURES

1. The authority citation for Part 107 continues to read as follows:

Authority: 49 U.S.C. 5101–5127, 44701; 49 CFR 1.45, 1.53.

2. In § 107.307, paragraph (a) is revised to read as follows:

§ 107.307 General.

(a) When the Associate Administrator for Hazardous Materials Safety and the Office of the Chief Counsel have reason to believe that a person is knowingly engaging or has knowingly engaged in conduct which is a violation of the Federal hazardous material transportation law or any provision of this subchapter or subchapter C of this chapter, or any exemption, or order issued thereunder, for which the Associate Administrator for Hazardous Materials Safety or the Office of the Chief Counsel exercise enforcement authority, they may—

(1) Issue a warning letter, as provided in § 107.309;

(2) Initiate proceedings to assess a civil penalty, as provided in either §§ 107.310 or 107.311;

(3) Issue an order directing compliance, regardless of whether a warning letter has been issued or a civil penalty assessed; and

(4) Seek any other remedy available under the Federal hazardous material transportation law.

* * * * *

§ 107.307 [Amended]

3. In addition, in § 107.307, in paragraph (b), the wording ''Office of Chief Counsel'' is revised to read ''the Associate Administrator for Hazardous Materials Safety and the Office of the Chief Counsel''.

§ 107.309 [Amended]

4. In § 107.309, at the beginning of paragraph (a), the wording ''In addition to the initiation of proceedings under § 107.307 for the imposition of sanctions or other remedies, the'' is revised to read ''The''.

5. Section 107.310 is added to read as follows:

§ 107.310 Ticketing.

(a) For an alleged violation that does not have a direct or substantial impact on safety, the Associate Administrator for Hazardous Materials Safety may issue a ticket.

(b) The Associate Administrator for Hazardous Materials Safety issues a ticket by mailing it by certified or registered mail to the person alleged to have committed the violation. The ticket includes:

(1) A statement of the facts on which the Associate Administrator bases the conclusion that the person has committed the alleged violation;

(2) The maximum penalty provided for by statute, the proposed full penalty determined according to RSPA's civil penalty guidelines and the statutory criteria for penalty assessment, and the ticket penalty amount; and

(3) A statement that within 45 days of receipt of the ticket, the person must pay the penalty in accordance with paragraph (d) of this section, make an informal response under § 107.317, or

request a formal administrative hearing under § 107.319.

(c) If the person makes an informal response or requests a formal administrative hearing, the Associate Administrator for Hazardous Materials Safety forwards the inspection report, ticket and response to the Office of the Chief Counsel for processing under §§ 107.307–107.339, except that the Office of the Chief Counsel will not issue a Notice of Probable Violation under § 107.311. The Office of the Chief Counsel may impose a civil penalty that does not exceed the proposed full penalty set forth in the ticket.

(d) Payment of the ticket penalty amount must be made in accordance with the instructions on the ticket.

(e) If within 45 days of receiving the ticket the person does not pay the ticket amount, make an informal response, or request a formal administrative hearing, the person has waived the right to make an informal response or request a hearing, has admitted the violation and owes the ticket penalty amount to RSPA.

6. In § 107.311, paragraph (a) is revised to read as follows:

§ 107.311 Notice of probable violation.

(a) The Office of Chief Counsel may serve a notice of probable violation on a person alleging the violation of one or more provisions of the Federal hazardous material transportation law or any provision of this subchapter or subchapter C of this chapter, or any exemption, or order issued thereunder.

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Issued in Washington, DC on February 12, 1996 under authority delegated in 49 CFR part 1.

Kelley S. Coyner,

Acting Deputy Administrator, Research and Special Programs Administration.

[FR Doc. 96–4203 Filed 2–23–96; 8:45 am]

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Monday
February 26, 1996

Part V

Department of Transportation

Federal Aviation Administration

14 CFR Part 1 et al.

Extending Overwater Operations With a Single Long-Range Communication System and a Single Long-Range Navigation System; Final Rule

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 1, 91, 121, 125, and 135

RIN 2120–AF12

[Docket No. 27474; Amendment No. 1–44, 91–249, 121–254, 125–25 and 135–61]

Extended Overwater Operations With a Single Long-Range Communication System (LRCS) and a Single Long-Range Navigation System (LRNS)

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action revises the Federal Aviation Regulations for certain overwater operations for air carriers, commercial operators, and general aviation operators of large and of turbine-powered multiengine airplanes. It defines and clarifies requirements for using long-range navigation systems (LRNS) and long-range communication systems (LRCS) and sets forth criteria for navigation and communication equipment for certain overwater operations. Under this rule, air carriers and commercial operators are authorized to use a single LRCS and a single LRNS for extended overwater routes detailed in their operations specifications. Affected general aviation operators, who already are authorized to use a single LRCS when they have two very high frequency (VHF) communication systems, are authorized to use a single LRNS in overwater operations in the Gulf of Mexico, the Caribbean Sea, and part of the western Atlantic Ocean. This rule gives the FAA greater flexibility in responding to advances in aviation technology and changes in the operational environment and allows operators to conduct extended overwater operations without carrying unnecessary communication and navigation equipment.

EFFECTIVE DATE: February 26, 1996.

FOR FURTHER INFORMATION CONTACT: Daniel V. Meier, Jr., Project Development Branch, AFS–240, Air Transportation Division, Office of Flight Standards, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, telephone (202) 267–3749.

SUPPLEMENTARY INFORMATION:

Background

Air traffic in the Gulf of Mexico, the Caribbean Sea, and part of the western Atlantic Ocean (subsequently referred to in this document as the geographic area) has increased substantially during the last 20 years. With this increase has come corresponding technological advances inherent with more modern aircraft and improved navigation and communications systems.

Advances in aircraft technology have increased the overall speed and functional reliability of modern airplanes. These high-speed airplanes can cover routes in the geographic area much more quickly than their predecessors. Because of their higher speeds, they also can cover greater distances during the time between hourly fixes. Thus, the number of routes in the geographic area where time between reliable fixes was 1 hour or more has been reduced for these airplanes. Similarly, the airplane's exposure to the loss of its LRNS before the next reliable fix can be obtained is reduced. Since such aircraft also routinely operate at higher altitudes en route, they can conduct very high frequency (VHF) communications at greater ranges from their corresponding ground facilities than their predecessors.

Advances in avionics have resulted in increasingly accurate and dependable navigation systems, using inputs from Loran C, Omega/very low frequency (VLF), inertial navigation, or reference systems (INS), and, most recently, the global positioning satellite navigation system (GPS). Each navigation system typically gives instantaneous readouts of position, ground speed, wind, and waypoint progress. Radio communication systems have enjoyed similar advances. Bulky vacuum tube units have given way to miniaturized units with transistors, precise frequency selection, and high reliability, which produce the same or greater transmitting power than older models. In addition, the proliferation of VHF communication facilities within the geographic area ensures that many routes now can be flown with a VHF communications gap of no more than 30 minutes.

The increased reliability of modern LRNS reduces navigation errors. Sophisticated flight management systems (FMS) integrate control and navigation systems of an airplane and combine several navigation inputs to provide greater position reliability. The multiple navigation inputs into an FMS increase the accuracy of the system, and its reliability when compared to earlier navigation systems which only received a single source input. If the LRNS fails on an airplane using such sophisticated equipment, navigation errors inherent in dead-reckoning procedures from the moment of the failure until the next reporting point or fix should be well within the navigational performance capability required for the route to be flown.

Just as navigation systems have experienced several enhancements, ongoing developments in data link and satellite technology also have resulted in enhanced communications. The airborne equipment that aircraft use has improved due to advances in avionics reliability and miniaturization. These smaller units mean less weight on board the airplane.

The FAA believes that the probability that an airplane would experience a failure of both its single long-range communications system (LRCS) and its single LRNS when suitable navigation aids cannot be received is minimal. Advanced technology notwithstanding, however, a single LRCS could fail during a flight segment in which the airplane is operated beyond the range of VHF radio communication equipment. Even if such a failure did occur, the increased density of other air traffic in the vicinity could provide the affected airplane with some backup VHF communications with ATC. Moreover, regardless of the number of other aircraft in the area, if the flightcrew adheres to proper operational procedures, failure of the LRNS should not lead to an increased potential for conflict between aircraft before the airplane could come into range of suitable navigation aids (e.g. non-directional beacon, very high frequency omnirange (VOR), etc.).

Because of the increased speeds and higher altitudes at which airplanes now operate, improved equipment, improved reliability, and greater accuracy of LRNS systems, the FAA has concluded that, where exposure time for a critical equipment failure is 1 hour or less, the following is true:

- The probability of a failure is less than the probability of a failure with less modern equipment;
- With the accuracy of the present equipment, operators have better knowledge of their position if a failure does occur.

All of the factors discussed above have brought about the need to update the regulations to conform current technology to the types of operations that are currently being authorized. Namely, the FAA has found that operations in the geographic area can be conducted without the burden of additional navigation and communication systems carried in the aircraft. Therefore, on a case-by-case basis, and with certain conditions and limitations, the FAA has allowed a number of operators to conduct operations in the geographic area with a single LRCS and a single LRNS. To

date, such operations have had no adverse effect on safety.

General Discussion of Current Requirements for Extended Overwater Operations

General Aviation Operations

With one exception, set forth in § 91.511(d), 14 Code of Federal Regulations part 91, subpart F, the FAA currently requires large and turbine-powered multiengine airplanes engaged in overwater operations to be equipped with two independent communication and two independent navigation systems. Communication equipment must be appropriate to the facilities to be4 used and able to transmit to and receive from at least one surface facility at any place on the route. Navigation equipment must be able to provide the pilot with the information necessary to navigate the airplane within the airspace assigned by ATC. Under the exception in § 91.511(d), if a route requires the use of both VHF and LRCS communication equipment, and the airplane has two VHF transmitters and two VHF receivers, then only one LRCS transmitter and one LRCS receiver is required for communications.

Air Carrier and Commercial Operations

Parts 121, 125, and 135 also require airplanes engaged in extended overwater operations to be equipped with two independent communication and two independent navigation systems. Like part 91, parts 125 and 135 require that the communication equipment be appropriate to the facilities to be used and capable of transmitting to and receiving from at least one ground facility at any place on the route. Although the regulatory language differs somewhat, part 121 contains essentially the same requirements for communication equipment. Specifically, part 121 requires two independent communication systems able to communicate, under normal operating conditions, with (1) at least one appropriate ground station from any point on the route and with (2) appropriate traffic control facilities from any point in the airspace within which the flights are intended. These communication systems also must be able to receive meteorological information from any point en route. Unlike part 91, however, parts 121, 125, and 135 do not allow the use of a single LRCS where the airplane is also equipped with two VHF radios or systems. Thus, if a route requires use of both VHF and LRCS, airplanes operating under parts 121, 125, and 135 must have two VHF radios and two LRCS.

Section 121.349(b) allows for the use of a single automatic direction finder (ADF) when two VOR navigation units are installed and VOR navigation aids are so located and the airplane is so fueled that, in the case of a failure of the ADF, the flight may proceed safely to a suitable airport by means of VOR aids. In all other cases, when use of ADF, VOR navigation equipment, or both, is needed for primary navigation, the current rules for parts 121, 125, and 135 require the airplane to be equipped with two ADF and two VOR navigation units, as appropriate.

General Discussion of the Rule

The FAA is expanding, under certain conditions, the authority for air carriers and commercial operators to amend their operations specifications to use a single LRCS and a single LRNS. The FAA has determined that, for the time being, the authority will be limited to the geographic area. This limitation is based primarily on the ready availability of navigation and communication facilities within the geographic area, which provide a crucial buffer in the event of a communication or navigation failure. In appropriate circumstances, the FAA may expand the areas in which operations with a single LRCS and a single LRNS will be permitted for part 121, 125, and 135 operators.

Aside from the current authority set forth in §§ 91.511(d) and 121.349(b), this rule does not change the general requirements under parts 91, 121, 125, and 135 for two VHF communication systems and two each of any appropriate navigation systems required for the route to be flown except in the geographic area. The FAA has concluded that, by maintaining these requirements, air transportation safety is not compromised.

The FAA is amending part 91 and creating operation specification authority for operators under parts 121, 125, and 135 based on the factors mentioned above and on the operator's ability to maintain two-way communications with ATC and, where appropriate, the certificate holder's dispatch office. Without such factors, ATC's ability to control airplanes in the geographic area would be adversely impacted, increasing the potential for air traffic conflicts. The flightcrew must be able to notify ATC of an LRNS failure and must be able to tell ATC whether the flightcrew can reliably fix the airplane's position using other means.

Part 91

As a result of changes in technology, the operational environment described, and experience gained with exemptions allowing a single LRNS, the FAA has concluded that part 91 operators of large and of turbojet multiengine airplanes should be able to operate safely with a single LRCS and a single LRNS in the geographic area. In conducting operations in the geographic area, these general aviation operators should consider how long they may be without two-way VHF communications. For flight planning purposes, the FAA recommends that this gap should not exceed 30 minutes. The operator also should consider whether the position of the airplane can be reliably fixed at least once each hour if the LRNS fails.

Parts 121, 125, and 135

The FAA believes that the only appropriate method for authorizing single LRCS/single LRNS operations for part 121, 125, and 135 certificate holders is through FAA-approved authorizations, which will be set forth in the certificate holder's operations specifications. This method of approval is necessary because it will provide both the FAA and the certificate holder greater flexibility in dealing with varied equipment configurations, possible reclassification of airspace operating areas, changes in navigational requirements, and changes in air traffic separation standards.

The FAA has authorized these operations in the past and has determined that controlling a VHF communication gap through operations specifications will provide an equivalent level of safety. Loss of the single LRNS still requires each operator to reliably fix the airplane's position at least once each hour if the flight is continued and to navigate within the required degree of accuracy over any authorized route.

Definition of LRNS and LRCS

In the proposal, the FAA defined an LRNS as an electronic navigation unit that is approved for use under instrument flight rules (IFR) as a primary means of navigation and has at least one source of navigational input, such as INS, Omega/very low frequency, and Loran C. In this definition, the FAA did not limit the scope of acceptable LRNS to radio-based or ground-based systems. Such nonradio, nonground-based systems as INS are included within the scope of acceptable alternatives as long as the system chosen has been approved for use under IFR. If approved, GPS or similar

navigation systems also could fall within this definition. Where ADF or VOR radio navigation is impractical or unusable, the FAA interprets the current regulations to require the airplane to be equipped with two LRNS for extended overwater operations. This final rule changes this dual LRNS requirement. For parts 121, 125, and 135, authorization for a single LRNS and a single LRCS will be approved in the certificate holder's operations specifications. Since affected part 91 operators do not use operations specifications, they would be authorized to use a single LRNS, but only in the geographic area.

Although not defined in the proposal, the FAA has determined that, for clarity, LRCS, like LRNS, should be defined in the final rule. The FAA defines an LRCS as a long-range communication system that uses satellite relay, data link, high frequency, or other approved communication system which extends beyond line of sight. The FAA also has determined that the definitions for LRNS and LRCS would be better placed in part 1, Definitions and Abbreviations, for easy reference of all affected operators and to avoid the redundancy of repeating the definitions in all affected parts. Therefore, the definitions for LRCS and LRNS will be added to § 1.1, General definitions. These definitions will be added to this section, in appropriate alphabetical order, following the currently listed definition of ''load factor.''

Conditions and Limitations for All Operators

Because part 91 operators are not required to have operations specifications, this rule limits general aviation single LRNS operations to the geographic area. The areas of operation covered in this rule for affected general aviation operators include the Gulf of Mexico, the Caribbean Sea, and the Atlantic Ocean west of a line which extends from 44°47′00″ N / 67°00′00″ W to 39°00′00′N / 67°00′00″W to 38°30′00″N /60°00′00″ W south along the 60°00′00″ W longitude line to the point where the line intersects with the northern coast of South America. This geographic area does not include the North Atlantic Minimum Navigational Performance Specifications (NAT/MNPS) airspace, where operations are governed by § 91.705 and appendix C to part 91.

Limitations for air carrier and commercial operations will be set forth in the certificate holders' operations specifications. As in the case of general aviation operations, the area of operation for air carrier and commercial operators will not include NAT/MNPS airspace. At a minimum, these operators must always comply with International Civil Aviation Organization (ICAO) requirements for the area of operations.

Discussion of Comments

On October 5, 1993, the FAA published a notice proposing to allow extended overwater operations with single LRCS and single LRNS (58 FR 51938). The FAA received six comments on the proposal. The National Business Aircraft Association, Inc. (NBAA), the Aircraft Owners and Pilots Association (AOPA), and the Air Transport Association (ATA) expressed support with recommendations. Northwest Airlines expressed neither support nor opposition but did provide a recommendation. The Boeing Commercial Airplane Group acknowledged the proposal but had ''no comment'' and an aviation consulting firm was opposed to the proposal. These comments are discussed as follows:

NBAA

The NBAA indicated that it ''strongly supports'' the proposed changes to allow single LRNS and LRCS. It recommended, however, that proposed § 121.99 be incorporated into parts 91, 125, and 135 since these parts also require the latitude to access new technology communication links without being tied solely to HF.

FAA response: This rule is intended to affect use of LRNS and LRCS for extended overwater operations. The FAA recognizes that additional updates to the rules are needed in view of advances in technology, such as GPS. Such changes will be addressed in future rulemaking initiatives.

AOPA

AOPA supported the proposal and recommended that the requirement for an LRCS be eliminated entirely for certain aircraft in flight conditions where no more than a 30-minute gap in two-way communications exists. AOPA supported its recommendation by stating that LRCS equipment is cumbersome and expensive. According to the commentor, LRCS equipment is often adversely affected by precipitation and other weather conditions. Further, in overwater areas, pilots relay transmissions to ATC through other aircraft and do not depend on their LRCS.

FAA response: The FAA acknowledges that an LRCS has some disadvantages; however, these disadvantages are offset by the necessity for communications when an airplane is operating in extended overwater beyond the range of VHF ground-based communications. While airplanes operating in accordance with § 91.511 are not involved in the carriage of persons or cargo for compensation or hire, these airplanes nevertheless share airspace in the geographic area with air carriers which are engaged in transporting passengers and cargo. Therefore, the FAA considers it necessary for safety that all aircraft operating in the geographic area be able to communicate with ATC at all times.

ATA

The ATA supported the proposal indicating that it would provide administrative and economic relief from an unnecessary regulatory burden. Apparently in reference to the 15-day comment period however, the commentor noted that, in future proposals, the FAA must abide by the requirements of the Administrative Procedures Act (APA). Northwest echoed this comment regarding the APA.

FAA response: In allotting the 15-day comment period, the FAA was responding to the large number of requests for relief from the aviation industry. The FAA considered it to be in the best interest of safety and the public to expedite the regulation by every means possible. The FAA did not violate any requirements of the APA, which does not require specific comment periods for rulemaking.

Northwest Airlines

Northwest Airlines suggested that the proposed rule be amended to allow operations in NAT/MNPS airspace for flights to and from SLATIN along or west of A632. According to the commentor, the area of NAT/MNPS airspace traversed by A632 is within VHF coverage except for an area of non-coverage located on either side of the mid point of A632 between Bermuda and the mainland of the U.S. The commentor asserted that this non-coverage area can be traversed within 6 minutes. Northwest further indicated that extending the boundary of the area below 27°00′00″ N from longitude 60°00′00″ W, would include the island of Barbados and thereby preclude any confusion regarding coverage of the total Caribbean island chain. Lastly, Northwest indicated that the coordinates describing operations under part 91 do not have the same boundaries as defined by part 91, appendix C. According to the commentor, this presents confusion to ATC with respect to the different requirements for air carrier and general aviation operations.

FAA response: The route from SLATIN along A632 to approximate 38°30′00″ N and 67°30′00″ W is NAT/MNPS airspace and, as such, is governed by ICAO agreements which require redundant navigation and communication systems. It is not within the scope (authority) of this rule to alter those agreements. This airspace represents an extremely small part of the total geographic area considered in this rule and can be crossed in 6 minutes by a turbine-powered air transport category airplane. Airlines may operate through this airspace with one LRNS and one LRCS provided they obtain a letter of agreement with ATC. These operations have been successful in the past and the FAA does not consider it to be in the public interest for the U.S. government to file a difference with ICAO.

The boundaries defined in the rule represent a general oceanic area, outside NAT/MNPS airspace, in which a single LRNS and single LRCS may be used when an airplane is unable to navigate by reference to standard ICAO navigational aids such as VOR or ADF. The location of the island of Barbados outside the western boundary of the geographic area does not exclude it from operations conducted under this regulation since VOR coverage extends well into the geographic area.

The commentor's concern regarding possible conflict between the requirements of part 91, appendix C and the boundaries of the geographic area of the rule is unfounded. Part 91, appendix C refers to operations within NAT/MNPS airspace whereas the regulation limits operation to airspace outside NAT/MNPS airspace.

Aviation Consulting Firm

George Rabe & Associates, the aviation consulting firm opposed to the proposal indicated that some of the more modern communication and navigation systems are an improvement; however, some are not. Nonetheless, according to the commentor, since smaller airlines cannot afford to purchase the more expensive communication and navigation systems, they do not have the luxury of operating with enhanced accuracy and reliability provided by the more sophisticated systems. This commentor stated that the economic arguments of the proposal are not justified given that GPS is expected to bring down costs and that some operators will still conduct operations requiring the use of dual LRNS and LRCS. Moreover, according to this commentor, increased air traffic and reduced separation standards should bring forth a requirement for improved navigation safety not a reduction in safety standards. Indicating that errors are not mechanical but human, this commentor recommended maintaining the requirement for dual LRNS and LRCS and also improving training requirements.

FAA response: The FAA realizes that cost differences exist among LRNS and LRCS equipment and that there may be some differences in accuracy; however, all equipment used for operations under this rule must meet certain standards of approval established by the FAA. These standards serve to assure that an acceptable level of safety is maintained regardless of the cost and availability of the equipment.

The safe operation of LRNS and LRCS is a part of the operators' approved training program and is assured by FAA inspection and surveillance. Knowing that mistakes in navigation occasionally will be made, the FAA established certain operational factors in the rule to minimize any potential threat to safety which may result from potential errors.

One of the major factors considered in this rule is the question of economic burden to the air transportation industry. The FAA believes that this rule will relieve the airlines of a significant cost burden. If GPS LRNS units, and subsequently approved operations, present a cost savings above other, more prevalent, systems in use today, the FAA would certainly favor such a potential.

Economic Summary

This final rule reduces costs to operators by eliminating the requirements for two LRCS and two LRNS in the Gulf of Mexico, part of the western Atlantic Ocean, and the Caribbean Sea (the geographic area). Savings will come from reduced avionics costs, reduced fuel consumption from less aircraft weight, and reduced risk of flight cancellations due to inoperative equipment.

The FAA estimates the fleet size operating in the geographic area will be approximately 158 airplanes in 1995. The FAA assumes that the size of the fleet serving the geographic area will grow by 5.5 percent annually over the 10-year period, 1995–2004. Although the fleet composition varies from jumbo jets to smaller twin-engine turboprop planes, commercial operators most often use Boeing 727's in the geographic area. In addition to the scheduled commercial fleet, general aviation and non-commercial operators operating in the geographic area will gain some relief from this rule as well. The FAA, however, does not have an accurate measure of the size of the fleet operating in the geographic area.

Each commercial operator will save approximately $17,000 per airplane in equipment costs and will reduce aircraft weight 20 pounds per airplane by eliminating one LRCS; each commercial operator will save about $36,000 per airplane in equipment costs and will reduce aircraft weight 20 pounds per airplane by eliminating one LRNS. For existing airplanes with equipment made redundant by this rule, the resulting avionics cost savings will total about $53,000 per converted airplane. The FAA also estimates that each additional pound on an airplane costs an operator an additional 15 gallons of fuel annually. Assuming a converted airplane removes two 20-pound pieces of equipment, the reduction in weight will save 600 gallons of fuel each year. Using a 1993 average jet fuel price of $.675 per gallon, the reduction in weight of 600 gallons of fuel per year will result in annual savings totaling over $400 per converted airplane.

Additional savings from the rule will also come from reduced flight cancellations as operators experience fewer equipment failures as a result of the reduced equipment requirements. Cost reduction resulting from the prevention of a cancellation depends on passenger time, passenger handling costs, lost revenue, and operating costs. The approximate cost of a Boeing 727 cancellation is estimated to equal just over $28,000. The FAA, however, does not have an accurate estimate for the number of flight cancellations attributable to non-functioning LRCS or LRNS for airplanes operating in the geographic area from which to estimate the total cost savings resulting from reduced cancellations.

The FAA assumes that 50 percent of the commercial fleet serving the geographic area will reduce the equipment in its airplanes to only one LRCS and one LRNS, and that this conversion will occur during the first 2 years after implementation of the rule. Thereafter, the FAA assumes that one-half the airplanes added to the commercial fleet will be placed in service with only one LRCS and one LRNS. The FAA further assumes that the savings resulting from reduced fuel expenditure applies to the equipment conversion of 50 percent of the fleet converting to a single LRCS and a single LRNS.

In each of the first 2 years after the rule becomes effective, the industry will reduce avionics costs by over $2 million. Over the decade 1995–2004, the total savings in 1993 dollars for reduced avionics requirements will exceed $6.7

million. The fuel savings resulting from airplane weight reduction will add another $389,000 in reduced costs, bringing the total cost savings in 1993 dollars for this final rule to more than $7.1 million. The net discounted savings for the decade 1995–2004, will total just over $5.7 million.

The FAA has determined that no safety problem exists with the reduction in requirements for dual LRCS and dual LRNS for certain overwater operations. In the past two decades, the FAA has granted limited exemption from the requirements for dual LRCS and LRNS to certain qualified operators operating in the geographic area. No airplane operating under exemption has had an accident which can be attributed to having only one LRCS or one LRNS. During that time, the accuracy and reliability of navigation equipment has continuously improved. Thus, the FAA believes that this rule presents no degradation in aviation safety in the geographic area.

International Trade Impact Analysis

Domestic air carriers will receive a negligible cost reduction, but there will be no impact on foreign operators. Hence, this rule will have no effect on the sale of foreign aviation products or services in the U.S. or on the sale of U.S. products or services in foreign countries.

Regulatory Flexibility Determination

The Regulatory Flexibility Act of 1980 (RFA) ensures that government regulations do not needlessly and disproportionately burden small businesses. The RFA requires the FAA to review each rule that may have ''a significant economic impact on a substantial number of small entities.''

FAA criteria define ''a substantial number'' as not less than eleven nor more than one-third of the small entities subject to the rule. Among air carriers, a small entity is defined as one which owns, but does not necessarily operate, nine or fewer aircraft. The criteria define ''a significant impact'' as follows: $102,000 for scheduled air carriers with 60 or more seats; $57,000 for scheduled air carriers with fewer than 60 seats.

This amendment is wholly cost relieving. By eliminating the need for two LRCS and LRNS in the geographic area, the estimated cost savings to an operator is $53,000. This savings is less than the threshold amount for small, scheduled operators.

Federalism Implications

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

International Civil Aviation Organization and Joint Aviation Regulations

In keeping with U.S. obligations under the Convention on International Civil Aviation, it is FAA policy to comply with ICAO Standards and Recommended Practices (SARP) to the maximum extent practicable. For this amendment, the FAA has reviewed the SARP of Annex 6, Parts I and II, applicable to international commercial air transportation operations and international general aviation operations respectively. The FAA has determined that this rule would not present any differences.

Paperwork Reduction Act

This rule contains no information collection requests requiring approval of the Office of Management and Budget pursuant to the Paperwork Reduction Act (44 U.S.C. 3507 et seq.).

Conclusion

For the reasons discussed in the preamble, and based on the findings in the Regulatory Flexibility Determination and the International Trade Impact Statement, the FAA has determined that this regulation is not significant under Executive Order 12866. In addition, it is certified that this rule will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. This rule is not significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979).

List of Subjects

14 CFR Part 1

Air Transportation.

14 CFR Part 91

Aircraft, Airmen, Airports, Air traffic control, Aviation safety.

14 CFR Part 121

Air Carriers, Aircraft, Airmen.

14 CFR Part 125

Aircraft, Airmen, Aviation safety.

14 CFR Part 135

Air taxis, Aircraft, Airmen, Aviation safety.

The Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR parts 1, 91, 121, 125, and 135 as follows:

PART 1—DEFINITIONS AND ABBREVIATIONS

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

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

2. Section 1.1 is amended by adding the following definitions:

§ 1.1 General definitions.

* * * * *

Long-range communication system (LRCS). A system that uses satellite relay, data link, high frequency, or another approved communication system which extends beyond line of sight.

Long-range navigation system (LRNS). An electronic navigation unit that is approved for use under instrument flight rules as a primary means of navigation, and has at least one source of navigational input, such as inertial navigation system, global positioning system, Omega/very low frequency, or Loran C.

* * * * *

PART 91—AIR TRAFFIC AND GENERAL OPERATING RULES

3. The authority citation for part 91 is revised to read as follows:

Authority: 49 U.S.C. 106(g), 1155, 40103, 40113, 40120, 44101, 44111, 44701, 44709, 44711, 44712, 44715, 44716, 44717, 44722, 46306, 46315, 46316, 46504, 46506–46507, 47122, 47508, 47528–47531, articles 12 and 29 of the Convention on International Civil Aviation (61 stat. 1180).

4. In § 91.11, paragraph (a) introductory text is amended by removing ''paragraphs (c) and (d)'' and by adding ''paragraphs (c), (d), and (f)'', in its place and new paragraph (f) is added to read as follows:

§ 91.511 Radio equipment for overwater operations.

* * * * *

(f) Notwithstanding the requirements in paragraph (a)(2) of this section, a person may operate in the Gulf of Mexico, the Caribbean Sea, and the Atlantic Ocean west of a line which extends from 44°47′00″ N / 67°00′00″ W to 39°00′00″ N / 67°00′00″ W to 38°30′00″ N / 60°00′00″ W south along the 60°00′00″ W longitude line to the point where the line intersects with the northern coast of South America, when:

(1) A single long-range navigation system is installed, operational, and appropriate for the route; and

(2) Flight conditions and the aircraft's capabilities are such that no more than a 30-minute gap in two-way radio very high frequency communications is expected to exist.

PART 121—CERTIFICATION AND OPERATIONS: DOMESTIC, FLAG, AND SUPPLEMENTAL AIR CARRIERS AND COMMERCIAL OPERATORS OF LARGE AIRCRAFT

5. The authority citation for part 121 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40101, 40105, 40113, 44701–44702, and 44704–44705.

6. The first sentence of § 121.99 is revised to read as follows:

§ 121.99 Communication facilities.

Each domestic and flag air carrier must show that a two-way radio communication system is available at points that will ensure reliable and rapid communications, under normal operating conditions over the entire route (either direct or via approved point-to-point circuits) between each airplane and the appropriate dispatch office, and between each airplane and the appropriate air traffic control unit except as specified in § 121.351(c).

* * *

7. Section 121.351 is amended by revising paragraph (a) and adding new paragraph (c) to read as follows:

§ 121.351 Radio and navigation equipment for extended overwater operations and for certain other operations.

(a) Except as provided in paragraph (c) of this section, no person may conduct an extended overwater operation unless the airplane is equipped with the radio communication equipment necessary to comply with § 121.349, an independent system that complies with § 121.347 (a)(1), and two long-range navigation systems when VOR or ADF radio navigation equipment is unusable along a portion of the route.

(b) * * *

(c) Notwithstanding the requirements of paragraph (a) of this section, installation and use of a single LRNS and a single LRCS may be authorized by the Administrator and approved in the certificate holder's operations specifications for operations and routes in certain geographic areas. The following are among the operational factors the Administrator may consider in granting an authorization:

(1) The ability of the flightcrew to reliably fix the position of the airplane within the degree of accuracy required by ATC,

(2) The length of the route being flown, and

(3) The duration of the very high frequency communications gap.

PART 125—CERTIFICATION AND OPERATIONS: AIRPLANES HAVING A SEATING CAPACITY OF 20 OR MORE PASSENGERS OR A MAXIMUM PAYLOAD CAPACITY OF 6,000 POUNDS OR MORE

8. The authority citation for part 125 continues to read as follows:

Authority: 49 U.S.C. 106(g), 1153, 40104, 40105, 44113, 44701–44705, 44707–44714, 44716–44717, 44722.

9. Section 125.203 is amended by adding the phrase ''Except as provided in paragraph (e) of this section,'' at the beginning of the first sentence of paragraph (c) introductory text and adding a new paragraph (e) to read as follows:

§ 125.203 Radio and navigation equipment.

* * * * *

(e) Notwithstanding the requirements of paragraph (c) of this section, installation and use of a single long-range navigation system and a single long-range communication system for extended overwater operations in certain geographic areas may be authorized by the Administrator and approved in the certificate holder's operations specifications. The following are among the operational factors the Administrator may consider in granting an authorization:

(1) The ability of the flightcrew to reliably fix the position of the airplane within the degree of accuracy required by ATC,

(2) The length of the route being flown, and

(3) The duration of the very high frequency communications gap.

PART 135—AIR TAXI OPERATORS AND COMMERCIAL OPERATORS

10. The authority citation for part 135 continues to read as follows:

Authority: 49 U.S.C. 106(g), 1153, 40101, 40105, 44113, 44701–44705, 44707–44717, 44722, and 45303.

11. Section 135.165 is amended by adding a new paragraph (d) to read as follows:

§ 135.165 Radio and navigation equipment: Extended overwater or IFR operations.

* * * * *

(d) Notwithstanding the requirements of paragraphs (a) and (b) of this section, installation and use of a single long-range navigation system and a single long-range communication system, for extended overwater operations, may be authorized by the Administrator and approved in the certificate holder's operations specifications. The following are among the operational factors the Administrator may consider in granting an authorization:

(1) The ability of the flightcrew to reliably fix the position of the airplane within the degree of accuracy required by ATC,

(2) The length of the route being flown, and

(3) The duration of the very high frequency communications gap.

Issued in Washington, D.C., on February 20, 1996.

David R. Hinson,

Administrator.

[FR Doc. 96–4263 Filed 2–23–96; 8:45 am]

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Xanthan Gum-modified; comments due by 3-8-96; published 2-7-96
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Kansas; comments due by 3-4-96; published 1-26-96

FEDERAL ELECTION COMMISSION
Contribution and expenditure limitations and prohibitions:
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FEDERAL TRADE COMMISSION
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CFR CHECKLIST

This checklist, prepared by the Office of the Federal Register, is published weekly. It is arranged in the order of CFR titles, stock numbers, prices, and revision dates.

An asterisk (*) precedes each entry that has been issued since last week and which is now available for sale at the Government Printing Office.

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Title	Stock Number	Price	Revision Date
1, 2 (2 Reserved)	(869–026–00001–8)	$5.00	Jan. 1, 1995
3 (1994 Compilation and Parts 100 and 101)	(869–026–00002–6)	40.00	[1] Jan. 1, 1995
4	(869–026–00003–4)	5.50	Jan. 1, 1995
5 Parts:			
1–699	(869–026–00004–2)	23.00	Jan. 1, 1995
700–1199	(869–026–00005–1)	20.00	Jan. 1, 1995
1200–End, 6 (6 Reserved)	(869–026–00006–9)	23.00	Jan. 1, 1995
7 Parts:			
0–26	(869–026–00007–7)	21.00	Jan. 1, 1995
27–45	(869–026–00008–5)	14.00	Jan. 1, 1995
46–51	(869–026–00009–3)	21.00	Jan. 1, 1995
52	(869–026–00010–7)	30.00	Jan. 1, 1995
53–209	(869–026–00011–5)	25.00	Jan. 1, 1995
210–299	(869–026–00012–3)	34.00	Jan. 1, 1995
300–399	(869–026–00013–1)	16.00	Jan. 1, 1995
400–699	(869–026–00014–0)	21.00	Jan. 1, 1995
700–899	(869–026–00015–8)	23.00	Jan. 1, 1995
900–999	(869–026–00016–6)	32.00	Jan. 1, 1995
1000–1059	(869–026–00017–4)	23.00	Jan. 1, 1995
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1940–1949	(869–026–00023–9)	30.00	Jan. 1, 1995
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2000–End	(869–026–00025–5)	14.00	Jan. 1, 1995
8	(869–026–00026–3)	23.00	Jan. 1, 1995
9 Parts:			
1–199	(869–026–00027–1)	30.00	Jan. 1, 1995
200–End	(869–026–00028–0)	23.00	Jan. 1, 1995
10 Parts:			
0–50	(869–026–00029–8)	30.00	Jan. 1, 1995
51–199	(869–026–00030–1)	23.00	Jan. 1, 1995
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400–499	(869–026–00032–8)	21.00	Jan. 1, 1995
500–End	(869–026–00033–6)	39.00	Jan. 1, 1995
11	(869–026–00034–4)	14.00	Jan. 1, 1995
12 Parts:			
1–199	(869–026–00035–2)	12.00	Jan. 1, 1995
200–219	(869–026–00036–1)	16.00	Jan. 1, 1995
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1–199	(869–026–00054–9)	20.00	Apr. 1, 1995
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18 Parts:			
1–149	(869–026–00057–3)	16.00	Apr. 1, 1995
150–279	(869–026–00058–1)	13.00	Apr. 1, 1995
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19 Parts:			
1–140	(869–026–00061–1)	25.00	Apr. 1, 1995
141–199	(869–026–00062–0)	21.00	Apr. 1, 1995
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20 Parts:			
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1–99	(869–026–00067–1)	16.00	Apr. 1, 1995
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170–199	(869–026–00069–7)	22.00	Apr. 1, 1995
200–299	(869–026–00070–1)	7.00	Apr. 1, 1995
300–499	(869–026–00071–9)	39.00	Apr. 1, 1995
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800–1299	(869–026–00074–3)	23.00	Apr. 1, 1995
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22 Parts:			
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220–499	(869–026–00081–6)	23.00	Apr. 1, 1995
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§§ 1.851–1.907	(869–026–00095–6)	26.00	Apr. 1, 1995
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600–End	(869–026–00105–7)	8.00	Apr. 1, 1995
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200–End	(869–026–00107–3)	13.00	[7] Apr. 1, 1994
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1-42	(869–026–00108–1)	27.00	July 1, 1995
43-end	(869-026-00109-0)	22.00	July 1, 1995
29 Parts:			
0–99	(869–026–00110–3)	21.00	July 1, 1995
100–499	(869–026–00111–1)	9.50	July 1, 1995
500–899	(869–026–00112–0)	36.00	July 1, 1995
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1927–End	(869–026–00118–9)	36.00	July 1, 1995
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630–699	(869–026–00127–8)	14.00	[5] July 1, 1991
700–799	(869–026–00128–6)	21.00	July 1, 1995
800–End	(869–026–00129–4)	22.00	July 1, 1995
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125–199	(869–026–00131–6)	27.00	July 1, 1995
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34 Parts:			
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200–499	(869–026–00171–5)	14.00	Oct. 1, 1995
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90–139	(869–026–00177–4)	15.00	Oct. 1, 1995
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156–165	(869–026–00179–1)	17.00	Oct. 1, 1995
*166–199	(869–026–00180–4)	17.00	Oct. 1, 1995
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*80–End	(869–026–00187–1)	30.00	Oct. 1, 1995
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50 Parts:			
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200–599	(869–026–00204–5)	22.00	Oct. 1, 1995
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Title	Stock Number	Price	Revision Date
CFR Index and Findings Aids	(869–026–00053–1)	36.00	Jan. 1, 1995
Complete 1996 CFR set		883.00	1996
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Subscription (mailed as issued)		264.00	1996
Individual copies		1.00	1996
Complete set (one-time mailing)		264.00	1995
Complete set (one-time mailing)		244.00	1994
Complete set (one-time mailing)		223.00	1993

[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, 1995. 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, 1995. The CFR volume issued July 1, 1991, should be retained.

[6] No amendments to this volume were promulgated during the period January 1, 1993 to December 31, 1994. The CFR volume issued January 1, 1993, should be retained.

[7] No amendments to this volume were promulgated during the period April 1, 1994 to March 31, 1995. The CFR volume issued April 1, 1994, should be retained.