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Tuesday
March 19, 1996

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[Two Sessions]

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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.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 51

[Docket Number FV–94–301]

Table Grapes (European or Vinifera Type); Grade Standards

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule revises the United States Standards for Grades of Table Grapes (European or Vinifera Type). This rule lowers the present minimum bunch size and provides a separate tolerance for off-size bunches for the U.S. No. 1 Institutional grade only. It also includes a technical update which would revise the reference to Arizona and California State maturity regulations.

EFFECTIVE DATE: April 18, 1996. The incorporation by reference of certain publications listed in the regulations has been approved by the Director of the Federal Register as of April 18, 1996.

FOR FURTHER INFORMATION CONTACT: Frank O'Sullivan, Fresh Products Branch, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, P.O. Box 96456, Washington D.C. 20090–6456, (202) 720–2185.

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

Pursuant to the requirements set forth in the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Administrator of the Agricultural Marketing Service (AMS) has determined that this action will not have a significant economic impact on substantial number of small entities. This final rule revising the U.S. Standards for Grades of Table Grapes (European or Vinifera Type) will not impose substantial direct economic cost, recordkeeping, or personnel workload changes on small entities, and will not alter the market share or competitive position of these entities relative to large businesses.

This final rule has been reviewed under Executive Order 12778, Civil Justice Reform. This action is not intended to have retroactive effect. This proposed rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule. There are no administrative procedures which must be exhausted prior to any judicial challenge to the provisions of this rule.

Agencies periodically review existing regulations. An objective of the review is to ensure that the grade standards are serving their intended purpose, the language is clear, and the standards are consistent with AMS policy and authority.

The United States Standards for Grades of Table Grapes (European or Vinifera Type) was revised in April 1991. This revision established a new grade, U.S. No. 1 Institutional. This grade—used in sales to restaurant and other food service concerns—provides for grape lots which have very small bunch sizes. In recent years, new marketing and packaging techniques have developed very small, individual consumer size servings of grapes. Under previous grade requirements these ''single serving'' type grape bunches were too small to meet any U.S. grade. Therefore, the Department developed, at the request of the table grape industry, a separate grade reflecting today's modern marketing and packaging methods for the growing food service market while preserving the integrity of the ''regular'' fresh pack grades for grapes sold to consumers in supermarkets and other retail outlets. Thus, grades for two different types of pack could be contained in one standard allowing the grades to share common characteristics while at the same time maintaining grades for two distinct types (packs) of table grapes.

This portion of the final rule concerns only the institutional pack and not the ''regular'' fresh pack grades. Growers and shippers of the institutional pack type table grape represented by the California Grape and Tree Fruit League (CGTFL) requested a revision to the institutional grade only, to address a new market which is emerging that would utilize extremely small clusters and/or bunches of grapes. According to the CGTFL, these buyers typically want a smaller grouping of grapes than is allowed under the current two ounce minimum bunch size requirement in the institutional grade. As an example, certain restaurant chains presently garnish some of their plates with institutional pack grapes, but must cut the existing small bunches to even smaller clusters of grapes (as little as two berries to a cluster) to fit their particular needs. Changing this minimum bunch requirement on the U.S. No. 1 Institutional grade allows the industry to develop contract specifications and otherwise use the U.S. grade to satisfy that growing segment of the restaurant and food service industry market that utilizes grapes as a garnish.

A proposed rule was issued to address this change as well as other changes. Docket Number FV–94–301 was published in the Federal Register as a proposed rule on March 15, 1995, [Vol. 60, No. 50, Pages 13926–13928]. A comment period of sixty days was issued which closed on May 15, 1995.

A total of seven comments were received pertaining to this specific issue. Six of these comments, from growers/shippers, a receivers' trade association, and a growers' trade association, were in favor of the proposed change. A receiver commented against the proposed change but offered no other explanation other than ''At this time I am pleased with the current situation.'' AMS is of the view that the changes as concerning U.S. No. 1 Institutional, will more efficiently serve the industry which produces ''institutional type'' table grapes.

Therefore, this final rule changes Section 51.885 U.S. No. 1 Institutional to resemble Section 51.884 (the format for U.S. No. 1 Table), except for the elimination of straggliness requirements and trimming away of defective berries for bunches, by providing a lower size designation from the previous minimum of two ounces to the new minimum requirement of a two berry cluster. The opening paragraph of the institutional grade requirement section reads as follows: '''U.S. No. 1 Institutional' grapes must have no less than 95 percent of the containers in the lot

legibly marked 'Institutional Pack.' Further requirements for this grade include grapes which consist of clusters and/or bunches of well developed grapes of one variety, except when designated as assorted varieties, which are at least fairly well colored, uniform in appearance when so specified in connection with the grade, and which meet the following requirements:''

As mentioned above, the requirements will be the same as for U.S. No. 1 Table except paragraph (b)(1) ''Not Straggly'' and (g)(4) ''Trimming away of defective berries'' will be omitted. Also, paragraph (h)(2) includes size requirements for clusters and/or berries:

''(2) For clusters/bunches: In this grade grapes shall consist of at least a two berry cluster ranging to clusters and/or bunches of grapes not greater than five ounces in weight. See Section 51.913.''

The present Section 51.913, Metric Conversion Table, is redesignated Section 51.914 and a new Section 51.913 is added to define a cluster. Since grape bunches are normally thought of as a series of grapes attached to small lateral stems which are in turn attached to a common main stem, the term bunch does not seem entirely appropriate when referring to two berries which share a common point of attachment. Therefore, for the purpose of the U.S. No. 1 Institutional grade only, Section 51.913 shall define a cluster as ''two or more berries sharing a common point of attachment.''

In addition, Table Ia, Tolerances at Shipping Point for U.S. No. 1 Institutional Only, and Table IIa, Tolerances En Route or at Destination for U.S. No. 1 Institutional Only, would be added. The CGTFL requested that a separate tolerance of four percent be provided for offsize clusters or bunches to maintain the integrity of the grade in relation to size requirements. Presently, Tables I and II combine both the offsize and remaining grade requirements in one tolerance (eight percent for tolerances at shipping point, Table I, and 12 percent for tolerances en route or at destination, Table II). The corresponding new tables, Table Ia and IIa for U.S. No. 1 Institutional grade only, maintain an eight and twelve percent tolerance, respectively, for remaining grade requirements but include a separate tolerance of four percent for offsize clusters or bunches.

The proposed rule also included a technical change which is not associated with the request pertaining to the U.S. No. 1 Institutional grade. Presently, Sections 51.882 (i)(1)(ii) and 51.884 (i)(1)(i) make reference to ''Superior Seedless'' as a varietal name. Representatives of Sunworld International, Inc., California, have argued that ''Superior Seedless'' is a registered trademark name and not the varietal name. ''Sugraone'' according to Sunworld, is the correct varietal name.

The intent of AMS in proposing to change the wording to reflect ''sugraone'' as the varietal name was to correct what at first appeared to be an incorrect reference in the text of these grade standards. However, after reviewing the comments pertaining to the proposed change and conducting further research on this question, AMS found that the varietal name issue is a complicated one involving a number of interests. The question concerning the appropriate varietal name for the grape has been ongoing for several years, and has been the subject of State proceedings.

AMS provides inspection and grading services and issues grade and quality standards for commodities such as grapes. The agency does not determine varietal names for such commodities. Therefore, based on the above, the proposal to change the name ''Superior Seedless'' to ''Sugraone'' is withdrawn.

A total of ten comments were received pertaining to this specific issue. Five comments from growers/shippers, receivers, and an European import/export company were in favor of changing the reference in the standard from Superior Seedless to Sugraone. Five comments from growers/shippers, and receivers were against making this change.

Therefore, AMS has decided that no changes will be made to the text when stating grade requirements for this particular variety at this time. Sections 51.882, 51.884, and 51.885 and any other references to this variety will remain unchanged from the present standard, using the term ''Superior Seedless.''

In a separate, third area, as a technical change the paragraphs incorporating text by reference to maturity requirements for grapes grown in Arizona and California have been revised. Specifically, Section 51.888 Maturity Requirements, has been revised to incorporate by reference the latest Arizona table grape maturity requirements. Therefore, it is no longer necessary to include each subsection of Arizona regulations within the standard. This change will result in deleting subsections (i), (ii)(A) through (E), and (iii). This incorporation by reference was approved by the Director of the Federal Register on August 25, 1995 in accordance with 5 U.S.C. 552(a) and 1 CFR part 51.

The latest reference to the Arizona standards became effective January 6, 1994. This results in two changes concerning procedure: 1.) The reference to Cardinals and Robins requiring at least 14.5 percent soluble solids is removed, and 2.). Instead of sampling the least mature grapes in any container for the maturity test, the least mature grapes in a contiguous area of the container shall be sampled.

In addition, Paragraph 2 of this section is being revised to reference the latest edition of the Administrative Code of California (February 28, 1992). There are no apparent procedure changes as a result of this change, however this does make the incorporation by reference current.

List of Subjects in 7 CFR Part 51

Agricultural commodities, Food grades and standards, Fruits, Nuts, Reporting and recordkeeping requirements, Trees, Vegetables.

For reasons set forth in the preamble, 7 CFR Part 51 shall be amended as follows:

PART 51—[AMENDED]

1. The authority citation for Part 51 continues to read as follows:

Authority: 7 U.S.C. 1621–1627.

2. Section 51.885 is revised to read as follows:

§ 51.885 U.S. No. 1 Institutional.

''U.S. No. 1 Institutional'' grapes must have no less than 95 percent of the containers in the lot legibly marked ''Institutional Pack.'' Further requirements for this grade include grapes which consist of clusters and/or bunches of well developed grapes of one variety, except when designated as assorted varieties, which are at least fairly well colored, uniform in appearance when so specified in connection with the grade, and which meet the following requirements:

(a) Basic requirements for berries:
(1) Mature;
(2) Firm;
(3) Firmly attached to capstem;
(4) Not weak;
(5) Not materially shriveled at capstem;
(6) Not shattered;
(7) Not split or crushed;
(8) Not wet.

(b) Basic requirements for stems: Not weak, or dry and brittle.

(c) Berries free from:
(1) Decay;
(2) Waterberry;
(3) Sunburn.

(d) Stems free from:
(1) Mold;

(2) Decay.

(e) Berries not damaged by: Any other cause.

(f) Bunches not damaged by:

(1) Shot berries;

(2) Dried berries;

(3) Other defective berries;

(4) Any other cause.

(g) Stems not damaged by:

(1) Freezing;

(2) Any other cause.

(h) Size:

(1) For berries: Exclusive of shot berries and dried berries, 75 percent, by count, of the berries on each bunch shall have the minimum diameters indicated for varieties as follows:

(i) Thompson Seedless, Perlette, Delight, Beauty Seedless, Superior Seedless, Flame Seedless and other seedless varieties nine-sixteenths of an inch.

(ii) Other varieties ten-sixteenths of an inch.

(2) For clusters/bunches: In this grade grapes shall consist of at least a two berry cluster ranging to clusters and/or bunches of grapes not greater than five ounces in weight. See Section 51.913.

(i) For tolerances see Section 51.886.

3. Section 51.886 is amended by revising the introductory text of paragraph (b) and adding a new paragraph (c) to read as follows:

§ 51.886 Tolerances.

* * * * *

(b) In order to allow for variations incident to proper grading and handling in each of the foregoing grades except U.S. No. 1 Institutional, tolerances, by weight, other than for maturity, are provided as set forth in Tables I and II.

* * * * *

(c) In order to allow for variations incident to proper grading and handling in the U.S. No. 1 Institutional grade only, tolerances, by weight, other than for maturity, are provided as set forth in Tables Ia and IIa of this section.

TABLE IA.—TOLERANCES AT SHIPPING POINT FOR U.S. NO. 1 INSTITUTIONAL GRADE ONLY [1]

[Percent]

Factor	U.S. No. 1 institutional
(A) For clusters/bunches failing to meet color requirements.	10.
(B) For clusters/bunches failing to meet requirements for minimum diameter of berries.	10.
(C) For offsize clusters/bunches	4.
(D) For clusters/bunches and berries failing to meet the remaining requirements for the grade.	8.
Including in (D):	
(a) For serious damage	2

TABLE IA.—TOLERANCES AT SHIPPING POINT FOR U.S. NO. 1 INSTITUTIONAL GRADE ONLY [1]—Continued

[Percent]

Factor	U.S. No. 1 institutional
And, including in (a):	
(i) For decay	½ of 1.

[1]Shipping point, as used in these standards, means the point of origin of the shipment in the producing area or at port of loading for ship stores or overseas shipment, or, in the case of shipments from outside the continental United States, the port of entry into the United States.

TABLE IIA.—TOLERANCES EN ROUTE OR AT DESTINATION FOR U.S. NO. 1 INSTITUTIONAL GRADE ONLY

Factor	U.S. No. 1 institutional
(A) For clusters/bunches failing to meet color requirements	10.
(B) For clusters/bunches failing to meet requirements for minimum diameter of berries	10.
(C) For offsize clusters/bunches	4.
(D) For clusters/bunches and berries failing to meet the remaining requirements for the grade	12.
Including in (D):	
(a) For permanent defects	8.
(b) For serious damage	4.
And, including in (b):	
(i) For serious damage by permanent defects	2.
(ii) For decay	1.

4. In § 51.888 paragraph (a) is revised to read as follows:

§ 51.888 Maturity requirements.

(a) In the case of grapes grown in Arizona or California, ''mature'' means grapes in any lot shall meet the maturity requirements for the variety as set forth in the applicable State Agricultural Laws and Regulations referenced in this section. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from, in the case of Arizona maturity regulations, Arizona Department of Agriculture, Citrus, Fruit and Vegetable Standardization, 1688 W. Adams, Phoenix, AZ 85007 or in the case of California maturity regulations, California Department of Food and Agriculture, Fruit and Vegetable Quality Control, Standardization Section, 1220 N Street, P.O. Box 942871, Sacramento, California 94271–0001 or copies of both regulations may be inspected at USDA, AMS, F&VD, FPB, Standardization Section, Room 2065–S, 14th and Independence Avenue, Washington, DC 20250 or at the Office of the Federal Register, Suite 700, 800 North Capitol, Washington, DC.

(1) Arizona maturity regulations are contained in Chapter 4—Plant Services Division, Article 7, Fruit And Vegetable Standardization, Section R3–4–733 Table Grape Standards, Effective January 6, 1994.

(2) California maturity regulations are contained in The California Code of Regulations, Title 3, Subchapter 4. Fresh Fruits, Nuts and Vegetables, Article 25, Table Grapes and Raisins, February 28, 1992.

* * * * *

§ 51.913 [Redesignated as § 51.914]

5. In Part 51, Subpart—United States Standards for Grades of Table Grapes (European or Vinifera Type), § 51.913 is redesignated as § 51.914 and a new § 51.913 is added under the heading ''Definitions'' to read as follows:

§ 51.913 Clusters.

''Clusters'' as used in these standards in reference to the U.S. No. 1 Institutional grade only shall be defined as two or more berries sharing a common point of attachment.

Dated: March 11, 1996.

Lon Hatamiya,

Administrator.

[FR Doc. 96–6343 Filed 3–18–96; 8:45 am]

BILLING CODE 3410–02–P

7 CFR Part 925

[Docket No. FV95–925–1IFR]

Grapes Grown in a Designated Area of Southeastern California; Interim Final Rule to Revise Container Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim final rule.

SUMMARY: This rule adds two new containers to the list of containers authorized for use by table grape handlers regulated under the marketing order. This rule also reduces the minimum net weight of containers of California table grapes from 22 pounds to 20 pounds and for grapes packed in poly bags from 20 pounds to 18 pounds. The marketing order regulates the handling of table grapes grown in a designated area of Southeastern California. The marketing order is locally administered by the California Desert Grape Administrative Committee (CDGAC). This rule allows for more

efficient use of containers and helps handlers meet industry needs.

DATES: Effective on March 19, 1996; comments must be received by April 18, 1996 will be considered prior to issuance of a final rule.

ADDRESSES: Interested persons are invited to submit written comments concerning this rule. Comments must be submitted in triplicate to the Docket Clerk, Fruit and Vegetable Division, AMS, USDA, P. O. Box 96456, Room 2523–S, Washington, DC 20090–6456, or by facsimile at (202) 720–5698. Comments should reference this 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: Charles L. Rush, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2526–S, Washington, DC 20090–6456, telephone (202) 690–3670; or Rose M. Aguayo, California Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, 2202 Monterey Street, Suite 102B, Fresno, California 93721; telephone (209) 487–5901.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Order No. 925 [7 CFR Part 925], as amended, regulating the handling of table grapes grown in a designated area of Southeastern 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 interim final rule in conformance with Executive Order 12866.

This interim rule has been reviewed under Executive Order 12778, Civil Justice Reform. This rule is not intended to have retroactive effect. This interim final rule would not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with the Secretary a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. A handler is afforded the opportunity for a hearing on the petition. After the hearing the Secretary would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction in equity to review the Secretary's ruling on the petition, provided a bill in equity is filed not later than 20 days after 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 rule 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 table grapes subject to regulation under the order and approximately 80 table grape producers in the production area. Small agricultural service firms are defined by the Small Business Administration (13 CFR 121.601) as those whose annual receipts are less than $5,000,000, and small agricultural producers have been defined as those having annual receipts of less than $500,000. A majority of handlers and producers are classified as small entities.

This action is in accordance with § 925.52(a)(4) of the order. This section authorizes the Secretary to fix the size, capacity, weight, dimensions, markings, materials, and pack of containers which may be used in the handling of grapes.

Currently, § 925.304(b)(2) of the regulations specifies that the minimum net weight requirement for grapes in any container, except for containers containing grapes packed in sawdust, cork, excelsior, or similar packing material, or packed in bags or wrapped in plastic or paper, and experimental containers, shall be 22 pounds based on the average net weight of grapes in a representative sample of containers. Containers of grapes packed in bags or wrapped in plastic or paper prior to being placed in these containers are required to meet a net weight requirement of 20 pounds.

Section 925.304(b)(1) of the regulations specifies the dimensions of six containers that may be used by handlers of table grapes and authorizes the use of other types and sizes of containers on an experimental basis.

The CDGAC met on November 27, and December 4, 1995, and unanimously recommended changes in current container requirements. Specifically, the CDGAC recommended reducing the minimum net weight of containers from 22 to 20 pounds and for containers of grapes wrapped or packed in poly bags from 20 to 18 pounds, effective April 20, 1996. The CDGAC also unanimously recommended adding two new containers (38S, 12×20 inches) and (38T, 13 ⅛×15 ⅞ inches) to the list of authorized containers. These changes are intended to improve the quality of grapes delivered to consumers and reduce handling costs.

The genesis for discussion of revising containers used to pack grapes began about 6 years ago when the recyclability of packaging materials became of interest to consumers worldwide and then to retailers who bore the brunt of consumers' concern. In addition to the environmental concern expressed by consumers, retailers were concerned about the increasing costs of disposing of packing and shipping materials.

Simultaneously, in an effort to differentiate themselves in the marketplace, many in the retail industry began demanding that grape growers provide custom packs. One customer wanted only a certain type of bag, another wanted only 5-kilo bags, another wanted bags with nothing printed on them, while yet another wanted a special store code.

These kinds of demands from the retail and food service industry led to a great deal of packaging experimentation within the California grape industry. It also led to the realization that it had been 25 years since there had been any quantifiable packaging research. The industry decided to take a critical look at grape packaging and determine if current practices were getting the product to the retailer and ultimately the consumer in the best possible condition; and if not, what changes needed to be made to improve delivery. Toward that end, the California Table Grape Commission funded a three-year research project designed to answer a simple question: what types of containers get grapes to the consumer in the best possible condition?

Grapes are a fragile product. The current method of packing is a holdover from 25 years ago when grapes were sold at auctions and it was considered a marketing advantage to overpack the box so that when buyers looked at the box it was bulging with fruit. Too often though, what they did not see was the condition of the fruit inside; crushed,

split or falling off the stem. In addition, the standard lug box in use today was designed to fit railroad cars. Shipping grapes by rail car is a part of the industry's picturesque past.

The study of table grape packaging was conducted by the University of California at Davis and the University of California at Kearney Agricultural Center at Parlier. The objective of the study was to develop knowledge concerning packaging that allows the movement of table grapes from the field to the consumer in the best possible condition.

The study looked at multiple varieties of grapes grown in California, packed in cartons of a wide variety of materials, dimensions, and packing depths. The study monitored numerous shipments from the field to the grocery store. The conclusion of the study was that the California table grape industry should reduce the weight of its containers by 2 pounds in order to get the fruit delivered to consumers in the best possible condition. At the reduced weight, the damage to the grapes, particularly in terms of bruising, splitting and shattering, decreases. Table grapes of most varieties suffered considerable damage when packed at net weights of 22 or 23 pounds. The damage was reduced considerably when the pack weights were reduced to 20 to 21 pounds.

Thus, the CDGAC's recommendation to reduce the minimum net weight requirements is expected to result in higher quality grapes being offered to consumers. This should increase satisfaction, strengthen demand, and improve returns to growers and handlers.

Currently, most grapes packed in California are palletized on 35-×42-inch or 53-×42-inch pallets prior to shipment. When received by wholesalers or retailers, the grapes are unloaded and restacked on 48-×40-inch pallets. In response to these concerns by their customers, grape handlers are beginning to discontinue use of the 35-×42- inch or 53-×42-inch pallets.

Grocery and wholesale warehouse operations use 48-×40-inch pallets as the standard pallet for most products. The bulk of product sold at retail outlets (e.g., cereal, paper products, canned goods, etc.) are dry goods. These products are generally shipped on 48-×40- pallets. Consequently, the distribution channel is set up to accommodate 48-×40-inch pallets.

Nonstandard pallets such as those used by grape handlers must be disposed of at the receivers' expense. However, with the use of 48-×40-inch pallets, which can be recycled, there should be a reduction in expenses associated with pallets. The recycling program allows the receiver to use the pallet more than once or remove it from the waste stream to use or sell.

These changes in container requirements are supported by the California Department of Agriculture, the California Grape and Tree Fruit League, the California Table Grape Commission, the Food Marketing Institute, and the National Association of Perishable Agricultural Receivers. These organizations have all agreed that the reduction in net weight is necessary to facilitate the implementation of an industry-wide adoption of the standardized 48-×40-inch pallet and the incidence of damage to fruit due to over packing.

Through the research conducted the CDGAC determined that other container size and net weight options available were not in the best interest of the industry. Further, wholesalers and retailers support the recommended changes, and believe it is the best option.

Thus, this rule allows the industry to use more efficient containers and provides handlers with more flexibility in packing table grapes. Imported table grapes will not be affected by this rule.

Based on the above, the Administrator of the AMS has determined that this action will not have a significant economic impact on a substantial number of small entities.

After consideration of all relevant material presented, including the CDGAC's recommendation, and other available information, it is found that this interim final rule, 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, upon good cause, that 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) This action relaxes handling requirements currently in effect for table grapes grown in designated areas of Southeastern California; (2) California table grape handlers are aware of this action which was unanimously recommended by the CDGAC at a public meeting, and they will need no additional time to comply with the relaxed requirements (since they have the option of continuing to use previously approved containers; (3) California table grape shipments begin approximately April 20, 1996, and this rule needs to be in effect as soon as possible; and (4) this rule provides a 30-day comment period and any comments received will be considered prior to finalization of this rule.

List of Subjects in 7 CFR Part 925

Grapes, Marketing agreements and orders, reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 925 is amended to read as follows:

PART 925—GRAPES GROWN IN A DESIGNATED AREA OF SOUTHEASTERN CALIFORNIA

1. The authority citation for 7 CFR part 925 continues to read as follows:

Authority: 7 U.S.C. 601–674.

2. In § 925.304, paragraph (b)(2) is revised and paragraphs (b)(1)(vi) and (b)(1) (vii) are redesignated as paragraphs (b)(1)(vii) and (vii) and new paragraphs (b)(1) (vi) and (vii) are added to read as follows:

§ 925.304 California Desert Grape Regulation 6.

* * * * *

(b) * * *

(1) * * *

(vi) Grape lug with dimensions in inches of 5 to 9 inches (inside) × 11 11/16 to 12 (outside) x 19 11/16 to 20 (outside), specified as container 38S;

(vii) Grape lug with dimensions in inches of 6 5/8 to 7 1/2 (inside) × 13 1/8 (outside) × 15 7/8 (outside), specified as container 38T;

* * * * *

(2) The minimum net weight of grapes in any such containers, except for containers containing grapes packed in sawdust, cork, excelsior or similar packing material, or packed in bags or wrapped in plastic or paper, and experimental containers, shall be 20 pounds based on the average net weight of grapes in a representative sample of containers. Containers of grapes packed in bags or wrapped in plastic or paper prior to being placed in these containers shall meet a minimum net weight requirement of 18 pounds.

* * * * *

Dated: March 11, 1996.

Eric M. Forman,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 96–6348 Filed 3–18–96; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 93–SW–27–AD; Amendment 39–9540; AD 96–06–03]

Airworthiness Directives; The Enstrom Helicopter Corporation Model F–28, F–28A, F–28C, F–28C–2, F–28F, 280, 280C, 280F, and 280FX Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD), applicable to The Enstrom Helicopter Corporation (Enstrom) Model F–28, F–28A, F–28C, F–28C–2, F–28F, 280, 280C, 280F, and 280FX helicopters, that currently requires initial and repetitive inspections of a certain main rotor transmission clutch assembly (clutch assembly) for bearing roughness, noise, lock-up, or improper oil level and, if necessary, replacement of the clutch assembly. The existing AD also requires replacement of the clutch assembly at certain time-in-service intervals. This amendment requires the same inspections and replacements as required by the existing AD, but would provide for installation of an additional approved replacement part number and provide a reference to three additional manufacturer service documents. This amendment is prompted by the approval of an additional replacement clutch assembly; the manufacturer's issuance of additional service information, and the need to correct a service information letter's number. The actions specified by this AD are intended to prevent failure of the clutch assembly, loss of control of the main rotor system, and subsequent loss of control of the helicopter.

EFFECTIVE DATE: April 23, 1996.

ADDRESSES: The service information referenced in this AD may be obtained from The Enstrom Helicopter Corporation, Twin County Airport, P.O. Box 490, Menominee, Michigan 49858. This information may be examined at the FAA, Office of the Assistant Chief Counsel. 2601 Meacham Blvd., Room 663, Fort Worth, Texas.

FOR FURTHER INFORMATION CONTACT: Mr. Joe McGarvey, Aerospace Engineer, Chicago Aircraft Certification Office, Airframe Branch, FAA, Small Airplane Directorate, 2300 East Devon Avenue, Room 232, Des Plaines, Illinois 60018, telephone (847) 294–7136, fax (847) 294–7834.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) by superseding AD 89–04–09, Amendment 39–6138 (54 FR 6391, February 10, 1989), which is applicable to Enstrom Model F–28, F–28A, F–28C, F–28C–2, F–28F, 280, 280C, 280F, and 280FX helicopters, was published in the Federal Register on September 13, 1994 (59 FR 46944). That action proposed to require initial and repetitive inspections of certain clutch assemblies for bearing roughness, noise, lock-up, or improper oil levels and, if necessary, immediate replacement of the clutch assembly. Owner/operator checks were proposed after engine start and rotor engagement to verify proper operation of the clutch assembly, and after each engine shutdown, while the main rotor is still turning down, to check for abnormal noise (such as a clicking or racheting sound) from the upper pulley that houses the clutch assembly. Those proposed owner/operator checks do not require the use of tools, precision measuring equipment, training, pilot logbook endorsements, or the use of technical data not contained in the AD. Additionally, those owner/operator checks are considered part of the normal pilot ''Before Takeoff'' and ''After Landing'' checks and were allowed by the existing AD. Those owner/operator checks are additional measures to ensure, between 25 hours TIS inspections, that sufficient lubricants are maintained in the clutch assembly and not lost through a leaking seal. Those checks may be performed by an owner/operator holding at least a private pilot certificate and must be entered into the aircraft records showing compliance with this AD in accordance with sections 43.11 and 91.417(a)(2)(v) of the Federal Aviation Regulations. The action also proposed to require replacement of the clutch assembly at certain TIS intervals.

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were received on the proposal or the FAA's determination of the cost to the public. The FAA has determined that air safety and the public interest require the adoption of the rule as proposed, except for editorial changes revising paragraph (a)(3) of the AD to clarify the aircraft records entries, and adding explanatory Note 1, relating to the scope of the applicability statement when modifications, alterations, or repairs have been made in the area subject to the requirements of the AD. Additionally, the FAA has revised the proposed estimated average labor rate from $55 per work hour to an estimated average labor rate of $60 per work hour in the preamble portion of this final rule. This revision will increase the estimated total cost impact of the AD from $471,420 to $473,040 if only overhauled clutch assemblies are installed, and from $1,718,820 to $1,720,440 if only zero-time clutch assemblies are used. The FAA has determined that these changes will neither increase the economic burden on any operator nor increase the scope of the AD.

The FAA estimates that 162 helicopters of U.S. registry will be affected by this AD, that it will take approximately 2 work hours per helicopter to accomplish the required actions, and that the average labor rate is $60 per work hour. Required parts will cost approximately $2,800 to overhaul or $10,500 for a zero-time clutch assembly per helicopter. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be from $473,040 if only overhauled clutch assemblies are installed, to $1,720,440 if only zero-time clutch assemblies are installed.

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the

Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by removing Amendment 39–6138 (54 FR 6391, February 10, 1989), and by adding a new airworthiness directive (AD), Amendment 39–9540, to read as follows:

AD 96–06–03 The Enstrom Helicopter Corporation: Amendment 39–9540. Docket No. 93–SW–27–AD. Supersedes AD 89–04–09, Amendment 39–6138.

Applicability: Model F–28, F–28A, F–28C, F–28C–2, F–28F, 280, 280C, 280F, and 280FX helicopters, certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent failure of the main rotor transmission clutch assembly (clutch assembly), loss of control of the main rotor system, and subsequent loss of control of the helicopter accomplish the following:

(a) For Model F–28, F–28A, F–28C, F–28C–2, 280, and 280C helicopters, with clutch assembly part number (P/N) 28–13401–1 (Formsprag CL 40526–1 through –7) installed, perform the following:

(1) Before the first flight of each day, before takeoff, gently close the throttle, splitting the tachometer needles to verify proper operation of the clutch assembly. If the tachometer needles do not split, before further flight, inspect the clutch assembly in accordance with paragraph (a)(4).

(2) At the conclusion of the last flight of each day, after engine shutdown, while the main rotor is still running down, listen for any abnormal noise (such as a clicking or racheting sound) from the area of the upper pulley that houses the clutch assembly. If any abnormal noise is heard from the clutch assembly, inspect the clutch assembly in accordance with paragraph (a)(4).

(3) The operational checks required by paragraphs (a)(1) and (a)(2) may be performed by an owner/operator holding at least a private pilot certificate and must be entered into the aircraft records showing compliance with paragraphs (a)(1) and (a)(2) of this AD in accordance with 14 CFR 43.11 and 91.417(a)(2)(v).

(4) If any irregularities are noted while performing the procedures required by paragraph (1) or (2), inspect the clutch assembly to determine if it is locked-up, or if the upper pulley will rotate. Rotate it in both directions while feeling for any bearing roughness and listening for any bearing noise. The upper pulley should free-wheel if rotated in a clockwise direction and engage if rotated in a counterclockwise direction.

(5) Within the next 25 hours time-in-service (TIS) after the effective date of this airworthiness directive (AD), make an entry in the aircraft log book documenting the clutch assembly part number, the number of hours TIS, and the date.

(6) Within the next 25 hours TIS after the effective date of this AD, and thereafter at intervals not to exceed 100 hours TIS, inspect the clutch assembly for proper oil level in accordance with the appropriate maintenance manual. If there has been less than a complete loss of oil, replenish the oil and service the clutch assembly in accordance with the applicable maintenance manual.

Note 2: The Enstrom Helicopter Corporation (Enstrom) Service Information Letter No. 0079A, dated February 14, 1980, provides specific information regarding clutch lubrication.

(7) If there has been a complete oil loss, or lock-up, noise, or roughness are detected from the clutch assembly as a result of the inspections required by paragraphs (a) (4) or (a) (6) of this AD, before further flight, replace the clutch assembly, P/N 28–13401–1 (Formsprag CL 40526–1 through –7), with an airworthy clutch assembly, P/N 28–13401–2 (Formsprag CL 40526–8) or P/N 28–13401–4 (Formsprag CL 40526–10).

(8) For a clutch assembly, P/N 28–13401–1 (Formsprag CL 40526–1 through –7), that has 1,175 or more hours TIS on the effective date of this AD, within the next 25 hours TIS, replace the clutch assembly with an airworthy clutch assembly, P/N 28–13401–2 (Formsprag CL 40526–8) or P/N 28–13401–4 (Formsprag CL 40526–10).

(9) For a clutch assembly, P/N 28–13401–1 (Formsprag CL 40526–1 through–7), that has less than 1,175 hours TIS on the effective date of this AD, replace the clutch assembly with an airworthy clutch assembly, P/N 28–13401–2 (Formsprag CL 40526–8) or P/N 28–13401–4 (Formsprag CL 40526–10), prior to the clutch assembly accumulating 1,200 hours TIS.

Note 3: The clutch service information published in The Enstrom Helicopter Corporation (Enstrom) Service Note No. 0027, dated December 9, 1975; Enstrom Service Information Letter No. 0084, dated December 19, 1978; Enstrom Service Information Letter No. 0079A, dated February 14, 1980; Service Information Letter No. 0088, Revision A, dated August 6, 1980, Enstrom Service Directive Bulletin No. 0068, Revision A, dated July 9, 1990; and Enstrom Service Directive Bulletin No. 0069, Revision A, dated July 9, 1990; pertains to this AD.

(b) For Model F–28F, 280F, and 280FX helicopters, accomplish the following:

(1) Within the next 25 hours TIS after the effective date of this AD, determine the part number of the clutch assembly.

(2) If a clutch assembly, P/N 28–13401–1 (Formsprag CL 40526–1 through –7), is found, before further flight, replace it with an airworthy clutch assembly, P/N 28–13401–2 (Formsprag CL 40526–8) or P/N 28–13401–4 (Formsprag CL 40526–10). The clutch assembly, P/N 28–13401–1 (Formsprag CL 40526–1 through –7), is not approved for use on Enstrom Model F–28F, 280F, or 280FX helicopters.

(c) Installation of a clutch assembly, P/N 28–13401–2 (Formsprag CL 40526–8) or P/N 28–13401–4 (Formsprag CL 40526–10), on Model F–28, F–28A, F–28C, F–28C–2, F–28F, 280, 280C, 280F, and 280FX helicopters constitutes a terminating action for the requirements of this AD.

(d) This AD establishes a retirement life of 1,200 hours TIS for the clutch assembly, P/N 28–13401–1 (Formsprag CL 40526–1 through –7). However, for clutch assemblies with 1,175 or more hours TIS on the effective date of this AD, those clutch assemblies need not be retired until on or before the accumulation of an additional 25 hours TIS.

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

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

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

(g) This amendment becomes effective on April 23, 1996.

Issued in Fort Worth, Texas, on March 11, 1996.

Eric Bries,

Acting Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 96–6421 Filed 3–18–96; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

15 CFR Part 902

[Docket No. 950203036–6062–03; I.D. 030696A]

RIN 0648–XX03

NOAA Information Collection Requirements; Addition of OMB Approval Numbers

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

ACTION: Final rule; technical amendment.

SUMMARY: NMFS updates Office of Management and Budget (OMB) control numbers for NOAA information collection requirements to reflect new approvals of fishing gear identification requirements, vessel identification requirements, and vessel monitoring and communications requirements.

EFFECTIVE DATE: March 19, 1996.

FOR FURTHER INFORMATION CONTACT: George H. Darcy, NMFS, 301/713–2344.

SUPPLEMENTARY INFORMATION: Part 902 of title 15 CFR displays control numbers assigned to NOAA information collection requirements by OMB, pursuant to the Paperwork Reduction Act of 1995. This part fulfills the requirement that agencies display a current control number, assigned by the Director of OMB, for each agency information collection requirement.

This final rule, technical amendment, updates the table in 15 CFR 902.1(b) to reflect OMB approvals of fishing gear identification requirements, vessel identification requirements, and vessel monitoring and communications requirements submitted by NMFS and approved by OMB on September 29, 1995; only NMFS regulations are impacted. This final rule does not involve any new reporting or recordkeeping requirements. Because of the numerous sections of title 50 CFR that were affected by the approval, all of the entries in the table appearing in 15 CFR 902.1(b) are republished for convenience and clarity.

Classification

Because this rule only codifies approved recordkeeping and reporting requirements for purposes of public information, it is strictly administrative in nature; no useful purpose would be served by providing prior notice and opportunity for comment on this rule. Accordingly, under 5 U.S.C. 553(b)(B), it is unnecessary to provide such notice and opportunity for comment. Also, because this rule is only administrative in nature and is not a ''substantive rule'' under 5 U.S.C. 553(d), it will be immediately effective upon publication.

This rule is exempt from review under E.O. 12866.

List of Subjects in 15 CFR Part 902

Reporting and recordkeeping requirements.

Dated: March 13, 1996.

Gary Matlock,

Program Management Officer, National Marine Fisheries Service.

For the reasons set out in the preamble, 15 CFR part 902 is amended as follows:

PART 902—NOAA INFORMATION COLLECTION REQUIREMENTS UNDER THE PAPERWORK REDUCTION ACT: OMB CONTROL NUMBERS

1. The authority citation for part 902 continues to read as follows:

Authority: 44 U.S.C. 3501 *et seq.*

2. In § 902.1, paragraph (b) table, the entries for 50 CFR are revised to read as follows:

§ 902.1 OMB control numbers assigned pursuant to the Paperwork Reduction Act.

* * * * *

(b) *Display*

CFR part or section where the information collection requirement is located	Current OMB control number (all numbers begin with 0648–)
* * *	* *
50 CFR	
§ 216.22	–0178
§ 216.23	–0179
§ 216.24(c)	–0083
§ 216.24(d)	–0083, –0084, –0099 and –0217
§ 216.24(e)	–0040
§ 216.31	–0084
§ 216.33	–0084
§ 216.45	–0084
§ 222.11–2	–0078
§ 222.11–8	–0079
§ 222.12–7	–0078
§ 222.12–8	–0078
§ 222.22	–0230
§ 222.23	–0084
§ 227.72	–0230 and –0267
§ 228.4	–0151
§ 228.6	–0151
§ 228.14	–0151
§ 228.25	–0151
§ 228.37	–0151
§ 228.55	–0151
§ 229.5	–0293
§ 229.6	–0292
§ 229.7	–0292
§ 259.30	–0090
§ 259.35	–0041
§ 260.103	–0266
§ 280.10	–0148
§ 280.50	–0202
§ 280.51	–0239
§ 280.53	–0040
§ 282.3	–0218
§ 282.5	–0218
§ 282.6	–0306
§ 285.7	–0202
§ 285.8	–0202
§ 285.21	–0202
§ 285.27	–0247
§ 285.28	–0202
§ 285.29	–0239
§ 285.33	–0305
§ 285.52	–0202
§ 285.53	–0168
§ 285.54	–0239
§ 285.55	–0239
§ 285.201	–0040
§ 296.5	–0082
§ 299.3	–0228
§ 299.4	–0228
§ 299.5	–0228
§ 300.4	–0304
§ 380.4	–0194
§ 380.5	–0194
§ 380.6	–0194
§ 380.8	–0194
§ 380.20	–0194
§ 380.24	–0194
§ 380.28	–0194
§ 601.37	–0192
§ 611.3	–0089
§ 611.4	–0075
§ 611.5	–0305 and –0306
§ 611.6	–0075
§ 611.8	–0075
§ 611.9	–0075
§ 611.12	–0075
§ 611.50	–0075
§ 611.61	–0075
§ 611.70	–0075
§ 611.80	–0075
§ 611.81	–0075
§ 611.82	–0075
§ 611.90	–0075
§ 611.92	–0075
§ 611.93	–0075
§ 611.94	–0075
§ 625.4	–0202
§ 625.5	–0202
§ 625.6	–0018, –0212 and –0229
§ 625.7	–0306
§ 625.20	–0202
§ 625.27	–0202
§ 628.4	–0202
§ 630.4	–0205
§ 630.5	–0013 and –0016
§ 630.6	–0306
§ 630.10	–0016
§ 630.31	–0277
§ 638.4	–0205
§ 638.5	–0016
§ 638.6	–0306
§ 638.27	–0016 and –0305
§ 640.4	–0205
§ 640.6	–0305 and –0306
§ 641.4	–0205

CFR part or section where the information collection requirement is located	Current OMB control number (all numbers begin with 0648–)
§ 641.5	–0013, –0016 and –0301
§ 641.6	–0305 and –0306
§ 641.10	–0297, –0298 and –0299
§ 642.4	–0205
§ 642.5	–0013 and –0016
§ 642.6	–0306
§ 644.24	–0216
§ 645.4	–0205
§ 645.6	–0205, –0305 and –0306
§ 646.4	–0205
§ 646.5	–0013 and –0016
§ 646.6	–0205, –0305 and –0306
§ 646.10	–0262
§ 649.4	–0202
§ 649.5	–0202
§ 649.6	–0202
§ 649.7	–0306
§ 649.21	–0305
§ 650.4	–0202
§ 650.5	–0202
§ 650.6	–0202
§ 650.7	–0018, –0212 and –0229
§ 650.8	–0306
§ 650.24	–0202
§ 650.25	–0202 and –0307
§ 650.26	–0202
§ 650.28	–0202
§ 651.4	–0202
§ 651.5	–0202
§ 651.6	–0202
§ 651.7	–0018, –0212 and –0229
§ 651.8	–0306
§ 651.20	–0202
§ 651.21	–0202
§ 651.22	–0202
§ 651.25	–0305
§ 651.28	–0202 and –0307
§ 651.29	–0202
§ 652.4	–0202
§ 652.5	–0202
§ 652.6	–0212 and –0229
§ 652.7	–0306
§ 652.9	–0202
§ 652.20	–0238
§ 652.24	–0240
§ 653.5	–0013
§ 654.6	–0305, –0306 and –0307
§ 655.4	–0202
§ 655.6	–0306
§ 658.5	–0013
§ 658.6	–0306
§ 661.4	–0222
§ 661.20	–0222
§ 662.5	–0306
§ 663.4	–0271
§ 663.6	–0306
§ 663.10	–0203
§ 663.11	–0203
§ 663.22	–0305
§ 663.33	–0203
§ 669.6	–0205, –0305 and –0306
§ 670.6	–0306
§ 670.23	–0303
§ 672.4	–0206
§ 672.5	–0213
§ 672.6	–0206
§ 672.24	–0305 and –0307
§ 674.4	–0206
§ 675.4	–0206
§ 675.5	–0213
§ 675.6	–0206
§ 675.24	–0305
§ 675.27	–0269
§ 676.3	–0206
§ 676.4	–0206
§ 676.5	–0206
§ 676.13	–0272
§ 676.14	–0272
§ 676.17	–0272
§ 676.20	–0272
§ 676.21	–0272
§ 676.25	–0269
§ 677.4	–0206
§ 677.6	–0280
§ 677.10	–0280 and –0307
§ 678.4	–0205
§ 678.5	–0013, –0016 and –0229
§ 678.6	–0306
§ 678.10	–0016
§ 680.4	–0204
§ 680.5	–0214
§ 680.6	–0306
§ 680.10	–0204
§ 681.4	–0204
§ 681.5	–0214
§ 681.6	–0306
§ 681.10	–0214
§ 681.24	–0214 and –0305
§ 681.25	–0214
§ 681.30	–0204
§ 683.4	–0214
§ 683.9	–0204, –0214 and –0306
§ 683.21	–0204
§ 683.25	–0204
§ 683.27	–0214
§ 683.29	–0214
§ 685.4	–0214
§ 685.9	–0204
§ 685.10	–0306
§ 685.11	–0214
§ 685.12	–0305
§ 685.13	–0214
§ 685.14	–0214
§ 685.15	–0204
§ 685.16	–0307
§ 685.24	–0214
§ 695.4	–0205
§ 695.5	–0016
§ 695.6	–0306

[FR Doc. 96–6589 Filed 3–18–96; 8:45 am]

BILLING CODE 3510–22–W

SOCIAL SECURITY ADMINISTRATION

20 CFR Parts 404 and 416

[Regulations Nos. 4 and 16]

RIN 0960–AD88

Signature Requirements for State Agency Medical and Psychological Consultants in Disability Determinations

AGENCY: Social Security Administration (SSA).

ACTION: Final rules.

SUMMARY: We are revising the requirements of the Social Security and Supplemental Security Income (SSI) regulations regarding the certifications required on the disability determination forms used by State agencies to certify determinations of disability. Present regulations require that, unless the disability determination is made by a State agency disability hearing officer, disability determinations made by a State agency will be made by a State agency medical or psychological consultant and a State agency disability examiner. This includes determinations made on technical, non-medical, rather than medical, grounds. We are revising our rules to remove the requirement that a medical or psychological consultant sign the disability determination forms used by the State agency to certify each determination, when there is no medical evidence to be evaluated. In such cases, the disability examiner may make the determination alone.

EFFECTIVE DATE: April 18, 1996.

FOR FURTHER INFORMATION CONTACT: Harry J. Short, Legal Assistant, Division of Regulations and Rulings, Social Security Administration, 6401 Security Boulevard, Baltimore, Maryland 21235, (410) 965–6243.

SUPPLEMENTARY INFORMATION:

Background

The Social Security Act (the Act) provides, in title II, for the payment of disability insurance benefits to individuals insured under the Act. Title II also provides for the payment of child's insurance benefits based on disability and widow's and widower's insurance benefits for disabled widows, widowers, and surviving divorced spouses of insured individuals. In addition, the Act provides, in title XVI, for SSI payments to persons who are aged, blind, or disabled and who have limited income and resources. For adults under both the title II and title XVI programs and for persons claiming child's insurance benefits based on disability under the title II program,

''disability'' means the inability to engage in any substantial gainful activity by reason of any medically determinable impairment which has lasted or can be expected to last for a continuous period of not less than 12 months or result in death. For an individual under age 18 claiming SSI benefits based on disability, ''disability'' means that the individual's impairment(s) is of comparable severity to one that would disable an adult (i.e., the impairment(s) substantially reduces the individual's ability to function independently, appropriately, and effectively in an age-appropriate manner such that the individual's impairment(s) and resulting limitations are comparable to those that would disable an adult). The individual's impairment(s) must also meet the statutory duration requirement.

Sections 221 and 1633(a) of the Act and §§ 404.1503 and 416.903 of our regulations provide that State agencies make disability and blindness determinations for the Commissioner of Social Security for most persons living in the State. Sections 404.1615(c) and 416.1015(c) of the regulations provide that disability determinations will be made by either: (1) a State agency medical or psychological consultant *and* a State agency disability examiner or (2) a State agency disability hearing officer. In addition, a single decisionmaker may make the determination of disability for purposes of the tests we are conducting under the authority of the final rules we published on April 24, 1995, ''Testing Modifications to the Disability Determination Procedures,'' (60 FR 20023). (To be codified at 20 CFR 404.906 and 416.1406). These final rules do not affect the procedures we are following for the purposes of those tests.

Sections 404.1615(e) and 416.1015(f) of the regulations require the State agency to certify each determination of disability to the Social Security Administration (SSA) on forms provided by SSA. The term ''determination of disability'' is defined in §§ 404.1602 and 416.1002 of the regulations to mean one or more of the following decisions: whether or not a person is under a disability; the date a person's disability began; or the date a person's disability ended.

When a disability determination is made jointly by a State agency medical or psychological consultant and a State agency disability examiner, the medical or psychological consultant is responsible for the medical portion of the determination, and the disability examiner is responsible for the remainder of the determination. Under our current procedures for these cases, both the disability examiner and the medical or psychological consultant must certify the determination on forms which we provide as required in the regulations.

In some instances the requirement for the medical or psychological consultant's certification is unnecessary because the determination is made on technical, non-medical, grounds alone, without consideration of any medical evidence. Many medical and psychological consultants who work with the State agencies do so on a part-time basis and are not always available to sign disability determination forms. This can result in delays of cases that are otherwise complete because no medical evaluation or expertise is necessary.

This happens, for example, when an individual who has no history of medical treatment or examination—and, hence, no existing medical records that we can obtain—refuses to attend a consultative examination purchased at our expense. In such a case, the State agency makes its determination on technical, non-medical, rather than medical, grounds. It denies such a claim because, without the individual's cooperation, the evidence needed to determine whether the individual is disabled cannot be obtained. Nevertheless, our current rules require that a medical or psychological consultant sign the standard disability determination form in such a case, even though there is no medical evidence and no medical findings that can be made.

Change Made by This Rule

We are addressing the above issue by revising §§ 404.1615 and 416.1015 of the regulations to provide, in a new paragraph (c)(2), that a State agency disability examiner alone may make the disability determination when there is no medical evidence to be evaluated, such as when there is no existing medical evidence and the individual refuses to attend a consultative examination. We are redesignating current paragraph (c)(2), which provides that a State agency disability hearing officer may also make disability determinations, as paragraph (c)(3).

Public Comments

On October 26, 1994, we published these revisions in a Notice of Proposed Rulemaking (NPRM) in the Federal Register (59 FR 53769). We invited interested persons, organizations, and groups to submit their comments on the NPRM within 60 days.

We received letters from four State agencies, three legal advocates, and a vocational rehabilitation council. Five commenters indicated support for the rule, two opposed it, and one provided comments without indicating either support or opposition.

Comment: One commenter requested that we broaden the provision to state that the medical or psychological consultant's signature is not required on the disability determination form if the consultant has furnished a written medical severity assessment.

Response: We are currently considering alternatives to our procedures for documenting medical or psychological consultant participation in the disability determination. In February 1994, we provided temporary procedures for State agencies to document medical or psychological consultant participation in certain cases with the consultant's signature on a document other than the disability determination form. We are also considering ways to expand this procedure to other cases. We do not believe that a regulatory change beyond the changes made by these final rules is appropriate at this time.

Comment: Another commenter recommended that we broaden the provision to include cases in which there is some medical evidence, but the substantive conclusion of whether an individual is disabled appears obvious. The commenter also suggested including cases involving only medical evidence from outside the period at issue in the case, and cases that include some medical evidence but are still denied based on failure to attend a consultative examination.

Response: This kind of expansion would not be consistent with the scope or intent of this rule. We believe that the presence of medical evidence in connection with a claim for benefits is sufficient reason to require the special expertise of a medical or psychological consultant, even if the outcome seems ''obvious'' or the evidence seems immaterial to a lay person. Therefore, we did not make these changes.

Comment: Three commenters expressed concern about the scope and meaning of the proposed provisions. All three were concerned that cases with insufficient medical evidence will be denied on a technical basis; i.e., without the participation of a medical or psychological consultant. Two of these commenters requested clarification of the phrase ''no medical evidence.'' Two stated that existing regulations (§§ 404.1516, 404.1518, 416.916, and 416.918) require a medical evaluation of the case when an individual fails or refuses to attend a consultative examination. They said that the decision should, therefore, be made

with the participation of a medical or psychological consultant.

Response: We have changed the proposed rules to clarify what we mean by ''no medical evidence.'' The final rules do not apply if the file contains *some* medical evidence, even if such evidence is insufficient to make a determination or contains no findings to support a determination that the claimant is disabled. In such a case, the medical or psychological consultant and disability examiner must make the determination as a team.

We disagree with the commenters who stated that existing regulations require a medical evaluation of the case when an individual fails or refuses to attend a consultative examination. Our current regulations (§§ 404.1518 and 416.918) state only that if a claimant does ''not have a good reason for failing or refusing to take part in a consultative examination * * *, we may find that you are not disabled * * * .'' This provision does not require a medical evaluation of such a case, and we believe that it would be futile to attempt to make such an evaluation in the absence of any medical evidence. Although we do not necessarily agree that §§ 404.1516 and 416.916 apply to this situation, they do not prescribe any specific kind of case evaluation (i.e., a medical evaluation). They merely provide that we will ''make a decision based on information available in your case.''

Comment: The same commenters were concerned that disability examiners will not make adequate attempts to obtain medical evidence. Two of these commenters stated that only a physician should decide whether the case is unsupported by medical evidence. One observed that the rule does not define ''medical evidence,'' and another stated that a physician should be involved in deciding what is or is not medical evidence.

Response: These new rules do not alter the existing statutory and regulatory requirement that, before we make a determination that an individual is not disabled, we develop a complete medical history for at least the 12 months preceding the month in which the application is filed, unless there is reason to believe that development of an earlier period is necessary or unless the claimant states that his or her disability began less than 12 months before the application is filed. These rules also do not alter the existing requirement that we make every reasonable effort to obtain medical evidence from the individual's own medical sources, as provided for in sections 223(d)(5)(B) and 1614(a)(3)(G) of the Act and §§ 404.1512(d) and 416.912(d) of our regulations. We have revised these final rules to emphasize that we will continue to do so.

Our existing regulations, §§ 404.1513 and 416.913, set forth the requirements for the contents of medical evidence and reports, and these rules do not change those requirements. We do not agree that a physician's expertise is required to determine whether evidence is ''medical evidence'', or to evaluate non-medical evidence.

Comment: Two commenters requested a more definitive identification of the circumstances that justify the provision.

Response: We have clarified the circumstances under which the final rules apply. They apply whenever there is no medical evidence to be evaluated and the claimant fails or refuses, without a good reason, to attend a consultative examination. The final versions of §§ 404.1615(c)(2) and 416.1015(c)(2) make this clear.

Comment: A number of commenters observed that mental illness or other factors may be the basis for an individual's failure to cooperate.

Response: Existing regulations include provisions on good cause for failure to attend a consultative examination. Regulations §§ 404.1518 and 416.918 require us to consider an individual's physical, mental, educational and linguistic limitations when determining whether he or she has a good reason for failing to attend a consultative examination. Nevertheless, in the final rules we have clarified that they apply only if the individual fails or refuses to attend a consultative examination without a good reason, and have provided a cross-reference to §§ 404.1518 and 416.918.

Except for these clarifications, several minor, non-substantive technical changes, and corrections to authority citations, we are adopting the proposed rules as final rules.

Regulatory Procedures

Executive Order 12866

We have consulted with the Office of Management and Budget (OMB) and determined that these final rules do not meet the criteria for a significant regulatory action under Executive Order 12866. Therefore, they are not subject to OMB review.

Regulatory Flexibility Act

We certify that these regulations will not have a significant economic impact on a substantial number of small entities because they affect individuals' eligibility for program benefits under the Social Security Act. Therefore, a regulatory flexibility analysis is not required.

Paperwork Reduction Act

These regulations will impose no additional reporting or recordkeeping requirements necessitating clearance by OMB.

(Catalog of Federal Domestic Assistance Program Nos. 96.001, Social Security-Disability Insurance; and 96.006, Supplemental Security Income)

List of Subjects

20 CFR Part 404

Administrative practice and procedure, Blind, Death benefits, Disability benefits, Old-Age, Survivors and Disability Insurance, Reporting and recordkeeping requirements, Social security.

20 CFR Part 416

Administrative practice and procedure, Aged, Blind, Disability benefits, Public assistance programs, Supplemental Security Income (SSI), Reporting and recordkeeping requirements.

Dated: March 8, 1996.

Shirley S. Chater,

Commissioner of Social Security.

For the reasons set out in the preamble, subpart Q of part 404 and subpart J of part 416 of chapter III of title 20 of the Code of Federal Regulations are amended as set forth below:

PART 404—FEDERAL OLD-AGE, SURVIVORS AND DISABILITY INSURANCE (1950—)

Subpart Q—[Amended]

1. The authority citation for subpart Q of part 404 continues to read as follows:

Authority: Secs. 205(a), 221, and 702(a)(5) of the Social Security Act (42 U.S.C. 405(a), 421, and 902(a)(5)).

2. Section 404.1615 is amended by removing the ''or'' at the end of paragraph (c)(1), by adding a semicolon after paragraph (c)(1), by redesignating paragraph (c)(2) as paragraph (c)(3), and by adding a new paragraph (c)(2) to read as follows:

§ 404.1615 Making disability determinations.

* * * * *

(c) * * *

(2) A State agency disability examiner alone when there is no medical evidence to be evaluated (i.e., no medical evidence exists or we are unable, despite making every reasonable effort, to obtain any medical evidence

that may exist) and the individual fails or refuses, without a good reason, to attend a consultative examination (see § 404.1518); or

* * * * *

PART 416—SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND, AND DISABLED

Subpart J—[Amended]

3. The authority citation for subpart J continues to read as follows:

Authority: Secs. 702(a)(5), 1614, 1631, and 1633 of the Social Security Act (42 U.S.C. 902(a)(5), 1382c, 1383, and 1383b).

4. Section 416.1015 is amended by removing the ''or'' at the end of paragraph (c)(1), by redesignating paragraph (c)(2) as paragraph (c)(3), and by adding a new paragraph (c)(2) to read as follows:

§ 416.1015 Making disability determinations.

* * * * *

(c) * * *

(2) A State agency disability examiner alone when there is no medical evidence to be evaluated (i.e., no medical evidence exists or we are unable, despite making every reasonable effort, to obtain any medical evidence that may exist) and the individual fails or refuses, without a good reason, to attend a consultative examination (see § 416.918); or

* * * * *

[FR Doc. 96–6375 Filed 3–18–96; 8:45 am]

BILLING CODE 4190–29–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[TN 130–1–9601a; TN 116–1–9602a; TN 114–1–9603a; FRL–5345–9]

Approval and Promulgation of Implementation Plans Tennessee: Approval of Revisions to the Tennessee State Implementation Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving revisions to the Tennessee State Implementation Plan (SIP) submitted on June 21, 1993, and June 22, 1993, by the State of Tennessee, through the Tennessee Department of Environment and Conservation (DEC). The submittal of June 21, 1993 revises Chapter 1200–3–14 Control of Sulfur Dioxide Emissions and the submittal of June 22, 1993 revises Chapter 1200–3–10 Required Sampling, Recording and Reporting. On December 17, 1993, the Memphis Shelby County Health Department, through the Tennessee DEC, submitted revisions to Section 16–85 of the Memphis Shelby County Portion of the Tennessee SIP which adopt by reference revisions to Chapter 1200–3–10 of the Tennessee SIP. The intended effect of this revision is to clarify certain provisions and ensure consistency with the Clean Air Act.

DATES: This action is effective May 20, 1996 unless notice is received by April 18, 1996 that someone wishes to submit adverse or critical comments. If the effective date is delayed, timely notice will be published in the Federal Register.

ADDRESSES: Written comments should be addressed to: Scott M. Martin, Regulatory Planning and Development Section, Air Programs Branch, Air, Pesticides & Toxics Management Division, Region 4 Environmental Protection Agency, 345 Courtland Street, NE, Atlanta, Georgia 30365.

Copies of the documents relative to this action are available for public inspection during normal business hours at the following locations. The interested persons wanting to examine these documents should make an appointment with appropriate office at least 24 hours before the visiting day.

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

Environmental Protection Agency, Region 4 Air Programs Branch, 345 Courtland Street, NE, Atlanta, Georgia 30365.

Tennessee Department of Environment and Conservation, Division of Air Pollution Control, 9th Floor L & C Annex, 401 Church Street, Nashville, Tennessee 37243–1531.

Memphis and Shelby County Health Department, 814 Jefferson Avenue, Memphis, Tennessee 38105.

FOR FURTHER INFORMATION CONTACT: Scott M. Martin, Regulatory Planning and Development Section, Air Programs Branch, Air, Pesticides & Toxics Management Division, Region 4 Environmental Protection Agency, 345 Courtland Street, NE, Atlanta, Georgia 30365. The telephone number is 404/347–3555 extension 4216.

SUPPLEMENTARY INFORMATION: On June 21, 1993, the State of Tennessee, through the Tennessee DEC, submitted revisions to Chapter 1200–3–14 Control of Sulfur Dioxide Emissions. The changes are as follows: 1.) Paragraph 1200–3–14–.03(4) was amended by inserting after the second sentence the following: ''This document will be incorporated into the State Implementation Plan. The cost of the legal notice involved must be paid by the requesting source.''

On June 22, 1993, the State of Tennessee, through the Tennessee DEC, submitted revisions to Chapter 1200–3–10 Required Sampling, Recording and Reporting. The changes are as follows: 1.) Paragraph 1200–3–10.02(1)(c)2 is amended by deleting the text and inserting the word ''(Reserved)''. This deletion removes the authority for the Technical Secretary to approve alternate monitoring standards.

On December 17, 1993, the Memphis Shelby County Health Department, through the Tennessee DEC, submitted revisions to Section 16–85 of the Memphis Shelby County Portion of the Tennessee SIP. This revision adopts by reference changes to Chapter 1200–3–10 of the Tennessee SIP identified in the previous paragraph.

Final Action

EPA is approving the above referenced revisions to the Tennessee State Implementation Plan (SIP). This action is being taken without prior proposal because the EPA views this as a noncontroversial amendment and anticipates no adverse comments. However, in a separate document in this Federal Register publication, the EPA is proposing to approve the SIP revision should adverse or critical comments be filed. This action will be effective May 20, 1996 unless, by April 18, 1996, adverse or critical comments are received.

If the EPA receives such comments, this action will be withdrawn before the effective date by publishing a subsequent document that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on this action serving as a proposed rule. The EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this action will be effective May 20, 1996.

Under Section 307(b)(1) of the Clean Air Act (CAA), 42 U.S.C. 7607(b)(1), petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by May 20, 1996. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for purposes of judicial review nor does it

extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See Section 307(b)(2) of the Act, 42 U.S.C. 7607 (b)(2)).

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

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

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

SIP approvals under 110 and subchapter I, part D of the CAA do not create any new requirements, but simply approve requirements that the State is already imposing. Therefore, because the federal SIP-approval does not impose any new requirements, I certify that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the federal-state relationship under the CAA, preparation of a regulatory flexibility analysis would constitute federal inquiry into the economic reasonableness of state action. The CAA forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S. E.P.A.,* 427 U.S. 246, 256–66 (S.Ct. 1976); 42 U.S.C. 7410(a)(2) and 7410(k)(3).

Unfunded Mandates

Under Sections 202, 203 and 205 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), signed into law on March 22, 1995, EPA must undertake various actions in association with proposed or final rules that include a Federal mandate that may result in estimated costs of $100 million or more to the private sector, or to State, local, or tribal governments in the aggregate.

Through submission of this state implementation plan or plan revision, the State and any affected local or tribal governments have elected to adopt the program provided for under section 110 of the CAA. These rules may bind State, local and tribal governments to perform certain duties. EPA has examined whether the rules being approved by this action will impose any mandate upon the State, local or tribal governments either as the owner or operator of a source or as a regulator, or would impose any mandate upon the private sector. EPA's action will impose no new requirements; such sources are already subject to these regulations under State law. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action. Therefore, this final action does not include a mandate that may result in estimated costs of $100 million or more to State, local, or tribal governments in the aggregate or to the private sector.

List of Subjects in 40 CFR Part 52

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

Dated: December 4, 1995.

Patrick M. Tobin,

Acting Regional Administrator.

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

PART 52—[AMENDED]

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

Authority: 42.U.S.C. 7401–7671q.

Subpart RR—Tennessee

2. Section 52.2220, is amended by adding paragraph (c)(134) to read as follows:

§ 52.2220 Identification of plan.

* * * * *

(c) * * *

(134) Revisions to the State of Tennessee Air Pollution Control Regulations submitted by the Tennessee Department of Environment and Conservation on June 21, 1991, and June 22, 1993. These consist of revisions to Chapter 1200–3–10 Required Sampling, Recording and Reporting, and Chapter 1200–3–14 Control of Sulfur Dioxide Emissions. Revisions to section 16–85 of the Memphis/Shelby County portion of the Tennessee SIP which adopt by reference changes made to Chapter 1200–3–10 of the Tennessee SIP.

(i) Incorporation by reference.

(A) Chapter 1200–3–14, effective March 21, 1993.

(B) Chapter 1200–3–10, effective March 13, 1993.

(C) Section 16–85 of the Memphis/Shelby County Health Department, Air Pollution Control Regulations effective October 23, 1993.

(ii) Other material. None.

[FR Doc. 96–6002 Filed 3–18–96; 8:45 am]

BILLING CODE 6560–50–P

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40 CFR Part 52

[AL–042–1–9614a, AL–043–9613a; FRL–5426–9]

Approval and Promulgation of Implementation Plans Alabama: Revision to the Alabama Department of Environmental Management Administrative Code for the Air Pollution Control Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: On October 30, 1995, and December 14, 1995, the State of Alabama through the Department of Environmental Management (ADEM) submitted a revision to the State Implementation Plan (SIP) to amend the ADEM Administrative Code for the Air Pollution Control Program. The purpose of this submittal is to revise the definition of Volatile Organic Compound (VOC) in Chapter 335–3–1—General Provisions—Section 335–3–1–.02 (gggg), to ensure that the state regulation is consistent with the Federal rule.

DATES: This action is effective May 20, 1996 unless adverse or critical comments are received by April 18, 1996. If the effective date is delayed, timely notice will be published in the Federal Register.

ADDRESSES: Comments may be mailed to Kimberly Bingham at the EPA Region 4 address listed below. Copies of the material submitted by ADEM may be examined during normal business hours at the following locations:

Air and Radiation Docket and Information Center (Air Docket 6102),

U.S. Environmental Protection Agency, 401 M Street SW., Washington DC 20460.

Environmental Protection Agency, Region 4 Air Programs Branch, 345 Courtland Street, Atlanta, Georgia 30365.

Alabama Department of Environmental Management, 1751 Congressman W.L. Dickinson Drive, Montgomery, Alabama 36109.

FOR FURTHER INFORMATION CONTACT: Kimberly Bingham, Regulatory Planning and Development Section, Air Programs Branch, Air Pesticides and Toxics Management Division, Region 4, Environmental Protection Agency, 345 Courtland Street NE., Atlanta, Georgia 30365. The telephone number is (404) 347–3555 ext. 4195.

SUPPLEMENTARY INFORMATION: On October 30, 1995 and December 14, 1995, the State of Alabama through the ADEM submitted revisions to the Alabama SIP. Chapter 335–3–1—General Provisions, Section 335–3–1–.02, was amended to exempt compounds from the definition of VOC on the basis that these compounds have been determined to have negligible photochemical reactivity. These revisions include the addition of new compounds and changes to the names of existing exempt compounds.

Also included with the submittal were revisions to Chapter 335–3–11 National Emission Standards for Hazardous Air Pollutants (NESHAP), Appendix C, and Chapter 335–3–18 Acid Rain Program—Permits Regulation. EPA is not taking action on these revisions in this notice because they are federally enforceable through 40 CFR Part 63 and Part 72, respectively.

Final Action

The EPA is approving the revisions to the VOC definition and is publishing this action without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in a separate document in this Federal Register publication, the EPA is proposing to approve the SIP revision should adverse or critical comments be filed. This action will be effective May 20, 1996 unless, by April 18, 1996, adverse or critical comments are received.

If the EPA receives such comments, this action will be withdrawn before the effective date by publishing a subsequent document that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on the proposed rule published with this action. The EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this action will be effective May 20, 1996.

Under section 307(b)(1) of the Clean Air Act (CAA), 42 U.S.C. 7607(b)(1), petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by May 20, 1996. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. [See section 307(b)(2) of the CAA, 42 U.S.C. 7607(b)(2)].

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

SIP approvals under section 110 and subchapter I, part D of the CAA do not create any new requirements, but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP-approval does not impose any new requirements, I certify that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the federal-state relationship under the CAA, preparation of a regulatory flexibility analysis would constitute federal inquiry into the economic reasonableness of state action. The CAA forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S. E.P.A.*, 427 U.S. 246, 256–66 (S.Ct. 1976); 42 U.S.C. 7410(a)(2) and 7410(k)(3).

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

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

Under Sections 202, 203, and 205 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), signed into law on March 22, 1995, EPA must undertake various actions in association with proposed or final rules that include a Federal mandate that may result in estimated costs of $100 million or more to the private sector, or to State, local, or tribal governments in the aggregate.

Through submission of this state implementation plan or plan revision, the State and any affected local or tribal governments have elected to adopt the program provided for under Section 110 of the CAA. These rules may bind State, local and tribal governments to perform certain actions and also require the private sector to perform certain duties. EPA has examined whether the rules being approved by this action would impose no new requirements, since such sources are already subject to these regulations under State law. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action, and therefore there will be no significant impact on a substantial number of small entities.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Ozone.

Dated: February 6, 1996.

Phyllis P. Harris,

Acting Regional Administrator.

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

PART 52—[AMENDED]

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

Authority: 42 U.S.C. 7401–7671q.

Subpart B—Alabama

2. Section 52.50 is amended by adding paragraph (c)(69) to read as follows:

§ 52.50 Identification of plan.

* * * * *

(c) * * *

(69) The State of Alabama submitted revisions to the ADEM Administrative Code for the Air Pollution Control Program on October 30, 1995, and December 14, 1995. These revisions involve changes to Chapter 335–3–1—General Provisions.

(i) Incorporation by reference. Section 335–3–1–.02 (gggg) of the Alabama regulations adopted on November 28, 1995.

(ii) Other material. None.

[FR Doc. 96–6009 Filed 3–18–96; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Part 52

[IL124–1–6977a; FRL–5435–6]

Approval and Promulgation of State Implementation Plan; Illinois; Clean-Fuel Fleet Program

AGENCY: Environmental Protection Agency (USEPA).

ACTION: Direct final rule.

SUMMARY: The USEPA is giving full approval through a direct final action to a state implementation plan (SIP) revision submitted on September 29, 1995, by the Illinois Environmental Protection Agency (IEPA). IEPA submitted the SIP revision request to satisfy provisions of the Clean Air Act, requiring certain states to establish Clean-Fuel Fleet Programs. The rules submitted by Illinois that are being approved today establish and require the implementation of a Clean-Fuel Fleet Program (CFFP) in the Chicago ozone nonattainment area. The Chicago ozone nonattainment area, which includes Cook, DuPage, Grundy (Aux Sable and Goose Lake townships only), Kane, Kendall (Oswego township only), Lake, McHenry, and Will counties, is required to attain the National Ambient Air Quality Standards (NAAQS) as specified under the Clean Air Act (CAA) by 2007. The implementation of this program is expected to reduce motor vehicle volatile organic compound (VOC) emissions, which contribute to the formation of urban smog in the Chicago area, by nearly 3 tons per day starting in the year 2003. In the proposed rules section of this Federal Register, USEPA is proposing approval of the CFFP and SIP revision and solicits comments on the action. If adverse comments are received on this direct final rule, USEPA will withdraw this final rule and address these comments in a subsequent final rule based on the proposed rule.

DATES: This final rule is effective May 20, 1996 unless adverse comments are received by April 18, 1996. If the effective date is delayed, timely notice will be published in the Federal Register.

ADDRESSES: Copies of Illinois' CFFP SIP submittal, and other documents pertinent to this direct final rule are available at the following address: U.S. Environmental Protection Agency, Region 5, Air and Radiation Division, Air Programs Branch, 77 West Jackson Boulevard, Chicago, Illinois 60604.

Comments on this rule should be addressed to: J. Elmer Bortzer, Chief, Regulation Development Section, Air Programs Branch (AR–18J), United States Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Francisco J. Acevedo, Environmental Engineer, Regulation Development Section, Air Programs Branch (AR–18J), United States Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886–6061.

SUPPLEMENTARY INFORMATION:

I. Background

On November 15, 1990, Congress enacted amendments to the 1977 CAA, codified at 42 U.S.C. 7401–7671q. The CFFP is contained under Part C, entitled ''Clean Fuel Vehicles,'' of Title II of the Clean Air Act. Part C was added to the CAA to establish two programs, a clean-fuel vehicle pilot program in the state of California (the California Pilot Test Program) and a federal CFFP in certain ozone and carbon monoxide (CO) nonattainment areas.

The CFFP will introduce lower pollution emitting vehicles, ''clean-fuel vehicles'' (CFVs), into centrally fueled fleets or fleets that are determined to be capable of being centrally fueled by requiring covered fleet operators to include a percentage of CFVs in their new fleet purchases. The goal of the CFFP is to reduce emissions of non-methane organic gasses (NMOG), oxides of nitrogen (NO_X), and CO through the introduction of CFVs into the covered areas. Both NMOG and NOx are precursors of ozone and, in most areas, their reduction will reduce the concentration of ozone in covered ozone nonattainment areas. Reductions of vehicular CO emissions will reduce the concentration of CO in covered CO nonattainment areas.

Congress chose centrally fueled fleets because operators of these fleets have more control over obtaining fuel than the general public. Additionally, the control that operators maintain over their fleets simplifies maintenance and refueling of these vehicles. Finally, because fleet vehicles typically travel more miles on an annual basis than do non-fleet vehicles, they provide greater opportunity to improve air quality on a per vehicle basis.

Section 182(c)(4) of the CAA allows states to opt-out of the CFFP by submitting, for USEPA approval, a SIP revision consisting of a substitute program resulting in as much or greater long term emission reductions in ozone producing and toxic air emissions as the CFFP. The USEPA may approve such a revision ''only if it consists exclusively of provisions other than those required under the [CAA] for the area.''

II. Program Requirements

Unless a state chooses to opt-out of the CFFP under section 182(c)(4) of the CAA, section 246 of the CAA directs a state containing covered areas to revise its SIP, within 42 months after enactment of the CAA, to establish a CFFP. The CFFP shall require a specified percentage of all newly acquired vehicles of covered fleets, beginning with model year (MY) 1998 and thereafter, to be CFVs and such vehicles shall use the fuel on which the vehicle was certified to be a CFV, when operating in the covered area.

III. State Submittal

The state of Illinois did not choose to opt-out of the CFFP pursuant to section 182(c)(4) of the CAA and, therefore, submitted a SIP revision on September 29, 1995, to implement a CFFP. On October 16, 1995, USEPA determined that the state's SIP submittal for a CFFP was complete.

IV. USEPA's Analysis of the State's Clean Fuel Fleet Program

USEPA has reviewed the state's submittal for consistency with the requirements of USEPA regulations. A summary of USEPA's analysis is provided below. More detailed support for approval of the state's submittal is contained in a Technical Support Document (TSD), dated February 12, 1996, which is available from the Region 5 Office, listed above.

A. Covered Areas

The SIP revision needs to list those areas where the CFFP will be implemented, as required by section 246(a)(2) of the CAA. In Illinois, the applicable areas defined by section 246(a)(2) include Cook, DuPage, Grundy (Aux Sable and Goose Lake townships only), Kane, Kendall (Oswego township only), Lake, McHenry, and Will counties.

Section 241.102 of 35 Illinois Administrative Code 241 defines the covered area to include Cook, DuPage, Grundy (Aux Sable and Goose Lake townships only), Kane, Kendall (Oswego township only), Lake, McHenry, and Will counties. These are the same counties as required by the CAA.

B. Definitions

Sections 241(1) to (7) of the CAA, and 40 CFR 88.302–94, define specific terms that are to be used in the state regulations.

Section 241.102 contains definitions of the terms used by Illinois in the CFFP rule. The revision's definitions are consistent with section 241 (1) to (7) of the CAA as well as 40 CFR Part 88.302–94.

C. Covered Fleets

Section 241(5) of the CAA defines a ''covered fleet'' as 10 or more motor vehicles that are owned or operated by a single person.

Section 241.102 of the Illinois rule identifies vehicles/fleets that are included in Illinois' CFFP, and are consistent with section 241(5) of the CAA.

D. Vehicle Classes Covered

Sections 242 and 243 of the CAA and 40 CFR 88, define the vehicle classes covered by the CFFP. Additionally, section 245(a) of the CAA exempts from the CFV standards vehicles having a Gross Vehicle Weight Rating (GVWR) of more than 26,000 pounds.

Section 241.102 defines the vehicle classes covered by the Illinois CFFP. The classes of vehicles included in the Revision are identical to those set forth in sections 242 and 243 of the CAA and 40 CFR 88, including the 26,000 pound GVWR exemption.

E. Clean-Fuel Vehicles (CFVs)

Section 241(7) of the CAA defines a CFV to mean a vehicle in a class or category of vehicles that has been certified to meet for any model year the applicable CFV standards. 40 CFR 88 establishes three categories of increasingly stringent CFV standards, which are referred to as low-emission vehicle (LEV) standards, ultra low-emission vehicle (ULEV) standards, and zero-emission vehicle (ZEV) standards. In addition, a vehicle certified by the USEPA to meet the inherently low-emission vehicle (ILEV) standard, found in 40 CFR 88.311–93, is also considered a CFV.

Section 241.102 of the Illinois rule defines a CFV as a motor vehicle in a class or category of motor vehicles (e.g., LDVs, LDTs, or HDVs) which have been certified by USEPA to meet the clean fuel vehicle standards applicable under the Illinois rule. The standards specified in the rule are the same as those established in 40 CFR 88.

F. Percentage Requirements

Section 246(b) of the CAA establishes phase-in requirements for covered fleets applicable to new vehicle acquisitions. Section 241.113 of the Illinois rule contains the CFV purchase requirements for the Illinois' CFFP. The phase-in schedule in Illinois' rule is identical to the schedule in the CAA.

G. Credit Program

Section 246(f) of the CAA and 40 CFR 88.304–94 require the state to implement a credit program as part of the CFFP. Briefly, the Clean-Fuel Fleet (CFF) credit program establishes a market-based mechanism that allows fleet owners some flexibility in complying with the CFF purchase requirement. Under these provisions, a credit program must provide that fleet owners may meet the purchase requirements in any of several ways: (1) by the purchase of more CFVs than the minimum required by a CFFP; (2) by the purchase of CFVs which meet more stringent emission standards than the minimum required by the CFFP; (3) by the purchase of CFVs otherwise exempt from the CFFP; and (4) by the purchase of CFVs before MY 1998.

The credits generated may be used by a covered fleet operator to satisfy the purchase requirements of a CFFP or may be traded by one covered fleet operator to another, provided the credits were generated and used in, and both operators are located in, the same nonattainment area. Certain restrictions on the trading of the credits between classes must be observed. The credits do not depreciate with time and are to be freely traded without interference by the state.

Section 241.130 establishes a credit program that provides credits for operators who: (1) acquire more CFVs than the Illinois CFFP requires in any year; (2) acquire CFVs which meet more stringent emission standards than the minimum requirements; (3) acquire CFVs in exempted vehicle categories; or (4) acquire CFVs prior to September 1, 1997. These eligibility requirements are consistent with section 246(f) of the CAA, and 40 CFR 88.304–94.

Section 241. Appendix B of the Illinois rule includes Tables A, B, C, D, E, and F, which set forth the amount of credit granted for the various ways of meeting the purchasing requirements explained above. These tables are identical to Tables C94–1, C94–1.2, C94–1.3, C94–4, C94–4.2, C94–4.3 of 40 CFR Part 88, Subpart C.

The credit program established in this revision requires credits for LDV and HDV to be kept separate. Trading of credits between LDV and LDT is permitted. These limitations and restrictions are consistent with those specified in section 246(f)(2) of the CAA.

H. Fuel Use

40 CFR 88.304–94(b)(3) requires that the fuel on which a dual fuel/flexible fuel CFV was certified to be used at all times when the vehicle is in the covered area.

Section 241.115(a) requires that any CFV acquired to meet the acquisition requirements of the CFFP or to generate credits must be operated, while in the covered area, on the fuel or power source, for which it was certified by USEPA to meet applicable emission standards.

I. Fuel Availability

Section 246(e) of the CAA requires the SIP revision to require fuel providers to make clean alternative fuel available to the covered fleets at central locations.

Because of the wide availability of reformulated gasoline in the Chicago nonattainment area, requirements on fuel providers to make clean alternative fuels available to covered fleet operators at central locations where technically and economically feasible is not considered to be a critical component of the program.

J. Consultation

Section 246(a)(4) of the CAA requires that the SIP revision must be developed in consultation with fleet operators, vehicle manufacturers, fuel producers, distributors of motor vehicle fuel, and other interested parties, taking into consideration operational range, specialty uses, vehicle and fuel availability, costs, safety, resale values, and other relevant factors.

The Illinois Environmental Protection Agency (IEPA) organized a consultation workgroup, called the Clean-Fuel Fleet Workgroup. The Workgroup met several times and included representatives from the National Association of Fleet Administrators, Illinois Natural Gas Vehicle Coalition, Ethanol Work Group, Sierra Club, American Lung Association, Illinois Petroleum Council, American Automobile Manufacturer's Association, USEPA, Illinois Department of Energy and Natural Resources, and the Office of the Secretary of State. The group took into

consideration the factors specified in section 246(a)(4) of the CAA.

K. Recordkeeping and Monitoring

No specific recordkeeping and monitoring requirements are found in section 246 of the CAA or 40 CFR 88.304–94. However, there are a number of questions which should be answered in order to determine the adequacy of a CFFP. 60 Fed. Reg. 54305 (Oct. 23, 1995).

(1) Does the SIP revision provide a reasonable process for the state to determine which fleets should report data to the state, consistent with the state's approach to ''operated in the covered area''?

(2) Is there a process for updating this list of potentially covered fleet operators?

(3) Does the SIP revision include a process for the state agency to receive at least the following data from fleet operators:

(a) Numbers, categories, and fueling patterns of vehicles in the fleet?

(b) Numbers, engine family names, categories, and fueling patterns of new acquisitions?

(c) Numbers, engine family names, categories, and fueling patterns of CFV acquisitions?

(d) For dual-fuel/flexible-fuel vehicles, data on fuel usage sufficient to demonstrate that the proper fuel was used when the vehicle was operated in the covered area?

(4) Does the SIP revision describe how the data will be processed, maintained, updated, and used to confirm compliance by fleets?

(5) Does the SIP revision provide for oversight of the data acquisition process?

Section 241.112 requires the owner or operator of a fleet of 10 or more covered fleet vehicles to register with the IEPA.

Section 241.112 also requires the registration to include certain information. In addition, Section 241.140 requires covered fleet operators to submit annual compliance plans to IEPA. General information required in 3(a) to 3(d) above, as well as other information, is included in these requirements. Section 241.141 establishes recordkeeping requirements for covered fleet owners or operators to maintain a number of additional records and information. The records required under this section shall be retained by the owner or operator for at least three years and shall be made available immediately to IEPA upon request. The information reported by the covered fleet owners or operators, allows IEPA to monitor the performance of the operators. IEPA will review the annual compliance plans for approval or disapproval in keeping with the regulatory requirements of the Illinois CFFP.

L. Enforcement

The state must be able to adequately enforce the requirements of the regulations adopted for implementation of the CFFP. 60 Fed. Reg. 54305 (Oct. 23, 1995).

The Illinois Environmental Protection Act, Section 42(a), states that any person that violates any provision of this Illinois Environmental Protection Act or any regulation adopted by the IPCB, or any permit or term or condition thereof, or that violates any determination or order of the IPCB pursuant to this Act, shall be liable to a civil penalty not to exceed $50,000 for the violation and an additional $10,000 for each day for which the violation continues. In that this submittal is a regulation adopted by the IPCB, a violation of which subjects the violator to penalties under section 42(a), the submittal is then enforceable and thus satisfies the Federal requirement.

M. Transportation Control Measure Exemptions

40 CFR 88.307–94(a) requires states to exempt any CFV, required by law to participate in a CFFP, from temporal-based (e.g., time-of-day or day-of-week) transportation control measures (TCM) existing for air quality reasons as long as the exemption does not create a clear and direct safety hazard. In the case of high occupancy vehicle (HOV) lanes, this exemption only applies to CFVs that are certified to be ILEVs pursuant to 40 CFR 88.313–93.

The Chicago ozone nonattainment area does not currently have any temporal based TCM requirements.

N. Concluding Statement

The USEPA has reviewed the Illinois CFFP SIP revision submitted to the USEPA as described above. The materials contained in the SIP revision represent an acceptable approach to the CFFP requirements and meet the criteria required for approvability.

V. Action

The USEPA approves Illinois' CFFP SIP submittal. With this action, USEPA incorporates Illinois' CFFP SIP revision into the SIP, making it federally enforceable.

Because USEPA considers this action noncontroversial and routine, we are approving it without prior proposal. This action will become effective on May 20, 1996. However, if we receive significant adverse comments by April 18, 1996, USEPA will publish a document that modifies or withdraws this action.

VI. Miscellaneous

A. Applicability to Future SIP Decisions

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

B. Executive Order 12866

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

C. Regulatory Flexibility

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

This approval does not create any new requirements. Therefore, I certify that this action does not have a significant impact on any small entities affected. Moreover, due to the nature of the federal-state relationship under the Act, preparation of the regulatory flexibility analysis would constitute federal inquiry into the economic reasonableness of the state action. The Act forbids USEPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S. E.P.A.*, 427 U.S. 246, 256–66 (1976).

Under Section 202 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), signed into law on March 22, 1995, the USEPA 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 USEPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires the USEPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

The USEPA has determined that the approval action promulgated today does not include a federal mandate. The mandate does not arise from this approval action, but from the language of section 246 of the CAA.

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 the private sector, result from this action.

D. Petitions for Judicial Review

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by May 20, 1996. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review, nor does it extend the time within which a petition for judicial review may be filed and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements (see section 307(b)(2)).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Incorporation by reference, Ozone, Motor vehicle pollution, Reporting and recordkeeping requirements.

Dated: February 15, 1996.

David A. Ullrich,

Acting Regional Administrator.

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

PART 52—[AMENDED]

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

Authority: 42 U.S.C. 7401–7671q.

Subpart O—Illinois

2. Section 52.720 is amended by adding paragraph (c)(124) to read as follows:

§ 52.720 Identification of plan.

* * * * *

(c) * * *

(124) The state of Illinois requested a revision to the Illinois State Implementation Plan (SIP). This revision is for the purpose of establishing and implementing a Clean-Fuel Fleet Program in the Chicago ozone nonattainment area, which includes Cook, DuPage, Grundy (Aux Sable and Goose Lake townships only), Kane, Kendall (Oswego township only), Lake, McHenry, and Will counties, to satisfy the federal requirements for a Clean Fuel Fleet Program to be part of the SIP for Illinois.

(i) Incorporation by reference.

(A) 35 Illinois Administrative Code 241; Sections 241.101, 241.102, 241.103, 241.104, 241.110, 241.111, 241.112, 241.113, 241.114, 241.115, 241.130, 241.131, 241.140, 241.141, 241.142, 241. Appendix A, 241. Appendix B adopted in R95–12 at 19 Ill. Reg. 13265, effective September 11, 1995.

(ii) Other material.

(A) September 29, 1995 letter and attachments from the Illinois Environmental Protection Agency's Bureau of Air Chief to the USEPA's Regional Air and Radiation Division Director submitting Illinois' revision to the ozone SIP.

[FR Doc. 96–6007 Filed 3–18–96; 8:45 am]

BILLING CODE 6560–50–P

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40 CFR Part 52

[IN56–1–7077a; FRL–5426–4]

Approval and Promulgation of Air Quality Implementation Plans; Indiana: Motor Vehicle Inspection and Maintenance

AGENCY: United States Environmental Protection Agency (USEPA).

ACTION: Direct final rule.

SUMMARY: The U.S. Environmental Protection Agency (USEPA) is giving full approval through a direct final action to a state implementation plan (SIP) revision submitted on June 6, 1995 and September 28, 1995, by the Indiana Department of Environmental Management (IDEM). This revision provides for the adoption and implementation of an enhanced motor vehicle emission inspection and maintenance (I/M) program in the areas of Lake, Porter, Clark, and Floyd Counties. The Lake and Porter County area is designated severe nonattainment for ozone and is required to implement an enhanced I/M program. The Clark and Floyd County area is designated moderate nonattainment for ozone and has opted to implement enhanced I/M. These areas are required to attain the National Ambient Air Quality Standards (NAAQS) as specified under the Clean Air Act (Act) by 2007 and 1996, respectively. The implementation of this important program in the areas stated above will reduce vehicle emissions which contribute to the formation of urban smog in Indiana by more than 4.5 tons per day. In the proposed rules section of this Federal Register, USEPA is proposing approval of this I/M program and SIP revision, and solicits public comments on the action. If adverse comments are received on this direct final rule, USEPA will withdraw this final rule and address these comments in a subsequent final rule based on the proposed rule.

DATES: This final rule is effective on May 20, 1996 unless adverse or critical comments are received by April 18, 1996. If the effective date is delayed, timely notice will be published in the Federal Register.

ADDRESSES: Copies of Indiana's I/M SIP submittal, and other documents pertinent to this direct final rule are available at the following address: U.S. Environmental Protection Agency, Region 5, Air and Radiation Division, Regulation Development Branch, 77 West Jackson Boulevard, Chicago, Illinois 60604.

Comments on this rule should be addressed to: J. Elmer Bortzer, Chief, Regulation Development Section, Air Programs Branch (AR–18J), United States Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Francisco J. Acevedo, Environmental Engineer, Regulation Development Section, Air Programs Branch (AR–18J), United States Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886–6061.

Anyone wishing to come to Region 5 offices should first contact Francisco J. Acevedo.

SUPPLEMENTARY INFORMATION:

I. Introduction

Motor vehicles are significant contributors of volatile organic compounds (VOC), carbon monoxide (CO), and nitrogen oxide (NO_X) emissions. The motor vehicle inspection and maintenance program is an effective means of reducing these emissions. Despite improvements in emission control technology in past years, mobile sources in urban areas continue to remain responsible for roughly half of

the emissions of VOC causing ozone, and most of the emissions of CO. They also emit substantial amounts of nitrogen oxides and air toxics. This is because the number of vehicle miles traveled has doubled in the last 20 years to 2 trillion miles per year, offsetting much of the technological progress in vehicle emission control over the same period. Projections indicate that the steady growth in vehicle miles will continue.

Under the Act, the USEPA is pursuing a three-point strategy to achieve emission reductions from motor vehicles. The development and commercialization of cleaner vehicles and cleaner fuels represent the first two elements of the strategy. These developments will take many years before cleaner vehicles and fuels dominate the fleet and favorably impact the environment. This document deals with the third element of the strategy, vehicle inspection and maintenance, which is aimed at the reduction of emissions from the existing fleet by ensuring that vehicles are maintained to meet the emission standards established by USEPA. Properly functioning emission controls are necessary to keep pollution levels low. The driving public is often unable to detect a malfunction of the emission control system. While some minor malfunctions can increase emissions significantly, they do not affect drivability and may go unnoticed for a long period of time. Effective I/M programs can identify excessive emissions and assure repairs. The USEPA projects that sophisticated I/M programs such as the one being implemented by Indiana will identify emission related problems and prompt the vehicle owner to obtain timely repairs thus reducing emissions.

The Act requires that certain areas which have not attained the ozone NAAQS adopt either a ''basic'' or ''enhanced'' I/M program, depending on the severity of the pollution and the population of the area. Moderate ozone nonattainment areas, plus marginal ozone areas with existing or previously required I/M programs in Census-defined urbanized areas, fall under the ''basic'' I/M requirements. Basic and enhanced I/M programs both achieve their objective by identifying vehicles that have high emissions as a result of one or more malfunctions, and requiring them to be repaired. An ''enhanced'' I/M program covers more vehicles in operation in the fleet, employs inspection methods which are better at finding high emitting vehicles, and has additional features to better assure that all vehicles are tested properly and effectively repaired. The Act directed USEPA to establish a minimum performance standard for enhanced I/M programs. The standard is based on the performance achievable by annual inspections in a centralized test program. States have flexibility to design their own program if they can show that their program is as effective as the model program used in the performance standard. Naturally, the more effective the program the more credit a State will get toward the emission reduction requirement.

The USEPA and the States have learned a great deal about what makes an I/M program effective since the Clean Air Act of 1977 first required I/M programs. There are three major keys to an effective program:

(1) Given the advanced state of current vehicle design and anticipated technology changes, the ability to accurately ''fail'' problem vehicles and ''pass'' clean ones requires improved test equipment and test procedures;

(2) Comprehensive quality control and aggressive enforcement is essential to assuring the testing is done properly;

(3) Skillful diagnostics and capable mechanics are important to assure that failed cars are fixed properly.

These three factors are missing in most older I/M programs. Specifically, the idle and 2500 RPM/idle short tests and anti-tamper inspections used in these older I/M programs are not as effective in identifying and reducing in-use emissions from the types of vehicles in the current and future fleet. Also, covert audits by USEPA and State agencies typically discover improper inspection and testing 50 percent of the time in test-and-repair stations, indicating poor quality control. Experience has shown that quality control at high-volume test only stations is usually much better. And, finally, diagnostics and mechanics training are often poor or nonexistent.

On November 5, 1992 (57 FR 52950), USEPA established a high-tech emission test for high-tech cars. This I/M test, known as the IM240 test, is so effective that biennial test programs yield almost the same emission reduction benefits as annual programs. The test can also accurately measure NO_X emissions where NO_X is important to address an ozone problem. Adding the pressure and purge test increases the benefit even more, resulting in lower testing costs and consumer time demands. The pressure test is designed to find leaks in the fuel system, and the purge test evaluates the functionality of the vapor control system. In addition, USEPA published additional changes to the I/M rule in the Federal Register on September 18, 1995 (60 FR 48029), in order to provide greater flexibility to states required to implement I/M programs.

II. Background

The State of Indiana contains the Lake and Porter County area which is classified as a severe nonattainment area for ozone, and the Clark and Floyd County area which is classified as a moderate nonattainment area for ozone. On June 6, 1995, IDEM submitted a complete SIP revision request containing the I/M program. USEPA made a finding of completeness in a letter dated June 9, 1995. This submittal includes new I/M regulations adopted on April 5, 1995 by the Indiana Air Pollution Control Board and documentation addressing required portions of the Federal I/M rule. The rules were signed by Governor Bayh on June 20, 1995, and the final rules were published in the Indiana Register on August 1, 1995. On September 28, 1995, IDEM submitted additional documentation for the Indiana I/M SIP. Under IC 13–1–1 and 13–7–7, the Air Pollution Control Board has the authority to adopt air pollution regulations for the State under Title 326 Indiana Administrative Code. The adopted regulation changes the current program in all four counties from a basic I/M program to an enhanced I/M program. In addition to the Indiana I/M rule, the State SIP submittal includes the Indiana I/M Performance Standard Modeling Demonstration (August 30, 1995); State of Indiana Request for Proposal #A305–2038 for the Indiana Department of Environmental Management (December 14, 1993); Systems Control Inc. Contract for Services with Amendments; Systems Control Inc. Proposed Public Information Plan; Supplemental I/M State Implementation Plan Document (September 27, 1995). USEPA summarizes the requirements of the Federal I/M regulations as found in 40 CFR 51.350–51.373 and its analysis of the state submittal below. Parties desiring additional details on the Federal I/M regulation are referred to the November 5, 1992, Federal Register document (57 FR 52950) and 40 CFR 51.350–51.373.

III. EPA's Analysis of the Indiana, Enhanced I/M Program

As discussed above, section 182 of the Act requires that states adopt and implement updated regulations for I/M programs in moderate and above ozone nonattainment areas. The following sections of this document summarize the requirements of the Federal I/M regulations and address whether the

elements of the State's submittal comply with the Federal rule.

Applicability—40 CFR 51.350

Under the requirements of the Act, basic I/M programs are required in a number of areas classified as moderate nonattainment for ozone. In Indiana, these areas are: Clark and Floyd Counties. In addition, areas classified as serious and above are required to implement an enhanced I/M program. In Indiana, these are Lake and Porter Counties. The Indiana submittal contains the legal authority and regulations necessary for IDEM to establish the program boundaries and operate an enhanced I/M program in all four counties cited above. 326 IAC 13–1.1 specifies that the geographic boundaries of the program in each area are county-wide. The program boundaries described in the Indiana submittal meet the Federal I/M requirements under Section 51.350 and are approvable. The Federal I/M regulation requires that state programs not lapse prior to the time they are no longer needed. USEPA believes that a program that does not lapse prior to the attainment deadline for each applicable area would meet this requirement. The attainment date for the Clark and Floyd County nonattainment area is November 15, 1996, and the attainment date for the Lake and Porter County nonattainment area is November 15, 2007. The State I/M regulation contained in the Indiana submittal allows for implementation of the program through the attainment date for each of the areas listed above, and is therefore approvable.

Enhanced I/M Performance Standard—40 CFR 51.351

The enhanced I/M program must be designed and implemented to meet or exceed a minimum performance standard, which is expressed as emission levels in area-wide average grams per mile (gpm) for certain pollutants. The performance standard shall be established using local characteristics, such as vehicle mix and local fuel controls, and the following model I/M program parameters: network type, start date, test frequency, model year coverage, vehicle type coverage, exhaust emission test type, emission standards, emission control device, evaporative system function checks, stringency, waiver rate, compliance rate and evaluation date. The emission levels achieved by the state's program design shall be calculated using the most current version, at the time of submittal, of the USEPA mobile source emission factor model. At the time of the Indiana submittal, the most current version was MOBILE5a. Areas shall meet or exceed the performance standard for the pollutants which cause them to be subject to I/M requirements. In the case of ozone nonattainment areas, the performance standard must be met for both nitrogen oxides (NO_X) and volatile organic compounds (VOCs).

The Indiana submittal includes the following program design parameters: centralized test only network; January 1, 1996 start date; biennial frequency; 1976 and newer model year coverage; Vehicle type include LDGV, LDGT1, LDGT2 up to 9,000 pounds; IM240 for 1981 and newer vehicles, and Idle for 1976 through 1980 vehicles; four element visual inspection; purge test on 1981 and newer vehicles; pressure test on 1976 and newer vehicles; stringency rate will be 20 percent for 1980 and older vehicles; waiver rate will be 3 percent and a 95 percent compliance rate for Clark and Floyd Counties and 96 percent compliance rate for Lake and Porter Counties.

The Indiana program design parameters meet the Federal I/M regulations and are approvable. The emission levels achieved by the State, for each area, were modeled using MOBILE5a. The modeling demonstration was performed correctly, using local characteristics where available and it demonstrated that the program design will meet the enhanced I/M performance standard, expressed in gpm, for VOCs and NO_X for each milestone and for the attainment deadline. The modeling demonstration is approvable.

Network Type and Program Evaluation—40 CFR 51.353

The two Indiana ozone nonattainment areas required to implement an I/M program will be implementing an enhanced I/M program. In both areas a single contractor, Systems Control, Inc., will operate a test-only centralized network for inspections and reinspection. All vehicles included in the emission reduction demonstration will be tested by the contractor in centralized I/M test facilities. The contract specifies that the contractor is barred from involvement in motor vehicle-related business with the exception of vehicle testing equipment fabrication and sales. The Indiana I/M program plan calls for IDEM to institute an ongoing evaluation of the enhanced I/M program consistent with USEPA regulations to quantify the emissions reductions benefits of the program to verify that it is meeting the requirements of the Act. The evaluation will consist of monitoring the performance of IM240 on a random, representative sample of at least 0.1 percent of the vehicles subject to inspection and covering 1981 and later vehicles. Evaporative system purge (1981 and newer vehicles) and pressure tests (1976 and newer vehicles) will be performed on those vehicles subject to the test requirements. The State's plan describes the manner in which the State will perform the evaluation: using IDEM auditors, visiting each lane at every station quarterly, choosing vehicles at random at different times of the day, performing calibration checks, and ensuring the selected vehicles represent the fleet mix in the test area. Data will be collected as part of the regular data collection system for routine testing. IDEM will submit biennial reports on the results of the evaluations. The reports will assess whether the program is meeting the emission reduction target. The State's submittal meets the network type and program evaluation requirements in the Federal I/M rules.

Adequate Tools and Resources—40 CFR 51.354

The Federal regulation requires states to demonstrate that adequate funding of the program is available. Reliance on funding from a state or local General Fund is not acceptable unless doing otherwise would be a violation of the State's Constitution. The SIP shall include a budget plan which describes the source of funds for personnel, program administration, program enforcement, and purchase of equipment. The SIP shall also detail the number of personnel dedicated to the quality assurance program, data analysis, program administration, enforcement, public education and assistance and other necessary functions. Indiana has entered into a contract for services with Systems Control, Inc. to conduct enhanced I/M testing in Lake, Porter, Clark, and Floyd Counties. This contract has a ten-year duration. During the first two years of the program, Indiana intends to use $6.8 million in Congestion Mitigation and Air Quality funds and $4.2 million in State funds to operate the program. The submittal demonstrates that sufficient funds, equipment and personnel have been appropriated to meet program operation requirements. The State's submittal meets the adequate tools and resources requirements set forth in the Federal I/M regulations.

Test Frequency and Convenience—40 CFR 51.355

The enhanced I/M performance standard assumes an annual test frequency; however, other schedules may be approved if the performance

standard is achieved. The SIP shall describe the test year selection scheme and shall include the legal authority, regulations, or contract provisions necessary to implement and enforce the test frequency requirement. The program shall be designed to provide convenient service to motorists by ensuring short waiting times, short driving distances and regular testing hours. The Indiana enhanced I/M regulation provides for a biennial test frequency for all subject vehicles. New vehicles are exempt from testing the first year. Based on the performance standard modeling provided by the State, the enhanced I/M program meets the performance standard accounting for biennial test frequency. For re-registration the vehicles are placed back into the testing cycle according to their vehicle identification number (VIN). In Indiana's biennial program if the last three digits of the VIN are from 000 to 495, or if the VIN contains any letters in place of the last three digits, such vehicles will be tested in even-numbered calendar years. If the last three digits of the VIN are from 496 to 999, such vehicles will be tested in odd-numbered calendar years. Used vehicles that are not currently registered in the four subject counties must be tested and receive a valid emission test certificate prior to registration in the subject counties. The State plan specifies that test facilities are located such that eighty (80) percent of all motorists in urban areas do not have to drive more than five (5) miles to a test facility, and ninety-six (96) percent in urban areas will not have to drive more than twelve (12) miles. The I/M contract specifies at least fifty-four (54) hours of operation of a test facility per week. These provisions are approvable.

Vehicle Coverage—40 CFR 51.356

The performance standard for enhanced I/M programs assumes coverage of all 1968 and newer model year light duty vehicles and light duty trucks up to 8,500 pounds gross vehicle weight rating (GVWR), and includes vehicles operating on all fuel types. Other levels of coverage may be approved if the necessary emission reductions are achieved. The Indiana I/M program requires coverage of all 1976 and newer gasoline powered light duty passenger cars, light duty trucks up to 9,000 pounds GVWR. The Indiana Bureau of Motor Vehicles (IBMV) data available on the current fleet does not include vehicles owned by the U.S. General Services Administration or the U.S. Post Office. These government vehicles are required to be tested but are not currently part of the State data base. IDEM is working with these organizations to establish a testing routine and schedule for these vehicles, which are not presently licensed by the IBMV. The Indiana program exempts vehicles older than model year 1976, motor cycles, vehicles over 10,000 pounds, and diesel-fueled vehicles, electric vehicles, farm vehicles, and recreational vehicles. USEPA agrees with the State that these vehicles do not make up a significant portion of the total motor vehicle fleet in the tested area and most are not included in the modeling for the performance standard. Additional information and other statistical information regarding the fleet, required to manage the program, will become available following the first test cycle. This section is approvable.

Test Procedures and Standards—40 CFR 51.357

Written test procedures and pass/fail standards are required to be established and followed for each model year and vehicle type included in the program. Federal test procedures and standards are found in 40 CFR 51.357 and in the draft USEPA document entitled ''High-Tech I/M Test Procedures, Equipment Standards, Quality Control Requirements, and Equipment Specifications'', EPA–AA–EPSD–IM–93–1, finalized in April 1994. IDEM has the authority to establish test procedures according to the needs of the program. The Indiana submission requires the contractor to develop and maintain written up-to-date procedures which correspond to the USEPA recommended test procedures. All applicable 1981 and newer vehicles will be subject to an IM240 test that includes the purge and pressure test. All applicable 1976 through 1980 vehicles will be subject to a BAR90 single-speed idle test that includes the pressure test. The IM240 test will include a fast-pass algorithm. All vehicles will be tested in an as-received condition and vehicle owners will have an opportunity to view the test from an area at the test site that affords an unobstructed view. Each vehicle will be inspected prior to the emissions test and rejected from testing if any unsafe condition exists or if the exhaust is leaking or missing. In the event of an emission failure of any kind, all components are retested after repairs. These provisions are approvable.

Test Equipment—40 CFR 51.358

The Federal regulation requires computerized test systems for performing any measurement on subject vehicles. IDEM lists the details of the technical specification of the test equipment in the Indiana SIP, and makes reference to the requirements of the Federal regulations and the technical guidance document. Computerized test systems are required for performing any measurements on subject vehicles. According to the requirements in the SIP, these systems must conform to Federal requirements. Each of the State's test lanes shall be equipped with a dynamometer, constant volume sampler, non-dispersive infrared analyzers to measure carbon monoxide, carbon dioxide, and hydrocarbons, and an analyzer for measuring NO_x, and pressure and purge test equipment. All of this equipment must pass an acceptance test before it is approved by the State. All test systems will be linked by a real-time data link in order to prevent unauthorized multiple initial tests on the same vehicle in the same test cycle. These provisions are approvable.

Quality Control—40 CFR 51.359

Quality control measures shall ensure that emission measurement equipment are calibrated and maintained properly, and that inspection, calibration records, and control charts are accurately created, recorded and maintained. IDEM prepared the I/M contract to require the contractor to develop and implement a quality assurance/quality control plan which complies with 40 CFR 51.359. The Indiana SIP states that the contractor's quality control procedures shall ensure that emission measurement equipment are properly calibrated and maintained. Analyzers will automatically record quality control check information, lockouts, attempted tampering, and any other recordable circumstances that impact quality control. These provisions are approvable.

Waivers and Compliance Via Diagnostic Inspection—40 CFR 51.360

The I/M program allows the issuance of a waiver, which is a form of compliance with the program requirements, that allows a motorist to comply without meeting the applicable test standards, as long as the prescribed criteria are met. The State program plan contains elements in this section which generally follow the waiver issuance criteria listed in the Federal I/M regulation. In modeling the emission reduction benefits, Indiana used MOBILE5a and assumed a maximum waiver rate of 3 percent for 1980 and older model year vehicles and 3 percent for 1981 and newer vehicles. In the event the actual waiver rate exceeds the planned maximum used for estimating the emission reduction benefit, the State will remodel to assess the emission

reduction benefits based on the actual waiver rate. The Indiana I/M rule provides the authority to issue waivers, set and adjust cost limits, and administer the waiver system. Following a test failure, the subsequent reinspection must show that the minimum waiver limit amount has been spent on emission related repairs. A vehicle is eligible for a waiver when proof is provided that the vehicle has received all repairs and adjustments for which it is eligible under any emissions performance warranty. The costs associated with repair of any tampering is not considered valid toward a waiver. When proof is provided to the inspection station manager that appropriate repairs have been performed on the vehicle, such vehicle will be eligible for a waiver. The inspection station manager is responsible for verifying repairs and reviewing repair receipts. The station managers are authorized to determine waiver eligibility. Waivers are valid for one (1) year and are not renewable. The minimum expenditure made on emission repairs in Clark and Floyd Counties is seventy-five ($75) dollars for 1980 and older vehicles and two-hundred ($200) dollars for 1981 and newer. While the Clean Air Act requires a minimum waiver repair expenditure for enhanced I/M programs of $450, basic areas such as the Clark and Floyd county areas which are opting up to enhanced I/M do not have to meet this requirement. In order to qualify for a waiver in the Lake and Porter Counties, motorists with 1981 model year or newer vehicles shall spend at least three hundred dollars in repairs between January 1, 1996, and December 31, 1998; and at least four hundred fifty dollars in repairs on or after January 1, 1999. Beginning in January 1, 2000, IDEM shall adjust the four hundred fifty dollar minimum expenditure in January of each year by the percentage, if any, by which the Consumer Price Index (CPI) for the preceding calendar year differs from the CPI for 1989. Motorists in Lake and Porter County with 1980 model year or older vehicles shall expend at least seventy-five dollars in repairs. The State allows exemptions to the inspection requirement and extensions if a vehicle is undergoing extensive repair at the time of its registration or registration renewal. The requirements for an extension or exemption are sufficient to allow the State full understanding of the need by the consumer for the extension or exemption, and places a burden on the consumer to prove to the State that such an extension or exemption is needed. The Federal I/M rules also allow the use of compliance via diagnostic inspection following repairs after a test failure. The State of Indiana has chosen to allow compliance via diagnostic repair. These provisions are approvable.

Motorist Compliance Enforcement—40 CFR 51.361

The Federal regulations require the use of registration denial to ensure compliance with the requirements of the I/M program. IDEM, along with the IBMV, will continue to implement a registration denial enforcement program. Vehicle owners who do not renew vehicle registrations, and continue to drive an unregistered vehicle in the State, will be subject to enforcement action by any law enforcement officer in the State. Local governments are responsible for establishing policies for the mandatory fines of all traffic violations including failing to comply with registration requirements. Owners of all vehicles registered in the State are required to affix stickers to the upper portion of the license plate. These stickers identify the month and year of the registration renewal date. If an owner or driver fails to comply with I/M or registration requirements, he or she will be unable to legally drive that automobile and will be subject to enforcement action. In the I/M SIP, Indiana commits to the level of motorist enforcement necessary to ensure a compliance rate of no less than 96 percent among subject vehicles in Lake and Porter Counties and 95 percent in Clark and Floyd counties. If it is determined as part of the required program evaluation that the I/M program is not meeting the compliance rate, Indiana commits to investigating the problem and instituting changes to improve the compliance rates. These provisions are approvable.

Motorist Compliance Enforcement Program Oversight—40 CFR 51.362

The Federal I/M regulation requires that the enforcement program shall be audited regularly and shall follow effective program management practices, including adjustments to improve operation when necessary. The SIP shall include quality control and quality assurance procedures to be used to insure the effective overall performance of the enforcement system. An information management system shall be established to characterize, evaluate and enforce the program. The legal authority for the implementation of an I/M program is found in Indiana Environmental Statutes IC 13–1–1 and 13–7–7. These statutes provide the authority necessary to develop and implement the enforcement program oversight element of the I/M program. Specific operation of this aspect of the program is contained in 326 IAC 13–1.1–3. Program oversight shall be accomplished by IDEM staff using two oversight personal computers located at IDEM. The information base for the enforcement program is assured through the use of trackable serial numbers and test lane and inspector identifiers, such that responsible personnel can be identified. Program software precludes any duplicate initial inspections being conducted. Follow-up of exempt vehicles and exemption-triggering registration changes will be done through periodic program documentation audits. These provisions are approvable.

Quality Assurance—40 CFR 51.363

An ongoing quality assurance program shall be implemented to discover, correct and prevent fraud, waste, and abuse in the program. The program shall include covert and overt performance audits of the inspectors, audits of station and inspector records, equipment audits, and formal training of all State I/M enforcement officials and auditors. A description of the quality assurance program which includes written procedure manuals on the above discussed items must be submitted as part of the SIP.

Both 326 IAC 13–1.1–16 and the I/M contract with Systems Control, Inc., include provisions necessary to develop and implement the quality assurance element of the I/M program. Overt audits shall include a check of document security; recordkeeping practices; licenses, certificates and required display information; observation and written evaluation of each inspector's ability to perform the test procedure; and, a quality control evaluation of test equipment. Test records will be reviewed electronically once a month by station to flag statistically inconsistent or improbable results. The program shall conduct yearly covert audits based upon the number of inspectors participating in the program. Additional covert audits may be conducted as necessary for suspected problem sites. Covert vehicles will be set to fail various aspects of the inspection so as to reflect the full range of technology and malfunction types based upon procedures established for audits. These provisions are approvable.

Enforcement Against Contractors, Stations and Inspectors—40 CFR 51.364

The Federal I/M regulation requires the establishment of minimum penalties for violations of program rules and

procedures which can be imposed against stations, contractors and inspectors. Senate Enrolled Act No. 285 amended the Indiana Administrative Code and gives IDEM authority to enter into a contract to implement and maintain an inspection and maintenance program. This contract allows the State to impose penalties when violations occur that adversely affect the operation of the inspection network. The contract lists a variety of rules infractions, which will be used for violations discovered at an inspection facility as a result of overt and covert audits conducted by IDEM staff. Penalties range from monetary fines to termination of employment and breach of contract depending on the violation. Under 326 IAC 13.1.1–15, in cases of inspector incompetence, IDEM may suspend, revoke, or deny renewal of an inspector's state certification. All warnings, fines, suspensions, revocations, and notices of violation will be recorded as enforcement activities. An Enforcement Activity Summary Report will be compiled and submitted to USEPA annually. These provisions of the Indiana submittal are approvable.

Data Collection—40 CFR 51.365

In order to manage, evaluate and enforce the program requirements, an effective I/M program requires accurate data collection. The Indiana I/M program requires the contractor to design the program to include all of the elements of data collection listed in the Federal rule and 326 IAC 13–1.1–14. The contractor is also required to conduct quality control checks and report data from those checks. This section of the Indiana submittal is approvable.

Reporting—40 CFR 51.366

Data analysis and reporting are required in order to monitor and evaluate the program by the State and the USEPA. The Federal rule requires annual reports submitted to the USEPA following a performance period by a specific time. The Indiana I/M program requires the contractor to provide the information to the State in order to meet the submittal requirements of the Federal rule. Beginning July 1, 1997, and annually thereafter, the State of Indiana shall report summary data based upon program activities taking place from January through December of the previous year. This report will provide statistics for the testing program, the quality control program, the quality assurance program, and the enforcement program. In the I/M SIP, the State commits to address any appropriate data elements listed in 40 CFR 51.366. Beginning July 1, 1999, and biennially thereafter, Indiana will report on all changes made in the program design, funding, personnel levels, procedures, regulations, and legal authority, and will outline the impact of such changes upon the program. The report will also discuss any weakness or problems discovered in the program over the previous two-year period, as well as the steps that were taken to address those problems, the result of those corrective actions, and any future efforts planned. These provisions of the Indiana submittal are approvable.

Inspector Training and Licensing or Certification—40 CFR 51.367

The Federal I/M regulation requires all inspectors to be formally trained and licensed or certified to conduct inspections. The Indiana I/M regulation (326 IAC 13–1.1–15) requires all inspectors to receive formal training, be certified, and renew their certification at least every two years. In order to be licenced by the State, an inspector shall be required to pass an examination developed by the State in conjunction with the contractor, which shall include both written and practicum sections. Curricula shall include, but will not be limited to, the following: emission testing program orientation, State policies, vehicle emissions and standards, inspection and facility operations procedures, customer service, and complaint handling. This provision meets the Federal I/M regulation requirements for inspector training and certification and is approvable.

Public Information and Consumer Protection—40 CFR 51.368

The Federal I/M regulation requires the SIP to include a public information and consumer protection program. IDEM assigned some public awareness efforts to the contractor with state oversight. These efforts include the operation of a hot-line to be used by the public for (but not limited to) general information, inquiries on inspection facility hours, queuing times and, complaints. In addition, the contractor will develop and distribute general information brochures on the emission testing program to the public in the program area. Brochures will include discussions of potential fuel savings, tampering, fuel switching and vehicle warranties. The contractor will also work with the Indiana Vocational Technical College (Ivy Tech) public relations personnel in order to provide a smooth transition of the I/M inspection program during the period where Ivy Tech's involvement is phased out and the contractor becomes involved. The public information and consumer protection programs contained in the SIP submittal meets the Federal regulations and are approvable.

Improving Repair Effectiveness—40 CFR 51.369

Effective repairs are the key to achieving program goals. The Federal regulation requires States to take steps to ensure that the capability exists in the repair industry to repair vehicles. The SIP must include a description of the technical assistance program to be implemented, a description of the procedures and criteria to be used in meeting the performance monitoring requirements required in the Federal regulation and, a description of the repair technician training resources available in the community. Systems Control, Inc., will be responsible for assisting repair facilities and technicians. A technician hotline service will be provided by ASPIRE. This service is a user friendly, diagnostic service for repair mechanics which will be accessed by dialing a 1–900 phone number which has a cost to the caller. The Indiana program will monitor the performance of individual motor vehicle repair facilities, so the consumer has a choice of locations to seek repairs. The repair statistics also will be available to the repair facilities. The repair effectiveness program described in the SIP submission meets the Federal regulation and is approvable.

Compliance with Recall Notices—40 CFR 51.370

States are required to establish a method to ensure that vehicles subject to enhanced I/M and that are included in either a voluntary emissions recall as defined at 40 CFR 85.1902(d), or in a remedial plan determination made pursuant to section 207(c) of the Act, receive the required repairs. IDEM, at the time of submittal, did not have a specific plan developed but included provisions in its Request-for-Proposal (RFP) for the contractor to follow to ensure subject vehicles receive all required recall repairs. Emissions tests will not be conducted on a vehicle that has an unresolved recall notice until all of the work is done. Vehicles with unresolved recall work will be identified as noncomplying by the contractor's system. An owner is required to provide proof that the repairs have been performed before a test is allowed. The contractor shall have the ability to resolve situations where the repairs have been performed

but the database has not yet been updated. The State rule 326 IAC 13–1.1–11 requires documented proof that the repairs have been performed. The cost of these repairs are not counted toward the amount needed for a waiver. Unresolved recall reports from the contractor to the State are required on an annual basis. The State requires the contractor to provide detailed information in the annual report sufficient for the State to inform the USEPA of the status of operations of the program. These provisions meet the Federal regulations and are approvable.

On-Road Testing—40 CFR 51.371

On-road testing is required in enhanced I/M areas. The use of either remote sensing devices (RSD) or roadside pullovers, including tailpipe emission testing, can be used to meet the Federal regulations. The program must include on-road testing of 0.5 percent of the subject fleet or 20,000 vehicles, whichever is less, in the nonattainment area or the I/M program area. Motorists that have passed an emission test and are found to be high emitters as a result of a on-road test shall be required to pass an out-of-cycle test. The Indiana I/M regulation (326 IAC 13–1.1–12) requires on-road testing through the use of remote sensing devices or roadside pullovers, including tailpipe emissions testing. If a violation is detected the motorist shall be notified that the vehicle is required to pass an out-of-cycle follow-up inspection at a state facility. Penalty for noncompliance is suspension of the motorist's vehicle registration. These provisions meet the Federal regulations and are approvable.

State Implementation Plan Submissions—40 CFR 51.372–373

Indiana is currently in the process of implementing an enhanced I/M program. The June 6, 1995 I/M SIP submittal and the September 28, 1995 additional documentation are fully approvable and contain all elements meeting USEPA's I/M requirements. Such elements include: mobile computer modeling which shows that the program meets the performance standard, a description of the geographic area, a discussion of the design elements included in the SIP, final copy of the legal authority, regulation, final RFP, and a final, signed contract with Systems Control, Inc. USEPA's review of the material indicates that the State has adopted an enhanced I/M program in accordance with the requirements of the Act.

IV. Comments and Approval Procedure

The USEPA is publishing this action without prior proposal because the agency views this as a noncontroversial amendment and anticipates no adverse public comments. However, in a separate document in this Federal Register publication, the USEPA is proposing to approve the SIP revision should adverse or critical comments be filed. This action will be effective on May 20, 1996 unless, by April 18, 1996, adverse or critical comments are received. If USEPA receives such comments, this action will be withdrawn before the effective date by publishing a subsequent document that will withdraw the final action. All public comments received will then be discussed in a subsequent final rule based on the separate proposed rule. The USEPA will not institute a second comment period for this action. Any parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this action will be effective on May 20, 1996.

Final Action

USEPA is approving this revision to the Indiana SIP for an enhanced I/M program. The Agency has reviewed this request for revision of the Federally-approved SIP for conformance with the provisions of the 1990 Amendments enacted on November 15, 1990. The Agency has determined that this action conforms with those requirements. Under section 307(b)(1) of the Act, 42 U.S.C. 7607(b)(1), petitions for judicial review of this action must be filed In the United States Court of Appeals for the appropriate circuit by May 20, 1996. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2) of the Act, 42 U.S.C. 7607 (b)(2).) The Office of Management and Budget has exempted this rule from the requirements of section 6 of Executive Order 12866.

Precedental Effect

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

Regulatory Flexibility

Under the Regulatory Flexibility Act, 5 U.S.C. 600 et seq., USEPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, USEPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000. SIP approvals under 110 and subchapter I, Part D of the CAA do not create any new requirements, but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not impose any new requirements, I certify that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-state relationship under the Act, preparation of a regulatory flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Act forbids USEPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S. E.P.A.*, 427 U.S. 246, 256–66 (S.Ct. 1976); 42 U.S.C. 7410(a)(2) and 7410(k)(3).

Unfunded Mandates

Under Sections 202, 203, and 205 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), signed into law on March 22, 1995, USEPA must undertake various actions in association with proposed or final rules that include a Federal mandate that may result in estimated costs of $100 million or more to the private sector, or to State, or tribal governments in the aggregate. USEPA's final action does not impose any federal intergovernmental mandate, as defined in section 101 of the Unfunded Mandates Act, upon the State. To the extent that the rules being approved by this action will impose any mandate upon the State, local, or tribal governments, or upon the private sector, EPA's action will impose no new requirements; such sources are already subject to these regulations under State law.

Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action. For these reasons, USEPA has determined that this final action does

not include a 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.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Hydrocarbons, Incorporation by reference, Ozone, Reporting and record-keeping requirements.

Dated: January 26, 1996.

Valdas V. Adamkus,

Regional Administrator.

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

PART 52—[AMENDED]

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

Authority: 42. U.S.C. 7401–7671q.

Subpart P—Indiana

2. Section 52.770, is amended by adding paragraph (c)(102) to read as follows:

§ 52.770 Identification of plan.

* * * * *

(c) * * *

(102) On June 6, 1995, and on September 28, 1995 the Indiana Department of Environmental Management submitted State Implementation Plan (SIP) revisions establishing an enhanced inspection and maintenance (I/M) program in accordance with the requirements of the Clean Air Act as amended in 1990. The new enhanced I/M program replaces the basic I/M programs in operation in Lake, Porter, Clark, and Floyd Counties. The Air Pollution Control Board adopted new rule 326 IAC 13–1.1 and repealed existing 326 IAC 13–1, thereby putting in place a revised I/M program.

(i) Incorporation by reference.

(A) 326 Indiana Administrative Code 13–1.1 adopted April 5, 1995, effective October 1, 1995.

(ii) Other material.

(A) June 6, 1995 letter and enclosures from the Indiana Department of Environmental Management (IDEM) Commissioner to the Regional Administrator of the United States Environmental Protection Agency (USEPA) submitting Indiana's revision to the ozone State Implementation Plan (SIP).

(B) September 28, 1995 letter and enclosures from the IDEM Assistant Commissioner to the Regional Administrator of USEPA submitting supplemental vehicle inspection and maintenance SIP revision information and documentation.

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[FR Doc. 96–6466 Filed 3–18–96; 8:45 am]

BILLING CODE 6560–50–P

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40 CFR Part 52

[CO37–2–6290(a); FRL–5417–5]

Approval and Promulgation of Air Quality Implementation Plans; Colorado; Basic Motor Vehicle Inspection and Maintenance Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA approves the State Implementation Plan (SIP) revision submitted by the State of Colorado. This revision establishes and requires the implementation of a basic motor vehicle inspection and maintenance (I/M) program in the urbanized areas of El Paso (Colorado Springs), Larimer (Fort Collins), and Weld Counties (Greeley). The intended effect of this action is approval of a basic motor vehicle I/M program. This action is being taken under section 110 of the Clean Air Act.

DATES: This action is effective on May 20, 1996, unless adverse or critical comments are received by April 18, 1996. If the effective date is delayed, timely notice will be published in the Federal Register.

ADDRESSES: Written comments should be addressed to: Douglas Skie, Chief, Air Programs Branch (8ART–AP), USEPA Region 8, 999 18th Street, Suite 500, Denver, Colorado 80202–2466. Copies of the documents relevant to this action are available for public inspection during normal business hours at the address listed above. Anyone wanting to view these documents must make an appointment at least 24 hours in advance.

FOR FURTHER INFORMATION CONTACT: Scott P. Lee, Air Programs Branch, State Implementation Plan Section (8ART–AP), USEPA, Region 8, Denver, Colorado 80202, (303) 293–1887.

SUPPLEMENTARY INFORMATION:

I. Clean Air Act Requirements

The Clean Air Act, as amended in 1990 (CAAA or Act), requires states to make changes to improve existing I/M programs or implement new ones. Section 182(a)(2)(B) requires any ozone nonattainment area which has been classified as ''marginal'' (pursuant to section 181(a) of the Act) or worse with an existing I/M program that was part of a SIP, or any area that was required by the 1977 Amendments to the Act to have an I/M program, to immediately submit a SIP revision to bring the program up to the level required in past EPA guidance or to what had been committed to previously in the SIP whichever was more stringent. All carbon monoxide (CO) nonattainment areas were also subject to this requirement to improve existing or previously required programs to this level.

In addition, Congress directed the EPA in section 182(a)(2)(B) to publish updated guidance for state I/M programs, taking into consideration findings of the Administrator's audits and investigations of these programs. The states were to incorporate this guidance into the SIP for all areas required by the Act to have an I/M program.

On November 5, 1992 (57 FR 52950), the EPA published a final regulation establishing the I/M requirements, pursuant to sections 182 and 187 of the Act. The I/M regulation was codified at 40 CFR part 51, subpart S, and requires states to submit an I/M SIP revision which includes all necessary legal authority and the items specified in 40 CFR 51.372 (a)(1) through (a)(8) by November 15, 1993. The State of Colorado has met these requirements.

The nonattainment designations for CO and ozone were published in the Federal Register (FR) on November 6, 1991, and November 30, 1992, and have been codified in the Code of Federal Regulations (CFR). See 56 FR 56694 (November 6, 1991) and 57 FR 56762 (November 30, 1992), codified at 40 CFR 81.300 through 81.437. Based on these nonattainment designations, basic I/M programs are required in three of Colorado's Front Range Counties. These are: El Paso County (Colorado Springs area nonattainment for CO); Larimer County (Fort Collins area nonattainment for CO); and Weld County (Greeley area nonattainment for CO).

By this action, the EPA is approving this submittal. The EPA has reviewed the State submittal against the statutory requirements and for consistency with the EPA regulations. EPA summarizes the requirements of the Federal I/M regulations as found in 40 CFR 51.350 through 51.373 and its analysis of the State submittal below. Parties desiring additional details on the Federal I/M regulation are referred to the November 5, 1992 Federal Register document (57 FR 52950) or 40 CFR 51.350 through 51.373.

II. Background

On January 14, 1994, and on June 24, 1994, the State of Colorado submitted its

basic I/M SIP revision for the Colorado Springs, Fort Collins, and Greeley urbanized areas.

The January 14, 1994, submittal included authorizing legislation (HB1340 adopted by the House and Senate and signed by the Governor); Colorado Air Quality Control Commission (AQCC) Regulation Number 11; Motor Vehicle Emissions Inspection Program, adopted and effective as an emergency rule December 16, 1993, and the SIP narrative with appendices entitled, ''State of Colorado Motor Vehicle Emissions Inspection and Maintenance State Implementation Plan'', adopted by the AQCC on November 12, 1993, and again on December 16, 1993, with no substantive changes. EPA reviewed the January 14, 1994, submittal and identified aspects which the State would need to address prior to EPA approval. EPA's primary concerns concentrated on: the need for the State to submit a final binding regulation to replace the since-lapsed, December 16, 1993, emergency rule. Governor Romer's June 24, 1994, submittal included a binding regulation adopted by the State on March 17, 1994.

III. State Submittal

The State submittal provides for the upgrading of the existing I/M program to an EPA approved basic I/M program in the Colorado Springs, Fort Collins, and Greeley urbanized areas. Colorado is implementing annual test-and-repair I/M programs which meet the requirements of EPA's performance standard and other requirements contained in the Federal I/M rule in the applicable urbanized areas. Testing will be performed by independent inspection stations with state oversight. Other aspects of the Colorado I/M program include: testing of all model-year gasoline-powered vehicles, a test fee to ensure the State/Counties have adequate resources to implement the program, enforcement by registration denial, a repair effectiveness program, a commitment to testing convenience, quality assurance, data collection, three percent (3%) waiver rate, reporting, test equipment and test procedure specifications, a commitment to ongoing public information and consumer protection programs, inspector training and certification, and penalties against inspector incompetence. An analysis of how the Colorado I/M programs meet the Federal SIP requirements by section of the Federal I/M rule is provided below.

A. Applicability

The SIP needs to describe the applicable areas in detail and, consistent with 40 CFR 51.372, needs to include the legal authority or rules necessary to establish program boundaries. Colorado's I/M program, as authorized by Section 42–4–309(3) C.R.S. are to be implemented in the western half of El Paso County; Southeastern ⅔ of Larimer County; and the Greeley metropolitain area including the cities of Evans, LaSalle, and Garden City. [Boundaries simplified—see C.R.S. for exact boundary deliniation].

B. Basic I/M Performance Standard

The I/M programs provided for in the SIP are required to meet a performance standard for basic I/M for the pollutants that caused the affected area to come under I/M requirements. The performance standard sets an emission reduction target that must be met by a program in order for the SIP to be approvable. The SIP must also provide that the program will meet the performance standard in actual operation, with provisions for appropriate adjustments if the standard is not met. The State has submitted a modeling demonstration using the EPA computer model, MOBILE 5a, showing that the basic performance standard is met in all of the affected urbanized areas.

C. Network Type

The SIP needs to include a description of the network to be employed, the required legal authority, and, in the case of areas making claims for case-by-case equivalency, the required demonstration. Colorado has chosen to implement decentralized, test-and-repair basic I/M programs, which are comprised of independently operated facilities. The Colorado I/M programs, in each of the affected urbanized areas, allow fleet self-testing programs with oversight by Department of Revenue employees. Legal authority which is contained in Sections 42–4–306.5 thru 42–4–316 C.R.S., authorizes the State Departments of Health and Revenue to implement and oversee these programs.

D. Adequate Tools and Resources

The SIP needs to include a description of the resources that will be used for program operation, which include: (1) A detailed budget plan which describes the source of funds for personnel, program administration, program enforcement, purchase of necessary equipment, and any other requirements discussed throughout, for the period prior to the next biennial self-evaluation required in Federal I/M rule; and (2) a description of personnel resources, the number of personnel dedicated to overt and covert auditing, data analysis, program administration, enforcement, and other necessary functions and the training attendant to each function.

The SIP narrative and Regulation No. 11, and the authorizing legislation contained in the submittal, describe the budget, staffing support, and equipment and resources dedicated to the program meeting the requirements of the Federal Rule.

E. Test Frequency and Convenience

The SIP needs to include the test schedule in detail, including the test year selection scheme if testing is other than annual. Also, the SIP needs to include the legal authority necessary to implement and enforce the test frequency requirement and explain how the test frequency will be integrated with the enforcement process.

The Colorado basic I/M program requires annual inspections for all subject motor vehicles. For new vehicles the first test is required for re-registration four years after initial registration.

F. Vehicle Coverage

The SIP needs to include a detailed description of the number and types of vehicles to be covered by the program, and a plan for how those vehicles are to be identified, including vehicles that are routinely operated in the area, but which may not be registered in the area. Also, the SIP needs to include a description of any special exemptions which will be granted by the program, and an estimate of the percentage and number of subject vehicles which will be impacted. Such exemptions need to be accounted for in the emission reduction analysis. In addition, the SIP needs to include the legal authority or rule necessary to implement and enforce the vehicle coverage requirement.

Colorado's basic I/M program area vehicle coverage includes all model year gasoline-powered light-duty cars and trucks, and heavy-duty gasoline powered trucks registered or required to be registered within the affected urbanized areas. Additionally, all vehicles operated in the program area more than ninety days per year are required to comply with the program requirements. Vehicles are identified through random parking lot surveys and motor vehicles registration database queries.

Vehicles exempted from the program include: motorcycles, farm plated vehicles, collector series vehicles, electric vehicles, two-cycle powered vehicles, vehicles registered as horseless carriages, and diesel vehicles (required

to be inspected in diesel emission program). The exempted vehicles are accounted for in the modeling submitted by the State and documented in the SIP narrative as required.

G. Test Procedures and Standards

The SIP needs to include a description of each test procedure used. The SIP also needs to include the rule, ordinance or law describing and establishing the test procedures.

Colorado's I/M programs use EPA's Preconditioned two-speed idle test as specified in EPA-AA-TSA-I/M–90–3 March 1990, Technical Report, ''Recommended I/M Short Test Procedures for the 1990's: Six Alternatives.'' The Colorado95 Analyzer calibration specifications and emissions test procedures meet the minimum standard established in Appendix A of 40 CFR Part 51 Subpart S. Test procedures are established in Regulation No. 11 as contained in the SIP.

H. Test Equipment

The SIP needs to include written technical specifications for all test equipment used in the program and shall address each of the requirements in 40 CFR 51.358 of the Federal I/M rule. The specifications need to describe the emission analysis process, the necessary test equipment, the required features, and written acceptance testing criteria and procedures.

The Colorado I/M SIP commits to meeting the California BAR 90 accuracy standards at a minimum. The Colorado SIP addresses the requirements in 40 CFR 51.358 and includes descriptions of performance features and functional characteristics of the Colorado95 computerized test systems. The necessary test equipment, required features, and acceptance testing criteria are also contained in the SIP.

I. Quality Control

The SIP needs to include a description of quality control and recordkeeping procedures. The SIP also needs to include the procedures manual, rule, and ordinance or law describing and establishing the quality control procedures and requirements. The Colorado I/M SIP narrative contains descriptions and requirements establishing the quality control procedures in accordance with the Federal I/M rule. These requirements will help ensure that equipment calibrations are properly performed and recorded, as well as maintaining compliance document security. Additional requirements are documented in the SIP narrative, Regulation No. 11., and the authorizing legislation.

J. Waivers and Compliance Via Diagnostic Inspection

The SIP needs to include a maximum waiver rate expressed as a percentage of initially failed vehicles. This waiver rate needs to be used for estimating emission reduction benefits in the modeling analysis. Also, the State needs to take corrective action if the waiver rate exceeds that estimated in the SIP or revise the SIP and the emission reductions claimed accordingly.

In addition, the SIP needs to describe the waiver criteria and procedures, including cost limits, quality assurance methods and measures, and administration. Lastly, the SIP shall include the necessary legal authority, ordinance, or rules to issue waivers, set and adjust cost limits as required, and carry out any other functions necessary to administer the waiver system, including enforcement of the waiver provisions. The Colorado basic I/M program commits to a waiver rate of 3 percent or less. Waiver procedures are detailed in the Appendices to the SIP submittal, Regulation No. 11, and the authorizing legislation. Legal authority for waivers is contained in Section 42–4–312 C.R.S.

K. Motorist Compliance Enforcement

The SIP needs to provide information concerning the enforcement process, including: (1) A description of the existing compliance mechanism if it is to be used in the future and the demonstration that it is as effective or more effective than registration-denial enforcement; (2) an identification of the agencies responsible for performing each of the applicable activities in this section; (3) a description of and accounting for all classes of exempt vehicles; and (4) a description of the plan for testing fleet vehicles, rental car fleets, leased vehicles, and any other special classes of subject vehicles, e.g. those operated in (but not necessarily registered in) the program area. Also, the SIP needs to include a determination of the current compliance rate based on a study of the system that includes an estimate of compliance losses due to loopholes, counterfeiting, and unregistered vehicles. Estimates of the effect of closing such loopholes and otherwise improving the enforcement mechanism need to be supported with detailed analyses. In addition, the SIP needs to include the legal authority to implement and enforce the program. Lastly, the SIP needs to include a commitment to an enforcement level to be used for modeling purposes and to be maintained, at a minimum, in practice.

The motorist compliance enforcement program will be implemented, by the Department of Revenue Motor Vehicles Division, which will take the lead in ensuring that owners of all subject vehicles are denied registration unless they provide valid proof of having received a certificate indicating they passed an emissions test or been granted a compliance waiver. State and local police agencies have the authority to cite motorists with expired registration tags and out-dated emissions windshield stickers.

Current compliance rates are estimated at greater than 96 percent in the each of the urbanized areas. The SIP commits to a level of motorist enforcement necessary to ensure a compliance rate of no less than 96 percent among subject vehicles.

L. Motorist Compliance Enforcement Program Oversight

The SIP needs to include a description of enforcement program oversight and information management activities. Penalties for failure to comply with the program are described in the authorizing legislation and the Colorado Revised Statutes. Fines of up to $1,000 can be imposed in cases where motorists are involved in fraudulently obtaining certificates of compliance, stickers, or registrations. Failure to register a vehicle also results in significant penalties, as described in the Colorado Revised Statutes regarding registration penalties. The State of Colorado has met EPA's requirements for the imposition of mandatory fines. The State commits to corrective action if a compliance rate of 96 percent is not maintained in practice.

M. Quality Assurance

The SIP needs to include a description of the quality assurance program, and written procedures manuals covering both overt and covert performance audits, record audits, and equipment audits. This requirement does not include materials or discussion of details of enforcement strategies that would ultimately hamper the enforcement process.

The Colorado I/M SIP includes a description of its quality assurance program. The program includes operation and progress reports, and overt and covert audits of all emission inspectors and emission inspections. Overt and covert audits, and remote inspector audits will be performed by the Department of Revenue. Procedures and techniques for overt and covert

performance, recordkeeping, and equipment audits are given to auditors and updated as needed. Current auditor procedures are contained in the Appendices to the SIP.

N. Enforcement Against Contractors, Stations and Inspectors

The SIP needs to include the penalty schedule and the legal authority for establishing and imposing penalties, civil fines, license suspension, and revocations. In the case of state constitutional impediments to immediate suspension authority, the state Attorney General shall furnish an official opinion for the SIP explaining the constitutional impediment, as well as relevant case law. Also, the SIP needs to describe the administrative and judicial procedures and responsibilities relevant to the enforcement process, including which agencies, courts, and jurisdictions are involved; who will prosecute and adjudicate cases; and other aspects of the enforcement of the program requirements, the resources to be allocated to this function, and the source of those funds. In states without immediate suspension authority, the SIP needs to demonstrate that sufficient resources, personnel, and systems are in place to meet the three day case management requirement for violations that directly affect emission reductions.

The Colorado submittal includes the legal authority to establish and impose penalties against stations, contractors and inspectors. The I/M SIP and regulations include penalty provisions for stations, contractors, and inspectors. These penalty schedules meet the Federal I/M regulation requirements and are approvable. The I/M program legislative authority gives the state auditors the authority to temporarily suspend station and inspector licenses or certificates immediately upon finding a violation. The submittal includes a description of administrative and judicial procedures relevant to the enforcement process which meet Federal I/M regulations and are approvable.

O. Data Analysis and Reporting

The SIP needs to describe the types of data to be collected. The State regulation requires the collection of data on each individual test conducted and describes the type of data to be collected. The type of test data collected meets the Federal I/M regulation requirements and is approvable. The appendices to the I/M SIP submittal contain a procedure manual that details the gathering and reporting requirements of the State required under 40 CFR Part 51.359 and is approvable. The Colorado I/M SIP provides reporting summary data based upon program activities taking place in the previous year. The report will provide statistics for the testing program, the quality control program, the quality assurance program, and the enforcement program. At a minimum, Colorado commits to address all of the data elements listed in section 51.366 of the Federal I/M rule.

P. Inspector Training and Licensing or Certification

The SIP needs to include a description of the training program, the written and hands-on tests, and the licensing or certification process.

The Colorado I/M SIP provides for the implementation of training, certification, and refresher programs for emission inspectors. Training will include all elements required by 51.367(a) of the EPA I/M rule. All inspectors will be required to be certified to inspect vehicles in the Colorado I/M program.

Q. Improving Repair Effectiveness

The SIP needs to include a description of the technical assistance program to be implemented, a description of the procedures and criteria to be used in meeting the performance monitoring requirements of this section for enhanced I/M programs, and a description of the repair technician training resources available in the community.

The Colorado SIP commits the program technical and supervisory staff to continue to work with both motor vehicle owners and the automotive service industry regarding their vehicles failing to meet the exhaust emission levels. These direct contacts are normally either by telephone or person-to-person. Customers with vehicles that present unusual testing problems or situations are referred to a State-run Technical Center for further testing and diagnostics.

IV. This Action

In this action, the EPA is approving the SIP revision submitted by the State of Colorado for purposes of implementing a Basic I/M program in the urbanized areas of El Paso (Colorado Springs), Larimer (Fort Collins), and Weld Counties (Greeley). The EPA has reviewed this revision to the Colorado SIP and is approving it as submitted. The State's Basic I/M program revisions meet requirements pursuant to sections 182 and 187 of the Act and 40 CFR part 51, subpart S.

The EPA is publishing this action without prior proposal because the Agency views this as a noncontroversial revision and anticipates no adverse comments. However, in a separate document in this Federal Register publication, the EPA is proposing to approve the SIP revision should adverse or critical comments be filed. Thus, today's direct final action will be effective May 20, 1996, unless, by April 18, 1996, adverse or critical comments are received.

If the EPA receives such comments, this action will be withdrawn before the effective date by publishing a subsequent document that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on this action serving as a proposed rule. The EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this action will be effective May 20, 1996.

The EPA has reviewed this request for revision of the federally-approved SIP for conformance with the provisions of the CAA. The EPA has determined that this action conforms with those requirements.

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

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

SIP revision approvals under Section 110 and Subchapter I, Part D, of the CAA do not create any new requirements, but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not impose any new requirements, the EPA certifies that this proposed rule would not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-State relationship under the CAA, preparation of a regulatory flexibility analysis would constitute Federal inquiry into the

economic reasonableness of State actions. The CAA forbids the EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S.E.P.A.*, 427 U.S. 246, 256–266 (S. Ct. 1976); 42 U.S.C. section 7410(a)(2).

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

EPA has determined that the approval action promulgated 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.

This action has been classified as a Table 3 action for signature by the Regional Administrator under the procedures published in the Federal Register on January 19, 1989 (54 FR 2214–2225), as revised by a July 10, 1995 memorandum from Mary Nichols, Assistant Administrator for Air and Radiation.

Under section 307(b)(1) of the CAA, 42 U.S.C. 7607(b), petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by May 20, 1996. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

Executive Order 12866

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

List of Subjects in 40 CFR Part 52

Environmental Protection, Administrative practice and procedure, Air pollution control for hydrocarbons, Incorporation by Reference, Intergovernmental relations, Motor vehicle pollution, Nitrogen oxide, Ozone, Reporting and recordkeeping requirements.

Dated: September 28, 1995.

Jack W. McGraw,

Acting Regional Administrator.

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

PART 52—[AMENDED]

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

Authority: 42 U.S.C. 7401–7671q.

Subpart G—Colorado

2. Section 52.320 is amended by adding paragraph (c)(73) to read as follows:

§ 52.320 Identification of plan.

* * * * *

(c) * * *

(73) On January 14, 1994 and on June 24, 1994, Roy Romer, the Governor of Colorado, submitted SIP revisions to the State Implementation Plan for the Control of Air Pollution. This revisions requires the implementation of a basic motor vehicle inspection and maintenance program in the urbanized areas of El Paso (Colorado Springs), Larimer (Fort Collins), and Weld (Greeley) Counties meeting the requirements of the Clean Air Act Amendments of 1990. This material is being incorporated by reference for the enforcement of Colorado's basic I/M program only.

(i) Incorporation by reference.

(A) Colo. Rev. Stat. §§ 42–4–306.5—42–4–316 adopted June 8, 1993 as House Bill 93–1340, effective July 1, 1993.

(B) Regulation No. 11 (Inspection/Maintenance Program) as adopted by the Colorado Air Quality Control Commission (AQCC) on March 17, 1994, effective April 30, 1994.

[FR Doc. 96–6005 Filed 3–18–96; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Part 52

[MT7–1–5487a; MT26–2–6874a; FRL–5438–9]

Clean Air Act Approval and Promulgation of PM_{10} Implementation Plan for Montana

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA approves the state implementation plan (SIP) for the Kalispell, Montana nonattainment area, the Flathead County Air Pollution Program, and a Board Order setting emission limits at nine Kalispell area stationary sources, submitted with letters dated November 25, 1991, January 11, 1994, August 26, 1994 and July 18, 1995, to achieve attainment of the National Ambient Air Quality Standards (NAAQS) for particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers (PM_{10}). The SIP was submitted to satisfy certain federal Clean Air Act requirements for an approvable moderate nonattainment area PM_{10} SIP for Kalispell. In addition, EPA also approves the SIP revisions submitted by the State of Montana on August 26, 1994, and July 18, 1995, to satisfy the Federal Clean Air Act requirement to submit contingency measures for the Kalispell and Columbia Falls moderate PM_{10} nonattainment areas. The Columbia Falls submittal also incorporates minor revisions to the attainment and maintenance demonstrations for the Columbia Falls moderate PM_{10} nonattainment area SIP into the Montana SIP. Since the SIP still adequately demonstrates timely attainment and maintenance of the PM_{10} standard, EPA approves these revisions.

EPA is also deleting an obsolete section of the Code of Federal Regulations (CFR) which applied to further requirements for the Butte total suspended particulates (TSP) plan.

DATES: This action is effective on May 20, 1996 unless adverse comments are received by April 18, 1996. If the effective date is delayed, timely notice will be published in the Federal Register.

ADDRESSES: Comments should be addressed to: Richard R. Long, Director, Air Program, EPA Region VIII, at the address listed below. Copies of the State's submittal and other information are available for inspection during normal business hours at the following locations: Air Program, Environmental Protection Agency, Region VIII, 999 18th Street, Suite 500, Denver, Colorado

80202–2466; and Montana Department of Health and Environmental Sciences, Air Quality Bureau, 826 Front Street, Helena, Montana 59620–0901. The information may be inspected between 8 a.m. and 4 p.m., on weekdays, except for legal holidays. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Callie Videtich, 8P2–A, Environmental Protection Agency, Region VIII, 999 18th Street, Suite 500, Denver, Colorado 80202–2466, (303) 312–6434.

SUPPLEMENTARY INFORMATION:

I. Background

The Kalispell and Columbia Falls, Montana areas were designated nonattainment for PM_{10} and classified as moderate under sections 107(d)(4)(B) and 188(a) of the Clean Air Act, upon enactment of the Clean Air Act Amendments of 1990.[1] See 56 FR 56694 (November 6, 1991) and 40 CFR 81.327 (specifying designation for Flathead County). The air quality planning requirements for moderate PM^{10} nonattainment areas are set out in Subparts 1 and 4 of Title I of the Act.[2] (EPA took action on the Columbia Falls PM_{10} SIP on April 14, 1994 (see 59 FR 17700)).

The EPA has issued a ''General Preamble'' describing EPA's preliminary views on how EPA intends to review SIPs and SIP revisions submitted under Title I of the Act, including those State submittals containing moderate PM_{10} nonattainment area SIP requirements (see generally 57 FR 13498 (April 16, 1992) and 57 FR 18070 (April 28, 1992)). Because EPA is describing its interpretations here only in broad terms, the reader should refer to the General Preamble for a more detailed discussion of the interpretations of Title I advanced in this final action and the supporting rationale. In this rulemaking action on the Montana moderate PM_{10} SIP, EPA is applying its interpretations considering the specific factual issues presented.

Those States containing initial moderate PM_{10} nonattainment areas were required to submit, among other things, the following provisions by November 15, 1991:

1. Provisions to assure that reasonably available control measures (RACM) (including such reductions in emissions from existing sources in the area as may be obtained through the adoption, at a minimum, of reasonably available control technology (RACT)) shall be implemented no later than December 10, 1993;

2. Either a demonstration (including air quality modeling) that the plan will provide for attainment as expeditiously as practicable but no later than December 31, 1994, or a demonstration that attainment by that date is impracticable;

3. Quantitative milestones which are to be achieved every 3 years and which demonstrate reasonable further progress (RFP) toward attainment by December 31, 1994; and

4. Provisions to assure that the control requirements applicable to major stationary sources of PM_{10} also apply to major stationary sources of PM_{10} precursors except where the Administrator determines that such sources do not contribute significantly to PM_{10} levels which exceed the NAAQS in the area. See sections 172(c), 188, and 189 of the Act.

Some provisions were due at a later date. States with initial moderate nonattainment areas were required to submit a permit program for the construction and operation of new and modified major stationary sources of PM_{10} by June 30, 1992, [see section 189(a)]. States containing initial moderate PM_{10} nonattainment areas were also required to submit contingency measures by November 15, 1993 (see 57 FR 13543). These measures must become effective, without further action by the State or EPA, upon a determination by EPA that the area has failed to achieve reasonable further progress (RFP) or to attain the PM_{10} National Ambient Air Quality Standards (NAAQS) by the applicable statutory deadline. The contingency measures for Kalispell and Columbia Falls, which are described in Section II.2.A and II.2.B of this document, were submitted to fulfill this requirement. See Section 172(c)(9) and 57 FR 13510–13512 and 13543–13544.

II. This Action

EPA is taking five actions with this document. 1) Approval of the Kalispell PM_{10} nonattainment area control plan including the Flathead County Air Pollution Control Program. (EPA earlier took action on certain portions of the Program with the approval of the Columbia Falls PM_{10} SIP on April 14, 1994 (see 59 FR 17700). In this action, EPA is approving the Program as re-submitted by the Governor on August 26, 1994 with further modifications submitted on July 18, 1995). 2) Approval of the Kalispell PM_{10} Contingency Measure Plan. 3) Approval of the Columbia Falls PM_{10} Contingency Measure Plan. 4) Deletion of an obsolete section of the Code of Federal Regulations (CFR) which applied to further requirements for the Butte total suspended particulates (TSP) plan. 5) Approval of Montana's New Source Review rules for Kalispell since precursors are determined to not contribute significantly. Below is a description of each of these actions.

1. *Kalispell PM_{10}* SIP. EPA is approving the Kalispell PM_{10} nonattainment area control plan and rules of the Flathead County Air Pollution Control Plan found in the Flathead County Air Pollution Control Program originally submitted by the Governor on November 25, 1991, with revisions submitted on January 11, 1994, August 26, 1994 and July 18, 1995. Flathead County contains two PM_{10} nonattainment areas for which SIPs were due in November 1991: Columbia Falls and Kalispell. The Flathead County Air Pollution Control Program regulations apply to both areas and were submitted with the attainment demonstration for Kalispell on November 25, 1991. EPA initially took final approval action on all aspects of the Flathead County Air Pollution Control Program, except rules 501 through 506, with the Columbia Falls SIP on April 14, 1994 (see 59 FR 17700). The August 26, 1994, submittal contained minor modifications to the Flathead county Air Pollution Control Program regulations that had been adopted through Board Order on May 20, 1994. Thus, EPA is taking action on the entire Flathead County Air Pollution Control Program submitted on August 26, 1994, in order to assure that the most recent version of the rules is approved into the SIP. The July 18, 1995 submittal contained revised control effectiveness calculations.

Section 110(k) of the Act sets out provisions governing EPA's review of SIP submittals (see 57 FR 13565–13566). In today's action, EPA is granting approval of those elements of the Kalispell PM_{10} plan that were due on November 15, 1991, and submitted by the State on November 25, 1991, January 11, 1994, August 26, 1994, and July 18, 1995. EPA believes that the Kalispell plan meets the applicable requirements of the Act.

[1] The 1990 Amendments to the Clean Air Act made significant changes to the Act. See Public Law No. 101–549, 104 Stat. 2399. References herein are to the Clean Air Act, as amended (''the Act''). The Clean Air Act is codified, as amended, in the U.S. Code at 42 U.S.C. Sections 7401, *et seq.*

[2] Subpart 1 contains provisions applicable to nonattainment areas generally and Subpart 4 contains provisions specifically applicable to PM_{10} nonattainment areas. At times, Subpart 1 and Subpart 4 overlap or conflict. EPA has attempted to clarify the relationship among these provisions in the ''General Preamble'' and, as appropriate, in today's notice and supporting information.

A. Analysis of State Submission

1. Procedural Background. The Act requires States to observe certain procedural requirements in developing implementation plans and plan revisions for submission to EPA. Section 110(a)(2) of the Act provides that each implementation plan submitted by a State must be adopted after reasonable notice and public hearing.[3] Section 110(l) of the Act similarly provides that each revision to an implementation plan submitted by a State under the Act must be adopted by such State after reasonable notice and public hearing. The EPA also must determine whether a submittal is complete and therefore warrants further EPA review and action (see section 110(k)(1) and 57 FR 13565). The EPA's completeness criteria for SIP submittals are set out at 40 CFR Part 51, Appendix V. The EPA attempts to make completeness determinations within 60 days of receiving a submission. However, a submittal is deemed complete by operation of law if a completeness determination is not made by EPA six months after receipt of the submission.

To entertain public comment on the PM_{10} implementation plan for Kalispell, the State of Montana held a public hearing on November 15, 1991. The State supplied evidence that adequate public notice for these hearings was provided. Following the public hearings, the Board of Health and Environmental Sciences adopted the Flathead County Air Pollution Control Program and the Kalispell PM_{10} Control Plan. The submittal for the Flathead County Air Pollution Control Program and Kalispell PM_{10} SIP were signed by the Governor on November 25, 1991. The final plan was received by EPA on December 4, 1991, as a proposed revision to the SIP.

The SIP revision and subsequent submittals from the Governor were reviewed by EPA to determine completeness in accordance with the completeness criteria set out at 40 CFR Part 51, Appendix V. The November 25, 1991 submittal was found to be complete and a letter, dated April 29, 1992, was forwarded to the Governor indicating the completeness of the submittal and the next steps to be taken in the review process. The January 11, 1994 submittal was found complete by default on July 11, 1994. The August 26, 1994 submittal was found complete and a letter was forwarded to the Governor of that finding on November 1, 1994. The July 18, 1995, submittal was found complete in a letter forwarded to the Governor on July 18, 1995.

2. Accurate Emission Inventory. Section 172(c)(3) of the Act requires that nonattainment plan provisions include a comprehensive, accurate, current inventory of actual emissions from all sources of relevant pollutants in the nonattainment area. The emission inventory also should include a comprehensive, accurate, and current inventory of allowable emissions in the area. Because the submission of such inventories is a necessary adjunct to an area's attainment demonstration (or demonstration that the area cannot practicably attain), the emission inventories must be received with the submission (see 57 FR 13539).

Kalispell's base year emission inventory was developed for September 1, 1986, through August 31, 1987. The results were segregated into seasonal emissions (winter, spring, summer, fall.) Area sources comprise over 90% of the PM_{10} emissions on an annual basis. Annually, paved road dust accounts for 80.16% of the PM_{10} emissions, with unpaved road dust responsible for 7.45%. Industrial sources and residential woodburning account for 5.54% and 4.69% of the total emissions respectively. Re-entrained road dust is the primary source of emissions in all four seasons.

EPA is approving the emission inventory because it is accurate and comprehensive, and provides a sufficient basis for determining the adequacy of the attainment demonstration for this area consistent with the requirements of sections 172(c)(3) and 110(a)(2)(K) of the Act.[4] For further details see the Kalispell PM_{10} SIP TSD for this action.

3. RACM (Including RACT). As noted, the initial moderate PM_{10} nonattainment areas must submit provisions to assure that RACM (including RACT) are implemented no later than December 10, 1993, (see sections 172(c)(1) and 189(a)(1)(C)). The General Preamble contains a detailed discussion of EPA's interpretation of the RACM (including RACT) requirement (see 57 FR 13539–13545 and 13560–13561).

Five sources/source categories were identified as contributing to the PM_{10} nonattainment problem in Kalispell. In the following table, an outline is presented on these sources, their control measures and associated emissions reduction credit, and effective dates.

Source	Control	PM_{10} emissions reduction	Effective[5]
Re-entrained road dust	Flathead County Rules:		
	501 Sanding & chip sealing standards and 505 Street Sweeping and Flushing.	62% (credit taken only for winter & spring.	5/20/94
	502 Construction and Demolition Activity	(no credit taken)	5/20/94
	503 Pavement of Roads Required	(no credit taken)	5/20/94
	504 Pavement of Parking Lots Required	(no credit taken)	5/20/94
	506 Clearing of land greater than 1/4 acre in size (requires measures to control dust when clearing areas larger than 1/4 acre).	(no credit taken)	5/20/94
Prescribed burning	Flathead County Rules:		
	201 (Open Burning) Definitions	(no credit taken)	5/20/94
	202 Materials Prohibited	(no credit taken)	5/20/94
	203 Minor Open Burning Source Requirements	(no credit taken)	5/20/94
	204 Major Open Burning Source Requirements	(no credit taken)	5/20/94
	205 Special Open Burning Periods	(no credit taken)	5/20/94
	206 Fire Fighter Training	(no credit taken)	5/20/94
	207 Conditional Air Quality Open Burning Permits	(no credit taken)	5/20/94
	208 Emergency Open Burning Permits	(no credit taken)	5/20/94
	209 Permit Fees	(no credit taken)	5/20/94

[3] Also Section 172(c)(7) of the Act requires that plan provisions for nonattainment areas meet the applicable provisions of Section 110(a)(2).

[4] EPA issued guidance on PM–10 emissions inventories prior to the enactment of the Clean Air Act Amendments in the form of the 1987 *PM–10 SIP Development Guideline.* The guidance provided in this document appears to be consistent with the revised Act.

Source	Control	PM_{10} emissions reduction	Effective [5]
Residential wood combustion	Flathead County Air Pollution Control Program, CHAPTER VIII, Sub-chapter 3, Voluntary Solid Fuel Burning Device Curtailment Program and Sub-chapter 4, Prohibited Materials for Wood or Coal Residential Stoves	(no credit taken)	5/20/94
Industry	Board Order, limiting allowable emissions, based upon signed stipulations between the following sources and the State: A–1 Paving; Equity Supply Company; Flathead Road Dept. (two stipulations issued); Klingler Lumber Co.; McElroy and Wilkins; Montana Mokko; Pack and Company, Inc.; Pack Concrete; and Plum Creek Inc. (Evergreen)..	(no credit taken)	9/17/93
Motor vehicle exhaust	Federal tailpipe standards	(no credit taken)	Ongoing due to fleet turnover.

[5] Note that the effective date of most of the following regulations is past the RACM/RACT implementation date of December 10, 1993. The majority of these regulations were effective in 1991. However, as indicated elsewhere in this action, minor revisions were made to some of the regulations. The table lists the most recent effective date of these regulations.

A more detailed discussion of the source/source category contributions and their associated control measures (including available control technology) can be found in the Kalispell PM_{10} SIP TSD for this action. EPA has reviewed the State's documentation and concluded that it adequately justifies the control measures to be implemented. The implementation of Montana's PM_{10} nonattainment plan resulted in the attainment of the PM_{10} NAAQS by December 31, 1994. By this action EPA is approving the Kalispell PM_{10} plan's RACM (including RACT) in its entirety.

4. Attainment and Maintenance Demonstrations. As noted, the initial moderate PM_{10} nonattainment areas must submit a demonstration (including air quality modeling) showing that the plan will provide for attainment as expeditiously as practicable, but no later than December 31, 1994, or the State must show that attainment by December 31, 1994, is impracticable (see section 189(a)(1)(B) of the Act). The 24-hour PM_{10} NAAQS is 150 micrograms/cubic meter ($\mu g/m^3$), and the standard is attained when the expected number of days per calendar year with a 24-hour average concentration above 150 $\mu g/m^3$ is equal to or less than one (see 40 CFR 50.6). The annual PM_{10} NAAQS is 50 $\mu g/m^3$, and the standard is attained when the expected annual arithmetic mean concentration is less than or equal to 50 $\mu g/m^3$ (id.)

The Kalispell attainment and maintenance demonstrations are based upon both CMB analysis with rollback for area sources and dispersion modeling for stationary sources. The 1991 SIP submittal contained an attainment and maintenance demonstration based upon CMB. However, at the time of the CMB study, stationary sources were operating far below their allowable emission rates, and meteorological (wind) conditions did not allow for a reliable analysis of potential stationary source impacts. To supplement the receptor modeling-based analysis, the State agreed to evaluate industrial sources at their allowable emission rates using dispersion modeling.

The industrial sources are removed, for the most part, from the downtown area and are not believed to impact the monitors used for the CMB analyses. Significant concentrations from industrial sources are expected to occur only in the immediate area around the industrial sources because of low stacks and fugitive type emissions. The intent of the dispersion modeling was to see if violations of the standard would occur in the immediate vicinity of the industrial sources. Therefore, the Kalispell attainment and maintenance demonstrations are based upon both CMB analysis for area sources and dispersion modeling for industrial sources.

CMB: The attainment and maintenance demonstrations using CMB analysis for Kalispell indicate that the 24-hour PM_{10} NAAQS would be attained by December 31, 1994, at 137.2 $\mu g/m^3$, and it would be maintained in future years. The demonstration indicated that an annual concentration of 47.9 $\mu g/m^3$ would be achieved by 1995, [6] showing attainment of the annual PM_{10} NAAQS. The annual NAAQS was also demonstrated to be maintained in future years. In the July 18, 1995 submittal, the Governor provided a revised 24-hour attainment demonstration which used a revised background concentration number and higher credits for the re-entrained road dust program based upon the expanded Kalispell Air Pollution Control District boundaries outlined in the August 26, 1994 submittal. Through the implementation of the controls in the expanded area, the attainment analysis indicated that the 24-hour value attained in the year 1995 would be 124.3 $\mu g/m^3$ instead of the 137.2 $\mu g/m^3$ calculated in the November 25, 1991 submittal.

As mentioned above, a maintenance demonstration was contained in the November 25, 1991, submittal which showed maintenance of the 24-hour standard through 1997. The July 18, 1995, submittal did not contain a revised maintenance demonstration. However, based upon the revised attainment year value of 124.3 $\mu g/m^3$ and the projected 2.1% annual population growth rate, EPA has calculated the maintenance demonstration to be 132.3 $\mu g/m^3$ in 1998. Monitored values reported through 1994 have shown attainment. EPA accepts this analysis for demonstrating attainment and maintenance of the 24-hour standard.

The July 18, 1995, submittal did not revise the attainment and maintenance calculations for the annual PM_{10} standard which were contained in the original November 25, 1991, submittal. However, EPA expects that since the July 1995 revised 24-hour values are significantly lower than 1991 values, the annual values would show similar reductions and that attainment and maintenance of the annual PM_{10} standard would result. Monitored annual values reported through 1994 have shown attainment. EPA accepts this analysis for demonstrating attainment of the annual standard.

Dispersion Modeling: As pointed out earlier, because of its concern that the majority of the stationary sources within

[6] The Clean Air Act calls for attainment by December 31, 1994. Section 188(c)(1). EPA interprets the State's demonstration as providing for attainment by January 1, 1995. EPA is approving the State's demonstration on the basis of the de minimis differential between the two dates. The State should promptly inform EPA if EPA has in any manner misinterpreted the date by which the State has demonstrated attainment in the Kalispell nonattainment area.

the Kalispell area were operating far below their allowable permit limits during the CMB study and thus their potential impact on air quality was not being properly calculated, EPA asked the State to perform dispersion modeling to demonstrate attainment and maintenance of the PM_{10} standard. The Montana Department of Health and Environmental Services (MDHES) conducted dispersion modeling using stationary source allowable emission rates to determine if violations of the PM_{10} NAAQS would result in future years. Based upon the results of the dispersion modeling, several stationary source permits were revised to reduce allowable emission rates.

Dispersion modeling, using stationary source allowable emission rates, was used to determine maximum concentrations related to stationary source emissions. The results were used to demonstrate attainment of the standard by December 31, 1994. The 24-hour PM_{10} NAAQS allows one expected exceedance of the standard per year. Thus, in modeling five years of data, attainment is demonstrated when the sixth highest predicted concentration is less than 150 $\mu g/m^3$. The 6th highest modeled concentration in the 1998 maintenance run was 139 $\mu g/m^3$. Total concentrations would be lower in 1995 owing to lower emissions from nearby background sources. This shows attainment of the 24-hour standard of 150 $\mu g/m^3$. In addition, the Kalispell dispersion modeling results indicated attainment of the annual PM_{10} standard. The predicted concentration in the maintenance year (1998) is 50.0 $\mu g/m^3$. Because emissions from nearby background sources would be lower in 1995 than in 1998, predicted 1995 concentrations would be less than 50 $\mu g/m^3$.

5. PM_{10} Precursors. The control requirements that are applicable to major stationary sources of PM_{10} also apply to major stationary sources of PM_{10} precursors, unless EPA determines such sources do not contribute significantly to PM_{10} levels over the NAAQS in that area (see section 189(e) of the Act). An analysis of air quality and emissions data for the Kalispell nonattainment area indicates that exceedances of the NAAQS are attributable chiefly to direct particulate emissions from re-entrained road dust, with a small contribution from stationary sources and residential wood burning. The emission inventory for Kalispell revealed that industrial processes contributed 5.54% to the annual PM_{10} emissions. However, the inventory did not differentiate between PM_{10} or precursor emissions. Based upon the types of sources in the area, EPA believes that the overall contribution of PM_{10} precursors is insignificant. Therefore, EPA is making the determination that PM_{10} precursors do not contribute significantly to PM_{10} levels that exceed the standard in Kalispell. The consequences of this determination is to exclude these sources from the applicability of PM_{10} nonattainment area control requirements.

On July 18, 1995, EPA partially approved the State's nonattainment new source review (NSR) permitting regulations for the Kalispell moderate PM_{10} nonattainment area because the State did not submit NSR permitting regulations for sources of PM_{10} precursors in Kalispell and because EPA had not yet found that such sources did not contribute significantly to PM_{10} exceedances in Kalispell (see 60 FR 36715–36722). The consequence of this determination that PM_{10} precursors are insignificant is to exclude major stationary sources of PM_{10} precursors in Kalispell from the applicability of PM_{10} nonattainment area control requirements, including nonattainment NSR permitting. Thus, based on this determination, the State's nonattainment NSR regulations for Kalispell are considered fully approved.

Further discussion of the analyses and supporting rationale for EPA's finding are contained in the TSD accompanying this action. Note that while EPA is making a general finding for this area, this finding is based on the current character of the area including, for example, the existing mix of sources in the area. It is possible, therefore, that future growth could change the significance of precursors in the area. The EPA intends to issue future guidance addressing such potential changes in the significance of precursor emissions in an area.

6. Quantitative Milestones and Reasonable Further Progress. The PM_{10} nonattainment area plan revisions demonstrating attainment must contain quantitative milestones which are to be achieved every 3 years until the area is redesignated attainment and which demonstrate RFP, as defined in section 171(1), toward attainment by December 31, 1994, (see section 189(c) of the Act). The State of Montana's PM_{10} SIP indicates that the MDHES and the Flathead County Health Department (FCHD) will submit to EPA a reasonable further progress/milestone report consistent with federal guidelines by December 31, 1994.[7]

In addition, FCHD will prepare less detailed annual progress reports for the prior year by August 1st each year. These annual progress reports shall provide information on the effectiveness of the control strategies.

To monitor the progress of the road dust control rules, a report will be completed on the type and amount of de-icing and sanding material applied, the number of applications of de-icing and sanding materials, the dates of application of each material, and where and when the street sweeping and flushing occurred during the winter season. The sanding material test results for the percent silt and durability also will be submitted.

All exceedances of the PM_{10} standard will be evaluated and a determination made as to the source of the exceedance. Changes in the air quality program to prevent further exceedances and a timetable for implementation will be developed. Any other EPA requirements for RFP reports will be incorporated as necessary.

7. Contingency Measures. See Section II.2. below for requirements.

8. Enforceability Issues. All measures and other elements in the SIP must be enforceable by the State and EPA (see sections 172(c)(6) and 110(a)(2)(A) of the Act and 57 FR 13556). The EPA criteria addressing the enforceability of SIPs and SIP revisions were stated in a September 23, 1987, memorandum (with attachments) from J. Craig Potter, Assistant Administrator for Air and Radiation, *et al.* (see 57 FR 13541). Nonattainment area plan provisions also must contain a program to provide for enforcement of control measures and other elements in the SIP (see section 110(a)(2)(C) of the Act).

The specific control measures contained in the SIP are addressed above in Section 3, ''RACM (including RACT).'' The Flathead County Air Pollution Control regulations, as included in the SIP, are legally enforceable by FCHD. Any person who violates any provision or rule, with the exception of the voluntary solid-fuel burning device rule, or order under this program shall be subject to a civil penalty not to exceed $500.00.

The Flathead County Air Pollution Control Program and the associated

[7] Technically the first milestone would fall on November 15, 1994—three years after the deadline for submittal of this SIP. However, the de minimis timing differential between the first milestone submittal date and the attainment date (December 31, 1994) make it administratively impracticable to require separate submittals. *See generally* 57 FR 13539. Using December 31, 1994 as the first milestone, EPA has identified March 31, 1995 as the actual deadline for the submittal of the milestone report (per section 189(c)(2) of the Act). The State of Montana submitted the milestone report on April 12, 1995.

local regulations are also enforceable by the MDHES, if the FCHD fails to administer the program. Since the program has been approved by the Montana Board of Health and Environmental Sciences (MBHES) in accordance with section 75–2–301 of the Montana Code Annotated and effectuated by a MBHES Order, and since the MDHES can enforce MBHES Orders, the MDHES has independent enforcement powers. Enforcement provisions are found in the Clean Air Act of Montana, sections 75–2–401 through 75–2–429, Montana Code Annotated.

The allowable emission limits for the stationary sources being regulated under this plan are enforceable by the MDHES through the issuance of a Board Order. MDHES and the Kalispell sources agreed to emission limitations in stipulations which were enforceable upon approval and adoption by the MBHES through the issuance of a Board Order on September 17, 1993. The stipulations contained emission limitations for the following nine sources: A–1 Paving; Equity Supply Company; Flathead Road Dept. (two stipulations issued); Klingler Lumber Co.; McElroy and Wilkins; Montana Mokko; Pack and Company, Inc.; Pack Concrete; and Plum Creek Inc. (Evergreen).

If a State relies on a local government for the implementation of any plan provision, then, according to section 110(a)(2)(E)(iii) of the Act, the State must provide necessary assurances that the State has responsibility for ensuring adequate implementation of such plan provision. A State would have responsibility to ensure adequate implementation when, for example, the State has the authority and resources to implement the provision, and the local entity has failed to do so.

The Flathead County Air Pollution Control Program was established in accordance with the requirements of section 75–2–301 of the Montana Code Annotated, as amended (1991). On November 15, 1991, the MBHES issued a Board Order approving the local program and regulations. A stipulation between the MDHES and the Flathead County Air Pollution Control Board that delineates responsibilities and authorities between the MDHES and the local authorities was signed November 15, 1991. The regulations, Board Order, and stipulation were submitted to EPA as a revision to the Montana SIP.

The State also submitted a state Attorney General's opinion interpreting the authority of the MDHES to enforce any state and local air quality provisions if a local air quality program fails to do so. In practice, the MBHES issues a Board Order when it approves a local program or amendments to a program. Since the Montana Clean Air Act authorizes the MDHES to enforce Board Orders issued by the MBHES, the MDHES has the authority to assume jurisdiction over, and implement, a local program so approved. However, the Montana Clean Air Act also requires a hearing before the MBHES before such an assumption of jurisdiction and authority can be taken.

The Flathead County rules are in effect now, as is the Board Order for the nine stationary sources. The State of Montana has a program that will ensure that the measures contained in the Kalispell PM_{10} SIP are adequately enforced. EPA believes that the State's and Kalispell's existing air enforcement program will be adequate. The TSD for the Kalispell PM_{10} plan contains further information on enforceability requirements, responsibilities, and a discussion of the personnel and funding intended to support effective implementation of the control measures.

2. *Contingency Measures.* The Clean Air Act requires states containing PM_{10} nonattainment areas to adopt contingency measures that will take effect without further action by the State or EPA upon a determination by EPA that an area failed to make reasonable further progress or to timely attain the applicable NAAQS, as described in section 172(c)(9). See generally 57 FR 13510–13512 and 13543–13544. Pursuant to section 172(b), the Administrator has established a schedule providing that states containing initial moderate PM_{10} nonattainment areas shall submit SIP revisions containing contingency measures no later than November 15, 1993. (See 57 FR 13543, n. 3.)

The General Preamble further explains that contingency measures for PM_{10} should consist of other available control measures, beyond those necessary to meet the core moderate area control requirement to implement reasonably available control measures (see Clean Air Act sections 172(c)(1) and 189(a)(1)(C)). Based on the statutory structure, EPA believes that contingency measures must, at a minimum, provide for continued progress toward the attainment goal during the interim period between the determination that the SIP has failed to achieve RFP/provide for timely attainment of the NAAQS and the additional formal air quality planning following the determination (57 FR 13511).

Section 172(c)(9) of the Act specifies that contingency measures shall ''take effect * * * without further action by the State or the [EPA] Administrator.'' EPA has interpreted this requirement (in the General Preamble at 57 FR 13512) to mean that no further rulemaking activities by the State or EPA would be needed to implement the contingency measures. In general, EPA expects all actions needed to effect full implementation of the measures to occur within 60 days after EPA notifies the State of its failure to attain the standard or make RFP.

EPA recognizes that certain actions, such as notification of sources, modification of permits, etc., may be needed before some measures could be implemented. However, States must show that their contingency measures can be implemented with minimal further administrative action on their part and with no additional rulemaking action such as public hearing or legislative review.

A. Kalispell PM_{10} Contingency Measures

The State failed to submit the contingency measures by the November 15, 1993, due date. On January 19, 1994, EPA made a finding that the State failed to submit the contingency measures. Based upon that finding, the 18 month sanctions and 24 month FIP clocks were activated. In response to this finding, the Governor of Montana submitted revisions to the SIP for Kalispell with letters dated August 26, 1994, and July 18, 1995. The revisions address contingency measures for the Kalispell moderate PM_{10} nonattainment area SIP.

1. Procedural Background (see Section II.1.A.1). The PM_{10} contingency measures for Kalispell were developed by the FCHD and the MDHES. On October 18, 1993, after a local public hearing on October 4, 1993, the Kalispell City Council adopted the measures. On October 12, 1993, the Flathead County Commissioners held a public hearing and adopted the contingency measures (Resolution 867A). This county resolution also had included expanding the Columbia Falls area of sanding and sweeping. Subsequent to further discussion, the County Commissioners held another public hearing on April 4, 1994, at which time they removed mention of this expanded area (Resolution 867B). After the May 20, 1994, MBHES public hearing, the Board adopted the local rules which constitute the contingency measures. The Governor submitted the contingency measure rule 507 to EPA with a letter dated August 26, 1994. However, that submittal did not contain the necessary technical analysis and related information.

On July 10, 1995, the Montana Department of Environmental Quality

(MDEQ, formerly MDHES) held a properly noticed public hearing for the purpose of adopting the local rules and technical analysis information into the Montana SIP. The Governor subsequently submitted the outstanding portions of the Kalispell PM_{10} contingency measure SIP revision to EPA with a letter dated July 18, 1995. After reviewing the submittal for conformance with the completeness criteria in 40 CFR 51, Appendix V, EPA determined the submittal to be administratively and technically complete and notified the Governor of such determination in a letter dated July 18, 1995.

2. Contingency Measures. The PM_{10} contingency measure plan for Kalispell was submitted by the Governor to EPA with letters dated August 26, 1994, and July 18, 1995. The contingency measure requires mandatory use of liquid de-icer instead of sand, except under special circumstances.

a. Re-entrained Road Dust Contingency Measure. On April 4, 1994, the Flathead County Board of County Commissioners passed Resolution No. 867B which amended the Flathead County Air Pollution Control Program. The amendments include Rule 507 which is a contingency plan that implements the mandatory use of liquid de-icer on all roads, with the exception of priority routes with extraordinary circumstances, within the Kalispell Air Pollution Control District. Rule 507 provides that within 60 days of notification by EPA that the SIP for the Kalispell moderate PM_{10} nonattainment area failed to timely attain the PM_{10} NAAQS or make reasonable further progress the following will occur:

Within the Kalispell Air Pollution Control District, only liquid de-icer shall be placed on any road or parking lot with the exception of priority routes with extraordinary circumstances existing. During extraordinary circumstances, priority routes must use sanding material which has a durability (as defined by the Montana Modified L.A. Abrasion test) of less than or equal to seven or other testing method which the Control Board deems suitable, and has a content of material less than 200 mesh, as determined by standard wet sieving methods, which is less than three percent oven dry weight.

b. Effectiveness of the Contingency Measure. If the re-entrained road dust contingency measure is implemented, the control efficiency of the re-entrained road dust measures will be 81% in the 24-hour attainment demonstration. This calculation takes into account the use of liquid de-icer, the current requirements for use of washed sand, and the existing street sweeping measures (see the TSD for the Kalispell PM_{10} SIP for further details on the existing re-entrained road dust strategies). Total reduction from the contingency measure is calculated to be 10632 more pounds of PM_{10} reduced per day than without the contingency measure.

EPA believes this contingency measure is approvable. The control measures implemented in the PM_{10} SIP are projected to achieve more emissions reductions than needed to demonstrate attainment of the PM_{10} NAAQS, as indicated by the State's predicted 24-hour attainment concentration of 124.3 $\mu g/m^3$. Furthermore, the predicted 24-hour ambient concentration resulting if the contingency measure is implemented is 94.0 $\mu g/m^3$. Since the 24-hour PM_{10} NAAQS is 150 $\mu g/m^3$, this established safety margin further supports the reasonableness of this contingency measure.

3. Enforceability Issues. The Flathead County Air Pollution Control Program was established in accordance with the requirements of Section 75–2–301 of the Montana Clean Air Act, as amended (1991). A stipulation between the MDHES, the Flathead County Commission, and the Kalispell and Columbia Falls City Councils was signed on November 15, 1991, to delineate responsibilities and authorities between the MDHES and the local authorities. On November 15, 1991, the MBHES issued a Board Order effectuating the program. On May 20, 1994, the MBHES issued a Board Order approving the Kalispell PM_{10} contingency measures. The related regulation, and the May 20, 1994, Board Order were submitted to EPA in the August 26, 1994, submittal as a revision to the Montana SIP. The Flathead County regulation is in effect now. The State of Montana has a program that will ensure that the contingency measures contained in the Kalispell PM_{10} SIP are adequately enforced. EPA believes that the State's and Kalispells' existing air enforcement program will be adequate. The Kalispell Contingency Measure SIP TSD contains further information on enforceability requirements, responsibilities, and a discussion of the personnel and funding intended to support effective implementation of the control measures.

B. Columbia Falls PM_{10} Contingency Measures, Control Strategy and Attainment Demonstration Revisions

The State failed to submit the contingency measures by the November 15, 1993, due date. On January 19, 1994, EPA made a finding that the State failed to submit the contingency measures. Based upon that finding, the 18 month sanctions and 24 month FIP clocks were activated. In response to this finding, the Governor of Montana submitted revisions to the SIP for Columbia Falls with a letters dated August 26, 1994. The revision addressed contingency measures for the Columbia Falls moderate PM_{10} nonattainment area SIP.

1. Procedural Background (see Section II.1.A.1)

The PM_{10} contingency measures for Columbia Falls were developed by the FCHD and the Montana (MDHES). After a local public hearing on October 4, 1993, the Columbia Falls' City Council adopted the measures. On October 12, 1993, the Flathead County Commissioners held a public hearing and adopted the contingency measures (Resolution 867A). This county resolution also had included expanding the Columbia Falls area of sanding and sweeping. Subsequent to further discussion, the County Commissioners held another public hearing on April 4, 1994, at which time they removed mention of this expanded area (Resolution 867B). After the May 20, 1994, MBHES public hearing, the Board adopted the local rules which constitute the contingency measures and minor revisions to the attainment and maintenance demonstration for the SIP. The Governor submitted the contingency measure rule 607 to EPA with a letter dated August 26, 1994. After reviewing the submittal for conformance with the completeness criteria in 40 CFR 51, Appendix V, EPA determined the submittal to be administratively and technically complete and notified the Governor of such determination in a letter dated November 1, 1994.

The Governor of Montana submitted revisions to the SIP for Columbia Falls with a letter dated August 26, 1994. The revisions address contingency measures and incorporate minor modifications to the attainment and maintenance demonstrations into the State SIP for the Columbia Falls moderate PM_{10} nonattainment area.

2. Control Strategy (see Section II.1.A.3 for general requirements)

On April 14, 1994 (59 FR 17700), EPA approved the control measures in the Columbia Falls moderate PM_{10} nonattainment area SIP as satisfying the requirement to provide for the implementation of RACM, including RACT. The measures targeted re-entrained road dust, residential wood burning, prescribed burning, industry, and motor vehicle exhaust. Please see

that final rule and associated Technical Support Document (TSD) for further details on the specific control measures in the approved SIP.

3. Revisions to Attainment and Maintenance Demonstrations (see Section II.1.A.4 for General Requirements)

CMB receptor modelling in combination with rollback was chosen as the best tool for the attainment and maintenance demonstrations of the 24-hour standard. EPA approved Montana's attainment and maintenance demonstrations for the Columbia Falls moderate PM_{10} nonattainment area on April 14, 1994 (59 FR 17700). The 24-hour attainment value (*i.e.*, the ambient PM_{10} air quality level expected to be achieved by 1995[8]) was 136.28 μg/m^3, and the annual attainment value was 31.1 μg/m^3. The maintenance values (*i.e.*, ambient PM_{10} air quality levels maintained through January 1, 1998) are equal to the attainment values.

As was discussed in the TSD accompanying EPA's approval action for the Columbia Falls SIP, technical corrections to the attainment demonstration were made subsequent to the Governor's submittal. With the August 26, 1994, contingency measure SIP submittal, the Governor is also incorporating the revised attainment demonstration (contained in the technical corrections noted above) into the SIP narrative. There is a minor additional revision to the street sweeping & sanding control calculation. The revised control credit calculation separates the background particulate emissions prior to applying reductions due to the street sweeping program. The revised calculation yields a minor increase of 32 lbs per day PM_{10} emissions over the original demonstration, an amount approximately equal to 1% of the uncontrolled daily emissions from paved road dust re-entrainment. EPA has evaluated and approves the revised control efficiency calculations. The final attainment demonstration being incorporated and approved by this action predicts a 24-hour attainment value of 136.9 μg/m^3, and an annual attainment value of 31.1 μg/m^3, both well below the respective NAAQS. The SIP continues to adequately demonstrate timely attainment and maintenance of the PM_{10} NAAQS in Columbia Falls and satisfies the requirement to provide for the implementation of RACM (including RACT). For further detail concerning the calculations, see the TSD for this action.

4. Contingency Measures

The PM_{10} contingency measure plan for Columbia Falls was submitted by the Governor to EPA with a letter dated August 26, 1994. The contingency measure requires mandatory use of liquid de-icer instead of sand, except under special circumstances.

a. Re-entrained Road Dust Contingency Measure. On April 4, 1994, the Flathead County Board of County Commissioners passed Resolution No. 867B which amended the Flathead County Air Pollution Control Program. The amendments include Rule 607 which is a contingency plan that implements the mandatory use of liquid de-icer on all roads, with the exception of priority routes with extraordinary circumstances, within the Columbia Falls Air Pollution Control District. Rule 607 provides that within 60 days of notification by EPA that the SIP for the Columbia Falls moderate PM_{10} nonattainment area failed to timely attain the PM_{10} NAAQS or make reasonable further progress the following will occur:

Within the Columbia Falls Air Pollution Control District, only liquid de-icer shall be placed on any road or parking lot with the exception of priority routes with extraordinary circumstances existing. During extraordinary events, priority routes must use sanding material which has a durability, as defined by the Montana Modified L.A. Abrasion test, of less than or equal to 7, or other testing method which the Control Board deems suitable, and has a content of material less than 200 mesh, as determined by standard wet sieving methods, which is less than 3.0% oven dry weight.

b. Effectiveness of the Contingency Measure. If the re-entrained road dust contingency measure is implemented, the control efficiency of the re-entrained road dust measures will be 58% in the 24-hour attainment demonstration (an increase of 28% over the control efficiency of the re-entrained road dust measures in the original SIP attainment demonstration). This calculation takes into account the use of the liquid de-icer, the current requirements for use of washed sand, and the existing street sweeping measures (see the TSD accompanying EPA's approval, 59 FR 17700, of the Columbia Falls PM_{10} SIP, available at the EPA address at the beginning of this document, for further details on the existing re-entrained road dust strategies). Total reduction from the contingency measure is calculated to be 605 more pounds of PM_{10} reduced per day than without the contingency measure.

EPA believes that this contingency measure is approvable. The control measures implemented in the PM_{10} SIP are projected to achieve more emissions reductions than needed to demonstrate attainment of the PM_{10} NAAQS, as indicated by the State's predicted 24-hour attainment concentration of 135.9 μg/m^3 (see Section II.A.2. above and the TSD). Furthermore, the predicted 24-hour ambient concentration resulting if the contingency measure is implemented is 122.5 μg/m^3. Since the 24-hour PM_{10} NAAQS is 150 μg/m^3, this established safety margin further supports the reasonableness of these contingency measures.

5. Enforceability Issues

The Flathead County Air Pollution Control Program was established in accordance with the requirements of Section 75–2–301 of the Montana Clean Air Act, as amended (1991). A stipulation between the MDHES, the Flathead County Commission, and the Kalispell and Columbia Falls City Councils was signed on November 15, 1991 to delineate responsibilities and authorities between the MDHES and the local authorities. On November 15, 1991, the MBHES issued a Board Order effectuating the program. On January 24, 1992, the MBHES approved the Columbia Falls PM_{10} plan and local program. The stipulation, Board Order, and resolution were incorporated into the SIP on April 14, 1994 (59 FR 17700).

On May 20, 1994, the MBHES issued a Board Order approving the Columbia Falls PM_{10} contingency measures. The related regulation, and the May 20, 1994, Board Order were submitted to EPA in the August 26, 1994 submittal as a revision to the Montana SIP.

The Flathead County Program is in effect now. The State of Montana has a program that will ensure that the contingency measures contained in the Columbia Falls PM_{10} SIP are adequately enforced. EPA believes that the State's and Columbia Falls' existing air enforcement program will be adequate. The TSD for this action contains further information on enforceability requirements, responsibilities, and a discussion of the personnel and funding intended to support effective implementation of the control measures.

3. Deletion of Butte TSP Requirement. 40 CFR 52.1380 contains a conditional approval of a total suspended particulate (TSP) plan for Butte. The condition required that the State submit,

[8] The Clean Air Act calls for attainment by December 31, 1994. Section 188(c)(1). EPA interprets the State's demonstration as providing for attainment of the PM_{10} NAAQS by January 1, 1995. EPA approved the State's demonstration on the basis of the de minimis differential between the two dates.

by February 15, 1981, a revised airborne particulate regulation as specified in its October 4, 1979, submittal to EPA. Since the time that this requirement was put in place, EPA has revised the particulate matter standard to be based on PM_{10} rather than TSP. Furthermore, Montana has submitted and EPA approved a SIP revision providing for attainment and maintenance of the PM_{10} NAAQS for the Butte moderate PM_{10} nonattainment area (March 11, 1994, 59 FR 11550). Thus, since TSP is no longer the regulated form of particulate matter and has been replaced by PM_{10}, and since Montana has a federally approved SIP meeting all requirements of the CAA for the Butte PM_{10} nonattainment area, EPA finds 40 CFR 52.1380 obsolete and is deleting the section.

III. Final Action

EPA is approving Montana's Kalispell SIP revision submitted on November 25, 1991 with additional submittals, critical to the Kalispell SIP, made on January 11, 1994, August 26, 1994, and July 18, 1995. These submittals address PM_{10} requirements which were due on November 15, 1991. Among other things, the State of Montana has demonstrated that the Kalispell moderate PM_{10} nonattainment area will attain the PM_{10} NAAQS by December 31, 1994. EPA is also approving the Flathead County Air Pollution Control Program submitted on November 25, 1991 and resubmitted on August 26, 1994. In addition, EPA is approving Montana's SIP revisions for Kalispell and Columbia Falls which address PM_{10} contingency measure plans, which were due on November 15, 1993. The plan for the Kalispell PM_{10} nonattainment area was submitted by the Governor with a letter dated August 26, 1994 with additional materials submitted on July 18, 1995. The plan for the Columbia Falls PM_{10} nonattainment area was submitted by the Governor with a letter dated August 26, 1994. This submittal also included minor revisions to the attainment and maintenance demonstrations for Columbia Falls.

EPA is publishing this action without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in a separate document in this Federal Register publication, EPA is proposing to approve the SIP revision should adverse or critical comments be submitted. Under the procedures established in the May 10, 1994 Federal Register (59 FR 24054), this action will be effective May 20, 1996 unless, within 30 days of its publication, adverse or critical comments are received.

If such comments are received, this action will be withdrawn before the effective date by publishing a subsequent document that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on this action serving as a proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this action will be effective on May 20, 1996.

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

IV. Regulatory Flexibility

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

Approvals of SIP submittals under section 110 and subchapter I, part D of the Clean Air Act do not create any new requirements, but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP-approval does not impose any new requirements, I certify that it does not have a significant impact on small entities. Moreover, due to the nature of the Federal-state relationship under the Clean Air Act, preparation of a regulatory flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S. E.P.A.*, 427 U.S. 246, 256–66 (1976); 42 U.S.C. 7410(a)(2).

V. Petition Language

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by May 20, 1996. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review must be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements (see section 307(b)(2)).

VI. Executive Order (EO) 12866

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

VII. Unfunded Mandates

Under Sections 202, 203, and 205 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), signed into law on March 22, 1995, EPA must undertake various actions in association with proposed or final rules that include a Federal mandate that may result in estimated costs of $100 million or more to the private sector, or to State, local, or tribal governments in the aggregate.

Through submission of this state implementation plan or plan revision, the State and any affected local or tribal governments have elected to adopt the program provided for under Section 110 and subchapter I, part D, of the Clean Air Act. These rules may bind State, local and tribal governments to perform certain actions and also require the private sector to perform certain duties. The rules being approved by this action will impose no new requirements; such sources are already subject to these regulations under State law. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action. EPA has also determined that this final action does not include a mandate that may result in estimated costs of $100 million or more to State, local, or tribal governments in the aggregate or to the private sector.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Particulate matter, Reporting and recordkeeping requirements, Sulfur dioxide, and Volatile organic compounds.

Dated: September 29, 1995.

Jack W. McGraw,

Acting Regional Administrator.

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

PART 52—[AMENDED]

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

Authority: 42 U.S.C. 7401–7671q.

Subpart BB—Montana

2. Section 52.1370 is amended by adding paragraph (c)(40) to read as follows:

§ 52.1370 Identification of plan.

* * * * *

(c) * * *

(40) The Governor of Montana submitted a PM_{10} plan for Kalispell, Montana in a letter dated November 25, 1991. The Governor of Montana later submitted additional materials in letters dated January 11, 1994, August 26, 1994, and July 18, 1995. The August 26, 1994, and July 18, 1995 submittals also contain the Kalispell Contingency Measure Plan. The August 26, 1994, submittal also contains the Columbia Falls PM_{10} contingency measures and minor revisions to the attainment and maintenance demonstrations for the moderate PM_{10} nonattainment area SIP for Columbia Falls. Finally, the August 26, 1994, submittal contains revisions to the Flathead County Air Pollution Control Program regulations.

(i) Incorporation by reference.

(A) Stipulations signed September 15, 1993 between the Montana Department of Health and Environmental Sciences and the following industries: A–1 Paving; Equity Supply Company; Flathead Road Dept. (two stipulations issued); Klingler Lumber Co.; McElroy and Wilkins; and Montana Mokko.

(B) Stipulations signed September 17, 1993 between the Montana Department of Health and Environmental Sciences and the following industries: Pack and Company, Inc.; Pack Concrete; and Plum Creek Inc. (Evergreen).

(C) Board Order issued on September 17, 1993, by the Montana Board of Health and Environmental Sciences enforcing emissions limitations specified by stipulations signed by both the Montana Department of Health and Environmental Services and participating facilities. The participating facilities included: A–1 Paving; Equity Supply Company; Flathead Road Dept. (two stipulations issued); Klingler Lumber Co.; McElroy and Wilkins; Montana Mokko; Pack and Company, Inc.; Pack Concrete; and Plum Creek Inc. (Evergreen).

(D) Flathead County Board of Commissioners Resolution No. 867B, dated April 4, 1994, adopting the Flathead County Air Pollution Control Program.

(E) Board Order issued May 20, 1994, by the Montana Board of Health and Environmental Sciences approving the Flathead County Air Pollution Control Program.

(F) Flathead County Air Pollution Control Program, including all regulations found in Chapter VIII, Sub-Chapters 1–6, effective May 20, 1994.

(ii) Additional material.

(A) Montana Smoke Management Plan, effective April 28, 1988, which addresses prescribed burning requirements.

(B) Federal tailpipe standards, which provide an ongoing benefit due to fleet turnover.

§ 52.1380 [Removed and reserved]

3. Section 52.1380 is removed and reserved.

[FR Doc. 96–6004 Filed 3–18–96; 8:45 am]

BILLING CODE 6560–50–P

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40 CFR Part 52

[VA 0054–5006b; FRL–5441–2]

Approval and Promulgation of Air Quality Implementation Plans; Virginia; Interim Final Determination that the Richmond, Virginia Ozone Nonattainment Area is Exempt From NO_X RACT Requirements for Purposes of Staying Sanctions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Interim final rule.

SUMMARY: Elsewhere in today's Federal Register, EPA has published a notice of proposed rulemaking proposing approval of the Commonwealth of Virginia's petition to exempt the Richmond ozone nonattainment area from the nitrogen oxides (NO_X) reasonably available control technology (RACT) requirement under section 182(f) of the Clean Air Act (Act). Based on the proposed approval, EPA is making an interim final determination by this action that, with respect to the NO_X RACT requirement, the State, contingent upon continued monitoring of attainment of the ozone national ambient air quality standard (NAAQS), has corrected the deficiency which was the basis for the sanctions clock . This action will stay the application of the offset sanction which was imposed January 8, 1996 and, if final action is not taken by July 8, 1996, defer the application of the highway sanction. Although this action is effective upon publication, EPA will take comment on this interim final determination as well as EPA's proposed approval of the State's submittal. EPA will publish a final action taking into consideration any comments received on EPA's proposed action and this interim final action.

EFFECTIVE DATE. March 19, 1996.

Comment date. Comments must be received by April 18, 1996.

ADDRESSES: Comments should be sent to Marcia L. Spink, Associate Director, Air Programs, (3AT00), Air, Radiation and Toxics Division, U.S. EPA Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19103. The state submittal and EPA's analysis for that submittal, which are the basis for this action, are available for public review at the above address.

FOR FURTHER INFORMATION CONTACT: Christopher H. Cripps, (215) 597–0545, at the EPA Region III address above or via e-mail at cripps.christopher@epamail.epa.gov. While information may be requested via e-mail, comments must be submitted in writing to the EPA Region III address above.

SUPPLEMENTARY INFORMATION:

I. Background

On July 8, 1994, EPA sent a letter to the Governor of Virginia stating that, under section 179 of the Act, EPA made a finding that Virginia failed to submit a state implementation plan (SIP) revision for NO_X RACT. This finding commenced the sanctions process outlined by section 179. The two to one (2:1) offset sanction has been in effect in the Richmond ozone nonattainment area as of January 8, 1996 as a result of the July 8, 1994 finding of failure to submit. On December 18, 1995, the Director of the Virginia Department of Environmental Quality (VA DEQ) submitted on behalf of the Commonwealth of Virginia a petition pursuant to section 182(f) of the Act to exempt the Richmond moderate ozone nonattainment area from the NO_X RACT requirement. The petition is based upon ambient air monitoring data for 1993, 1994 and 1995 ozone seasons which shows that the Richmond ozone nonattainment area is meeting the ozone NAAQS. This petition could not be submitted until the monitoring data for the entire 1995 ozone season was quality assured under the procedures of 40 CFR Part 58 and recorded in the EPA's Aerometric Information Retrieval System (AIRS). In the Proposed Rules

section of today's Federal Register, EPA has proposed approval of this petition contingent upon continued monitoring of attainment of the ozone NAAQS in the Richmond ozone nonattainment area.

II. EPA Action

Based on the proposed approval set forth in today's Federal Register, EPA believes that it is more likely than not that the State is eligible for an exemption from the NO_X RACT requirement, under section 182(f) and, therefore, is no longer subject to the requirement for which the July 8, 1994 finding of failure to submit was issued. Therefore, EPA is making this interim final determination finding that the State, contingent on continued monitored attainment of the ozone NAAQS, has corrected the deficiency of failing to submit NO_X RACT rules. This action shall be effective on publication pursuant to 5 U.S.C. 553(d)(1). This action does not stop the sanction clock that started under section 179 for this area on July 8, 1994. However, this action will stay the application of the offset sanction and, if necessary, will defer the application of the highway sanction. *See* 59 FR 39832 (August 4, 1994) to be codified at 40 CFR 52.31. If EPA's final action fully approves the December 18, 1995 exemption petition, such action will stay and defer sanctions for the duration of the exemption.

Today EPA is also providing the public with an opportunity to comment on this interim final determination. If, based on any comments on this action and any comments on EPA's proposed approval of the NO_X waiver petition, EPA determines that the petition is not approvable and this final action is inappropriate, EPA will take further action to disapprove the petition and to find that the Richmond ozone nonattainment area is not eligible for an exemption from NO_X RACT. If EPA's proposed approval of the NO_X exemption petition is reversed, then sanctions would be applied or re-applied at the time of a final action disapproving the NO_X exemption petition (or, if action is re-proposed, at the time of the proposed disapproval). Regardless of EPA's final action on the NO_X exemption petition, the July 8, 1994 finding of failure to submit still may be corrected by submittal of a NO_X RACT SIP for the Richmond ozone nonattainment area that meets the completeness criteria of section 110(k). See 59 FR 39832 (August 4, 1994). A finding of completeness for such a submittal would stop the sanctions clock.

III. Administrative Requirements

Because EPA has preliminarily determined that the December 18, 1995 petition under section 182(f) is approvable, relief from sanctions should be provided as quickly as possible. Therefore, EPA is invoking the good cause exception under the Administrative Procedure Act (APA) in not providing an opportunity for comment before this action takes effect.[1] 5 U.S.C. 553(b)(B). The EPA believes that notice-and-comment rulemaking before the effective date of this action is impracticable and contrary to the public interest. The EPA has reviewed the December 18, 1995 NO_X exemption petition and, through its proposed action, is indicating that it is more likely than not that the State, contingent upon continued monitored attainment of the ozone NAAQS, has corrected the deficiency of failing to submit a NO_X RACT SIP. Therefore, it is not in the public interest to initially apply sanctions or to keep applied sanctions in place when the State has most likely done all that it can to correct the deficiency that triggered the sanctions clock. Moreover, it would be impracticable to go through notice-and-comment rulemaking on a finding that the State has corrected the deficiency prior to the rulemaking approving the December 18, 1995 NO_X exemption petition. Therefore, EPA believes that it is necessary to use the interim final rulemaking process to stay or defer sanctions while EPA completes its rulemaking process on the approvability of the petition. In addition, EPA is invoking the good cause exception to the 30-day notice requirement of the APA because the purpose of this document is to relieve a restriction. See 5 U.S.C. 553(d)(1).

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

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

[1] As previously noted, however, by this action EPA is providing the public with a chance to comment on EPA's determination after the effective date and EPA will consider any comments received in determining whether to reverse such action.

This action, pertaining to the interim final determination of the Commonwealth of Virginia's December 18, 1995 petition for an exemption from NO_X RACT under section 182(f), temporarily relieves sources of an additional burden potentially placed on them by the sanction provisions of the Act. Therefore, I certify that it does not have an impact on any small entities.

List of Subjects in 40 CFR Part 52

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

Authority: 42 U.S.C. 7401–7671q.
Dated: March 7, 1996.

Stanley L. Laskowski,
Acting Regional Administrator, Region III.

[FR Doc. 96–6464 Filed 3–18–96; 8:45 am]
BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Chapter I

[FCC 96–37]

International Accounting Rates Reform

AGENCY: Federal Communications Commission.

ACTION: Final rule; policy statement.

SUMMARY: On January 31, 1996, the Federal Communications Commission adopted a Policy Statement (FCC 96–37) which sets forth a shift in its policies on international accounting rates. With these changes the Commission seeks to encourage competition in the U.S. market for global telecommunications services and technological innovation.

EFFECTIVE DATE: March 19, 1996.

FOR FURTHER INFORMATION CONTACT: Maureen C. McLaughlin, Attorney-Advisor, Policy and Facilities Branch, Telecommunications Division, International Bureau, (202) 418–1470.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Policy Statement adopted and released on January 31, 1996. The full text of this Policy Statement is available for inspection and copying during normal business hours in the FCC's International Bureau's Public Reference Center, Room 102 of the Federal Communications Commission, 2000 M Street, N.W., Washington, D.C. 20554.

In light of this Policy Statement, the Commission also released a Public Notice wherein requested the submission of supplemental comments

and reply comments. (FCC Public Notice, DA 96–105, released January 31, 1996.) (In response to requests for extension of time, the Commission subsequently revised the supplemental comment and reply period. (FCC Public Notice DA 96–177 and FCC Public Notice DA 96–291, published elsewhere in this issue.)) In the Public Notice, the Commission requested that these supplemental comments should be filed in CC Docket No. 90–337, Phase II, In the Matter of Regulation of International Accounting Rates (Second Further Notice of Proposed Rulemaking) (58 FR 3522, Jan. 11, 1993).

Summary of Policy Statement

1. With this Policy Statement the Commission introduces flexibility into its approach to the regulation of international accounting rates. Specifically, the Commission is refocusing its regulatory approach to accounting rates in three ways:

2. First, it will increase regulatory support for new services that increase competitive pressure in the international market.

3. Second, it plans to tailor its accounting rates policies to reflect different market conditions such as: 1) monopoly or highly concentrated markets, 2) effectively competitive markets, and 3) developing countries' markets. In countries where a monopoly supplier, or supplier with significant market power, provides telecommunications services, the Commission will strengthen its existing accounting rates policies to encourage lower accounting rates. In countries with effective competition, the Commission will give U.S. carriers the flexibility to negotiate alternative settlement arrangements, even if they require a waiver of traditional Commission accounting rate policies. The Commission will also explore mechanisms specifically designed to assist developing countries during the transition to more competitive markets and lower accounting rates.

4. Finally it plans to restructure the benchmarks by which it measures progress in this area and will invite carriers to identify those foreign administrations most reluctant to lower accounting rates.

Ordering Clause

1. It is ordered that, pursuant to Sections 1, 4, 201–205, 211, 215, 218–220, and 303 of the Communications Act of 1934, as amended, 47 U.S.C. Sections 151, 154, 201–205, 211, 215, 218–220, and 303, this Policy Statement is Adopted, and March 19, 1996.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 96–5188 Filed 3–18–96; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 620

[Docket No. 960126016–6070–02; I.D. 012696C]

RIN 0648–XX41

General Provisions for Domestic Fisheries; Amendment to Temporary Closure of Block Island to Some Fishing Gear Activity

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

ACTION: Emergency interim rule; amendment.

SUMMARY: In response to a request from the State of Rhode Island, NMFS has determined that it is necessary to modify the emergency interim rule that closed a portion of Federal waters off the coast of the State of Rhode Island, in Block Island Sound to protect public health, safety, and welfare. This action expands by approximately 28 square miles (73 square kilometers [km]) the area in which fishing for, landing, or possessing benthic crustaceans and mollusks, including but not limited to lobsters, clams, and crabs, is prohibited. Accordingly, the use and operation of lobster traps, trawl and dredge gear designed or used for fishing on the ocean bottom or any other gear designed for harvesting benthic crustaceans and mollusks is prohibited in the same area. This action also rescinds the prohibition on possessing, landing, or fishing for finfish, including squid, in the area with gear other than bottom trawl and dredge gear.

EFFECTIVE DATE: March 13, 1996, through May 1, 1996.

FOR FURTHER INFORMATION CONTACT: Regina L. Spallone at (508) 281–9221.

SUPPLEMENTARY INFORMATION: On January 19, 1996, an oil barge grounded and spilled more than 800,000 gallons (3.0 million liters) of heating oil into the waters of Block Island Sound, RI. On January 26, 1996, NMFS, at the request of and in conjunction with the State of Rhode Island, prohibited the harvest of seafood from an area of approximately 250 square miles (647 square km) in Block Island Sound. The original area of closure was announced and defined in an emergency interim rule published in the Federal Register on February 1, 1996 (61 FR 3602).

Since the original closure became effective, state and Federal agencies have been testing the water, marine life, and sediment in and around the closed area for contamination. Seafood species have been subjected to inspection by sensory experts and chemical analysis.

In a portion of those lobsters and shellfish subjected to the tests, inspectors have discovered indications of oil adulteration. Some of the contaminated lobsters were taken from sites south of the established closure area. NMFS, therefore, at the request and recommendation of the state, is expanding the area in which fishing for and landing lobsters, clams, and crabs is prohibited. The enlarged area encompasses the sites to the south and east of Block Island where contaminated lobsters were collected. The area includes approximately 28 square miles of Federal waters. The coordinates of the full closed area are described in the rule text below.

Accordingly, this action prohibits the use and operation of fishing gear that has been determined most likely to take significant numbers of benthic crustaceans and mollusks, including but not limited to lobsters, clams, and crabs, in the expanded closed area. The following gear types fall into this category: Lobster traps, bottom trawl gear, and dredge gear. The following gear types have been determined not to take significant numbers of benthic crustaceans and mollusks and are exempted from this prohibition: Hook and line gear, mid-water trawls, weirs, purse seine gear, and sink gillnets. Recovery of gear previously deployed in the closed area in the exclusive economic zone is allowed if the fisher registers and complies fully with the State's gear retrieval program under the Department of Environmental Management. This action prohibits the new deployment of lobster traps in the area. Gear deployed prior to the closure and left in the area for the duration of the closure would not be in violation of this rule. Transit through the closed area and possession of benthic crustaceans and mollusks captured outside the area is allowed, provided that all fishing gear is stowed and unavailable for immediate use.

Finfish testing has indicated that the consumption of finfish does not pose a risk to human health. Therefore, NMFS, at the request and recommendation of the State of Rhode Island, is modifying

the closure to allow fishing for finfish except by bottom trawl or dredge.

The full extent of the ecological damage caused by the oil spill still is not known. The emergency nature of the adverse environmental condition created by the presence of oil in the area renders prior notice and opportunity to comment on a proposed closure contrary to the public interest. Consequently, the emergency action authority vested in NMFS, on behalf of the Secretary of Commerce (Secretary), under section 305(c) of the Magnuson Fishery Conservation and Management Act, 16 U.S.C. 1855(c) is invoked to make the closure effective immediately.

This action will remain in effect from March 13, 1996, through May 1, 1996, unless circumstances change. An extension of the closure, if warranted, is possible for an additional 90 days under the Secretary's emergency rulemaking authority. The New England Fishery Management Council was informed of this action and has concurred with the implementation of additional measures, including an extension of the present closure, so long as such measures complement the State's regulations and are implemented at the State's request.

In a separate action, the areas discussed above will be closed to gillnetting, March 1 - March 31, 1996, as part of a larger area closure for the protection of migrating harbor porpoise, under Framework Adjustment 14 to the Northeast Multispecies Fishery Management Plan. Under the Framework Adjustment, gillnetters will not be allowed to operate in the closed area unless they elect to comply with protocols for an experimental fishery. The rules set forth below in no way amend the actions related to Framework Adjustment 14.

Classification

The Assistant Administrator for Fisheries, NOAA (AA), has determined that this rule is necessary to respond to an emergency situation and is consistent with the Magnuson Act and other applicable law.

The AA finds that failure to implement the actions in this rule that close additional areas to fishing for benthic crustaceans and mollusks could result in serious risk to public safety and human health. The foregoing constitutes good cause to waive the requirement to provide prior notice and the opportunity for public comment, pursuant to authority set forth at 5 U.S.C. 553(b)(B), as such procedures would be contrary to the public interest. Similarly, the need to implement these measures in a timely manner to address public safety, health, and welfare constitutes a good cause under 5 U.S.C. 553(d)(3) to waive the 30-day delay in effectiveness.

Testing has determined that consumption of finfish doesn't pose a threat to human health. Finfish fishermen would suffer severe economic hardship unnecessarily if the current prohibition were to remain in effect. As such, the AA finds that the foregoing constitutes good cause to waive the requirement to provide prior notice and the opportunity for public comment, pursuant to authority set forth at 5 U.S.C. 553(b)(B), as such procedures would be contrary to the public interest. Further, as this provision relieves a restriction, it is made effective immediately pursuant to authority at 5 U.S.C. 553(d)(1).

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

This emergency rule is exempt from the procedures of the Regulatory Flexibility Act because this rule is not required to be issued with prior notice and opportunity for public comment.

List of Subjects in 50 CFR Part 620

Fisheries, Fishing.

Dated: March 13, 1996.

Gary Matlock,

Program Management Officer, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 620 is amended as follows:

PART 620—GENERAL PROVISIONS FOR DOMESTIC FISHERIES

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

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

2. Section 620.7, paragraph (i) is revised and paragraphs (j) and (k) are added to read as follows:

§ 620.7 General prohibitions.

* * * * *

(i) Fish for in, or possess or land benthic crustaceans and mollusks, including but not limited to American lobsters, rock crabs, red crabs, blue crabs, jonah crabs, surf clams, ocean quahogs, sea scallops, mussels, periwinkles, and oysters from the Federal waters of Block Island Sound bounded as follows: From the point where LORAN line 25740 intersects with the 3–nautical mile (6–km) line south of Easton Point, RI, proceeding southwesterly along the 25740 line to its intersection with the 14470 line, thence south-southeasterly along the 14470 line to its intersection with the 43840 line, thence southwesterly along the 43840 line to its intersection with 14540 line, thence northwesterly along the 14540 line to its intersection with the 3–nautical mile (6–km) line south of Block Island, RI, thence northeasterly and along said 3–nautical mile (6–km) line to the northern intersection of the 3–nautical mile (6–km) line and the 14540 line, thence northwesterly along the 14540 line to the intersection of the 3–nautical mile (6–km) line, thence northeasterly along the 3–nautical mile (6–km) line to the starting point.

(j) Unless exempted in this paragraph, to deploy, use, fish with or operate lobster traps, trawl or dredge gear designed or used for fishing on the ocean bottom, or any other gear designed for or capable of catching benthic mollusks or crustaceans, in the area described in § 620(i). Hook and line gear, mid-water trawls, weirs, purse seine gear and sink gillnets are specifically exempted from this prohibition. Recovery of trap gear from the closed area is specifically exempted from this prohibition if the owner/fisher of said gear registers and complies fully with the State of Rhode Island Department of Environmental Management's gear retrieval program.

(k) Transit the area described in parargraph (i) of this section, unless all prohibited fishing gear is stowed and unavailable for immediate use in accordance with 50 CFR 625.24(f), 650.21(a)(2)(iii), and 651.20(c)(4)(i).

[FR Doc. 96–6493 Filed 3–13–96; 5:04 pm]

BILLING CODE 3510–22–F

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50 CFR Part 675

[Docket No. 950727194–6005–02; I.D. 062795C]

Groundfish of the Gulf of Alaska; Groundfish Fishery of the Bering Sea and Aleutian Islands Area; Consolidation of Regulations Including Recordkeeping and Reporting Requirements; Correction

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

ACTION: Correction to final regulations.

SUMMARY: This document contains corrections to final regulations (I.D. 062795C) which were published Tuesday, February 13, 1996 (61 FR 5608). The regulations related to recordkeeping and reporting information for groundfish of the Bering Sea and Aleutian Islands area.

EFFECTIVE DATE: March 19, 1996.

FOR FURTHER INFORMATION CONTACT: Patsy Bearden, 907–586–7228.

SUPPLEMENTARY INFORMATION:

Background

The final regulations that are the subject of this correction consolidated several sections of regulations in parts 672 and 675, corrected errors, clarified vague text, removed outdated requirements, as well as simplified and streamlined the remaining regulations, including the recordkeeping and reporting requirements.

Need for Correction

As published, the final regulations contain a change that should not have been.

Correction of Publication

Accordingly, the publication on February 13, 1996, of the final regulations (I.D. 062795C), which was the subject of FR Doc. 96–2574, is corrected as follows:

On page 5642, in the first column, in § 675.7, paragraph (m) is corrected to read as follows:

§ 675.7 Prohibitions.

* * * * *

(m) With respect to halibut caught with hook-and-line gear deployed from a vessel fishing for groundfish, except for vessels fishing for Pacific halibut in accordance with part 301 of this title—

(1) Fail to release the halibut outboard a vessel's rails;

(2) Release the halibut by any method other than;

(i) Cutting the gangion;

(ii) Positioning the gaff on the hook and twisting the hook from the halibut; or

(iii) Straightening the hook by using the gaff to catch the bend of the hook and bracing the gaff against the vessel or any gear attached to the vessel;

(3) Puncture the halibut with a gaff or other device; or

(4) Allow the halibut to contact the vessel, if such contact causes, or is capable of causing, the halibut to be stripped from the hook.

* * * * *

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

Dated: March 12, 1996.

Gary Matlock,

Program Management Officer, National Marine Fisheries Service.

[FR Doc. 96–6395 Filed 3–18–96; 8:45 am]

BILLING CODE 3510–22–F

Proposed Rules

Federal Register
Vol. 61, No. 54
Tuesday, March 19, 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.

NATIONAL LABOR RELATIONS BOARD

29 CFR Part 102

Rules and Procedures for the Implementation of Communications Workers v. Beck, 487 U.S. 735 (1988)

AGENCY: National Labor Relations Board.

ACTION: Withdrawal of proposed rulemaking.

SUMMARY: The NLRB is withdrawing the Notice of Proposed Rulemaking which was published in the Federal Register on September 22, 1992 (57 FR 43635). The notice proposed certain rules and procedures for the implementation of the U.S. Supreme Court's decision in *Communications Workers* v. *Beck*, 487 U.S. 735 (1988), and invited public comment on the proposals. The Board, however, has since addressed many of the issues addressed in the notice of proposed rulemaking in its recent decision in *California Saw and Knife Works*, 320 NLRB No. 11 (December 20, 1995), and in *United Paperworkers (Weyerhaeuser Paper Co.)*, 320 NLRB No. 12 (December 20, 1995), and there are several additional cases currently pending before the Board which will afford the Board the opportunity to address many, if not all, of the remaining issues that are addressed in the notice of proposed rulemaking. It is the Board's belief that those issues may now be more expeditiously resolved in those cases than in the rulemaking proceeding. Accordingly, the Board has decided to withdraw the proposed rulemaking from active consideration and to address, on a case-by-case basis through its adjudicatory procedures, the issues raised following the Supreme Court's *Beck* decision.

DATES: The withdrawal of proposed rulemaking is effective March 19, 1996.

FOR FURTHER INFORMATION CONTACT: John J. Toner, Executive Secretary, Office of the Executive Secretary, National Labor Relations Board, 1099 14th Street NW., Room 11600, Washington, D.C. 20570. Telephone: (202) 273–1940.

Dated: Washington, D.C., March 12, 1996.

By direction of the Board.

John J. Toner,

Executive Secretary.

[FR Doc. 96–6487 Filed 3–18–96; 8:45 am]

BILLING CODE 7545–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[TN 130–1–9601b; TN 116–1–9602b; TN 114–1–9603b; FRL–5346–1]

Approval and Promulgation of Implementation Plans Tennessee: Approval of Revisions to the Tennessee State Implementation Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve revisions to the Tennessee State Implementation Plan (SIP) submitted on June 21, 1993, and June 22, 1993, by the State of Tennessee, through the Tennessee Department of Environment and Conservation (DEC), submitted revisions to the Tennessee State Implementation Plan (SIP). The submittal of June 21, 1993 revises Chapter 1200–3–14 Control of Sulfur Dioxide Emissions and the submittal of June 22, 1993 revises Chapter 1200–3–10 Required Sampling, Recording and Reporting. On December 17, 1993, the Memphis Shelby County Health Department, through the Tennessee DEC, submitted revisions to Section 16–85 of the Memphis Shelby County Portion of the Tennessee SIP which adopt by reference revisions to Chapter 1200–3–10 of the Tennessee SIP. The intended effect of this revision is to clarify certain provisions and ensure consistency with the Clean Air Act.

In the final rules section of this Federal Register, the EPA is approving the State's SIP revision as a direct final rule without prior proposal because the EPA views this as a noncontroversial revision amendment and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this proposed rule, no further activity is contemplated in relation to this proposed rule. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. The EPA will not institute a second comment period on this document. Any parties interested in commenting on this document should do so at this time.

DATES: To be considered, comments must be received by April 18, 1996.

ADDRESSES: Written comments on this action should be addressed to Mr. Scott M. Martin at the EPA Regional Office listed below.

Copies of the documents relative to this action are available for public inspection during normal business hours at the following locations. The interested persons wanting to examine these documents should make an appointment with the appropriate office at least 24 hours before the visiting day.

Air and Radiation Docket and Information Center (Air Docket 6102), U.S. Environmental Protection Agency, 443, 401 M Street SW., Washington DC 20460.

Environmental Protection Agency, Region 4 Air Programs Branch, 345 Courtland Street NE., Atlanta, Georgia 30365.

Tennessee Department of Environment and Conservation, Division of Air Pollution Control, 9th Floor L & C Annex, 401 Church Street, Nashville, Tennessee 37243–1531.

Memphis and Shelby County Health Department, 814 Jefferson Avenue, Memphis, Tennessee 38105.

FOR FURTHER INFORMATION CONTACT: Mr. Scott M. Martin, Regulatory Planning and Development Section, Air Programs Branch, Air, Pesticides, and Toxics Management Division, Region 4 Environmental Protection Agency, 345 Courtland Street, Atlanta, Georgia 30365. The telephone number is 404/347–3555, extension 4216.

SUPPLEMENTARY INFORMATION: For additional information see the direct final rule which is published in the rules section of this Federal Register.

Dated: December 4, 1995.

Patrick M. Tobin,

Acting Regional Administrator.

[FR Doc. 96–6001 Filed 3–18–96; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Part 52

[AL–042–1–9614b, AL–043–1–9613b; FRL–5427–1]

Approval and Promulgation of Implementation Plans Alabama: Revision to the Alabama Department of Environmental Management Administrative Code for the Air Pollution Control Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA proposes to approve the State implementation plan (SIP) revision submitted by the State of Alabama through the Department of Environmental Management on December 14, 1995, the State of Alabama through the Department of Environmental Management (ADEM) submitted a revision to the SIP submittal to amend the ADEM Administrative Code for the Air Pollution Control Program. The purpose of this submittal is to revise the definition of Volatile Organic Compound (VOC) in Chapter 335–3–1—General Provisions—Section 335–3–1–.02 (gggg), to ensure that the state regulation is consistent with the federal rule. In the final rules section of this Federal Register, the EPA is approving the State of Alabama's SIP revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial revision amendment and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to that direct final rule, no further activity is contemplated in relation to this proposed rule. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. The EPA will not institute a second comment period on this document. Any parties interested in commenting on this document should do so at this time.

DATES: To be considered, comments must be received by April 18, 1996.

ADDRESSES: Written comments on this action should be addressed to Kimberly Bingham, at the EPA Regional Office listed below. Copies of the documents relative to this action are available for public inspection during normal business hours at the following locations. The interested persons wanting to examine these documents should make an appointment with the appropriate office at least 24 hours before the visiting day.

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

Environmental Protection Agency, Region IV, Air Programs Branch, 345 Courtland Street NE., Atlanta, GA 30365

Alabama Department of Environmental Management, 1751 Congressman W.L. Dickinson Drive, Montgomery, Alabama 36109.

FOR FURTHER INFORMATION CONTACT: Kimberly Bingham or Scott Martin of the EPA Region IV Air Programs Branch at (404) 347–3555 extension 4195 and at the above address.

SUPPLEMENTARY INFORMATION: For additional information see the direct final rule which is published in the rules section of this Federal Register.

Dated: February 6, 1996.

Phyllis P. Harris,

Acting Regional Administrator.

[FR Doc. 96–6010 Filed 3–18–96; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Part 52

[IL124–1–6977b; FRL–5435–7]

Approval and Promulgation of State Implementation Plan; Illinois; Clean Fuel Fleet Program

AGENCY: Environmental Protection Agency (USEPA).

ACTION: Proposed rule.

SUMMARY: USEPA is proposing to approve a revision to the Illinois State Implementation Plan (SIP) for the purpose of establishing a Clean-Fuel Fleet Program. Illinois submitted the SIP revision request on September 29, 1995, to satisfy a federal mandate, found in the Clean Air Act, requiring certain states to establish Clean-Fuel Fleet Programs. This revision establishes and requires the implementation of a Clean-Fuel Fleet Program in the Chicago ozone nonattainment area. In the final rules section of this Federal Register, the USEPA is approving this action as a direct final rule without prior proposal because USEPA views this as a noncontroversial action and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to that direct final rule, no further activity is contemplated in relation to this proposed rule. If USEPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on the proposed rule. USEPA will not institute a second comment period on this action. Any parties interested in commenting on this notice should do so at this time.

DATES: Comments on this proposed rule must be received on or before April 18, 1996.

ADDRESSES: Written comments should be mailed to: J. Elmer Bortzer, Chief, Regulation Development Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604.

Copies of the State submittal and USEPA's analysis of it are available for inspection at: Regulation Development Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Francisco Acevedo, Regulation Development Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886–6061.

SUPPLEMENTARY INFORMATION: For additional information see the direct final rule published in the rules section of this Federal Register.

Dated: February 15, 1996.

David A. Ullrich,

Acting Regional Administrator.

[FR Doc. 96–6008 Filed 3–18–96; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Part 52

[IN56–1–7077b; FRL–5426–5]

Approval and Promulgation of Air Quality Implementation Plans; Indiana; Vehicle Inspection and Maintenance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The U.S. Environmental Protection Agency (USEPA) is proposing to approve a state implementation plan (SIP) revision submitted on June 6, 1995 and September 28, 1995, by the Indiana Department of Environmental Management (IDEM). This revision provides for the adoption and implementation of an enhanced motor vehicle emission inspection and maintenance (I/M) program in the areas of Lake, Porter, Clark, and Floyd Counties. The Lake and Porter County area is designated severe nonattainment for ozone and is required to implement

an enhanced I/M program. The Clark and Floyd County area is designated moderate nonattainment for ozone and has opted to implement enhanced I/M. These areas are required to attain the National Ambient Air Quality Standards as specified by the Clean Air Act by 2007 and 1996 respectively. In the final rules section of this Federal Register, the USEPA is approving this action as a direct final rule without prior proposal because USEPA views this as a noncontroversial action and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to that direct final rule, no further activity is contemplated in relation to this proposed rule. If USEPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on the proposed rule. USEPA will not institute a second comment period on this action. Any parties interested in commenting on this document should do so at this time.

DATES: Comments on this proposed rule must be received on or before April 18, 1996.

ADDRESSES: Written comments should be mailed to: J. Elmer Bortzer, Chief, Regulation Development Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604.

Copies of the State submittal and USEPA's analysis of it are available for inspection at:

Regulation Development Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Francisco Acevedo, Regulation Development Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886–6061.

SUPPLEMENTARY INFORMATION: For additional information see the direct final rule published in the rules section of this Federal Register.

Dated: January 26, 1996.

Valdas V. Adamkus,

Regional Administrator.

[FR Doc. 96–6463 Filed 3–18–96; 8:45 am]

BILLING CODE 6560–50–F

40 CFR Part 52

[CO37–2–6290 (b); FRL–5417–6]

Approval and Promulgation of Air Quality Implementation Plans; Colorado; Basic Motor Vehicle Inspection and Maintenance Program

AGENCY: Environmental Protection Agency (USEPA).

ACTION: Proposed rule.

SUMMARY: The EPA is proposing to approve the State Implementation Plan (SIP) revision submitted by the State of Colorado for the purpose of establishing a basic motor vehicle inspection and maintenance (I/M) program. This revision establishes and requires the implementation of a basic motor vehicle inspection and maintenance (I/M) program in the urbanized areas of El Paso (Colorado Springs), Larimer (Fort Collins), and Weld Counties (Greeley). The intended effect of this action is approval of a basic motor vehicle I/M program. This action is being taken under section 110 of the Clean Air Act. In the Final Rules Section of this Federal Register, the EPA is approving the State's SIP revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial revision amendment and anticipates no adverse comments. The rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this proposed rule, no further activity is contemplated in relation to this rule. If the EPA receives adverse comments, the direct final rule will be withdrawn, and all public comments received during the 30-day comment period set forth below will be addressed in a subsequent final rule based on this proposed rule. Any parties interested in commenting on this action should do so at this time.

DATES: Comments on this proposed rule must be received in writing by April 18, 1996.

ADDRESSES: Written comments should be addressed to: Douglas Skie, Chief, Air Programs Branch (8ART–AP), USEPA Region 8, 999 18th Street, Suite 500, Denver, Colorado 80202–2466. Copies of the documents relevant to this action are available for public inspection during normal business hours at the address listed above. Anyone wanting to view these documents must make an appointment at least 24 hours in advance.

FOR FURTHER INFORMATION CONTACT: Scott P. Lee, Air Programs Branch, State Implementation Plan Section (8ART-AP), USEPA, Region 8, Denver, Colorado 80202, (303) 293–1887.

SUPPLEMENTARY INFORMATION: See the information provided in the Direct Final action of the same title which is located in the Rules Section of this Federal Register.

Dated: September 28, 1995.

Jack W. McGraw,

Acting Regional Administrator (8A).

[FR Doc. 96–6006 Filed 3–18–96; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Part 52

[MT7–1–5487b; MT26–2–6874b; FRL–5439–1]

Clean Air Act Approval and Promulgation of PM_{10} Implementation Plan for Montana

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes to approve the state implementation plan (SIP) for the Kalispell, Montana nonattainment area, the Flathead County Air Pollution Control Program, and a Board Order setting emission limits at nine stationary sources, submitted by the State of Montana with letters dated November 25, 1991, January 11, 1994, August 26, 1994, and July 18, 1995, to achieve attainment of the National Ambient Air Quality Standards (NAAQS) for particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers (PM_{10}). The SIP was submitted to satisfy certain federal Clean Air Act requirements for an approvable moderate nonattainment area PM_{10} SIP for Kalispell. In addition, EPA proposes to approve the SIP revisions submitted on August 26, 1994, and July 18, 1995, to satisfy the Federal Clean Air Act requirement to submit contingency measures for the Kalispell and Columbia Falls moderate PM_{10} nonattainment areas. The Columbia Falls submittal also incorporates minor revisions to the attainment and maintenance demonstrations for the Columbia Falls moderate PM_{10} nonattainment area SIP into the Montana SIP. Since the SIP still adequately demonstrates timely attainment and maintenance of the PM_{10} national ambient air quality standards (NAAQS), EPA proposes to approve these revisions. EPA is also proposing to delete an obsolete section of the Code of Federal Regulations (CFR) which applied to further requirements for the Butte total suspended particulates (TSP) plan.

In the Final Rules Section of the Federal Register, EPA is approving the

State's SIP revisions, as a direct final rule without prior proposal because the Agency views these as noncontroversial revisions and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this proposed rule, no further activity is contemplated in relation to this rule. If EPA receives adverse comments, the direct final will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time.

DATES: Comments on this proposed rule must be received in writing by April 18, 1996.

ADDRESSES: All written comments should be addressed to: Richard R. Long, Director, Air Program, EPA Region VIII, at the address listed below. Information supporting this action can be found at the following location: EPA Region VIII, Air Program 999 18th Street, Denver, Colorado 80202–2466. The information may be inspected between 8 a.m. and 4 p.m., on weekdays, except for legal holidays. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Callie Videtich, Air Program, EPA Region VIII, 999 18th Street, Suite 500, Denver, Colorado 80202–2405, (303) 312–6434.

SUPPLEMENTARY INFORMATION: See the information provided in the Direct Final rule which is located in the Rules Section of this Federal Register.

List of Subjects in 40 CFR Part 52

Environmental Protection, Air pollution control, Hydrocarbons, Intergovernmental relations, Nitrogen dioxide, Particulate matter, Reporting and recordkeeping requirements, Sulfur dioxide, Volatile organic compounds.

Authority: 42 U.S.C. 7401–7671q.

Dated: September 29, 1995.

Jack W. McGraw,

Acting Regional Administrator.

[FR Doc. 96–6003 Filed 3–18–96; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Part 52

[VA 0054–5006a; FRL–5441–1]

Approval and Promulgation of Air Quality Implementation Plans; Richmond, Virginia—NO_X Exemption Petition

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA is proposing to approve a request for an exemption from the oxides of nitrogen (NO_X) reasonably available control technology (RACT) requirement of the Clean Air Act (Act) for the Richmond moderate ozone nonattainment area. The exemption request, submitted by the Commonwealth of Virginia's Department of Environmental Quality, is based upon the most recent three years of ambient air monitoring data which demonstrate that additional reductions of NO_X would not contribute to attainment of the National Ambient Air Quality Standard (NAAQS) for ozone in the area. The intended effect of this action is to propose approval of a request for an exemption from the NO_X RACT requirement for the Richmond moderate ozone nonattainment area. This action is being taken under section 182(f) of the Clean Air Act. Elsewhere in today's Federal Register, EPA has published an interim final determination to stay and defer sanctions for the duration of EPA's rulemaking process on the exemption petition.

DATES: Comments must be received on or before April 18, 1996.

ADDRESSES: Comments may be mailed to Marcia L. Spink, Associate Director, Air Programs, Mailcode 3AT00, U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air, Radiation, and Toxics Division, U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107. Copies of the documents relevant to this action are available for public inspection during normal business hours at the EPA address above.

FOR FURTHER INFORMATION CONTACT: Christopher H. Cripps, (215) 597–0545, at the EPA Region III address above or via e-mail at cripps.christopher@epamail.epa.gov. While information may be requested via e-mail, comments must be submitted in writing to the EPA Region III address above.

SUPPLEMENTARY INFORMATION: On December 18, 1995, the Virginia Department of Environmental Quality requested that the Richmond ozone nonattainment area be exempt from the NO_X RACT requirement of section 182(f) of the Act.

Background

The air quality planning requirements for the reduction of NO_X emissions are set out in section 182(f) of the Act. Section 182(f) of the Act requires states with areas designated nonattainment for ozone and classified as moderate and above to impose the same control requirements for major stationary sources of NO_X as apply to major stationary sources of volatile organic compound (VOC) emissions. Section 182(f) provides further that these NO_X requirements do not apply to areas outside an ozone transport region if EPA determines that additional reductions of NO_X would not contribute to attainment in such areas. In an area that did not implement the section 182(f) NO_X requirements, but did attain the ozone standard as demonstrated by ambient air monitoring data [consistent with 40 CFR Part 58 and recorded in the Aerometric Information Retrieval System (AIRS)], it is clear that the additional NO_X reductions required by section 182(f) did not contribute to attainment of the NAAQS.

On July 8, 1994, EPA notified the Governor of Virginia that the Commonwealth had failed to submit a NO_X RACT SIP revision for the Richmond ozone nonattainment area. This finding commenced the sanctions process outlined by section 179 of the Act as implemented by 40 CFR 52.31. (See 59 FR 39832, August 4, 1994). The two to one (2:1) offset sanction has been in effect in the Richmond ozone nonattainment area as of January 8, 1996 as a result of the July 8, 1994 finding and cannot be lifted until either a NO_X RACT SIP is received by EPA and deemed complete or a NO_X waiver under section 182(f) is granted. In the Final Rules section of today's Federal Register, EPA has published an interim final determination to stay and defer sanctions for the duration of EPA's rulemaking process on the exemption petition.

The Commonwealth of Virginia could have submitted a NO_X RACT regulation to stop the sanction clock resulting from the July 1994 finding since it had started the process to adopt a NO_X RACT regulation for the Richmond ozone nonattainment area. A public hearing was held on August 28, 1995 to amend

the existing NO_X RACT regulation to extend the applicability of Part IV, Rule 4–4 Operations, section 120–04–0408 entitled ''Standard for nitrogen oxides'' to sources with a potential to emit of 100 or more tons per year of NO_X to the Richmond ozone nonattainment area. This amendment to the existing NO_X RACT regulation was not adopted and submitted to EPA.

The criteria established for the evaluation of an exemption request from the section 182(f) requirements are set forth in two EPA memoranda from John S. Seitz, Director of EPA's Office of Air Quality Planning and Standards, issued on May 27, 1994 and February 8, 1995, both entitled, ''Section 182(f) Nitrogen Oxides (NO_X) Exemptions-Revised Process and Criteria'', and an EPA guidance document entitled ''Guidelines for Determining the Applicability of Nitrogen Oxides Requirements Under Section 182(f),'' dated December 1993, from EPA's Office of Air Quality Planning and Standards, Air Quality Management Division.

State Petition

On December 18, 1995, the Commonwealth of Virginia's Department of Environmental Quality submitted a NO_X exemption petition that would exempt the Richmond ozone nonattainment area from the NO_X RACT requirement under section 182(f) of the Act. The exemption request is based upon ambient air monitoring data for 1993, 1994, and 1995, which demonstrate that the NAAQS for ozone has been attained in the area without additional reductions of NO_X.

EPA Analysis of the Petition

An exceedance of the ozone NAAQS occurs when the daily-maximum, hourly ozone value exceeds 0.12 parts per million (ppm). A violation of the ozone NAAQS occurs when the average number of expected exceedances, which is determined by using the procedure of 40 CFR Part 51, Appendix H, is greater than 1.0 at any one ozone monitoring site in the area during a three year period. The Richmond ozone nonattainment area contains four monitors for measuring ambient concentrations of ozone. Information on the monitors and on the number of exceedances for 1993 through 1995 are detailed in the technical support document (TSD). Appendix C of the TSD provides calculations of the estimated number of exceedances for each monitor, as well as the three-year average number of expected exceedances. The sites with the greatest number of expected exceedances for the period from 1993 to 1995 were the monitors located in Charles City County and Hanover County. Both have an annual average exceedance value of 1.0. Three exceedances were recorded at the monitor in Charles City County during 1993, but no exceedances were recorded in either 1994 or 1995. The monitor in Hanover County recorded one exceedance per year for the period from 1993 to 1995. Both the monitor in Charles City County and the monitor in Hanover County have an average, annual number of expected exceedances that does not exceed 1.0. Only one exceedance was recorded during 1995 at the monitor in Henrico County for the period from 1993 to 1995. The monitor in Chesterfield County recorded one exceedance in 1993, none in 1994 and one in 1995. Thus, the Richmond ozone nonattainment area is currently not recording any violations of the air quality standard for ozone.

EPA has reviewed the ambient air monitoring data for ozone submitted by the Commonwealth of Virginia in support of the exemption request and has determined that a violation of the ozone NAAQS has not occurred in the Richmond ozone nonattainment area for the relevant three year period. Because the ambient air data for Richmond adequately demonstrates that the nonattainment area is meeting the ozone NAAQS, and the exemption request for the area meets the applicable criteria contained in the EPA policy and guidance documents referenced above, the petition is approvable.

Once a petition has been granted, but during the period while the area is still designated nonattainment for ozone, the continuation of the section 182(f) exemption is contingent upon continued monitoring that demonstrates continued attainment of the ozone NAAQS in the entire Richmond ozone nonattainment area. If there is a violation of the ozone NAAQS in any portion of the Richmond ozone nonattainment area, the exemption will no longer be applicable as of the date of such determination as provided in a notice in the Federal Register. A determination that the NO_X exemption no longer applies would mean that NO_X requirements would once more be applicable to the affected area. EPA believes some reasonable period of notice is necessary to provide major stationary sources subject to the RACT requirements time to purchase, install, and operate any required controls. Accordingly, the Commonwealth may provide sources a reasonable time period to meet the RACT emission limits after the EPA determination that NO_X RACT requirements are necessary. EPA expects the time period to be as expeditious as practicable, but in no case longer than 24 months.

Sanctions

If EPA takes final action approving the December 18, 1995 exemption petition, then the Richmond ozone nonattainment area would not be subject to the NO_X RACT requirement for the duration of the exemption. Further, approval of the December 18, 1995 exemption petition would stop the application of the offset sanction imposed on January 8, 1996 and defer application of further sanctions contingent on continued attainment of the ozone NAAQS. If, prior to the area being redesignated to attainment, the NO_X exemption is revoked due to a monitored violation of the NAAQS, EPA believes it is appropriate to provide the State a reasonable period of time before the re-application of sanctions would become effective. EPA's notice in the Federal Register of the waiver revocation would address when sanctions would be re-applied.

Other Environmental Effects

While EPA is proposing to waive the requirements to control NO_X emissions in the Richmond ozone nonattainment area on the basis that NO_X emission reductions would not contribute to attainment of the ozone NAAQS in Richmond, EPA recognizes that there are other benefits to controlling NO_X. These benefits include reducing acid deposition, reducing nitrogen deposition in sensitive estuaries, and their watersheds, in particular the Chesapeake Bay, and mitigating ozone nonattainment problems further downwind. The EPA has performed several simulations using the Regional Oxidant Model (ROM) analyzing alternative regional emissions control strategies for the Ozone Transport Commission (OTC). Several of the major findings of these OTC/EPA ROM simulations were: (1) From a regional perspective, NO_X reductions generally provide greater benefits than VOC reductions; (2) combined regional NO_X controls, with urban VOC controls, may be an effective strategy; (3) the controls mandated by the Act are estimated to effectively reduce ozone concentrations, but will be insufficient to achieve the NAAQS throughout the ozone transport region (OTR); and (4) extending NO_X controls to outside of the OTR may have some benefits in reducing ozone concentrations inside the OTR depending on weather conditions.

Maintenance Benefits of NO_X RACT

EPA believes that adoption and implementation of NO_X RACT controls

in the Richmond ozone nonattainment area would assist maintenance of the ozone NAAQS in the Richmond area by compensating for future growth in point, area and mobile source NO_X emissions. Consequently, the Commonwealth of Virginia may choose, at any time, to implement such NO_X controls by adoption and implementation of their NO_X RACT regulation for the Richmond area. Nothing in this notice or approval of the December 18, 1995 exemption petition will preclude the Commonwealth of Virginia from adopting a NO_X RACT regulation for the Richmond area and withdrawing the exemption petition.

Detailed descriptions of the petition addressed in this document, and EPA's evaluation of this petition, are contained in the TSD prepared for this action. Copies of the TSD are available from the EPA Regional office listed in the **ADDRESSES** section of this document.

EPA's review of this material indicates that the Virginia petition meets applicable requirements of the Act and EPA policy. EPA is proposing to approve the exemption from the NO_X requirements discussed herein. EPA is soliciting public comments on the issues discussed in this notice or on other relevant matters. These comments will be considered before taking final action. Interested parties may participate in the Federal rulemaking procedure by submitting written comments to the EPA Regional office listed in the **ADDRESSES** section of this document.

Proposed Action

EPA is proposing approval of Virginia's request to exempt the Richmond moderate ozone nonattainment area from the section 182(f) NO_X RACT requirement. This proposed approval is based upon the evidence provided by Virginia that the criteria outlined in the EPA guidance for section 182(f) exemptions have been met for the Richmond ozone nonattainment area. If a violation of the ozone NAAQS occurs in the Richmond ozone nonattainment area while this area is designated nonattainment for ozone, the exemption from the NO_X RACT requirement under section 182(f) of the Act shall no longer apply.

Final approval of Virginia's NOx exemption petition would stop application of the offset sanction imposed on January 8, 1996 and defer application of future sanctions on the effective date of the waiver approval. Sanctions would then remain stopped or deferred contingent upon continued monitoring that demonstrates continued attainment of the ozone NAAQS in the entire Richmond ozone nonattainment area. If there is a violation of the ozone NAAQS in any portion of the Richmond ozone nonattainment area while this area is designated nonattainment for ozone, the exemption will no longer be applicable as of the date of any such determination. Should this occur, EPA will provide notice both of the waiver revocation and of the date sanctions will re-apply in the Federal Register. A determination that the NOx exemption no longer applies would mean that the NOx requirements become once more applicable to the affected area, that the sanctions would be reinstated, and that deferred sanctions would be imposed on the date originally due or the effective date of the notice, whichever is later.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for NOx exemptions under section 182(f). Each request for an exemption under section 182(f) shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000. Exemptions under section 182(f) do not create any new requirements, but allow suspension of the indicated requirements for the life of the exemptions. Therefore, because the approval does not impose any new requirements, the Administrator certifies that it does not have a significant impact on any small entities affected.

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

EPA has determined that the proposed approval action does not include a Federal mandate that may result in estimated costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. EPA's proposed action will relieve requirements otherwise imposed under the Clean Air Act and, hence does not impose any Federal intergovernmental mandate, as defined in section 101 of the Unfunded Mandates Act. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

This action is not a SIP revision and is not subject to the requirements of section 110 of the Act. The authority to approve or disapprove exemptions from NO_X requirements under section 182 of the Act was delegated to the Regional Administrator from the Administrator in a memo dated July 6, 1994, from Jonathan Cannon, Assistant Administrator, to the Administrator, titled, ''Proposed Delegation of

Authority: Exemptions from Nitrogen Oxide Requirements Under Clean Air Act Section 182(f) and Related Provisions of the Transportation and General Conformity Rules'—Decision Memorandum.''

The EPA's decision to approve or disapprove the Virginia petition to exempt the Richmond ozone nonattainment area from NOx RACT requirements will be based on whether it meets the requirements of section 182(f) of the Clean Air Act.

List of Subjects in 40 CFR Part 52

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

Authority: 42 U.S.C. 7401–7671q.

Dated: March 7, 1996.

Stanley L. Laskowski,

Acting Regional Administrator, Region III.

[FR Doc. 96–6465 Filed 3–18–96; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Chapter I

[CC Docket No. 90–337, DA 96–291]

Regulation of International Accounting Rates

AGENCY: Federal Communications Commission.

ACTION: Proposed Rule.

SUMMARY: On January 31, 1996 the Federal Communications Commission adopted a Policy Statement on international accounting rate reform. In light of that Policy Statement, the Commission released a Public Notice in CC Docket No. 90–337, Phase II, Regulation of International Accounting Rates, Second Further Notice of Proposed Rulemaking, wherein it requested the submission of supplemental comments and reply comments. In response to a request, the Commission released a Public Notice extending the pleading cycle. (Public Notice, DA 96–177, published elsewhere in this issue.) The Commission subsequently released this Public Notice in response to another request to extend the pleading cycle.

DATES: Supplemental reply comments must be submitted on or before March 14, 1996.

ADDRESSES: All supplemental comments and supplemental reply comments should be addressed to: Office of the Secretary, Federal Communications Commission, Washington D.C. 20554. All supplemental comments and supplemental reply comments will be available for public inspection during regular business hours in the FCC Reference Center (Room 239) of the Federal Communications Commission, 1919 M Street NW., Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Maureen C. McLaughlin, Attorney-Advisor, Policy and Facilities Branch, Telecommunications Division, International Bureau, (202) 418–1470.

SUPPLEMENTARY INFORMATION:

Commission Extends Reply Period in Phase II of the International Accounting Rates Proceeding (Second Further Notice)

[CC Docket No. 90–337]

Released: March 5, 1996.

Revised Pleading Cycle:

Supplemental Reply Comments Due: March 14, 1996.

On January 31, 1996 the Commission established a pleading cycle for the submission of supplemental comments and supplemental reply comments in Regulation of International Accounting Rates (Phase II), CC Docket No. 90–337, Second Further Notice of Proposed Rulemaking, 7 FCC Rcd 8040 (1992) (published elsewhere in this issue). This supplemental comment period was established in light of the policy initiatives set forth in the Commission's January 31, 1996 Policy Statement on International Accounting Rates. On February 13, 1996 the Commission issued a Public Notice, DA 96–177, Report No. I–8146, extending the pleading cycle making supplemental comments due February 26,1996 and supplemental reply comments due March 7, 1996 (published elsewhere in this issue).

The Commission subsequently has received another request for an extension of the pleading cycle and hereby extends the due dates for supplemental reply comments to March 14, 1996.

Pursuant to applicable procedures set forth in Sections 1.415 and 1.419 of the Commission's Rules, 47 CFR Sections 1.415 and 1.419, interested parties may file supplemental reply comments on or before March 14, 1996. To file formally in this proceeding, you must file an original and four copies of all submissions. If you want each Commissioner to receive a personal copy of your submission, you must file an original plus nine copies. You should send your submission to: Office of the Secretary, Federal Communications Commission, Washington D.C. 20554.

A copy of any pleadings should also be sent to Maureen C. McLaughlin, International Bureau, FCC, Room 845A, 2000 M Street NW., Washington, D.C. 20554, and to the Commission's contractor for public service records duplication: ITS, Inc., 2100 M Street NW., Suite 140, Washington, D.C. 20037. Supplemental comments will be available for inspection and copying in the FCC's Reference Center, Room 239, 1919 M Street NW., Washington, D.C. 20554. Copies also can be obtained from ITS at (202) 857–3800.

We will treat this proceeding as non-restricted for purposes of the Commission's *ex parte* rules. *See generally* 47 CFR §§ 1.1200 through .1216. For further information concerning this matter, please contact Maureen C. McLaughlin, Telecommunications Division, International Bureau, at (202) 418–1399, or Peggy Reitzel, Telecommunications Division, International Bureau, at (202) 418–1499.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 96–6397 Filed 3–18–96; 8:45 am]

BILLING CODE 6712–01–P

47 CFR Chapter I

[CC Docket No. 90–337, DA 96–177]

Regulation of International Accounting Rates

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: On January 31, 1996 the Federal Communications Commission adopted a Policy Statement on international accounting rate reform. In light of that Policy Statement, the Commission is reopening the record in CC Docket No. 90–337, Phase II, Regulation of International Accounting Rates, Second Further Notice of Proposed Rulemaking, for the submission of supplemental comments and reply comments.

DATES: Supplemental comments must be submitted on or before February 26, 1996. Supplemental reply comments must be submitted on or before March 7, 1996.

ADDRESSES: All supplemental comments and supplemental reply comments should be addressed to: Office of the Secretary, Federal Communications Commission, Washington D.C. 20554. All supplemental comments and supplemental reply comments will be available for public inspection during regular business hours in the FCC Reference Center (Room 239) of the Federal Communications Commission, 1919 M Street NW., Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Maureen C. McLaughlin, Attorney-Advisor, Policy and Facilities Branch, Telecommunications Division, International Bureau, (202) 418–1470.

SUPPLEMENTARY INFORMATION: On January 31, 1996 the Commission adopted a Policy Statement on international accounting rate reform. In light of that Policy Statement, the Commission is reopening the record in CC Docket No. 90–337, Phase II, Regulation of International Accounting Rates, Second Further Notice of Proposed Rulemaking, 7 FCC Rcd 8040 (1992), 58 FR 3522 (Jan. 11, 1993), for the submission of supplemental comments and supplemental reply comments. In its Notice, the Commission asked for comment on whether allowing some flexibility in our International Settlements Policy might be an appropriate means of achieving lower accounting rates as facilities-based competition is introduced in foreign countries. The Commission seeks supplemental comment on this issue in light of the policy initiatives set

forth in the Policy Statement. The due dates established by the Commission for the filing of supplemental comments and reply comments are February 26, 1996 and March 7, 1996, respectively. These dates represent an extension of the pleading cycle initially established by Public Notice issued January 31, 1996 (DA 96–105).

Pursuant to applicable procedures set forth in Sections 1.415 and 1.419 of the Commission's Rules, 47 CFR Sections 1.415 and 1.419, interested parties may file supplemental comments on or before February 26, 1996 and supplemental reply comments on or before March 7, 1996. To file formally in this proceeding, you must file an original and four copies of all submissions. If you want each Commissioner to receive a personal copy of your submission, you must file an original plus nine copies. You should send your submission to: Office of the Secretary, Federal Communications Commission, Washington D.C. 20554.

A copy of any pleadings should also be sent to Maureen C. McLaughlin, International Bureau, FCC, Room 845A, 2000 M Street NW., Washington, D.C. 20554, and to the Commission's contractor for public service records duplication: ITS, Inc., 2100 M Street NW., Suite 140, Washington, D.C. 20037. Supplemental comments will be available for inspection and copying in the FCC's Reference Center, Room 239, 1919 M Street NW., Washington, D.C. 20554. Copies also can be obtained from ITS at (202) 857–3800.

We will treat this proceeding as non-restricted for purposes of the Commission's *ex parte* rules. *See generally* 47 CFR §§ 1.1200–1.1216. For further information concerning this matter, please contact Maureen C. McLaughlin, Telecommunications Division, International Bureau, at (202) 418–1399.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 96–6398 Filed 3–18–96; 8:45 am]

BILLING CODE 6712–01–P

47 CFR Parts 61, 64, and 69

[CC Docket No. 95–116; DA 96–358]

Telephone Number Portability

AGENCY: Federal Communications Commission.

ACTION: Request for comments.

SUMMARY: The Common Carrier Bureau is seeking comment on how passage of the Telecommunications Act of 1996 may affect issues raised in the Notice of Proposed Rulemaking (CC Docket No. 95–116) published August 1, 1995, regarding telephone number portability. The Commission will examine how particular telephone number portability issues may be affected, if at all.

DATES: Comments must be received on or before March 29, 1996; reply comments must be received on or before April 5, 1996.

ADDRESSES: Comments and reply comments must be filed with the Office of the Secretary, Federal Communications Commission, 1919 M Street, NW., Washington, D.C. 20554. The complete text of the Notice released by the Commission is available for inspection and copying during normal business hours in the FCC Reference Center, 1919 M Street NW., Room 239, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Jason Karp (202/418–1517), Mindy Littell (202/418–1394), or Jeannie Su (202/418–0491), Policy and Program Planning Division, Common Carrier Bureau.

SUPPLEMENTARY INFORMATION:

Synopsis of Public Notice

On July 13, 1995, the Commission adopted a Notice of Proposed Rulemaking (CC Docket No. 95–116) regarding telephone number portability. Telephone Number Portability, Notice of Proposed Rulemaking, 60 FR 39136 (August 1, 1995). The pleading cycle in response to that Notice closed on October 12, 1995. On February 8, 1996, the President of the United States signed into law the Telecommunications Act of 1996, which, among other things, requires local exchange carriers ''to provide, to the extent technically feasible, number portability in accordance with requirements prescribed by the Commission.'' Telecommunications Act of 1996, Pub.L. 104–104, 110 Stat. 56 (1996).

Therefore, the Common Carrier Bureau seeks comment on how passage of the Telecommunications Act of 1996 may affect the issues raised in the July Notice of Proposed Rulemaking. We ask that parties not simply reiterate their previous comments, but confine their discussion to how particular issues have been affected, if at all.

Comments and reply comments in response to this Notice should be no more than 10 pages, and otherwise in compliance with Sections 1.415 and 1.419 of the Commission's rules. Comments must be filed on or before March 29, 1996, and reply comments must be filed on or before April 5, 1996. Comments and reply comments must be sent to the Office of the Secretary, FCC, 1919 M Street, N.W., Washington, D.C. 20554. Two copies should also be sent to the Policy and Program Planning Division, Common Carrier Bureau, FCC, Room 544, 1919 M Street, N.W., Washington, D.C. 20554. One copy should also be sent to the Commission's contractor for public service records duplication: ITS, Inc., 2100 M Street, N.W., Suite 140, Washington, D.C. 20037. Comments and reply comments will be available for public inspection during regular business hours in the FCC Reference Center, Room 239, 1919 M Street, N.W., Washington, D.C. 20554. Copies can also be obtained from ITS at (202) 857–3800.

We will continue to treat this proceeding as non-restricted for purposes of the Commission's *ex parte* rules. See generally 47 CFR §§ 1.1200–1.1216.

List of Subjects in 47 CFR Parts 61, 64, and 69

Communications common carriers, Telephone.

Federal Communications Commission.

Regina M. Keeney,

Chief, Common Carrier Bureau.

[FR Doc. 96–6660 Filed 3–18–96; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

49 CFR Parts 1105 and 1152

[STB Ex Parte No. 537]

Abandonment and Discontinuance of Rail Lines and Rail Transportation Under 49 U.S.C. 10903

AGENCY: Surface Transportation Board, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The ICC Termination Act of 1995 revised the law governing applications by rail carriers to abandon or discontinue service over lines of railroad and related offers of financial assistance that would continue rail service after approval of abandonment or discontinuance by the Surface Transportation Board (Board). The Board proposes to revise part 1152 to implement the changes and to streamline and update the pertinent regulations and to make conforming changes to the environmental rules at part 1105.

DATES: Comments are due on May 3, 1996.

ADDRESSES: Send comments (an original and 10 copies) referring to STB Ex Parte

No. 537 to: Surface Transportation Board, Office of the Secretary, Case Control Branch, 1201 Constitution Avenue NW., Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT: Joseph H. Dettmar, (202) 927–5660. [TDD for the hearing impaired: (202) 927–5721.]

SUPPLEMENTARY INFORMATION: The ICC Termination Act of 1995, Pub. L. No. 104–88, 109 Stat. 803 (ICCTA), enacted on December 29, 1995, abolished the Interstate Commerce Commission (ICC) and transferred the responsibility for economic regulatory oversight of rail transportation, including the proposed abandonment and discontinuance of rail lines, to a new Surface Transportation Board (Board). The transfer took effect on January 1, 1996. Section 204(b)(1) of the ICCTA provides that proceedings and applications pending before the ICC on January 1, 1996, insofar as they involve functions retained by the ICCTA, including abandonment proceedings and applications, shall be decided under the law in effect prior to January 1, 1996. Abandonment applications and proceedings filed on or after January 1, 1996, shall be decided under the law as revised in the ICCTA. Under section 204(a), regulations, including those at 49 CFR part 1152, issued by the ICC and effective as of January 1, 1996, shall remain in effect ''until modified, terminated, superseded, set aside, or revoked in accordance with law by the Board * * *.'' In this notice, the Board is proposing to revise part 1152 to implement the changes brought about by the ICCTA and to streamline and update the regulations. Included in the proposed revisions are deletions of obsolete references. While we are not proposing major revisions at this time to our environmental rules at 49 CFR part 1105, or our Trails Act rules at 49 CFR 1152.29, we are proposing some notice and timing changes to those regulations in this proceeding, because the changes are directly related to our efforts to streamline and improve the abandonment process. For the same reason, we are proposing here some conforming changes to our procedures for handling abandonments exempted as a class, and petitions for individual abandonment exemptions, to reflect statutory changes resulting from the ICCTA.

In the supplementary information portion of this notice, when referring to the provisions of the United States Code affected by the ICCTA, we use the word ''former'' to refer to sections of the law in effect prior to January 1, 1996, and the word ''new'' to refer to sections of the law in effect on and after January 1, 1996. In the proposed rules themselves, the section references are to the law in effect on and after January 1, 1996.

Availability

The full text of the proposed rules is available to all persons for a charge by phoning DC News and Data, Inc., at (202) 289–4357. This represents a change from prior practice, but because of limited resources, we are no longer able to publish in full, or make available at no cost, the text of the proposed regulations.

Background

The key changes brought on by the ICCTA, insofar as part 1152 is concerned, are found in new sections 10903 and 10904 (49 U.S.C. 10903 and 10904). Implementation of these two sections is the focus of this notice of proposed rulemaking. New section 10903 (''Filing and procedures for application to abandon or discontinue'') has replaced former section 10903 (''Authorizing abandonment and discontinuance of railroad lines and rail transportation'') and former section 10904 (''Filing and procedure for applications to abandon or discontinue''). New section 10904 (''Offers of financial assistance to avoid abandonment and discontinuance'') has replaced former section 10905 bearing the same title.

Revisions found in three other new sections bear directly on the procedures found in part 1152. New section 10905 (''Offering abandoned rail properties for sale for public purposes'') has replaced former section 10906 bearing the same title. New section 10907 (''Railroad development'') has replaced former section 10910 bearing the same title. New section 10502 (''Authority to exempt rail carrier transportation'') has replaced former section 10505 bearing the same title.

New section 10903 retains the requirement that rail carriers may abandon or discontinue service only if the present or future public convenience and necessity require or permit the abandonment or discontinuance. The new section also generally preserves requirements for public notice and the opportunity for public participation in development of a record upon which abandonment and discontinuance applications will be decided. New section 10903 has not retained the specific processing timetable found in former section 10904, but new section 10904 (in preserving the opportunity in former section 10905 to offer financial assistance for continuation of rail service) has established a 4-month deadline after an application is filed for the submission of offers of financial assistance. In large part due to this 4-month deadline, which would seem to dictate a Board decision on the abandonment before the submission of an offer of financial assistance, we are proposing a processing schedule for abandonment and discontinuance applications that would provide for a Board decision on the merits of an application in all cases before expiration of this 4-month period.

With the above-noted changes found in new sections 10903 and 10904 central to our preliminary analysis, we are seeking public comments on proposed revisions to part 1152, which would establish a process and schedule to accommodate the new law. Not every specific change to the existing regulations will be discussed here, but we will highlight the most significant proposed changes, additions, and deletions.

We view the ICCTA as reform legislation. As a result, we are taking this opportunity to examine, reform and streamline the existing rules and process. Our goal is to revise part 1152 to meet the letter and spirit of the ICCTA. We are proposing new procedures but propose to retain elements of the current part 1152 that are consistent with streamlining, expedited development of a record in each proceeding, and prompt decisionmaking. We have also attempted to update the regulations to improve notice to the public and ensure ample opportunity for full public participation early in our proceedings, which we believe will ultimately result in an expeditious resolution satisfactory to the interested parties. Finally, certain obsolete or otherwise unnecessary references are proposed for deletion. Because of the importance of proposing rules to implement the new law as soon as possible, we recognize that we may have overlooked some potential improvements or may have proposed to retain provisions or language that no longer serves a useful purpose. We therefore welcome public comments on these proposals, and on any other areas where changes might be made, to streamline our abandonment regulations further and to assist us in carrying out the will of the Congress in the most efficient manner possible.

Discussion

1. Uniform Schedule

One of the major changes we are proposing here is a new uniform schedule for processing all abandonment applications within the

statutory parameters of new sections 10903 and 10904. While new section 10903 does not contain the requirement of former section 10904(a)(1) that railroads file a ''notice of intent'' with the Board (previously, with the ICC), the new statute continues to require that rail carriers prepare, publicize, and serve on designated entities advance notice of an abandonment or discontinuance application. We view the notice as a critical step in meeting the new timeframes applicable to the abandonment process, because the notice apprises the public of proposed abandonments and ensures that potential concerns are brought to light at an early stage in the process and addressed. Because of these important benefits and because of the similarity in the handling of notice under the former and the new statute, we propose to retain the existing rules regarding notices of intent, including the requirement that an applicant serve its notice of intent on the board. As before, the notice of intent would be due no more than 30 days and no less than 15 days before the application is filed. We are also proposing to update the list of entities due to receive the notice, including the addition of the Rails to Trails Conservancy and the National Association of Reversionary Property Owners, to provide the earliest possible notice that a particular right-of-way might be used as a trail, helping to assure more timely trail use requests, and to facilitate our meeting our trail use and rail banking responsibilities under the National Trails System Act, 16 U.S.C. 1247(d) (Trails Act).[1] These responsibilities have not been altered by the new law.

As part of our effort to make conforming changes to our environmental rules, we are proposing to amend 49 CFR 1105.7 and 1105.8 to require railroads to serve their environmental and/or historic reports on the required agencies at least 20 days prior to filing with us their application, petition for exemption, or notice invoking the class exemption.[2]

Furthermore, as discussed in more detail below, a Federal Register notice would be published at the beginning of the abandonment application process, which has not been the case in abandonments decided under former 49 U.S.C. 10903, or in petitions for exemption under former section 10505. In addition, to facilitate identification of the lines proposed for abandonment we propose to require that railroads identify lines proposed to be abandoned by United States Postal Service ZIP Codes.

To permit development of a sufficient public record in all cases within the statutory time frames of the ICCTA, we are proposing that applicants present their entire case with the application, that protestants submit their entire opposition case no later than 45 days after the application is filed, and that any reply by applicants be filed no later than 60 days after an application is filed. This would produce a complete record by the 60th day after the application is filed. We also propose that the Board's decision on the merits be served no later than 110 days after the application is filed (10 days before the latest date for filing offers of financial assistance). A final decision on the merits would normally be scheduled to take effect in 30 days (by day 140).

We propose to have no appeal of right to the Board's decision on the merits, but instead to permit only petitions to reopen, in accordance with the procedures set out in the proposed rules. Changes to the rules regarding processing of offers of financial assistance have also been proposed to reflect the changes made in new section 10904.

We anticipate that the Board often would not need all of the time set out in the proposed schedule for issuance of a final decision on the merits, especially in those instances where there is little opposition to the application. Therefore, we want to make clear that, should final decisions be served before day 110, offers of financial assistance would be due 10 days after the service date of that decision rather than on day 120. We see the 4-month statutory deadline as an outer limit, which does not require us to delay resolution of proceedings where the entire time is not needed.

We anticipate that the application (which would include the applicant's case in chief), the opposition case in chief, and a reply would constitute a sufficient record for a decision on the application in almost all instances. In some cases, however, it could be appropriate also to hold an oral hearing. To help us identify such cases as early as possible, we propose that any request for oral hearing be due to be filed no later than 10 days after the application is filed. (Given the proposed requirement that a notice of intent to file an application continue to be filed between 15 and 30 days before the application, this means that a person that would potentially seek an oral hearing would have notice of the application at least 25 days before the oral hearing request would be due.) We also propose that the Board would promptly decide by day 15 after the filing of the application whether to schedule an oral hearing so that a final decision by the Board on the merits of the application could be reached by day 110.

Accordingly, we are proposing the following schedule for Board consideration and decisions in abandonment and discontinuance application proceedings from the time the application is filed until the time of the Board's decision on the merits:

Day 0—Application filed, including applicant's case in chief.

Day 10—Due date for oral hearing requests.

Day 15—Due date for Board decision on oral hearing requests.

Day 20—Due date for Notice of Application to be published in the Federal Register.

Day 45—Due date for protests and comments, including opposition case in chief, and for public use and trail use requests.

Day 60—Due date for applicant's reply to opposition case and for applicant's response to trail use requests.

Day 110—Due date for service of decision on the merits.

Day 120—Due date for offers of financial assistance, except that if an application has been granted by decision issued sooner than Day 110, the offer of financial assistance shall be due 10 days after service of the decision granting the application.

2. Federal Register Publication

Former section 10905 required that grants of abandonment applications be published in the Federal Register to provide notice to persons who might wish to make offers of financial assistance, with the due date triggered by the Federal Register publication itself. The current rules at part 1152 reflect this requirement and embrace a process through which a grant of an abandonment application or a petition for exemption for abandonment is announced to the public through Federal Register publication at the time of the grant. We propose instead to publish notice of an abandonment application or a petition for an individual exemption for abandonment

[1] Someone interested in trail use could become a party in the abandonment proceeding by filing written comments or a protest. 49 CFR 1152.25(a). Every document filed with us must be served on all parties to the abandonment proceeding. 49 CFR 1104.12(a).

[2] The earlier distribution would expedite the environmental review process (by giving participating agencies additional lead time to conduct their analysis and review) without being unduly burdensome on the railroads (which would be filing the same reports that are now required, only sooner). Also, because consulting agencies should be able to complete their review in a more timely manner, this timing change could reduce the number of environmental and historic conditions imposed in abandonment decisions.

20 days after the application or petition is filed. The notice would describe the abandonment proposal and advise the public that offers of financial assistance would be due 10 days after the application or petition is granted or 120 days after the application or petition is filed, whichever occurs sooner. And, the notice would advise that requests for public use and trail use conditions would be due 45 days after the application is filed, or 40 days after the petition is filed, as the case may be. We also propose that abandonment applicants and petitioners be required to file draft Federal Register notices that the Board might use to announce the filing. Under our proposal, there would be no further Federal Register publication if and when the application or petition is granted.

We propose no change for the publication of Federal Register notices for the procedural timing of abandonments covered by the class exemption embraced in subpart F. We are, however, exploring the possibility of proposing a new class exemption, or broadening the existing class exemption, and would welcome either general or specific public suggestions on whether and how to do so. Comments on this issue may be filed in this proceeding or by a separate request for new rules relating to the class exemption. We anticipate that any suggested changes to the class exemption proposed by participants in this proceeding would be the subject of further public comment before the adoption of any final substantive changes to the class exemption.

3. System Diagram Maps

The new law retains the requirement that rail carriers prepare, file, and amend, as appropriate, system diagram maps that identify lines that are, or soon will be, the subject of an abandonment application. We are proposing several changes to part 1152 regarding the system diagram maps intended to eliminate unnecessary regulatory and paperwork burdens. First, because of the potential burden on small carriers related to preparing and filing these maps, we propose to require only Class I and Class II railroads to prepare and file them. Second, in lieu of the annual filing of these maps, which is now required, we are proposing a one-time filing of a complete and current set of maps within 60 days of the effective date of these regulations. While the railroad would continue to have to revise its maps when changing the category of its lines, we propose generally to leave it to the carrier to determine when changes have been extensive enough to warrant the filing of a new, completely updated system diagram map. We would, however, retain the discretion to require a carrier to file an updated system diagram map if that became necessary (i.e., because of a need to have a clear, usable map available for public planning purposes). Third, we propose to require only three (instead of six) copies whenever a system diagram map or an update is filed.

We also propose to reject an abandonment application of a Class I or Class II railroad for a line that has not been identified on a system diagram map in category 1 (all lines or portions of lines which the carrier anticipates will be the subject of an abandonment or discontinuance application to be filed within the 3-year period following the date upon which the diagram, or any amended diagram, is filed with the Board) for at least 30 days. New section 10903 no longer prohibits the grant of an abandonment application for a line that has not been identified in category 1 for at least 4 months and where the abandonment faces significant opposition, but we believe that Congressional retention of the system diagram map requirement indicates a desire on the part of the Congress to provide some time for advance planning by shippers and state and local governments in the face of impending abandonments. We believe that a period of 30 days for identification on a system diagram map in category 1 would be adequate to meet planning needs.

4. Summary Application

Because we are proposing one uniform, streamlined process for all applications, we propose to delete the ''Summary Application'' provisions.

5. Abandonment Procedures for Bankrupt Railroads

Because our proposed streamlined process and regulations would pare back the filing requirements for all applications, we see no need for the separate procedures in subpart E for bankrupt railroads. Therefore, we propose to delete subpart E. We do propose, however, to include as special provisions for bankrupt railroads in the general abandonment procedures the requirements that abandonment applications filed by bankrupt railroads, and protests or other public responses to the applications, be filed with the bankruptcy court; that Board decisions or reports on abandonment applications by bankrupt railroads be filed with the bankruptcy court; and that special processing schedules would be established to meet court deadlines, so long as a reasonable period of time is allowed to obtain public responses and build a record in an abandonment application by a bankrupt railroad.

6. Due Dates for Filing Public Use Requests and Trail Use Requests

Our proposals for filing of public use and trail use requests reflect our interest in compiling a full record for disposition as early as possible. In abandonment applications, we are proposing that trail use requests and public use requests be filed at the same time as protests and other written comments (within 45 days after the application is filed). A railroad applicant would then be required to respond regarding willingness to negotiate for trail use within 15 days (or within 60 days after the application is filed). For abandonments covered by the class exemption for out-of-service lines, we propose to continue to require trail use/rail banking requests to be filed within 10 days after Federal Register publication of the exemption and public use requests to be filed within 20 days after Federal Register publication. For petitions for individual exemption, we propose to require that trail use/rail banking requests and public use requests be filed within 20 days after Federal Register publication of the notice of the filing of the petition (40 days from the filing for the petition). For both class exemptions and petitions for exemptions, we propose to require the rail carrier to respond to trail use/rail banking requests within 10 days after the request is filed.

7. Notice of Consummation

Although the practice was never codified, until 1984 the ICC required a railroad to send the agency a letter confirming that it had consummated, or fully exercised, an abandonment within 1 year after the abandonment was authorized.[3] Since then, some carriers have continued to send in these letters. Moreover, the courts have considered these letters in determining whether a line is still part of the interstate rail network, and thus available for trail use under 16 U.S.C. 1247(d), or public use under former 49 U.S.C. 10906 (now 49 U.S.C. 10905).

In recent years, an increasing amount of ICC staff resources have been devoted to determining whether or not a

[3] An ICC (and now Board) decision authorizing abandonment is not a compulsory order, but rather permissive authority that the railroad may or may not decide to exercise. The railroad may, in fact, resume operations on a line that has been authorized for abandonment, and thereby retain that line in common carrier service without further approval from us.

railroad's actions demonstrated an intent to consummate an abandonment. There also have been a significant number of court challenges involving this issue, particularly by landowners alleging that the ICC had lost jurisdiction over the property by the time a trail condition was imposed.

To help clarify the consummation issue, conserve the Board's limited resources, and be fair to landowners, trail groups, the railroads, and the public, we propose to include in our new rules a requirement that carriers file with the Board a notice of consummation, once they intend to fully abandon the line (i.e., to discontinue operations, salvage the track, and intend that the property be removed from the interstate rail network). We have not proposed a deadline for filing, however, because carriers may want to hold open the possibility that new shippers will seek rail service or that the right-of-way could be used as a trail, subject to rail banking. Nor have we proposed a penalty for not filing notices of consummation. But under our proposal, notices that are filed would be deemed conclusive on the point of consummation if there are no legal or regulatory barriers to consummation (i.e., outstanding conditions). If no notice of consummation of abandonment has been filed, we would continue to look at the other facts and circumstances to determine if consummation of the abandonment had occurred.

8. Certificates of Abandonment

The new law does not appear to require that ''certificates'' be issued when abandonment applications are granted. As a result, we propose to dispense with the issuance of certificates and will instead simply issue ''decisions granting'' an application. Our proposed rules, however, continue to refer to ''Certificates of Interim Trail Use or Abandonment'' in the trail use context in part to distinguish an application proceeding from an exemption proceeding. Public comments are welcome on whether we can or should similarly dispense with use of the ''certificate'' label in that context.

9. Contents of the Application

As previously noted, we propose to require applicants to submit their entire case as part of the application. Applicants would have to include all relevant workpapers and supporting documents with each application. We are, however, also proposing significant reforms regarding application data requirements, as explained below.

a. Service Data

We are proposing to streamline the requirements for abandonment applications by excluding all branch line (line proposed for abandonment) service data for time periods prior to the Base Year period, with the exception of data on changes in train service. The current regulations require data for the 2 preceding calendar years and that portion of the current calendar year for which data are available. This change had been proposed by the ICC in a notice of proposed rulemaking in *Abandonment Proceedings: Elimination of the Revenue and Cost Data for All Years Prior to the Base Year Period*, Ex Parte No. 274 (Sub-No. 26) (ICC served Nov. 9, 1992), to reduce the reporting burden on the carriers. Favorable comments were received but a final rule was never issued. We propose to incorporate this change here for inclusion in final Board regulations. The revised regulations, if adopted, would not include any data for periods prior to the Base Year, except as noted above.

We are also proposing changes to the service data required to be provided in three specific areas. First, the carload data on the line would have to show only the total carloads for each commodity group. Second, data pertaining to overhead or bridge traffic would have to be included only if the serving carrier will *not* retain this traffic after approval of the abandonment. Finally, only changes in train service in the last 2 years (instead of the last 5 years) would need to be discussed.

b. Financial Data

We also propose to exclude computations for the revenue and cost data developed for the branch line for the prior 2 calendar years and any portion of the current year. Revenue and cost data would be computed only for the Base Year, Forecast Year, and Subsidy Year. These changes also had been proposed in the ICC's rulemaking in Ex Parte No. 274 (Sub-No. 26).

We also propose to delete the requirements that the impact of the abandonment on the carrier's net railway operating income (NROI) for the past 2 calendar years be developed, and that the impact on the NROI of other carriers operated under common control of the abandoning railroad be submitted. In addition, we propose to delete the requirement that the railroad's balance sheet and income statements be filed.

c. Other Application Changes

We propose to delete the requirements that the carrier identify in detail the sources of alternate transportation available and describe its efforts to solicit traffic on the line. Instead, we would require only a general description of alternative transportation sources. We do not believe that it is the responsibility of the carrier to identify all of the options available to the shippers on the line. Most, if not all, of these are already known and/or used by the shippers. Moreover, the carrier would no longer be required to describe its efforts to solicit traffic on the branch line in every case. Rather the carrier could provide a description of its efforts if it believes that the information would aid its case regarding potential increases in traffic claimed by protestants or regarding claims of deliberate downgrading.

10. Offers of Financial Assistance

In addition to the time limits previously discussed, new section 10904 contains other changes for handling offers of financial assistance. To begin the negotiation process now, we need only find that the offeror is a financially responsible person, and we propose to revise our rules accordingly. Under new section 10904, the Board has 30 days, rather than 60 days as before, from the date requested to issue a decision establishing the conditions and amount of compensation for the purchase or subsidy of the line. To meet the new deadline, we propose to require the requesting party to submit its case in chief at the time it makes its request and to serve the other party(ies) with a copy by overnight mail. The other party(ies) would have 5 days from the date of filing to file a reply. As before, our rules would automatically stay the effective date (or revoke as necessary for a class exemption) of the underlying abandonment decision. The rules would also continue to provide that, if a request to set terms and conditions is not made to the Board, a decision making the underlying abandonment approval (or exemption) effective would be served within 10 days of the due date for making the request.

New section 10904 also contains an important limit on the Board's involvement with financial assistance in the form of an operating subsidy. The statute now places a 1-year limit on subsidies imposed by the Board, unless otherwise mutually agreed by the parties. As a result, under our proposed rules, subsidy agreements imposed by the Board would end after 1 year. Beyond this period any subsidy would

be strictly a contractual agreement between the carrier and the subsidizer without the involvement of the Board.

Also regarding subsidies, we propose that the rules continue to provide for interim financial status reports, as presently included in the abandonment regulations. However, with certain exceptions, the subsidizer's final responsibility would be limited to a maximum of 15% over the agreed-to amount of the operating subsidy. The exceptions would be: (1) If the subsidizer is notified of a higher amount within the first 10 months of the agreement; or (2) the increase results from an expense that has been preapproved by the subsidizer. We believe that limiting potential liability in this fashion would provide needed certainty for a party that wishes to subsidize operation of a line approved for abandonment.

11. Return on Investment

Past experience with the rules for establishing return on investment has resulted in the identification of several problem areas. To address these problems, we are proposing changes regarding the determination of the net liquidation value (NLV) of road properties on the branch line, a component used in calculating return on investment. These changes involve the inclusion of assets with negative net salvage values, adjustments to right-of-way land values, and the bases used to value right-of-way land.

a. Negative Salvage Values

There are instances where the cost to remove and dismantle a particular asset on the branch line is higher than its resale value. This occurs most frequently with bridges where the cost of removal exceeds the market value of the salvaged materials. The Board proposes that these assets be included if the asset would actually be removed for whatever reason. For example, as a result of an abandonment approval, municipal zoning requirements or the land use regulations of a state or other governmental agency may require that a structure be removed or torn down. This is the type of situation where the inclusion of a negative net salvage value is proper. Another instance where inclusion might be appropriate would be when the carrier decides on its own to dismantle the structure even though it is not required to do so.

b. Adjustments to Land Values

In abandonment proceedings, land values are often reduced below their fair market value. This reduction results from imputed real estate commissions, selling expenses, or discounting the present value of the land due to a projected sell-off period of 1 or more years. In past ICC cases, there has oftentimes been a lack of support for these types of reductions to the land value. Accordingly, our proposed regulations emphasize the need for parties adequately to support and explain any adjustments. Without the necessary support and explanation, we will reject these adjustments.

c. Bases for Valuing Land

There are several methodologies acceptable for appraising right-of-way land acreage. The methodology most frequently used is the ''across-the-fence'' (ATF) method. This procedure estimates the values of the surrounding land parcels using recent comparable sales, and then adjusts them to reflect the physical and economic characteristics of the specific parcels appraised.

In the past, parties have sometimes failed to support the application of unadjusted ATF values to value railroad rights-of-way. Differing physical characteristics such as elevation, grading and drainage would warrant some adjustment to the ATF value. Therefore, we propose, at a minimum, that some explanation be given as to why no adjustment is necessary. Conversely, some parties have made adjustments to the ATF value to arrive at right-of-way values without explaining the nature of the adjustments. We propose to require justification for the use of either unadjusted or adjusted ATF values for land acreage on the railroad right-of-way.

12. Holding Gains and Losses

Holding gains and losses are computed for freight cars, locomotives, and road property accounts. Currently, parties may determine the holding gain or loss for the particular type of asset or parties may use the Gross National Product (GNP) Implicit Price Deflator rate. The GNP deflator is published by the U.S. Department of Commerce, Bureau of Economic Analysis (Commerce).

In 1991, Commerce introduced a comprehensive revision of the national income and product accounts, including a shift to the use of the Gross Domestic Product (GDP), rather than the GNP, as the primary measure of production. The GDP is similar to the GNP, but covers only goods and services produced in the United States. The GDP is generally regarded as a better indicator of the performance of this country's economy.

We propose to include the GDP deflator as the alternate basis of estimating the holding gain or loss in rail abandonment and subsidy proceedings in our new rules. This would bring our rules in line with the current measures used at Commerce, which has concluded that the GDP is ''the appropriate measure'' for most short-term monitoring of the U.S. economy.

13. Appendix Listing of Carriers and AB Numbers

We propose to delete the Appendix to part 1152 that lists carriers and their assigned AB numbers. We preliminarily conclude that the list serves no useful purpose. Interested persons could instead contact the Board's Office of the Secretary if they have a need to ascertain a particular carrier's assigned AB number.

Small Entities

The Board certifies that these regulations, if adopted, would not have a significant economic effect on a substantial number of small entities. The Board seeks comment on whether there would be effects on small entities that should be considered. If comments provide information that there would be significant effects on small entities, the Board will prepare a regulatory flexibility analysis before adopting final regulations.

Environmental Finding

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

List of Subjects

49 CFR Part 1105

Environmental impact statements, Reporting and recordkeeping requirements.

49 CFR Part 1152

Administrative practice and procedure, Conservation, Environmental protection, National forests, National parks, National trails system, Public lands-grants, Public lands-rights-of-way, Railroads, Recreation and recreation areas, Reporting and recordkeeping requirements.

Decided: March 13, 1996.

By the Board, Chairman Morgan, Vice Chairman Simmons, and Commissioner Owen. Vice Chairman Simmons commented with a separate expression.

Vernon A. Williams,

Secretary

[FR Doc. 96–6546 Filed 3–18–96; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Parts 10, 14, 15, 16, 17, 18, and 23

Proposed Consolidation of Lists of Wildlife and Plants

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Request for comments.

SUMMARY: Fish and Wildlife Service announces contemplated consolidation and changes in format and presentation of numerous lists of wild plants or animals (hereinafter ''wildlife'') subject to Federal regulation pursuant to several statutes and treaties. The intent is to provide a simplified, consolidated means for interested persons to determine whether anticipated activities involving wildlife are subject to such regulation and, if so, to refer the user directly to relevant regulations where he or she can learn what must be done to conduct such activities lawfully. This contemplated action will not add, delete or transfer any taxon to, from or between any existing list(s) nor, in any other way, modify the legal status of any wildlife now included on those lists.

DATES: Comments must be received on or before May 3, 1996.

ADDRESSES: Comments and materials concerning this proposal may be submitted to the Assistant Director, International Affairs, U.S. FWS, 4401 North Fairfax Drive, Mail Stop: 434, Arlington, Virginia 22203 (Fax 703–358–2280).

FOR FURTHER INFORMATION CONTACT: Mr. Earl B. Baysinger, telephone (703) 358–1915.

SUPPLEMENTARY INFORMATION: The Fish and Wildlife Service (Service) hereby notifies interested persons, as a part of the President's ''Regulatory Reform Initiative,'' that the Service contemplates consolidating and changing the format and presentation of certain lists of wildlife now maintained in Title 50 of the Code of Federal Regulations (50 CFR).

The purpose of this action is to simplify the task of determining what actions are permitted, restricted or otherwise regulated with regard to wildlife protected or otherwise subject to certain provisions of: The Convention on International Trade in Endangered Species of Wild Fauna and Flora, TIAS 8249; the Endangered Species Act of 1973, as amended, 16 U.S.C. 1531–1543; the Migratory Bird Treaty Act, as amended, 16 U.S.C. 703–712; the Wild Bird Conservation Act, 16 U.S.C. 4901–4916; the ''Injurious Wildlife'' provisions of the Lacey Act, as amended, 18 U.S.C. 42; and the Marine Mammal Protection Act of 1972, as amended, 16 U.S.C. 1361–1407.

At present, approximately 17 lists identifying such wildlife and relevant regulations are scattered throughout 50 CFR and there are no effective cross-references. Many species or other taxa appear on two or more lists and the legal requirements associated with each list apply to such taxa. It is possible that persons attempting to determine what restrictions may apply to contemplated activities involving a given taxon could overlook one or more relevant list(s) and, therefore, inadvertently fail to conduct their activities in compliance with applicable laws or regulations. Such violations frequently are subject to serious penalties.

The opposite also is true. A person unable easily to determine what restrictions apply to his or her activities may be inhibited from carrying out activities that are not prohibited by law. Some wildlife may receive protection not needed; others may fail to receive needed and entitled consideration and both governmental personnel and those whose activities may be regulated spend considerable time and effort attempting to explain, understand and/or comply with those regulations. These situations work to the detriment of the wildlife of concern, the individual conducting the activities, the Service, and also exacerbate public concern over Federal regulations.

This action also is intended to enhance the efficiency and effectiveness of personnel of the Service, other Federal, State, and foreign agencies, non-governmental organizations and individuals who enforce those statutes, those who advise the public concerning their provisions or those who have other interests in such legally classified wildlife. This action will not add, delete or transfer any taxon to, from or between any existing list(s), nor will it, in any other way, modify the legal status of any wildlife now included on any of those lists.

This action will consolidate the numerous lists of wildlife promulgated pursuant to those statutes into a single list. That list will be subdivided into two major divisions: animals and plants. Each of those lists will be subdivided into yet-to-be determined taxonomic groups (probably Orders or Families). Taxa within those taxonomic groups will be listed alphabetically by genus and by species within genus sequence. This consolidated list will be presented in two forms: alphabetic by Latin name and alphabetic by English (where available) Common Name.

Those alphabetized lists will be presented in a matrix format with the names of the taxa in rows down the vertical axis. References to the relevant lists and the statutes from which they derive will be arrayed, at the heads of vertical columns, across the horizontal axis. Indicators in the box formed by intersection of a row containing a taxon's name with a vertical column containing the name of a list will indicate that taxon is on that list. Information at the top of the vertical column(s) will refer the reader to the Section(s) in 50 CFR containing relevant regulations. The matrix also will refer the user to a set of expansive ''footnotes'' containing further information concerning specific taxa. Such information will include, but not necessarily be limited to: descriptions of any administratively determined ''populations;'' applicable ''special rules,'' or other relevant information not otherwise easily locatable.

These consolidated lists and matrix will provide a ''user friendly,'' species-oriented index to regulations in 50 CFR that relate to taxa on those lists. A user simply would scan down whatever alphabetical list is most easily used with the information available (Latin or Common name). If the name of the taxon is not included, there will be no need to search out and scan other lists.

Assuming the user used the correct Latin or common name, he or she safely can assume the taxon of interest has not been placed on any of those lists and statutes relevant to the combined list are not applicable.

If the name is found, a quick scan across the row in which the name appears will inform the user whether any administrative ''population'' or ''special regulation'' is involved and upon which list(s) the taxon has been placed. The built-in cross references would direct the user to that information.

Experience has shown users frequently are aware of the significance of a taxon's presence on these existing lists but, since other Federal agencies' regulations are published in different titles of the CFR, are unaware those agencies also regulate activities involving that taxon. Conscientious persons who complied with regulations published in 50 CFR have found themselves in noncompliance with other agencies' regulations in other titles that apply to that same taxon. As a public service and to reduce the likelihood of such unintentional violations, the Service contemplates inclusion in the matrix of a cross

reference to identify and alert the user to taxa on the consolidated list that also are of concern to other Federal agencies.

This action still is in the conceptual stage and comments or suggestions are welcomed. This notice was prepared under the authority of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Dated: February 21, 1996.

George T. Frampton, Jr.,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 96–6453 Filed 3–18–96; 8:45 am]

BILLING CODE 4310–55–M

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50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Finding on Petition and Initiation of Status Review for Cheetah in Namibia

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of petition finding and status review.

SUMMARY: The U.S. Fish and Wildlife Service announces the 90-day finding that a petition to change the classification of the cheetah in Namibia from endangered to threatened has presented substantial information indicating that the action may be warranted. A status review of this population is initiated.

DATES: The finding announced herein was made on March 8, 1996. Comments and information may be submitted until July 17, 1996.

ADDRESSES: Comments, information, and questions should be submitted to the Chief, Office of Scientific Authority; Mail Stop: Room 725, Arlington Square; U.S. Fish and Wildlife Service; Washington, D.C. 20240 (Fax number 703–358–2276). Express and messenger-delivered mail should be addressed to the Office of Scientific Authority; Room 750, 4401 North Fairfax Drive; Arlington, Virginia 22203. The petition finding, supporting data, and comments will be available for public inspection, by appointment, from 8:00 a.m. to 4:00 p.m., Monday through Friday, at the Arlington, Virginia address.

FOR FURTHER INFORMATION CONTACT: Dr. Charles W. Dane, Chief, Office of Scientific Authority, at the above address (phone 703–358–1708).

SUPPLEMENTARY INFORMATION: Section 4(b)(3) of the Endangered Species Act of 1973, as amended, requires that within 90 days of receipt of a petition to list, delist, or reclassify a species, or to revise a critical habitat designation, a finding be made on whether the petition has presented substantial information indicating that the requested action may be warranted, and that such finding be published promptly in the Federal Register. If the finding is positive, Section 4(b)(3) also requires commencement of a review of the status of the involved species. The U.S. Fish and Wildlife Service (Service) now announces a 90-day finding on a recently received petition.

The petition was submitted by John J. Jackson, III (Jackson and Stovall, Attorneys and Counsellors at Law, One Lakeway Center, Ste. 1380, 3900 Causeway Boulevard, Metairie, Louisiana 70002), on behalf of the Republic of Namibia and Safari Club International. It was dated August 11, 1995, and was received by the Service on August 17, 1995. It requests that the population of the cheetah (*Acinonyx jubata*) in Namibia be reclassified from endangered to threatened.

The cheetah is a large spotted cat that once occurred over most of Africa and southwestern Asia. It has nearly disappeared in Asia and has declined substantially in Africa because of hunting for its attractive skin, conflict with human agricultural interests, habitat disruption, and possible deterioration of genetic viability. It was classified as endangered throughout its range in the Federal Register of March 30, 1972 (37 FR 6176).

The petition presents information, including recent reports from authorities on the species, suggesting that the population of cheetah in the country of Namibia, in southwestern Africa, is relatively large (possibly 2,500–3,000 cats out of a worldwide total of only 9,000–12,000) and stable, as compared to that in most other regions. The petition also basically suggests that a threatened classification would allow issuance of special regulations, pursuant to the Endangered Species Act, authorizing the importation of sport-hunted trophies of cheetah into the United States. Sportsmen from the United States then would be willing to spend substantial sums of money to hunt cheetah in Namibia, thereby providing a financial stimulus to landowners in that country to conserve the species and its habitat.

The Service has found that the petition presents substantial information indicating that the requested action may be warranted. Also, pursuant to Section 4(b)(3), the Service hereby commences a review of the status of the involved species. Submission of appropriate data, opinions, and publications regarding this petition is encouraged. In accordance with Section 4(b)(3), within 12 months of receipt of the petition, the Service will make another finding as to whether the requested action is warranted, not warranted, or warranted but precluded by other listing measures.

Authority: 16 U.S.C. 1531–1544. 3500; unless otherwise noted.

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, and Transportation.

Dated: March 8, 1996.

John G. Rogers,

Acting Director, Fish and Wildlife Service.

[FR Doc. 96–6572 Filed 3–18–96; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 659

[I.D. 031196A]

Shrimp Fishery Off the Southern Atlantic States; Amendment 1

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

ACTION: Notice of availability of an amendment to a fishery management plan and request for comments.

SUMMARY: NMFS announces that the South Atlantic Fishery Management Council (Council) has submitted Amendment 1 to the Fishery Management Plan for the Shrimp Fishery of the South Atlantic Region (FMP) for review, approval, and implementation by NMFS. Written comments are requested from the public.

DATES: Written comments must be received on or before May 9, 1996.

ADDRESSES: Comments must be sent to the Southeast Regional Office, NMFS, 9721 Executive Center Drive North, St. Petersburg, FL 33702.

Requests for copies of Amendment 1, which includes an environmental assessment, an initial regulatory flexibility analysis, a social impact analysis, and a regulatory impact review, should be sent to the South Atlantic Fishery Management Council, 1 Southpark Circle, Suite 306, Charleston, SC 29407–4699, telephone (803) 571–4366, FAX (803) 769–4520.

FOR FURTHER INFORMATION CONTACT: Peter J. Eldridge, 813–570–5305.

SUPPLEMENTARY INFORMATION: The Magnuson Fishery Conservation and Management Act (Magnuson Act) requires that a council-prepared amendment to a fishery management plan be submitted to NMFS for review and approval, disapproval, or partial disapproval. The Magnuson Act also requires that NMFS, upon receiving an amendment, immediately publish a document in the Federal Register stating that the amendment is available for public review and comment.

Amendment 1 would: (1) Add rock shrimp to the management unit of the FMP; (2) prohibit trawling for rock shrimp between 27°30′ N. lat. and 28°30′ N. lat. in the area extending shoreward of the 100–fathom (183–m) depth contour (as shown on the latest edition of NOAA chart 11460) to 80°00′ W. long.; (3) require dealers involved in the rock shrimp fishery to obtain an annual dealer permit; (4) require an annual vessel operator's permit; (5) require an annual vessel permit for a person on board a vessel to harvest or possess rock shrimp in or from the exclusive economic zone (EEZ); (6) require permitted dealers to maintain and submit basic information essential for proper management of the fishery; and (7) require that the initial sale, trade, barter, or transfer of rock shrimp harvested from the EEZ occur only between permitted dealers and permitted vessels.

Based on a preliminary evaluation of the amendment, the Director, Southeast Region, NMFS, (Regional Director) has disapproved the provision requiring a vessel operator permit because it is not a matter of sufficient scope and substance warranting review under section 304(a)(1)(A) of the Magnuson Act. The vessel operator permit was intended to provide vessel operators with greater responsibility and accountability regarding compliance with fishery regulations. The Regional Director determined that adequate regulatory compliance can be achieved via the existing penalty schedule without incurring the additional costs and public paperwork burdens of implementing a new class of permits. The vessel operator permit does not minimize costs and, therefore, is inconsistent with the Magnuson Act's national standard 7, which requires that management measures shall, where practicable, minimize costs and avoid unnecessary duplication.

Proposed regulations to implement the remaining management measures of Amendment 1 are scheduled for publication within 15 days.

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

Dated: March 13, 1996.

Richard W. Surdi,

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

[FR Doc. 96–6479 Filed 3–13–96; 5:04 pm]

BILLING CODE 3510–22–F

Notices

Federal Register
Vol. 61, No. 54
Tuesday, March 19, 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 AGRICULTURE

Farm Service Agency

Notice of Addendum to a Currently Approved Information Collection

AGENCY: Farm Service Agency, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13), this notice announces the Agency's request for an addendum to an approved information collection for the farm credit programs guaranteed loan regulations of the Farm Service Agency (FSA), formerly administered by the USDA, Farmers Home Administration. These regulations are published under the authority of the Consolidated Farm and Rural Development Act, as amended.

DATES: Comments on this notice must be received on or before May 20, 1996, to be assured consideration.

ADDITIONAL INFORMATION: Phillip D. Elder, Senior Loan Officer, Loan Servicing Division, Farm Service Agency, USDA, P. O. Box 2415, Ag Box Code 0523, Washington, D.C. 20013–2415; telephone (202) 720–4572.

SUPPLEMENTARY INFORMATION:

Title: Recovery of Losses Paid on Liquidated Guaranteed Farm Credit Programs Loans.

OMB Control Number: 0560–0155.

Expiration Date of Approval: September 30, 1996.

Type of Request: Addendum to a Currently Approved Information Collection.

Abstract: The information collected under Office of Management and Budget (OMB) Number 0575–0024 and 0575–0079 is being revised to add standardized procedures for reporting lender collections from borrowers after FSA payment of loss claims and for releasing borrowers from liability. The change is being made at the recommendation of the USDA, Office of Inspector General, and is intended to maximize collections from unsatisfied guaranteed accounts in which a loss has been paid by the Government.

Currently, 7 CFR, Section 1980.146 (e)(3), requires FSA servicing officials to query participating lenders for 5 years following payment of a loss claim to determine if any collections have been made that should be remitted to the Government. However, there is no established format or time frame for reporting. This policy is being strengthened by development of a form (FSA 1980–26) that will result in more clear and consistent information. The number of years in question will be reduced from 5 years to 3 years. Lenders will be required to report annually during the 3-year period.

Estimate of Burden: Public reporting burden for this information collection is estimated to average 15 minutes per response.

Respondents: State or Federally chartered banks, Farm Credit Banks, other Farm Credit System institutions, Bank for Cooperatives, savings and loan associations, mortgage companies, credit unions and State lending agencies.

Estimated Number of Respondents: 2233.

Estimated Number of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 558.

Comments regarding the following issues should be sent to the Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503 and to Phillip D. Elder, Senior Loan Officer, Loan Servicing Division, Farm Service Agency, USDA, P.O. Box 2415, Ag Box Code 0523, Washington, D.C. 20013–2415; telephone (202) 720–9053: (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Signed at Washington, DC, on March 11, 1996.

Bruce R. Weber,

Acting Administrator, Farm Service Agency.

[FR Doc. 96–6544 Filed 3–18–96; 8:45 am]

BILLING CODE 3410–05–P

Forest Service

Eagle Rock Ecosystem Restoration; Colville National Forest, Ferry County, Washington

AGENCY: Forest Service, USDA.

ACTION: Cancellation notice.

SUMMARY: The Forest Service, USDA, is no longer involved in the preparation of an environmental impact statement for the Eagle Rock Ecosystem Restoration project on the Republic Ranger District of the Colville National Forest (Ferry County, Washington). The Notice of Intent, published in the Federal Register on November 6, 1990 (55 FR 46693) and revised on June 23, 1995 (60 FR 32651) is hereby rescinded.

FOR FURTHER INFORMATION CONTACT: Kristie Miller or Jim Parker, Republic Ranger District, Colville National Forest, P.O. Box 468, Republic, Washington 99166, or phone 509–775–3305.

Dated: March 4, 1996.

Edward L. Schultz,

Forest Supervisor.

[FR Doc. 96–6537 Filed 3–18–96; 8:45 am]

BILLING CODE 3410–11–M

South Manti Timber Salvage; Manti-La Sal National Forest, Sanpete and Sevier Counties, Utah

AGENCY: Forest Service, USDA.

ACTION: Cancellation of a Notice of Intent to prepare an environmental impact statement.

SUMMARY: The USDA, Forest Service, Manti-La Sal National Forest is no longer preparing an environmental impact statement (EIS) to disclose the environmental effects of timber salvage

on the Ferron and Sanpete Ranger Districts. The original Notice of Intent to prepare an environmental impact statement was published February 28, 1994 (Vol. 59, No. 39, page 9462) and a Revised Notice of Intent to prepare an environmental impact statement was published April 14, 1995 (Vol. 60, No. 72, page 19016).

Section 2001 of Public Law 104–19 eliminated the need to prepare an EIS to document the environmental analysis process. An Environmental Assessment (EA) documenting this analysis is available for review and comment at the address listed below beginning March 14, 1996.

FOR FURTHER INFORMATION CONTACT: Questions about the environmental analysis and EA should be directed to David Hatfield, Interdisciplinary Team Leader, Manti-La Sal National Forest, 599 West Price River Drive, Price, Utah, 84501. Phone (801) 637–2817.

Dated: March 8, 1996.

Janette S. Kaiser,

Forest Supervisor.

[FR Doc. 96–6574 Filed 3–18–96; 8:45 am]

BILLING CODE 3410–11–M

Deschutes Provincial Interagency Executive Committee (PIEC), Advisory Committee Meeting

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Deschutes PIEC Advisory Committee will meet on April 11 and 12th, 1996 at Rock Springs Ranch north of Bend, Oregon. Start time is 5:00 p.m. on 4/11 and 9:00 a.m. on 4/12. Agenda items include: (1) Overview of fishing and water quality issues in the Deschutes Province; (2) Subcommittee meetings for recreation, fisheries, rangelands, and timber management; and (3) Open public forum. All Deschutes Province Advisory Committee meetings are open to the public.

FOR FURTHER INFORMATION CONTACT: Harry Hoogesteger, Province Liaison, USDA, Fort Rock Ranger District, 1230 NE 3rd, Bend, Oregon 97701, 541–383–4704.

Dated: March 8, 1996.

Sally Collins,

Deschutes National Forest Supervisor.

[FR Doc. 96–6476 Filed 3–18–96; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF COMMERCE

International Trade Administration

Initiation of Antidumping and Countervailing Duty Administrative Reviews

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Initiation of Antidumping and Countervailing Duty Administrative Reviews.

SUMMARY: The Department of Commerce (the Department) has received requests to conduct administrative reviews of various antidumping and countervailing duty orders and findings with February anniversary dates. In accordance with the Department's regulations, we are initiating those administrative reviews.

EFFECTIVE DATE: March 19, 1996.

FOR FURTHER INFORMATION CONTACT: Holly A. Kuga, Office of Antidumping Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230, telephone: (202) 482–4737.

SUPPLEMENTARY INFORMATION:

Background

The Department has received timely requests, in accordance with 19 CFR 353.22(a) and 355.22(a)(1994), for administrative reviews of various antidumping and countervailing duty orders and findings with February anniversary dates.

Initiation of Reviews

In accordance with sections 19 CFR 353.22(c) and 355.22(c), we are initiating administrative reviews of the following antidumping and countervailing duty orders and findings. The Department is not initiating an administrative review of any exporters and/or producers who were not named in a review request because such exporters and/or producers were not specified as required under section 353.22(a) (19 CFR 353.22(a)). We intend to issue the final results of these reviews not later than February 28, 1997.

	Period to be reviewed
Antidumping Duty Proceedings	
India:	
Stainless Steel Bar	
A–533–810	
Isibars	08/04/94–01/31/96
Certain Forged Stainless Steel Flanges	
A–533–809	
Akai Impex	02/01/95–01/31/96
Japan:	
Mechanical Transfer Presses	
A–588–810	
Ishikawajima-Harima Heavy Industries Co., Ltd	02/01/95–01/31/96
Hitachi Zosen Corporation	
Aida Engineering, Ltd	
The People's Republic of China:	
Axes/Adzes; Bars/Wedges; Hammers/Sledges; and Picks/Mattocks	
A–570–803	
Fujian Machinery and Equipment Corporation	02/01/95–01/31/96
Shandong Machinery Import & Export Company	
All other exporters of axes/adzes; bars/wedges; hammers/sledges; or pick/mattocks from the People's Republic of China are conditionally covered by this review.	
The People's Republic of China:	
Natural Paint Brushes	
A–570–501	
Hebei Animal By-Products I/E Corporation	02/01/95–01/31/96

	Period to be reviewed
China National Metals & Minerals I/E Corporation Zhenjiang Trading Corporation Inner Mongolia Autonomous Region Light Industrial Products I/E Yixing Sania Brush Making Co., Ltd Eastar B.F. (Thailand) Company, Ltd China National Native Product and Animal By-Product Import and Export Corporation All exporters of paint brushes from the People's Republic of China are conditionally covered by this review.	
Countervailing Duty Proceedings	
None	

For the antidumping duty orders listed above which were published before January 1, 1995, if requested within 30 days of the date of publication of this notice, the Department will determine whether antidumping duties have been absorbed by an exporter or producer subject to any of these reviews if the subject merchandise is sold in the United States through an importer which is affiliated with such exporter or producer.

Interested parties must submit applications for disclosure under administrative protective orders in accordance with 19 CFR 353.34(b) and 355.34(b).

These initiations and this notice are in accordance with section 751(a) of the Tariff Act of 1930, as amended (19 U.S.C. 1675(a)) and 19 CFR 353.22(c)(1) and 355.22(c)(1).

Dated: March 12, 1996.

Joseph A. Spetrini,

Deputy Assistant Secretary for Compliance.

[FR Doc. 96–6472 Filed 3–18–96; 8:45 am]

BILLING CODE 3510–DS–M

[(A–821–802, A–834–802, A–844–802)]

Suspension Agreements on Uranium From the Russian Federation, Kazakstan, and Uzbekistan

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Request for public comments.

SUMMARY: In order to provide all parties an opportunity to comment on the Department of Commerce's proposed solution to an issue regarding natural uranium from the Russian Federation, Kazakstan, and Uzbekistan which is enriched in a third country prior to importation into the United States, the Department of Commerce requests that parties wishing to provide comments do so no later than 20 days after the date of publication of this notice.

EFFECTIVE DATE: March 19, 1996.

FOR FURTHER INFORMATION CONTACT: James Doyle or Alexander Braier, Office of Agreements Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, DC 20230, telephone: (202) 482–0172 or (202) 482–1324, respectively.

BACKGROUND: On March 27, 1995, the Department of Commerce (the Department) and the Republic of Kazakstan signed an amendment to the Kazakstani uranium suspension agreement. In part, this amendment provided that the quantitative restraints on Kazakstani-origin uranium include all uranium ore from Kazakstan that is milled into U_3O_8 and/or converted into UF_6 and/or enriched in U_{235} in another country prior to direct and/or indirect importation into the United States. 60 FR 25692,25693 (May 12, 1995). In light of the fact that similar amendments were being considered for Uzbekistan and the Russian Federation, on September 22, 1995, the Department solicited contract-specific information from U.S. utilities that hold contracts for Kazakstani, Uzbek, or Russian uranium in order to assess the effect such an amendment has on importations pursuant to such contract. 60 FR 49259 (September 22, 1995). The Department received five responses to its Federal Register notice.

On October 13, 1995, the Department and the Government of Uzbekistan signed an amendment which, among other provisions, treats Uzbek-origin uranium in the same manner as the Kazakstani amendment. From January 22 to 26, 1996, and from February 19 to 23, 1996, the Department and the Ministry of Atomic Energy of the Russian Federation (MINATOM) held the fourth and fifth rounds of consultations regarding, among other issues, the enrichment of Russian-origin uranium in third countries.

OPPORTUNITY TO SUBMIT COMMENTS: Based on the factual information submitted to the Department and on views conveyed to the Department during numerous and frequent contacts with affected parties, the Department has prepared a proposed solution regarding the third country enrichment issue. The specific elements of the proposal are included in the attached Annex.

Prior to reaching a final decision on this issue, the Department is providing an opportunity for full participation on the record to all parties wishing to comment. Accordingly, not later than 20 days from the date of publication of this notice, parties may submit comments with respect to the third country enrichment issue. Seven copies of the comments should be submitted to the Deputy Assistant Secretary for Compliance, Import Administration, International Trade Administration, Room B–099, U.S. Department of Commerce, Washington, DC 20230. All comments provided to the Department in response to this notice will be subject to release under Administrative Protective Order in accordance with 19 CFR 353.34. Therefore, all comments must properly identify information the submitter would like treated as business proprietary, and be accompanied by a properly bracketted public version. The Department will meet with affected or interested parties upon request to fully explain the calculations and procedures contained in the Annex to this notice.

Dated: March 12, 1996.

Joseph A. Spetrini,

Deputy Assistant Secretary for Compliance.

Annex—Third Country Enrichment of Subject Uranium Proposal

The Department of Commerce's proposed decision regarding the issue of third country enrichment of subject uranium permits the entry of portions of the volume specified in certain contracts. The contracts must have been signed by March 27, 1995, which was the effective date of the first amendment to a uranium suspension agreement which addressed this issue. After accounting for any previously entered volumes, the proposal divides the remaining subject material into two portions: (1) 75% of the volume will be permitted entry without additional conditions; and (2) the remaining 25% will be permitted entry only if matched with an equal amount of newly

produced U.S. uranium. The proposal also establishes certain procedures necessary for its efficient administration within the auspices of the suspension agreements and the Tariff Act of 1930, as amended.

Eligible Contracts and Permitted Volumes

- An eligible contract is defined as a natural uranium supply contract signed before March 27, 1995, that was identified in response to the Department's September 22, 1995, Federal Register notice. No other natural uranium contracts, regardless of origin, shall be eligible for inclusion within the terms of the third country enrichment proposal;
- The permitted volume for each contract is the nominal volume contained in each eligible contract.[1] If there is no specific nominal volume identified in the contract, the permitted volume shall be the midpoint between the highest and lowest volumes stipulated in the contract. For any contract containing an option for an additional volume which was exercised prior to March 27, 1995, the permitted volume shall be the nominal/midpoint volume of the eligible contract plus the volume of the exercised option. Similarly, for any contract which was amended prior to March 27, 1995 to provide for an additional volume, the permitted volume shall be the nominal/midpoint volume plus the volume specified in such amendment. For any contract containing an option for an additional volume which was exercised prior to March 27, 1995, and which was amended prior to March 27, 1995 to provide for an additional volume, the permitted volume shall be the sum of the nominal/midpoint volume, the optional volume, and the volume specified in the amendment.
- For each eligible contract, 75 percent of the permitted volume will be allowed entry with no conditions other than the ordinary entry requirements for non-subject uranium;
- For each eligible contract, the remaining 25 percent of the permitted volume will be allowed entry only if such importation is pursuant to a matching sale confirmed by the Department by June 30, 1996, for an equal amount of newly produced U.S. uranium;
- If uranium has been imported into the United States prior to the effective date of this notice and pursuant to an eligible contract, then an equal portion of uranium may be imported, but only if the importation is pursuant to a matching sale confirmed by the Department by June 30, 1996, for an equal amount of U.S.-produced uranium. Furthermore, both the volume of uranium already imported and the volume that may be imported only if matched will be deducted from the permitted volume before the 75/25 split is applied;

Administrative Procedures

- All eligible contracts must be submitted to the Department and are releasable in their entirety only to those interested parties which specifically request access under administrative protective order;
- All holders of eligible contracts must agree to permit Department verification of information regarding shipment of the permitted volumes, including, but not limited to, analyses of the tails assays and enrichment percentages to derive feed-to-product ratios;
- In order to facilitate Customs clearance of shipments of permitted volumes, holders of eligible contracts shall provide the Department with appropriate shipping information at least 10 days in advance of the date the shipment is due to reach the United States. Upon receipt of complete and accurate shipping information, the Department will provide Customs with clearance within five days. Certifications or licenses from the appropriate suspension agreement countries shall not be required;
- The Department will administer each eligible contract on a contract-by-contract basis.
- The Department will administer any such matching sales consistent with the Department's existing practice, as specified in Section IV of the Amendment to the Agreement Suspending the Antidumping Investigation on Uranium from the Russian Federation, and appropriate Statements of Administrative Intent, and any subsequent amendments incorporating such practice.

[FR Doc. 96–6471 Filed 3–18–96; 8:45 am]
BILLING CODE 3510–DS–P

[1] Most natural uranium supply contracts specify a nominal volume around which buyers and sellers expectations converge. Typically these contracts also bracket the target volume with minimum and/or maximum volumes.

[C–122–815]

Preliminary Results of First Countervailing Duty Administrative Reviews: Pure Magnesium and Alloy Magnesium From Canada

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: March 19, 1996.

FOR FURTHER INFORMATION CONTACT: David Boyland or Sue Strumbel, Office of Countervailing Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 482–4198 or (202) 482–1442, respectively.

Case History

On August 3, 1993, the Department published in the Federal Register a notice of ''Opportunity to Request an Administrative Review'' (58 FR 41239) of the countervailing duty orders on pure and alloy magnesium from Canada (57 FR 39392 (August 31, 1992)). On August 3 and 24, 1993, Norsk Hydro Canada Inc. (NHCI) and the Magnesium Corporation of America (Magcorp) requested that the Department conduct administrative reviews of the countervailing duty orders. We initiated the reviews for the period December 6, 1991 through December 31, 1992, on September 30, 1993 (58 FR 51053). (*See* also Period of Review section below). The Department is conducting this review in accordance with section 751 of the Tariff Act of 1930, as amended (the Act).

On December 17, 1993, the Department issued questionnaires to NHCI, the Government of Canada (GOC), and the Government of Quebec (GOQ). The Department received questionnaire responses from NHCI, GOC, and GOQ on February 22, 1994.

On January 31, 1994, Magcorp alleged that NHCI was receiving subsidized electricity. On February 18, 1994, Magcorp was notified by the Department that its allegation could not be considered because it was filed 120 days after the initiation of this review (*see* 19 CFR 353.31(c)(1)).

Applicable Statute

The Department is conducting these administrative reviews in accordance with section 751(a) of the Tariff Act of 1930, as amended (the Act). Unless otherwise indicated, all citations to the statute and to the Department's regulations are references to the provisions as they existed on December 31, 1994. However, references to the Department's *Countervailing Duties; Notice of Proposed Rulemaking and Request for Public Comments*, (May 31, 1989) (*Proposed Regulations*), are provided solely for further explanation of the Department's countervailing duty practice. Although the Department has withdrawn the particular rulemaking proceeding pursuant to which the *Proposed Regulations* were issued, the

subject matter of these regulations is being considered in connection with an ongoing rulemaking proceeding which, among other things, is intended to conform the Department's regulations to the Uruguay Round Agreements Act (*see* 60 FR 80, January 3, 1995).

Scope of Review

The products covered by these reviews are pure and alloy magnesium from Canada. Pure magnesium contains at least 99.8 percent magnesium by weight and is sold in various slab and ingot forms and sizes. Magnesium alloys contain less than 99.8 percent magnesium by weight with magnesium being the largest metallic element in the alloy by weight, and are sold in various ingot and billet forms and sizes. Secondary and granular magnesium are not included. Pure and alloy magnesium are currently provided for in subheadings 8104.11.0000 and 8104.19.0000, respectively, of the Harmonized Tariff Schedule (HTS). Although the HTS subheadings are provided for convenience and Customs purposes, our written descriptions of the scopes of these proceedings is dispositive.

Period of Review

For purposes of calculating the net subsidy, the period of review (POR) is January 1, 1992 through December 31, 1992. The subject merchandise covered by this review, however, includes all entries made on or after December 6, 1991 and on or before December 31, 1992. (*See* April 28, 1994 memorandum to Susan H. Kuhbach, Director, Office of Countervailing Investigations, for a further explanation.) NHCI accounted for all exports of subject merchandise during the period of review.

Analysis of Programs

Programs Previously Determined to Confer Subsidies

1. Exemption From Payment of Water Bills

Pursuant to a December 15, 1988 agreement between NHCI and Le Societe du Parc Industriel et Portuaire de Becancour (Industrial Park), NHCI is exempt from payment of its water bills. Except for the taxes associated with its bills, NHCI does not pay the invoiced amounts of its water bills.

In the *Final Affirmative Countervailing Duty Determinations: Pure Magnesium and Alloy Magnesium from Canada (Magnesium from Canada)* 57 FR 30948 (July 13, 1992), the Department determined that the exemption received by NHCI was limited to a specific enterprise or industry, or group of enterprises or industries because no other company receives such an exemption. In this review, neither the GOQ nor NHCI provided new information which would warrant reconsideration of this determination. Additionally, in *Magnesium from Canada* the Department determined the countervailable benefit to be the money NHCI would have paid absent the exemption. During the course of this review, NHCI argued that, even though their water bills were based, in part, on forecasted water consumption, the countervailable benefit should be confined solely to the unpaid POR water bills as they relate to actual water consumption.

For reasons which cannot be disclosed in this notice due to the business proprietary status assigned to certain information, the Department preliminarily determines, as it did in *Magnesium from Canada*, that the countervailable benefit of this program is the sum of the POR water bills—which are partially based on forecasted consumption—that NHCI would have paid absent the exemption it received. (*See also* June 28, 1995 memorandum to Paul L. Joffe, Deputy Assistant Secretary for Import Administration.)

To calculate the benefit under this program, we divided the amount NHCI would have paid for water during the POR by NHCI's total POR sales of Canadian-manufactured products. On this basis, we preliminarily determine that the net subsidy provided by this program is 1.31 percent *ad valorem*.

2. *Article 7 Grants From the Quebec Industrial Development Corporation*

The Societe de Developpement Industriel du Quebec (SDI) administers development programs on behalf of the GOQ. SDI provides assistance under Article 7 of the SDI Act in the form of loans, loan guarantees, grants, assumptions of costs associated with loans, and equity investments. This assistance involves projects capable of having a major impact upon the economy of Quebec. Article 7 assistance greater than 2.5 million dollars must be approved by the Council of Ministers, and assistance over 5 million dollars becomes a separate budget item under Article 7. Assistance provided in such amounts must be of ''special economic importance and value to the province.'' (*See Magnesium from Canada*, 57 FR 30949 (July 13, 1992)).

In 1988, NHCI was awarded a grant under Article 7 to cover a large percentage of the cost of certain environmental protection equipment. In *Magnesium from Canada*, we determined that NHCI received a disproportionately large share of assistance under Article 7. On this basis, we determined that the Article 7 grant was limited to a specific enterprise or industry, or group of enterprises or industries. In this review, neither the GOQ nor NHCI provided new information which would warrant reconsideration of this determination.

In *Magnesium from Canada*, the Department found that the grant provided under Article 7 was nonrecurring because it represented a one-time provision of funds. Before a Binational panel the Department also argued that Article 7 was a nonrecurring grant because it was authorized in a single act and completely disbursed within a relatively short period of time. The Binational review panel upheld the Department's decision that the grant was nonrecurring.

Principles enunciated in the *General Issues Appendix* to the *Certain Steel* investigations support the Department's finding that Article 7 assistance represents a nonrecurring grant. (*See General Issues Appendix (*GIA), 58 FR 37226 (July 9, 1993)). The *GIA* modified the test used to make the determination as to whether a grant is recurring or nonrecurring. Under the current test, a grant is generally considered nonrecurring if: (1) the benefit provided is exceptional, (2) the recipient cannot expect to receive benefits under the program on an ongoing basis from review period to review period, or (3) the provision of funds by the government must be approved every year.

The Article 7 grant received by NHCI was exceptional in the sense that it was a one-time grant authorized by a single act of the GOQ. Additionally, NHCI cannot expect to receive Article 7 grants on an ongoing basis from review period to review period. Finally, in order for NHCI to receive additional Article 7 benefits in the future, additional government approval would be required. Therefore, applying the current recurring/nonrecurring test, the Article 7 grant received by NHCI should be considered nonrecurring.

The *GIA* also lists benefits which the Department generally considers nonrecurring. This list includes ''grants for the purchase of fixed assets.'' As noted above, NHCI's Article 7 grant was for the purchase of fixed assets (*i.e.*, environmental protection equipment). Therefore, based on the reasons discussed above, we preliminarily determine that the Article 7 grant received by NHCI was nonrecurring.

We calculated the benefit from the grant received by NHCI using the

company's cost of long-term, fixed-rate debt as a discount rate and our declining balance methodology as described in section 355.49(b) of the Department's *Proposed Regulations*. We used 14 years as our allocation period, which is the average useful life of the assets in the magnesium industry. We divided that portion of the benefit allocated to the period of investigation by NHCI's total sales of Canadian manufactured products and preliminarily calculated a net subsidy of 8.55 percent *ad valorem* for NHCI.

Because the Article 7 grant was disbursed in the form of interest rebates respondent argues that the Department should employ the interest rebate methodology articulated in the *Certain Steel* investigations (*see e.g., Final Affirmative Countervailing Duty Determinations: Certain Steel Products from Italy*, 58 FR 37327 (July 9, 1993)). In Certain Steel and subsequent investigations, the Department's practice has been to analyze the benefit from an interest rebate in either of two ways. If the borrower knows that an interest rebate will be provided prior to taking on the debt, the Department employs its loan methodology and reduces the interest rate charged by the amount of interest rebated. If the borrower does not know of the interest rebate prior to taking on the debt, the Department treats the interest rebate as a grant.

In this administrative review, respondent has provided additional information showing that the majority of Article 7 assistance took the form of interest rebates on loans taken out after the Article 7 assistance was awarded. Respondent asserts that, since it knew it would be receiving Article 7 assistance prior to taking out these loans, the Department should employ its loan methodology and reduce the interest paid by the amount of the Article 7 assistance received. Moreover, according to respondent, because these loans were not outstanding during the POR and the Department confines the allocation period of a subsidized loan to the life of the loan, the majority of benefits from Article 7 assistance are no longer countervailable (*see section 353.49(c)(1) of the Proposed Regulations*).

In addressing respondent's argument, we note that there are significant differences between the Article 7 assistance provided to NHCI and the interest rebate programs that the Department has encountered in the past and for which the above-referenced *Certain Steel* methodology provides guidance.

We first note the attenuated relationship between the Article 7 assistance and the group of loans subsequently taken out by NHCI. This is in contrast with the direct and tangible relationship that the Department typically observes when examining interest rebate programs and the underlying loans whose interest is being rebated (*see e.g. Final Affirmative Countervailing Duty Determination; Certain Steel Products from the United Kingdom* (58 FR 37393, 37397 (July 9, 1993)).

The agreement NHCI signed with the GOQ primarily conditions the disbursement of funds upon the achievement by NHCI of pre-established targets related to the purchase of specific fixed assets. The requirement to accumulate interest costs prior to the disbursement of the grant was clearly secondary and far less specific. The disbursement of the grant was not tied to the amount borrowed, the number of loans taken out, the interest rate charged on those loans or the specific dates on which interest payments were made. Once NHCI was able to demonstrate that certain costs had been incurred in purchasing specific fixed assets, it was only required to show that an equivalent amount of interest expense had been paid to receive the next disbursement. No evidence was provided to show a link between the loans and the Article 7 assistance.

Secondly, the interest rebate programs in *Certain Steel* and subsequent cases for which the Department employed its loan methodology, operated to lower the financing cost of purchasing particular fixed assets. The subsidy recipients in these programs obtained financing to make an investment and a portion of the interest incurred in financing the investment was rebated by the government. In contrast, the Article 7 assistance received by NHCI actually lowered the cost of the fixed assets themselves, not simply the cost of financing the purchase of those assets.

The Article 7 assistance received by NHCI effectively reimbursed a large percentage of the price of certain fixed assets. As noted above, the Article 7 payments were primarily conditioned upon NHCI meeting pre-established targets related to the purchase and installation of fixed assets. While the payments could not be more than the amount of interest incurred, the overall cap on the payments received was not limited to the interest on loans taken out to finance the acquisition of the fixed assets in question. Instead, the cap included all interest on loans taken out by NHCI. As a result, the Article 7 payments covered more than the cost of financing the purchase of fixed assets, they covered the cost of the equipment itself.

For the reasons outlined above, in this preliminary determination, we disagree with respondent's contention that the Department should treat Article 7 assistance as a series of interest rebates rather than a nonrecurring grant. (*See also* June 28, 1995 memorandum to Paul L. Joffe, Deputy Assistant Secretary for Import Administration.)

Programs Preliminarily Found Not to be Used

We preliminarily find that NHCI did not apply for or receive benefits under the following programs during the period of review: St. Lawrence River Environmental Technology Development Program, Program for Export Market Development, the Export Development Corporation, Canada-Quebec Subsidiary Agreement on the Economic Development of the Regions of Quebec, Opportunities to Stimulate Technology Programs, the Development Assistance Program, the Industrial Feasibility Study Assistance Program, the Export Promotion Assistance Program, the Creation of Scientific Jobs in Industries, the Business Investment Assistance Program, the Business Financing Program, the Research and Innovation Activities Program, Export Technologies Development Program, the Financial Assistance Program for Research Formation and for the Improvement of the Recycling Industry, the Transportation Research and Development Assistance Program.

Preliminary Results of Review

We preliminarily determine the net subsidy for the period January 1, 1992 through December 31, 1992, to be 9.87 percent. If the final results of this review remain the same as these preliminary results, the Department intends to instruct the Customs Service to assess countervailing duties at 9.87 percent of the F.O.B. invoice price on all shipments of the subject merchandise, except Timminco Limited (which was excluded from the order during the original investigation), exported on or after December 6, 1992 and on or before December 31, 1992. The Department also intends to instruct the Customs Service to collect a cash deposit of 9.87 percent on all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this administrative review.

Parties to the proceeding may request disclosure of the calculation methodology and interested parties may request a hearing not later than 10 days

after the date of publication of this notice. Interested parties may submit written arguments in case briefs on these preliminary results within 30 days of the date of publication. Rebuttal briefs, limited to arguments raised in case briefs, may be submitted seven days after the time limit for filing the case brief. Parties who submit argument in this proceeding are requested to submit with the argument (1) a statement of the issue, and (2) a brief summary of the argument. Any hearing, if requested, will be held seven days after the scheduled date for submission of rebuttal briefs. Copies of case briefs and rebuttal briefs must be served on interested parties in accordance with 19 CFR § 355.38(e).

Representatives of parties to the proceeding may request disclosure of proprietary information under administrative protective order up until 10 days after the representative's client or employer becomes a party to the proceeding, but in no event later than the date the case briefs are due under 19 CFR 355.38(c).

The Department will publish the final results of this administrative review, including the results of its analysis of issues raised in any case or rebuttal briefs.

This administrative review and notice are in accordance with section 751(a)(1) of the Act (19 U.S.C. 1675(a)(1)) and 19 CFR 355.22.

Dated: March 12, 1996.

Paul L. Joffe,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 96–6571 Filed 3–18–96; 8:45 am]

BILLING CODE 3510–DS–P

Export Trade Certificate of Review

ACTION: Notice of Issuance of an amended Export Trade Certificate of Review, Application No. 89-6A016.

SUMMARY: On March 6, 1996, the Department of Commerce issued an amendment to the Export Trade Certificate of Review granted to the Geothermal Energy Association. The original Certificate was issued on February 5, 1990 and notice of issuance was published in the Federal Register on February 9, 1990 (55 FR 4647).

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. Sections 4001–21) authorizes the Secretary of Commerce to issue Export Trade Certificates of Review. The regulations implementing Title III are found at 15 CFR Part 325 (1993).

The Office of Export Trading Company Affairs is issuing this notice pursuant to 15 CFR 325.6(b), which requires the Department of Commerce to publish a summary of a Certificate in the Federal Register. Under Section 305(a) of the Act and 15 CFR 325.11(a), any person aggrieved by the Secretary's determination may, within 30 days of the date of this notice, bring an action in any appropriate district court of the United States to set aside the determination on the ground that the determination is erroneous.

Description of Amended Certificate

Geothermal Energy Association's Export Trade Certificate of Review has been amended to:

1. Add the following entity as a ''Member'' to the Certificate within the meaning of section 325.21 of the Regulations (15 C.F.R. 325.2(1)): Resource Group, Palm Desert, CA.

2. Delete Foster Valve Corporation substituting Ingram Cactus Company, as a ''Member'' Houston, TX; and delete Ormat Inc., substituting Ormat International, Inc. as a ''Member,'' Sparks, NV.

A copy of the amended certificate will be kept in the International Trade Administration's Freedom of Information Records Inspection Facility, Room 4102, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230.

Dated: March 13, 1996.

W. Dawn Busby,

Director, Office of Export Trading Company Affairs.

[FR Doc. 96–6508 Filed 3–18–96; 8:45 am]

BILLING CODE 3510–DR–P

National Oceanic and Atmospheric Administration

[I.D. 031396A]

Limited Access Management of Federal Fisheries In and Off of Alaska; Season Opening

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

ACTION: Notice of fishing season dates.

SUMMARY: NMFS is opening the directed fishery for sablefish with fixed gear managed under the Individual Fishing Quota (IFQ) program. The season will open on 12:00 noon, Alaska local time (A.l.t.), March 15, 1996, and will close 12:00 noon, A.l.t., November 15, 1996. This period runs concurrently with the IFQ season for Pacific halibut announced by the International Pacific Halibut Commission (IPHC).

EFFECTIVE DATE: March 15, 1996, 12:00 noon, A.l.t., through November 15, 1996, 12:00 noon, A.l.t.

FOR FURTHER INFORMATION CONTACT: John Lepore, 907–586-7228.

SUPPLEMENTARY INFORMATION: Beginning in 1995, fishing for Pacific halibut (*Hippoglossus stenolepis*) and sablefish (*Anoplopoma fimbria*) with fixed gear in the IFQ regulatory areas defined in § 676.11 have been managed under the IFQ Program. The IFQ Program is a regulatory regime designed to promote the conservation and management of these fisheries and to further the objectives of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*) and the Northern Pacific Halibut Act (16 U.S.C. 773–773k). Persons holding quota share, which represents a transferable harvest privilege, receive an annual allocation of IFQ. Persons receiving an annual allocation of IFQ are authorized to harvest IFQ species within specified limitations. Further information on the implementation of the IFQ Program, and the rationale supporting it, is contained in the preamble to the final rule implementing the IFQ Program published in the Federal Register, November 9, 1993 (58 FR 59375) and subsequent amendments.

This announcement is consistent with § 676.23(b), which requires that directed fishing for sablefish managed under the IFQ program be announced by the Director, Alaska Region, NMFS by publication in the Federal Register. This method of season announcement was selected to facilitate coordination between the sablefish season, chosen by the Director, Alaska Region, NMFS and the halibut season, chosen by the IPHC. The directed fishing season for sablefish with fixed gear managed under the IFQ program will open on 12:00 noon, A.l.t., March 15, 1996, and will close 12:00 noon, A.l.t., November 15, 1996. This period runs concurrently with the IFQ season for Pacific halibut announced by the IPHC.

Dated: March 13, 1996.

Richard W. Surdi,

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

[FR Doc. 96–6488 Filed 3–18–96; 8:45 am]

BILLING CODE 3510–22–F

[Docket No. 960223046–6046–1; I.D. 020696E]

RIN 0648–ZA09

Financial Assistance for Research and Development Projects to Strengthen and Develop the U.S. Fishing Industry

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

ACTION: Notice of availability of Federal assistance.

SUMMARY: NMFS issues this document describing the conditions under which applications will be accepted under the Saltonstall-Kennedy (S-K) Grant Program and how NMFS will select applications for funding in FY 1996. The S-K Grant Program assists eligible applicants in carrying out research and development projects that address aspects of U.S. fisheries (commercial or recreational), including, but not limited to, harvesting, processing, marketing, and associated infrastructures.

DATES: Applications must be received by close of business May 20, 1996 in one of the offices listed in **ADDRESSES**. Applicants must submit one signed original and two signed copies of the completed application. No facsimile applications will be accepted. Generally, the time required to process applications is 120 days from the closing date of the solicitation.

ADDRESSES: Application packages can be obtained from, and completed applications sent to any office listed below:

Regional Director, National Marine Fisheries Service, One Blackburn Drive, Gloucester, MA 01930; telephone: (508) 281-9267.

Regional Director, National Marine Fisheries Service, Koger Bldg., 9721 Executive Center Drive, North, St. Petersburg, FL 33702; telephone: (813) 570-5324.

Regional Director, National Marine Fisheries Service, 501 West Ocean Boulevard, Suite 4200, Long Beach, CA 90802–4213; telephone: (310) 980–4033.

Regional Director, National Marine Fisheries Service, BIN C15700, 7600 Sand Point Way, NE., Seattle, WA 98115; telephone: (206) 526-6117.

Regional Director, National Marine Fisheries Service, P.0. Box 21668, Juneau, AK 99802, or Federal Building, 709 W. 9th Street, 4th Floor, Juneau, AK 99801; telephone: (907) 586-7224.

FOR FURTHER INFORMATION CONTACT: Alicia L. Jarboe, S-K Program Manager, (301) 713-2358.

SUPPLEMENTARY INFORMATION:

I. Introduction

A. Background

The S-K Act, as amended (15 U.S.C. 713c-3), provides that a fund (known as the S-K fund) will be used to provide grants for fisheries research and development projects. The Secretary of Commerce makes such funds, as appropriated, available each year for grants and cooperative agreements to assist persons in carrying out research and development projects that address aspects of U.S. commercial and recreational fisheries. U.S. fisheries[1] include any fishery that is or may be engaged in by citizens or nationals of the United States, or citizens of the Northern Mariana Islands.

B. Funding

NMFS issues this document to solicit applications for Federal assistance, pursuant to 15 U.S.C. 713c–3(c), describing the conditions under which applications will be accepted under the S-K Grant program and how NMFS will select the applications it will fund.

The Fiscal Year 1996 base funding for this program is approximately $7.0 million which will be used to support projects solicited under this document. The funding cycle will be contingent upon the appropriation of funds by the Congress of the United States.

C. Catalogue of Federal Domestic Assistance

The S-K Grant Program is listed in the ''Catalog of Federal Domestic Assistance'' under number 11.427, Fisheries Development and Utilization Research and Development Grants and Cooperative Agreements Program.

II. Funding Priorities

The following priorities, which are in no particular order, were developed with input from the public and in consideration of the NOAA Strategic Plan, which includes a focus on rebuilding U.S. fisheries for sustainable use.

Funding will not be provided for projects primarily involving infrastructure construction, port and harbor development, and start-up or operational costs for private business ventures.

Proposals submitted in response to this notice should build upon or take into account any past and current work in the area, as well as relevant research in related fields.

Projects primarily involving data collection should be directed to a specific problem or need, and be of a fixed duration, not of a continuing nature.

If proposals received do not adequately respond to the listed priorities, NMFS may carry out, in addition to the program announced by this document, a national program of research and development addressed to aspects of U.S. fisheries pursuant to section 713c–3(d) of the S-K Act, as amended.

A. Bycatch

Develop methods for eliminating or reducing the inadvertent take, capture, or destruction of nontargeted, protected, or prohibited species (e.g., juvenile or sublegal-sized fish and shellfish, females of certain crabs, marine turtles, marine mammals) in fishing operations through the technical development, demonstration, or evaluation of fishing gear or harvesting strategies.

B. Fisheries Utilization

Optimize the utilization of harvestable resources available to the fishing industry through innovations in how such resources are harvested, processed, or marketed.

C. Fisheries Management

Develop innovative approaches to improve fisheries management, including but not limited to, assessment of alternative management systems and resolution of user conflicts.

D. Aquaculture

Develop or demonstrate cost-effective approaches for advancing environmentally sound private aquaculture development, including those associated with culturing systems, disease control, and meeting regulatory requirements.

E. Product Quality and Safety

Develop improved approaches to control seafood processing and environmentally induced hazards associated with fish and shellfish and their products.

III. How to Apply

A. Eligible Applicants

Applications for grants or cooperative agreements for fisheries research and development projects may be made, in accordance with the procedures set forth in this document, by:

1. Any individual who is a citizen or national of the United States;

[1] [1]For purposes of this document, a fishery is defined as one or more stocks of fish, including tuna, and shellfish that are identified as a unit based on geographic, scientific, technical, recreational and economic characteristics, and any and all phases of fishing for such stocks. Examples of a fishery are Alaskan groundfish, Pacific whiting, and New England whiting.

2. Any individual who is a citizen of the Northern Mariana Islands (NMI), being an individual who qualifies as such under section 8 of the Schedule on Transitional Matters attached to the constitution of the NMI;

3. Any fisheries development foundation or other private non-profit corporation located in Alaska; or

4. Any corporation, partnership, association, or other non-federal entity, non-profit or otherwise, if such entity is a citizen of the United States or Northern Mariana Islands, within the meaning of section 2 of the Shipping Act, 1916, as amended (46 App. U.S.C. 802).

DOC/NOAA/NMFS are committed to cultural and gender diversity in their programs and encourage women and minority individuals and groups to submit applications. Recognizing the interest of the Secretaries of Commerce and Interior in defining appropriate fisheries policies and programs that meet the needs of the U.S. insular areas, applications that meet such needs are also encouraged.

DOC/NOAA/NMFS employees, including full-time, part-time, and intermittent personnel (or their spouses or blood relatives who are members of their immediate households) are not eligible to submit an application under this solicitation or aid in the preparation of an application, except to provide information on program goals, funding priorities, application procedures, and completion of application forms. Since this is a competitive program, NMFS employees will not provide assistance in conceptualizing, developing, or structuring proposals, or write letters of support for a proposal.

Employees of Federal agencies, and Regional Fishery Management Councils and their members and employees, are not eligible to submit an application under this solicitation.

B. Duration and Terms of Funding

Generally, grants or cooperative agreements are awarded for a period of 1 year, but no more than 18 months at a time.

If an application for an award is selected for funding, NMFS has no obligation to provide any additional prospective funding in connection with that award. Renewal of an award to increase funding or extend the period of performance is at the total discretion of the agency.

Publication of this announcement does not obligate NMFS to award any specific grant or cooperative agreement or to obligate any part or the entire amount of funds available.

C. Cost-Sharing

Although the S-K Act, as amended, does not require that applicants share in the total costs of a project, such sharing is encouraged. Cost-sharing will not be a factor in the technical evaluation of an application. However, the degree of cost-sharing may be taken into account in the final selection of projects to be funded. If applicants choose to cost-share, and if their applications are selected for funding, those applicants will be obligated to account for the amount of cost-share reflected in the award documents.

If project costs are shared, NMFS must provide at least 50 percent of total project costs, as provided by statute. The percentage of the total project costs provided from non-Federal sources may be up to 50 percent of the costs of the project. The non-Federal share may include funds received from private sources or from state or local governments or the value of in-kind contributions. Federal funds may not be used to meet the non-Federal share except as provided by Federal statute. In-kind contributions are noncash contributions provided by the applicant or non-Federal third parties. In-kind contributions may be in the form of, but are not limited to, personal services rendered in carrying out functions related to the project, and permission to use real or personal property owned by others (for which consideration is not required) in carrying out the project.

The appropriateness of all cost-sharing proposals, including the valuation of in-kind contributions, will be determined on the basis of guidance provided in the relevant Office of Management and Budget (OMB) Circulars. In general, the value of in-kind services or property used to fulfill the applicant's cost-share will be the fair market value of the services or property. Thus, the value is equivalent to the costs of obtaining such services or property if they had not been donated. Appropriate documentation must exist to support in-kind services or property used to fulfill the applicant's cost-share.

D. Format

Applications for project funding must be complete. They must identify the principal participants and include copies of any agreements between the participants and the applicant describing the specific tasks to be performed. Project applications must identify the specific priority(ies) contained in section II of this document to which the application responds. If an application does not respond to a priority, it should be so stated. Project applications must be clearly and completely submitted in the format that follows.

1. Cover sheet: An applicant must use OMB Standard Form 424A and B (4–92) as the cover sheet for each project. (In completing item 16 of Standard Form 424A, see section V.A.5. of this document.)

2. Project Summary: An applicant must complete NOAA Form 88–204 (10–95), Project Summary, for each project.

3. Project Budget: A budget must be submitted for each project, using NOAA Form 88–205 (10–95), Project Budget and associated instructions. The applicants must submit detailed cost estimates showing total project costs. Cost-sharing is discretionary, but if applicants choose to cost-share, both the Federal and non-Federal shares must be shown, divided into cash and in-kind contributions. To support the budget, the applicant must describe briefly the basis for estimating the value of the matching funds derived from in-kind contributions. Estimates of the direct costs must be specified in the categories listed on the Project Budget form.

The budget may also include an amount for indirect costs if the applicant has an established indirect cost rate with the Federal Government. The total dollar amount of the indirect costs proposed in an application under this program must not exceed the indirect cost rate negotiated and approved by the applicant's cognizant Federal agency prior to the proposed effective date of the award, or 25 percent of the Federal share of the total proposed direct costs dollar amount in the application, whichever is less. Applicants with indirect cost rates above 25 percent of the Federal share of total direct costs may use the amount above the 25–percent level as part of the non-Federal share. A copy of the current, approved, negotiated indirect cost agreement with the Federal Government must be included.

NMFS will not consider fees or profits as allowable costs for applicants.

The total costs of a project consist of all costs incurred, including the value of in-kind contributions, in accomplishing project objectives during the life of the project. A project begins on the effective date of an award agreement between the applicant and an authorized representative of the U.S. Government and ends on the date specified in the award. Accordingly, the time expended and costs incurred in either the development of a project or the financial assistance application, or in any subsequent discussions or negotiations prior to award, are neither reimbursable

nor recognizable as part of the cost-share.

4. Narrative Project Description: The narrative project description may be up to 15 pages in length. Each project must be described as follows:

a. Project goals and objectives: State the need for the proposed project and what it is expected to accomplish. Identify the specific priority(ies) to which the project responds. As appropriate, include the fisheries involved and the sectors of the fishing industry affected. If the application is for the continuation of an existing S-K funded project, describe in detail the progress to date and explain why continued funding is necessary.

b. Need for government financial assistance: Explain why government financial assistance is needed for the proposed work. List all other sources of funding that are being or have been sought for the project.

c. Participation by persons or groups other than the applicant: Describe the participation by government and non-government entities, particularly members of the fishing industry, in the project, and the nature of such participation.

d. Federal, state, and local government activities and permits: List any existing Federal, state, or local government programs or activities that this project would affect, including activities requiring certification under state Coastal Zone Management Plans, those requiring section 404 or section 10 permits issued by the Corps of Engineers, those requiring experimental fishing or other permits under fishery management plans, and those requiring scientific permits under the Endangered Species Act and/or the Marine Mammal Protection Act. Describe the relationship between the project and these plans or activities, and list names and addresses of persons providing this information.

e. Project statement of work: The statement of work is an action plan of activities to be conducted during the period of the project. This section requires the applicant to prepare a detailed narrative, fully describing the work to be performed that will achieve the previously articulated goals and objectives. The narrative should respond to the following questions:

(1) What is the project design? What specific work, activities, procedures, statistical design, or analytical methods will be undertaken, and what are the major products?

(2) Who will be responsible for carrying out the various activities? (Highlight work that will be subcontracted and provisions for competitive subcontracting.)

A milestone chart must be included which graphically illustrates the specific activities and associated time lines to conduct the scope of work. Time lines should be described in increments, e.g., month 1, month 2, rather than specific dates. The individual(s) responsible for the various specific activities shall be identified.

Because this information is critical to understanding and reviewing the application, NMFS encourages applicants to provide sufficient detail. Applications lacking sufficient detail may be eliminated from further consideration.

f. Project management: Describe how the project will be organized and managed. List all persons directly employed by the applicant who will be involved in the project. Provide a statement of their qualifications and experience (e.g., resume or curriculum vitae), and indicate their level of involvement in the project. If any portion of the project will be conducted through consultants and/or subcontracts, applicants must follow procurement guidance in 15 CFR part 24, ''Grants and Cooperative Agreements to State and Local Governments,'' and OMB Circular A-110 for Institutions of Higher Education, Hospitals, and other Non-profit Organizations. Commercial organizations and individuals who apply should use OMB Circular A–110. If a consultant and/or subcontractor is selected prior to application submission, include the name and qualifications of the consultant and/or subcontractor and the process used for selection.

g. Project impacts: Describe the anticipated impacts of the project in terms of reduced bycatch, increased product yield, improvement in product quality or safety, or other measurable factors. Describe how the results of the project will be made available to the public.

h. Evaluation of project: Describe the procedures for evaluating the relative success or failure of a project in achieving its objectives.

5. Supporting documentation: This section should include any required documents and any additional information necessary or useful to the description of the project. The amount of information given in this section will depend on the type of project proposed.

IV. Evaluation Criteria and Selection Procedures

A. Evaluation of Proposed Projects

1. Initial screening of applications: Upon receipt NMFS will screen applications for conformance with requirements set forth in this document. Applications which do not conform to the requirements may not be considered for further evaluation. In addition, proposals from ineligible applicants or those seeking funds primarily for infrastructure development and business costs will not be considered, and will be returned to the applicant.

2. Consultation with interested parties: As appropriate, NMFS will consult with NMFS Offices, the NOAA Grants Management Division, Department and other Federal and state agencies, the Regional Fishery Management Councils, and other interested parties who may be affected by or have knowledge of a specific proposal or its subject matter.

3. Technical evaluation: NMFS will solicit individual technical evaluations of each project application from three or more appropriate private and public sector experts. These reviewers will assign scores ranging from a minimum of 60 (poor) to a maximum of 100 (excellent) to applications based on the following evaluation criteria, with weights shown in parentheses:

a. Soundness of project design/ conceptual approach. Applications will be evaluated on the statement of need for the project; the conceptual approach; whether the applicant provided sufficient information to evaluate the project technically; and, if so, the strengths and/or weaknesses of the technical design relative to securing productive results. (50 percent)

b. Project management and experience and qualifications of personnel. The organization and management of the project, and the project's principal investigator and other personnel in terms of related experience and qualifications will be evaluated. Those projects that do not identify the principal investigator with his or her qualifications will receive a lower point score. (25 percent)

c. Project evaluation. The effectiveness of the applicant's proposed methods to monitor and evaluate the success or failure of the project in terms of meeting its original objectives will be examined. (10 percent)

d. Project costs. The justification and allocation of the budget in terms of the work to be performed will be evaluated. Unreasonably high or low project costs will be taken into account. (15 percent)

In addition to the above criteria, in reviewing applications that include consultants and contracts, NMFS will make a determination regarding the following:

(1) Is the involvement of the primary applicant necessary to the conduct of

the project and the accomplishment of its objectives?

(2) Is the proposed allocation of the primary applicant's time reasonable and commensurate with the applicant's involvement in the project?

(3) Are the proposed costs for the primary applicant's involvement in the project reasonable and commensurate with the benefits to be derived from the applicant's participation?

4. Constituent Panel: After the technical evaluation, individual comments will be solicited from a panel of three or more representatives selected by the Assistant Administrator for Fisheries, NOAA (AA), from the fishing industry, state government, and others, as appropriate, to rank the projects. Considered in the rankings, along with the technical evaluation, will be the significance of the problem or opportunities addressed in the project. Each panelist will rank each project in terms of importance or need for funding, and provide recommendations on the level of funding NMFS should award and the merits of funding each project.

B. Selection Procedures and Project Funding

After projects have been evaluated and ranked, the reviewing NMFS offices will develop recommendations for project funding. These recommendations will be submitted to the AA who will determine the projects to be funded, ensuring that there is no duplication with other projects funded by NOAA or other Federal organizations, and that the projects selected for funding are those that best meet the objectives of the S-K Grant Program.

The exact amount of funds awarded to a project will be determined in preaward negotiations between the applicant and NOAA/NMFS program and grants management representatives. The funding instrument (grant or cooperative agreement) will be determined by the NOAA Grants Management Division. Projects should not be initiated in expectation of Federal funding until a notice of award document is received.

V. Administrative Requirements

A. Obligation of the Applicant

An Applicant must:

1. Meet all application requirements and provide all information necessary for the evaluation of the proposal.

2. Be available, upon request, to respond to questions during the review and evaluation of the proposal(s).

3. Complete Form CD–511, ''Certification Regarding Debarment, Suspension and Other Responsibility Matters; Drug-Free Workplace Requirements and Lobbying.'' The following explanations are provided:

a. Nonprocurement debarment and suspension. Prospective participants (as defined at 15 CFR part 26, section 105) are subject to 15 CFR part 26, ''Nonprocurement Debarment and Suspension'' and the related section of the certification form prescribed above applies;

b. Drug-free workplace. Grantees (as defined at 15 CFR part 26, section 605) are subject to 15 CFR part 26, subpart F, ''Governmentwide Requirements for Drug-Free Workplace (Grants),'' and the related section of the certification form prescribed above applies;

c. Anti-lobbying. Persons (as defined at 15 CFR part 28, section 105) are subject to the lobbying provisions of 31 U.S.C. 1352, ''Limitation on Use of Appropriated Funds to Influence Certain Federal Contracting and Financial Transactions,'' and the lobbying section of the certification form prescribed above applies to applications/bids for grants, cooperative agreements, and contracts for more than $100,000, and loans and loan guarantees for more than $150,000, or the single family maximum mortgage limit for affected programs, whichever is greater; and

d. Anti-lobbying disclosures. Any applicant who has paid or will pay for lobbying using any funds must submit an SF-LLL, ''Disclosure of Lobbying Activities,'' as required under 15 CFR part 28, appendix B.

4. If applicable, require applicants/bidders for subgrants, contracts, subcontracts, or other lower tier covered transactions at any tier under the award to submit a completed Form CD–512, ''Certifications Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transactions and Lobbying'' and disclosure form SF-LLL, ''Disclosure of Lobbying Activities.'' Form CD–512 is intended for the use of recipients and should not be transmitted to Commerce. SF-LLL submitted by any tier recipient or subrecipient should be submitted to Commerce in accordance with the instructions contained in the award document. This requirement applies only to applicants whose applications are recommended for funding. All required forms will be provided to successful applicants.

5. Complete item 16 on Standard Form 424A (4–92) regarding clearance by the State Point Of Contact (SPOC) established as a result of E.O. 12372. A list of SPOCs may be obtained from any of the NMFS offices listed in this document (see **ADDRESSES**), and is also included in the ''Catalog of Federal Domestic Assistance.''

6. Complete Standard Form 424B (4–92), ''Assurances—Non-construction Programs.''

B. Other Requirements

1. Federal policies and procedures. Recipients and subrecipients are subject to all Federal laws and Federal and Commerce policies, regulations, and procedures applicable to Federal financial assistance awards.

2. Name check review. All recipients are subject to a name check review process. Name checks are intended to reveal if any key individuals associated with the recipient have been convicted of, or are presently facing, criminal charges such as fraud, theft, perjury, or other matters that significantly reflect on the recipient's management, honesty, or financial integrity.

3. Financial management certification/preaward accounting survey. Successful applicants for S-K funding, at the discretion of the NOAA Grants Officer, may be required to have their financial management systems certified by an independent public accountant as being in compliance with Federal standards specified in the applicable OMB Circulars prior to execution of the award. Any first-time applicant for Federal grant funds may be subject to a preaward accounting survey by Commerce prior to execution of the award.

4. Past performance. Unsatisfactory performance under prior Federal awards may result in an application not being considered for funding.

5. Delinquent federal debts. No award of federal funds shall be made to an applicant or to its subrecipients who have an outstanding delinquent federal debt or fine until either:

a. The delinquent account is paid in full,

b. A negotiated repayment schedule is established and at least one payment is received, or

c. Other arrangements satisfactory to Commerce are made.

6. Buy American-made equipment or products. Applicants are hereby notified that they are encouraged, to the extent feasible, to purchase American-made equipment and products with funding under this program.

7. Preaward activities. If applicants incur any costs prior to an award being made, they do so solely at their own risk of not being reimbursed by the Government. Notwithstanding any verbal or written assurance that may have been received, there is no

obligation on the part of Commerce to cover preaward costs.

8. False statements. A false statement on the application is grounds for denial or termination of funds and grounds for possible punishment by a fine or imprisonment (18 U.S.C. 1001).

Classification

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

Applications under this program are subject to Executive Order 12372, ''Intergovernmental Review of Federal Programs.''

This document contains a collection-of-information requirement subject to the Paperwork Reduction Act. The collection of this information has been approved by OMB, OMB control number 0648–0135.

A notice of availability of financial assistance for fisheries research and development projects will also appear in the ''Commerce Business Daily.''

Dated: April 12, 1996.

Gary Matlock,

Program Management Officer, National Marine Fisheries Service.

[FR Doc. 96–6490 Filed 3–18–96; 8:45 am]

BILLING CODE 3510–22–F

[I.D. 022396E]

Marine Mammals

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

ACTION: Receipt of modification request for scientific research permit no. 868 (P539).

SUMMARY: Notice is hereby given that Norihisa Baba, National Research Institute of Far Seas Fisheries, Ministry of Agriculture, Forestry and Fisheries, 5–7–1 Orido, Shimizu, Shizuoka 424, Japan, has requested a modification to permit no. 868 to take the marine mammals listed below for the purpose of scientific research.

ADDRESSES: The modification request and related documents are available for review upon written request or by appointment in the following offices:

Permits Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13130, Silver Spring, MD 20910 (301/713–2289); and

Director, Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802–1668 (907/586–7221).

Written data or views, or requests for a public hearing on this request, should be submitted to the Chief, Permits Division, F/PR1, Office of Protected Resources, Silver Spring, MD 20910, within 30 days of the publication of this notice. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular request would be appropriate.

Concurrent with the publication of this notice in the Federal Register, the Secretary of Commerce is forwarding copies of this application to the Marine Mammal Commission and its Committee of Scientific Advisors.

SUPPLEMENTARY INFORMATION: The subject modification to permit no. 868, issued on July 19, 1993, (58 FR 39525) is requested under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), the Regulation Governing the Taking and Importing of Marine Mammals (50 CFR part 216), the fur Seal Act of 1966, as amended (16 U.S.C. 1151 *et seq.* and fur seal regulations at 50 CFR part 215.

The permit holder seeks authorization to capture, tag, mark, and collect tissue samples from northern fur seals (*Callorhinus ursinus*) in Alaska in June through August 1999. This request would extend the permit from the Modification 1 expiration date of September 30, 1996 until September 30, 1999.

Dated: March 6, 1996.

Ann D. Terbush,

Chief, Permits & Documentation Division, National Marine Fisheries Service.

[FR Doc. 96–6489 Filed 3–18–96; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF DEFENSE

Department Of The Air Force

Community College Of The Air Force Meeting

The Community College of the Air Force (CCAF) Board of Visitors will hold a meeting on 30 April 1996 at 11:00 a.m. via teleconference. The meeting will be open to the public. Members of the public who wish to attend the meeting may do so via a public access terminal in the Air University Conference Room, Building 800, 55 LeMay Plaza South, Maxwell Air Force Base, Alabama.

The purpose of the meeting is to review and discuss academic policies and issues relative to the operation of CCAF. Agenda items include reaffirmation of the CCAF and proposed responses by the college to the Southern Association of Colleges and Schools Commission on Colleges.

For further information, contact Captain Kyle Monson, (334) 953–2703, Community College of the Air Force, Maxwell Air Force Base, Alabama, 36112–6613.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 96–6573 Filed 3–18–96; 8:45 am]

BILLING CODE 3910–01–P

Department of the Army

Nontemporary Storage (NTS) Program

AGENCY: Military Traffic Management Command (MTMC), DOD.

ACTION: Notice.

SUMMARY: Provide notification of MTMC's intent to increase warehouseman's legal liability from the current $50 per article or package to $1.25 times the net weight (in pounds) of the shipment. The increase in liability will be reflected in a change to paragraphs H–6 and C–7h(2) of the Basic Ordering Agreement (BOA) for Storage of Personal Property and Related Services. The increased liability is intended to improve the quality of service, especially in the area of missing items. This action has already been implemented for International Through Government Bill of Lading (ITGBL) shipments, and domestic interstate and intrastate shipments. This action will provide the military service claims offices more equitable recovery of amounts due for personal property lost or damaged while in NTS. The current process for processing claims will remain the same. Contractors will be given the opportunity to submit new NTS rates prior to implementation of this change to the terms and conditions of the BOA. Implementation is scheduled for 1 Nov 96. The following is the change, by paragraph, to the BOA.

Paragraph H–6a., First Sentence:

Liability for Care of Property

a. Except as hereafter provided, and notwithstanding payment for storage and other services, the contractor shall be liable in an amount not exceeding $1.25 times the net weight (in pounds) of the shipment for any loss or damage to personal property caused by the failure to exercise the care of a reasonably prudent owner of similar property. The contractor shall not be liable for any loss or damage to the personal property which is caused by acts or conditions beyond its control and without fault or negligence.

Paragraph C–7h(2);

Maintain coverage in minimum limits of $1.25 per pound at each location.

FOR FURTHER INFORMATION CONTACT:

Mr. David Gibson; Headquarters, Military Traffic Management Command, ATTN: MTOP–T–CC, 5611 Columbia Pike, Falls Church, Virginia 22041–5050, phone (703) 681–6710, fax (703) 681–9681, or e-mail: gibson@baileys-emh5.army.mil.

SUPPLEMENTARY INFORMATION: None.

Gregory D. Showalter,

Army Federal Register Liaison Officer.

[FR Doc. 96–6469 Filed 3–18–96; 8:45 am]

BILLING CODE 3710–08–M

Department of the Navy

Notice of Proposed Information Collection for Health Care Provider Questionnaire Available for Public Comment

SUMMARY: Health Care Provider Questionnaire; All persons interested in entering the U.S. Navy or Naval Reserve in a commissioned status as a health care professional must provide the required credentials in order for a Professional Review Board to determine an applicant's qualifications. This information is used to recruit and select applicants who are qualified for commission as a health care professional in the U.S. Navy or Naval Reserve.

In compliance with Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Navy Recruiting Command announces a proposed information collection and seeks public comment on the provisions thereof. Comments are invited on: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection techniques or other forms of information technology.

ADDRESSES: Written comments and recommendations on the proposed collection should be sent to Commander, Navy Recruiting Command, Mrs. Lambert (Code 10D), 801 N. Randolph Street, Arlington, VA 22203. Consideration will be given to all comments received within 60 days of the date of publication of this notice.

Affected Public: Individuals or Households.

Annual Burden Hours (including recordkeeping): 900.

Number of Respondents: 600.

Responses per Respondent: 1.

Average Burden per Response: 90 minutes.

Frequency: On Occasion.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instrument, please write to the above address or call Mrs. Lambert, (703) 696–4185.

Dated: March 8, 1996.

M. A. Waters,

LCDR, JAGC, USN, Federal Register Liaison Officer.

[FR Doc. 96–6473 Filed 3–18–96; 8:45 am]

BILLING CODE 3810–FF–P

Notice of Proposed Information Collection for Enlistee Financial Statement Available for Public Comment

SUMMARY: Enlistee Financial Statement; All persons interested in entering the U.S. Navy or U.S. Naval Reserve who have someone either fully or partially dependent on them for financial support, must provide information on their current financial situation which will determine if the individual will be able to meet his/her financial obligations on Navy pay. This information is used to evaluate their suitability for a commission in the U.S. Navy or U.S. Naval Reserve.

In compliance with Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Navy Recruiting Command announces a proposed information collection and seeks public comment on the provisions thereof. Comments are invited on: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including the use of automated collection techniques or other forms of information technology.

ADDRESSES: Written comments and recommendations on the proposed collection should be sent to Commander, Navy Recruiting Command, Mrs. Lambert (Code 10D), 801 N. Randolph Street, Arlington, VA 22203. Consideration will be given to all comments received within 60 days of the date of publication of this notice.

Affected Public: Individuals or Households.

Annual Burden Hours (including recordkeeping): 47,630.

Number of Respondents: 86,600.

Responses Per Respondent: 1.

Average Burden Per Response: 33 minutes.

Frequency: On occasion.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to the above address or call Mrs. Lambert, (703) 696–4185.

Dated: March 8, 1996.

M. A. Waters,

LCDR, JAGC, USN, Federal Register Liaison Officer.

[FR Doc. 96–6475 Filed 3–18–96; 8:45 am]

BILLING CODE 3810–FF–P

Notice of Intent to Prepare an Environmental Impact Statement for the Proposed Plasma ARC Hazardous Waste Treatment Facility, Naval Base Norfolk, Virginia

SUMMARY: Pursuant to Section 102(2)(c) of the National Environmental Policy Act (NEPA) of 1969 as implemented by the Council on Environmental Quality regulations (40 CFR Parts 1500–1508), the Department of the Navy announces its intent to prepare an Environmental Impact Statement (EIS) to evaluate the potential environmental effects of a proposed Plasma Arc Hazardous Waste Treatment Facility (PAHWTF) at Naval Base Norfolk, Virginia.

A PAHWTF uses a thermal process for treating solid and hazardous waste. The system employs extremely high temperature (10,000 to 30,000 °F) from a plasma arc torch to destroy organic waste and change or fuse solid or hazardous waste into a glass-like, nonleachable substance, a process known as vitrification. A typical PAHWTF consists of a feeder system, primary combustion chamber, secondary combustion chamber, off-gas treatment system, and slag collection chamber. This technology has existed for over 20 years, and initially was used for simulation of high thermal loads encountered by spacecraft during atmospheric reentry. The process has been successfully used to treat contaminated soil and several different hazardous waste streams. The technology has also been used for applications such as refining and recovery of metals.

During the first 12 to 18 months following installation, the PAHWTF

will be operated as a demonstration facility, treating limited quantities of waste such as used paint, dirt contaminated with oil and hydraulic fluids, oil rags, solvents, and other waste generated from industrial operations at Naval Base Norfolk. The purpose of the demonstration period is to construct and operate a full scale production unit to establish an optimum method of feeding various types of waste and to establish the economic viability of the process.

Under normal operating conditions, the processing rate of the proposed unit will be 400 to 700 pounds per hour (approximately equivalent to a 55-gallon drum). It is anticipated that during the demonstration period, specific types of waste will be fed into the unit to determine optimum feed rates. During the demonstration period, the unit will typically be operated one to two days per week, which could involve 24-hour-per-day operation, with a maximum of 30,000 pounds being treated in any given month. When the demonstration period is successfully completed and the unit can be placed into full operation (24-hour-per-day, Monday through Friday), it is anticipated that approximately 175,000 pounds per month could be treated. However, because of down time for procedures such as slag extraction and the performance of preventive and corrective maintenance, the unit will only actually be in operation approximately 65% of the time.

Once cost effectiveness and appropriate feed-rates are established, the facility will be used to treat a significant portion of the approximately 2 million pounds of waste generated at Naval Base Norfolk. This will reduce the volume of hazardous waste requiring off-site transfer for treatment and disposal. The decision whether to continue use of the facility will be based on its operational performance (i.e., reliability of the system, feed rate, byproducts, etc.), cost efficiency, and the ability to secure long-term permits. The waste stream will be limited to the materials which can be treated most cost effectively.

Topics to be addressed in the EIS include, but will not be limited to, air quality, land use, socioeconomic impacts, water quality, flood plains, and noise. The waste to be treated at this facility will be managed to create no public health or safety risk. Various sites at Naval Base Norfolk will be addressed in the EIS. Operation of this unit will be subject to obtaining the required permits from both the U.S. Environmental Protection Agency and the Commonwealth of Virginia. Federal, state and local agencies, and interested individuals are invited to participate in the scoping process to determine the range of issues related to the proposed project.

ADDRESSES: A public scoping meeting to receive oral and written comments will be held on Tuesday, April 16, 1996, at 7:00 p.m., at the Sewells Point Elementary School, 7928 Hampton Boulevard, Norfolk, Virginia 23505. At the meeting, the Navy will present a brief overview of the proposed action, then public comments will be received. When registering, each attendee will be requested to indicate whether oral comments will be delivered at the meeting. In the interest of available time, each speaker will be asked to limit oral comments to five minutes. Longer comments should be summarized at the meeting. In addition, written comments and/or questions may be submitted no later than April 30, 1996 to: Commander, Atlantic Division, Naval Facilities Engineering Command, 1510 Gilbert Street, Norfolk, Virginia 23511–2699 (Attention: Mr. Robert Waldo, Code 2032RW), telephone (804) 322–4895, fax (804) 322–4894.

Dated: March 14, 1996.

M.D. Schetzsle,

LT, JAGC, USNR, Alternate Federal Register Liaison Officer.

[FR Doc. 96–6526 Filed 3–18–96; 8:45 am]

BILLING CODE 3810–FF–P

Notice of Intent To Grant Exclusive Patent License; Ocean Test Equipment, Inc.

SUMMARY: The Department of the Navy hereby gives notice of its intent to grant to Ocean Test Equipment, Inc., a revocable, nonassignable, exclusive license in the United States to practice the Government owned invention described in U.S. Patent Application Serial No. 08/321,066 ''Bioluminescent Bioassay System,'' filed October 11, 1994.

Anyone wishing to object to the grant of this license has 60 days from the date of this notice to file written objections along with supporting evidence, if any. Written objections are to be filed with the Office of Naval Research, ONR OOCC, Ballston Tower One, 800 North Quincy Street, Arlington, Virginia 22217–5660.

FOR FURTHER INFORMATION CONTACT: Mr. R.J. Erickson, Staff Patent Attorney, Office of Naval Research, ONR OOCC, Ballston Tower One, 800 North Quincy Street, Arlington, Virginia 22217–5660, telephone (703) 696–4001.

Dated: March 8, 1996.

M. A. Waters,

LCDR, JAGC, USN,Federal Register Liaison Officer.

[FR Doc. 96–6474 Filed 3–18–96; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF ENERGY

Office of Fossil Energy; International Centre for Gas Technology Information Gas Technology Marketplace

AGENCY: Office of Fossil Energy, Department of Energy.

ACTION: Notice of Availability.

SUMMARY: The DOE and the International Centre for Gas Technology Information (ICGTI) in accordance with its mission to increase the rate of technological innovation for the global gas industry, invites all interested parties with expertise in natural gas technologies to participate in ICGTI's Gas Technology Marketplace on GTI Online. GTI Online is the information exchange system of ICGTI that operates on the Internet's World Wide Web service network. Gas Technology Marketplace users on GTI Online have the opportunity to detail their natural gas expertise in order to accelerate natural gas technology transfer around the world.

DATES: ICGTI Gas Technology Marketplace submissions, and any inquiries regarding the GTI Online, should be sent to the address below. Submissions for the Gas Technology Marketplace should be filed by June 17, 1996. Christopher J. Freitas, Office of Fossil Energy, US Department of Energy, FE–32, Room 3E–028, Forrestal Building, 1000 Independence Ave. SW., Washington, D.C. 20585, Phone: (202) 586–1657, FAX: (202) 586–6221.

SUPPLEMENTARY INFORMATION: The ICGTI officially began in April 1995 and is the most recent International Energy Agency (IEA) technology information center. The members include Denmark, Japan, Portugal, Spain, Russia, the USA, and one corporate sponsor, Columbia Gas System. The ICGTI is chartered to serve as the international focal point through which natural gas technology information dissemination and collaboration can take place. The primary mission of the ICGTI is to increase the rate of technological innovation for the global gas industry by providing an international forum for information exchange and collaboration.

ICGTI is using the World Wide Web (WWW) on the Internet as its primary means to accomplish this technology and information transfer. ICGTI has developed and is operating the GTI Online. GTI Online will provide access to detailed technical abstracts and data on natural gas-related technologies. GTI Online is located at URL address:http://www.gasinfo.dk/gasinfo/.

Companies interested in being listed in the Gas Technology Marketplace on GTI Online should prepare a one to ten page summary about their company and its gas-related technologies. The text should be on diskette in Microsoft Word or TXT format. Company logo and graphics, including diagrams and pictures related to the gas technologies, should be included on the diskette in GIF format if possible, but are acceptable in paper copy. Please clearly specify each graphic with corresponding text. Please also include information related to the company's World Wide Web address if applicable.

DOE Policy Overview: This initiative is consistent with the Department's efforts to encourage exports for the US energy industry.

Issued in Washington, D.C. March 4, 1996.

Patricia Fry Godley,

Assistant Secretary for Fossil Energy.

[FR Doc. 96–6570 Filed 3–18–96; 8:45 am]

BILLING CODE 6450–01–P

Environmental Management Site-Specific Advisory Board, Oak Ridge

AGENCY: Department of Energy.

ACTION: Notice of Open Meeting.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Public Law 92–463, 86 Stat. 770) notice is hereby given of the following Advisory Committee meeting: Environmental Management Site-Specific Advisory Board (EM SSAB), Oak Ridge Reservation.

DATES: Wednesday, March 25, 1996: 6:00 pm–9:00 p.m.

ADDRESSES: Jacobs Technical Center, 125 Broadway, Oak Ridge, Tennessee.

FOR FURTHER INFORMATION CONTACT: Sandy Perkins, Site-Specific Advisory Board Coordinator, Department of Energy Oak Ridge Operations Office, 105 Broadway, Oak Ridge, TN 37830, (423) 576–1590.

SUPPLEMENTARY INFORMATION:

Purpose of the Board

The purpose of the Board is to make recommendations to DOE and its regulators in the areas of environmental restoration, waste management, and related activities.

Tentative Agenda

This a called meeting to continue developing recommendations for the EM Prioritization System.

Public Participation

The meeting is open to the public. Written statements may be filed with the Committee either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Sandy Perkins at the address or telephone number listed above. Requests must be received 5 days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Designated Federal Official is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Each individual wishing to make public comment will be provided a maximum of 5 minutes to present their comments. This notice is being published less than 15 days before the date of the meeting, due to programmatic issues that had to be resolved prior to publication.

Minutes

The minutes of this meeting will be available for public review and copying at the Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585 between 9:00 a.m. and 4 p.m., Monday-Friday, except Federal holidays. Minutes will also be available at the Department of Energy's Information Resource Center at 105 Broadway, Oak Ridge, TN between 8:30 a.m. and 5:00 p.m. on Monday, Wednesday, and Friday; 8:30 am and 7:00 pm on Tuesday and Thursday; and 9:00 am and 1:00 pm on Saturday, or by writing to Sandy Perkins, Department of Energy Oak Ridge Operations Office, 105 Broadway, Oak Ridge, TN 37830, or by calling her at (423) 576–1590.

Issued at Washington, DC on March 14, 1996.

Rachel Murphy Samuel,

Acting Deputy Advisory Committee Management Officer.

[FR Doc. 96–6565 Filed 3–18–96; 8:45 am]

BILLING CODE 6450–01–P

Secretary of Energy Advisory Board; Meeting

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Public Law 92–463, 86 Stat. 770), notice is hereby given of the following advisory committee meeting:

Name: Secretary of Energy Advisory Board.

Date and Time: Thursday, March 21, 1996, 9:00 AM–12:30 PM.

Place: Loews L'Enfant Plaza Hotel, Ballroom C, 480 L'Enfant Promenade, SW., Washington, D.C. 20024–2197.

FOR FURTHER INFORMATION CONTACT: Peter F. Didisheim, Executive Director, 1000 Independence Avenue, SW, Washington, DC 20585, (202) 586–7092.

SUPPLEMENTARY INFORMATION:

Purpose of the Committee

The Secretary of Energy Advisory Board was established to serve as the Secretary of Energy's primary mechanism for long-range planning and analysis of major issues facing the Department of Energy. The Board will advise the Secretary on the research, development, energy and national defense responsibilities, activities, and operations of the Department and provide expert guidance in these areas to the Department.

Tentative Agenda

8:30 am—Opening Remarks.
8:35 am—Status of MAJOR INITIATIVES.
8:50 am—Discussion.
9:45 am—Strategic Laboratory Missions Plan.
10:00 am—Discussion.
10:30 am—Openness Advisory Panel.
11:00 am—Break.
11:15 am—[to be determined].
12:15 pm—Public Comment.
12:30 pm—Adjourn.

A final agenda will be available at the meeting.

Public Participation

The Chairman of the Board is empowered to conduct the meeting in a fashion that will, in the Chairman's judgment, facilitate the orderly conduct of business. During its meeting in Washington, D.C. the Board welcomes public comment. Members of the public will be heard in the order in which they sign up at the beginning of the meeting. The Board will make every effort to hear the views of all interested parties. Written comments may be submitted to Peter F. Didisheim, Executive Director, Secretary of Energy Advisory Board, AB–1, 1000 Independence Avenue, SW, Washington, DC 20585. This notice is being published less than 15 days before the date of the meeting due to programmatic issues that had to be resolved prior to publication.

Minutes

Minutes and a transcript of the meeting will be available for public review and copying approximately 30 days following the meeting at the Freedom of Information Public Reading Room, 1E–190 Forrestal Building, 1000 Independence Avenue, SW, Washington, DC, between 9:00 AM and 4:00 PM, Monday through Friday except Federal holidays.

Issued at Washington, DC, on March 14, 1996.

Rachel M. Samuel,

Acting Deputy Advisory Committee Management Officer.

[FR Doc. 96–6564 Filed 3–18–96; 8:45 am]

BILLING CODE 6450–01–P

Bonneville Power Administration

Amendatory Agreement to the 1981 Power Sales Contracts

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

ACTION: Notice of availability of supplemental Record of Decision (ROD).

SUMMARY: On February 16, 1996, I signed a Record of Decision addressing my decision to provide certain of BPA's Federal and public agency metered requirements purchasers with an opportunity to amend their 1981 Power Sales Contracts (1981 PSC). This opportunity took the form of an Amendatory Agreement to the 1981 PSC. The Amendatory Agreement was first offered to customers on February 21, 1996. It has now become apparent that certain aspects of the Amendatory Agreement have caused concern for some of BPA's customers and that, by revising the Amendatory Agreement to address these concerns, it will be possible for many more customers to accept the agreement than would be the case if the agreement remained unchanged. Therefore, I have decided to incorporate changes in the Amendatory Agreement being offered to customers and to offer to include these changes in any Amendatory Agreements already accepted by customers. This notice announces the availability of the Supplemental ROD to address changes made to the original Amendatory Agreement. 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 Supplemental ROD, the original ROD on the Amendatory Agreement, 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: John M. Taves, Project Manager—MPC, Bonneville Power Administration, P.O. Box 3621, Portland, Oregon, 97208–3621, phone number (503) 230–4995, fax number (503) 230–5699.

Issued in Portland, Oregon, on March 4, 1996.

Randall W. Hardy,

Administrator and Chief Executive Officer.

[FR Doc. 96–6566 Filed 3–18–96; 8:45 am]

BILLING CODE 6450–01–P

Notice of Intent to Prepare an Environmental Impact Statement for the Vancouver Lowlands Columbia River Wildlife Mitigation Project

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

ACTION: Notice of intent to prepare an environmental impact statement (EIS) and notice of scoping meeting.

SUMMARY: This notice announces BPA's intention to prepare an EIS on funding that portion of the Washington Wildlife Mitigation Agreement pertaining to the Vancouver Lowlands Columbia River Mitigation Project. The proposed action would be to fund the acquisition and improvement of privately and publicly owned lands, transfer title of purchased lands to Washington Department of Fish and Wildlife, and implement a management strategy to contribute toward the goal of mitigation for wildlife and wildlife habitat under the Pacific Northwest Power Planning and Conservation Act of 1980.

A Notice of Floodplain/Wetland Involvement for this project was published in the Federal Register on August 22, 1994. In accordance with DOE regulations for compliance with floodplain and wetlands environmental review requirements (10 C.F.R. Part 1022), BPA will prepare a floodplain and wetlands assessment and will perform this proposed action in a manner so as to avoid or minimize potential harm to or within the affected floodplain and wetlands. The assessment and a floodplain statement of findings will be included in the EIS being prepared for the proposed project in accordance with the National Environmental Policy Act (NEPA).

DATES: BPA has established a 30-day scoping period during which affected landowners, concerned citizens, special interest groups, local governments, and any other interested parties are invited to comment on the scope of the proposed EIS. Scoping will help BPA ensure that a full range of issues related to this proposal is addressed in the EIS, and also will identify significant or potentially significant impacts that may result from the proposed project. Written comments are due to the address below no later than April 22, 1996.

Comments may also be made at an EIS scoping meeting scheduled to be held on April 9, 1996, 4:00–8:00 p.m. at the Fruit Valley Community Center, 3203 Unander Avenue, Vancouver, Washington. Call the number below to be put on the mailing list. At the informal meeting, Washington Department of Fish & Wildlife will present their Management Plan with proposed activities for the project area. Written information will also be available, and BPA staff will answer questions and accept oral and written comments.

When completed, the Draft EIS will be circulated for review and comment, and BPA will hold a public comment meeting for the Draft EIS. BPA will consider and respond to comments received on the Draft EIS in the Final EIS.

ADDRESSES: BPA invites comments and suggestions on the proposed scope of the Draft EIS. Send comment letters and requests to be placed on the project mailing list to the Public Involvement and Information Manager, Bonneville Power Administration—CKP, P.O. Box 12999, Portland, Oregon, 97212. The phone number of the Public Involvement and Information Office is 503–230–3478 in Portland; toll-free 1–800–622–4519 outside of Portland. Public Involvement Internet: COMMENT@bpa.gov.

FOR FURTHER INFORMATION CONTACT: Patricia Smith—ECN, Bonneville Power Administration, P.O. Box 3621, Portland, Oregon, 97208–3621, phone number 503–230–7349, fax number 503–230–5699, internet address PRSMITH@bpa.gov.

SUPPLEMENTARY INFORMATION:

Proposed Action: BPA proposes to fund implementation of a wildlife management strategy that would protect, improve, and restore wildlife habitat in the Vancouver Lowlands. Existing wetlands would be maintained or restored where possible to improve wildlife habitat. Improvement activities could include control or removal of non-native fish and plant species, and agricultural cultivation, planting, and irrigation. Specific mitigation actions are expected to include fee-title land acquisition and management, property

lease and management, conservation easement acquisition and management, habitat restoration and improvements, installation of water control devices, riparian fencing, and similar wildlife conservation actions.

Location: The Vancouver Lowlands Wildlife Mitigation Project is located along the western border of Clark County, extending north and west of the City of Vancouver, Washington. It consists of approximately 2123 hectares (5245 acres) of riparian, wetland, and pasture habitat along the Columbia River floodplain. The Columbia River borders the southern and western boundaries of the project area. Major riparian and wetland features of the area include the Columbia River; Vancouver Lake; Lake River; Buckmire and Matthew Sloughs; Shillapoo Lakebed; and Post Office, Round, Green, Curtis, and Campbell Lakes. Several smaller wetlands occur throughout the project area. Land ownership within the project area includes Washington Department of Wildlife, Clark County, Port of Vancouver, Washington Department of Natural Resources, and several private landowners.

Process to Date: A Draft Environmental Assessment was published in March 1995. Since that time, it has been determined that the project area lies within a Cultural Resource District containing a large number of identified cultural resource sites. Therefore, this notice announces BPA's intention to prepare an EIS to evaluate and disclose the environmental effects of funding the proposed wildlife management strategy.

Alternatives Proposed for Consideration: Alternatives to be considered in the Vancouver Lowlands Wildlife Mitigation EIS would include alternative management strategies for improving existing State-owned properties and/or acquisition lands, including wildlife habitat management/improvement, access and/or recreation management, operation and maintenance, and cultural resource management. The EIS would also consider a No Action alternative, i.e., BPA would not fund the acquisition of land or the improvement of wildlife habitat within the Vancouver Lowlands area.

Identification of Environmental Issues: The environmental issues associated with the proposed wildlife mitigation activities include changes in land use, vegetation patterns, wildlife populations, and water use and quality. Additional environmental issues concern protection of historic and cultural resources, recreational opportunities, and introduction of herbicides into the environment.

Maps and further information are available from BPA at the address above.

Issued in Portland, Oregon, on March 7, 1996.

Randall W. Hardy,

Administrator and Chief Executive Officer.

[FR Doc. 96–6575 Filed 3–18–96; 8:45 am]

BILLING CODE 6540–01–P

Office of Energy Efficiency and Renewable Energy

[Case No. F–085]

Energy Conservation Program for Consumer Products: Granting of the Application for Interim Waiver and Publishing of the Petition for Waiver of Inter-City Products Corporation From the DOE Furnace Test Procedure

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy.

ACTION: Notice.

SUMMARY: Today's notice grants an Interim Waiver to Inter-City Products Corporation (Inter-City) from the existing Department of Energy (DOE or Department) test procedure regarding blower time delay for the company's NUGM, NUG9, NCGM, GUK, GUM and GCK series furnaces.

Today's notice also publishes a ''Petition for Waiver'' from Inter-City. Inter-City's Petition for Waiver requests DOE to grant relief from the DOE furnace test procedure relating to the blower time delay specification. Inter-City seeks to test using a blower delay time of 30 seconds for its NUGM, NUG9, NCGM, GUK, GUM and GCK series furnaces instead of the specified 1.5-minute delay between burner on-time and blower on-time. The Department is soliciting comments, data, and information respecting the Petition for Waiver.

DATE: DOE will accept comments, data, and information not later than April 18, 1996.

ADDRESSES: Written comments and statements shall be sent to: Department of Energy, Office of Codes and Standards, Case No. F–085, Mail Stop EE–43, Room 1J–018, Forestall Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–7140.

FOR FURTHER INFORMATION CONTACT:

Cyrus H. Nasseri, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Mail Station EE–431, Forestall Building, 1000 Independence Avenue, SW., Washington, DC 20585–0121, (202) 586–9138.

Eugene Margolis, Esq., U.S. Department of Energy, Office of General Counsel, Mail Station GC–72, Forestall Building, 1000 Independence Avenue, SW., Washington, DC 20585–0103, (202) 586–9507.

SUPPLEMENTARY INFORMATION: The Energy Conservation Program for Consumer Products (other than automobiles) was established pursuant to the Energy Policy and Conservation Act, as amended (EPCA), which requires DOE to prescribe standardized test procedures to measure the energy consumption of certain consumer products, including furnaces. The intent of the test procedures is to provide a comparable measure of energy consumption that will assist consumers in making purchasing decisions. These test procedures appear at Title 10 CFR Part 430, Subpart B.

The Department amended the test procedure rules to provide for a waiver process by adding Section 430.27 to Title 10 CFR Part 430. 45 FR 64108, September 26, 1980. Subsequently, DOE amended the waiver process to allow the Assistant Secretary for Energy Efficiency and Renewable Energy (Assistant Secretary) to grant an Interim Waiver from test procedure requirements to manufacturers that have petitioned DOE for a waiver of such prescribed test procedures. Title 10 CFR Part 430, Section 430.27(a)(2).

The waiver process allows the Assistant Secretary to waive temporarily test procedures for a particular basic model when a petitioner shows that the basic model contains one or more design characteristics which prevent testing according to the prescribed test procedures, or when the prescribed test procedures may evaluate the basic model in a manner so unrepresentative of its true energy consumption as to provide materially inaccurate comparative data. Waivers generally remain in effect until final test procedure amendments become effective, resolving the problem that is the subject of the waiver.

An Interim Waiver will be granted if it is determined that the applicant will experience economic hardship if the Application for Interim Waiver is denied, if it appears likely that the Petition for Waiver will be granted, and/or the Assistant Secretary determines that it would be desirable for public policy reasons to grant immediate relief pending a determination on the Petition for Waiver. Title 10 CFR Part 430, Section 430.27 (g). An Interim Waiver remains in effect for a period of 180

days or until DOE issues its determination on the Petition for Waiver, whichever is sooner, and may be extended for an additional 180 days, if necessary.

On January 8, 1996, Inter-City filed an Application for Interim Waiver and a Petition for Waiver regarding blower time delay. Inter-City's Application seeks an Interim Waiver from the DOE test provisions that require a 1.5-minute time delay between the ignition of the burner and starting of the circulating air blower. Instead, Inter-City requests the allowance to test using a 30-second blower time delay when testing its NUGM, NUG9, NCGM, GUK, GUM and GCK series furnaces. Inter-City states that the 30-second delay is indicative of how these furnaces actually operate. Such a delay results in an improvement in AFUE of an average 0.4 to 0.6 percent. Since current DOE test procedures do not address this variable blower time delay, Inter-City asks that the Interim Waiver be granted.

The Department has published a Notice of Proposed Rulemaking on August 23, 1993, (58 FR 44583) to amend the furnace test procedure, which addresses the above issue.

Previous Petitions for Waiver for this type of time blower delay control have been granted by DOE to Coleman Company, 50 FR 2710, January 18, 1985; Magic Chef Company, 50 FR 41553, October 11, 1985; Rheem Manufacturing Company, 53 FR 48574, December 1, 1988, 56 FR 2920, January 25, 1991, 57 FR 10166, March 24, 1992, 57 FR 34560, August 5, 1992; 59 FR 30577, June 14, 1994, and 59 FR 55470, November 7, 1994; Trane Company, 54 FR 19226, May 4, 1989, 56 FR 6021, February 14, 1991, 57 FR 10167, March 24, 1992, 57 FR 22222, May 27, 1992, 58 FR 68138, December 23, 1993, and 60 FR 62835, December 7, 1995; Lennox Industries, 55 FR 50224, December 5, 1990, 57 FR 49700, November 3, 1992, 58 FR 68136, December 23, 1993, and 58 FR 68137, December 23, 1993; Inter-City Products Corporation, 55 FR 51487, December 14, 1990, and 56 FR 63945, December 6, 1991; DMO Industries, 56 FR 4622, February 5, 1991, and 59 FR 30579, June 14, 1994; Heil-Quaker Corporation, 56 FR 6019, February 14, 1991; Carrier Corporation, 56 FR 6018, February 14, 1991, 57 FR 38830, August 27, 1992, 58 FR 68131, December 23, 1993, 58 FR 68133, December 23, 1993, 59 FR 14394, March 28, 1994, and 60 FR 62832, December 7, 1995; Amana Refrigeration Inc., 56 FR 27958, June 18, 1991, 56 FR 63940, December 6, 1991, 57 FR 23392, June 3, 1992, and 58 FR 68130, December 23, 1993; Snyder General Corporation, 56 FR 54960, September 9, 1991; Goodman Manufacturing Corporation, 56 FR 51713, October 15, 1991, 57 FR 27970, June 23, 1992 and 59 FR 12586, March 17, 1994; The Ducane Company Inc., 56 FR 63943, December 6, 1991, 57 FR 10163, March 24, 1992, and 58 FR 68134, December 23, 1993; Armstrong Air Conditioning, Inc., 57 FR 899, January 9, 1992, 57 FR 10160, March 24, 1992, 57 FR 10161, March 24, 1992, 57 FR 39193, August 28, 1992, 57 FR 54230, November 17, 1992, and 59 FR 30575, June 14, 1994; Thermo Products, Inc., 57 FR 903, January 9, 1992; Consolidated Industries Corporation, 57 FR 22220, May 27, 1992; Evcon Industries, Inc., 57 FR 47847, October 20, 1992, and 59 FR 46968, September 13, 1994; Bard Manufacturing Company, 57 FR 53733, November 12, 1992, and 59 FR 30578, June 14, 1994; and York International Corporation, 59 FR 46969, September 13, 1994, 60 FR 100, January 3, 1995, 60 FR 62834, December 7, 1995, and 60 FR 62837, December 7, 1995.

Thus, it appears likely that this Petition for Waiver for blower time delay will be granted. In those instances where the likely success of the Petition for Waiver has been demonstrated based upon DOE having granted a waiver for a similar product design, it is in the public interest to have similar products tested and rated for energy consumption on a comparable basis.

Therefore, based on the above, DOE is granting Inter-City an Interim Waiver for its NUGM, NUG9, NCGM, GUK, GUM and GCK series furnaces. Inter-City shall be permitted to test its NUGM, NUG9, NCGM, GUK, GUM and GCK series furnaces on the basis of the test procedures specified in Title 10 CFR Part 430, Subpart B, Appendix N, with the modification set forth below:

(I) Section 3.0 in Appendix N is deleted and replaced with the following paragraph:

3.0 Test Procedure. Testing and measurements shall be as specified in Section 9 in ANSI/ASHRAE 103–82 with the exception of Sections 9.2.2, 9.3.1, and 9.3.2, and the inclusion of the following additional procedures:

(ii) Add a new paragraph 3.10 in Appendix N as follows:

3.10 Gas- and Oil-Fueled Central Furnaces. After equilibrium conditions are achieved following the cool-down test and the required measurements performed, turn on the furnace and measure the flue gas temperature, using the thermocouple grid described above, at 0.5 and 2.5 minutes after the main burner(s) comes on. After the burner start-up, delay the blower start-up by 1.5 minutes (t−) unless: (1) The furnace employs a single motor to drive the power burner and the indoor air circulation blower, in which case the burner and blower shall be started together; or (2) the furnace is designed to operate using an unvarying delay time that is other than 1.5 minutes, in which case the fan control shall be permitted to start the blower; or (3) the delay time results in the activation of a temperature safety device which shuts off the burner, in which case the fan control shall be permitted to start the blower. In the latter case, if the fan control is adjustable, set it to start the blower at the highest temperature. If the fan control is permitted to start the blower, measure time delay (t−) using a stop watch. Record the measured temperatures. During the heat-up test for oil-fueled furnaces, maintain the draft in the flue pipe within ±0.01 inch of water column of the manufacturer's recommended on-period draft.

This Interim Waiver is based upon the presumed validity of statements and all allegations submitted by the company. This Interim Waiver may be removed or modified at any time upon a determination that the factual basis underlying the Application is incorrect.

The Interim Waiver shall remain in effect for a period of 180 days or until DOE acts on the Petition for Waiver, whichever is sooner, and may be extended for an additional 180-day period, if necessary.

Inter-City's Petition for Waiver requests DOE to grant relief from the DOE furnace test procedure relating to the blower time delay specification. Inter-City seeks to test using a blower delay time of 30 seconds for its NUGM, NUG9, NCGM, GUK, GUM and GCK series furnaces instead of the specified 1.5-minute delay between burner on-time and blower on-time. Pursuant to paragraph (b) of Title 10 CFR Part 430.27, DOE is hereby publishing the ''Petition for Waiver'' in its entirety. The Petition contains no confidential information. The Department solicits comments, data, and information respecting the Petition.

Issued in Washington, DC March 7, 1996.

Christine A. Ervin,

Assistant Secretary, Energy Efficiency and Renewable Energy.

January 8, 1995.

Ms. Christine A. Ervin
Assistant Secretary for Conservation and Renewable Energy
U.S. Department of Energy
Forrestal Building
1000 Independence Ave. SW.
Washington, DC 20585

Subject: Petition For Waiver and Application for Interim Waiver

Dear Assistant Secretary: Petition for waiver and application for interim waiver is requested pursuant to 10 CFR Part 430.27.

Waiver is requested from the test procedures for measuring the energy consumption of furnaces which are found in Appendix N of Subpart B of 10 CFR Part 430. Presently this section requires a 1.5 minute delay between burner ignition and start of the circulating blower.

Inter-City Products Corporation (USA) is requesting to use 30 seconds delay instead of the present 1.5 minutes. Furnace Series NUGM, NUG9, NCGM, GUK, GUM and GCK use an electronic timed blower control delay set at 30 seconds. Test results show an average .4 to .6 percent improvement in the AFUE.

We are confident that this interim and final waiver will be issued since this request is similar to our previous waivers issued at 55 FR 51487 and 56 FR 63945.

Please contact if you have any questions or need any additional information.

Thanks,

Gary K. Strebe,

Sr. Codes Administration Engineer.

[FR Doc. 96–6568 Filed 3–18–96; 8:45 am]

BILLING CODE 6450–01–P

[Case No. CW–003]

Energy Conservation Program for Consumer Products: Decision and Order Granting a Waiver From the Clothes Washer Test Procedure to Miele Appliance Inc.

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy.

ACTION: Decision and Order.

SUMMARY: Notice is given of the Decision and Order [Case No. CW–003] granting a Waiver to Miele Appliance Inc. (Miele) from the existing Department of Energy (DOE or Department) test procedure for clothes washers. The Department is granting Miele a Waiver from the Department's test procedures for the company's clothes washer models W1903, W1918, and W1930.

FOR FURTHER INFORMATION CONTACT:

P. Marc LaFrance, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Mail Station EE–431, Forrestal Building, 1000 Independence Avenue, SW, Washington, DC 20585–0121, (202) 586–8423.

Eugene Margolis, Esq., U.S. Department of Energy, Office of General Counsel, Mail Station GC–72, Forrestal Building, 1000 Independence Avenue, SW, Washington, DC 20585–0121, (202) 586–9507.

SUPPLEMENTARY INFORMATION: In accordance with 10 CFR 430.27(j), notice is hereby given of the issuance of the Decision and Order as set forth below. In the Decision and Order, Miele has been granted a Waiver for its clothes washer models W1903, W1918, and W1930, with the following design features that differ from those covered by the existing clothes washer test procedure: an internal electrical heater for heating wash water, a continuously variable wash water temperature control, 208/240 volt electrical power supply, and machine-controlled water fill capability.

Issued in Washington, DC, March 7, 1996.

Christine A. Ervin,

Assistant Secretary, Energy Efficiency and Renewable Energy.

Background

The Energy Conservation Program for Consumer Products (other than automobiles) was established pursuant to the Energy Policy and Conservation Act, as amended, 42 USC 6291 et seq., which requires DOE to prescribe standardized test procedures to measure the energy consumption of certain consumer products, including clothes washers. The intent of the test procedures is to provide a comparable measure of energy consumption that will assist consumers in making purchasing decisions. These test procedures appear at 10 CFR Part 430, Subpart B.

DOE amended the prescribed test procedures by adding 10 CFR 430.27 on September 26, 1980, creating the waiver process. (45 FR 64108). The waiver process allows the Assistant Secretary to temporarily waive the test procedures for a particular basic model when a petitioner shows that the basic model contains one or more design characteristics which prevent testing according to the prescribed test procedures or when the prescribed test procedures may evaluate the basic model in a manner so unrepresentative of its true energy consumption as to provide materially inaccurate comparative data. Waivers generally remain in effect until final test procedure amendments become effective, resolving the problem that is the subject of the waiver.

In accordance with § 430.27 of 10 CFR Part 430, Miele filed a Petition for Waiver and an Application for Interim Waiver on June 2, 1995, regarding its clothes washer models W1903, W1918, and W1930, with the following design features that differ from those covered by the existing clothes washer test procedure: an internal electrical heater for heating wash water, a continuously variable wash water temperature control, a 208/240 volt electrical power supply, and a machine-controlled water fill capability. On August 10, 1995, Miele was granted an Interim Waiver, and on August 16, 1995, Miele's Petition for Waiver was published in the Federal Register. (60 FR 42553).

Comments were received from the Whirlpool Corporation (Whirlpool). The comments received were sent to Miele for its rebuttal. The Department consulted with the Federal Trade Commission (FTC) concerning the Miele petition. The FTC did not have any objections to the issuance of a waiver to Miele.

Assertions and Determinations

Externally Heated Water

Whirlpool commented that two of Miele's clothes washers have cold and hot water inlets and that these clothes washers should be tested with a hot water supply instead of just a cold water supply, as granted by the Interim Waiver, because consumer's will use external hot water as much as possible to minimize clothes washer operating time. Miele stated that it agreed with Whirlpool in principle, although there are no equations or usage factors currently available that can accommodate a machine that uses both externally heated water in tandem with internal heaters. Furthermore, Miele stated ''since the DOE cold water procedure is more stringent than that proposed by Whirlpool, the test procedure [as recommended] in the Petition for Waiver will not produce artificially low energy consumption values.'' (Miele, letter to DOE dated October 2, 1995).

The Department agrees with Miele that testing a water-heating clothes washer with only a cold water supply will be a more rigorous test because in the current test procedure externally heated water assumes 100 percent efficiency for the water heater, whereas in practice no electric resistance heater is 100 percent efficient. In addition, while the clothes washer is receiving the externally heated water from the water heater, heat will be dissipated into the thermal mass of the clothes washer which then will require the internal heater to maintain the desired temperature.

The current test procedure requires nonwater-heating clothes washers to use externally heated water whose energy consumption is calculated using a 90 °F temperature rise. The Interim Waiver granted to Miele uses cold water and measures energy consumption based on specified clothes washer water bath temperatures. When a hot wash is

tested, the temperature requirements result in a minimum temperature rise of 80 °F (140 °F minimum for hot wash minus 60 °F maximum for the cold supply water). Therefore, the Department cannot determine if either a ''cold water only test'' or an ''externally heated water and cold water test'' would result in the greatest amount of energy consumption. Miele does acknowledge that testing with ''externally heated water and cold water'' would provide the most accurate results.

Miele indicated that equations and usage factors for the use of externally heated water in water-heating clothes washers do not exist. The Department disagrees because the Association of Home Appliance Manufacturers (AHAM) proposed test procedure [1] has an equation for combining the energy for externally heated water with the measured electrical energy used for mechanical/electrical functions and internal water heating. In regards to usage factors, the AHAM proposed test procedure makes the presumption that consumers will use externally heated water 100 percent of the time. The Department believes this assumption is valid because the overwhelming majority of U.S. consumers have hot water supplies for their clothes washers. The Department does admit that consumers may choose to install only cold water supplies in new construction applications. However, for several reasons the Department believes that the installation of only cold water supplies will be few: (1) Consumers will want to maintain their home's resale value by providing hot water supplies for the potential of future non-water heating clothes washers. (2) If gas or oil externally heated water is available, there may be a cost advantage to use externally heated water. (3) The use of externally heated water will reduce the clothes washer cycle time. Therefore, an appropriate test procedure to test externally heated water can be provided to Miele. Today's Waiver being granted to Miele requires testing using externally heated water rather than only cold water because it is expected that is how the Miele clothes washers with externally heated water capability will most likely be used by consumers in the U.S.

To grant a Waiver to Miele for its externally heated water capable water-heating clothes washer models, the Department needs to determine the temperature rise, temperature and tolerance of externally supplied hot water. The Department believes that the current test procedure: Temperature rise (90 °F), temperature and tolerance (140 °F ± 5 °F (60 °C ± 2.8 °C)) for nonwater-heating clothes washers equipped with thermostatically controlled mixing valves should be used. The Department believes this because the overall energy consumption of a water-heating clothes washer will be affected by the temperature of the external water. This is analogous to nonwater- heating clothes washers equipped with thermostatically controlled mixing valves. Furthermore, externally heated water test requirements for water-heating and non-water heating clothes washers should consistently as possible be maintained as a uniform test procedure for comparison purposes.

The Department realizes that the test criteria provided to Miele by this Decision and Order are different from that of Miele's competitors with respect to cold water supply, but will provide the least impact in the clothes washer community. For example, with the established test criteria, Miele will use the same cold water supply temperature (minimum of 55 °F (12.8 °C) and a maximum of 60 °F (15.6 °C)) as water-heating clothes washer models and will use the same temperature rise for externally heated water as nonwater-heating clothes washer models.

The Department acknowledges that nonwater-heating clothes washers equipped with thermostatically controlled mixing valves will have a slight advantage over Miele's clothes washers with externally heated water capability because the difference of the hottest cold water supply to the hottest hot water supply is 80 °F, whereas Miele's is 85 °F. However, from previous discussions with the clothes washer industry, the Department believes that clothes washers equipped with thermostatically controlled mixing valves represent a minority of the clothes washer market. Today's Waiver granted to Miele maintains the cold water supply requirements of the Interim Waiver and has been revised to incorporate externally heated water as explained above.

Definitions

Whirlpool commented that the definitions for ''Water-heating clothes washer'' and ''Nonwater-heating clothes washer'' should be as stated in the AHAM proposed test procedure.[1] AHAM proposes that the definition for a water-heating clothes washer should state that ''some or all'' of the water for washing is heated by the internal heater. The Interim Waiver granted to Miele stated that ''all'' of the water for washing is heated by the internal heater. Miele's rebuttal regarding the definitions for ''Water-heating clothes washer'' and ''Nonwater-heating clothes washer'' stated that AHAM's proposed language coincided with Miele's interpretation of the Interim Waiver because Miele's comment was under the assumption that its water-heating clothes washers would be tested with cold water supply only. DOE is adopting the Whirlpool recommendation to use the proposed AHAM definitions to be consistent with the determination above to test using externally heated water.

Heated Rinse

Whirlpool stated that the Miele Petition for Waiver did not indicate that its machines had cold rinse only and that there was no means to test for a heated rinse. Miele provided rebuttal indicating that its machines have only cold rinses and that a provision to test a heated rinse is not needed. The Department agrees with Miele.

Test Load for Machined Controlled Water Fill Capability

Whirlpool indicated that Miele should test its clothes washers per the test load table in the AHAM proposed test procedure. Miele indicated that it supports the AHAM proposed test procedure. However, until such time that companies are required to test with the AHAM test load table, Miele stated that it would be unfair to require it to test with the AHAM proposed test load table. The AHAM test load table more closely reflects actual consumer load size use by requiring a larger test load for maximum fill which results in an increase in energy consumption. Until the AHAM proposal is adopted, requiring Miele to test to a larger test load would put it at a competitive disadvantage. Presently, Asko Inc. is allowed to test its machine-controlled water fill capability clothes washer with three (minimum fill) and seven (maximum fill) pound test loads. Therefore, if Miele was required to test its clothes washers with a larger load, then its clothes washers would not be tested on the same basis as Asko. The Waiver granted to Miele maintains the same test load as the Interim Waiver.

Conclusion

It is therefore ordered that:

(1) The ''Petition for Waiver'' filed by Miele [Case No CW–003] is hereby granted as set forth in paragraph (2) below, subject to the provisions of paragraphs (3), (4) and (5).

[1] AHAM proposed a future test procedure in response to a DOE proposed rule (60 FR 15330, March 25, 1995), comment 8 on Docket EE–RM–94–230. AHAM provided a provision to test water-heating clothes washers using externally heated water, if the clothes washer is capable of using externally heated water.

(2) Not withstanding any contrary provisions of section 430.23 or Appendix J of 10 CFR Part 430, Subpart B, Miele shall be permitted to test its washing machines, models W1903, W1918, and W1930 with the modification set forth below:

(I) Add new sections, 1.19 and 1.20 in Appendix J to read as follows:

1.19 ''Water-heating clothes washer'' refers to a clothes washer where some or all of the hot water for clothes washing is generated by a water heating device internal to the clothes washer.

1.20 ''Non-water-heating clothes washer'' refers to a clothes washer which does not have an internal hot water heating device to generate hot water.

(ii) Sections 2.2 and 2.3 in Appendix J shall be deleted and replaced with the following:

2.2 Electrical energy supply. Maintain the electrical supply to the clothes washer terminal block within 1.7 percent of 120, 120/208Y or 120/240 volts, as applicable to the particular terminal block wiring system as specified by the manufacturer. If the clothes washer has a dual voltage conversion capability, conduct the test at the highest voltage specified by the manufacturer.

2.3 Water temperature.

2.3.1 Water-heating clothes washers. The temperature of the cold water supply shall be maintained at a minimum of 55 °F (12.8 °C) and a maximum of 60 °F (15.6 °C). If the clothes washer is equipped with a hot water inlet, the hot water supply shall be maintained at 140 °F ± 5 °F (60 °C ± 2.8 °C).

(iii) Sections 3.2.1 through 3.3.5 in Appendix J shall be deleted and replaced with the following:

3.2.1 Per-cycle energy consumption at maximum fill. Set the water level selector to the maximum fill position, if manually controlled.

3.2.1.1 Hottest wash at maximum fill. Activate the machine and insert the appropriate test load as specified in Section 2.8.2. Select the normal or its equivalent wash cycle. Where spin speed selection is available, set the control to its maximum setting. Set the water temperature selector to the hottest setting and activate the wash cycle. Measure and record the kilowatt-hours of electrical energy consumed for the complete cycle as $E_{ht,max}$. Measure and record the total number of gallons of hot water consumed for the complete cycle as $V_{ht,max}$. Ensure that the inlet water temperature is maintained per Section 2.3.1.

3.2.1.2 Hot wash at maximum fill. Insert a water temperature sensing device inside the inner drum prior to testing. Activate the machine and insert the appropriate test load as specified in Section 2.8.2. Select the normal or its equivalent wash cycle. Where spin speed selection is available, set the control to its maximum setting. Set the water temperature selector to the hot setting (a minimum of 140 °F (60 °C) and a maximum of 145 °F (62.8 °C)) and activate the wash cycle. Verify the wash water temperature, which must be at a minimum of 140 °F (60 °C) and a maximum of 145 °F (62.8 °C). If the measured water temperature is not within the specified range, stop testing, adjust the temperature selector accordingly, and repeat the procedure. Otherwise, proceed and complete testing. Measure and record the kilowatt-hours of electrical energy consumed for the complete cycle as $E_{h,max}$. Measure and record the total number of gallons of hot water consumed for the complete cycle as $V_{h,max}$. Ensure that the inlet water temperature is maintained per Section 2.3.1.

3.2.1.3 Warm wash at maximum fill. Repeat Section 3.2.1.2 for a warm wash setting at a minimum of 100 °F (37.8 °C) and a maximum of 105 °F (40.6 °C). Measure and record the kilowatt-hours of electrical energy consumed for the complete cycle as $E_{w,max}$. Measure and record the total number of gallons of hot water consumed for the complete cycle as $V_{w,max}$.

3.2.1.4 Cold wash at maximum fill. Repeat Section 3.2.1.1 for the coldest water setting. Measure and record the kilowatt-hours of electrical energy consumed for the complete cycle as $E_{c,max}$. Measure and record the total number of gallons of hot water consumed for the complete cycle as $V_{c,max}$.

3.2.2 Per-cycle energy consumption at minimum fill. Set the water level selector to the minimum fill position, if manually controlled.

3.2.2.1 Hottest wash at minimum fill. Repeat Section 3.2.1.1 for a test load as specified in Section 2.8.2. Measure and record the kilowatt-hours of electrical energy consumed for the complete cycle as $E_{ht,min}$. Measure and record the total number of gallons of hot water consumed for the complete cycle as $V_{ht,min}$.

3.2.2.2 Hot wash at minimum fill. Repeat Section 3.2.1.2 for a test load as specified in Section 2.8.2. The hot wash setting shall be at a minimum of 140 °F (60 °C) and a maximum of 145 °F (62.8 °C). Measure and record the kilowatt-hours of electrical energy consumed for the complete cycle as $E_{h,min}$. Measure and record the total number of gallons of hot water consumed for the complete cycle as $V_{h,min}$.

3.2.2.3 Warm wash at minimum fill. Repeat Section 3.2.1.2 for warm wash setting at a minimum of 100 °F (37.8 °C) and a maximum of 105 °F (40.6 °C). Measure and record the kilowatt-hours of electrical energy consumed for the complete cycle as $E_{w,min}$. Measure and record the total number of gallons of hot water consumed for the complete cycle as $V_{w,min}$.

3.2.2.4 Cold wash at minimum fill. Repeat Section 3.2.1.1 for the coldest wash setting. Measure and record the kilowatt-hours of electrical energy consumed for the complete cycle as $E_{c,min}$. Measure and record the total number of gallons of hot water consumed for the complete cycle as $V_{c,min}$.

(iv) Sections 4.1 through 4.4 in Appendix J shall be deleted and replaced with the following:

4.1 Per-cycle temperature-weighted electrical energy consumption for maximum and minimum water fill levels. Calculate the per-cycle temperature-weighted electrical energy consumption for the maximum water fill level, $E_{EL.max}$, and for the minimum water fill level, $E_{EL.min}$, expressed in kilowatt-hours per cycle and defined as:

$$E_{EL.max}=(0.05 \times E_{ht,max}) + (0.25 \times E_{h,max}) + (0.55 \times E_{w,max}) + (0.15 \times E_{c,max})$$

$$E_{EL.min} = (0.05 \times E_{ht,min}) + (0.25 \times E_{h,min}) + (0.55 \times E_{w,min}) + (0.15 \times E_{c,min})$$

where:

$E_{ht,max}$ = as defined in Section 3.2.1.1
$E_{h,max}$ = as defined in Section 3.2.1.2
$E_{w,max}$ = as defined in Section 3.2.1.3
$E_{c,max}$ = as defined in Section 3.2.1.4
$E_{ht,min}$ = as defined in Section 3.2.2.1
$E_{h,min}$ = as defined in Section 3.2.2.2
$E_{w,min}$ = as defined in Section 3.2.2.3
$E_{c,min}$ = as defined in Section 3.2.2.4

4.2 Per-cycle temperature-weighted external hot water energy consumption for maximum and minimum water fill levels. Calculate the per-cycle temperature-weighted external hot water energy consumption for the maximum water fill level, $E_{HW.max}$, and for the minimum water fill level, $E_{HW.min}$, expressed in kilowatt-hours per cycle and defined as:

$$E_{HW.max}= T \times K \text{ x } ((0.05 \times V_{ht,max}) + (0.25 \times V_{h,max}) + (0.55 \times V_{w,max}) + (0.15 \times V_{c,max}))$$

$$E_{HW.min}= T \times K \times ((0.05 \times V_{ht,min}) + (0.25 \times V_{h,min}) + (0.55 \times V_{w,min}) + (0.15 \times V_{c,min}))$$

where:

$V_{ht,max}$ = as defined in Section 3.2.1.1
$V_{h,max}$ = as defined in Section 3.2.1.2
$V_{w,max}$ = as defined in Section 3.2.1.3
$V_{c,max}$ = as defined in Section 3.2.1.4

$V_{ht,min}$ = as defined in Section 3.2.2.1
$V_{h,min}$ = as defined in Section 3.2.2.2
$V_{w,min}$ = as defined in Section 3.2.2.3
$V_{c,min}$ = as defined in Section 3.2.2.4
T = temperature rise = 90 °F (50 °C).
K = water specific heat = 0.00240 kWh/(gal • °F); (0.00114 kWh/(l • °C))

4.3 Total weighted per-cycle hot water energy consumption. Calculate the total weighted per-cycle hot water energy consumption, E_T, expressed in kilowatt-hours per cycle and defined as:

$E_T = (0.72 \times E_{HW.max}) + (0.28 \times E_{HW.min})$

where:

$E_{HW.max}$, $E_{HW.min}$ = as defined in Section 4.2

4.4 Total weighted per-cycle electrical energy consumption. Calculate the total weighted per cycle electrical energy consumption, M_E, expressed in kilowatt-hours per cycle and defined as:

$M_E = (0.72 \times E_{EL.max}) + (0.28 \times E_{EL.min})$

where:

$E_{EL.max}$, $E_{EL.min}$ = as defined in Section 4.1

(3) The Waiver shall remain in effect from the date of issuance of this Order until DOE prescribes final test procedures appropriate to clothes washer models W1903, W1918, and W1930 manufactured by Miele.

(4) This Waiver is based upon the presumed validity of statements, allegations, and documentary materials submitted by the petitioner. This Waiver may be revoked or modified at any time upon a determination that the factual basis underlying the Petition is incorrect.

(5) This Waiver supersedes the Interim Waiver granted to Miele on August 16, 1995. (60 FR 42553).

Issued in Washington, DC, March 7, 1996.

Christine A. Ervin,

Assistant Secretary, Energy Efficiency and Renewable Energy.

[FR Doc. 96–6569 Filed 3–18–96; 8:45 am]

BILLING CODE 6450–01–P

Federal Energy Regulatory Commission

[Project No. 2030–025]

The Confederated Tribes of the Warm Springs Reservation of Oregon, Portland General Electric Company; Notice Establishing Comment Period for Petition for Declaratory Order

March 13, 1996.

On February 15, 1996, the Confederated Tribes of the Warm Springs Reservation of Oregon (Tribes) filed a petition for a declaratory order to determine, on an expedited basis, the existing licensee(s) of the Pelton Hydroelectric Project No. 2030 for purposes of relicensing. The project is located on the Deschutes River in Jefferson County, Oregon.

The original license for the Pelton Project was issued to Portland General Electric Company on December 21, 1951. The license expires on December 31, 2001. Pursuant to an order amending the license for the Pelton Project, issued on February 20, 1980, the Tribes are a ''joint licensee to the extent of their interest'' in hydropower facilities and associated equipment installed at the Pelton Reregulating Dam.[1] The ''existing licensee'' is required to inform the Commission of its intent to file an application for a new license for the project between July 1, 1996, and December 31, 1996.[2]

The Tribes state that it appears unlikely that they and Portland General will file a joint application for a new license for the project in which their respective interests are as set forth in the present license. In these circumstances, the Tribes state that there is considerable uncertainty regarding which entity or entities will be considered an ''existing licensee'' pursuant to Section 15 of the Federal Power Act and Part 16 of the Commission's regulations. They therefore request that the Commission determine, on an expedited basis, whether the Tribes would be an existing licensee under one or more of the following arrangements:

1. The Tribes file an application individually to own and operate the entire Pelton Project.
2. The Tribes file an application individually to own and operate only the Reregulating Dam portion of the Pelton Project.
3. The Tribes file an application jointly with Portland General to own and operate the entire project with the respective interests of the joint applicants as set forth in the current license.
4. The Tribes file an application jointly with Portland General to own and operate the entire project with the respective interests of the joint applicants significantly different than as set forth in the current license.
5. The Tribes file an application jointly with a third party that currently has no interest in the Pelton Project to own and operate the entire Pelton Project.

Pursuant to Rule 213(d) of the Commission's regulations, answers to petitions are due within 30 days after filing, unless otherwise ordered.[3] Because there is currently no ongoing Commission proceeding regarding the Pelton Project, persons having an interest in its outcome may not have received notice of its filing. To ensure adequate notice to all interested persons, the Commission staff has determined that notice of the petition for a declaratory order should be published and that the deadline for filing an answer, comments, protests, or petitions to intervene should be as established in this notice.

Any person may file an answer, comments, protest, or motion to intervene with respect to the Tribe's petition in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 385.210, 385.211, 385.213, and 385.214. In determining the appropriate action to take with respect to the petition, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any answers, comments, protests, or motions to intervene must be received no later than April 26, 1996.

Lois D. Cashell,

Secretary.

[FR Doc. 96–6499 Filed 3–18–96; 8:45 am]

BILLING CODE 6717–01–M

[1] 10 FERC ¶ 62,142.

[2] *See* 18 CFR 16.6.

[3] 18 CFR 385.213(d)(2). *See also* 18 CFR 385.202.

[Docket No. MG96–1–001]

El Paso Natural Gas Co.; Notice of Filing

March 13, 1996.

Take notice that on March 8, 1996, El Paso Natural Gas Company (El Paso) filed revised standards of conduct under section 161.3 of the Commission's regulations, 18 CFR 161.3 and to comply with the Commission's February 7, 1996 order directing El Paso to revise its standards of conduct with respect to Standards C, E, H, J and K, 18 CFR 161.3(c), (e), (h), (j) and (k). 74 FERC ¶ 61,122.

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 or 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 or 385.214). All such motions to intervene or protest should be filed on or before March 28, 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. 96–6500 Filed 3–18–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP85–221–063]

Frontier Gas Storage Company; Notice of Sale Pursuant to Settlement Agreement

March 13, 1996.

Take notice that on March 6, 1996, Frontier Gas Storage Company (Frontier), c/o Reid & Priest, Market Square, 701 Pennsylvania Ave., N.W., Suite 800, Washington, D.C. 20004, in compliance with provisions of the Commission's February 13, 1985, Order in Docket No. CP82–487–000, *et al.*, submitted an executed Service Agreement under Rate Schedule LVS–1 providing for the possible sale of up to a daily quantity of 50,000 MMBtu, not to exceed 5 Bcf of Frontier's gas storage inventory on an ''as metered'' basis to Westcoast Gas Services (America) Inc., for term ending March 31, 1997.

Under Subpart (b) of Ordering Paragraph (F) of the Commission's February 13, 1985, Order, Frontier is ''authorized to commence the sale of its inventory under such an executed service agreement fourteen days after filing the agreement with the Commission, and may continue making such sale unless the Commission issues an order either requiring Frontier to stop selling and setting the matter for hearing or permitting the sale to continue and establishing other procedures for resolving the matter.''

Any person desiring to be heard or to make a protest with reference to said filing should, within 10 days of the publication of such notice in the Federal Register, file with the Federal Energy Regulatory Commission (888 1st Street N.E., Washington, D.C. 20426) a motion to intervene or protest in accordance with the requirements of the Commission's Rules of Practice and Procedures, 18 CFR 385.214 or 385.211. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 96–6505 Filed 3–18–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER96–795–000]

Gateway Energy Marketing; Notice of Issuance of Order

March 13, 1996.

On January 16, 1996, as amended February 6, 1996, Gateway Energy Marketing (Gateway) submitted for filing a rate schedule under which Gateway will engage in wholesale electric power and energy transactions as a marketer. Gateway also requested waiver of various Commission regulations. In particular, Gateway requested that the Commission grant blanket approval under 18 CFR Part 34 of all future issuances of securities and assumptions of liability by Gateway.

On March 7, 1996, pursuant to delegated authority, the Director, Division of Applications, Office of Electric Power Regulation, granted requests for blanket approval under Part 34, subject to the following:

Within thirty days of the date of the order, any person desiring to be heard or to protest the blanket approval of issuances of securities or assumptions of liability by Gateway should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214).

Absent a request for hearing within this period, Gateway is authorized to issue securities and assume obligations or liabilities as a guarantor, indorser, surety, or otherwise in respect of any security of another person; provided that such issuance or assumption is for some lawful object within the corporate purposes of the applicant, and compatible with the public interest, and is reasonably necessary or appropriate for such purposes.

The Commission reserves the right to require a further showing that neither public nor private interests will be adversely affected by continued approval of Gateway's issuances of securities or assumptions of liability.

Notice is hereby given that the deadline for filing motions to intervene or protests, as set forth above, is April 8, 1996.

Copies of the full text of the order are available from the Commission's Public Reference Branch, 888 First Street, N.E. Washington, D.C. 20426.

Lois D. Cashell,

Secretary.

[FR Doc. 96–6501 Filed 3–18–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP96–216–000]

Natural Gas Pipeline Company of America; Notice of Request Under Blanket Authorization

March 13, 1996.

Take notice that on February 28, 1996, Natural Gas Pipeline Company of America (Natural), 701 East 22nd Street, Lombard, Illinois 60148, filed in Docket No. CP96–216–000 a request pursuant to §§ 157.205 and 157.212 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.212) for authorization to operate an existing 2.8 mile delivery lateral in Pulaski County, Arkansas, for jurisdictional services, including transportation pursuant Part 284 of the Regulations, under Natural's blanket certificate issued in Docket No. CP82–402–000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

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 § 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. 96–6503 Filed 3–18–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP94–29–002]

Paiute Pipeline Company; Notice of Amendment to Pending Application

March 13, 1996.

Take notice that on March 4, 1996, Paiute Pipeline Company (Paiute), filed in Docket No. CP94–29–002, pursuant to

Section 7 of the Natural Gas Act, an amendment to its pending application in Docket No. CP94–29–000, as amended in Docket No. CP94–29–001, in which Paiute requests authorization to construct and operate certain pipeline loop and pressure regulating and measurement facilities, in order to enable Southwest-Northern California to serve the city of Truckee, California, and environs, and to increase Paiute's capacity to provide additional delivery point flexibility to Southwest-Northern Nevada in the Incline Village, Nevada area, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Paiute states that it filed its original application in Docket No. CP94–29–000 on October 15, 1993. On March 27, 1995, Paiute filed an amendment in Docket No. CP94–29–001 which significantly revised its original application. Paiute states that by these filings, it requests authorization in this proceeding to construct and operate pipeline loop and measurement and pressure regulating facilities so as to expand the delivery capacity of its system between Wadsworth Junction and the terminus of its North Tahoe Lateral by 12,788 Dth/d. The proposed facilities are intended to enable Paiute to provide an additional 10,333 Dth/d of firm transportation service between those points to Southwest-Northern California, and enabling it to accommodate Southwest-Northern Nevada's request to provide it with 2,455 Dth/d of additional delivery capacity at its Incline Village delivery points.

Paiute states that the purpose of its new amendment is to reflect two changes with respect to the construction of one of the pipeline loop segments proposed by Paiute in its previous applications in this docket. Paiute had previously proposed to construct and operate 11.1 miles of 16-inch loop pipeline on its North Tahoe Lateral between mileposts 6.6 and 17.7. However, in response to the serious concerns of the Division of State Parks of the Nevada Department of Conservation and Natural Resources, Paiute reanalyzed the system design for its construction project. Consequently, by the instant amendment, Paiute now proposes to construct 11.0 miles of 16-inch loop pipeline from milepost 0.0 to milepost 11.0 on the North Tahoe Lateral. In addition, Paiute now proposes to construct approximately 200 feet of 8-inch loop pipeline at milepost 17.7 on the North Tahoe Lateral.

Paiute states that the estimated cost of the proposed facilities is $10,451,691, which is nearly identical to the estimated cost level reflected in Paiute's previously filed amendment in this docket. Paiute intends to finance the cost of construction through ongoing regular financing programs and internally generated funds.

Paiute further states that aside from the aforementioned two changes, Paiute is proposing no other changes to its proposed construction project or to its request for authorization as heretofore submitted to the Commission in this docket.

Any person desiring to be heard or to make any protest with reference to said application should on or before April 3, 1996, file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 and 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules. All persons who have heretofore filed need not file again.

Lois D. Cashell,

Secretary.

[FR Doc. 96–6504 Filed 3–18–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP96–226–000]

Transcontinental Gas Pipe Line Corporation; Notice of Application

March 13, 1996.

Take notice that on March 1, 1996, Transcontinental Gas Pipe Line Corporation (Transco), Post Office Box 1396, Houston, Texas 77251, filed in Docket No. CP96–226–000, an application pursuant to Sections 7(b) and 7(c) of the Natural Gas Act (NGA), and Part 157 of the Federal Regulatory Commission's (Commission) regulations, for a certificate of public convenience and necessity authorizing Transco to: (a) Reduce its firm storage capacity obligation under Rate Schedule GSS by 3 Bcf and abandon 3 Bcf of the customers' firm storage capacity entitlements; (b) reflect the impact of the foregoing changes through a limited Section 4 rate case filing to become effective June 1, 1996; (c) purchase 3 Bcf of base gas to account for a change in top gas storage capacity at the Wharton Storage Field and reflect the cost of the 3 Bcf of base gas in GSS rates through a limited Section 4 rate case; and (d) insert an Operational Flow Order (OFO) provision in Rate Schedule GSS, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Transco states that its application was a cooperative effort with its Rate Schedule GSS customers and that the filing has the support or non-opposition of all of Transco's Rate Schedule GSS customers. Transco requests expedited approval of its application by June 1, 1996, so that it can purchase and inject the 3 Bcf of base gas into the Wharton Storage Field prior to the onset of the 1996–97 winter heating season.

Any person desiring to be heard or to make any protest with reference to said application should on or before April 3, 1996, file with the Federal Regulatory Commission, Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be

unnecessary for Transco to appear or be represented at the hearing.

Lois D. Cashell,

Secretary.

[FR Doc. 96–6502 Filed 3–18–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER96–852–000, et al.]

Delmarva Power & Light Company, et al.; Electric Rate and Corporate Regulation Filings

March 12, 1996.

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

1. Delmarva Power & Light Company

[Docket No. ER96–852–000]

Take notice that on March 6, 1996, Delmarva Power & Light Company (Delmarva) tendered for filing an amendment to its January 17, 1996 filing in this docket.

Comment date: March 26, 1996, in accordance with Standard Paragraph E at the end of this notice.

2. Florida Power & Light Company

[Docket No. ER96–1216–000]

Take notice that on February 29, 1996, Florida Power & Light Company (FPL), tendered for filing proposed service agreements with Heartland Energy Services, Inc. for transmission service under FPL's Transmission Tariff No. 2 and FPL's Transmission Tariff No. 3.

FPL requests that the proposed service agreements be permitted to become effective on March 4, 1996, or as soon thereafter as practicable.

FPL states that this filing is in accordance with Part 35 of the Commission's Regulations.

Comment date: March 26, 1996, in accordance with Standard Paragraph E at the end of this notice.

3. Entergy Power Marketing Corp.

[Docket No. ER95–1615–001]

Take notice that on February 29, 1996, Entergy Power Marketing Corporation tendered for filing its compliance filing in the above-referenced docket pursuant to the Commission's order issued on February 14, 1996 in the above-referenced docket.

Comment date: March 25, 1996, in accordance with Standard Paragraph E at the end of this notice.

4. Nevada Power Company

[Docket No. ER96–133–000]

Take notice that on March 4, 1996, Nevada Power Company (Nevada Power) tendered for filing a request to withdraw its October 18, 1995, filings in the above-referenced Docket.

Copies of this filing were served on Rainbow and the Nevada Public Service Commission.

Comment date: March 26, 1996, in accordance with Standard Paragraph E at the end of this notice.

5. Wisconsin Electric Power Company

[Docket No. ER96–514–000]

Take notice that Wisconsin Electric Power Company (Wisconsin Electric) on March 5, 1996, tendered for filing an amendment to its December 4, 1995, filing of revisions to its FERC Electric Tariff, Volume No. 1, Service Agreement No. 29.

Wisconsin Electric again requests waiver of the notice requirements and an effective date of November 15, 1995, in order to implement the Agreement's modifications, which do not result in revenue increases.

Comment date: March 26, 1996, in accordance with Standard Paragraph E at the end of this notice.

6. Wisconsin Electric Power Company

[Docket No. ER96–684–000]

Take notice that Wisconsin Electric Power Company (Wisconsin Electric) on March 5, 1996, tendered for filing an amendment to its December 26, 1995, filing of revisions to its FERC Electric Tariff, Volume No. 1, Service Agreement No. 23.

Wisconsin Electric again requests waiver of the notice requirements and an effective date of November 15, 1995, in order to implement the Agreement's modifications, which do not result in revenue increases.

Comment date: March 26, 1996, in accordance with Standard Paragraph E at the end of this notice.

7. Arizona Public Service Company

[Docket No. ER96–1200–000]

Take notice that on February 28, 1996, Arizona Public Service Company tendered for filing a Notice of Cancellation of FERC Rate Schedule No. 199 between Arizona APS and Portland Electric Company.

Comment date: March 26, 1996, in accordance with Standard Paragraph E at the end of this notice.

8. Entergy Power Marketing Corporation

[Docket No. ER96–1213–000]

Take notice that on February 29, 1996, Entergy Power Marketing Corporation filed a revision to Rate Schedule No. 1, which would permit it to make sales of capacity and energy at market-based rates to non-traditional affiliates but which would continue the existing prohibition on sales to the traditional Entergy Utility Operating Affiliates.

Comment date: March 26, 1996, in accordance with Standard Paragraph E at the end of this notice.

9. Nevada Power Company

[Docket No. ER96–1214–000]

Take notice that on February 29, 1996, Nevada Power Company (Nevada Power), tendered for filing a proposed Supplement to the Interconnection Agreement Between Nevada Power Company and the City of Boulder City, Nevada (Schedule D) having a proposed effective date of May 1, 1996.

The Supplemental Agreement provides for the sale of economy energy to the City of Boulder City, Nevada (Boulder) during any calendar month in which Boulder agrees to purchase from Nevada Power all of its economy energy requirements. Such economy energy is to be delivered using Boulder's contractual allocation of Federal Colorado River hydroelectric capacity. The total monthly amount of economy energy under Schedule D shall not exceed the amount of energy that, when added to Boulder's contractual allocation of Federal hydroelectric energy, would provide 100 percent capacity factor utilization of these Federal hydroelectric resources.

The price of economy energy sold by Nevada Power and purchased by Boulder pursuant to Schedule D shall be at Nevada Power's Average Hourly Marginal Cost of energy for each calendar month plus 1 mill per kilowatt-hour. Average Hourly Marginal Cost is defined as the monthly sum of the hourly incremental cost of the next cheapest megawatt-hour available to generate or purchase (excluding generation at Hoover Dam) to meet load in Nevada Power's control area divided by the number of hours in the month.

Copies of this filing have been served on Boulder and the Nevada Public Service Commission.

Comment date: March 26, 1996, in accordance with Standard Paragraph E at the end of this notice.

10. The Washington Water Power Company

[Docket No. ER96–1215–000]

Take notice that on February 29, 1996, The Washington Water Power Company (WWP), tendered for filing with the Federal Energy Regulatory Commission pursuant to 18 CFR 35.13, signed service agreements under FERC Electric Tariff Volume No. 4 with USGen Power Services, L.P., and Williams Energy Services Company along with a Certificate of Concurrence for each with

respect to exchanges. WWP requests waiver of the prior notice requirement and requests an effective date of March 1, 1996. Also submitted is a signed service agreement with Public Utility District No. 1 of Clark County previously approved as an unsigned service agreement.

Comment date: March 26, 1996, in accordance with Standard Paragraph E at the end of this notice.

11. Public Service Company of Colorado

[Docket No. ER96–1217–000]

Take notice that on February 29, 1996, Public Service Company of Colorado (Public Service), tendered for filing a Service Agreement for Non-Firm Transmission Service between Public Service Company of Colorado and InterCoast Power Marketing (InterCoast). Public Service states that the purpose of this filing is to provide Non-firm Transmission Service in accordance with its Point-to-Point Transmission Service Tariff. Public Service requests that this filing be made effective February 9, 1996.

Comment date: March 26, 1996, in accordance with Standard Paragraph E at the end of this notice.

12. Houston Lighting & Power Company

[Docket No. ER96–1218–000]

Take notice that on February 29, 1996, Houston Lighting & Power Company (HL&P), tendered for filing an executed transmission service agreement (TSA) with Enron Power Marketing, Inc. (Enron) 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 February 28, 1996.

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

Comment date: March 26, 1996, in accordance with Standard Paragraph E at the end of this notice.

13. Southwestern Electric Power Company

[Docket No. ER96–1219–000]

Take notice that on February 29, 1996, Southwestern Electric Power Company (SWEPCO), tendered for filing the final return on common equity (Final ROE) to be used in redetermining or ''truing-up'' cost-of-service formula rates for wholesale service in 1995 to Northeast Texas Electric Cooperative, Inc., the City of Bentonville, Arkansas, the City of Hope, Arkansas, the Oklahoma Municipal Power Authority, Rayburn Country Electric Cooperative, Inc., Cajun Electric Power Cooperative, Inc., TEX–LA Electric Cooperative of Texas, Inc. and East Texas Electric Cooperative, Inc. SWEPCO provides service to these Customers under contracts which provide for periodic changes in rates and charges determined in accordance with cost-of-service formulas, including a formulaic determination of the return on common equity.

Copies of the filing were served upon the affected wholesale Customers, the Public Utility Commission of Texas, the Oklahoma Corporation Commission, the Louisiana Public Service Commission and the Arkansas Public Service Commission.

Comment date: March 26, 1996, in accordance with Standard Paragraph E at the end of this notice.

14. Sierra Pacific Power Company

[Docket No. ER96–1220–000]

Take notice that on February 29, 1996, Sierra Pacific Power Company (Sierra), tendered for filing pursuant to § 205 of the Federal Power Act (the Act) and Part 35 of the Commission's Regulations, Amendment One to the Agreement (Agreement) for Use of Transmission Facilities between Sierra and Wells Rural Electric Company (Wells). (Amendment One shall hereafter be referred to as the Amendment).

Sierra states that the principal purpose of the Amendment is to provide for increases in firm transmission service provided by Sierra under the existing Agreement. The Agreement provides for additional charges consistent with such increases in service. Sierra requests that the Amendment be accepted and made effective, without change, as of April 30, 1996, that being 60 days after its tender of filing at the Commission. While Sierra states its belief that no waivers of the Act or the Commission's Rules or Regulations are necessary to make effective the Amendment pursuant to its terms, Sierra requests any such waiver necessary or desirable for that purpose.

Sierra asserts that the filing has been served on Wells and on the regulatory commission of Nevada.

Comment date: March 26, 1996, in accordance with Standard Paragraph E at the end of this notice.

15. Duke Power Company

[Docket No. ER96–1221–000]

Take notice that on February 29, 1996, Duke Power Company (Duke), tendered for filing a Service Agreement for Market Rate (Schedule MR) Sales between Duke and PECO Energy Company and Schedule MR Transaction Sheets thereunder.

Comment date: March 26, 1996, in accordance with Standard Paragraph E at the end of this notice.

16. New England Power Company

[Docket No. ER96–1222–000]

Take notice that on February 29, 1996, New England Power Company, tendered for filing Amendments to its Service Agreements with Granite State Electric Company, New Hampshire Electric Cooperative, and the Town of Littleton, New Hampshire (hereinafter Customers) under NEP's FERC Electric Tariff, Original Volume No. 1.

NEP states that the proposed Amendments provide a monthly credit to its New Hampshire Customers based on a portion of the savings received by NEP through the issuance of tax-exempt financing authorized by the State of New Hampshire.

NEP requests waiver of the Commission's notice requirements so that the Amendments may become effective on March 1, 1996.

Comment date: March 26, 1996, in accordance with Standard Paragraph E at the end of this notice.

17. Public Service Company of Colorado

[Docket No. ER96–1223–000]

Take notice that on February 29, 1996, Public Service Company of Colorado (Public Service), tendered for filing a Letter Agreement to the Power Purchase Agreement (PPA) between Public Service Company of Colorado (Public Service) and the City of Burlington (Burlington). This Letter Agreement requests a two month trial modification of Section 7(b) to the PPA which provides for a scheduling methodology for WAPA power. Public Service requests that this filing be made effective March 1, 1996.

Comment date: March 26, 1996, in accordance with Standard Paragraph E at the end of this notice.

18. Virginia Electric and Power Company

[Docket No. ER96–1224–000]

Take notice that on February 29, 1996, Virginia Electric and Power Company (Virginia Power), tendered for filing Supplement Nos. 3 and 4, dated February 28, 1996, to the February 1, 1993 Data Acquisition Equipment and Data Transmission Agreement (the Data Acquisition Agreement) between Virginia Power and Appalachian. The commission previously has designated the Data Acquisition Agreement as Appalachian's Rate Schedule FERC No.

134. The Supplements address replacement of the existing interchange telemetry equipment at Virginia Power's Bremo and Altavista Stations, respectively.

Copies of the filing were served upon the Virginia State Corporation Commission, the North Carolina Utilities Commission, the Public Service Commission of West Virginia and Appalachian Power Company.

Comment date: March 26, 1996, in accordance with Standard Paragraph E at the end of this notice.

19. Kansas City Power & Light Company

[Docket No. ER96–1225–000]

Take notice that on February 29, 1996, Kansas City Power & Light Company (KCPL), tendered for filing Amendatory Agreement No. 2 to the Municipal Participation Agreement between KCPL and the City of Higginsville, Missouri, dated February 5, 1996, and associated Service Schedule. KCPL states that the Amendatory Agreement revises the Agreement pursuant to KCPL's Open Season.

KCPL request waiver of the Commission's notice requirements.

Comment date: March 26, 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. 96–6517 Filed 3–18–96; 8:45 am]

BILLING CODE 6717–01–P

FARM CREDIT ADMINISTRATION

Farm Credit Administration Board; Amendment to Sunshine Act Meeting

AGENCY: Farm Credit Administration.

SUMMARY: Pursuant to the Government in the Sunshine Act (5 U.S.C. 552b(e)(3)), the Farm Credit Administration gave notice on March 8, 1996 (61 FR 9458) of the special meeting of the Farm Credit Administration Board (Board) scheduled for March 12, 1996. This notice is to amend the agenda by adding an item to the open session of that meeting.

FOR FURTHER INFORMATION CONTACT: Floyd Fithian, Secretary to the Farm Credit Administration Board, (703) 883–4025, TDD (703) 883–4444.

ADDRESSES: Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102–5090.

SUPPLEMENTARY INFORMATION: This meeting of the Board was open to the public (limited space available). The agenda for March 12, 1996, is amended by adding the following item:

Open Session

B. Reports

2. Office of Secondary Market Oversight's Quarterly Report.

Dated: March 13, 1996.

Floyd Fithian,

Secretary, Farm Credit Administration Board.

[FR Doc. 96–6646 Filed 3–14–96; 4:58 pm]

BILLING CODE 6705–01–P

FEDERAL COMMUNICATIONS COMMISSION

Licenses, Construction Permit and Application Designated for Hearing

1. The Commission has before it the following broadcast station licenses and application:

Licensee/permittee/applicant docket No.	Station/application	MM
Contemporary Media, Inc	WBOW(AM), Terre Haute, IN	95–154
	WBFX(AM), Terre Haute, IN	95–154
	WZZQ(FM), Terre Haute, IN	95–154
Contemporary Broadcasting, Inc	KFMZ(FM), Columbia, MO	95–154
	KAAM-FM, Huntsville, MO (unbuilt)	95–154
Lake Broadcasting, Inc	KBMX(FM), Eldon, MO	95–154
	KFXE(FM), Cuba, MO	95–154
File No. BPH–921112MH (for a construction permit for a new FM station on Channel 244A at Bourbon, MO.)	95–154.	

2. By *Order to Show Cause and Notice of Apparent Liability,* FCC 95–410 (released October 10, 1995), the Commission, pursuant to Section 312(a)(2) of the Communications Act of 1934, as amended, designated the above referenced radio station authorizations and application for a revocation hearing in a consolidated proceeding upon the following issues:

a. To determine the effect of Michael Rice's convictions on the basic qualifications of Contemporary Media, Inc., Contemporary Broadcasting, Inc., and Lake Broadcasting, Inc.

b. To determine whether Contemporary Media, Inc., Contemporary Broadcasting, Inc., and Lake Broadcasting, Inc. misrepresented to the Commission that, subsequent to his arrest, Michael Rice has been excluded from the management and operation of the Contemporary Media, Inc., Contemporary Broadcasting, Inc., and Lake Broadcasting, Inc., radio stations.

c. To determine, pursuant to Section 310(d) of the Communications Act of 1934, as amended, and Section 73.3540 of the Commission's Rules, whether Michael Rice has engaged in the unauthorized transfer of control of Contemporary Media, Inc., Contemporary Broadcasting, Inc., and Lake Broadcasting, Inc.

d. To determine, in light of the evidence adduced under the foregoing issues, whether Contemporary Media, Inc., Contemporary Broadcasting, Inc., and/or Lake Broadcasting, Inc., possess the requisite qualifications to be or remain licensees of their respective radio stations.

3. A copy of the *Order to Show Cause and Notice of Apparent Liability* is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, D.C. 20554. The complete text may also be

purchased from the Commission's duplicating contractor, International Transcription Services, Inc., 2100 M Street NW., Suite 140, Washington, D.C. 20036 (Telephone 202–857–3800).

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 96–6524 Filed 3–18–96; 8:45 am]

BILLING CODE 6712–01–P

Sunshine Act Meeting; FCC To Hold Open Commission Meeting Thursday, March 21, 1996

The Federal Communications Commission will hold an Open Meeting on the subjects listed below on Thursday, March 21, 1996, which is scheduled to commence at 9:30 a.m., in Room 856, at 1919 M Street, NW., Washington, DC.

Item No., Bureau, and Subject

1—Cable Services—Title: Implementation of Sections of the Cable television Consumer Protection and Com-petition Act of 1992: Rate Regulation -- Commercial Leased Access (MM Docket No. 92–266). Summary: The Commission will consider petitions for recon-sideration of its initial regulations governing the provision of commercial leased access by cable operators.

2—Common Carrier—Title: Policy and Rules Concerning the Interstate, Interexchange Marketplace; Implementation of Section 101 of the Telecommunications Act of 1996. Summary: The Commission will consider action concerning the interstate, interexchange market-place, and implementation of the geographic rate averaging and rate integration provisions of Section 101 of the Tele-communications Act of 1996 (adding 47 U.S.C. § 254(g)).

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 Services, Inc. at (202) 857–3800. Audio and video tapes of this meeting can be purchased from Telspan International at (301) 731–5355.

Dated March 14, 1996.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 96–6657 Filed 3–15–96; 10:30 am]

BILLING CODE 6712–01–F

Public Information Collections Approved by Office of Management and Budget

March 12, 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. 104–13. An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid control number. For further information contact Shoko B. Hair, Federal Communications Commission, (202) 418–1379.

Federal Communications Commission

OMB Control No.: 3060–0536.

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: 46,330 total annual hours; 9.266 hours per respondent; 5000 respondents.

Estimated Annual Reporting and Recordkeeping Cost Burden: $0.

Description: Title IV of the Americans with Disabilities Act, Pub. L. No. 101–336, Section 401, 104 Stat. 327, 366–69 requires the Federal Communications Commission (Commission) to ensure that telecommunications relay services are available to persons with hearing and speech disabilities in the United States. Among other things, the Commission is required by 47 U.S.C. Section 225(d)(3) to enact and oversee a shared-funding mechanism (TRS Fund) for recovering the costs of providing interstate TRS. The Commission's rules require all carriers providing interstate telecommunications services to contribute to the TRS Fund on an annual basis. Contributions are the product of the carrier's gross interstate revenues for the previous year and a contribution factor determined annually by the Commission. The collected contributions are used to compensate TRS providers for the costs of providing interstate TRS service. FCC Form 431 is the form which carriers use to calculate and file their annual TRS Fund contributions. FCC Form 431 is being updated for the 1996–1997 reporting year. A Public Notice will be issued when the form is available for public use.

OMB Control No.: 3060–0395.

Expiration Date: 05/31/96.

Form No.: FCC Report 43–02, 43–05, 43–07.

Title: Automated Reporting and Management Information Systems (ARMIS)—Sections 43.21 and 43.22.

Estimated Annual Burden: 151,868; 943.27 hours per respondent (avg.); 102 respondents.

Estimated Annual Reporting and Recordkeeping Cost Burden: $0.

Description: ARMIS is needed to administer our accounting, jurisdictional separations, access charges and joint cost rules and rules to analyze revenue requirements and rates of return, service quality and infrastructure development. It collects financial and operating data from all Tier 1, Class A local exchange carriers with annual revenues over $100 million and carriers who elect incentive regulation. The information contained in the reports provides the necessary detail to enable this Commission to fulfill its regulatory responsibilities.

OMB Control No.: 3060–0513.

Expiration Date: 05/31/96.

Form No.: FCC Report 43–03.

Title: ARMIS Joint Cost Report.

Estimated Annual Burden: 30,000 total annual hours; 200 hours per respondent; 150 respondents.

Estimated Annual Reporting and Recordkeeping Cost Burden: $0.

Description: The Joint Cost Report is needed to administer our joint cost rules (Part 64) and to analyze data in order to prevent cross-subsidization of nonregulated operations by the regulated operations of Tier 1 carriers.

OMB Control No.: 3060–0511.

Expiration Date: 05/31/96.

Form No.: FCC Report 43–04.

Title: ARMIS Access Report.

Estimated Annual Burden: 172,500; 1,150 hours per respondent; 150 respondents.

Estimated Annual Reporting and Recordkeeping cost Burden: $0.

Description: The Access Report is needed to administer our accounting, jurisdictional separations and access charge rules, and to analyze revenue requirements and rates of return and to collect financial and operating data from all Tier 1 local exchange carriers.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 96–6478 Filed 3–18–96; 8:45 am]

BILLING CODE 6712–01–F

FEDERAL MARITIME COMMISSION

Notice of Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, D.C. Office of the Federal Maritime Commission, 800 North Capitol Street NW., 9th Floor. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 10 days after the date of the Federal Register in which this notice appears. The requirements for comments are found in § 572.603 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 203–011305–003.
Title: Tricontinental Service Agreement.
Parties:

Cho Yang Shipping Co., Ltd.
DRS-Senator Lines

Synopsis: The proposed amendment revises the notice period for a member to withdraw from the Agreement.

Agreement No.: 232–011533.
Title: CGM TDM/Marfret Reciprocal Space Charter, Sailing and Cooperative Working Agreement.
Parties:

CGM Tour du Monde S.A.
La Compagnie Maritime Marfret, S.A.

Synopsis: The proposed Agreement permits the parties to charter space from one another, and rationalize sailings in the trade between all ports in continental Europe, the United Kingdom, the Republic of Ireland, Central and Eastern Europe, Scandinavia and the Mediterranean and all inland and coastal points via such ports, and U.S. Atlantic, Gulf and West Coast ports and all inland and coastal points via such ports on the one hand and, on the other hand, ports in the islands of the Central and South Pacific, including but not limited to, Tahiti, New Caledonia and Papua, New Guinea, and ports in Australia, Asia, South East Asia and the Indian subcontinent including but not limited to Sri Lanka. The parties have requested a shortened review period.

Agreement No.: 217–011534.
Title: DSR-Senator/Transnave Agreement.
Parties:

DSR-Senator Lines (''DSR'')
Transportes Navieros Ecuatorianos (''Transnave'')

Synopsis: The proposed Agreement permits DSR to charter space to Transnave in the trade between ports in the Republic of Panama and the United States.

Agreement No.: 224–002161–007.
Title: Port of Seattle/Cargill, Inc. Terminal Agreement.
Parties:

Port of Seattle
Cargill, Inc.

Synopsis: The proposed amendment extends the term of the Agreement for five years.

Agreement No.: 224–200865–002.
Title: Port of Oakland/Hanjin Shipping Company Ltd. Terminal Agreement
Parties:

Port of Oakland (''Port'')
Hanjin Shipping Company, Ltd. (''Hanjin'')

Synopsis: The proposed amendment permits the Port to add certain compensation provisions to the Agreement for wharfage of Hanjin's cargo discharged from or loaded on to DSR-Senator Lines or Cho Yang's vessels at the Port's Charles P. Howard Terminal.

Agreement No.: 224–200975.
Title: American CFR & Transportation Association
Parties:

Railhead C.F.S.
AZ Container Frt. Station
Sumo Cargo Services
Cargo Marx
Harbor Freight Transport
St. George Warehouse, Inc.
Tritom Distribution Services
GTS Terminals, Inc.
Nationwide C.F.S.
Van Brunt Port Jersey Warehouse, Inc.

Synopsis: The proposed Agreement permits the parties to establish a conference. It also provides for the fixing of and adherence to uniform marine terminal rates, charges, practices and conditions of service relating to the receipt, handling and/or delivery of cargo for its members.

Dated: March 13, 1996.
By Order of the Federal Maritime Commission.
Joseph C. Polking,
Secretary.
[FR Doc. 96–6507 Filed 3–18–96; 8:45 am]
BILLING CODE 6730–01–M

Ocean Freight Forwarder License Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as ocean freight forwarders pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718 and 46 CFR 510).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to contact the Office of Freight Forwarders, Federal Maritime Commission, Washington, D.C. 20573.

Great Western Steamship Company, 107 Rainbowfish Circle, Jupiter, FL 33477, Officers: Rhys William Dale, President; Leslie Johnstone, Vice President.

American River International, Ltd., 130 Rivera Drive South, Suite 1, Massapequa, NY 11758, Officer: Thomas A. Cook, President.

Dated: March 13, 1996.
Joseph C. Polking,
Secretary.
[FR Doc. 96–6506 Filed 3–18–96; 8:45 am]
BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Board of Governors of the Federal Reserve System.

TIME AND DATE: 12:00 noon, Monday, March 25, 1996.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, N.W., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204. You may call (202) 452–3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: March 15, 1996.
Jennifer J. Johnson,
Deputy Secretary of the Board.
[FR Doc. 96–6756 Filed 3–15–96; 3:25 pm]
BILLING CODE 6210–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30DAY–07]

Agency Forms Undergoing Paperwork Reduction Act Review

The Centers for Disease Control and Prevention (CDC) publishes a list of information collection requests under review, in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). To request a copy of these requests, call the CDC Reports Clearance Office on (404) 639–7090.

The following request have been submitted for review since the last publication date on January 23, 1996.

Proposed Project

1. Surveillance and Epidemiology Study Core Questionnaire and Supplement Modules—(0923–0010)—Revision—ATSDR is revising and renewing the project which follows populations exposed to specific hazardous substances over a period of time to determine if they are experiencing elevated occurrence of diseases. In addition to demographic information, additional core information is collected on behavioral characteristics and health conditions. The supplemental modules are also included in the request that may be used, depending on the organ system targeted or the type of respondent (renal, liver, occupational, respiratory, etc).

The total cost to respondents is estimated at $53,153.64.

Respondents	Number of respondents	Number of responses/ respondent	Average burden/re-sponses (in hrs.)	Total bur-den (in hrs.)
Households	2667	7	.369	4908

The total annual burden is 4908. Send comments to Allison Eydt; Human Resources and Housing Branch, New Executive Office Building, Room 10235; Washington, DC 20503.

Wilma G. Johnson,

Acting Associate Director for Policy Planning And Evaluation, Centers for Disease Control; and Prevention (CDC).

[FR Doc. 96–6513 Filed 3–18–96; 8:45 am]

BILLING CODE 4163–18–P

Office of Community Services

State Median Income Estimates for Four-Person Families (FY 1997); Notice of the Fiscal Year (FY) 1997 State Median Income Estimates for Use Under the Low Income Home Energy Assistance Program (LIHEAP) Administered by the Administration for Children and Families, Office of Community Services, Division of Energy Assistance

AGENCY: Administration for Children and Families (ACF), DHHS.

ACTION: Notice of estimated state median income for FY 1997.

SUMMARY: This notice announces the estimated median income for four-person families in each state and the District of Columbia for FY 1997 (October 1, 1996 to September 30, 1997). In the past, the date for adoption of the state median income estimates has been the first day of the fiscal year after their publication. The adoption date for the state median income estimates was changed last year to be consistent with the adoption date for the poverty income guidelines. Therefore, LIHEAP grantees may adopt the state median income estimates at any time between the date of this publication and the first day of FY 1997, at the LIHEAP grantee's option. This means that LIHEAP grantees could also choose to implement this notice during the period between the heating and cooling seasons. However, by October 1, 1996, or by the beginning of a grantee's fiscal year, whichever is later, LIHEAP grantees using state median income estimates must adjust their income eligibility criteria to be in accord with the FY 1997 state median income estimates.

This listing of estimated state median incomes concerns maximum income levels for households to which LIHEAP grantees may make payments under LIHEAP.

EFFECTIVE DATE: The estimates are effective at any time between the date of this publication and October 1, 1996, or by the beginning of a LIHEAP grantee's fiscal year, whichever is later.

FOR FURTHER INFORMATION CONTACT: Leon Litow, Administration for Children and Families, HHS, Office of Community Services, Division of Energy Assistance, 5th Floor West, 370 L'Enfant Promenade, S.W., Washington, D.C. 20447, Telephone: (202) 401–5304 Internet E-Mail: llitow@acf.dhhs.gov

SUPPLEMENTARY INFORMATION: Under the provisions of section 2603(7) of Title XXVI of the Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97–35, as amended), we are announcing the estimated median income of a four-person family for each state, the District of Columbia, and the United States for FY 1997 (the period of October 1, 1996, through September 30, 1997).

Section 2605(b)(2)(B)(ii) of the LIHEAP statute provides that 60 percent of the median income for each state, as annually established by the Secretary of Health and Human Services, is one of the income criteria that LIHEAP grantees may use in determining a household's eligibility for LIHEAP.

LIHEAP is currently authorized through the end of FY 1999 by the Human Services Amendments of 1994, Pub. L. 103–252, which was enacted on May 18, 1994.

Estimates of the median income of four-person families for each state and the District of Columbia for FY 1997 have been developed by the Bureau of the Census of the U.S. Department of Commerce, using the most recently available income data. In developing the median income estimates for FY 1997, the Bureau of the Census used the following three sources of data: (1) the March 1995 Current Population Survey; (2) the 1990 Decennial Census of Population; and (3) 1994 per capita personal income estimates, by state, from the Bureau of Economic Analysis of the U.S. Department of Commerce.

Like the estimates for FY 1996, the FY 1997 estimates include income estimates from the March Current Population Survey that are based on population controls from the 1990 Decennial Census of Population. Previous income estimates from the March Current Population Survey had been based on population controls from the 1980 Decennial Census of Population. Generally, the use of 1990 population controls results in somewhat lower estimates of income.

For further information on the estimating method and data sources, contact Edward Welniak, Chief of the Income Statistics Branch, Housing and Household Economic Statistics Division, at the Bureau of the Census (301–763–8576).

A state-by-state listing of median income, and 60 percent of median income, for a four-person family for FY 1997 follows. The listing describes the method for adjusting median income for families of different sizes as specified in regulations applicable to LIHEAP, at 45 CFR 96.85(b), which was published in the Federal Register on March 3, 1988 at 53 FR 6824.

Dated: March 13, 1996.

Donald Sykes,

Director, Office of Community Services.

ESTIMATED STATE MEDIAN INCOME FOR 4–PERSON FAMILIES, BY STATE, FISCAL YEAR 19971 [1]

States	Estimated state median income 4-person families [2]	60 percent of estimated state median income 4-person families
Alabama	$41,730	$25,038
Alaska	53,555	32,133
Arizona	41,599	24,959
Arkansas	36,510	21,906
California	48,755	29,253
Colorado	48,801	29,281
Connecticut	62,107	37,264
Delaware	55,049	33,029
District of Col	52,015	31,209
Florida	43,374	26,024
Georgia	45,093	27,056
Hawaii	56,992	34,195
Idaho	41,208	24,725
Illinois	51,951	31,171
Indiana	47,212	28,327
Iowa	45,062	27,037
Kansas	44,409	26,645
Kentucky	37,984	22,790
Louisiana	39,734	23,840
Maine	42,647	25,588
Maryland	57,951	34,771
Massachusetts	58,695	35,217
Michigan	51,342	30,805
Minnesota	51,996	31,198
Mississippi	37,003	22,202
Missouri	44,266	26,560
Montana	39,219	23,531
Nebraska	45,497	27,298
Nevada	47,929	28,757
New Hampshire	51,491	30,895
New Jersey	60,697	36,418
New Mexico	37,170	22,302
New York	50,964	30,578
North Carolina	44,582	26,749
North Dakota	42,222	25,333
Ohio	46,848	28,109
Oklahoma	38,787	23,272
Oregon	44,432	26,659
Pennsylvania	49,120	29,472
Rhode Island	51,709	31,025
South Carolina	43,556	26,134
South Dakota	42,964	25,778
Tennessee	42,132	25,279
Texas	42,570	25,542
Utah	44,871	26,923
Vermont	46,320	27,792
Virginia	49,453	29,672
Washington	48,932	29,359
West Virginia	38,357	23,014
Wisconsin	48,982	29,389
Wyoming	47,961	28,777

NOTE—FY 1997 covers the period of October 1, 1996 through September 30, 1997. The estimated median income for 4-person families living in the United States is $47,012 for FY 1997. The estimates are effective for the Low Income Home Energy Assistance Program (LIHEAP) at any time between the date of this publication and October 1, 1996, or by the beginning of a LIHEAP grantee's fiscal year, whichever is later.

[1] In accordance with 45 CFR 96.85, each state's estimated median income for a 4-person family is multiplied by the following percentages to adjust for family size: 52% for one person, 68% for two persons, 84% for three persons, 100% for four persons, 116% for five persons, and 132% for six persons. For family sizes greater than six persons, add 3% to 132% for each additional family member and multiply the new percentage by the state's estimated median income for a 4-person family.

[2] Prepared by the Bureau of the Census from the March 1995 Current Population Survey, 1990 Decennial Census of Population and Housing, and 1994 per capita personal income estimates, by state, from the Bureau of Economic Analysis.

[FR Doc. 96–6590 Filed 3–18–96; 8:45 am]

BILLING CODE 4184–01–P

Food and Drug Administration

[Docket No. 96F–0076]

Enviro Tech Chemical Services, Inc.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Enviro Tech Chemical Services, Inc., has filed a petition proposing that the food additive regulations be amended to provide for the safe use of sodium mono- and dimethyl naphthalene sulfonates as an aid in peeling tomatoes without a potable water wash.

DATES: Written comments on the petitioner's environmental assessment by April 18, 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: Martha D. Peiperl, Center for Food Safety and Applied Nutrition (HFS–217), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–418–3077.

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 6A4487) has been filed by Enviro Tech Chemical Services, Inc., P.O. Box 577470, Modesto, CA 95357. The petition proposes to amend the food additive regulations in § 172.824 *Sodium mono- and dimethyl naphthalene sulfonates* (21 CFR 172.824) to provide for the safe use of sodium mono- and dimethyl naphthalene sulfonates as an aid in peeling tomatoes without a potable water wash.

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 April 18, 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 26, 1996.

Alan M. Rulis,

Director, Office of Premarket Approval, Center for Food Safety and Applied Nutrition.

[FR Doc. 96–6578 Filed 3–18–96; 8:45 am]

BILLING CODE 4160–01–F

Health Care Financing Administration

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Health Care Financing Administration, HHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Health Care Financing Administration (HCFA), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding the burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Type of Information Collection Request: New collection.

Title of Information Collection: Conditions of Coverage for Organ Procurement Organizations.

Form No.: HCFA–R–13.

Use: Organ procurement organizations are required to submit accurate data to HCFA concerning population and information on donors and organs on an annual basis in order to assure maximum effectiveness in the procurement and distribution of organs.

Frequency: Annually.

Affected Public: Not-for-profit institutions.

Number of Respondents: 66.

Total Annual Responses: 66.

Total Annual Hours Requested: 4,096.

To request copies of the proposed paperwork collections referenced above, call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections should be sent within 60 days of this notice directly to the HCFA Paperwork Clearance Officer designated at the following address: HCFA, Office of Financial and Human Resources, Management Planning and Analysis Staff, Attention: Louis Blank, Room C2–26–17, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

Dated: March 11, 1996.

Kathleen B. Larson,

Director, Management Planning and Analysis Staff, Office of Financial and Human Resources.

[FR Doc. 96–6467 Filed 3–18–96; 8:45 am]

BILLING CODE 4120–03–P

Public Information Collection Requirements Submitted for Public Comment and Recommendations

AGENCY: Health Care Financing Administration, HHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Health Care Financing Administration (HCFA), Department of Health and Human Services, has submitted to the Office of Management and Budget (OMB) the following proposal for the collection of information. Interested persons are invited to send comments regarding the burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Type of Information Collection Request: Revision of a currently approved collection.

Title of Information Collection: Skilled Nursing Facility (SNF) and Skilled Nursing Facility Health Care Complex Cost Report.

Form No.: HCFA–2540.

Use: The Skilled Nursing Facility and Skilled Nursing Facility Health Care Complex Cost Report is the cost report to be used by freestanding SNFs to submit annual information to achieve a settlement of costs for health care services rendered to Medicare beneficiaries.

Frequency: Annually.

Affected Public: Business or other for profit, not for profit institutions, and State, local, or tribal government.

Number of Respondents: 7,000.

Total Annual Responses: 7,000.

Total Annual Hours Requested: 1,372,000.

To request copies of the proposed paperwork collections referenced above, E-mail your request, including your address, to Paperwork@hcfa.gov, or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections should be sent within 30 days of this notice directly to the OMB Desk Officer designated at the following address: OMB Human Resources and Housing Branch, Attention: Allison Eydt, New Executive Office Building, Room 10235, Washington, DC 20503.

Dated: March 11, 1996.

Kathleen B. Larson,

Director, Management Planning and Analysis Staff, Office of Financial and Human Resources, Health Care Financing Administration.

[FR Doc. 96–6468 Filed 3–18–96; 8:45 am]

BILLING CODE 4120–03–P

National Institutes of Health

Submission for OMB Review; Comment Request; Checklist Validation of Dietary Questionnaire

SUMMARY: Under the provisions of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the National Cancer Institute (NCI), the National Institutes of Health (NIH), has submitted to the Office of Management and Budget (OMB) a request to review and approve the information collection listed below. This proposed information collection was previously published in the Federal Register on September 21, 1995, page 49001, and allowed 60 days for public comment. No public comments were received. The purpose of this notice is to allow an additional 30 days for public comment. The National Institutes of Health may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

PROPOSED COLLECTION: *Title:* Checklist Validation of Dietary Questionnaire. *Type of Information Collection Request:* New. *Need and Use of Information Collection:* This experiment will compare the performance of two self-administered food frequency questionnaires which use different approaches to collect the information. The purpose of the study is to determine which food frequency approach more nearly replicates the information collected on the criterion Daily Checklist Instrument, which is a list of about 30 key food items selected especially for this comparative assessment. The Checklist will be completed daily for 30 days by each study participant. Following the 30-day period, one group will complete the NCI Health Habits and History Questionnaire (HHHQ), and the other group will complete the NCI Diet History Questionnaire (DHQ). Respondents to each data collection instrument will estimate how often they eat a series of food items in the last month. Complete questionnaires will be obtained on 250 subjects in each of the two study groups. Study participants will be compensated. The results of the study will be used to refine the NCI Diet History Questionnaire. Participants will be adult volunteers from the Washington, D.C. metropolitan area. *Frequency of Response:* Once. *Affected Public:* Individuals or households. *Type of Respondents:* Adults. The annual reporting burden is as follows: *Estimated Number of Respondents:* 1333; *Estimated Number of Responses per Respondent:* 1; *Average Burden Hours Per Response:* 1.44; *Estimated Total Annual Burden Hours Requested:* 1924. The annualized cost to respondents is estimated at: $5,920. There are no Capital Costs to report. There are no Operating or Maintenance Costs to report.

REQUEST FOR COMMENTS: Written comments and/or suggestions from the public and affected agencies are invited on one or more of the following points: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (2) The accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Ways to enhance the quality, utility, and clarity of the information to be collected; and (4) Ways to minimize the burden of the collection of information on respondent, including through the use of automated collection techniques or other forms of information technology.

DIRECT COMMENTS TO OMB: Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the: Office of Management and Budget, Office of Regulatory Affairs, New Executive Office Building, Room 10235, Washington, D.C. 20503, Attention: Desk Officer for NIH. To request more information on the proposed project or to obtain a copy of the data collection plans and instruments, contact: Dr. Frances E. Thompson, Applied Research Branch, DCPC, NCI, NIH, EPN 313, 6130 Executive Blvd MSC 7344, Bethesda MD 20892–7344, or call non-toll-free number (301) 496–8500 or E-mail you request, including your address to: ThomsoF@dcpcepn.nci.nih.gov.

COMMENTS DUE DATE: Comments regarding this information collection are best assured of having their full effect if received on or before April 18, 1996.

Dated: March 12, 1996.

Philip D. Amoruso,

NCI Executive Officer.

[FR Doc. 96–6584 Filed 3–18–96; 8:45 am]

BILLING CODE 4140–01–M

National Cancer Institute; Notice of Meeting

Notice is hereby given of the meeting of the National Cancer Institute Board of Scientific Advisors Clinical Trials Working Group, April 8, 1996 at the Doubletree Hotel, 1750 Rockville Pike, Rockville, Maryland.

This meeting will be open to the public on April 8, 1996 from 8:00 am to 5:00 pm for overview and discussion of the Institute's Clinical Trials Extramural Program.

The meeting will be closed to the public on April 8, 1996 from 5:15 pm to adjournment for discussion of confidential issues relating to the review, discussion and evaluation of individual programs and projects conducted by the Clinical Trials Extramural Program. These discussions will reveal confidential trade secrets or commercial property such as patentable material, and personal information including consideration of personnel qualifications and performance, the

competence of individual investigators and similar matters, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Information pertaining to the meeting may be obtained from Dr. John Cole, III, Executive Secretary, National Cancer Institute Clinical Trials Working Group, National Cancer Institute, 6130 Executive Blvd., EPN, Rm. 540, Bethesda, MD 20892, (301–496–1718). Individuals who plan to attend and need special assistance such as sign language interpretation or other reasonable accommodations should contact Dr. John Cole, III in advance of the meeting.

Dated: March 13, 1996.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 96–6585 Filed 3–18–95; 8:45 am]

BILLING CODE 4140–01–M

National Cancer Institute; Notice of Closed Meeting

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the meeting of the National Cancer Institute Special Emphasis Panel (SEP):

Name of SEP: Cancer Prevention Research Unit.

Date: March 26–28, 1996.

Time: March 26—7 p.m. to 12:00 p.m.; March 27—8 a.m. to 5:00 p.m.; March 28—8 a.m. to adjournment.

Place: The Double Tree Hotel, 1750 Rockville Pike, Bethesda, MD 20852.

Contact Person: Dr. Gerald Lovinger, Scientific Review Administrator, National Cancer Institute, NIH, Executive Plaza North, Room 630C, 6130 Executive Boulevard MSC 7405, Bethesda, MD 20892–7405, Telephone: 301/496–7987.

Purpose/Agenda: This meeting will be devoted to the review, discussion, and evaluation of grant applications.

The meeting will be closed in accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

This notice is being published less than 15 days prior to the meeting due to the urgent need to meet timing limitations imposed by the review and funding cycle.

(Catalog of Federal Domestic Assistance Program Numbers: 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control.)

Dated: March 13, 1996.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 96–6586 Filed 3–18–96; 8:45 am]

BILLING CODE 4140–01–M

National Cancer Institute; Notice of Closed Meeting

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting of the National Cancer Institute Special Emphasis Panel (SEP):

Name of SEP: Investigator Grants for Clinical Cancer Therapy Research.

Date: March 25–27, 1996.

Time: March 25—7 p.m. to 10 p.m.; March 26–27—8 a.m. to 5 p.m.

Place: Bethesda Marriott, 5151 Pooks Hill Road, Bethesda, MD 20814.

Contact Person: Ray Bramhall, Ph.D., Scientific Review Administrator, National Cancer Institute, 6130 Executive Blvd., Room 643, Rockville, MD 20852. (301) 496–3428.

Purpose/Agenda: This meeting will be devoted to the review, discussion, and evaluation of individual grant applications.

The meeting will be closed in accordance with the provisions set forth in secs. 552b(c)94) and 552b(c)(6), Title 5, U.S.C. Proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

This notice is being published less than 15 days prior to the meeting due to the urgent need to meet timing limitations imposed by the review and funding cycle.

(Catalog of Federal Domestic Assistance Program Numbers: 93.393, Cancer Cause and Prevention Research; 93.394; Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control.)

Dated: March 13, 1996.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 96–6587 Filed 3–18–96; 8:45 am]

BILLING CODE 4140–01–M

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following National Institute of Allergy and Infectious Diseases Special Emphasis Panel (SEP) meeting:

Name of SEP: Non-Human Primate Models of AIDS for Evaluating Therapies.

Date: April 3, 1996.

Time: 8:30 a.m.

Place: Bethesda Ramada Hotel, Ambassador I Conference Room, 8400 Wisconsin Avenue, Bethesda, MD 20814, (301) 654–1000.

Contact Person: Dr. Christopher E. Beisel, Scientific Review Adm., 6003 Executive Boulevard, Solar Bldg., Room 4C03, Bethesda, MD 20892–7610, (301) 402–4596.

Purpose/Agenda: To evaluate contract proposals.

The meeting will be closed in accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

This notice is being published less than 15 days prior to the meeting due to the urgent need to meet timing limitations imposed by the review and funding cycle.

(Catalog of Federal Domestic Assistance Programs Nos. 93.855, Immunology, Allergic and Immunologic Diseases Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health.)

Dated: March 13, 1996.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 96–6588 Filed 3–18–96; 8:45 am]

BILLING CODE 4140–01–M

Public Health Service

National Toxicology Program; Board of Scientific Counselors' Meeting

Pursuant to Public Law 92–463, notice is hereby given of a meeting of the National Toxicology Program (NTP) Board of Scientific Counselors, U.S. Public Health Service, in the Conference Center, Building 101, South Campus, National Institute of Environmental Health Sciences (NIEHS), 111 Alexander Drive, Research Triangle Park, North Carolina, on April 17, 1996.

The meeting will be open to the public from 8:30 a.m. to adjournment with attendance limited only by space available. Preliminary agenda topics include: discussion of research partnerships on transgenic models; new research initiatives on environmental hormones, 'dioxin-like' chemicals, and health hazards of electromagnetic fields (EMF); activities in development and validation of alternative animal test methods; a final report on the review of the criteria for the Biennial Report on Carcinogens; status reports on interagency collaborative studies with NIOSH in immunotoxicity and with

NCTR in comprehensive toxicological assessment of chemicals; and review by the Board of concept proposals in the areas of chemical disposition and reproductive and developmental toxicity.

The Executive Secretary, Dr. Larry G. Hart, National Toxicology Program, P.O. Box 12233, NIEHS, Research Triangle Park, North Carolina 27709, telephone (919) 541–3971, FAX (919) 541–0719, will have available a firm agenda with times and a roster of Board members prior to the meeting and summary minutes subsequent to the meeting.

Dated: March 8, 1996

Kenneth Olden,

Director, National Toxicology Program.

[FR Doc. 96–6583 Filed 3–18–96; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–3867–N–05]

Office of the Assistant Secretary for Public and Indian Housing; Announcement of Funding Awards; Public Housing Development Program, Fiscal Year 1995

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Announcement of funding awards.

SUMMARY: In accordance with section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989, this document notifies the public of funding awards for Fiscal Year 1995 for the Public Housing Development Program. The purpose of this Notice is to publish the names and addresses of the awardees and the amount of the awards made available by HUD to provide assistance to the Public Housing Development Program.

FOR FURTHER INFORMATION CONTACT: William Flood, Director, Office of Capital Improvements, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 4134, Washington, DC 20410, telephone (202) 708–1640. [This is not a toll-free number]. Hearing- or speech-impaired individuals may access this number by calling the Federal Information Relay service TTY at 1–800–877–8339.

SUPPLEMENTARY INFORMATION: The Public Housing Development program is authorized by sections 5 and 23, U.S. Housing Act of 1937 (42 U.S.C. 1437c, 1437d), section 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

The Emergency Supplemental Appropriations Act of 1995 rescinded $620,600,000 of Fiscal Year 1995 funds and prior year unobligated balances appropriated for development or acquisition costs of public housing. The Department recaptured unobligated developments funds to help satisfy the rescission. Therefore, in accordance with the Notice of Funding Availability issued in the Federal Register on June 16, 1995 (60 FR 31842), as modified by the Rescissions Act, public housing development grants, totaling $118,412,375 were funded to assist public housing authorities with priority replacement housing for some of the most distressed projects in the nation. Applications were scored and selected for funding on the basis of selection criteria contained in that NOFA.

In accordance with section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989 (Pub. L. 101–235, approved December 15, 1989), the Department is hereby publishing the names, addresses, and amount of those awards as shown in Appendix A.

Dated: March 13, 1996.

Michael B. Janis,

General Deputy, Assistant Secretary for Public and Indian Housing.

Appendix A

Fiscal Year 1995 Awardees For Public Housing Development

Hartford Public Housing Authority
475 Flatbush Avenue
Hartford, CT 06106
Award: $20.8 million
Chicago Housing Authority
626 West Jackson Blvd., Suite 703
Chicago, IL 60661
Award: $25.4 million
Louisville Housing Authority
820 S. 8th Street
Louisville, KY 40203
Award: $31.4 million
Puerto Rico Public Housing Authority
606 Avendia Barbosa, 8th Floor
Rio Piedras, PR 00936–3188
Award: $7.3 million
Atlanta Housing Authority
739 West Peachtree Street, NE
Atlanta, GA 30365–0695
Award: $19.4 million
Housing Authority of the City of Little Rock
1000 Wolfe Street
Little Rock, AR 72202
Award: $14.1 million

[FR Doc. 96–6512 Filed 3–18–96; 8:45 am]

BILLING CODE 4210–33–M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Indian Gaming

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of Approved Tribal-State Compact.

SUMMARY: Pursuant to 25 U.S.C. § 2710, of the Indian Gaming Regulatory Act of 1988 (Pub. L. 100–497), the Secretary of the Interior shall publish, in the Federal Register, notice of approved Tribal-State Compacts for the purpose of engaging in Class III (casino) gambling on Indian reservations. The Assistant Secretary—Indian Affairs, Department of the Interior, through her delegated authority, has approved the Ute Mountain Ute Tribe and the State of Colorado Gaming Compact, which was executed on November 16, 1995.

DATES: This action is effective March 19, 1996.

FOR FURTHER INFORMATION CONTACT: George T. Skibine, Director, Indian Gaming Management Staff, Bureau of Indian Affairs, Washington, DC 20240, (202) 219–4068.

Dated: March 1, 1996.

Ada E. Deer,

Assistant Secretary—Indian Affairs.

[FR Doc. 96–6534 Filed 3–18–96; 8:45 am]

BILLING CODE 4310–02–P

Bureau of Land Management

[WO–350–1430–00–24–1A]

Information Collection Submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget (OMB) for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*) On November 13, 1995, BLM published a notice in the Federal Register (60 FR 57073) requesting comment on this proposed collection. The comment period ended on January 12, 1996. BLM did not receive any comments from the public in response to that notice. Copies of the proposed collection of information and related forms and explanatory material may be obtained by contacting the BLM clearance officer at the telephone number listed below. Comments and suggestions on the requirement should be made within 30 days directly to the BLM clearance officer and to the Office of Management

and Budget, Interior Department Desk Officer, Washington, D.C., 20503, telephone (202) 395–7340.

Title: Identification of Communications Sites Tenants and Tenant Uses.

Abstract: BLM proposes collecting from holders of rights-of-way for communications sites on public lands the identity and type of use of any tenants. This information will enable BLM to meet its statutory responsibility to collect annually the fair market value of the right-of-way. The information will be used to calculate the annual rent for the facility based on the highest valued use and tenant uses.

Frequency: Annually.

Description of Respondents: Holders of rights-of-way for communications sites on public land.

Annual respondents: 1,500.

Annual burden hours: 1,500.

Bureau clearance officer: Wendy Spencer, (303) 236–6642.

Dated: March 5, 1996

Dr. Annetta L. Cheek,

Chief, Regulatory Management Team.

[FR Doc. 96–6525 Filed 3–18–96; 8:45 am]

BILLING CODE 4310–84–P

[AK–962–1410–00–P; AA–14015]

Alaska Native Claims Selection

In accordance with Departmental regulation 43 CFR 2650.7(d), notice is hereby given that a decision to issue conveyance under the provisions of Sec. 14(h)(8) of the Alaska Native Claims Settlement Act of December 18, 1971, 43 U.S.C. 1601, 1613(h)(8), will be issued to Sealaska Corporation for approximately 396 acres. The lands involved are within the Tongass National Forest in southeast Alaska.

Copper River Meridian, Alaska

T. 43 S., R. 60 E.,
Sec. 12.
T. 73 S., R. 82 E.,
Sec. 11.

A notice of the decision will be published once a week, for four (4) consecutive weeks, in the *Juneau Empire.* Copies of the decision may be obtained by contacting the Alaska State Office of the Bureau of Land Management, 222 West Seventh Avenue, #13, Anchorage, Alaska 99513–7599 ((907) 271–5960).

Any party claiming a property interest which is adversely affected by the decision, an agency of the Federal government or regional corporation, shall have until April 18, 1996 to file an appeal. However, parties receiving service by certified mail shall have 30 days from the date of receipt to file an appeal. Appeals must be filed in the Bureau of Land Management at the address identified above, where the requirements for filing an appeal may be obtained. Parties who do not file an appeal in accordance with the requirements of 43 CFR Part 4, Subpart E, shall be deemed to have waived their rights.

Patricia A. Baker,

Land Law Examiner, ANCSA Team, Branch of 962 Adjudication.

[FR Doc. 96–6539 Filed 3–18–96; 8:45 am]

BILLING CODE 4310–JA–M

[ES–930–06–1320–01–241A; [ALES–46611]

Alabama: Request for Public Comment on Fair Market Value, Maximum Economic Recovery and the Environmental Assessment; Coal Lease Application ALES 46611

AGENCY: Bureua of Land Management, Interior.

ACTION: Notice of Public Hearing and Comment Period.

SUMMARY: The Bureau of Land Management requests public comments on the fair market value, maximum economic recovery and the environmental assessment of certain coal resources it proposes to offer for competitive lease sale. The coal to be offered is underground-minable, potentially bypass, coal. The lands included in Coal Lease Application ALES 46611 are located in Sec. 30, SWSW, T. 16 S, R. 6 W., in Walker County, Alabama containing 40.08 Acres. The application is for the Mary Lee Seam. The proximate analysis of the coal in the Mary Lee Seam is as follows:

Estimated recoverable coal—190,900 Tons

	proximate analysis (percent)
Moisture	1.30
Ash	7.16
Volatile	32.74
Fixed Carbon	58.80
Btu/lb	14.136
Sulfur	1.65

The public is invited to comment on the fair market value and the maximum economic recovery of the above tract. In addition a public hearing will be held on the environmental assessment, the proposed sale, the fair market value and the maximum economic recovery of the proposed lease tract.

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

ADDRESSES: The written comments must be submitted to the Bureau of Land Management, Jackson District Office, 411 Briarwood Drive, Suite 404, Jackson, Mississippi 3906.

The public hearing will be held on April 19, 1996, 7:00 p.m., Days Inn, 101 6th Avenue, North Jasper, Alabama 33501 (205) 221–7800.

FOR FURTHER INFORMATION CONTACT:

For more complete data on this lease application, please contact Ida V. Doup at (703) 440–1541 or Thelma M. Wright (703) 440–1546 at the Bureau of Land Management, Eastern States, 7450 Boston Boulevard, Springfield, Virginia 22153.

SUPPLEMENTARY INFORMATION: In accordance with the Federal Coal Management Regulations 43 CFR 3422 and 3425, not less than 30 days prior to the publication of notice of sale, the Secretary shall solicit public comments on the fair market value appraisal and maximum economic recovery and on factors which may affect these two determinations. Proprietary data marked as confidential may be submitted to the Bureau of Land Management, Jackson District, at the above address, in response to solicitation of public comments. Data so marked shall be treated in accordance with the laws and regulations governing confidentiality of such information. A copy of the comments submitted by the public on fair market value and maximum economic recovery, except those portions identified as confidential by the author and meeting exemptions stated in the Freedom of Information Act, will be available for public inspection at the Bureau of Land Management, Jackson District, at the above address and should address, but not necessarily be limited to the following information:

1. The method of mining to be employed in order to obtain maximum economic recovery of the coal;

2. The impact that mining the coal in the proposed leasehold may have on the area, including, but not limited to, impacts on the environment; and

3. Methods of determining the fair market value of the coal to be offered.

Dated: March 14, 1996.

Walter Rewinski,

Deputy State Director, Division of Resources Planning, Use and Protection.

[FR Doc. 96–6591 Filed 3–18–96; 8:45 am]

BILLING CODE 4310–84–M

[WY–060–1310–00]

Cave Gulch-Bullfrog-Waltman Natural Gas Development Project, WY

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Intent (NOI) to Prepare an Environmental Impact Statement (EIS) on the Cave Gulch-Bullfrog-Waltman Natural Gas Development Project in Natrona County, Wyoming.

SUMMARY: In 1994, a major gas reservoir was discovered at Cave Gulch. At present, seven companies (Chevron U.S.A. Production Company, Barrett Resources Corporation, Prima Oil & Gas Company, Goldmark Engineering, Inc., W. A. Moncrief, Jr., Marathon Oil Company, and John P. Lockridge, Inc.,) operate oil and gas leases in the Cave Gulch-Bullfrog-Waltman area and have applied for permits to drill. In accordance with the National Environmental Policy Act (NEPA), a field development Environmental Assessment (EA) and Raptor Mitigation Plan were completed in May 1995, which assessed the potential impacts of 20 proposed wells and further assessed cumulative impacts to raptor nesting of 49 proposed wells (Barrett Resource Corporation, Cave Gulch Area Natural Gas Development Project, EA No. WY–062–95–034). During the preparation of the Cave Gulch EA, 4 wells were drilled; after EA approval, 16 wells were approved, and 14 of those were drilled as of January 16, 1996. In December 1994, an EA was initiated for Chevron U.S.A. Production Company on the Waltman area adjacent to Cave Gulch. The Waltman Area Natural Gas Development Project EA was to provide a cumulative assessment of proposals in and near both areas. Subsequent to the Finding of No Significant Impact (FONSI) for the Cave Gulch EA and during the preparation of the Waltman EA, 14 additional wells were proposed. The need for pipeline system upgrades, a possible gas processing plant, and well spacing to allow more wells per lease became known. New well proposals, possible additional facilities, and increased impacts above those previously predicted in either EA, resulted in the decision by Bureau of Land Management (BLM) on January 16, 1996, to vacate the Cave Gulch EA Record of Decision (ROD), suspend completion of Chevron's EA and to prepare an EIS. After the EIS analysis, it may also be necessary to amend the *Platte River Resource Area* and *Resource Management Plan*, approved in 1985 to change the protection for raptor nests in field development situations from seasonal to year-round.

DATES: As part of this process, an open house and a public scoping meeting will be held April 17, 1996. The meeting will be located in the Hilton Inn, 800 No. Poplar, Casper, Wyoming. An open house will be from 5:00 p.m., until 7:00 p.m., and the meeting will begin at 7:00 p.m. The schedule for the EIS preparation will be finalized after the scoping meeting.

ADDRESSES: Questions or concerns should be addressed to Ms. Kate Padilla, Team Leader for the Cave Gulch-Bullfrog-Waltman Natural Gas Development Project EIS, Platte River Resource Area Office, P.O. Box 2420, Mills, Wyoming 82644.

FOR FURTHER INFORMATION CONTACT: Kate Padilla, telephone: 307–261–7600 or Celia Skillman, Team Member, telephone: 307–261–7500.

SUPPLEMENTARY INFORMATION: Generally, the area is located about 50 miles west of Casper, Wyoming, and about 5 miles north of the town of Waltman. The analysis area could cover about 25 to 30 square miles. The area also contains a concentration of raptor nests, mainly golden eagles and ferruginous hawks. In January 1996, the BLM's Wyoming Reservoir Management Group was asked to complete a reservoir analysis of the Cave Gulch area. On February 20, 1996, they completed the *Cave Gulch-Bullfrog-Waltman EIS Area Preliminary Reservoir Analysis* report for this area (available upon request). The report, based on geologic and engineering data, indicated that the gas producing area may be more extensive than the currently developed area. The optimum number of wells may be as great as 200 wells. Well spacing may range between one well per 20 acres to one well per 160 acres because of complex geology. The preliminary reservoir analysis will be revised after public review. The final reservoir analysis will be used in conjunction with other data to define an area of analysis.

BLM may allow some specified development during preparation of the EIS. Development would be guided by establishing screening criteria to be used to evaluate proposals. BLM will collaborate with interested publics to establish these criteria. In addition, BLM intends to utilize as much as possible the data contained in the various assessments which have previously been prepared for the area. The data would be supplemented as needed or required to accommodate the area of analysis and the scope of development.

Dated: March 12, 1996.

Alan R. Pierson,

State Director.

[FR Doc. 96–6536 Filed 3–18–96; 8:45 am]

BILLING CODE 4310–84–P

National Park Service

Maine Acadian Culture Preservation Commission; Notice of Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act (PL 92–463) that the Maine Acadian Culture Preservation Commission will meet on Thursday, April 18, 1996.

The meeting will convene at 7:00 PM at the Eagle Lake School in Eagle Lake, Aroostook County, Maine.

The Maine Acadian Culture Preservation Commission was appointed by the Secretary of the Interior pursuant to the Maine Acadian Culture Preservation Act (PL 101–543). The purpose of the Commission is to advise the National Park Service with the respect to:

The development and implementation of an interpretive program of Acadian culture in the state of Maine; and

The selection of sites for interpretation and preservation by means of cooperative agreements.

The Agenda for this meeting is as follows:

1. Review and approval of the summary report of the meetings held August 17, 1995, and October 19, 1995.
2. Reports of Maine Acadian Culture Preservation Commission working groups.
3. Report of the National Park Service project staff.
4. Revision of Article VIII, Maine Acadian Culture Preservation Commission Bylaws, to eliminate the requirement of a court reporter at Commission meetings.
5. Opportunity for public comment.
6. Proposed agenda, place, and date of the next Commission meeting.

The meeting is open to the public. Further information concerning Commission meetings may be obtained from the Superintendent, Acadia National Park. Interested persons may make oral/written presentations to the Commission or file written statements. Such requests should be made at least seven days prior to the meeting to: Superintendent, Acadia National Park, P.O. Box 177, Bar Harbor, ME 04609–0177; telephone (207) 288–5472.

Dated: March 12, 1996.

Marie Rust,

Field Director, Northeast Field Area.

[FR Doc. 96–6582 Filed 3–18–96; 8:45 am]

BILLING CODE 4310–70–P

National Preservation Technology and Training Board; Meeting

AGENCY: National Park Service, Department of the Interior.

ACTION: Notice of meeting of the National Preservation Technology and Training Board.

Notice is hereby given in accordance with the Federal Advisory Committee Act, 5 U.S.C. Appendix (1988), that the National Preservation Technology and Training Board will meet on April 22, 23, 24 and 25, 1996, in Portland, Oregon.

The Board was established by Congress to provide leadership, policy advice, and professional oversight to the National Center for Preservation Technology and Training, as required under the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470).

The Board will meet at the Oregon Historical Society, located at 1200 SW Park Street in Portland, Oregon. Matters to be discussed will include the Center's grants program, the possible establishment of a non-Federal support are for the activities of the Center, and updates on the Center's program activities.

On Monday, April 22 the Board will meet from 3 to 5 p.m.

On Tuesday and Wednesday, April 23 and 24, the meeting will start at 8:30 am and end at 5:00 pm. On Thursday the meeting will begin at 8:30 am and end at noon. Meetings will be open to the public. However, facilities and space for accommodating members of the public are limited and persons will be accommodated on a first-come, first-served basis. Any member of the public may file a written statement concerning the matters to be discussed with Dr. Elizabeth A. Lyon, Chair, National Preservation Technology and Training Board, P.O. Box 1269, Flowery Branch, Georgia 30542.

Persons wishing more information concerning this meeting, or who wish to submit written statements, may do so by contacting Mr. E. Blaine Cliver, Designed Federal Official to the PTTBoard, National Park Service, HABS/HAER Program, P.O. Box 37127, Washington, DC 20013–7127, telephone: (202) 343–9573. Draft summary minutes of the meeting will be available for public inspection about eight weeks after the meeting at the office of the Heritage Preservation Services Program, Suite 200, 800 North Capitol Street, Washington, DC.

Dated: 8 March 1996.

E. Blaine Cliver,

Acting Chief, HABS/HAER Program, Designated Federal Official, National Park Service.

[FR Doc. 96–6581 Filed 3–18–96; 8:45 am]

BILLING CODE 4310–70–P

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before March 9, 1996. Pursuant to section 60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, P.O. Box 37127, Washington, D.C. 20013–7127. Written comments should be submitted by April 3, 1996.

Beth Boland,

Acting Keeper of the National Register

ARKANSAS

Drew County

St. Mary's Episcopal Church, 115 S. Main St., Monticello, 96000352

Perry County

Bigelow Methodist Episcopal Church, South, W of Jct. of Volman and Emma Sts., Bigelow, 96000353

CALIFORNIA

Mariposa County

Crane Flat Fire Lookout (Historic Park Landscapes in National and State Parks MPS) N of Big Oak Flat Rd., near Crane Cr., Yosemite National Park, Aspen Valley vicinity, 96000354

COLORADO

Gunnison County

Haxby House (Marble MPS) 101 W. Silver, Marble, 96000355

CONNECTICUT

Hartford County

Simsbury Center Historic District, Roughly, Hopmeadow St. from West St. to Massaco St., Simsbury, 96000356

State Arsenal and Armory, 360 Broad St., Hartford, 96000357

FLORIDA

Columbia County

Falling Creek Methodist Church and Cemetery, FL 131, 6 mi. NW of Lake City, Lake City vicinity, 96000359

Leon County

Williams House, 450 Saint Francis St., Tallahassee, 96000360

Manatee County

Beasley, John M., House (Whitfield Estates Subdivision MPS) 7706 Westmoreland Dr., Sarasota vicinity, 96000358

IOWA

Clarke County

Temple, Marcellus Luther and Julia Protzman, House, 502 S. Main St., Osceola, 96000361

Mahaska County

Penn College Historic District (Quaker Testimony in Oskaloosa MPS) 201 Trueblood Ave., Oskaloosa, 96000391

MASSACHUSETTS

Berkshire County

Trinity Episcopal Church, 102 Walker St., Lenox, 96000363

Middlesex County

Maynard, Charles, House (Newton MRA) 459 Crafts St., Newton, 96000364

MICHIGAN

Calhoun County

City Hall Historic District, E. Michigan Ave., from Monroe to Jay Sts., Battle Creek, 96000366

Van Buren Street Historic District, Roughly, Van Buren St. from Capital and Cherry Sts. to Calhoun St. and North Ave., Battle Creek, 96000367

Roscommon County

Eggleston School, 10539 Nolan, Gladwin, 96000368

St. Clair County Smith, LeRoy, House, 9503 Frank St., Algonac, 96000365

Wayne County

Stuber—Stone Building, 4221—4229 Cass Ave., Detroit, 96000369

MONTANA

Lewis and Clark County

Stedman Foundry and Machine Company, 2650 Euclid Ave., Helena vicinity, 96000370

NEW YORK

Delaware County

First Old School Baptist Church of Roxbury and Vega Cemetery, Near Jct. of Co. Rt. 36 and Cartwright Rd., Roxbury vicinity, 96000371

OHIO

Cuyahoga County

Stebbens Farm (Agricultural Resources of the Cuyahoga Valley MPS) 8255 Riverview Rd., Brecksville vicinity, 96000381

OKLAHOMA

Lincoln County

Chandler High School (WPA Resources in Lincoln County MPS) 515 Steele Ave., Chandler, 96000372

Crescent School (WPA Resources in Lincoln County MPS) 2.5 mi E, .25 mi N of Jct. of OK 18 and US 62, Meeker vicinity, 96000373

Meeker Town Hall (WPA Resources in Lincoln County MPS) 115 N. Fowler St., Meeker, 96000374

Midlothian School (WPA Resources in Lincoln County MPS) 2.25 mi. W, 4 mi. S of Jct. of US 66 and OK 18, Meeker vicinity, 96000375

Spring Dell School (WPA Resources in Lincoln County MPS) 5 mi. S, .5 W of Jct. of US 66 and OK 18, Meeker vicinity, 96000376

Warwick School (WPA Resources in Lincoln County MPS) .75 mi E, .25 mi N of Jct. of US 177 and US 66, Meeker vicinity, 96000377

Logan County

Debo, Angie, House, 200 Oklahoma Ave., Marshall, 96000379

PENNSYLVANIA

Allegheny County 109–115 Wood Street, Buildings at 109–115 Wood St., Pittsburgh, 96000378

SOUTH CAROLINA

Oconee County

Old Pickens Presbyterian Church, SC 183, .25 mi. W of Oconee—Pickens Co. Line, Seneca vicinity, 96000380

Richland County

Siloam School (African—American Primary and Secondary School Buildings MPS) 1331 Congaree Rd., Eastover vicinity, 96000382

St. Phillip School (African—American Primary and Secondary School Buildings MPS) 4350 McCords Ferry Rd., Eastover vicinity, 96000383

TENNESSEE

Hamblen County

Phillips House, 307 E. 2nd N. St., Morristown, 96000384

VERMONT

Addison County

Cotton Free Library, Quaker Village Rd., near Jct. of Baker Ct. and Quaker Village Rd., Weybridge, 96000388

Wesleyan Methodist Church, Quaker Village Rd., near Jct. of Baker Ct. and Quaker Village Rd., Weybridge, 96000387

Caledonia County

Thresher Mill, VT 1, approximately 1.5 mi. W of Barnet, Barnet, 96000386

Windsor County

Buckman, Twing, House, US 5, approximately .25 mi. N of Chase Island, Windsor, 96000385

[FR Doc. 96–6545 Filed 3–18–96; 8:45 am]

BILLING CODE 4310–70–P

INTERNATIONAL TRADE COMMISSION

Information Collection Submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act

AGENCY: International Trade Commission.

ACTION: The U.S. International Trade Commission (USITC) has submitted the following information collection requirements to the Office of Management and Budget (OMB) requesting emergency processing for review and clearance under the Paperwork Reduction Act of 1995, (44 U.S.C. Chap. 35). The Commission has requested OMB approval of this submission by COB March 21, 1996.

EFFECTIVE DATE: March 19, 1996.

PURPOSE OF INFORMATION COLLECTION: This information collection is for use by the Commission in connection with Investigation No. 332–366, Country of Origin Marking: Review of Laws, Regulations, and Practices, instituted under the authority of section 332(g) of the Tariff Act of 1930 (19 U.S.C. 1332(g)). This investigation was requested by the Committee on Ways and Means, U.S. House of Representatives. The Commission expects to deliver the results of its investigation to the Committee by July 11, 1996.

SUMMARY:

Title: Survey Worksheet for Investigation No. 332–366, Country of Origin Marking.

Summary: Staff of the USITC plans to make telephone contacts with a broad representation of U.S. companies and consumer and labor groups. The survey worksheet (limited to 10 questions) is designed to provide staff with a uniform approach and consistent format for recording responses from firms. Variations of certain questions will also be asked of consumer and labor groups. Information collected will be used to assess the problems, costs, and benefits to industry and consumers associated with country of origin marking requirements on imported and domestic merchandise.

Need and Use of Information: The information collected will contribute to an assessment of the problems, costs, and benefits to industry and consumers associated with country of origin marking requirements on imported and domestic merchandise as requested by the Committee on Ways and Means, U.S. House of Representatives.

Description of Respondents: Firms, trade associations, and consumer and labor groups.

Number of Respondents: 1,250.

Frequency of Responses: Reporting—One Time.

Total Burden Hours: 600.

ADDITIONAL INFORMATION OR COMMENT: Copies of agency submissions to OMB in connection with this request may be obtained from Arona Butcher, Assistant to the Director of Operations for Project Management, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436 (telephone no. 202–205–2230). Comments should be addressed to: Desk Officer for U.S. International Trade Commission, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Washington, DC 20503 (telephone no. 202–395–7340). Copies of any comments should also be provided to Robert Rogowsky, Director, Office of Operations, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, who is the Commission's designated Senior Official under the Paperwork Reduction Act. Hearing impaired individuals are advised that information on this matter can be obtained by contacting our TTD terminal, (telephone no. 202–205–1810).

By order of the Commission.

Issued: March 15, 1996.

Donna R. Koehnke,

Secretary.

[FR Doc. 96–6716 Filed 3–18–96; 8:45 am]

BILLING CODE 7020–02–P

[Investigation No. 337–TA–374]

Certain Electrical Connectors and Products Containing Same; Notice of Commission Decision Not to Review an Initial Determination Finding a Violation of Section 337, and of the Schedule for Filing Written Submissions on Remedy, the Public Interest, and Bonding

AGENCY: International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the Commission has determined not to review the initial determination (ID) issued on February 9, 1996, by the presiding administrative law judge (ALJ) in the above-captioned investigation. That ID found a violation of section 337 of the Tariff Act of 1930 in the importation and sale of certain electrical connectors.

FOR FURTHER INFORMATION CONTACT: Jay H. Reiziss, Esq., Office of the General Counsel, U.S. International Trade

Commission, telephone 202–205–3116. Copies of the nonconfidential version of the ID and all other nonconfidential documents filed in connection with this investigation are or will be 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., Washington, D.C. 20436, telephone 202–205–2000. Hearing-impaired persons are advised that information on the matter can be obtained by contacting the Commission's TDD terminal on 202–205–1810.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation on May 8, 1995, based on a complaint filed by AMP Inc. of Harrisburg, Pennsylvania and The Whitaker Corporation of Wilmington, Delaware (collectively ''complainants''). 60 FR 25247. The following firms were named as respondents: Berg Electronics, Inc; Hon Hai Precision Industry Co., Ltd. (Hon Hai); Foxconn International (Foxconn); and Tekcon Electronics Corp. On September 8, 1995, the presiding ALJ issued an initial determination ID (Order No. 24) finding adverse inferences against Hon Hai and an ID (Order No. 26) finding Foxconn in default. On February 9, 1996, the ALJ issued an ID (Order No. 38) making the additional adverse inference that Hon Hai violated section 337. No petitions for review of this ID were received. On February 9, 1996, the ALJ also issued a recommended determination on the issues of remedy and bonding.

In connection with final disposition of this investigation, the Commission may issue (1) an order that could result in the exclusion of the subject articles from entry into the United States, and/or (2) cease and desist orders that could result in respondents Foxconn and Hon Hai being required to cease and desist from engaging in unfair acts in the importation and sale of such articles. Accordingly, the Commission is interested in receiving written submissions that address the form of remedy, if any, that should be ordered. If a party seeks exclusion of an article from entry into the United States for purposes other than entry for consumption, the party should so indicate and provide information establishing that activities involving other types of entry either are adversely affecting it or are likely to do so. For background, see the Commission Opinion, *In the Matter of Certain Devices for Connecting Computers via Telephone Lines*, Inv. No. 337–TA–360.

If the Commission contemplates some form of remedy, it must consider the effects of that remedy upon the public interest. The factors the Commission will consider include the effect that an exclusion order and/or cease and desist orders would have on (1) the public health and welfare, (2) competitive conditions in the U.S. economy, (3) U.S. production of articles that are like or directly competitive with those that are subject to investigation, and (4) U.S. consumers. The Commission is therefore interested in receiving written submissions that address the aforementioned public interest factors in the context of this investigation.

If the Commission orders some form of remedy, the President has 60 days to approve or disapprove the Commission's action. During this period, the subject articles would be entitled to enter the United States under a bond, in an amount determined by the Commission and prescribed by the Secretary of the Treasury. The Commission is therefore interested in receiving submissions concerning the amount of the bond that should be imposed, if remedial orders are issued.

WRITTEN SUBMISSIONS: The parties to the investigation, interested government agencies, and any other interested persons are encouraged to file written submissions on the issues of remedy, the public interest, and bonding. Such submissions should address the February 9, 1996, recommended determination by the ALJ. Complainant and the Commission investigative attorney are also requested to submit proposed remedial orders for the Commission's consideration. The written submissions and proposed remedial orders must be filed no later than the close of business on March 28, 1996. Reply submissions must be filed no later than the close of business on April 4, 1996. No further submissions will be permitted unless otherwise ordered by the Commission.

Persons filing written submissions must file the original document and 14 true copies thereof with the Office of the Secretary on or before the deadlines stated above. Any person desiring to submit a document (or portion thereof) to the Commission in confidence must request confidential treatment unless the information has already been granted such treatment during the proceedings. All such requests should be directed to the Secretary of the Commission and must include a full statement of the reasons why the Commission should grant such treatment. *See* 19 C.F.R. § 201.6. Documents for which confidential treatment is granted by the Commission will be treated accordingly. All nonconfidential written submissions will be available for public inspection at the Office of the Secretary.

This action is taken under the authority of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. § 1337), and rules 210.42, 210.49 and 210.50 of the Commission's Rules of Practice and Procedure (19 C.F.R. §§ 210.42, 210.49 and 210.50).

By order of the Commission.

Issued: March 13, 1996.

Donna R. Koehnke,

Secretary.

[FR Doc. 96–6516 Filed 3–18–96; 8:45 am]

BILLING CODE 7020–02–P

[Inv. No. 337–TA–385]

Certain Random Access Memories, Processes for the Manufacture of Same, and Products Containing Same; Notice of Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Institution of investigation pursuant to 19 U.S.C. 1337.

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on February 12, 1996, under section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, on behalf of Samsung Electronics Co., Ltd., Samsung Main Building, 250, 2–KA, Taepyung-ro, Chung-ku, Seoul, Korea. Supplements to the complaint were filed on February 29, March 5, and March 8, 1996. The complaint, as supplemented, alleges violations of section 337 based on the importation into the United States, the sale for importation, and the sale within the United States after importation of certain random access memories and products containing same by reason of infringement of claims 1–3 of U.S. Letters Patent 4,947,059, claims 1–7 of U.S. Letters Patent 5,444,026, and claims 1 and 5 of U.S. Letters Patent B1 5,072,134. The complaint further alleges that an industry in the United States exists or is in the process of being established as required by subsection (a)(2) of section 337.

The complainant requests that the Commission institute an investigation and, after a hearing, issue a permanent exclusion order and a permanent cease and desist order.

ADDRESSES: The complaint, except for any confidential information contained therein, is 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: Thomas S. Fusco, Esq., Office of Unfair Import Investigations, U.S. International Trade Commission, telephone 202–205–2571.

Authority: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930, as amended, and in § 210.10 of the Commission's Rules of Practice and Procedure, 19 C.F.R. § 210.10.

Scope of Investigation:

Having considered the complaint, the U.S. International Trade Commission, on March 12, 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 random access memories or products containing same by reason of infringement of claims 1–3 of U.S. Letters Patent 4,947,059, claims 1–7 of U.S. Letters Patent 5,444,026, or claims 1 or 5 of U.S. Letters Patent B1 5,072,134, and whether an industry in the United States exists or is in the process of being established as required by subsection (a)(2) of section 337.

(2) 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—Samsung Electronics Co., Ltd., Samsung Main Building, 250, 2–KA, Taepyung-ro, Chung-ku, Seoul, Korea.

(b) The respondents are the following companies alleged to be in violation of section 337, and are the parties upon which the complaint is to be served:

Texas Instruments Incorporated, 13500 North Central Expressway, Dallas, Texas 75265.

Texas Instruments Singapore (PTE) Ltd., 990 Bendemeer Road, Singapore, 1233, Singapore.

Texas Instruments Japan Ltd., Aoyama Fuji Bldg., 6–12, Kita Aoyama 3-chome, Minato-ku, Tokyo, Japan.

(c) Thomas S. Fusco, Esq., Office of Unfair Import Investigations, U.S. International Trade Commission, 500 E Street, S.W., Room 401–O, Washington, D.C. 20436, shall be the Commission investigative attorney, party to this investigation; and

(3) For the investigation so instituted, the Honorable Sidney Harris is designated as the presiding administrative law judge.

Responses to the complaint and the notice of investigation must be submitted by the named respondents in accordance with § 210.13 of the Commission's Rules of Practice and Procedure, 19 CFR § 210.13. Pursuant to §§ 201.16(d) and 210.13(a) of the Commission's Rules, 19 CFR 201.16(d) and 210.13(a), such responses will be considered by the Commission if received not later than 20 days after the date of service by the Commission of the complaint 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 and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint 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 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.

By order of the Commission.

Issued: March 13, 1996.

Donna R. Koehnke,

Secretary.

[FR Doc. 96–6515 Filed 3–18–96; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF LABOR

Employment and Training Administration

Notice of Determinations Regarding Eligibility to Apply for Worker Adjustment Assistance and NAFTA Transitional Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended, the Department of Labor herein presents summaries of determinations regarding eligibility to apply for trade adjustment assistance for workers (TA–W) issued during the period of February and March, 1996.

In order for an affirmative determination to be made and a certification of eligibility to apply for worker adjustment assistance to be issued, each of the group eligibility requirements of Section 222 of the Act must be met.

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated,

(2) That sales or production, or both, of the firm or subdivision have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations for Worker Adjustment Assistance

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA–W–31,493; Moormans, Inc., Quincy, IL

TA–W–31,905; Bass Manufacturing Co., Inc., Camden, TN

TA–W–31,884; Niagara Falls Business Forms, Inc., Niagara Falls, NY

TA–W–31,701; Dressing for Two, New York, NY

TA–W–31,757; Envirosys, Moorhead, MN

TA–W–31,848; La-Del Mfg., Co., Inc., Lawrenceburg, TN

TA–W–31,770; Allied Signal, Maryville, TN

TA–W–31,886; Anchor Glass Container, Glass Container Plant #18, Houston, TX

In the following cases, the investigation revealed that the criteria for eligibility have not been met for the reasons specified.

TA–W–31,725; York International, Miller-Picking Div., Johnstown, PA

TA–W–31,724; Kentucky Cap Mfg Co, Uniontown, KY

TA–W–31,720; DL Benite, Buffalo, NY

TA–W–31,780 & TA–W–31,781; Cray Research, Inc., Eagan, MN & Chippewa Falls, WI

TA–W–31,698 & TA–W–31,699; Tops Company, Duryea, PA & Scranton, PA

TA–W–31,802 & TA–W–31,803; Kirschner Medical Corp., A Biomet Co., Fairlawn, NY & Hunt Valley, MD

TA–W–31,856; Central Penn Sewing Machine Co., Inc., Bloomsburg, PA

TA–W–31,869; MK Rail Corp., Mountain Top, PA
TA–W–31,762; Rose Art Lampshades, Inc., Bronx, NY
TA–W–31,798; Miller Brewing Co., Milwaukee Brewery, Milwaukee, WI
TA–W–31,799; Pabst Brewing, Milwaukee, WI

Increased imports did not contribute importantly to worker separations at the firm.

TA–W–31,897; Kenwood USA, Mt. Olive, NJ
TA–W–31,728; Phoenix Diversified Ventures, Inc., Buckhannon, WV
TA–W–31,880; K-Mart Fashion Distribution Center, North Bergen, NJ

The workers firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA–W–31, 678; A. Horowitz & Sons, Horowitz/Ray Book Manufacturers, Inc., Fairfield, NJ

The investigations revealed that criterion (2) and (3) have not been met. Sales or production did not decline during the relevant period as required for certification. Increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have not contribute importantly to the separations or threat thereof, and the absolute decline in sales or production.

TA–W–31, 717; General Cable Industries, Inc., Carol Cable Co., Pawtucket, RI
TA–W–31, 722; General Automotive Specialty, North Brunswick, NJ

The investigation revealed that criterion (2) has not been met. Increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have not contributed importantly to the separations or threat thereof, and the absolute decline in sales or production.

Affirmative Determinations for Worker Adjustment Assistance

The following certifications have been issued; the date following the company name & location for each determination references the impact date for all workers for such determination.

TA–W–31, 617; Acme Stamping & Wire Forming Co., Pittsburgh, PA: November 13, 1995
TA–W–31, 877; Red Kap Industries, Amory, MS: January 26, 1995
TA–W–31, 853; Mike's Blocks, Forks, WA: January 17, 1995
TA–W–31, 865; Monticello Mfg., Inc./ Oxford Slacks, Monticello, GA: January 8, 1995
TA–W–31, 744 & TA–W–31, 775; Delta Apparel Tellico Plant, Tellico, TN & Delta Apparel Sparta Plant, Sparta, GA: December 12, 1994
TA–W–31, 575; Alcoa Fujikura Ltd Automotive Div., San Antonio, TX: January 10, 1994
TA–W–31, 696; Southern Apparel Co., Robersonville, NC; November 18, 1994
TA–W–31, 754; Mountain Air Sportswear, Drexel, NC: December 7, 1994
TA–W–31, 841; New River Furniture Ind., Inc., Galax, VA: February 21, 1996
TA–W–31, 868; Robertshaw Controls Co., Grayson Div., Long Beach, CA: January 11, 1995
TA–W–31, 871; Acco USA, Inc., Hinsdale, IL: January 18, 1995
TA–W–31, 723; H & H Strandflex, Oriskany, NY: November 27, 1994
TA–W–31, 737 B&A Mfg., Inc., Weaver, AL: November 27, 1994
TA–W–31, 767; Hobart Corp. DBA PMI Food Equipment Group, Plants 11 & 12, Troy, OH: December 18, 1994
TA–W–31, 805; Northland, A Scott Fetzer Co., Watertown, NY: January 10, 1995
TA–W–31, 761; Dawson Homes Fashions, Inc., Colorama & DHF Admin. Divisions, Passaic, NJ: December 11, 1994
TA–W–31, 811; Northeast Mfg Co., Boonville, MS: December 18, 1994
TA–W–31, 806; Tailor Tech, Catawissa, PA: December 14, 1994
TA–W–31, 838; General Mills, Inc., Westview Coupon Processing Facility, Golden Valley, MN: January 5, 1995
TA–W–31, 756; Farr Co., West Hazelton, PA: November 29, 1994
TA–W–31,711; Alcoa Fujikura, Ltd., Alcoa Fujikura Ltd West, El Paso, TX: November 20, 1994
TA–W–31,876; CA–CE–LEN Mfg., Inc., Granger, TX; January 18, 1995
TA–W–31,851; Ditto Apparel of California, Inc., Colfax, LA: January 23, 1995
TA–W–31,858; Square D Co., Lexington, KY: January 17, 1995
TA–W–31,900; BHP Petroleum (Americas), Inc., Houston, TX: January 24, 1995
TA–W–31,895; Mallinckrodt Medical, Inc., Earth City, MO: December 3, 1994
TA–W–31,931; Jonbil, Inc., Henderson Plant, Henderson, NC: January 25, 1995
TA–W–31,844; The Ertl Co., Dyersville, IA: January 12, 1995
TA–W–31,870; American Olean Tile Co., Inc., Lansdale, PA: February 15, 1995
TA–W–31,837; Weatherford USA, Inc., (formerly Homco Int'l), Wichita Falls, TX: March 5, 1995
TA–W–31,808; Decor Home Fashions, Brooklyn, NY: December 14, 1994
TA–W–31,745; Sanco Corp., Benton, AR: November 6, 1994
TA–W–31,783, TA–W–31,784, TA–W–31,785; Farris Fashions, Brinkley, AR, Marianna, AR & Hazen, AR: December 19, 1994
TA–W–31,749, A,B,C,D: Equitable Resources Energy Co, At Various Locations in the Following States: A; WV, B; VA, C; KY, D; NY: December 5, 1994
TA–W–31,955; Spectrum Apparel, Douglas, GA: February 6, 1995
TA–W–31,917; Stitches, Inc., El Paso, TX: January 11, 1995
TA–W–31,810; Final Finish, Inc., El Paso, TX: December 12, 1994
TA–W–31,791; Gothels Park Cutting, Inc., Linden, NJ: December 28, 1994
TA–W–31,910; Augat Wiring Systems, Plants 1 & 2, Montgomery, AL: January 17, 1995
TA–W–31,918; Takata Seat Belts, Del Rio, TX: January 24, 1995
TA–W–31,736; Bayer Clothing Group, Inc., Clearfield, PA: December 11, 1994
TA–W–31,824; Jackson Mills, Inc., Iva Manufacturing Plant, Iva, SC: December 27, 1994

Also, pursuant to Title V of the North American Free Trade Agreement Implementation Act (P.L. 103–182) concerning transitional adjustment assistance hereinafter called (NAFTA–TAA) and in accordance with Section 250(a) Subchapter D, Chapter 2, Title II, of the Trade Act as amended, the Department of Labor presents summaries of determinations regarding eligibility to apply for NAFTA–TAA issued during the month of February and March, 1996.

In order for an affirmative determination to be made and a certification of eligibility to apply for NAFTA–TAA the following group eligibility requirements of Section 250 of the Trade Act must be met:

(1) That a significant number of proportion of the workers in the workers' firm, or an appropriate subdivision thereof, (including workers in any agricultural firm or appropriate subdivision thereof) have become totally or partially separated from employment and either—

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely,

(3) That imports from Mexico or Canada of articles like or directly competitive with articles produced by such firm or subdivision have increased, and that the increases in imports contributed importantly to such

workers' separations or threat of separation and to the decline in sales or production of such firm or subdivision; or

(4) That there has been a shift in production by such workers' firm or subdivision to Mexico or Canada of articles like or directly competitive with articles which are produced by the firm or subdivision.

Negative Determinations NAFTA–TAA

In each of the following cases the investigation revealed that criteria (3) and (4) were not met. Imports from Canada or Mexico did not contribute importantly to workers' separations. There was no shift in production from the subject firm to Canada or Mexico during the relevant period.

NAFTA–TAA–00745; La-Del Manufacturing Co., Inc., Lawrenceburg, TN
NAFTA–TAA–00727; Dressing For Two, New York, NY
NAFTA–TAA–00739; Miler Brewing Co., Milwaukee, WI
NAFTA–TAA–00787; MK Rail Corp., Mountain Top, PA
NAFTA–TAA–00730; Decor Home Fashions, Brooklyn, NY
NAFTA–TAA–00786; Central Penn Sewing Machine, Bloomsburg, PA
NAFTA–TAA–00780; Centralia Mining Co., Centralia, WA
NAFTA–TAA–00748: Niagara Falls Business Forms, Inc., Niagara Falls, NY
NAFTA–TAA–00703; York Int'l, Miller-Picking Div., Johnstown, PA
NAFTA–TAA–00781; Bass Manufacturing Co., Inc., Camden, TN
NAFTA–TAA–00770; Anchor Glass Container, Glass Container Plant #18 Houston, TX

In the following cases, the investigation revealed that the criteria for eligibility have not been met for the reasons specified.

None

Affirmative Determinations NAFTA–TAA

The following certifications have been issued; the date following the company name & location for each determination references the impact date for all workers for such determination.

NAFTA–TAA–00759; Rockmart Apparel (Nikki, Inc), Rockmart, GA: December 15, 1994
NAFTA–TAA–00769; Wrangler, Inc., Silverlake Fashion Unit, El Paso, TX: January 9, 1995
NAFTA–TAA–00775; New River Furniture Ind., Inc., Galax, VA: January 11, 1995
NAFTA–TAA–00829; U.S. JVC Corp., JVC Manufacturing Co., Elmwood Park, NJ: February 13, 1995
NAFTA–TAA–00813; Wirekraft Industries, Burcliff Industries Div., Franklin, NC: February 7, 1995
NAFTA–TAA–00764; Emerson Electric Co., Specialty Motor Div., Kennett, MO: January 17, 1995
NAFTA–TAA–00777; Eagle Pitcher Construction Equipment Div., Lubbock, TX: January 11, 1995
NAFTA–TAA–00773; Globe Building Materials, Inc., Chester, WV: January 14, 1995
NAFTA–TAA–00776; CA–CE–LEN Manufacturing, Inc., Granger, TX: January 18, 1995
NAFTA–TAA–00762; Stitches, Inc., El Paso, TX: January 11, 1995
NAFTA–TAA–00794; Mike's Blocks, Forks, WA: January 1, 1995
NAFTA–TAA–00733; Final Finish, El Paso, TX: December 12, 1994
NAFTA–TAA–00792; Boise Cascade, Timber & Wood Products Div., Yakima, WA: December 7, 1994
NAFTA–TAA–00801; Takata Seat Belts, Inc., Del Rio, TX: January 22, 1995
NAFTA–TAA–00789; Takata Seat Belts, Inc., Douglas, AZ: January 24, 1995
NAFTA–TAA–00783; Acco USA, Inc., Hinsdale, IL: January 18, 1996.
NAFTA–TAA–00692; Southern Apparel Co., Robersonville, NC: November 18, 1994

I hereby certify that the aforementioned determinations were issued during the month of February and March 1996. Copies of these determinations are available for inspection in Room C–4318, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210 during normal business hours or will be mailed to persons who write to the above address.

Dated: March 5, 1996.

Russell Kile,

Acting Program Manager, Policy & Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 96–6533 Filed 3–18–96; 8:45 am]

BILLING CODE 4510–30–M

[TA–W–31,540]

American Banknote Company, Bedford Park, Illinois; Dismissal of Application for Reconsideration

Pursuant to 29 CFR 90.18(C) an application for administrative reconsideration was filed with the Program Manager of the Office of Trade Adjustment Assistance for workers at American Banknote Company, Bedford Park, Illinois. The review indicated that the application contained no new substantial information which would bear importantly on the Department's determination. Therefore, dismissal of the application was issued.

TA–W–31,540; American Banknote Company, Bedford Park, Illinois (February 16, 1996)

Signed at Washington, DC this 5th day of March, 1996.

Russell T. Kile,

Acting Program Manager, Policy & Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 96–6532 Filed 3–18–96; 8:45 am]

BILLING CODE 4510–30–M

[TA–W–31,823]

Jackson Mills, Incorporated Corporate Offices, Wellford, South Carolina; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on January 29, 1996 in response to a worker petition which was filed on behalf of workers at Jackson Mills, Incorporated, Corporate Offices, Wellford, South Carolina.

The petitioner filed the petition on behalf of the workers of the Iva, South Carolina location only. Consequently, further investigation in this case would serve no purpose; and the investigation has been terminated.

Signed at Washington, DC, this 1st day of March 1996.

Russell T. Kile,

Acting Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 96–6530 Filed 3–18–96; 8:45 am]

BILLING CODE 4510–30–M

[TA–W–31,556]

Milady Brassiere and Corset Company New York, New York; Dismissal of Application for Reconsideration

Pursuant to 29 CFR 90.18(C) an applicationfor administrative reconsideration was filed with the Program Manager of the Office of Trade Adjustment Assistance for workers at Milady Brassiere and Corset Company, New York, New York. The review indicated that the application contained no new substantial information which would bear importantly on the Department's determination. Therefore, dismissal of the application was issued.

TA–W–31,556; Milady Brassiere and Corset Company, New York, New York (February 16, 1996)

Signed at Washington, D.C. this 5th day of March, 1996.

Russell T. Kile,

Acting Program Manager, Policy & Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 96–6531 Filed 3–18–96; 8:45 am]

BILLING CODE 4510–30–M

[TA–W–31,149; TA–W–31,149A]

SCT Yarns, Incorporated; Jefferson, Georgia and Cherryville, North Carolina; Amended Certification Regarding Eligibility to Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a Notice of Certification Regarding Eligibility to Apply for Worker Adjustment Assistance on June 29, 1995, applicable to all workers of SCT Yarns, Incorporated, Jefferson, Georgia. The notice was published in the Federal Register on July 19, 1995 (60 FR 37083).

The Department reviewed the certification for workers at the subject firm, and is amending the certification to cover the workers at the SCT Yarns location in Cherryville, North Carolina. The workers are engaged in employment related to the production of textile yarn. The company reports ongoing worker separations at the Cherryville plant.

The intent of the Department's certification is to include all workers of SCT Yarns, Incorporated who were adversely affected by imports.

The amended notice applicable to TA–W–31,149 is hereby issued as follows:

''All workers of SCT Yarns, Incorporated, Jefferson, Georgia (TA–W–31,149) and Cherryville, North Carolina (TA–W–31,149A) who became totally or partially separated from employment on or after June 6, 1994 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.''

Signed at Washington, DC this 1st day of March 1996.

Russell T. Kile,

Acting Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 96–6528 Filed 3–18–96; 8:45 am]

BILLING CODE 4510–30–M

[TA–W–31,630; TA–W–31,630D]

Vanity Fair Mills, Incorporated, Butler, Alabama and Vanity Fair Mills, Merengo Division, Demopolis, Alabama; Amended Certification Regarding Eligibility to Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on January 18, 1996, applicable to all workers of Vanity Fair Mills, Incorporated, Butler, Alabama. The notice was published in the Federal Register on February 6, 1996 (61 FR 4486).

At the request of the company, the Department reviewed the certification for workers of the subject firm. New information provided by the company shows that on May 31, 1996, Vanity Fair is permanently closing its sewing plant, the Merengo Division, in Demopolis, Alabama. The workers are engaged in the production of intimate apparel.

The intent of the Department's certification is to include all workers of the subject firm who were adversely affected by increased imports. Accordingly, the Department is amending the certification to cover the workers of Vanity Fair in Demopolis.

The amended notice applicable to TA–W–31,630 is hereby issued as follows:

''All workers of Vanity Fair Mills, Incorporated, Butler, Alabama (TA–W–31,630), and Vanity Fair Mills, Marengo Division, Demopolis, Alabama (TA–W–31,630D) who became totally or partially separated from employment on or after November 1, 1994 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.''

Signed at Washington, D.C. this 1st day of March 1996.

Russell T. Kile,

Acting Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 96–6527 Filed 3–18–96; 8:45 am]

BILLING CODE 4510–30–M

[NAFTA–00779]

Rio Algom Mining Corp., Douglas, Wyoming; Notice of Termination of Investigation

Pursuant to title V of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182) concerning transitional adjustment assistance, hereinafter called (NAFTA–TAA), and in accordance with section 250(a), subchapter D, chapter 2, title II, of the Trade Act of 1974, as amended (19 U.S.C. 2273), an investigation was initiated on January 23, 1996 in response to a petition filed on behalf of workers at Rio Algom Mining Corp. located in Douglas, Wyoming. The investigation has been terminated on the basis of invalid worker signatures on the petition. Petitioning workers can resubmit a petition with the appropriate signatures.

Signed at Washington, DC, this 29th day of February 1996.

Russell T. Kile,

Acting Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 96–6529 Filed 3–18–96; 8:45 am]

BILLING CODE 4510–30–M

Employment Standards Administration

Proposed Collection; Comment Request

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) [44 U.S.C. 3506(c)(2)(A)]. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Employment Standards Administration is soliciting comments concerning the proposed extension collection of the Application for a Certificate to Employ Learners at Subminimum Wages.

A copy of the proposed information collection request can be obtained by contacting the office listed below in the addressee section of this notice.

DATES: Written comments must be submitted to the office listed in the addressee section below on or before May 21, 1996. The Department of Labor is particularly interested in comments which:

* evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

* evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

* enhance the quality, utility and clarity of the information to be collected; and

* minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

ADDRESSES: Ms. Patricia A. Forkel, U.S. Department of Labor, 200 Constitution Ave. NW., Room S–3201, Washington, DC 20210, telephone (202) 219–7601 (this is not a toll-free number), fax 202–219–6592.

SUPPLEMENTARY INFORMATION:

I. Background

The Fair Labor Standards Act (FLSA) provides, in part, that the Secretary of labor, to the extent possible in order to prevent curtailment of opportunities for employment, shall provide for the employment of learners at subminimum wage rates. The Act also authorizes the Secretary to set limitations on such employment as to time, number, proportion and length of service. The Application for a Certificate to Employ Learners at Subminimum Wages (Form WH–209) is the application form completed by the employer in order to obtain such authorization for up to one year.

II. Current Actions

The Department of labor seeks the extension of approval to collect this information in order to provide the basis for granting certification for an employer to employ learners at subminimum wage rate under the FLSA.

Type of Review: Extension.

Agency: Employment Standards Administration.

Title: Application for a Certificate to Employ Learners at Subminimum Wages.

OMB Number: 1215–0012.

Agency Number: WH–209.

Affected Public: Businesses or other for-profit; Individuals or households; Not-for-Profit Institutions; Farms; State, Local or Tribal Government.

Total Respondents: 2

Frequency: Annually.

Total Responses: 2.

Average Time per Response: 30 minutes.

Estimated Total Burden Hours: 1.

Total Burden Cost (capital/startup): $0.

Total Burden Cost (operating/maintenance): $0.64.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Dated: March 12, 1996.

Cecily A. Rayburn,

Director, Division of Financial Management, Office of Management, Administration and Planning, Employment Standards Administration.

[FR Doc. 96–6486 Filed 3–18–96; 8:45 am]

BILLING CODE 4510–27–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 96–029]

Notice of Prospective Patent License

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of prospective patent license.

SUMMARY: NASA hereby gives notice that UbiquiTex Technologies Corporation, of 42 Brushwood Court, The Woodlands, Texas 77380, has requested an exclusive license to practice the following NASA inventions: U.S. Patent No. 5,141,806 entitled ''Microporous Structure with Layered Interstitial Surface Treatment, and Method and Apparatus for Preparation Thereof''; U.S. Patent No. 5,215,790, entitled ''Method for Preparation of a Microporous Structure With Layered Interstitial Surface Treatment, and Method and Apparatus for Preparation Thereof''; U.S. Patent No. 5,314,857, entitled ''Microporous Structure With Layered Interstitial Surface Treatment''; U.S. Patent No. 5,369,012, entitled ''Method of Making a Membrane Having Hydrophilic and Hydrophobic Surfaces for Adhering Cells or Antibodies by Using Atomic Oxygen or Hydroxyl Radicals''; and NASA Case No. MSC–22,419–1 entitled ''Distributed Pore Chemistry in Porous Organic Polymers.'' Written objections to the prospective grant of a license should be sent to Mr. Hardie R. Barr, Patent Attorney, Johnson Space Center.

DATES: Responses to this notice must be received by May 20, 1996.

FOR FURTHER INFORMATION CONTACT: Mr. Hardie R. Barr, Patent Attorney, Johnson Space Center, Mail Code HA, Houston, TX 77058–3696; telephone (713) 483–1003.

Dated: March 6, 1996.

Edward A. Frankle,

General Counsel.

[FR Doc. 96–6562 Filed 3–18–96; 8:45 am]

BILLING CODE 7510–01–M

NATIONAL INDIAN GAMING COMMISSION

Request for Extension and Revision of a Currently Approved Information Collection

AGENCY: National Indian Gaming Commission.

ACTION: Notice.

SUMMARY: The National Indian Gaming Commission is publishing this notice to comply with the requirements of the Paperwork Reduction Act of 1995. The Paperwork Reduction Act of 1995 was enacted for the purpose of minimizing the paperwork burden on the public and, in particular, on the regulated community. The Paperwork Reduction Act of 1995 was also enacted to maximize the utility of information created, collected, maintained, used, shared and disseminated by or for the Federal Government. The National Indian Gaming Commission received clearance from the Office of Management and Budget for the collection of information necessary to implement the Indian Gaming Regulatory Act. The purpose of this notice is to inform the public that the National Indian Gaming Commission currently seeks renewal of this clearance.

DATES: Comments must be received by May 20, 1996.

FOR FURTHER INFORMATION CONTACT: Copies of this information collection can be obtained from Linda Hutchinson, National Indian Gaming Commission, 1441 L Street NW, Suite 9100, Washington, DC 20005. Telephone: (202) 632–7003.

SUPPLEMENTARY INFORMATION:

Title: National Environmental Policy Act Procedures.

OMB Number: 3141–0006.

Expiration Date of Approval: April 30, 1996.

Type of Request: Extension and revision of a currently approved information collection.

Abstract: The Indian Gaming Regulatory Act (25 U.S.C. 2701 *et seq.*, 102 Stat. 2467, Pub. L. 100–497) [the Act] governs the regulation of gaming on Indian lands. The Act establishes the National Indian Gaming Commission (NIGC, or the Commission) as an independent federal regulatory agency

with authority to oversee Indian gaming. The National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321 *et seq.*, was enacted to encourage a national policy of protecting, enhancing, and restoring the quality of the human environment. The Council on Environmental Policy (CEQ), established pursuant to NEPA, promulgated implementing regulations at 40 C.F.R. § 1501 *et seq.*, NEPA and the CEQ's regulations require every federal agency to establish procedures and strategies that give appropriate consideration to the environmental consequences of federal agency actions. Under NEPA, federal agencies are required to prepare or cause to be prepared environmental documents relating to actions by the agency that have significant impacts on the environment. Accordingly, when the NEPA process is triggered, it is necessary to gather information from the regulated community regarding the environmental impacts of a proposed action.

The Commission believes that the NEPA process will be triggered when a tribe and management contractor seek approval of a management contract under 25 CFR part 533. Under NEPA, an Environmental Assessment (EA) must be prepared when the environmental consequences of a particular action are unclear and need to be further refined. The Commission believes it will be necessary to prepare an EA when it approves a management agreement containing provisions for the construction, development, or maintenance of a gaming operation or a part thereof. When it has determined that preparation of an EA is necessary, the Commission may permit the applicants seeking approval of the management agreement or an environmental consultant acting on behalf of such applicants to prepare and submit the EA. The Commission must independently evaluate the EA, verify its content, and take full responsibility for the accuracy of the information contained therein.

Respondents: Applicants seeking approval of a management contract and/or third party contractor.

Number of Respondents: 11.

Estimate of Burden: An average of 1090 hours.

Estimated Total Annual Burden on Respondents: 12,000 hours.

Send comments regarding the accuracy of the burden estimates, ways to minimize the burden or any other aspect of this collection of information to: Linda Hutchinson, 1441 L Street NW, Suite 9100, Washington, DC 20005.

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Harold A. Monteau,

Chairman, National Indian Gaming Commission.

[FR Doc. 96–6509 Filed 3–18–96; 8:45 am]

BILLING CODE 7565–01–M

Submission of Information Collections to the Office of Management and Budget for Review Under the Paperwork Reduction Act

AGENCY: National Indian Gaming Commission.

ACTION: Notice.

SUMMARY: The National Indian Gaming Commission (NIGC), in accordance with the Paperwork Reduction Act of 1995, intends to submit to the Office of Management and Budget (OMB) a request to revise and extend the following information collection requirements: (1) Compliance and Enforcement under the Indian Gaming Regulatory Act (IGRA); (2) Privacy Act regulations; and (3) Approval of class II and class III Gaming Ordinances. In the interim, the NIGC is requesting OMB to conduct an emergency review within 10 days and to grant a 90-day extension of the NIGC's collection authority.

DATES AND ADDRESSES: Comments relating to emergency extension must be received by March 29, 1996. Interested persons are invited to submit comments to Nora Neurieter, OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

Comments on the NIGC's intent to revise and extend the information collection must be received by May 20, 1996. Send comments to Linda Hutchinson, National Indian Gaming Commission, 1441 L Street NW, Suite 9100, Washington, DC 20005. Telephone: (202) 632–7003.

SUPPLEMENTARY INFORMATION:

Title: Compliance and Enforcement under the Indian Gaming Regulatory Act.

OMB Number: 3141–0001.

Abstract: The Indian Gaming Regulatory Act (25 U.S.C. § 2701 et seq.) [IGRA] governs the regulation of gaming on Indian lands. Although the IGRA places primary responsibility with the tribes for regulating gaming, Section 2706(b) of the Act directs the NIGC to monitor gaming conducted on Indian lands on a continuing basis. The IGRA authorizes the NIGC to access and inspect all papers, books and records relating to gaming conducted on Indian lands. In accordance with this statutory responsibility, 25 CFR § 571.7 requires Indian gaming operations to keep permanent financial records.

Estimated Burden: The reporting burden for this collection of information is estimated to be 43 hours per response.

Respondents: Indian gaming owners or operators.

Estimated Number of Respondents: 220.

Estimated Annual Responses: 550.

Estimated Total Annual Burden on Respondents: 23,610 hours.

Title: Privacy Act Procedures.

OMB Number: 3141–0002.

Abstract: To implement the IGRA, it is necessary for the NIGC to collect, maintain and use personal information gathered on certain individuals. Under 25 CFR § 556.4 and § 556.6, tribes must submit to the NIGC information regarding key employees and management officials employed at a tribal gaming operation. The NIGC complies and stores this information in a system of records. Pursuant to the Privacy Act of 1974 [5 U.S.C. 552a] agencies must promulgate regulations regarding the collection, maintenance, use and dissemination of records within a system. Under 25 C.F.R. § 515.3 individuals can request information on whether they are subject to any record. Individuals may also request access to those records. The regulations promulgated by the NIGC set forth certain exemptions that authorize the NIGC to withhold certain information which would otherwise be made available under the Privacy Act.

Estimated Burden: The reporting burden for this collection of information is estimated to be 1 hour per response.

Respondents: Individuals requesting access to records.

Estimated Number of Respondents: 45.

Estimated Annual Responses: 50.

Estimated Total Annual Burden on Respondents: 65 hours.

Title: Approval of class II and class III ordinances.

OMB Number: 3141–0003.

Abstract: The IGRA establishes the National Indian Gaming Commission as an independent regulatory agency to oversee Indian gaming. The Act sets standards for the regulation of gaming, including requirements for approval or disapproval of tribal gaming ordinances. IGRA section 2705(a)(3) requires the Chairman to review all class II and class III tribal gaming ordinances and resolutions. In accordance with this provision, 25 C.F.R. § 552.2 of the NIGC's regulations requires tribes to submit to the NIGC: (1) A copy of all

gaming ordinances and resolutions adopted after the effective date of the regulation; (2) a description of procedures the tribe will employ in conducting background investigations on key employees or primary management officials; (3) a description of procedures the tribe will use to issue licenses to primary management officials and key employees; (4) copies of all gaming regulations; (5) copies of tribal-state compacts; (6) a description of dispute resolution procedures for disputes arising between the gaming public and the tribe or management contractor; (7) an independent audit; and (8) a request for approval of the ordinance or resolution. Under 25 C.F.R. § 522.3 tribes must submit an amendment to the ordinance or resolution.

Estimated Burden: The reporting burden for this collection of information is estimated to be 89 hours per response.

Respondents: Tribal gaming owners and operators.

Estimated Number of Respondents: 220.

Estimated Annual Responses: 525.

Estimated Total Annual Burden on Respondents: 46,705 hours.

Copies of the information collections can be obtained from Linda Hutchinson 1441 L Street NW, Suite 9100, Washington, DC 20005.

Harold A. Monteau,

Chairman, National Indian Gaming Commission.

[FR Doc. 96–6510 Filed 3–18–96; 8:45 am]

BILLING CODE 7565–01–M

NUCLEAR REGULATORY COMMISSION

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Nuclear Regulatory Commission (NRC).

ACTION: Notice of the OMB review of information collection and solicitation of public comment.

SUMMARY: The NRC has recently submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35). The NRC hereby informs potential respondents that an agency may not conduct or sponsor, and that a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

1. Type of submission, new, revision, or extension: Revision/Extension.

2. The title of the information collection: 10 CFR Part 26, ''Fitness for Duty Program''.

3. The form number if applicable: Not applicable.

4. How often the collection is required: On occasion.

5. Who will be required or asked to report: All licensees authorized to construct or operate a nuclear power reactor and all licensees authorized to possess, use, or transport unirradiated Category 1 nuclear material.

6. An estimate of the number of responses:

a. 148 semi-annual reports (an average of 40 hours per response).

b. 74 telephonic event reports (an average of 15 minutes per response).

c. 44,000 written statements from applicants for unescorted access authorization to protected areas (an average of 30 seconds per response).

7. An estimate of the total number of hours needed annually to complete the requirement or request: 63,960 (7,210 hours of reporting burden, and 56,750 hours of recordkeeping burden).

8. An indication of whether Section 3507(d), Pub. L. 104–13 applies: Not applicable.

9. Abstract: 10 CFR Part 26, ''Fitness for Duty Program,'' requires licensees of nuclear power plants and licensees authorized to possess, use, or transport unirradiated Category 1 nuclear material to implement fitness-for-duty programs to assure that personnel are not under the influence of any substance or mentally or physically impaired, to retain certain records associated with the management of these programs, and to provide reports concerning significant events. Compliance with these requirements is mandatory for licensees subject to 10 CFR Part 26.

A copy of the submittal may be viewed free of charge at the NRC Public Document Room, 2120 L Street, NW (Lower Level), Washington, DC. Members of the public who are in the Washington, DC, area can access the submittal via modem on the Public Document Room Bulletin Board (NRC's Advanced Copy Document Library) NRC subsystem at FedWorld, 703–321–3339. Members of the public who are located outside of the Washington, DC, area can dial FedWorld, 1–800–303–9672, or use the FedWorld Internet address: fedworld.gov (Telnet). The document will be available on the bulletin board for 30 days after the signature date of this notice. If assistance is needed in accessing the document, please contact the FedWorld help desk at 703–487–4608. Additional assistance in locating the document is available from the NRC Public Document Room, nationally at 1–800–397–4209, or within the Washington, DC, area at 202–634–3273.

Comments and questions should be directed to the OMB reviewer by April 18, 1996. Peter Francis, Office of Information and Regulatory Affairs (3150–0146), NEOB–10202, Office of Management and Budget, Washington, DC 20503. Comments can also be submitted by telephone at (202) 395–3084.

The NRC Clearance Officer is Brenda Jo. Shelton, (301) 415–7233.

Dated at Rockville, Maryland, this 14th day of March 1996.

For the Nuclear Regulatory Commission.

Gerald F. Cranford,

Designated Senior Official for Information Resources Management.

[FR Doc. 96–6519 Filed 3–18–96; 8:45 am]

BILLING CODE 7590–01–P

[Docket No. 50–213]

Connecticut Yankee Atomic Power Company; Notice of Consideration of Issuance of Amendment to Facility Operating License and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DPR–61, issued to Connecticut Yankee Atomic Power Company (the licensee), for operation of the Haddam Neck Plant located in Middlesex County, Connecticut.

The proposed amendment would modify the Technical Specifications (TS) and associated Bases based on Dose Consequence Reanalysis and Containment Pressure and Temperature Reanalysis as follows:

TS 3.4.6.2—Extend the 2 liter per hour pump seal leakage criteria to be applicable to an individual charging or high pressure safety injection (HPSI) pump. Change allowable combined leakage from 3 liters per hour to 5 liters per hour for recirculation systems outside of containment.

TS 3/4.6.2—Revise required containment air recirculation (CAR) system flow from 52,000 plus or minus 2,500 cfm per unit to 40,000 cfm to 55,000 cfm per unit. Revise the heat removal rate for each CAR unit from 26.5×10^{6} BTU/hr to 24.0×10^{6} BTU/hr.

TS Table 3.7–6—Revise the maximum isolation time for the feedwater motor operated valves from 70 seconds to 40 seconds.

TS 3/4.7.11—Delete the APPLICABILITY and ACTION statement for modes 1,2,3, and 4. The Primary Auxiliary Building (PAB) Air

Cleanup System is only explicitly credited by the Haddam Neck Plant in a fuel assembly handling accident. This section will be moved to Section 3/4.9 (Refueling Operations) since this proposed change will require the PAB Air Cleanup System be operable during refueling activities only.

B3/4.4.6.2—The change provides a discussion of the 2 liter per hour limitation on leakage from an individual residual heat removal, charging, or HPSI pump mechanical seal. It also provides a discussion on the new limitation on combined leakage for recirculation systems outside of containment.

B3/4.6.2—Provides the basis for the 40,000 cfm lower air flow limit, the revised heat removal rate, and a discussion on the existence of higher than normal air flows for the CAR system during a loss of coolant accident.

B3/4.7.11—This discussion on the PAB Air Cleanup System will be renumbered 3/4.9.15 as part of the Refueling Operations bases. This section will specify that air cleanup is accomplished by one exhaust fan, one prefilter, the HEPA/HECA filter, and interconnecting ductwork (i.e., one train of the PAB Air Cleanup System).

The appropriate Index pages from the Haddam Neck Plant Technical Specifications will also be revised to reflect the changes discussed above.

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.

By April 18, 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 Russell Library, 123 Broad Street, Middletown, CT 06457. 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.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, 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 Phillip F. McKee: petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this Federal Register notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to Lillian M. Cuoco, Esq., Senior Nuclear Counsel, Northeast Utilities Service Company, P.O. Box 270, Hartford, CT 06141–0270, 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).

If a request for a hearing is received, the Commission's staff may issue the amendment after it completes its technical review and prior to the completion of any required hearing if it publishes a further notice for public comment of its proposed finding of no significant hazards consideration in accordance with 10 CFR 50.91 and 50.92.

For further details with respect to this action, see the application for amendment dated December 19, 1995, 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 Russell Library, 123 Broad Street, Middletown, CT 06457.

Dated at Rockville, Maryland, this 12th day of March, 1996.

For the Nuclear Regulatory Commission.

Phillip F. McKee,

Director, Northeast Utilities Project Directorate, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 96–6520 Filed 3–18–96; 8:45 am]

BILLING CODE 7590–01–P

[Docket No. 50–146]

Saxton Nuclear Experimental Corporation; Notice of Transfer of Control of License

Notice is hereby given that the United States Nuclear Regulatory Commission (the Commission) is considering approval under 10 CFR 50.80 of the transfer of control of the license for the Saxton Nuclear Experimental Facility (SNEF) to GPU Nuclear Corporation (GPUN) for all maintenance, characterization, decontamination, dismantlement, decommissioning, and other management related responsibilities. The current licensee, the Saxton Nuclear Experimental Corporation (SNEC), will remain as owner and joint holder of Amended Facility License No. DRP–4. Prior notice of consideration of a license amendment that would be required to reflect this proposed transfer and notice of an oppotunity for a hearing in connection with the amendment was given on January 31, 1996 (61 FR 3502) in the Federal Register. SNEC, with the concurrence of GPUN, applied for approval of the transfer, as well as a license amendment, by letter dated November 21, 1995.

Pursuant to 10 CFR 50.80, the Commission may approve the transfer of control of a license, after notice to interested persons, upon the Commission's determination that the proposed transferee is qualified to be a holder of the license and the transfer of the control is otherwise consistent with applicable provisions of law, regulations and orders of the Commission.

For further details with respect to the subject transfer, see the application from SNEC dated November 21, 1995, which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555, and at the local public document room located at the Saxton Community Library, 911 Church Street, Saxton, Pennsylvania 16678.

Dated at Rockville, Maryland, this 13th day of March 1996.

For the Nuclear Regulatory Commission.

Seymour H. Weiss,

Director, Non-Power Reactors and Decommissioning, Project Directorate, Division of Reactor Program Management, Office of Nuclear Reactor Regulation.

[FR Doc. 96–6518 Filed 3–18–96; 8:45 am]

BILLING CODE 7590–01–P

[Docket Nos. STN 50–528, 50–529, and 50–530]

Arizona Public Service Company Palo Verde Nuclear Generating Station, Unit Nos. 1, 2, and 3; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. NPF–41, NPF–51, and NPF–74 issued to Arizona Public Service Company, (the licensee), for operation of the Palo Verde Nuclear Generating Station, Units 1, 2, and 3, respectively, located in Maricopa County, Arizona.

Environmental Assessment

Identification of the Proposed Action

The Environmental Assessment is written in connection with the proposed core uprate for the Palo Verde Nuclear Generating Station in response to the licensee's application dated January 5, 1996. The proposed action would increase the rated thermal power (RTP) for Palo Verde from the current level of 3800 megawatts thermal (MWt) to 3876 MWt, an increase of 2 percent over the current RTP. To support the increased power operation, the licensee has also proposed amendment changes that would lower the allowable reactor coolant system cold-leg temperature limits for all three PVNGS Units and lower the pressurizer safety valve setpoints for Units 1 and 3. The PVNGS Unit 2 safety valve setpoints were revised by Amendment 78, approved March 28, 1995, to the same values being requested for Units 1 and 3. The proposed action is in accordance with the licensee's application for amendment dated January 5, 1996.

The Need for the Proposed Action

The proposed action is needed to increase the electrical output by up to approximately 26 megawatts electric (MWe) and thus provide additional electrical power to the grids which service the commercial and residential areas of the owner utilities (the Salt River Project Agricultural Improvement and Power District, Southern California Edison Company, El Paso Electric Company, Public Service Company of New Mexico, Los Angeles Department of Water and Power, and Southern California Public Power Authority).

Environmental Impacts of the Proposed Action

A 2-percent increase in rated thermal power (RTP) is not a significant increase in power level. The Final Environmental Statement (FES) (NUREG–0841) recognized in the Summary and Conclusions Section that the maximum design thermal output for each unit is 4100 MWt. The proposed increase is less than maximum design thermal output evaluated during the FES construction permit stage (FES-CP). Thus the environmental effects previously evaluated for land and water usage are bounded by those previously evaluated. The increase in RTP does not change any of the conclusions of NUREG–0841.

The 2-percent RTP increase does not change the method of operation or modify the plant configuration, apart from minor changes in equipment setpoints. Thus no increase in the probability or consequences of an accident is created by the proposed amendment. System and programmatic reviews have been done of the nuclear steam supply system (NSSS) controls, the reactor coolant system, the steam generators, balance-of-plant systems, and the fire protection, equipment qualification, and probability risk assessment programs. The reviews concluded that operation in accordance with the changes proposed in this amendment was acceptable and posed no significant risk to the health and safety of the public. The analysis supporting this amendment demonstrates that the consequences of events under the increased-RTP conditions are within the criteria of the current licensing basis for the PVNGS units. Therefore the amendment, as proposed, does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The increase in RTP does not authorize construction, change the processes, plant equipment, or type of effluents, or significantly affect operation of the units. The proposed amendment will not significantly change the types or amount of radiological effluents from the facility. The changes are within the design basis of the balance-of-plant systems, and reviews of the NSSS have demonstrated the acceptability of operation at the increased-RTP conditions. Safety

analyses of design basis events affected by the increase have been reviewed or reanalyzed and the consequences found to be bounded by current updated final safety analysis report (UFSAR) consequences or within regulatory requirements. In addition, no significant increases in individual or cumulative occupational radiation exposure would result from the proposed changes in operating conditions. Also, the proposed increase in the NSSS power involves no significant change in the amount of any nonradiological impacts associated with operation of the facility, i.e., those previously evaluated and approved in the FES. The Final Environmental Assessment evaluated the environmental impact, assuming the maximum design thermal output of the PVNGS units to be 4100 MWt. Thus, the proposed increase in power level is within the scope of the previous reviews performed for the environmental impact of operation of the units. Accordingly, the Commission concludes that there are no significant environmental impacts associated with the proposed action.

Alternatives to the Proposed Action

Since the Commission has concluded that there is no measurable environmental impact associated with the proposed action, any alternatives with equal or greater environmental impacts need not be evaluated. The principal alternative to the proposed action would be to deny the requested amendment. Denial would not significantly reduce the environmental impact of plant operation and would restrict operation of the PVNGS units to the currently licensed power level, thereby reducing operational flexibility.

Alternative Use of Resources

This action does not involve the use of any resources not previously considered in the Final Environmental Statement for the Palo Verde Nuclear Generating Station.

Agencies and Persons Consulted

In accordance with NRC policy, on February 28, 1996, the staff consulted with the Arizona State official, Mr. William Wright of the Arizona Radiation Regulatory Agency, regarding the environmental impact of the proposed action. The State official had no comments.

Finding of No Significant Impact

Based upon the environmental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed action.

For further details with respect to the proposed action, see the licensee's letter dated January 5, 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 Phoenix Public Library, 1221 N. Central Avenue, Phoenix, Arizona 85004.

Dated at Rockville, Maryland, this 11th day of March 1996.

For the Nuclear Regulatory Commission.

Charles R. Thomas,

Project Manager, Project Directorate IV–2, Division of Reactor Projects III/IV, Office of Nuclear Reactor Regulation.

[FR Doc. 96–6521 Filed 3–18–96; 8:45 am]

BILLING CODE 7590–01–P

Advisory Committee on Reactor Safeguards Subcommittee Meeting on Planning and Procedures; Notice of Meeting

The ACRS Subcommittee on Planning and Procedures will hold a meeting on April 10, 1996, Room T–2B1, 11545 Rockville Pike, Rockville, Maryland.

The entire meeting will be open to public attendance, with the exception of a portion that may be closed pursuant to 5 U.S.C. 552b(c) (2) and (6) to discuss organizational and personnel matters that relate solely to internal personnel rules and practices of ACRS, and matters the release of which would constitute a clearly unwarranted invasion of personal privacy.

The agenda for the subject meeting shall be as follows:

Wednesday, April 10, 1996—1:30 p.m. until 4:00 p.m.

The Subcommittee will discuss proposed ACRS activities and related matters. It will also discuss the qualifications of candidates nominated for appointment to the ACRS. The purpose of this meeting is to gather information, analyze relevant issues and facts, and to formulate proposed positions and actions, as appropriate, for deliberation by the full Committee.

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairman; written statements will be accepted and made available to the Committee. Electronic recordings will be permitted only during those portions of the meeting that are open to the public, and questions may be asked only by members of the Subcommittee, its consultants, and staff. Persons desiring to make oral statements should notify the cognizant ACRS staff person named below five days prior to the meeting, if possible, so that appropriate arrangements can be made.

Further information regarding topics to be discussed, the scheduling of sessions open to the public, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements, and the time allotted therefor can be obtained by contacting the cognizant ACRS staff person, Dr. John T. Larkins (telephone: 301/415–7360) between 7:30 a.m. and 4:15 p.m. (EST). Persons planning to attend this meeting are urged to contact the above named individual one or two working days prior to the meeting to be advised of any changes in schedule, etc., that may have occurred.

Dated: March 11, 1996.

Sam Duraiswamy,

Chief, Nuclear Reactors Branch.

[FR Doc. 96–6522 Filed 3–18–96; 8:45 am]

BILLING CODE 7590–01–P

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Nuclear Regulatory Commission.

DATE: Weeks of March 18, 25, April 1, and 8, 1996.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and Closed.

MATTERS TO BE CONSIDERED:

Week of March 18

Tuesday, March 19

10:30 a.m.
Briefing on U.S. Enrichment Corporation Certification (Public Meeting)
(Contact: John Hickey, 301–415–7192)

Week of March 25—Tentative

Wednesday, March 27

10:30 a.m.
Meeting with Nuclear Safety Research Review Committee (NSRRC) (Public Meeting)
(Contact: Jose Cortez, 301–415–6596)

Week of April 1—Tentative

Thursday, April 4

10:00 a.m.
Briefing on PRA Implementation Plan (Public Meeting)
(Contact: Ashok Thadani, 301–415–1274)

11:30 a.m.
Affirmation Session (Public Meeting) (if needed)

2:00 p.m.
Briefing on Status of Activities with CNWRA and HLW Program (Public Meeting)

(Contact: Shirley Fortuna, 301–415–7804)

Week of April 8—Tentative

There are no meetings scheduled for the Week of April 8.

The Schedule for Commission meetings is subject to change on short notice. To verify the status of meetings call (Recording) (301) 415–1292.

CONTACT PERSON FOR MORE INFORMATION: Bill Hill (301) 415–1661.

This notice is distributed by mail to several hundred subscribers; if you no longer wish to receive it, or would like to be added to it, please contact the Office of the Secretary, Attn: Operations Branch, Washington, DC 20555 (301–415–1963).

In addition, distribution of this meeting notice over the internet system is available. If you are interested in receiving this Commission meeting schedule electronically, please send an electronic message to alb@nrc.gov or gkt@nrc.gov.

Dated: March 15, 1996.

William M. Hill, Jr.,

SECY Tracking Officer, Office of the Secretary.

[FR Doc. 96–6746 Filed 3–15–96; 3:25 pm]

BILLING CODE 7590–01–M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Designation of Singapore Under 19 U.S.C. 2511(b)(3)

Under the authority delegated to me by the President in section 1–201 of Executive Order 12260 of December 31, 1980, I hereby direct that products of Singapore be treated as eligible products for purposes of section 1–101 of Executive Order 12260. Such treatment shall not apply to procurements by the Department of Energy, the Department of Transportation, the Army Corps of Engineers, the Tennessee Valley Authority and the Bureau of Reclamation. If Singapore has not completed negotiations on its accession to the WTO Government Procurement Agreement by July 31, 1996, this designation may be revoked.

Michael Kantor,

United States Trade Representative.

[FR Doc. 96–6514 Filed 3–18–96; 8:45 am]

BILLING CODE 3190–01–M

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94–409, that the Securities and Exchange Commission will hold the following open meeting during the week of March 18, 1996.

An open meeting will be held on Thursday, March 21, 1996, at 10:00 a.m., in Room 1C30.

The subject matter of the open meeting scheduled for Thursday, March 21, 1996, at 10:00 a.m., will be:

(1) The Commission will consider whether to adopt amendments to rule 2a–7, the rule under which money market funds are regulated under the Investment Company Act of 1940, and related rules and forms. The amendments are intended to tighten the risk limiting conditions of rule 2a–7, particularly as they apply to tax exempt funds, and to provide investors in those funds with protections similar to those provided to taxable money market fund investors. The amendments would revise the diversification and credit quality conditions which tax exempt money market funds are required to meet, and make limited changes to the rule for taxable money market funds. The Commission will also consider a new rule under the Investment Company Act—rule 17a–9—which would permit certain affiliated transactions involving money market funds. For further information, contact Martha Platt at (202) 942–0725.

(2) The Commission will consider whether to propose for public comment amendments to rule 10f–3, and new rule 17a–10, both under the Investment Company Act of 1940. The proposed amendments to rule 10f–3 would address the various conditions of the rule. The proposed amendments would broaden the scope of the rule, for example, by permitting funds that are subject to the rule to purchase securities of foreign issuers sold in offerings not registered under the Securities Act of 1933, subject to certain conditions. Proposed rule 17a–10 would provide an exemption from section 17(a)(1) of the Investment Company Act for certain transactions that would be permitted by the proposed amendments to rule 10f–3. For further information, contact David M. Goldenberg at (202) 942–4525.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: The Office of the Secretary at (202) 942–7070.

Dated: March 15, 1996.

Jonathan G. Katz,

Secretary.

[FR Doc. 96–6762 Filed 3–15–96; 3:50 pm]

BILLING CODE 8010–01–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD08–96–005]

Houston/Galveston Navigation Safety Advisory Committee Meeting

AGENCY: Coast Guard, DOT.

ACTION: Notice of Meeting.

SUMMARY: The Houston/Galveston Navigation Safety Advisory Committee (HOGANSAC) will meet to discuss waterway improvements, aids to navigation, current meters, and various other navigation safety matters affecting the Houston/Galveston area. The meeting will be open to the public.

DATES: The meeting will be held from 9:30 a.m. to approximately 1 p.m. on Thursday, May 23, 1996.

ADDRESSES: The meeting will be held in the conference room of the Houston Pilots Office, 8150 South Loop East, Houston, Texas.

FOR FURTHER INFORMATION CONTACT: Mr. M.M. Ledet, Recording Secretary, Commander, Eighth Coast Guard District (oan), Room 1211, Hale Boggs Federal Building, 501 Magazine Street, New Orleans, LA 70130–3396, telephone (504) 589–4686.

SUPPLEMENTARY INFORMATION: Notice of this meeting is given pursuant to the Federal Advisory Committee Act (5 U.S.C. app.). The meeting is open to the public. Members of the public may present written or oral statements at the meeting.

The tentative agenda for the meeting will consist of the following items:

(1) Approval of the January 18, 1996 minutes.

(2) Report from the Navigation Subcommittee.

(3) Report from the Waterways Subcommittee.

(4) Gulf Coast Trailing presentation on types of dredging projects.

Under Keel clearance.

Dated: March 1, 1996.

R.C. North,

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

[FR Doc. 96–6549 Filed 3–18–96; 8:45 am]

BILLING CODE 4910–14–M

[CGD08–96–006]

Houston/Galveston Navigation Safety Advisory Committee; Waterways Subcommittee Meeting

AGENCY: Coast Guard, DOT.

ACTION: Notice of meetings.

SUMMARY: The Waterways Subcommittee of the Houston/Galveston Navigation Safety Advisory Committee will meet to discuss various navigation safety matters affecting the waterways of the Houston/Galveston area.

DATES: The meeting will be held from 9:30 a.m. to 11 a.m., on Thursday, May 9, 1996.

ADDRESSES: The meeting will be held at the Houston Yacht Club, 3620 Miramar, Shoreacres, TX.

FOR FURTHER INFORMATION CONTACT: Mr. M.M. Ledet, Recording Secretary, Commander, Eighth Coast Guard District (oan), Room 1211, Hale Boggs Federal Building, 501 Magazine Street, New Orleans, LA 70130–3396, telephone (504) 589–4686.

SUPPLEMENTARY INFORMATION: Notice of this meeting is given pursuant to the Federal Advisory Committee Act (5 U.S.C. app.). The meeting is open to the public. Members of the public may present written or oral statements at the meeting. The agenda for the meeting will consist of discussion of previous recommendations and presentation of new items for consideration.

Dated: March 1, 1996.

R.C. North,

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

[FR Doc. 96–6550 Filed 3–18–96; 8:45 am]

BILLING CODE 4910–14–M

[CGD08–96–007]

Houston/Galveston Navigation Safety Advisory Committee; Navigation Subcommittee Meeting

AGENCY: Coast Guard, DOT.

ACTION: Notice of meeting.

SUMMARY: The Navigation Subcommittee of the Houston/Galveston Navigation Safety Advisory Committee will meet to discuss various navigation safety matters affecting navigation in the Houston/Galveston port area.

DATES: The meeting will be held from 11 a.m. to 1 p.m., on Thursday, May 9, 1996.

ADDRESSES: The meeting will be held at the Houston Yacht Club, 3620 Miramar, Shoreacres, TX.

FOR FURTHER INFORMATION CONTACT: Mr. M. M. Ledet, Recording Secretary, Commander, Eighth Coast Guard District (oan), Room 1211, Hale Boggs Federal Building, 501 Magazine Street, New Orleans, LA 70130–3396, telephone (504) 589–4686.

SUPPLEMENTARY INFORMATION: Notice of this meeting is given pursuant to the Federal Advisory Committee Act (5 U.S.C. app.) The meeting is open to the public. Members of the public may present written or oral statements at the meeting. The agenda for the meeting will consist of discussion of previous recommendations and presentation of new items for consideration.

Dated: March 1, 1996.

R.C. North,

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

[FR Doc. 96–6551 Filed 3–18–96; 8:45 am]

BILLING CODE 4910–14–M

Federal Aviation Administration

Existence of Proposed Powered Parachute Design Standards for Acceptance Under the Primary Category

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of availability and request for comments.

SUMMARY: This notice announces the existence of and request for comments on proposed powered parachute design standards for acceptance under the primary category rule. The proposed design standards are the culmination of more than 500,000 hours experience as either ultralite or amateur-built vehicles. The applicability is four-place maximum and 2,700 pound maximum weight. The aircraft is designed to be stall proof. The minimum control speed is zero at flare.

DATES: Comments must be received on or before April 18, 1996.

ADDRESSES: Send all comments to: Federal Aviation Administration, Small Airplane Directorate, Aircraft Certification Service, Standards Office, ACE–110, 601 East 12th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Terre Flynn, Regulations and Policy Branch, ACE–111, at the address above, telephone number (816) 426–6941.

SUPPLEMENTARY INFORMATION: Any person may obtain a copy of this information by contacting the person named above under **FOR FURTHER INFORMATION CONTACT**.

Comments Invited

Interested parties are invited to submit comments on the proposed design standards. Commenters must identify the design standards (powered parachute) and submit comments to the address above. All communications received on or before the closing date for comments will be considered by the FAA before issuing the final acceptance. The proposed design standards and comments received may be inspected at the Standards Office, ACE–110, Suite 900, 1201 Walnut, Kansas City, Missouri, between the hours of 7:30 a.m. and 4:00 p.m. weekdays, except Federal holidays.

Background

Sport aviation, essentially a fly-for-fun activity, is dependent upon simple, low performance, low cost aircraft. The FAA recognizes this in the creation of primary category (14 CFR 21.17), which establishes simpler process for certification, production control, and establishment of design standards for all types of aircraft. This notice proposes design standards for powered parachute airplanes.

The value of this class of airplane is demonstrated by the number of 14 CFR part 103 ultralite and amateur-built designs currently active. Accordingly, the FAA is proposing and requesting comments on these design standards.

Issued in Kansas City, Missouri, on March 8, 1996.

Henry A. Armstrong,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 96–6401 Filed 3–18–96; 8:45 am]

BILLING CODE 4910–13–M

Maritime Administration

Notice of Approval of Applicant as Trustee

Notice is hereby given that Deposit Guaranty National Bank, with offices at One Deposit Guaranty Plaza, 8th Floor, Jackson, Mississippi 39201, has been approved as Trustee pursuant to Public Law 100–710 and 46 CFR Part 221.

Dated: March 14, 1996.

By Order of the Maritime Administrator.

Joel C. Richard,

Acting Secretary.

[FR Doc. 96–6576 Filed 3–18–96; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF THE TREASURY

Departmental Offices; Proposed Collection; Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to comment on an information collection that is due for renewed approval by the Office of Management and Budget. The comment period is required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the Office of International Financial Analysis within the Department of the Treasury is soliciting comments

concerning Treasury International Capital Form S, Purchases and Sales of Long-Term Securities by Foreigners.

DATES: Written comments should be received on or before May 13, 1996 to be assured of consideration.

ADDRESSES: Direct all written comments to Gary A. Lee, Manager, Treasury International Capital Reporting System, Department of the Treasury, Room 5452–A, 1500 Pennsylvania Avenue NW, Washington, DC 20220.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the forms and instructions should be directed to Gary A. Lee, Manager, Treasury International Capital Reporting System, Department of the Treasury, Room 5452–A, 1500 Pennsylvania Avenue NW, Washington, DC 20220, (202) 622–2270.

SUPPLEMENTARY INFORMATION:

Title: Purchases and Sales of Long-Term Securities by Foreigners, Treasury International Capital Form S.

OMB Number: 1505–0001.

Abstract: Form S is required by law (22 USC 286f; 22 USC 3103; EO 10033; 31 CFR 128) and is designed to collect timely information on international portfolio capital movements. This report covers monthly purchases and sales of long-term domestic and foreign securities in transactions between U.S. persons and foreign residents. This information is necessary for compiling the U.S. balance of payments accounts, for calculating the U.S. international investment position, and for use in formulating U.S. international financial and monetary policies.

Current Actions: No changes to reporting requirements are proposed at this time. Minor revisions to instructions will aim to clarify current reporting requirements, but will not affect current paperwork burden.

Type of Review: Extension.

Affected Public: Business or other for-profit.

Estimated Number of Respondents: 475.

Estimated Average Time per Respondent: Five (5) hours per respondent per filing.

Estimated Total Annual Burden Hours: 28,500 hours, based on twelve reporting periods per year.

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. The public is invited to submit written comments concerning: whether Form S is necessary for the proper performance of the functions of the Office, including whether the information collected has practical uses; the accuracy of the above burden estimates; how to enhance the quality, usefulness, and clarity of the information to be collected; and how to minimize the reporting and/or recordkeeping burdens on respondents, including the use of information technologies to automate the collection of the data.

Thomas Ashby McCown,

Director, Office of International Financial Analysis.

[FR Doc. 96–6470 Filed 3–18–96; 8:45 am]

BILLING CODE 4810–25–M

Submission for OMB Review; Comment Request

March 4, 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 the late March, early April 1996 time frame, the Department of the Treasury is requesting Office of Management and Budget (OMB) review and approval of this information collection by March 15, 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: 1545–1349.

Form Number: SOI–16.

Type of Review: Revision.

Title: Test of the Distribution of Form 8822 M, ''Change of Address Mailer''.

Description: A multi-functional group at IRS Headquarters was commissioned to improve the Service's ability to secure, record and use the taxpayer's address. One of the recommendations of that group was to implement a test (proposed by the Cincinnati Service Center) of the effectiveness of sending IRS Form 8822–M, Change of Address, to taxpayers who have requested a Change of Address Kit from the United States Postal Service.

If this test is successful, the IRS can implement an improved method of delivery of Form 8822–M directly to the taxpayer rather than requiring the taxpayer to pick up or order the form from IRS. This will also improve the IRS maintenance of up-to-date taxpayer addresses for timely delivery of notices and other correspondence.

Respondents: Individuals or households.

Estimated Number of Respondents: 9,000.

Estimated Burden Hours Per Respondent: 16 minutes.

Frequency of Response: Other.

Estimated Total Reporting Burden: 2,325 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. 96–6491 Filed 3–18–96; 8:45 am]

BILLING CODE 4830–01–P

Submission for OMB Review; Comment Request

March 11, 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 1995, Public Law 104–13. 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.

Departmental Offices/Office of International Financial Assets

OMB Number: 1505–0024.

Form Number: International Capital Forms CQ–1 and CQ–2.

Type of Review: Extension.

Title: Treasury Internal Capital Forms CQ–1 and CQ–2, Financial and Commercial Liabilities to, and Claims on, Unaffiliated Foreigners.

Description: Forms CQ–1 and CQ–2 are required by law and are designed to collect timely information on international portfolio capital movements, including data on financial and commercial liabilities to, and claims on, unaffiliated foreigners held by nonbanking enterprises in the United States. This information is necessary for

compiling the U.S. balance of payments, for calculating the U.S. international investment position and for U.S. financial and monetary policies.

Respondents: Business or other for-profit.

Estimated Number of Respondents: 500.

Estimated Burden Hours Per Response: 4 hours.

Frequency of Response: Quarterly.

Estimated Total Reporting Burden: 8,000 hours.

Clearance Officer: Lois K. Holland (202) 622–1563, Departmental Offices, Room 2110, 1425 New York Avenue, N.W., Washington, DC 20220.

OMB Reviewer: Milo Sunderhauf (202) 395–7340, Office of Management and Budget, Room 10226, New Excecutive Office Building, Washington, DC 20503.

Lois K. Holland,

Department Reports Management Officer.

[FR Doc. 96–6492 Filed 3–18–96; 8:45 am]

BILLING CODE 4810–25–P

federal register

Tuesday
March 19, 1996

Part II

Department of Transportation

Federal Aviation Administration

14 CFR Parts 61 and 67

Revision of Airman Medical Standards and Certification Procedures and Duration of Medical Certificates; Final Rule

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 61 and 67

[Docket No. 27940; Amendment Nos. 61–99 and 67–17]

RIN 2120–AA70

Revision of Airman Medical Standards and Certification Procedures and Duration of Medical Certificates

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule revises airman medical standards and medical certification procedures. The amendments implement a number of recommendations resulting from a comprehensive review of the medical standards announced in previous notices. This revision of the standards for airman medical certification and associated administrative procedures is necessary for aviation safety and reflects current medical knowledge, practice, and terminology. Also, this rule revises procedures for the special issuance of medical certificates (''waivers'') for those airmen who are otherwise not entitled to a medical certificate.

This rule also changes the duration of third-class airman medical certificates, based on the age of the airman, for operations requiring a private, recreational, or student pilot certificate.

Also, in this document, the FAA is announcing disposition of a number of petitions for rulemaking related to medical standards and duration of medical certificates.

EFFECTIVE DATE: September 16, 1996.

FOR FURTHER INFORMATION CONTACT: Dennis McEachen, Manager, Aeromedical Standards and Substance Abuse Branch, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 493–4075.

SUPPLEMENTARY INFORMATION:

Background

Current Requirements—Airman Medical Certification

Section 61.3(c) of Title 14 of the Code of Federal Regulations (14 CFR part 61) provides, with some exceptions, that no person may serve as pilot in command or in any other capacity as a required pilot flight crewmember unless that person has in his or her personal possession an appropriate current airman medical certificate issued under 14 CFR part 67. Part 67 provides for the issuance of three classes of medical certificates. A first-class medical certificate is required to exercise the privileges of an airline transport pilot certificate. Second- and third-class medical certificates are needed to exercise the privileges of commercial and private pilot certificates, respectively.

A person who is found to meet the appropriate medical standards, based on a medical examination and an evaluation of the applicant's history and condition, is entitled to a medical certificate without restrictions or limitations other than the prescribed limitation as to its duration. These medical standards are currently set forth in §§ 67.13, 67.15, and 67.17.

Special Issuance of Airman Medical Certificates

An applicant for a medical certificate who is unable to meet the standards in §§ 67.13, 67.15, or 67.17, and be entitled to a medical certificate, may nevertheless, be issued a medical certificate on a discretionary basis. Procedures for granting special issuances or exemptions have always been available, and, thus, failure to meet the standards has never been absolutely disqualifying. Historically, approximately 99 percent of all applicants ultimately receive a medical certificate.

Under § 67.19, Special issue of medical certificates, at the discretion of the Federal Air Surgeon, acting on behalf of the Administrator under § 67.25, a special flight test, practical test, or medical evaluation may be conducted to determine that, notwithstanding the person's inability to meet the applicable medical standard, airman duties can be performed, with appropriate limitations or conditions, without endangering public safety. If this determination can be made, a medical certificate may be issued with appropriate safety limitations.

Duration of Airman Medical Certificates

Section 61.23 identifies the duration of validity and privileges of each class of medical certificate. Currently, a first-class medical certificate is valid for 6 months for operations requiring an airline transport pilot certificate, 12 months for operations requiring a commercial pilot certificate or an air traffic control tower operator certificate (for non-FAA controllers), and 24 months for operations requiring only a private, recreational, or student pilot certificate. A second-class medical certificate is valid for 12 months for operations requiring a commercial pilot certificate or an air traffic control tower operator certificate (for non-FAA controllers) and for 24 months for operations requiring only a private, recreational, or student pilot certificate. A third-class medical certificate currently is valid for 24 months for operations requiring a private, recreational, or student pilot certificate.

History

On October 21, 1994, the FAA published a notice of proposed rulemaking (NPRM) (Notice No. 94–31, 59 FR 53226) proposing to amend parts 61 and 67. The proposed revisions to part 67 were based on an agency review of part 67 which was announced in the preamble to Amendment 67–11 (47 FR 16298; April 15, 1982) and on recommendations from a report prepared for the FAA by the American Medical Association (AMA). In the preamble to Amendment 67–11, the FAA announced that it intended to conduct an overall review of the medical standards in part 67. A complete review of the regulations was needed to bring the standards and procedures for airman medical certification up to date with advances in medical knowledge, practice, and terminology. Amendment 67–11 was considered interim clarification until a comprehensive review of the medical standards contained in part 67 could be concluded.

The FAA began the review of the medical standards for airmen and of its certification practices and procedures by requesting public comment (47 FR 30795; July 15, 1982). In addition, the FAA initiated a contract with the AMA to provide professional and technical information. The AMA presented its report, ''Review of Part 67 of the Federal Air Regulations and the Medical Certification of Civilian Airmen'' (AMA Report), on March 26, 1986. The public was again invited to comment on part 67 in ''Announcement of the Availability of a Report'' (51 FR 19040; May 23, 1986). The AMA Report detailed the results of a comprehensive review of the standards for airman medical certification and of their application. The AMA Report considered pertinent advances in the field of medicine since 1959, recommended changes in the FAA medical standards, and explained the rationale for such changes. The FAA considered public comments received on the AMA Report in developing Notice No. 94–31.

In a separate but related issue, on May 11, 1979, the Aircraft Owners and Pilots Association (AOPA) petitioned to amend § 61.23 to require medical examinations for private pilots at 36-month intervals rather than at 24-month

intervals. In response to the 1979 AOPA petition to amend § 61.23, the FAA issued on October 29, 1982, NPRM No. 82–15 (47 FR 54414, December 2, 1982) proposing to amend part 61 to revise the duration of validity of third-class privileges of airman medical certificates for operations requiring a private or student pilot certificate. As proposed by Notice No. 82–15, the requirement for a third-class medical examination would have been changed to every 5 years for the youngest pilots then increasing in frequency to the existing 2-year interval for older pilots.

On September 27, 1985, prior to the issuance of the AMA Report on its review of the airman medical standards and certification procedures in part 67, the notice proposing to amend part 61 to revise the duration of third-class airman medical certificates was withdrawn (50 FR 39619). The proposal was withdrawn, in part, because of issues raised by the medical community. Given the then pending issuance of the AMA Report and the possibility that the report would provide better data on which to base an evaluation of the safety concerns raised by the medical community, the FAA decided that any future consideration of examination frequency would be within the context of the outcome of the comprehensive review of part 67.

Petitions for Rulemaking

The FAA has received a number of other petitions for rulemaking that relate to airman medical certification and duration. These petitions are disposed of in this rulemaking. For each of these petitions a public docket was established, a notice of the petition was published in the Federal Register, and comments, if any, received on the petition were placed in the docket for public inspection.

On July 30, 1981, the Civil Pilots for Regulatory Reform petitioned the FAA to revise the rules so that pilots who have incurred a myocardial infarction will not be automatically disqualified for life for airman medical certification. (Docket No. 22054) This petition was discussed in the preamble to the NPRM (59 FR 53243). Also, see the discussion in this preamble under ''Cardiovascular §§ 67.111, 67.211, and 67.311'' and the corresponding rule language. Comments received on the petition totaled 311; all of which generally supported the petition. After careful consideration of all the comments, both from this petition and the current rulemaking action (Docket No. 27940), the FAA has determined that a diagnosis or medical history of myocardial infarction will continue to be disqualifying under part 67.

On February 26, 1986, AOPA again petitioned the FAA to revise the duration of a third-class airman medical certificate to 36 calendar months for noncommercial operations requiring a private, recreational, or student pilot certificate. (Docket No. 24932) See preamble discussion under ''Discussion of Comments and Amendments to Part 61'' (§ 61.23) and the corresponding rule language. Comments received on this petition totaled two; both supported the petition. After careful consideration of all comments, both from this petition and the current rulemaking action (Docket No. 27940), the FAA has decided to deny this AOPA petition and adopt the proposal (Docket No. 27940) with the modifications discussed under ''Discussion of Comments and Amendments to Part 61.''

On January 20, 1989, a petition was submitted to the FAA by Thomas J. Rush to provide a longer timeframe (60 or 90 days) for airmen to schedule medical examinations when they renew their special issuances of medical certificates. (Docket No. 25787) See the discussion in the preamble under ''Special Issuance § 67.401;'' ''Discussion of Comments and Amendments to Part 61;'' and the corresponding rule language. The Federal Register notice of this petition received no comment. After careful consideration of the issues of this petition and of comments to the current rulemaking action (Docket No. 27940), the FAA has determined that the rule as it relates to this issue should remain unchanged.

On February 12, 1990, AOPA petitioned the FAA to revise certain eye and cardiovascular standards to facilitate medical certificate issuance and better relate those standards to current medical knowledge and technology. Changes sought included the following: (1) Change the color vision standard for first-class medical certificates to the standard used for second-class medical certificates; and delete the color vision standard for third-class medical certificates; (2) Delete the uncorrected visual acuity standards; (3) Change the pathology of the eye standard for second-class medical certificates to the standard used for first-class medical certificates; and (4) For second- and third-class medical certificates, relate cardiovascular conditions to their impact on the applicant's ability to operate safely. (Docket No. 26156) See the discussion in the preamble under the major heading ''Vision §§ 67.103, 67.203, and 67.303'' (''Color Vision §§ 67.103(c), 67.203(c), and 67.303(c)''; ''Distant Visual Acuity''; ''Near Visual Acuity Standard''; and ''Intermediate Visual Acuity Standard''); and ''Cardiovascular §§ 67.111, 67.211, and 67.311''. Also see the corresponding rule language for these sections. Comments received on the petition totaled 80; 79 generally support the petition and 1 from the Air Line Pilots Association (now known as the Air Line Pilots Association International) (ALPA) opposed the petition. ALPA opposed the petition because they considered it premature in light of FAA's active rulemaking project to revise all of part 67. After careful consideration of all comments, both from this petition and the current rulemaking action (Docket No. 27940), the FAA has decided to adopt the vision and cardiovascular proposals of the current rulemaking action (Docket No. 27940) with the modifications discussed under ''Discussion of Comments and Final Rule for Part 67.''

On June 25, 1990, AOPA petitioned the FAA to amend frequently waived medical standards as follows: (1) Add a provision for continued limited pilot privileges pending FAA action on an application for renewal of a medical certificate; (2) Permit applicants for all classes of medical certificates to meet revised hearing standards in either or both ears with or without a corrective device; (3) Change the 2-year period of abstinence from alcohol to a period ''reasonable to ensure abstinence''; and (4) Permit issuance of second- and third-class medical certificates to diabetics using hypoglycemic drugs other than insulin (with Federal Air Surgeon concurrence). (Docket No. 26281) See the discussion in the preamble under ''Discussion of Comments and Amendments to Part 61'' (§ 61.23); ''Hearing §§ 67.105(a), 67.205(a), and 67.305(a)''; under the major heading ''Mental Standards §§ 67.107, 67.207, and 67.307'' (''Substance Dependence and Definitions'' and ''Substance Abuse''); and ''Diabetes §§ 67.113(a), 67.213(a), and 67.313(a)''. Also see the corresponding rule language for these sections. Comments received on the petition totaled 29; 28 generally supported the petition, and one from ALPA opposed the petition. ALPA opposed the AOPA petition for the same reason it opposed the February 1990 AOPA petition; ALPA considered it premature in light of FAA's active rulemaking project to revise all of part 67. After careful consideration of all comments, both from this petition and the current rulemaking action (Docket No. 27940), the FAA has decided to adopt the duration, hearing, mental, and

general medical proposals with the modifications discussed under ''Discussion of Comments and Amendments to Part 61'' and ''Discussion of Comments and Final Rule for Part 67.''

On August 27, 1990, a petition was submitted to the FAA by Frank Goeddeke, Jr., to allow individuals with alcoholism problems to obtain a medical certificate after abstaining from alcohol for 90 days, rather than the 2-year time period stipulated in the rules. (Docket No. 26330) See the discussion in the preamble under the major heading ''Mental Standards §§ 67.107, 67.207, and 67.307'' (''Substance Dependence and Definitions'' and ''Substance Abuse''). Also see the corresponding rule language for these sections. Comments received on the petition totaled three; all three supported the petition. After careful consideration of all comments, both from this petition and the current rulemaking action (Docket No. 27940), the FAA has decided to retain the 2-year abstinence requirement related to alcoholism.

In February 1991, the American Diabetes Association petitioned the FAA to amend the special issuance provisions of part 67 or, alternatively, amend the FAA special issuance policy to permit grants of special issuance of medical certificates to persons with insulin-treated diabetes mellitus (ITDM) and permit grants of special issuance of medical certificates on a case-by-case basis. The ADA also requested the creation of an FAA-appointed medical task force to develop a medical protocol to permit meaningful case-by-case review. (Docket No. 26493) The FAA referred to this petition in a request for comments on a proposed policy change concerning individuals with diabetes mellitus who require insulin that was published in the Federal Register on December 29, 1994. (See 59 FR 67246) See also the discussion in this preamble under ''Diabetes §§ 67.113(a), 67.213(a), and 67.313(a)'' and the corresponding rule language. Comments received on the petition totaled 160; there was general support for the rulemaking part of the petition. Most commenters, however, strongly support special issuance of medical certificates for persons with ITDM. After careful consideration of all comments, both from this petition and the current rulemaking action (Docket No. 27940), the FAA is denying that part of the ADA petition that requested rulemaking; i.e., an amendment to § 67.19. The FAA will respond to the ADA request for a policy change and to the comments received to both dockets when it publishes in a separate notice its disposition of the December 29, 1994, notice on that subject (Docket No. 26493).

On September 24, 1993, AOPA once again petitioned the FAA to revise the duration of a third-class airman medical certificate to 48 calendar months for a specific trial period for noncommercial operations requiring a private or student pilot certificate. Docket No. 27473) See the preamble discussion under ''Discussion of Comments and Amendments to Part 61'' (§ 61.23) and the corresponding rule language. Comments received on the petition totaled 140; 137 generally supported the petition and 3 opposed it. After careful consideration of all comments, both from this petition and the current rulemaking action (Docket No. 27940), the FAA has decided to deny this AOPA petition and adopt the current rulemaking action's duration proposal (Docket No. 27940) with the modifications discussed under ''Discussion of Comments and Amendments to Part 61.''

The FAA considered each of these petitions for rulemaking and the public comments on the petitions in preparing the NPRM and this final rule. The FAA believes that the actions requested in the petitions are addressed and resolved in this rulemaking action. Therefore, action in each of the referenced petitions is considered completed by publication of this final rule.

The FAA is also addressing two other petitions for rulemaking relating to part 67. On August 14, 1991, a petition was submitted to the FAA by Charles Webber and on June 20, 1992, a petition was submitted to the FAA by Robert H. Monson. Both of these petitioners request that the FAA eliminate § 67.3 in its entirety. The petitioners state that this rule allows the FAA to obtain a copy of an applicant's automobile driving record before an airman medical certificate can be issued and that this violates individual privacy rights (under the Privacy Act, 5 United States Code (U.S.C.) 552a). (Docket No. 26782 and Docket No. 26913) Section 67.3 was added to part 67 in 1990 after the National Driver Register (NDR) Act of 1982 was amended to specifically authorize the FAA to receive information from the NDR regarding motor vehicle actions that pertain to any individual who has applied for an airman medical certificate. In the NPRM and in this final rule § 67.3 has been recodified as § 67.7. The substance of this section was not discussed in the NPRM for this rulemaking because the background, issues, and public comments had been thoroughly covered in the final rule for § 67.3 (August 1, 1990; 55 FR 31300). Since § 67.3 went into effect, the FAA has found access to the NDR useful in making medical certification determinations. Comments received to the Webber petition totaled 24; all generally supported the petition. The Monson petition received no comment. After careful consideration of both petitions and all the comments, both from the petitions and the current rulemaking action (Docket No. 27940), the FAA has determined it will take no further action on the referenced petitions after publication of this final rule.

In accordance with the above discussion and after consideration of comments received on the NPRM, the FAA is revising part 67 and §§ 61.23 and 61.39 of part 61.

Summary of Amendments to Part 67

The following is a summary of the substantive revisions made by this rulemaking. Because this rulemaking completely recodifies part 67, this summary states both the current and new section/paragraph numbers.

1. Distant visual acuity requirements for first- and second-class medical certification are changed to delete the uncorrected acuity standards. However, each eye must be corrected to 20/20 or better, as in the current standard. [Current §§ 67.13(b) and 67.15(b); Final §§ 67.103(a) and 67.203(a)]

2. For third-class medical certification, the current 20/50, uncorrected, or 20/30, corrected, distant visual acuity standard is changed to 20/40 or better, in each eye, with or without correction. [Current § 67.17(b); Final § 67.303(a)]

3. For first- and second-class medical certification, minimum near visual acuity requirements are specified in terms of Snellen equivalent (20/40), corrected or uncorrected, each eye, at 16 inches. This replaces the current standard of v=1.00 at 18 inches for first-class only. An intermediate visual acuity standard (near vision at 32 inches) of 20/40 or better at 32 inches Snellen equivalent, corrected or uncorrected, is added to the first- and second-class visual requirements for persons over age 50. [Current §§ 67.13(b) and 67.15(b); Final §§ 67.103(b), 67.203(b), and 67.303(b)]

4. A near visual acuity standard of 20/40 or better, Snellen equivalent (20/40), corrected or uncorrected, each eye, at 16 inches is added to the third-class visual requirements. [Current (None); Final § 67.303(b)]

5. Color vision requirements are amended to read: ''ability to perceive those colors necessary for safe performance of airman duties,'' and are the same for all classes. Current

standards require ''normal color vision'' for first-class and the ability to distinguish aviation signal colors for second- and third-class applicants. [Current §§ 67.13(b), 67.15(b), and 67.17(b); Final §§ 67.103(c), 67.203(c), and 67.303(c)]

6. The current first-class standard pertaining to pathological conditions of the eye or adnexa that interfere or that may reasonably be expected to interfere with proper function of an eye is substituted in both the second- and third-class standards for the current standards which specify, respectively, ''no pathology of the eye'' and ''no serious pathology of the eye.'' [Current §§ 67.15(b) and 67.17(b); Final §§ 67.203(e) and 67.303(d)]

7. The ''whispered voice test'' for hearing is replaced for all classes by a conversational voice test using both ears at 6 feet; an audiometric word (speech) discrimination test to a score of at least 70 percent obtained in one ear or in a sound field environment; or pure tone audiometry according to a table of acceptable thresholds (American National Standards Institute (ANSI), 1969). [Current §§ 67.13(c), 67.15(c), and 67.17(c); Final §§ 67.105(a), 67.205(a), and 67.305(a)]

8. The standards pertaining to the ear, nose, mouth, pharynx, and larynx are revised to more general terms and related to flying and speech communication. Specific references to the mastoid and eardrum are deleted. The current standard, ''No disturbance in equilibrium,'' is changed to, ''No ear disease or condition manifested by, or that may reasonably be expected to be manifested by, vertigo or a disturbance of equilibrium.'' The amended standards are the same for all classes. [Current §§ 67.13(c), 67.15(c), and 67.17(c); Final §§ 67.105(b), 67.205(b), and 67.305(b)]

9. ''Psychosis,'' as used in the final rule, refers to a mental disorder in which the individual has delusions, hallucinations, grossly bizarre or disorganized behavior, or other commonly accepted symptoms of this condition, or may reasonably be expected to manifest such symptoms. [Current §§ 67.13(d), 67.15(d), and 67.17(d); Final §§ 67.107(a), 67.207(a), and 67.307(a)]

10. Substance dependence and substance abuse are defined and specified as disqualifying medical conditions. Substance dependence is disqualifying unless there is clinical evidence, satisfactory to the Federal Air Surgeon, of recovery, including sustained total abstinence from the substance for not less than the preceding 2 years. Substance abuse is disqualifying if use of a substance was physically hazardous and if there has been at any other time an instance of the use of a substance also in a situation in which that use was physically hazardous; or if a person has received a verified positive drug test result under an anti-drug program of the Department of Transportation or one of its administrations within the preceding 2 years. Alcohol dependence and alcohol abuse are included in the terms ''substance dependence'' and ''substance abuse'', respectively. [Current §§ 67.13(d), 67.15(d), and 67.17(d); Final §§ 67.107(a) and (b), 67.207(a) and (b), and 67.307(a) and (b)]

11. ''Bipolar disorder'' is added as a specifically disqualifying condition. This addresses an issue created by a change in nomenclature contained in the Diagnostic and Statistical Manual of Mental Disorders, Third Edition (DSM III), and continued in the DSM IV. [Current (None); Final §§ 67.107(a), 67.207(a), and 67.307(a)]

12. The general mental standard is amended to add the word ''other'' before ''mental.'' The final revised standard reads, ''No other personality disorder, neurosis, or other mental condition * * *.'' [Current §§ 67.13(d), 67.15(d), and 67.17(d); Final §§ 67.107(c), 67.207(c), and 67.307(c)]

13. ''A transient loss of control of nervous system function(s) without satisfactory medical explanation of the cause,'' is added as a specifically disqualifying neurologic condition. [Current (None); Final §§ 67.109(a), 67.209(a), and 67.309(a)]

14. The word ''seizure,'' is substituted for ''convulsive.'' [Current §§ 67.13(d), 67.15(d), and 67.17(d); Final §§ 67.109(b), 67.209(b), and 67.309(b)]

15. ''Cardiac valve replacement,'' ''permanent cardiac pacemaker implantation,'' and ''heart replacement'' are added as specifically disqualifying cardiovascular conditions for all classes of certification. [Current §§ 67.13(e), 67.15(e), and 67.17(e); Final §§ 67.111(a); 67.211 (d), (e), and (f); and 67.311 (d), (e), and (f)]

16. The time period for which an electrocardiogram may be used to satisfy the requirements of the first-class medical certificate is revised to 60 days from the current 90 days. [Current § 67.13(e); Final §§ 67.111(c)]

17. The current table of age-related maximum blood pressure readings for applicants for first-class medical certificates and the reference to ''circulatory efficiency'' are deleted. Blood pressure will continue to be assessed for all three classes but will be evaluated under the appropriate general medical standards. [Current § 67.13(e); Final §§ 67.113(b), 67.213(b), and 67.313(b)]

18. Current § 67.19, Special issue of medical certificates, is rewritten [Final § 67.401(a)] to provide for, at the discretion of the Federal Air Surgeon, an ''Authorization for a Special Issuance of Medical Certificate'' (Authorization), valid for a specified period of time. An individual who does not meet the published standards of part 67 may be issued a medical certificate of the appropriate class if he or she possesses a valid Authorization. The duration of any medical certificate issued in accordance with proposed § 67.401 is for the period specified at the time of its issuance or until withdrawal of an Authorization upon which the certificate is based. A new Authorization is required after expiration, and the applicant must again apply for a special issuance of a medical certificate.

19. Final § 67.401(b) provides for a Statement of Demonstrated Ability (SODA) instead of an Authorization. A SODA will be issued with no expiration date to applicants whose disqualifying conditions are static or nonprogressive and who have been found capable of performing airman duties without endangering public safety. A SODA authorizes an aviation medical examiner to issue a medical certificate if the applicant is otherwise eligible.

20. Final § 67.401(e) retains the language of current § 67.19(c) regarding consideration of the freedom of a private pilot to accept reasonable risks to his or her own person or property that are not acceptable in the exercise of commercial or airline transport pilot privileges, and consideration at the same time of the need to protect the safety of persons and property in other aircraft and on the ground.

21. Final § 67.401(f) adds language that explicitly provides that the Federal Air Surgeon may withdraw the Authorization or SODA. An Authorization or SODA may be withdrawn at any time for (1) adverse change in medical condition, (2) failure to comply with its provisions, (3) potential endangerment of public safety, (4) failure to provide medical information, or (5) the making or causing to be made of a statement that is covered by § 67.403.

22. Final § 67.401(i) permits a person to request that the Federal Air Surgeon review a decision to withdraw an Authorization or SODA. The request for a review must be made within 60 days of the service of the letter that withdrew the Authorization or SODA. The review procedures will be on an expedited basis and will provide the affected

holder of an Authorization or SODA a full opportunity to respond to a withdrawal by submitting supporting appropriate evidence.

23. Final § 67.403 differs from current § 67.20 by providing for denial of an airman medical certificate if the application for an airman medical certificate is falsified. Though this consequence is implied, the current regulation specifically provides only for revocation or suspension of certificates. Additionally, § 67.403 provides for denial or withdrawal of any Authorization or SODA if the information provided to obtain it is false, whether the statement was knowingly false or unknowingly incorrect. Finally, § 67.403(c) makes an unknowingly incorrect statement that the FAA relied upon in making its decisions regarding an application for an airman medical certificate or a request for an Authorization or SODA, a basis for denial, revocation, or suspension of an airman medical certificate and the denial or withdrawal of an Authorization or SODA.

24. A new § 67.415 provides that the holder of any medical certificate that is suspended or revoked shall, upon the Administrator's request, return it to the Administrator. The FAA practice always has been to request return of the certificate in such circumstances to avoid any misunderstanding as to the validity of the certificate.

25. Where appropriate, changes are made to eliminate gender-specific pronouns, to replace ''applicant'' with ''person,'' to use current position titles and addresses, to correct spelling and improve syntax, and to adjust section and paragraph references.

General Discussion of Public Comments

In response to the NPRM, the FAA received over 5,200 written comments from the public. In addition, in January of 1995, the FAA held three public meetings on the proposal, at which approximately 50 individuals and organizations participated. One was held in Washington, D.C., one in Orlando, Florida, and one in Seattle, Washington. Information from both the written comments to the docket and the presentations at these public meetings was considered in the final rule decisions along with the petitions for rulemaking and the comments received to those dockets discussed above.

Commenters include approximately 30 trade associations, over 20 FAA aviation medical examiners (AME's), and over 5,100 members of the general public. Air transport pilots and other commercial pilots, private and recreational pilots, flight schools, and flight instructors were among the public commenters.

A substantial number of commenters oppose the proposed changes on the basis that these changes would be a financial burden, that there is a lack of accident data to support stricter standards, and that the stricter standards would not produce discernible safety benefits. There was little or no opposition, however, to proposed changes that relaxed standards or reduced the regulatory burden.

The FAA carefully considered each comment and all presentations made at the public meetings in determining this final rule. Comments that address specific proposed requirements relevant to the proposed rule are summarized and responded to in the following sections of this preamble. To the extent possible, all comments relevant to the adopted standards and regulatory changes are addressed; issues not relevant to this rulemaking raised in the written comments or at the public meetings are not addressed in this document.

The FAA has determined that several of the proposed stricter standards are not required at this time. The withdrawal of these proposed stricter standards are fully discussed in the relevant sections of this document.

Overall Justification and Authority for This Rulemaking

AOPA, which represents the interests of 330,000 pilots and aircraft owners, states in its comment that there is not sufficient justification to warrant this rulemaking since more than 98 percent of all general aviation accidents do not involve medical factors. AOPA also asserts that the FAA's statutory authority for regulating medical standards does not justify the medical certification program currently in place, especially with respect to persons who exercise only private or recreational flying privileges. AOPA states that it is unable to identify a grant of authority to the Administrator to deny a medical certificate to a pilot based, not on the pilot's present physical ability but on the finding that a condition may reasonably be expected within 2 years after the finding to make the pilot unable to perform the required duties. AOPA believes that the FAA should reconsider whether the proposal goes beyond the intent of the Federal Aviation Act of 1958 and beyond what is necessary to safety in air commerce.

In a related comment, the Independent Pilots Association (IPA) states that ''nowhere is the FAA or the Federal Air Surgeon charged with the duty to practice preventive medicine.''

FAA Response: The FAA has not gone beyond the intent of its authority in this rulemaking action. As stated previously in this notice, the purpose of this rulemaking is to update the medical standards to reflect current medical knowledge, practice, and terminology. The FAA is authorized under 49 U.S.C. 44703 to find that an applicant for an airman certificate is physically able to perform duties pertaining to the position for which the certificate is sought. The FAA is to issue such a certificate ''containing such terms, conditions, and limitations as to duration thereof, periodic or special examinations, tests of physical fitness, and other matters'' necessary to assure aviation safety.

It is reasonable that airmen, sharing the same air space and flying over the same populated areas, whether engaged in air transportation or in private operations, must meet certain standards in skills and medical fitness to assure aviation safety. That some distinction in the degree of standards is permissible is reflected in the distinction between types of pilot certificates and classes of medical certificates as required by law. While the FAA is not charged with the duty to practice preventive medicine, determining the medical fitness of airmen requires making an assessment of the risks involved in certain medical conditions and denying medical certification in instances in which the person is, or may be, unable to safely perform aviation activities.

On reconsideration of the proposal and after careful consideration of all the comments and presentations received, the FAA is withdrawing certain proposed requirements. Among the withdrawals are (1) the proposal to shorten the duration of third-class medical certificates for pilots 70 and older, (2) the requirement for a test to determine total blood cholesterol, and (3) electrocardiogram requirements for second-class medical certificates. A more complete discussion of the withdrawal of the requirements occurs in the following sections of the preamble.

One of the FAA's primary concerns is the need to ensure that its regulations maintain the proper balance between cost and benefits. The FAA will only issue a final rule when there is clear evidence that it will enhance safety, and that it will do so at a reasonable cost. This is a longstanding FAA commitment, and a requirement of DOT policies and procedures. In this context, after review of the comments, the FAA is not persuaded that there is yet adequate evidence to show that those costs of the proposals are justified by

the safety benefits that can reasonably be expected.

However, the FAA will continue to monitor accident and health data as part of our responsibility to help ensure that adequate safety is maintained. Consistent with the principles of the Clinton administration's National Performance Review, the FAA will, in the coming months, explore alternative nonregulatory means to reduce medically-related accidents. These alternative administrative actions will not impose the same costs on airmen as the proposals contained in the NPRM, but will assist pilots and aviation medical examiners in identifying and reducing potential medical risks.

National Transportation Safety Board (NTSB) and Judicial Review

Several associations and individuals comment that this rulemaking appears to be an effort by the FAA to change decisions by the NTSB and the courts. Several individuals at the hearings held in conjunction with this rulemaking also expressed this opinion.

FAA Response: The FAA agrees that in some cases these comments are accurate. The FAA promulgates rules and policies when the FAA determines that a substantial public safety interest requires such action. In some circumstances, the NTSB or the courts have determined that the rule language adopted by the FAA does not achieve the FAA's intent. The FAA views the circumstances in which review authorities have disagreed with the FAA's interpretation of its rules as a reflection of regulatory defects and not a reflection of policy defects. This rule corrects the regulatory defects by clarifying or more accurately stating in the regulatory language those policies that the FAA believes are necessary to protect substantial public safety interests.

Discussion of Comments and Amendments to Part 61

Proposed § 61.23 lengthens the current 2-year third-class medical certification period to a 3-tier system: a 3-year period for pilots under age 40, a 2-year period for those age 40 to 69, and annual certification for pilots age 70 and over.

Comments: Most individual commenters expressed support for the increased duration (from 2 years to 3 years) for third-class medical certificates for pilots under age 40. Several AME's comment that it is appropriate to differentiate for age, although opinions of AME's and other commenters vary as to the age at which the frequency of examinations should change. Commenters suggest duration periods for third-class medical certificates ranging from 1 to 5 years.

Several associations, several AME's, and a majority of the individuals who commented on this issue strongly oppose the proposal to increase the frequency of medical examinations for pilots age 70 and over for reasons including the following: the proposal may be illegal under federal age discrimination laws; more frequent examinations will not predict sudden incapacitation; the benefits have not been demonstrated; accident rates are lower for older pilots; and the statistical analysis the FAA used to confirm that incidence of accidents increases with age is supported by an insufficient sample size. The Experimental Aircraft Association (EAA), AOPA, and the Colorado Pilots Association believe all airmen should have a 3-year standard regardless of age because, until medical technology reaches a point where the onset of a heart attack can be accurately predicted, there is no justification for more frequent or different examinations for pilots age 70 or over.

Some commenters say that the requirement will be particularly burdensome to older pilots, many of whom are on a fixed income. One commenter suggests that the FAA pay for annual examinations if they will be required. Several commenters note that such examinations are generally not covered by insurance.

FAA Response: The FAA has decided to lengthen the current 2-year third-class medical certification period to a 2-tier system. For airmen under age 40, medical certificates must be renewed every 3 years. For airmen age 40 and over, the current 2-year duration will remain.

As stated in the NPRM, extending the length of time between examinations for third-class medical certificates of persons under age 40 should result in no significant increase in undetected pathology between required examinations. The FAA, after careful consideration of all comments and testimony received as well as the petitions and comments received to Docket Nos. 24932, 26281, and 27473, has determined that extending the duration between medical examinations can be done with no detriment to safety in the case of younger airmen who are much less likely to suffer medical incapacitation. As with all age groups, those individuals under age 40 manifesting conditions that represent a risk to safety will be denied certification or, if they apply for and receive a special issuance of a medical certificate, will be restricted in their flying activities or examined more thoroughly and frequently, or both.

The final rule will provide for maximum regulatory relief without a decrement to public safety.

The proposal to shorten the duration of third-class medical certificates of airmen over the age of 70 is being withdrawn because on reexamination insufficient data exist to support the revision at this time. Several aviation associations, AME's, and individuals commented that the data used in the proposal did not support the conclusion that decreased accidents would result if the duration of third-class medical certificates for airmen over the age of 70 was shortened. The FAA has determined that the possible reduction of a very few known general aviation accidents that are medically-related cannot be justified when compared with the cost of the proposal. This is in contrast to accidents of airline transport and commercial carriers where a single accident may have significant loss of life and property.

All third-class medical certificates or third-class privileges of a first- or second-class medical certificate issued prior to the effective date of this final rule will remain valid for 2 years from the date of issuance of the certificate unless the validity period has been otherwise limited by the FAA. The period of validity for all third-class airman medical certificates or third-class privileges of a first- or second-class medical certificate issued on or after the effective date of this final rule will be calculated according to the provisions of the final rule unless the validity period is otherwise limited by the FAA.

Section 61.53 provides that: ''No person may act as pilot in command, or in any other capacity as a required pilot flight crewmember while he [or she] has a known medical deficiency, or increase of a known medical deficiency, that would make him [or her] unable to meet the requirements for his [or her] current medical certificate.'' This amendment does not change § 61.53, and the FAA continues to require airmen to comply with that rule. In reducing the frequency of required periodic contacts with knowledgeable health professionals, self-monitoring and personal attention to health become a more important part of the individual airman's responsibility for flight safety.

Consistent with the changes above, the final rule amends § 61.39 to coincide with the duration change in § 61.23. Section 61.39 requires that applicants must possess at least a third-class medical certificate or the third-class privileges of a first- or second-class medical certificate valid under § 61.23

in order to be eligible for a flight test for a certificate, or an aircraft or instrument rating.

Discussion of Comments and Final Rule for Part 67

The following discussion generally addresses comments received and the FAA's response to those comments on the specific standards or requirements in the rule. As noted above, over 5,200 comments were received concerning this rulemaking. The comments addressed by the FAA are broadly representative of these many thousands of comments. Other matters and issues raised by the commenters, such as additional tests and examinations that are performed under the special issuance procedures, are not addressed in this document. The FAA is responding only to comments that are within the scope of this rulemaking.

Lists of Medical Standards

General

''Include, but are not limited to.'' The proposal uses the word ''includes'' rather than the word ''are'' in each section of the medical standards because the proposed medical standards are not, and never have been, meant to be exhaustive in naming all medical conditions that are disqualifying.

Comments: AOPA, EAA, National Air Transportation Association (NATA), and most individual commenters say this provision gives FAA absolute discretion without proper promulgation of regulations; the language is too open-ended and provides no standard at all. AOPA states that because the disqualifying conditions are not enumerated, applicants cannot know if they have a deficiency for which the FAA would disqualify them. One AME says that the proposal gives the FAA too much leeway, and should read ''are limited to.'' A majority of the individual commenters strongly oppose use of the term ''include, but are not limited to,'' saying that it would allow FAA too much unchecked authority over an applicant.

FAA Response: The final rule will not contain the proposed language ''include, but are not limited to.'' Medical conditions identified during an evaluation that are not specifically listed as disqualifying but do not meet the general medical standard regarding safe performance of duties and exercise of privileges, would continue to be disqualifying under general medical standards. The intent of the proposal was to alert individuals of this long-standing FAA practice and not to expand the scope of the regulations.

Vision (Sections 67.103, 67.203, 67.303)

Distant Visual Acuity. The proposal deletes the uncorrected vision standard for first- and second-class medical certificates and requires a distant visual acuity of 20/20 or better, in each eye, with or without correction. For third-class medical certificates, a distant visual acuity of 20/40 or better with or without correction, is required for each eye.

Comments: Comments on the proposal for distant visual acuity were in favor of the changes; one AME notes that the proposal is less stringent than the present standards.

FAA Response: The final rule is the same as proposed in the NPRM. As stated in the NPRM, the FAA practice for many years has been to grant any class medical certificate requested, regardless of uncorrected distant acuity, if the required minimum vision is present or achieved through conventional corrective lenses, there is no evidence of significant eye pathology, and the person is otherwise eligible. Thousands of airmen have demonstrated their ability to safely perform their jobs while using corrective lenses for distant visual acuity that is poorer than 20/100 in each eye. The FAA, after careful consideration of the comments and presentations received as well as the petition and comments received to Docket No. 26156, has determined that the requirements for distant visual acuity may be relaxed. The revision will streamline the process of medical certification by not requiring special issuance for persons who cannot meet an uncorrected distant acuity standard.

Near visual acuity standard. The proposed rule replaces the outdated standards for near visual acuity by requiring for all three classes a near visual acuity of 20/40 or better, Snellen equivalent, at 16 inches in each eye separately, with or without corrective lenses.

Comments: United States Pilots Association (USPA) states that the FAA presented no evidence to justify the addition of a near-vision standard. Joint Aviation Authorities (JAA) also notes the lack of accident-supported data, but states that the European opinion is that the pilot should have enough visual capacity to read the aircraft instruments if his or her glasses or lenses are lost in flight. The EAA suggests changing 16 inches to ''ability to read an instrument panel,'' which would preserve the intent of the rule, but would not require any additional equipment or training of AME's.

Three AME's approve and one disapproves of the proposed near visual acuity standards. One AME doubts that a pilot with 20/40 vision can read small print (such as on instrument approach plates) in dim light, but notes that a nearsighted person can compensate by looking around one's spectacle lenses. Farsighted persons with 20/40 vision, however, may not be able to read small print at 16 inches. This commenter suggests (1) supplying AME's with specimen aeronautical charts and plates and requiring that the items be read in normal room light with or without correcting lenses, or (2) raising the near vision standard to at least 20/25.

FAA Response: The FAA agrees with the AMA Report recommendation that all three classes of medical certificates should have the same near visual acuity standards. The final rule is the same as proposed. It eliminates the antiquated terminology in the current standards for first-class medical certification, corrects the inconsistency between standards and practice for second-class medical certification, and establishes a standard for third-class medical certificates. After careful consideration of all comments and presentations received as well as the petition and comments received to Docket No. 26156, the FAA has determined that the near visual acuity standard proposed in the NPRM establishes an objective requirement that is necessary for safety and can be best accomplished by the final rule.

Intermediate visual acuity standard. The NPRM proposed to add a new intermediate visual acuity standard (near vision at 32 inches) for first- and second-class medical certificates for pilots age 50 or older of 20/40, Snellen equivalent, at 32 inches in each eye separately, with or without corrective lenses.

Comments: The AMA states that all pilot applicants older than 50 should have 20/40 visual acuity at 32 inches because they need this degree for proper sight and use of instruments, switches, and other controls.

Regarding intermediate visual acuity, AOPA says that 20/40 at 32 inches over age 50 is unjustified, and that the age criteria is arbitrary. One AME says there are no data or operational experience to suggest that an additional middle vision standard for older pilots is needed. According to one AME, the 32-inch intermediate vision standard is too strict for pilots over 50 and will add to the cost without adding any discernible benefit. According to this commenter, those who need trifocals already have them.

FAA Response: The final rule includes a requirement for intermediate

visual acuity for first- and second-class medical certificates for pilots age 50 or older. This standard is consistent with the International Civil Aviation Organization (ICAO) standards. The AMA Report recommended this intermediate vision standard in light of the eye's diminished ability with age to accommodate intermediate viewing distances. Also, the NTSB has recommended that an intermediate vision standard be established. The FAA, after careful consideration of the comments received as well as the petition and comments received to Docket No. 26156, has determined to adopt the rule proposed in the NPRM; airline transport and commercial pilots need adequate intermediate vision to monitor aircraft instruments and other cockpit equipment. This standard is also necessary to safeguard the public safety.

Color Vision (Sections 67.103(c), 67.203(c), 67.303(c))

The proposed color vision standard for all classes is the ''ability to perceive those colors necessary for safe performance of airman duties.'' Current standards require ''normal color vision'' for first-class applicants and the ability to distinguish aviation signal colors for second- and third-class applicants.

Comments: The USPA, NATA, and National Agricultural Aviation Association (NAAA) support the proposed simplification of the color vision standard.

One AME states that the current system is adequate to identify the individual with a color vision problem and should be left intact. This commenter states that the proposed NPRM advances no new or improved method of determining color vision abilities.

AOPA and the AMA say that the regulations as proposed leave too much room for inconsistent interpretation; the rule should precisely state what colors are ''necessary for the safe performance of airman duties'' and what tests should be done. An individual suggests using visual flight rule (VFR) charts and runway and taxi light colors as discriminants for realistic and practical color vision tests. EAA says that the FAA should change the wording ''safe performance of airman duties'' to ''read and understand a sectional aeronautical chart.'' EAA believes this would ensure the intent of the rule, give the AME a simple inexpensive test, and better define what is necessary for safe performance of duties.

Aerospace Medical Association (ASMA) and Air Transport Association (ATA) oppose the proposed changes. ASMA suggests that the FAA discontinue the color blindness test; the standard should be based on an individual's ability to perform safely.

FAA Response: The final rule for color vision is the same as proposed. As stated in the NPRM, in current practice applicants for certification are tested by use of standard pseudoisochromatic plates or by other approved devices. A passing score defines the applicant as not color deficient. Failure indicates a color deficiency and requires that any medical certificate issued be limited, prohibiting flight at night or by color signal control. The limitation can be removed by successful completion of a practical signal light test or of a medical flight test, as appropriate for the class medical certificate sought and the level of aviation experience of the applicant. This final rule would allow, for all three classes of medical certificates, an individual who fails the test using pseudoisochromatic plates or other approved devices to still obtain a medical certificate without obtaining a waiver as long as the individual can demonstrate an ability to perceive those colors necessary for the safe performance of airman duties. The FAA will provide guidance to AME's to assist in these tests.

The FAA, after careful consideration of the comments and presentations received as well as the petition and comments received to Docket No. 26156, has determined that the color vision standard in the final rule should remain as proposed.

Hearing (Sections 67.105(a), 67.205(a), 67.305(a))

In the proposed rule, the ''whispered voice test'' for hearing is deleted for all classes and replaced with three alternatives: (1) A conversational voice test using both ears at 6 feet; (2) an audiometric word (speech) discrimination test to a score of at least 70 percent obtained in one ear or in a sound field environment; or (3) pure tone audiometry according to a table of acceptable thresholds (ANSI, 1969).

Comments: Some AME's generally support the proposed hearing standards. ASMA states, however, that the rule language could be interpreted to require audiograms and that the FAA should state in the preamble that it intends for the basic screening test to be the spoken-voice test. ASMA also says that the rule should state that audiometric tests are only used as alternatives for further evaluation of individuals who show reduced hearing acuity.

Many commenters support the ''conversational voice'' recognition standard as operationally relevant. AOPA and USPA support the proposed standard that allows both ears to be used simultaneously to hear conversational voice spoken at 6 feet.

ATA says a pure tone audiogram followed by a speech discrimination test based upon an audiometric standard guideline would be a far more accurate and objective measurement of hearing than the highly subjective conversational and whispered voice tests.

ATA says that a 70 percent score on an audiometric word discrimination test is too low to support speech comprehension during critical phases of flight; the standard should be 95 percent. Another individual suggests that 85 percent would allow for accurate communication in more cockpit environments. ATA and one AME also believe that the rule is vague, should be more descriptive, and should cite a decibel reading for administering the test.

One AME says that possibly a screening cut-off level for pure-tone audiometry would be appropriate.

AOPA says that the same screening test should apply for those without ''normal hearing'' and users of hearing aids. According to AOPA, there appears to be no clinical reason for excluding the use of hearing aids within the medical standards.

Several commenters question whether an ''and'' or an ''or'' is appropriate between subparagraphs (a)(1) and (a)(2) of §§ 67.105, 67.205, and 67.305. Most think the rule should say ''or.''

A commenter notes that the standard for 2000 Hz in the chart in § 67.205(c) is 30 for the poorer ear, which is more stringent than the standard of 50 for first-class medical certificate. The commenter believes that this must be a typographical error.

FAA Response: The final rule is the same as proposed, except that the typographical error in the chart in § 67.205(c) is corrected to 50 and the lead-in for paragraph (a) in all three sections reads: ''The person shall demonstrate acceptable hearing by at least one of the following tests:'' and a period is placed at the end of each subparagraph. These editorial corrections to paragraph (a) are intended to eliminate any confusion or ambiguity. Passing any one of the tests, as required, is acceptable for certification. The FAA anticipates that the conversational voice test will be the most commonly used; however, passing any one of the tests will suffice even if the applicant has failed the other two. While there is some subjectivity to a conversational voice test, it is the simplest and least expensive form of testing. The FAA, after careful consideration of the

comments and presentations received as well as the petition and comments received to Docket No. 26281, has determined that the hearing standards in the final rule should remain as proposed.

The FAA is following the AMA Report recommendations in requiring a 70 percent score in an audiometric word discrimination test. The FAA considers a 95 percent score too restrictive.

As with current policy, if a hearing aid is necessary to meet the standard, an Authorization or SODA is required. In most cases, however, a person using a hearing aid can be issued a medical certificate.

Equilibrium (Sections 67.105(c), 67.205(c), 67.305(c))

The proposal revises the current standard, ''No disturbance in equilibrium,'' to, ''No ear disease or condition manifested by, or that may reasonably be expected to be manifested by, vertigo or a disturbance of equilibrium.'' The proposed standards are the same for all classes.

Comments: One commenter states that the ear, nose, throat, and equilibrium revisions are appropriate and realistic for addressing safety.

AOPA and other commenters say that the language relating to vertigo or disturbance of equilibrium is too broad; instead the rule should qualify that an applicant shall have ''no disturbance of equilibrium that is severe enough to make piloting an aircraft unsafe.'' AOPA asserts that vertigo is a common and normal occurrence and disqualification should not be based on a symptom. According to AOPA an episode of in-flight vertigo is not necessarily attributable to an underlying medical condition that is disqualifying. AOPA notes that the FAA intentionally induces vertigo at safety seminars using a ''vertigon'' chair.

FAA Response: The final rule is the same as proposed. The final rule is more precise than the current rule since it specifies that the vertigo or disturbance of equilibrium be a manifestation of a condition or disease of the ear. It appears commenters are confusing pilot vertigo or spatial disorientation that can occur in flight with vertigo that is a manifestation of a medical condition or disease. In-flight pilot vertigo or spatial disorientation is not related to this medical standard. The FAA has determined, after careful consideration of the comments and presentations received, that the equilibrium standards in the final rule should remain as proposed.

Mental Standards (Sections 67.107, 67.207, 67.307)

Definition of Psychosis. The proposed rule states that ''psychosis'' refers to ''a mental disorder in which the individual has manifested psychotic symptoms or to a mental disorder in which the individual may reasonably be expected to manifest psychotic symptoms.'' This language change was proposed to be consistent with the diagnostic terminology and classification of mental disorders, published in the DSM III and its successor DSM IV.

Comments: ATA suggests identifying the underlying disorders that FAA considers psychoses, e.g., schizophrenia, paranoid states, or depression. ATA suggests defining psychosis as ''an alteration in either thought content or process, or both, to such an extent that the individual suffers from hallucinations, delusions, or other manifestations.'' One AME states that ''psychotic reaction'' needs further definition in the rule. IPA suggests that the FAA refrain from referring to a specific edition of the DSM since DSM-IV is the current psychiatric diagnostic standard, not the 15-year old DSM-III referenced in the NPRM. JAA says its Manual of Civil Aviation Medicine gives much more detailed interpretation of its psychiatric and psychological requirements.

FAA Response: On reconsideration and after careful consideration of the comments received, the FAA has changed the final rule language regarding psychosis to be more specific. Paragraph (a)(2) of §§ 67.107, 67.207, and 67.307 reads as follows:

''(2) A psychosis. As used in this section, 'psychosis' refers to a mental disorder in which:

''(i) The individual has manifested delusions, hallucinations, grossly bizarre or disorganized behavior or other commonly accepted symptoms of this condition; or

''(ii) The individual may reasonably be expected to manifest delusions, hallucinations, grossly bizarre or disorganized behavior, or other commonly accepted symptoms of this condition.''

At the time of the AMA Report and the FAA review of part 67, the most current DSM was DSM III. Since then, the DSM has been revised and the most current version is DSM IV. The FAA has determined that the revisions between DSM III and DSM IV do not necessitate any substantive changes between the proposed rule and the final rule.

Bipolar disorder. The proposed rule adds bipolar disorder (formerly ''manic depressive psychosis'') as a specifically disqualifying mental condition because the American Psychiatric Association's nomenclature in DSM III and DSM IV no longer includes bipolar disorder within the category of psychoses.

Comments: One AME and a few individuals support the proposal to make bipolar disorders disqualifying.

AOPA believes bipolar disorder should not be singled out as a disqualifying mental condition, and that applicants should be evaluated on a case-by-case basis. AOPA asserts that bipolar disorders vary in severity and symptoms from one individual to another; some never exhibit the manic symptoms which appear to be the primary concern of the FAA.

FAA Response: The FAA, after careful consideration of the comments and presentations received, has determined that the final rule be the same as proposed. However, since the proposed rule was issued, DSM IV was developed which refers to more than one bipolar disorder and to separate criteria that apply to the different types of bipolar disorders. Although the DSM IV contains a change in classification of this disorder, there is no change in the rule language from the proposed rule language because the disorder, whatever its classification, is considered disqualifying.

The FAA believes these conditions are of concern in the context of airman medical certification and flight safety, and that the agency must amend the mental standards since in accordance with the DSM III and its successor DSM IV, psychoses no longer include bipolar disorders. In consideration of potential risk to flight safety, individuals with this diagnosis are rarely granted certification. Those few individuals who are determined to be eligible for certification through the special issuance provisions must be followed closely for relapse and recurrence of symptoms. By including the new terminology, the standards will clearly reflect the agency's concern about this disorder. Specifically listing bipolar disorders as disqualifying is not a substantive change in FAA policy or practice.

Substance Dependence and Definitions. The proposal updates the standards for alcoholism and drug dependence to make them consistent with DSM III (and subsequently DSM IV) nomenclature which eliminates the term ''alcoholism'' and substitutes the diagnoses of ''substance dependence'' and ''substance abuse.'' The proposed revision defines ''substance dependence,'' ''substance abuse,'' and ''substance.'' The proposed revision identifies disqualifying substances or

groups of substances (e.g., alcohol, cocaine, opioids, hallucinogens, cannabis, etc.) and would make dependence on or abuse of them disqualifying. The proposal also makes substance dependence disqualifying unless there is clinical evidence of recovery, including sustained total abstinence for not less than the preceding 2 years in the case of alcohol dependence, and the preceding 5 years in the case of other substance dependence.

Comments: Two AME's generally support the proposed changes regarding substance dependence. AOPA, National Air Traffic Controllers Association (NATCA), EAA, and two other AME's suggest a minimum 2-year abstinence for all substances because they believe the extended period of decertification for substance dependency is without statistical justification. According to these commenters, the AMA data on which the 5-year restriction is based are dated; there are many new treatments and research that indicate a required 5-year abstinence is too strict; and the 5-year rule may reflect some public hysteria concerning drug use. In addition, according to these commenters, there are six times as many alcohol-related accidents as drug-related accidents, bringing into question why the FAA is proposing stricter standards on other substances when alcohol is a greater problem.

Two AME's say the FAA should not broaden the substances and should leave the regulation as is. Another AME says FAA needs to further define ''substance'' by identifying particular drugs.

EAA says that the FAA should limit the disqualification for muscle relaxants to users of ''muscle relaxants with habit-forming potential'' because many muscle relaxants have no habit-forming potential.

FAA Response: The FAA, after careful consideration of the comments and presentations received as well as the petitions and comments received to Docket Nos. 26281 and 26330, has decided to make the minimum period of abstinence from alcohol and other substances 2 years because longer term experience with recovery from dependence on drugs or alcohol now suggest that 2 years is adequate for both alcohol and drugs. In many cases, the FAA has granted special issuance to air transport and commercial pilots and has waived the 2-year abstinence period when it was satisfied that certain stringent criteria are met. The criteria can be summarized as follows: (1) A full commitment and partnership of the aviation employer and employee to ensure the employee's continued sobriety through monitoring; (2) full commitment and partnership of the recovering employee with a fellow employee to ensure continued sobriety through monitoring; and (3) frequent evaluations, testing, and attendance at professional aftercare treatment.

Also, the FAA has decided to delete ''muscle relaxants'' from the list of substances in §§ 67.107(a)(4)(i), 67.207(a)(4)(i), and 67.307(a)(4)(i) in part because the FAA agrees with the EAA comment, but also because muscle relaxants are not included as a substance in DSM III and its successor DSM IV.

To conform with DSM IV terminology, the FAA has changed the reference to ''volatile solvents and gases'' to ''inhalants,'' a term the FAA considers to be equivalent.

Otherwise the final rule is the same as proposed. The standards are consistent with the AMA Report and address the national concerns about substance dependence.

Substance abuse. As proposed, substance abuse is one of the following:

(1) Use of alcohol within the preceding 2 years in a situation in which that use is physically hazardous, if there has been at any other time an instance of the use of alcohol or another substance also in a situation in which that use was physically hazardous; or

(2) Use of a substance other than alcohol within the preceding 5 years in a situation in which that use is physically hazardous, if there has been at any other time an instance of the use of that substance, alcohol, or another substance also in a situation in which that use was physically hazardous;

(3) Use of a prohibited drug defined in appendix I of part 121 of this chapter within the preceding 5 years; or

(4) Misuse of a substance within the preceding 2 years if alcohol or within the preceding 5 years if another substance, that the Federal Air Surgeon based on case history and appropriate qualified medical judgment, finds—

(i) Makes the person unable to safely perform the duties or exercise the privileges of the airman certificate applied for or held or

(ii) May reasonably be expected, for the maximum duration of the airman medical certificate applied for or held, to make the person unable to perform those duties or exercise those privileges.

Comments: Two AME's and other commenters generally support the proposed changes to the substance abuse standard.

The JAA states that the proposed recommendations are similar to those in the JAA proposals except that a shorter recertification period following alcohol abuse is allowed and the JAA Manual of Civil Aviation Medicine gives much more detailed interpretation of the psychiatric and psychological requirements.

EAA says the broad FAA list of ''substances,'' combined with the definition of ''abuse'' and the extremely vague issue of ''physical hazard'' makes it conceivable that abuse could be held as a single misapplication of prescription medication (e.g., amphetamines, tranquilizers, sedatives, and muscle relaxants).

FAA Response: The FAA has decided to make the time periods related to substance abuse of alcohol or other substances 2 years to be consistent with substance dependence abstinence time requirements of this section and for the reasons already given. Otherwise the final rule is the same as proposed, except that §§ 67.107(b)(2), 67.207(b)(2), and 67.307(b)(2) are modified. Instead of prohibiting the ''use of a prohibited drug defined in Appendix I of part 121,'' the final rule language reads ''A verified positive drug test result acquired under any anti-drug program or internal program of the U.S. Department of Transportation or any other Administration of the U.S. Department of Transportation.'' The modified language clarifies the FAA's intention in referencing Appendix I in the proposed rule. The FAA stated in the NPRM preamble that it considers a positive drug test conducted under any rule or internal program of the Department of Transportation to be compelling proof of the use of a prohibited drug for which the drug test was positive.

The changes are intended to provide specific regulatory medical standards and enhance the agency's ability to examine and exclude from aviation a person who, though not substance dependent, manifests recurrent abuse of alcohol or other legal or illegal substances, or has a single violation of DOT drug testing programs within the preceding 2 years. These standards are consistent with the AMA Report and address national concerns about substance abuse.

In referring to use of a substance when ''physically hazardous,'' the standard generally refers to instances such as driving or flying while intoxicated or under the influence of alcohol or drugs, but could also refer to other physically hazardous situations that occurred while a person was under the influence of alcohol or legal or illegal drugs. This term is also used in DSM III and its successor DSM IV. The FAA, after careful consideration of the comments and presentations concerning

substance abuse as well as the petitions and comments received to Dockets Nos. 26281 and 26330, has determined that the rule as modified provides adequate notice to airmen of the required medical standards and is necessary to protect the public safety.

Neurological (Sections 67.109, 67.209, and 67.309)

The FAA proposed three changes to the neurological standards, adding ''a single seizure'' to the list of disqualifying conditions; using ''seizure'' rather than ''convulsive'' to describe potentially disqualifying conditions; and adding a ''transient loss of control of nervous system functions'' standard.

Comments: ATA, AOPA, and three AME's assert that the proposed requirement that focuses on a single seizure is burdensome and not necessary; a single mild seizure should not be the sole cause for disqualification. ATA notes that a single febrile seizure during childhood, associated with a normal electroencephalogram (EEG), neurological examination, and imaging study, does not increase the risk for further seizure activity over time. EAA suggests rather than disqualifying applicants who have had seizures, AME's be given a checklist and evaluation guide for pilots with a history of a disturbance of consciousness or neurologic function. AOPA cites common causes of single seizure events including low sodium in the blood, heat exhaustion, head injury from which the applicant entirely recovers, and eclampsia during pregnancy.

One AME asserts that the frequency of in-flight incapacitation following seizure episodes is so low as to render this change unnecessary. According to the AME, febrile seizures are common, and the amount of increased paperwork to request special issuance of a medical certificate for individuals who have had these is simply not worth it.

USPA and AOPA say the neurological loss of control definition is too broad and is open to abuse and misinterpretation.

In response to the FAA's statement in the NPRM preamble that neither the AMA-recommended test nor the test by Folstein provides a ''useful screening device, alone or in combination, for airman neurological status,'' the AMA emphasizes the extreme importance of a test of mental fitness in attempting to ensure aviation safety and strongly recommends that the FAA designate or develop a sensitive and more specific test of mental capacity if those proposed by the AMA report are unsatisfactory.

FAA Response: The FAA, after careful consideration of all the comments and presentations received, has decided to withdraw the proposal that specifies that a single seizure is disqualifying. The proposed standard at paragraph (a)(2) will not be added to the first-, second-, or third-class medical certificate requirements. This part of the proposal is being withdrawn because the FAA agrees with commenters that a single febrile seizure in childhood should not in most instances be disqualifying. However, any seizure that has occurred must be reported by the applicant as part of the medical history and could be found to be disqualifying under the general neurological standards of §§ 67.109(b), 67.209(b), and 67.309(b). Also, a single seizure that constitutes a disturbance of consciousness or a transient loss of control of nervous system function(s) without satisfactory medical explanation of the cause would be disqualifying under §§ 67.109(a)(2) or (3), 67.209(a)(2) or (3), and 67.309(a)(2) or 3). Under § 61.53, Operations during medical deficiency, such an occurrence would require an airman to cease exercising the privileges of any airman certificate held until medically evaluated and cleared for airman duties by the FAA.

The proposed change from ''convulsive disorder'' to ''seizure disorder'' at paragraph (b) remains in the final rule.

The FAA has determined that the addition of ''transient loss of control of nervous system functions'' should remain in the final rule. It clarifies the agency's aeromedical concern about such events whether or not they are characterized as disturbances of consciousness and allows for the identification and individual evaluation of persons with this history.

As to mental screening tests, neither the AMA report nor the American Academy of Neurology/American Association of Neurological Surgeons report proposes detailed, objective criteria and tests that could be included in the standards and by which medical certification could be determined. Neither the AMA-recommended test nor the Folstein test provides a useful screening device, alone or in combination, for airman neurological status. Also, neither screening test, alone or in combination, provides predictors of skills relevant to piloting.

Cardiovascular (Sections 67.111, 67.211, and 67.311)

List of Disqualifying Conditions. The proposed rule adds to the list of disqualifying cardiovascular conditions for first-, second-, and third-class airman medical certificates an established medical history of cardiac valve replacement, permanent cardiac pacemaker implantation, and heart replacement.

Comments: None of the commenters specifically object to the disqualification for heart replacement.

Two associations, one AME, and several individuals do not support the proposal to specifically disqualify applicants with cardiac valve replacements or permanent cardiac pacemakers. One association states that the current list of disqualifying conditions is adequate. Many of these commenters say medical technology for valve replacements and pacemakers is excellent and improving, so it would be premature for the FAA to disqualify these heart conditions.

EAA says that for bioprosthetic cardiac valve patients with no signs of heart failure, arrhythmia, or atrial fibrillation, and with a normal functional capacity on stress testing, the FAA should not require the applicant to go through the special issuance process to obtain a medical certificate. According to the commenter, these individuals are at very low risk for sudden incapacitation and can perform normal activities including piloting an aircraft without undue risk. One AME believes that disqualifications for heart valve replacements should be evaluated on an individual basis.

EAA maintains that standby pacemakers or well-functioning permanent pacemakers should be allowed with a satisfactory cardiovascular evaluation and monitoring. Another commenter believes it is appropriate to deny pacemaker users first- and second-class medical certificates, but a pacemaker should not disqualify a person from a third-class medical certificate.

FAA Response: The FAA, after careful consideration of the comments and presentations received as well as the petitions and comments received to Docket Nos. 22054 and 26156, has determined that disqualifying cardiovascular conditions remain in the final rule as proposed. Further, the FAA has determined that these are serious conditions that give rise to safety concerns in the aviation environment specifically with regard to valve failure, pacemaker malfunction, progression of the underlying disease that required

artificial cardiac pacing, organ rejection, or the complications of immunosuppression. As stated in the NPRM preamble, the FAA will continue to consider special issuance of medical certification on a case-by-case basis after specialized medical evaluations to confirm adequate recovery and function and the absence of significant risk in terms of the aviation environment.

These regulations clarify long-standing FAA policy. Previously, the FAA has denied medical certification to airmen with cardiac valve replacement, pacemaker implantation, or heart transplant under the current general medical standards. In the final rule, a medical history of cardiac valve replacement, pacemaker implantation, or heart transplant is disqualifying. A person with such a medical history, however, may apply for and possibly receive, a special issuance of a medical certificate. The FAA will continue to monitor medical technology in this area and will reassess these rules as developments warrant.

Blood Pressure (Proposed §§ 67.111(b), 67.211(b), and 67.311(b)). The proposed rule revises the blood pressure standards established in 1959 applicable to first-class medical certificates. The current table of age-related maximum blood pressure readings for applicants for first-class medical certificates and the reference to ''circulatory efficiency'' are deleted, and a requirement that average blood pressure while sitting not exceed 150/95 millimeters of mercury is added for applicants of all classes. A medical assessment is specified for all applicants who need or use antihypertensive medication to control blood pressure.

Comments: Four AME's support the proposed blood pressure standard, but one requests that the AME make some notation as to whether this is achieved by approved antihypertensive medication. JAA suggests further assessment of applicants whose blood pressure level is not ''consistently 160/95'' or lower.

The Boeing Employees Soaring Club, ALPA, USPA, NATA, GAPA, NAAA, three AME's, and many individual commenters do not support the proposed blood pressure standard. They say that it would increase the cost of medical care, would require costly cardiovascular work-ups for people who would not otherwise require therapy, and is not supported by medical data or accident information. Many commenters and one AME do not support the proposal because, according to these commenters, blood pressure naturally increases with age.

ALPA and Boeing Employees Soaring Club say a blood pressure reading could be affected by many factors, including time of day, daily stress, or fear of a visit to their physician, and that the FAA should not have a set blood pressure level in the rule.

AOPA, EAA, and several commenters, including doctors, say that the FAA should not disqualify persons whose blood pressure is stabilized at a lower level with therapy. According to commenters, in the NPRM the FAA implies that treated hypertension is more of a risk than the condition of high blood pressure.

FAA Response: After careful consideration of all the comments and testimony, the FAA has decided to eliminate specific blood pressure requirements in the final rule. For all classes, the final rule makes no specific reference to blood pressure but, rather, requires that the appropriate general medical standard in §§ 67.113(b), 67.213(b), and 67.313(b) be met.

The FAA has determined that a blood pressure standard is unnecessary. Each person's medical condition and treatment regimen, if any, will continue to be evaluated on an individual basis. While the use of an antihypertensive medication is not made specifically disqualifying, a person may be required to undergo further medical assessment.

Electrocardiograms (Proposed § § 67.111 (c) and (d) and 67.211(d)); Final § § 67.111 (b) and (c)). The NPRM proposed to add a new requirement for routine resting electrocardiograms (ECG) for second-class medical certification. Applicants would have an ECG after reaching age 35 and every 2 years after reaching age 40. An ECG requirement currently exists for first-class applicants; however, first-class applicants must have an initial ECG after the 35th birthday and annually after reaching age 40. The NPRM did not propose to add an ECG requirement for third-class applicants. The NPRM also proposed to change the validity period for an ECG to meet the requirements of a medical examination. Currently, an ECG made within 90 days before a medical examination can be used to satisfy the first-class application requirement. The proposal was to change to this to 60 days.

Comments: The AMA, ATA, JAA, and two AME's support the proposal.

ASMA, NATA, NAAA, EAA, GAPA, and ALPA do not support the proposal to require ECG's for second-class applicants. National Business Aircraft Association (NBAA), ASMA, AOPA, and EAA cite the lack of cardiac incapacitation as a causal factor in aviation accidents. Many commenters, including doctors, do not support the requirement to administer ECG tests to asymptomatic persons. Six AME's say that the ECG does not predict sudden incapacitation.

A majority of commenters stress the financial burden that ECG testing would create on those who need second-class medical certificates. According to commenters, the FAA's cost estimate for ECG's does not account for the cost to AME's of purchasing the equipment and modems to transmit the readings to the Civil Aeromedical Institute. The ECG test would also increase the amount of time an AME would spend on each pilot. AOPA notes that the FAA anticipates 1,800 applicants will not meet ECG standards, and would have to undergo the cost of additional evaluation to determine eligibility for a medical certificate. AOPA also noted that the FAA's regulatory evaluation estimated that 90 percent of these applicants would ultimately be granted medical certificates. AOPA believes the ECG requirement and follow-up testing is a waste of time and money. The Soaring Society of America suggests that an applicant's regular medical facility could perform this test and certify it to the AME, which would prevent redundant tests and lower the cost and complexity of obtaining the second-class medical certificate.

FAA Response: After careful consideration of the comments and testimony received, the FAA has decided to withdraw the proposal for an ECG requirement for second-class medical certification. There was limited support for the proposal within the medical community; and several aviation associations (including an aeromedical association), AME's, and individuals commented that the cost of implementing this proposal cannot be justified when compared with the current, limited-prognostic capabilities of the routine resting ECG.

The existing ECG requirement for first-class medical certification, an initial ECG after the 35th birthday and annual ECG's after reaching age 40, remains in the final rule. The change from 90 to 60 days for using an ECG to satisfy the first-class medical certification requirement also remains in the final rule. The FAA has determined that the ECG requirement for first-class medical certification, normally held by airline transport pilots, is consistent with the highest level of safety and is cost effective when coupled with the semi-annual examination required for that certificate. An airman holding a first-class medical certificate receives the highest level of medical scrutiny (i.e., semi-annual

examination) because of the nature of his or her employment; the annual ECG is one element of this frequent, multi-factorial, medical surveillance.

Most commercial ''commuter'' operations (e.g., passenger operations of a turbojet airplane, passenger operations of an airplane having a passenger seating configuration of 10 seats or more, or passenger operations of a multiengine airplane being operated by a commuter air carrier) require pilots to have first-class medical certificates. The remaining population of commercial pilots (e.g., pilots of commuter passenger operations with airplane passenger seating configuration of 9 seats or less; flight instructors; pilots of crop dusting, banner towing, powerline, pipeline inspection operations) is required to hold a second-class medical certificate. As previously stated, the FAA has determined that biennial ECG's for these commercial pilots are not cost effective and that these pilots do not require the same level of medical scrutiny, given their employment, as pilots who are required to have a first-class medical certificate. The FAA, however, will continue to monitor and evaluate the medical/flying histories of those pilots required to have a second-class medical certficate and will, if appropriate, impose an ECG requirement in the future.

Finally, the public should be aware that the FAA uses the ECG to evaluate the medical fitness of second-class medical certificate applicants when sound medical judgment indicates that the test would be reasonable and useful. The FAA routinely requests an ECG when an individual has or may have a medical history or clinical diagnosis of a variety of medical conditions, including cardiovascular disease, hypertension, dysrhythmia, diabetes, peripheral vascular disease, cerebral vascular disease, cardiomyopathy, valvular heart disease, congenital heart disease, or a previously abnormal ECG. The FAA will continue to use the ECG as a diagnostic tool in appropriate situations.

Anticoagulant medications (Proposed §§ 67.111(c), 67.211(c), and 67.311(c)). The proposed rule adds the provision that persons applying for first-, second-, or third-class medical certificates must not use anticoagulant medication.

Comments: EAA, AOPA, two AME's, and several individuals state that the proposed rule is subject to interpretation and could, for example, include aspirin. The two AME's say that the FAA needs to differentiate between anticoagulant and antiplatelet medications regarding which are disqualifying. AOPA says disqualification should be based on the applicant's disease, not on the medicine taken, unless there are specific side effects that directly affect the safety of flight.

EAA supports the prohibition of heparin. AOPA says coumadin use should not be disqualifying, since its track record is well established.

FAA Response: The FAA did not intend for antiplatelet medications (e.g., aspirin) to be included as anticoagulants. After careful consideration of the comments and testimony received, the FAA has decided to withdraw the proposal to add anticoagulant use as a specifically disqualifying medication since the use of these medications could be found disqualifying in this final rule under paragraph (c) of the general medical condition section (see §§ 67.113(c), 67.213(c), and 67.313(c)), of part 67.

Cholesterol Testing (Proposed Section 67.111(f))

The current rule contains no cholesterol standards. The proposed rule adds a new total blood cholesterol testing requirement for first-class applicants after they reach age 50, and annually thereafter. A blood cholesterol level of 300 milligrams per deciliter or more requires applicants to undergo further evaluation. If otherwise eligible, the applicant would be issued a medical certificate pending results of the evaluation.

Comments: The vast majority of individual commenters, as well as NBAA, AOPA, ASMA, and EAA, do not support the proposed requirement for total blood cholesterol determination for first-class medical certification. AOPA, NATA, and ALPA say some individuals believe that the test is invasive and a personal health matter to be discussed with a private physician, not with the FAA. AOPA, EAA, two AME's, and several individuals say factors other than total cholesterol contribute to coronary artery disease. Since the AMA study, Allied Pilots Association (APA), EAA, two AME's and several others note, high density lipoprotein (HDL) and low density lipoprotein (LDL) have been found to better correlate with coronary artery disease (CAD) than total cholesterol.

Nearly half of the AME commenters state that cholesterol testing is not needed because it does not predict an applicant's ability to perform safely. One AME notes that 50 percent of all myocardial infarctions occur in people with cholesterol ranging between 180 and 220, levels well below the FAA's proposed evaluation threshold of 300. NBAA and APA say the link between incidence of high serum cholesterol and aircraft accidents caused by pilot incapacitation is tenuous at best. APA suggests that the FAA consider reviewing cardiovascular risk factors every 3–5 years to develop other, more appropriate measures of cardiovascular risk.

FAA Response: After careful consideration of the comments and testimony received, the FAA has decided to withdraw the proposal to measure the total cholesterol of applicants for first-class medical certification. Several aviation associations, AME's, and individuals commented that there is no scientific evidence that demonstrates the relationship between a specific cholesterol value and the existence of identifiable pathology that represents a threat to aviation safety. Commenters pointed out that a different understanding exists today about total cholesterol level, per se, and pathology compared to when the data that supported the original proposal were compiled. Cholesterol testing, as proposed, is not cost effective. The FAA encourages airmen to have their lipid levels checked as a health measure but is not requiring airmen to do so in the final rule.

Diabetes (Sections 67.113(a), 67.213(a), and 67.313(a))

No change is proposed to the standards concerning airmen with diabetes, currently set forth in paragraph (f)(1) of §§ 67.13, 67.15, and 67.17. In the preamble to the proposed rule, however, FAA states that it has determined that persons who do not meet the medical standard because their diabetes requires oral hypoglycemic drugs would no longer be categorically denied special issuance of airman medical certification. This policy would apply to individuals whose diabetes is without complications and acceptably controlled by diet and oral drugs with appropriate monitoring and other conditions. However, this policy change does not affect the long-standing FAA policy and practice that a diabetic using insulin for control is not eligible for unrestricted or restricted medical certification.

Comments: Two AME's believe that insulin-dependent diabetics should not be allowed any type of pilot's license.

USPA says insulin-dependent diabetics should be acceptable on a case-by-case basis. One commenter believes that diabetic private or recreational pilots should be certificated if their diabetes is under good control.

EAA, two other AME's, and many individuals support permitting

noninsulin-dependent diabetics to obtain special issuance.

A few commenters state that it is unrealistic to exclude all users of hypoglycemic drugs, as proposed in the NPRM. One diabetic noted that 50 percent of men over 65 have ''Diabetes II,'' which does not require insulin or anything other than a mild drug.

FAA Response: After careful consideration of the comments and testimony received as well as the petitions and comments received to docket Nos. 26281 and 26493, the FAA has determined that the current consensus of the medical community supports the FAA position. Many individuals who are not insulin-treated diabetics can, with appropriate monitoring and other conditions, receive a special issuance of their medical certificates to perform the duties authorized by their class of medical certificate without endangering public safety. The final rule is the same as the current rule.

Also, the FAA has determined that, rather than engaging in rulemaking concerning diabetes, it is more appropriate to reexamine its policy on special issuance of medical certificates to persons with insulin-treated diabetes mellitus. On December 29, 1994, subsequent to publication of the NPRM, the Federal Air Surgeon requested comments on a possible policy change with respect to individuals who have a clinical diagnosis of insulin-treated diabetes mellitus (59 FR 67246, December 29, 1994). The docket for this notice closed on March 29, 1995. The FAA will review the comments and testimony received in dockets Nos. 26493 and 27940 concerning diabetes and will publish in a separate notice the agency's determination concerning its policy on special issuance of medical certificates to persons with insulin-treated diabetes mellitus.

Special Issuance (Section 67.401)

Proposed § 67.401(a) limits the duration of any medical certificate issued under the special issuance procedures of this section to the duration of an Authorization for special issuance. When the Authorization expires, or if the FAA withdraws the Authorization, the medical certificate issued pursuant to that Authorization also expires.

Comments: AOPA and IPA say that the extra requirements for special issuance procedures should be withdrawn because they will increase the burden on FAA to write exceptions (especially in a time of government budget cutting and staff reductions), and because applicants will have to pay more and bet their livelihood with each reaffirmation request.

FAA Response: The FAA, after careful consideration of all the comments and testimony received as well as the petitions and comments received to Docket No. 25787, has decided to retain the requirement limiting duration of any class medical certificate to the duration of an Authorization. This will ensure that the medical justification for the special issuance remains valid and the holder of the special issuance undergoes appropriate periodic reevaluation. This change explicitly connects the duration of any special issuance medical certificate to the validity of the document upon which it is based and requires periodic requests for reissuance. The FAA foresees no significant additional administrative burden on the FAA.

The FAA has included specific requirements for an Authorization in the rule language in order to provide procedures for legal documentation and control of validity periods, followup requirements, withdrawals, and functional or operational limitations.

Incorrect Statements by Applicants (Sections 67.401(f)(5) and 67.403(c))

The proposed rule broadens the regulatory basis for action when an applicant or airman provides incorrect information when applying for medical certification. Proposed §§ 67.401(f)(5) and 67.403(c) would allow the FAA the option of denying, suspending, or revoking an airman medical certificate and denying or withdrawing an Authorization or SODA, not only when the holder makes a fraudulent or intentionally false statement, but also when the holder makes an incorrect statement in support of a request for a medical certificate, an Authorization, or SODA or in an entry in any logbook, record, or report that is kept, made, or used to show compliance with the medical certificate, Authorization, or SODA. A suspension, revocation, or withdrawal could occur even if the person did not knowingly make the incorrect statement or entry.

Comments: One AME supports the Authorization and SODA withdrawal proposals.

EAA says the proposed § 67.403(c) statement concerning unknowingly false statements should only call for a review of the medical certificate and possible revocation, if warranted by the corrected information. AOPA notes that the Federal Aviation Act says applicants denied issuance or renewal of a certificate may have an NTSB hearing.

NATCA, IPA, APA, four AME's, and a large number of individual commenters are concerned about what they view as the lack of due process in the decision to withdraw the Authorization. According to these commenters, many innocent errors are made on the applications due to the applicant's unclear memory or misunderstanding of terms on the application. These commenters suggest that the FAA require the AME to contact the pilot and provide a chance to explain and correct the incorrect statements. Commenters say that the wording creates too ambiguous an authority for the FAA and creates the potential for action by the FAA against almost any pilot. Some associations are concerned that individuals whose applications or certificates are denied may actually lose their jobs without benefit of an opportunity to clarify unintentional discrepancies.

FAA Response: The FAA noted in the preamble to the NPRM its concern that medical certification based on incorrect medical data may be inappropriate in the light of the true data. The current regulations do not explicitly provide for withdrawal of an Authorization or SODA or suspension or revocation of a medical certificate when unknowingly incorrect statements are relied upon in the FAA's decision to issue an Authorization, SODA, or medical certificate. The FAA's intent in including language on incorrect statements is to provide a basis for appropriate action when a person provides such unknowingly incorrect information that is relied on by the agency in its decision. The withdrawal, suspension, or revocation in this case is not meant to be punitive, but rather corrects the inappropriate granting of an Authorization, SODA, or medical certificate. The final rule clarifies the FAA's intent by including language in § 67.403(c) that limits the reference to ''incorrect statements'' to those ''upon which the FAA relied.''

Return of Medical Certificate Sections 67.401(i)(4) and 67.415

Proposed § 67.401(i)(4) requires surrender to the Administrator of a medical certificate rendered invalid pursuant to a withdrawal in accordance with § 67.401(a). The proposal also adds a requirement in § 67.415 to specify that the holder of a medical certificate that is suspended or revoked must return the medical certificate to the Administrator.

Comments: EAA says that presently airmen are not required to return their medical certificates without a hearing before the NTSB; procedures now exist for emergency suspension or revocation of a certificate based on false information. Therefore, EAA believes

there is no need for this requirement. Three AME's believe that the added requirement for mandatory return of a medical certificate at the request of the Administrator would open the whole process of medical certification to potential abuse by the FAA and should be deleted. Several individuals state that this provision is unnecessary and should be withdrawn; the current rules are sufficient to ensure that pilots fly only with a valid medical certificate.

FAA Response: Current § 67.27(g) provides that the holder of a medical certificate shall surrender it, upon request of the FAA, if its issuance is wholly or partly reversed upon reconsideration. After careful consideration of all the comments and testimony received, the FAA has determined that the language, as proposed, codifies existing practice, parallels the procedures with airman certificates, and clarifies the FAA's intent to require the return of medical certificates that have become invalid. The retention by an airman of an invalid medical certificate is not consistent with proper and efficient enforcement of safety regulations because of the apparent authority of these documents. Inclusion of this requirement, however, does not in any way affect the certificate holder's administrative review or appeal rights.

Regulatory Evaluation Summary

Introduction

Changes to Federal regulations must undergo several economic analyses. First, Executive Order 12866 directs Federal agencies to promulgate new regulations or modify existing regulations only if the potential benefits to society justify its costs. Second, the Regulatory Flexibility Act of 1980 requires agencies to analyze the economic impact of regulatory changes on small entities. Finally, the Office of Management and Budget directs agencies to assess the effects of regulatory changes on international trade. In conducting these assessments, the FAA has determined that this rule: (1) Will generate benefits exceeding its costs and is not ''significant'' as defined in Executive Order 12866; (2) is not ''significant'' as defined in DOT's Policies and Procedures; (3) will not have a significant impact on a substantial number of small entities; and (4) will not constitute a barrier to international trade. These analyses, available in the docket, are summarized below.

The majority of the amendments will have insignificant attributable costs and benefits. This evaluation does not address the minor amendments such as changes in syntax, technical corrections, reorganization, updating medical terminology, or adjustments to cross references for conformance purposes.

Furthermore, the evaluation attributes no significant costs or benefits to several other amendments that add a specific disease or medical condition to the list of medical standards. Such additions do not necessarily constitute a change in the standards. Existing regulations include three open-ended (general) medical standards that cover:

> (1) any other personality disorder, neurosis, or mental condition * * *, (2) any other organic, functional, or structural disease, defect, or limitation * * *, and (3) no medication or other treatment * * *.

that the Federal Air Surgeon finds would make, or may reasonably be expected to make, the applicant unable to perform the duties associated with the airman certificate. Thus, the applicable medical standards are not limited to those actually listed in the regulation. As medical knowledge and experience progress, the Federal Air Surgeon may find a previously unlisted disease or condition to be grounds for withholding or restricting a medical certificate, so long as that finding is based on qualified medical judgment.

The addition of specifically disqualifying medical conditions under the amended standards could cause a small number of airmen, who currently hold medical certificates as a result of an order of the National Transportation Safety Board (NTSB) to be disqualified from further medical certification. These airmen were denied medical certification by the FAA under the current general medical standards. For example, the FAA has denied medical certification to airmen who have had cardiac valve replacement and the NTSB has ordered medical certification in some of these cases. Under the amended standards a medical history of cardiac valve replacement is specifically disqualifying and those airmen will no longer be entitled to medical certification. It is expected, however, that medical certification of the affected individuals will continue under the Federal Air Surgeon's special issuance authority once the FAA evaluates the case and is satisfied that the airman's condition has not worsened since the NTSB ordered medical certification. As such, the expected economic impact of the specifically disqualifying medical conditions will be minor.

Discussion of Comments Addressing Economic Evaluation

This section of the summary responds to comments concerning the economic evaluation of the NPRM. The NPRM for this rule included five significant proposals that were withdrawn after careful consideration of the comments received. This section notes, but does not address comments concerning the regulatory evaluation of the withdrawn proposals, since such comments are no longer pertinent.

Comment: The U.S. Small Business Administration (SBA) states in it comment that the FAA's regulatory flexibility analysis for the NPRM does not conform to the Regulatory Flexibility Act (RFA), and that a proper regulatory flexibility analysis must be performed prior to issuing a final rule.

FAA Response: The FAA does not agree. Federal agencies are required to prepare a regulatory flexibility analysis only if the proposed rule would have a significant economic impact on a substantial number of small entities.[1] The NPRM would not have had such impact and this was stated. The SBA also notes that no explanation was provided to support that determination. The FAA agrees and provides the following table of explanation.

[1] *A Guide to Federal Agency Rulemaking,* 2nd edition, Administrative Conference of the United States; 1991; p. 162.

Medical certification category	NPRM 10-year present value	NPRM annualized costs	Active airmen	Average cost per year per active airman
First-class	$5,700,000	$811,551	147,676	$5.50
Second-class	22,700,000	3,231,969	173,435	18.64
Third-class	5,600,000	797,314	325,996	2.45

As shown above, the average annualized cost impact of the proposed rule would have ranged from $2.45 to $18.64 per person subject to medical certification requirements. It would be statistically impossible for the impact of the proposed rule to exceed these averages to such an extent as to have a significant impact (multiple thousands of dollars annually depending on the entity type) on a substantial number (at least one-third) of small entities; even if the rule only affected small entities. Similarly, since the costs of the final rule are approximately 20 percent of the NPRM costs, it follows that the final rule also will not have a significant economic impact on a substantial number of small entities.

Comments: Several associations and numerous individual commenters find it illogical to draw inferences for pilots from the air traffic controllers who were monitored in the Johns Hopkins study. The reasons cited by the commenters include air traffic control (ATC) work is inherently stressful, ATC work is sedentary, controllers are exposed to cathode ray tube monitors and indoor air, controllers have a history of strife between labor and management, and they work on varying shifts.

FAA Response: The FAA disagrees. The Hopkins study was expressly used to quantify the relative differences of primary pathology incidence across age cohorts. The Hopkins results are conclusively supported by other general medical investigation as well as the FAA's own medical certification data for pathology incidence and application denials.

Comments: Four national aviation associations strongly disagree with the NPRM proposal to reduce the duration of third-class medical certificates for persons age 70 and older. The commenters assert that the benefits have not been demonstrated and that the statistical analysis FAA used to confirm that the incidence of pathology related accidents increases with age is supported by an insufficient sample size.

FAA Response: After careful consideration of the testimony and comments received, the FAA has withdrawn this proposed provision.

Comments: Numerous individual commenters stated that the proposed higher standards for blood pressure would prove costly to pilots with borderline pressure measurements and that the affected individuals would be required to take extensive additional testing.

FAA Response: After careful consideration of the testimony and comments received, the FAA has withdrawn this proposed provision.

Comments: Six major associations disagree with the provision for electrocardiograms, second class and assert that the frequency of medically related aviation accidents, the majority of which are not predictable, does not support the administrative and economic burdens that would be imposed on the affected applicants. Two associations assert that the 40-percent effectiveness level that was assumed in the evaluation is questionable and is a significant error in the cost-benefit analysis. Five associations, two AME's, and numerous individual commenters state that the FAA's cost estimate does not account for the cost for AME's to purchase the necessary medical equipment and modems. They warn that some AME's may withdraw their participation rather than incur the additional costs.

FAA Response: After careful consideration of the testimony and comments received, the FAA has withdrawn this proposed provision.

Comments: Several associations assert that requiring a cholesterol test would be a significant administrative and cost burden. One association stated that the regulatory evaluation employed an average laboratory test cost of $10, but that costs range between $15 and $16 in the Washington, D.C. area. One individual commenter asserts that the cost-benefit analysis is flawed because it based cost savings on a cholesterol level lower than 300, and because the analysis assumed that all heart attacks studied represented individuals with critically high cholesterol.

FAA Response: After careful consideration of the testimony and comments received, the FAA has withdrawn this proposed provision.

Comments: One major association states that the addition of the intermediate vision, first and second class is unnecessary and unwarranted, and that it would add costs with no significant safety benefit.

FAA Response: The FAA does not agree. The evaluation estimated that the direct testing costs, including applicant time, would range from $1.30 to $3.86 per year per applicant age 50 and older. Additional costs (for glasses and examinations) would only be incurred by those persons whose intermediate vision was, in fact, deficient, and who could not satisfactorily read their flight instruments. The FAA maintains that these costs are not unreasonable, and that the benefits of commercial pilots being able to read flight instruments are conclusive.

Costs and Benefits That Are Not Quantified

Prior to summarizing the evaluation of the substantive provisions, it is important to note one category of costs and one category of benefits that have not been quantified in this analysis. The evaluation does not explicitly quantify the economic consequences to those individuals who could lose their pilot medical certificate privileges as a result of the additional medical tests or standards. Where such consequences are expected, the evaluation estimates the numbers of persons who may be denied but does not attribute a cost to those actions.

It is recognized that the denial of pilot privileges could mean the loss of a highly valued avocation for some individuals. For others, it could actually result in the loss of primary livelihood. An accurate assessment of the economic valuation of the denials that are projected under the rule is beyond the scope of the evaluation.

At the same time, the evaluation also does not quantify the overwhelming personal health benefits, external to flight safety, that will be afforded to those individuals whose medical conditions will be detected and whose treatment will be enabled by the new tests and standards. On average, third-class medical certificate holders spend only 0.7 percent of their time flying. The evaluation only quantifies the direct benefits of the rule to reduced aviation accidents.

Under existing regulations, the Federal Air Surgeon is charged to deny a medical certificate in those cases where a disease or other physical or mental condition would make, or may be reasonably be expected to make, the applicant unable to perform the duties associated with the medical certificate. Such findings are not capricious, but instead, are based on the case history of the individual and on appropriate, qualified medical judgment. The FAA holds that the severity of a disease or medical condition necessary to warrant a denial is such that the aviation safety and personal health benefits of that action will always exceed the costs associated with the loss of pilot privilege.

Summary of Quantified Costs and Benefits

Vision Amendments, All Classes. The final rule institutes additional vision tests and standards for all three classes. For first- and second-class medical certificate applicants age 50 and older, it adds a new standard (20/40 or better, Snellen equivalent) and a new test for intermediate vision (near vision at 32 inches). Applicants for third-class medical certificates will be subject to a new standard (20/40 or better) and a new test for near vision (16 inches).

The projected 10-year costs of the intermediate vision amendment for first-class medical certificate applicants are: (1) $1.4 million in primary testing costs, (2) $2.1 million in follow-up compliance costs (examinations and glasses) for those persons who would not meet the standard, and (3) $6,147 in direct processing costs for the expected 15 additional persons who could be denied under the provision. In total, it is expected that the intermediate vision amendment for first-class medical certificate applicants would impose an incremental 10-year cost of $3.5 million, with a 1995 present value of $2.5 million.

The projected 10-year costs of the intermediate vision amendment for second-class medical certificate applicants are: (1) $442,224 in primary testing costs, (2) $2.0 million in follow-up compliance costs (examinations and glasses) for those persons who would not meet the standard, and (3) $6,626 in direct processing costs for the expected 17 additional persons who would be denied under the provision. In total, it is expected that the intermediate vision amendment for second-class medical certificate applicants would impose an incremental 10-year cost of $2.4 million, with a 1995 present value of $1.7 million.

The projected 10-year costs of the near vision amendment for third-class medical certificate applicants are: (1) $2.3 million in primary testing costs, (2) $1.1 million in follow-up compliance costs (examinations and glasses) for those persons who would not meet the standard, and (3) $129,690 in direct processing costs for the expected 330 additional persons who would be denied under the provision. In total, it is expected that the near vision amendment for third-class medical certificate applicants would impose an incremental 10-year cost of $3.5 million, with a 1995 present value of $2.5 million. It is emphasized that the denials and costs associated with the near vision requirement are not wholly attributable to the amendment. Although this requirement does not exist in current regulations, the requirement has been in place administratively for some time. Thus, the associated costs are being and would continue to be incurred without this amendment. The economic evaluation of this requirement is provided as information to assess the fact the requirement would explicitly be added to the regulations.

In assessing the benefits of the vision amendments, NTSB accident records were investigated for the periods from 1962 through 1989 for commercial flights and from 1982 through 1989 for general aviation. For these periods, no accident was found where intermediate or near vision deficiency was specifically determined to be the cause. As such, the FAA is not able to quantitatively ascribe the benefits of the three vision amendments based solely on historical accident analysis.

Notwithstanding the absence of documented accidents related to these three provisions, the FAA maintains that such accidents may well have occurred and would continue to occur in the absence of the amendments. The NTSB accident analysis system may not document those cases where a near or intermediate vision problem caused or contributed to accidents. Examples would include deviations from course or altitude, inaccurate monitoring of gauges and other avionics displays, and incorrect setting of aeronautical parameters such as headings or radio frequencies.

While the extent to which intermediate or near vision problems have caused such accidents is unknown, it is the FAA's position that: (1) general aviation pilots require adequate near vision to read charts and checklists, and (2) commercial pilots require adequate intermediate vision to properly monitor aircraft instruments. Although this evaluation is not able to quantify the benefits of the vision amendments, the FAA holds that the benefits will be significant and will exceed the expected costs.

Part 61, Medical Certificate Validity Period, Third-Class. Under the final rule, persons under age 40 will generally only be required to undergo a physical examination every 3 years. Medical certificates for persons age 40 and older will continue to be valid for 2 years.

Other than minor administrative costs to effect the new procedure, there will be no direct expenditures associated with the amendment. In addition, careful consideration of all comments and testimony received, as well as the petitions and comments received to Docket Nos. 24932, 26281, and 27473, leads the FAA to conclude that extending the duration between medical examinations can be done with no detriment to safety in the case of younger airmen, who are much less likely to suffer medical incapacitation.

The FAA has investigated the relative primary pathology incidence rates for persons under and over 40 years of age. As a group, persons under age 40 exhibit 1/27 of the pathology incidence rate of persons 40 and older. Even weighting these rates, by the numbers of pilots by age class, results in an ''under age 40'' incidence equal to 1/6 that of third-class medical certificate applicants age 40 and older.

The FAA's position on this issue is further supported by a review of the pertinent accident data. National Transportation Safety Board (NTSB) data were reviewed for the period 1982 through 1989. During that period, 259 pathology related, general aviation accidents occurred. Only two of those accidents, however, involved private pilots under age 40 with a potentially detectable primary pathology. One case involved a 37-year-old pilot with a valid medical certificate who suffered a heart attack that had not been predicted. The second accident involved a 25-year-old with a vasovagal syncope who was flying without a medical certificate.

As with all age groups, those individuals under age 40 manifesting conditions that represent a risk to safety will be denied medical certification or, if they apply for and receive a special issuance of a medical certificate, will be restricted in their flying activities and/or examined more thoroughly and frequently.

The primary benefits of this amended provision will derive from the annual reduction in third-class medical certificate applications. FAA compared the projected numbers of applications

under the existing 2 year duration for all ages, against the applications that are expected under the final rule provision extending the duration for persons under age 40 to 3 years. Applications under the final rule were computed by reducing the projected applications for persons under age 40 by a factor of two-thirds. Over the 10-year study period, the part 61 provision is expected to reduce applications by 268,000.

Each avoided examination is valued at $89, consisting of $50 in direct testing costs, and one and one-half hours of the applicant's time valued at $29 per hour. This produces an expected 10-year savings of $23.9 million, with a 1995 present value of $16.7 million, not counting FAA processing costs

Regulatory Flexibility Determination

The Regulatory Flexibility Act of 1980 (RFA) was enacted by Congress to ensure that small entities are not unnecessarily or disproportionately burdened by Government regulations. The RFA requires a Regulatory Flexibility Analysis if a rule would have a significant economic impact, either detrimental or beneficial, on a substantial number of small entities. FAA Order 2100.14A, Regulatory Flexibility Criteria and Guidance, provides threshold cost and small entity size standards for complying with RFA review requirements in FAA rulemaking actions.

The rule is estimated to have a 10 year, 1995 present value cost of $6.6 million, which equates to an annualized cost of $940,000 to the approximately 647,100 active airmen. The average annualized effect per airman is projected to equal $1.45. In light of this information, the FAA finds that the amendment will not have a significant economic impact on a substantial number of small entities.

International Trade Impact Assessment

The final rule will have little or no impact on trade for both U.S. firms doing business in foreign countries and foreign firms doing business in the United States.

Federalism Implications

The regulations herein would not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12866, it is determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Conclusion

For the reasons discussed in the preamble, and based on the findings in the Regulatory Evaluation and the International Trade Impact Analysis, the FAA has determined that this rule is not major under Executive Order 12866. In addition, the FAA certifies that this rule will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. This rule is considered significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). A regulatory evaluation of the rule, including a Regulatory Flexibility Determination and Trade Impact Analysis, has been placed in the docket. A copy may be obtained by contacting the person identified under **FOR FURTHER INFORMATION CONTACT.**

Paperwork Reduction Act

The paperwork burden associated with part 67 is currently approved under OMB number 2120–0034. There is small reduction in paperwork associated with this final rule.

Derivation and Distribution Tables

The Derivation Table below shows the source in current part 67 on which each paragraph of each section of revised part 67 is based. The Distribution Table below shows where each current part 67 section and paragraph can be found in the revised part 67.

Derivation Table

Revised section	Based On
Subpart A	
Section	
67.1	Current §§ 67.1 and 67.21.
67.3	Current § 67.11.
67.5	Current § 67.12.
67.7	Current § 67.3.
Subpart B	
Section	
67.101	Current § 67.13(a) and new language.
67.103(a)	Current § 67.13(b)(1).
67.103(b)	Current § 67.13(b)(2) and new language.
67.103(c)	Current § 67.13(b)(3) and new language.
67.103(d)	Current § 67.13(b)(4).
67.103(e)	Current § 67.13(b)(5).
67.103(f)	Current § 67.13(b)(6) and flush paragraph.
67.105(a)	Current § 67.13(c)(1) and new language.
67.105(b)	Current § 67.13(c)(2), (c)(3), (c)(4), (c)(5), and new language.
67.105(c)	Current § 67.13(c)(6) and new language.
67.107(a)	Current § 67.13(d)(1)(i) and new language.
67.107(b)	New language.

Derivation Table—Continued

Revised section	Based On
67.107(c)	Current § 67.13(d)(1)(ii) reordered.
67.109(a)	Current § 67.13(d)(2)(i) and new language.
67.109(b)	Current § 67.13(d)(2)(ii).
67.111(a)	Current § 67.13(e)(1) and new language.
67.111(b)	Current § 67.13(e)(2) and (3) and new language.
67.111(c)	Flush paragraph after current § 67.13(e)(5) as modified.
67.113(a)	Current § 67.13(f)(1).
67.113(b)	Current § 67.13(f)(2).
67.113(c)	Current § 67.13(f)(3), added September 9, 1994.
67.115	Current § 67.13(g).
Subpart C	
Section	
67.201	Current § 67.15(a) and new language.
67.203(a)	Current § 67.15(b)(1).
67.203(b)	Current § 67.15(b)(2) and new language.
67.203(c)	Current § 67.15(b)(5) and new language.
67.203(d)	Current § 67.15(b)(3).
67.203(e)	Current § 67.15(b)(4) and new language.
67.203(f)	Current § 67.15(b)(6) and flush paragraph.
67.205(a)	Current § 67.15(c)(1) and new language.
67.205(b)	Current § 67.15(c)(2), (c)(3), (c)(4), (c)(5), and new language.
67.205(c)	Current § 67.15(c)(6) and new language.
67.207(a)	Current § 67.15(d)(1)(i) and new language.
67.207(b)	New language.
67.207(c)	Current § 67.15(d)(1)(ii) reordered.
67.209(a)	Current § 67.15(d)(2)(i) and new language.
67.209(b)	Current § 67.15(d)(2)(ii) and new language.
67.211	Current § 67.15(e)(1) and new language.
67.213(a)	Current § 67.15(f)(1).
67.213(b)	Current § 67.15(f)(2).
67.213(c)	Current § 67.15(f)(3), added September 9, 1994.
67.215	Current § 67.15(g).
Subpart D	
Section	
67.301	Current § 67.17(a) and new language.
67.303(a)	Current § 67.17(b)(1) and new language.
67.303(b)	New language.
67.303(c)	Current § 67.17(b)(3) and new language.
67.303(d)	Current § 67.17(b)(2) and new language.
67.305(a)	Current § 67.17(c)(1) and new language.
67.305(b)	Current § 67.17(c)(2) and (3), and new language.
67.305(c)	Current § 67.17(c)(4) and new language.
67.307(a)	Current § 67.17(d)(1)(i) and new language.
67.307(b)	New language.
67.307(c)	Current § 67.17(d)(1)(ii) reordered.
67.309(a)	Current § 67.17(d)(2)(i) and new language.
67.309(b)	Current § 67.17(d)(2)(ii) and new language.

Derivation Table—Continued

Revised section	Based On
67.311	Current § 67.17(e)(1) and new language.
67.313(a)	Current § 67.17(f)(1).
67.313(b)	Current § 67.17(f)(2).
67.313(c)	Current § 67.17(f)(3), added September 9, 1994.
67.315	Current § 67.17(g).
Subpart E	
Section	
67.401(a)	Current § 67.19(a) and new language.
67.401(b)	New language.
67.401(c)	Current § 67.19(b).
67.401(d)	Current § 67.19(d) and new language.
67.401(e)	Current § 67.19(c).
67.401(f)	New language.
67.401(g)	Current § 67.19(e) and new language.
67.401(h)	Current § 67.19(f) and new language.
67.401(i)	New language.
67.401(j)	New language.
67.403(a)	Current § 67.20(a) and new language.
67.403(b)	Current § 67.20(b) and new language.
67.403(c)	New language.
67.405(a)	Current § 67.23(a).
67.405(b)	Current § 67.23(b).
67.407(a)	Current § 67.25(a) and new language.
67.407(b)	Current § 67.25(a) flush paragraph and new language.
67.407(c)	Current § 67.25(b), as amended September 9, 1994, and new language.
67.407(d)	Current § 67.25(c).
67.409(a)	Current § 67.27(a).
67.409(b)	Current § 67.27(b), as amended September 9, 1994.
67.409(c)	Current § 67.27(c).
67.409(d)	Current § 67.27(d).
67.411(a)	Current § 67.29(a).
67.411(b)	Current § 67.29(b).
67.411(c)	Current § 67.29(c).
67.413(a)	Current § 67.31.
67.413(b)	New language.
67.415	New language.

Distribution Table

Current Section	Revised Section
Subpart A	
Section	
67.1	§ 67.1.
67.3	§ 67.7.
67.11	§ 67.3.
67.12	§ 67.5.
67.13(a)	§ 67.101.
67.13(b)	§ 67.103.
67.13(c)	§ 67.105.
67.13(d)	§ 67.107 and § 67.109.
67.13(e)	§ 67.111 and § 67.113(b).
67.13(f)	§ 67.113.
67.13(g)	§ 67.115.
67.15(a)	§ 67.201.
67.15(b)	§ 67.203.
67.15(c)	§ 67.205.
67.15(d)	§ 67.207 and § 67.209.
67.15(e)	§ 67.211.
67.15(f)	§ 67.213.
67.15(g)	§ 67.215.
67.17(a)	§ 67.301.
67.17(b)	§ 67.303.
67.17(c)	§ 67.305.
67.17(d)	§ 67.307 and § 67.309.
67.17(e)	§ 67.311.

Distribution Table—Continued

Current Section	Revised Section
67.17(f)	§ 67.313.
67.17(g)	§ 67.315.
67.19	§ 67.401.
67.20	§ 67.403.
Subpart B	
Section	
67.21	§ 67.1.
67.23	§ 67.405.
67.25	§ 67.407.
67.27	§ 67.409.
67.29	§ 67.411.
67.31	§ 67.413.

List of Subjects

14 CFR Part 61

Aircraft, Airmen, Alcohol abuse, Drug abuse, Recreation and recreation areas, Reporting and recordkeeping requirements.

14 CFR Part 67

Airmen, Delegations of authority (Government agencies), Health, Medical standards and certification procedures, Reporting and recordkeeping requirements.

The Amendments

In consideration of the foregoing, the Federal Aviation Administration amends parts 61 and 67 of Title 14 Code of Federal Regulations (14 CFR parts 61 and 67) as follows:

PART 61—CERTIFICATION: PILOTS AND FLIGHT INSTRUCTORS

1. The authority citation for part 61 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701–44703, 44707, 44709–44711, 45102–45103, 45301–45302.

2. Section 61.23 is amended by revising paragraphs (a)(3), (b)(2), and (c) to read as follows:

§ 61.23 Duration of medical certificates.

(a)* * *

(3) The period specified in paragraph (c) of this section for operations requiring only a private, recreational, or student pilot certificate.

(b)* * *

(2) The period specified in paragraph (c) of this section for operations requiring only a private, recreational, or student pilot certificate.

(c) A third-class medical certificate for operations requiring a private, recreational, or student pilot certificate issued—

(1) Before September 16, 1996, expires at the end of the 24th month after the month of the date of examination shown on the certificate.

(2) On or after September 16, 1996, expires at the end of the:

(i) 36th month after the month of the date of the examination shown on the certificate if the person has not reached his or her 40th birthday on or before the date of the examination; or

(ii) 24th month after the month of the date of the examination shown on the certificate if the person has reached his or her 40th birthday on or before the date of the examination.

3. Section 61.39 is amended by revising paragraph (a)(3) to read as follows:

§ 61.39 Prerequisites for flight tests.

(a)* * *

(3) Hold a current medical certificate appropriate to the certificate the applicant seeks or, in the case of a rating to be added to the applicant's pilot certificate, at least a current third-class medical certificate issued under part 67 of this chapter;

* * * * *

4. Part 67 is revised to read as follows:

PART 67—MEDICAL STANDARDS AND CERTIFICATION

Subpart A—General

Sec.
67.1 Applicability.
67.3 Issue.
67.5 Certification of foreign airmen.
67.7 Access to the National Driver Register.

Subpart B—First-Class Airman Medical Certificate

67.101 Eligibility.
67.103 Eye.
67.105 Ear, nose, throat, and equilibrium.
67.107 Mental.
67.109 Neurologic.
67.111 Cardiovascular.
67.113 General medical condition.
67.115 Discretionary issuance.

Subpart C—Second-Class Airman Medical Certificate

67.201 Eligibility.
67.203 Eye.
67.205 Ear, nose, throat, and equilibrium.
67.207 Mental.
67.209 Neurologic.
67.211 Cardiovascular.
67.213 General medical condition.
67.215 Discretionary issuance.

Subpart D—Third-Class Airman Medical Certificate

67.301 Eligibility.
67.303 Eye.
67.305 Ear, nose, throat, and equilibrium.
67.307 Mental.
67.309 Neurologic.
67.311 Cardiovascular.
67.313 General medical condition.
67.315 Discretionary issuance.

Subpart E—Certification Procedures

67.401 Special issuance of medical certificates.
67.403 Applications, certificates, logbooks, reports, and records: Falsification, reproduction, or alteration; incorrect statements.
67.405 Medical examinations: Who may give.
67.407 Delegation of authority.
67.409 Denial of medical certificate.
67.411 Medical certificates by flight surgeons of Armed Forces.
67.413 Medical records.
67.415 Return of medical certificate after suspension or revocation.

Authority: 49 U.S.C. 106(g), 40113, 44701–44703, 44707, 44709–44711, 45102–45103, 45301–45303.

Subpart A—General

§ 67.1 Applicability.

This part prescribes the medical standards and certification procedures for issuing medical certificates for airmen and for remaining eligible for a medical certificate.

§ 67.3 Issue.

Except as provided in § 67.5, a person who meets the medical standards prescribed in this part, based on medical examination and evaluation of the person's history and condition, is entitled to an appropriate medical certificate.

§ 67.5 Certification of foreign airmen.

A person who is neither a United States citizen nor a resident alien is issued a certificate under this part, outside the United States, only when the Administrator finds that the certificate is needed for operation of a U.S.-registered aircraft.

§ 67.7 Access to the National Driver Register.

At the time of application for a certificate issued under this part, each person who applies for a medical certificate shall execute an express consent form authorizing the Administrator to request the chief driver licensing official of any state designated by the Administrator to transmit information contained in the National Driver Register about the person to the Administrator. The Administrator shall make information received from the National Driver Register, if any, available on request to the person for review and written comment.

Subpart B — First-Class Airman Medical Certificate

§ 67.101 Eligibility.

To be eligible for a first-class airman medical certificate, and to remain eligible for a first-class airman medical certificate, a person must meet the requirements of this subpart.

§ 67.103 Eye.

Eye standards for a first-class airman medical certificate are:

(a) Distant visual acuity of 20/20 or better in each eye separately, with or without corrective lenses. If corrective lenses (spectacles or contact lenses) are necessary for 20/20 vision, the person may be eligible only on the condition that corrective lenses are worn while exercising the privileges of an airman certificate.

(b) Near vision of 20/40 or better, Snellen equivalent, at 16 inches in each eye separately, with or without corrective lenses. If age 50 or older, near vision of 20/40 or better, Snellen equivalent, at both 16 inches and 32 inches in each eye separately, with or without corrective lenses.

(c) Ability to perceive those colors necessary for the safe performance of airman duties.

(d) Normal fields of vision.

(e) No acute or chronic pathological condition of either eye or adnexa that interferes with the proper function of an eye, that may reasonably be expected to progress to that degree, or that may reasonably be expected to be aggravated by flying.

(f) Bifoveal fixation and vergence-phoria relationship sufficient to prevent a break in fusion under conditions that may reasonably be expected to occur in performing airman duties. Tests for the factors named in this paragraph are not required except for persons found to have more than 1 prism diopter of hyperphoria, 6 prism diopters of esophoria, or 6 prism diopters of exophoria. If any of these values are exceeded, the Federal Air Surgeon may require the person to be examined by a qualified eye specialist to determine if there is bifoveal fixation and an adequate vergence-phoria relationship. However, if otherwise eligible, the person is issued a medical certificate pending the results of the examination.

67.105 Ear, nose, throat, and equilibrium.

Ear, nose, throat, and equilibrium standards for a first-class airman medical certificate are:

(a) The person shall demonstrate acceptable hearing by at least one of the following tests:

(1) Demonstrate an ability to hear an average conversational voice in a quiet room, using both ears, at a distance of 6 feet from the examiner, with the back turned to the examiner.

(2) Demonstrate an acceptable understanding of speech as determined by audiometric speech discrimination testing to a score of at least 70 percent obtained in one ear or in a sound field environment.

(3) Provide acceptable results of pure tone audiometric testing of unaided hearing acuity according to the following table of worst acceptable thresholds, using the calibration standards of the American National Standards Institute, 1969 (11 West 42d Street, New York, NY 10036):

Frequency (Hz)	500 Hz	1000 Hz	2000 Hz	3000 Hz
Better ear (Db)	35	30	30	40
Poorer ear (Db)	35	50	50	60

(b) No disease or condition of the middle or internal ear, nose, oral cavity, pharynx, or larynx that—

(1) Interferes with, or is aggravated by, flying or may reasonably be expected to do so; or

(2) Interferes with, or may reasonably be expected to interfere with, clear and effective speech communication.

(c) No disease or condition manifested by, or that may reasonably be expected to be manifested by, vertigo or a disturbance of equilibrium.

§ 67.107 Mental.

Mental standards for a first-class airman medical certificate are:

(a) No established medical history or clinical diagnosis of any of the following:

(1) A personality disorder that is severe enough to have repeatedly manifested itself by overt acts.

(2) A psychosis. As used in this section, ''psychosis'' refers to a mental disorder in which:

(i) The individual has manifested delusions, hallucinations, grossly bizarre or disorganized behavior, or other commonly accepted symptoms of this condition; or

(ii) The individual may reasonably be expected to manifest delusions, hallucinations, grossly bizarre or disorganized behavior, or other commonly accepted symptoms of this condition.

(3) A bipolar disorder.

(4) Substance dependence, except where there is established clinical evidence, satisfactory to the Federal Air Surgeon, of recovery, including sustained total abstinence from the substance(s) for not less than the preceding 2 years. As used in this section—

(i) ''Substance'' includes: Alcohol; other sedatives and hypnotics; anxiolytics; opioids; central nervous system stimulants such as cocaine, amphetamines, and similarly acting sympathomimetics; hallucinogens;

phencyclidine or similarly acting arylcyclohexylamines; cannabis; inhalants; and other psychoactive drugs and chemicals; and

(ii) ''Substance dependence'' means a condition in which a person is dependent on a substance, other than tobacco or ordinary xanthine-containing (e.g., caffeine) beverages, as evidenced by—

(A) Increased tolerance;

(B) Manifestation of withdrawal symptoms;

(C) Impaired control of use; or

(D) Continued use despite damage to physical health or impairment of social, personal, or occupational functioning.

(b) No substance abuse within the preceding 2 years defined as:

(1) Use of a substance in a situation in which that use was physically hazardous, if there has been at any other time an instance of the use of a substance also in a situation in which that use was physically hazardous;

(2) A verified positive drug test result acquired under an anti-drug program or internal program of the U.S. Department of Transportation or any other Administration within the U.S. Department of Transportation; or

(3) Misuse of a substance that the Federal Air Surgeon, based on case history and appropriate, qualified medical judgment relating to the substance involved, finds—

(i) Makes the person unable to safely perform the duties or exercise the privileges of the airman certificate applied for or held; or

(ii) May reasonably be expected, for the maximum duration of the airman medical certificate applied for or held, to make the person unable to perform those duties or exercise those privileges.

(c) No other personality disorder, neurosis, or other mental condition that the Federal Air Surgeon, based on the case history and appropriate, qualified medical judgment relating to the condition involved, finds—

(1) Makes the person unable to safely perform the duties or exercise the privileges of the airman certificate applied for or held; or

(2) May reasonably be expected, for the maximum duration of the airman medical certificate applied for or held, to make the person unable to perform those duties or exercise those privileges.

§ 67.109 Neurologic.

Neurologic standards for a first-class airman medical certificate are:

(a) No established medical history or clinical diagnosis of any of the following:

(1) Epilepsy;

(2) A disturbance of consciousness without satisfactory medical explanation of the cause; or

(3) A transient loss of control of nervous system function(s) without satisfactory medical explanation of the cause.

(b) No other seizure disorder, disturbance of consciousness, or neurologic condition that the Federal Air Surgeon, based on the case history and appropriate, qualified medical judgment relating to the condition involved, finds—

(1) Makes the person unable to safely perform the duties or exercise the privileges of the airman certificate applied for or held; or

(2) May reasonably be expected, for the maximum duration of the airman medical certificate applied for or held, to make the person unable to perform those duties or exercise those privileges.

§ 67.111 Cardiovascular.

Cardiovascular standards for a first-class airman medical certificate are:

(a) No established medical history or clinical diagnosis of any of the following:

(1) Myocardial infarction;

(2) Angina pectoris;

(3) Coronary heart disease that has required treatment or, if untreated, that has been symptomatic or clinically significant;

(4) Cardiac valve replacement;

(5) Permanent cardiac pacemaker implantation; or

(6) Heart replacement;

(b) A person applying for first-class medical certification must demonstrate an absence of myocardial infarction and other clinically significant abnormality on electrocardiographic examination:

(1) At the first application after reaching the 35th birthday; and

(2) On an annual basis after reaching the 40th birthday.

(c) An electrocardiogram will satisfy a requirement of paragraph (b) of this section if it is dated no earlier than 60 days before the date of the application it is to accompany and was performed and transmitted according to acceptable standards and techniques.

§ 67.113 General medical condition.

The general medical standards for a first-class airman medical certificate are:

(a) No established medical history or clinical diagnosis of diabetes mellitus that requires insulin or any other hypoglycemic drug for control.

(b) No other organic, functional, or structural disease, defect, or limitation that the Federal Air Surgeon, based on the case history and appropriate, qualified medical judgment relating to the condition involved, finds—

(1) Makes the person unable to safely perform the duties or exercise the privileges of the airman certificate applied for or held; or

(2) May reasonably be expected, for the maximum duration of the airman medical certificate applied for or held, to make the person unable to perform those duties or exercise those privileges.

(c) No medication or other treatment that the Federal Air Surgeon, based on the case history and appropriate, qualified medical judgment relating to the medication or other treatment involved, finds—

(1) Makes the person unable to safely perform the duties or exercise the privileges of the airman certificate applied for or held; or

(2) May reasonably be expected, for the maximum duration of the airman medical certificate applied for or held, to make the person unable to perform those duties or exercise those privileges.

§ 67.115 Discretionary issuance.

A person who does not meet the provisions of §§ 67.103 through 67.113 may apply for the discretionary issuance of a certificate under § 67.401.

Subpart C—Second-Class Airman Medical Certificate

§ 67.201 Eligibility.

To be eligible for a second-class airman medical certificate, and to remain eligible for a second-class airman medical certificate, a person must meet the requirements of this subpart.

§ 67.203 Eye.

Eye standards for a second-class airman medical certificate are:

(a) Distant visual acuity of 20/20 or better in each eye separately, with or without corrective lenses. If corrective lenses (spectacles or contact lenses) are necessary for 20/20 vision, the person may be eligible only on the condition that corrective lenses are worn while exercising the privileges of an airman certificate.

(b) Near vision of 20/40 or better, Snellen equivalent, at 16 inches in each eye separately, with or without corrective lenses. If age 50 or older, near vision of 20/40 or better, Snellen equivalent, at both 16 inches and 32 inches in each eye separately, with or without corrective lenses.

(c) Ability to perceive those colors necessary for the safe performance of airman duties.

(d) Normal fields of vision.

(e) No acute or chronic pathological condition of either eye or adnexa that

interferes with the proper function of an eye, that may reasonably be expected to progress to that degree, or that may reasonably be expected to be aggravated by flying.

(f) Bifoveal fixation and vergence-phoria relationship sufficient to prevent a break in fusion under conditions that may reasonably be expected to occur in performing airman duties. Tests for the factors named in this paragraph are not required except for persons found to have more than 1 prism diopter of hyperphoria, 6 prism diopters of esophoria, or 6 prism diopters of exophoria. If any of these values are exceeded, the Federal Air Surgeon may require the person to be examined by a qualified eye specialist to determine if there is bifoveal fixation and an adequate vergence-phoria relationship. However, if otherwise eligible, the person is issued a medical certificate pending the results of the examination.

§ 67.205 Ear, nose, throat, and equilibrium.

Ear, nose, throat, and equilibrium standards for a second-class airman medical certificate are:

(a) The person shall demonstrate acceptable hearing by at least one of the following tests:

(1) Demonstrate an ability to hear an average conversational voice in a quiet room, using both ears, at a distance of 6 feet from the examiner, with the back turned to the examiner.

(2) Demonstrate an acceptable understanding of speech as determined by audiometric speech discrimination testing to a score of at least 70 percent obtained in one ear or in a sound field environment.

(3) Provide acceptable results of pure tone audiometric testing of unaided hearing acuity according to the following table of worst acceptable thresholds, using the calibration standards of the American National Standards Institute, 1969:

Frequency (Hz)	500 Hz	1000 Hz	2000 Hz	3000 Hz
Better ear (Db)	35	30	30	40
Poorer ear (Db)	35	50	50	60

(b) No disease or condition of the middle or internal ear, nose, oral cavity, pharynx, or larynx that—

(1) Interferes with, or is aggravated by, flying or may reasonably be expected to do so; or

(2) Interferes with, or may reasonably be expected to interfere with, clear and effective speech communication.

(c) No disease or condition manifested by, or that may reasonably be expected to be manifested by, vertigo or a disturbance of equilibrium.

§ 67.207 Mental.

Mental standards for a second-class airman medical certificate are:

(a) No established medical history or clinical diagnosis of any of the following:

(1) A personality disorder that is severe enough to have repeatedly manifested itself by overt acts.

(2) A psychosis. As used in this section, ''psychosis'' refers to a mental disorder in which:

(i) The individual has manifested delusions, hallucinations, grossly bizarre or disorganized behavior, or other commonly accepted symptoms of this condition; or

(ii) The individual may reasonably be expected to manifest delusions, hallucinations, grossly bizarre or disorganized behavior, or other commonly accepted symptoms of this condition.

(3) A bipolar disorder.

(4) Substance dependence, except where there is established clinical evidence, satisfactory to the Federal Air Surgeon, of recovery, including sustained total abstinence from the substance(s) for not less than the preceding 2 years. As used in this section—

(i) ''Substance'' includes: Alcohol; other sedatives and hypnotics; anxiolytics; opioids; central nervous system stimulants such as cocaine, amphetamines, and similarly acting sympathomimetics; hallucinogens; phencyclidine or similarly acting arylcyclohexylamines; cannabis; inhalants; and other psychoactive drugs and chemicals; and

(ii) ''Substance dependence'' means a condition in which a person is dependent on a substance, other than tobacco or ordinary xanthine-containing (e.g., caffeine) beverages, as evidenced by—

(A) Increased tolerance;

(B) Manifestation of withdrawal symptoms;

(C) Impaired control of use; or

(D) Continued use despite damage to physical health or impairment of social, personal, or occupational functioning.

(b) No substance abuse within the preceding 2 years defined as:

(1) Use of a substance in a situation in which that use was physically hazardous, if there has been at any other time an instance of the use of a substance also in a situation in which that use was physically hazardous;

(2) A verified positive drug test result acquired under an anti-drug program or internal program of the U.S. Department of Transportation or any other Administration within the U.S. Department of Transportation; or

(3) Misuse of a substance that the Federal Air Surgeon, based on case history and appropriate, qualified medical judgment relating to the substance involved, finds—

(i) Makes the person unable to safely perform the duties or exercise the privileges of the airman certificate applied for or held; or

(ii) May reasonably be expected, for the maximum duration of the airman medical certificate applied for or held, to make the person unable to perform those duties or exercise those privileges.

(c) No other personality disorder, neurosis, or other mental condition that the Federal Air Surgeon, based on the case history and appropriate, qualified medical judgment relating to the condition involved, finds—

(1) Makes the person unable to safely perform the duties or exercise the privileges of the airman certificate applied for or held; or

(2) May reasonably be expected, for the maximum duration of the airman medical certificate applied for or held, to make the person unable to perform those duties or exercise those privileges.

67.209 Neurologic.

Neurologic standards for a second-class airman medical certificate are:

(a) No established medical history or clinical diagnosis of any of the following:

(1) Epilepsy;

(2) A disturbance of consciousness without satisfactory medical explanation of the cause; or

(3) A transient loss of control of nervous system function(s) without satisfactory medical explanation of the cause;

(b) No other seizure disorder, disturbance of consciousness, or neurologic condition that the Federal Air Surgeon, based on the case history and appropriate, qualified medical judgment relating to the condition involved, finds—

(1) Makes the person unable to safely perform the duties or exercise the privileges of the airman certificate applied for or held; or

(2) May reasonably be expected, for the maximum duration of the airman medical certificate applied for or held, to make the person unable to perform those duties or exercise those privileges.

67.211 Cardiovascular.

Cardiovascular standards for a second-class medical certificate are no established medical history or clinical diagnosis of any of the following:

(a) Myocardial infarction;

(b) Angina pectoris;

(c) Coronary heart disease that has required treatment or, if untreated, that

has been symptomatic or clinically significant;

(d) Cardiac valve replacement;

(e) Permanent cardiac pacemaker implantation; or

(f) Heart replacement.

67.213 General medical condition.

The general medical standards for a second-class airman medical certificate are:

(a) No established medical history or clinical diagnosis of diabetes mellitus that requires insulin or any other hypoglycemic drug for control.

(b) No other organic, functional, or structural disease, defect, or limitation that the Federal Air Surgeon, based on the case history and appropriate, qualified medical judgment relating to the condition involved, finds—

(1) Makes the person unable to safely perform the duties or exercise the privileges of the airman certificate applied for or held; or

(2) May reasonably be expected, for the maximum duration of the airman medical certificate applied for or held, to make the person unable to perform those duties or exercise those privileges.

(c) No medication or other treatment that the Federal Air Surgeon, based on the case history and appropriate, qualified medical judgment relating to the medication or other treatment involved, finds—

(1) Makes the person unable to safely perform the duties or exercise the privileges of the airman certificate applied for or held; or

(2) May reasonably be expected, for the maximum duration of the airman medical certificate applied for or held, to make the person unable to perform those duties or exercise those privileges.

§ 67.215 Discretionary issuance.

A person who does not meet the provisions of §§ 67.203 through 67.213 may apply for the discretionary issuance of a certificate under § 67.401.

Subpart D—Third-Class Airman Medical Certificate

§ 67.301 Eligibility.

To be eligible for a third-class airman medical certificate, or to remain eligible for a third-class airman medical certificate, a person must meet the requirements of this subpart.

§ 67.303 Eye.

Eye standards for a third-class airman medical certificate are:

(a) Distant visual acuity of 20/40 or better in each eye separately, with or without corrective lenses. If corrective lenses (spectacles or contact lenses) are necessary for 20/40 vision, the person may be eligible only on the condition that corrective lenses are worn while exercising the privileges of an airman certificate.

(b) Near vision of 20/40 or better, Snellen equivalent, at 16 inches in each eye separately, with or without corrective lenses.

(c) Ability to perceive those colors necessary for the safe performance of airman duties.

(d) No acute or chronic pathological condition of either eye or adnexa that interferes with the proper function of an eye, that may reasonably be expected to progress to that degree, or that may reasonably be expected to be aggravated by flying.

§ 67.305 Ear, nose, throat, and equilibrium.

Ear, nose, throat, and equilibrium standards for a third-class airman medical certificate are:

(a) The person shall demonstrate acceptable hearing by at least one of the following tests:

(1) Demonstrate an ability to hear an average conversational voice in a quiet room, using both ears, at a distance of 6 feet from the examiner, with the back turned to the examiner.

(2) Demonstrate an acceptable understanding of speech as determined by audiometric speech discrimination testing to a score of at least 70 percent obtained in one ear or in a sound field environment.

(3) Provide acceptable results of pure tone audiometric testing of unaided hearing acuity according to the following table of worst acceptable thresholds, using the calibration standards of the American National Standards Institute, 1969:

Frequency (Hz)	500 Hz	1000 Hz	2000 Hz	3000 Hz
Better ear (Db)	35	30	30	40
Poorer ear (Db)	35	50	50	60

(b) No disease or condition of the middle or internal ear, nose, oral cavity, pharynx, or larynx that—

(1) Interferes with, or is aggravated by, flying or may reasonably be expected to do so; or

(2) Interferes with clear and effective speech communication.

(c) No disease or condition manifested by, or that may reasonably be expected to be manifested by, vertigo or a disturbance of equilibrium.

§ 67.307 Mental.

Mental standards for a third-class airman medical certificate are:

(a) No established medical history or clinical diagnosis of any of the following:

(1) A personality disorder that is severe enough to have repeatedly manifested itself by overt acts.

(2) A psychosis. As used in this section, ''psychosis'' refers to a mental disorder in which—

(i) The individual has manifested delusions, hallucinations, grossly bizarre or disorganized behavior, or other commonly accepted symptoms of this condition; or

(ii) The individual may reasonably be expected to manifest delusions, hallucinations, grossly bizarre or disorganized behavior, or other commonly accepted symptoms of this condition.

(3) A bipolar disorder.

(4) Substance dependence, except where there is established clinical evidence, satisfactory to the Federal Air Surgeon, of recovery, including sustained total abstinence from the substance(s) for not less than the preceding 2 years. As used in this section—

(i) ''Substance'' includes: alcohol; other sedatives and hypnotics; anxiolytics; opioids; central nervous system stimulants such as cocaine, amphetamines, and similarly acting sympathomimetics; hallucinogens; phencyclidine or similarly acting arylcyclohexylamines; cannabis; inhalants; and other psychoactive drugs and chemicals; and

(ii) ''Substance dependence'' means a condition in which a person is dependent on a substance, other than tobacco or ordinary xanthine-containing (e.g., caffeine) beverages, as evidenced by—

(A) Increased tolerance;

(B) Manifestation of withdrawal symptoms;

(C) Impaired control of use; or

(D) Continued use despite damage to physical health or impairment of social, personal, or occupational functioning.

(b) No substance abuse within the preceding 2 years defined as:

(1) Use of a substance in a situation in which that use was physically hazardous, if there has been at any other time an instance of the use of a substance also in a situation in which that use was physically hazardous;

(2) A verified positive drug test result conducted under an anti-drug rule or internal program of the U.S. Department of Transportation or any other Administration within the U.S. Department of Transportation; or

(3) Misuse of a substance that the Federal Air Surgeon, based on case history and appropriate, qualified medical judgment relating to the substance involved, finds—

(i) Makes the person unable to safely perform the duties or exercise the

privileges of the airman certificate applied for or held; or

(ii) May reasonably be expected, for the maximum duration of the airman medical certificate applied for or held, to make the person unable to perform those duties or exercise those privileges.

(c) No other personality disorder, neurosis, or other mental condition that the Federal Air Surgeon, based on the case history and appropriate, qualified medical judgment relating to the condition involved, finds—

(1) Makes the person unable to safely perform the duties or exercise the privileges of the airman certificate applied for or held; or

(2) May reasonably be expected, for the maximum duration of the airman medical certificate applied for or held, to make the person unable to perform those duties or exercise those privileges.

§ 67.309 Neurologic.

Neurologic standards for a third-class airman medical certificate are:

(a) No established medical history or clinical diagnosis of any of the following:

(1) Epilepsy;

(2) A disturbance of consciousness without satisfactory medical explanation of the cause; or

(3) A transient loss of control of nervous system function(s) without satisfactory medical explanation of the cause.

(b) No other seizure disorder, disturbance of consciousness, or neurologic condition that the Federal Air Surgeon, based on the case history and appropriate, qualified medical judgment relating to the condition involved, finds—

(1) Makes the person unable to safely perform the duties or exercise the privileges of the airman certificate applied for or held; or

(2) May reasonably be expected, for the maximum duration of the airman medical certificate applied for or held, to make the person unable to perform those duties or exercise those privileges.

§ 67.311 Cardiovascular.

Cardiovascular standards for a third-class airman medical certificate are no established medical history or clinical diagnosis of any of the following:

(a) Myocardial infarction;

(b) Angina pectoris;

(c) Coronary heart disease that has required treatment or, if untreated, that has been symptomatic or clinically significant;

(d) Cardiac valve replacement;

(e) Permanent cardiac pacemaker implantation; or

(f) Heart replacement.

§ 67.313 General medical condition.

The general medical standards for a third-class airman medical certificate are:

(a) No established medical history or clinical diagnosis of diabetes mellitus that requires insulin or any other hypoglycemic drug for control.

(b) No other organic, functional, or structural disease, defect, or limitation that the Federal Air Surgeon, based on the case history and appropriate, qualified medical judgment relating to the condition involved, finds—

(1) Makes the person unable to safely perform the duties or exercise the privileges of the airman certificate applied for or held; or

(2) May reasonably be expected, for the maximum duration of the airman medical certificate applied for or held, to make the person unable to perform those duties or exercise those privileges.

(c) No medication or other treatment that the Federal Air Surgeon, based on the case history and appropriate, qualified medical judgment relating to the medication or other treatment involved, finds—

(1) Makes the person unable to safely perform the duties or exercise the privileges of the airman certificate applied for or held; or

(2) May reasonably be expected, for the maximum duration of the airman medical certificate applied for or held, to make the person unable to perform those duties or exercise those privileges.

§ 67.315 Discretionary issuance.

A person who does not meet the provisions of §§ 67.303 through 67.313 may apply for the discretionary issuance of a certificate under § 67.401.

Subpart E—Certification Procedures

§ 67.401 Special issuance of medical certificates.

(a) At the discretion of the Federal Air Surgeon, an Authorization for Special Issuance of a Medical Certificate (Authorization), valid for a specified period, may be granted to a person who does not meet the provisions of subparts B, C, or D of this part if the person shows to the satisfaction of the Federal Air Surgeon that the duties authorized by the class of medical certificate applied for can be performed without endangering public safety during the period in which the Authorization would be in force. The Federal Air Surgeon may authorize a special medical flight test, practical test, or medical evaluation for this purpose. A medical certificate of the appropriate class may be issued to a person who does not meet the provisions of subparts B, C, or D of this part if that person possesses a valid Authorization and is otherwise eligible. An airman medical certificate issued in accordance with this section shall expire no later than the end of the validity period or upon the withdrawal of the Authorization upon which it is based. At the end of its specified validity period, for grant of a new Authorization, the person must again show to the satisfaction of the Federal Air Surgeon that the duties authorized by the class of medical certificate applied for can be performed without endangering public safety during the period in which the Authorization would be in force.

(b) At the discretion of the Federal Air Surgeon, a Statement of Demonstrated Ability (SODA) may be granted, instead of an Authorization, to a person whose disqualifying condition is static or nonprogressive and who has been found capable of performing airman duties without endangering public safety. A SODA does not expire and authorizes a designated aviation medical examiner to issue a medical certificate of a specified class if the examiner finds that the condition described on its face has not adversely changed.

(c) In granting an Authorization or SODA, the Federal Air Surgeon may consider the person's operational experience and any medical facts that may affect the ability of the person to perform airman duties including—

(1) The combined effect on the person of failure to meet more than one requirement of this part; and

(2) The prognosis derived from professional consideration of all available information regarding the person.

(d) In granting an Authorization or SODA under this section, the Federal Air Surgeon specifies the class of medical certificate authorized to be issued and may do any or all of the following:

(1) Limit the duration of an Authorization;

(2) Condition the granting of a new Authorization on the results of subsequent medical tests, examinations, or evaluations;

(3) State on the Authorization or SODA, and any medical certificate based upon it, any operational limitation needed for safety; or

(4) Condition the continued effect of an Authorization or SODA, and any second- or third-class medical certificate based upon it, on compliance with a statement of functional limitations issued to the person in coordination with the Director of Flight Standards or the Director's designee.

(e) In determining whether an Authorization or SODA should be granted to an applicant for a third-class medical certificate, the Federal Air Surgeon considers the freedom of an airman, exercising the privileges of a private pilot certificate, to accept reasonable risks to his or her person and property that are not acceptable in the exercise of commercial or airline transport pilot privileges, and, at the same time, considers the need to protect the safety of persons and property in other aircraft and on the ground.

(f) An Authorization or SODA granted under the provisions of this section to a person who does not meet the applicable provisions of subparts B, C, or D of this part may be withdrawn, at the discretion of the Federal Air Surgeon, at any time if—

(1) There is adverse change in the holder's medical condition;

(2) The holder fails to comply with a statement of functional limitations or operational limitations issued as a condition of certification under this section;

(3) Public safety would be endangered by the holder's exercise of airman privileges;

(4) The holder fails to provide medical information reasonably needed by the Federal Air Surgeon for certification under this section; or

(5) The holder makes or causes to be made a statement or entry that is the basis for withdrawal of an Authorization or SODA under § 67.403.

(g) A person who has been granted an Authorization or SODA under this section based on a special medical flight or practical test need not take the test again during later physical examinations unless the Federal Air Surgeon determines or has reason to believe that the physical deficiency has or may have degraded to a degree to require another special medical flight test or practical test.

(h) The authority of the Federal Air Surgeon under this section is also exercised by the Manager, Aeromedical Certification Division, and each Regional Flight Surgeon.

(i) If an Authorization or SODA is withdrawn under paragraph (f) of this section the following procedures apply:

(1) The holder of the Authorization or SODA will be served a letter of withdrawal, stating the reason for the action;

(2) By not later than 60 days after the service of the letter of withdrawal, the holder of the Authorization or SODA may request, in writing, that the Federal Air Surgeon provide for review of the decision to withdraw. The request for review may be accompanied by supporting medical evidence;

(3) Within 60 days of receipt of a request for review, a written final decision either affirming or reversing the decision to withdraw will be issued; and

(4) A medical certificate rendered invalid pursuant to a withdrawal, in accordance with paragraph (a) of this section, shall be surrendered to the Administrator upon request.

(j) No grant of a special issuance made prior to September 16, 1996, may be used to obtain a medical certificate after the earlier of the following dates:

(1) September 16, 1997; or

(2) The date on which the holder of such special issuance is required to provide additional information to the FAA as a condition for continued medical certification.

§ 67.403 Applications, certificates, logbooks, reports, and records: Falsification, reproduction, or alteration; incorrect statements.

(a) No person may make or cause to be made—

(1) A fraudulent or intentionally false statement on any application for a medical certificate or on a request for any Authorization for Special Issuance of a Medical Certificate (Authorization) or Statement of Demonstrated Ability (SODA) under this part;

(2) A fraudulent or intentionally false entry in any logbook, record, or report that is kept, made, or used, to show compliance with any requirement for any medical certificate or for any Authorization or SODA under this part;

(3) A reproduction, for fraudulent purposes, of any medical certificate under this part; or

(4) An alteration of any medical certificate under this part.

(b) The commission by any person of an act prohibited under paragraph (a) of this section is a basis for—

(1) Suspending or revoking all airman, ground instructor, and medical certificates and ratings held by that person;

(2) Withdrawing all Authorizations or SODA's held by that person; and

(3) Denying all applications for medical certification and requests for Authorizations or SODA's.

(c) The following may serve as a basis for suspending or revoking a medical certificate; withdrawing an Authorization or SODA; or denying an application for a medical certificate or request for an authorization or SODA:

(1) An incorrect statement, upon which the FAA relied, made in support of an application for a medical certificate or request for an Authorization or SODA.

(2) An incorrect entry, upon which the FAA relied, made in any logbook, record, or report that is kept, made, or used to show compliance with any requirement for a medical certificate or an Authorization or SODA.

§ 67.405 Medical examinations: Who may give.

(a) *First-class.* Any aviation medical examiner who is specifically designated for the purpose may give the examination for the first-class medical certificate. Any interested person may obtain a list of these aviation medical examiners, in any area, from the FAA Regional Flight Surgeon of the region in which the area is located.

(b) *Second- and third-class.* Any aviation medical examiner may give the examination for the second- or third-class medical certificate. Any interested person may obtain a list of aviation medical examiners, in any area, from the FAA Regional Flight Surgeon of the region in which the area is located.

§ 67.407 Delegation of authority.

(a) The authority of the Administrator under 49 U.S.C. 44703 to issue or deny medical certificates is delegated to the Federal Air Surgeon to the extent necessary to—

(1) Examine applicants for and holders of medical certificates to determine whether they meet applicable medical standards; and

(2) Issue, renew, and deny medical certificates, and issue, renew, deny, and withdraw Authorizations for Special Issuance of a Medical Certificate and Statements of Demonstrated Ability to a person based upon meeting or failing to meet applicable medical standards.

(b) Subject to limitations in this chapter, the delegated functions of the Federal Air Surgeon to examine applicants for and holders of medical certificates for compliance with applicable medical standards and to issue, renew, and deny medical certificates are also delegated to aviation medical examiners and to authorized representatives of the Federal Air Surgeon within the FAA.

(c) The authority of the Administrator under 49 U.S.C. 44702, to reconsider the action of an aviation medical examiner is delegated to the Federal Air Surgeon; the Manager, Aeromedical Certification Division; and each Regional Flight Surgeon. Where the person does not meet the standards of §§ 67.107(b)(3) and (c), 67.109(b), 67.113(b) and (c), 67.207(b)(3) and (c), 67.209(b), 67.213(b) and (c), 67.307(b)(3) and (c), 67.309(b), or 67.313(b) and (c), any action taken under this paragraph other than by the Federal Air Surgeon is subject to

reconsideration by the Federal Air Surgeon. A certificate issued by an aviation medical examiner is considered to be affirmed as issued unless an FAA official named in this paragraph (authorized official) reverses that issuance within 60 days after the date of issuance. However, if within 60 days after the date of issuance an authorized official requests the certificate holder to submit additional medical information, an authorized official may reverse the issuance within 60 days after receipt of the requested information.

(d) The authority of the Administrator under 49 U.S.C. 44709 to re-examine any civil airman to the extent necessary to determine an airman's qualification to continue to hold an airman medical certificate, is delegated to the Federal Air Surgeon and his or her authorized representatives within the FAA.

§ 67.409 Denial of medical certificate.

(a) Any person who is denied a medical certificate by an aviation medical examiner may, within 30 days after the date of the denial, apply in writing and in duplicate to the Federal Air Surgeon, Attention: Manager, Aeromedical Certification Division, AAM–300, Federal Aviation Administration, P.O. Box 26080, Oklahoma City, Oklahoma 73126, for reconsideration of that denial. If the person does not ask for reconsideration during the 30-day period after the date of the denial, he or she is considered to have withdrawn the application for a medical certificate.

(b) The denial of a medical certificate—

(1) By an aviation medical examiner is not a denial by the Administrator under 49 U.S.C. 44703.

(2) By the Federal Air Surgeon is considered to be a denial by the Administrator under 49 U.S.C. 44703.

(3) By the Manager, Aeromedical Certification Division, or a Regional Flight Surgeon is considered to be a denial by the Administrator under 49 U.S.C. 44703 except where the person does not meet the standards of §§ 67.107(b)(3) and (c), 67.109(b), or 67.113(b) and (c); 67.207(b)(3) and (c), 67.209(b), or 67.213(b) and (c); or 67.307(b)(3) and (c), 67.309(b), or 67.313(b) and (c).

(c) Any action taken under § 67.407(c) that wholly or partly reverses the issue of a medical certificate by an aviation medical examiner is the denial of a medical certificate under paragraph (b) of this section.

(d) If the issue of a medical certificate is wholly or partly reversed by the Federal Air Surgeon; the Manager, Aeromedical Certification Division; or a Regional Flight Surgeon, the person holding that certificate shall surrender it, upon request of the FAA.

§ 67.411 Medical certificates by flight surgeons of Armed Forces.

(a) The FAA has designated flight surgeons of the Armed Forces on specified military posts, stations, and facilities, as aviation medical examiners.

(b) An aviation medical examiner described in paragraph (a) of this section may give physical examinations for the FAA medical certificates to persons who are on active duty or who are, under Department of Defense medical programs, eligible for FAA medical certification as civil airmen. In addition, such an examiner may issue or deny an appropriate FAA medical certificate in accordance with the regulations of this chapter and the policies of the FAA.

(c) Any interested person may obtain a list of the military posts, stations, and facilities at which a flight surgeon has been designated as an aviation medical examiner from the Surgeon General of the Armed Force concerned or from the Manager, Aeromedical Education Division, AAM–400, Federal Aviation Administration, P.O. Box 26082, Oklahoma City, Oklahoma 73125.

§ 67.413 Medical records.

(a) Whenever the Administrator finds that additional medical information or history is necessary to determine whether an applicant for or the holder of a medical certificate meets the medical standards for it, the Administrator requests that person to furnish that information or to authorize any clinic, hospital, physician, or other person to release to the Administrator all available information or records concerning that history. If the applicant or holder fails to provide the requested medical information or history or to authorize the release so requested, the Administrator may suspend, modify, or revoke all medical certificates the airman holds or may, in the case of an applicant, deny the application for an airman medical certificate.

(b) If an airman medical certificate is suspended or modified under paragraph (a) of this section, that suspension or modification remains in effect until the requested information, history, or authorization is provided to the FAA and until the Federal Air Surgeon determines whether the person meets the medical standards under this part.

§ 67.415 Return of medical certificate after suspension or revocation.

The holder of any medical certificate issued under this part that is suspended or revoked shall, upon the Administrator's request, return it to the Administrator.

Issued in Washington, D.C. on March 12, 1996.

David R. Hinson,

Administrator.

[FR Doc. 96–6358 Filed 3–13–96; 1:34 pm]

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federal register

Tuesday
March 19, 1996

Part III

Department of Justice

Office of Juvenile Justice and Delinquency Prevention

Meeting of the Coordinating Council on Juvenile Justice and Delinquency Prevention; Notice

DEPARTMENT OF JUSTICE

Office of Juvenile Justice and Delinquency Prevention

[OJP NUMBER 1074]

Meeting of the Coordinating Council on Juvenile Justice and Delinquency Prevention

AGENCY: Office of Juvenile Justice and Delinquency Prevention, Justice.

ACTION: Notice.

SUMMARY: A meeting of the Coordinating Council on Juvenile Justice and Delinquency Prevention will take place in the District of Columbia, beginning at 10:30 a.m. on Wednesday, March 27, 1996, and ending at 1:00 p.m. on March 27, 1996. This advisory committee, chartered as the Coordinating Council on Juvenile Justice and Delinquency Prevention, will meet at Anacostia High School, located at 16th and R Streets, Southeast, Washington, DC. The Coordinating Council, established pursuant to section 3(2)(A) of the Federal Advisory Committee Act (5 U.S.C. App. 2), will meet to carry out its advisory functions under section 206 of the Juvenile Justice and Delinquency Prevention Act of 1974, as amended. This meeting will be open to the public. Members of the public who are attending the meeting must contact the Office of Juvenile Justice and Delinquency Prevention (OJJDP) by close of business March 20, 1996. The point of contact at OJJDP is Lutricia Key who can be reached at (202) 307–5911. Directions to Anacostia High School will be provided to the public by OJJDP. The public is further advised that a pictured identification is required to enter the building.

Shay Bilchik,

Administrator, Office of Juvenile Justice and Delinquency Prevention.

[FR Doc. 96–6477 Filed 3–18–96; 8:45 am]

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federal register

Tuesday
March 19, 1996

Part IV

Department of Health and Human Services

Food and Drug Administration

International Conference on Harmonisation; Draft Guideline on Impurities in New Drug Products; Availability; Notice

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 96D–0009]

International Conference on Harmonisation; Draft Guideline on Impurities in New Drug Products; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is publishing a draft guideline entitled ''Impurities in New Drug Products.'' The draft guideline was prepared under the auspices of the International Conference on Harmonisation of Technical Requirements for Registration of Pharmaceuticals for Human Use (ICH). The draft guideline provides guidance for registration or marketing applications on the content and qualification of impurities in new drug products produced from chemically synthesized new drug substances not previously registered in a region or member State. The draft guideline is an annex to the ICH guideline entitled ''Impurities in New Drug Substances.''

DATES: Written comments by June 17, 1996.

ADDRESSES: Submit written comments on the draft guideline to the Dockets Management Branch (HFA–305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857. Copies of the draft guideline are available from the Division of Communications Management (HFD–210), Center for Drug Evaluation and Research, Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–594–1012. An electronic version of this guideline is also available via Internet by connecting to the CDER file transfer protocol (FTP) server (CDVS2.CDER.FDA.GOV).

FOR FURTHER INFORMATION CONTACT:

Regarding the guideline: Allen Rudman, Center for Drug Evaluation and Research (HFD–645), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–594–0375.

Regarding the ICH: Janet J. Showalter, Office of Health Affairs (HFY–20), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–0864.

SUPPLEMENTARY INFORMATION: In recent years, many important initiatives have been undertaken by regulatory authorities and industry associations to promote international harmonization of regulatory requirements. FDA has participated in many meetings designed to enhance harmonization and is committed to seeking scientifically based harmonized technical procedures for pharmaceutical development. One of the goals of harmonization is to identify and then reduce differences in technical requirements for drug development among regulatory agencies.

ICH was organized to provide an opportunity for tripartite harmonization initiatives to be developed with input from both regulatory and industry representatives. FDA also seeks input from consumer representatives and others. ICH is concerned with harmonization of technical requirements for the registration of pharmaceutical products among three regions: The European Union, Japan, and the United States. The six ICH sponsors are the European Commission, the European Federation of Pharmaceutical Industries Associations, the Japanese Ministry of Health and Welfare, the Japanese Pharmaceutical Manufacturers Association, the Centers for Drug Evaluation and Research and Biologics Evaluation and Research, FDA, and the Pharmaceutical Research and Manufacturers of America. The ICH Secretariat, which coordinates the preparation of documentation, is provided by the International Federation of Pharmaceutical Manufacturers Associations (IFPMA).

The ICH Steering Committee includes representatives from each of the ICH sponsors and the IFPMA, as well as observers from the World Health Organization, the Canadian Health Protection Branch, and the European Free Trade Area.

At a meeting held on November 29, 1995, the ICH Steering Committee agreed that a draft guideline entitled ''Impurities in New Drug Products'' should be made available for public comment. The draft guideline is the product of the Quality Expert Working Group of the ICH. Comments about this draft will be considered by FDA and the Quality Expert Working Group. Ultimately, FDA intends to adopt the ICH Steering Committee's guideline.

In the Federal Register of January 4, 1996 (61 FR 372), the agency published a guideline entitled ''Impurities in New Drug Substances.'' The guideline provides guidance to applicants for drug marketing registration on the content and qualification of impurities in new drug substances produced by chemical synthesis and not previously registered in a country, region, or member State.

This draft guideline is an annex to that guideline and provides guidance for registration or marketing applications on the content and qualification of impurities in new drug products produced from chemically synthesized new drug substances not previously registered in a region or member State. The draft guideline addresses only those impurities in drug products classified as degradation products of the active ingredient or reaction products of the active ingredient with an excipient and/or immediate container/closure system. Impurities arising from excipients present in the drug product are not addressed in this draft guideline.

In the past, guidelines have generally been issued under § 10.90(b) (21 CFR 10.90(b)), which provides for the use of guidelines to state procedures or standards of general applicability that are not legal requirements but are acceptable to FDA. The agency is now in the process of revising § 10.90(b). Although this guideline does not create or confer any rights on or for any person and does not operate to bind FDA in any way, it does represent the agency's current thinking on impurities in new drug products.

Interested persons may, on or before June 17, 1996, submit to the Dockets Management Branch (address above) written comments on the draft guideline. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. The draft guideline and received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

The text of the draft guideline follows:

Impurities in New Drug Products

1. Introduction

1.1 Objective of the Guideline

This document provides guidance for registration or marketing applications on the content and qualification of impurities in new drug products produced from chemically synthesized new drug substances not previously registered or approved for marketing in a region or member State.

1.2 Background

This guideline is an annex to the Guideline on Impurities in New Drug Substances, which should be consulted for basic principles.

1.3 Scope of the Guideline

This guideline addresses only those impurities in drug products classified as degradation products of the active ingredient or reaction products of the active ingredient with an excipient and/or immediate

container/closure system (collectively referred to in this guideline as degradation products). Impurities arising from excipients present in the drug product are not covered in this document. This guideline also does not address the regulation of drug products used during the clinical research stages of development. Biological/biotechnological products, peptides, oligonucleotides, radiopharmaceuticals, fermentation products, and semisynthetic products derived therefrom, herbal products, and crude products of animal or plant origin are not covered. Also excluded from this document are: Extraneous contaminants, which should not occur in drug products and are more appropriately addressed as good manufacturing practice issues, polymorphic form, a solid state property of the new drug substance, and enantiomeric impurities. Impurities present in the new drug substance need not be monitored in drug products unless they are also degradation products.

2. Guidelines

2.1 Analytical Procedures

The registration or marketing application should include documented evidence that the analytical procedures are validated and suitable for the detection and quantitation of degradation products. Analytical methods should be validated to demonstrate that impurities unique to the new drug substance do not interfere with or are separated from specified and unspecified degradation products in the drug product.

Degradation product levels can be measured by a variety of techniques, including those which compare an analytical response for a degradation product to that of an appropriate reference standard or to the response of the new drug substance itself. Reference standards used in the analytical procedures for control of degradation products should be evaluated and characterized according to their intended uses. The drug substance may be used to estimate the levels of degradation products. In cases where the response factors are not close, this practice may still be used if a correction factor is applied or the degradation products are, in fact, being overestimated. Specifications and analytical procedures used to estimate identified or unidentified degradation products are often based on analytical assumptions (e.g., equivalent detector response). These assumptions should be discussed in the registration or marketing application. Differences in the analytical procedures used during development and those proposed for the commercial product should be discussed.

2.2 Rationale for the Reporting and Control of Impurities

The applicant should summarize those degradation products observed during stability studies of the drug product. This summary should be based on sound scientific appraisal of potential degradation pathways in the drug product and impurities arising from the interaction with excipients and/or the immediate container/closure system. In addition, the applicant should summarize any laboratory studies conducted to detect degradation products in the drug product. This summary should include test results of batches manufactured during the development process and batches representative of the proposed commercial process. A rationale should be provided for exclusion of those impurities which are not degradation products, e.g., process impurities from the drug substance and excipients and their related impurities. The impurity profile of the drug product batches representative of the proposed commercial process should be compared with the profiles of drug product batches used in development and any differences discussed.

Degradation products observed in stability studies conducted at recommended storage conditions should be identified when the identification thresholds given in Attachment I are exceeded. When identification of a degradation product is not feasible, a summary of the laboratory studies demonstrating the unsuccessful effort should be included in the registration or marketing application.

Degradation products below the indicated levels generally need not be identified. However, identification should be attempted for those degradation products that are suspected to be unusually potent, producing toxic or significant pharmacologic effects at levels lower than indicated.

2.3 Reporting Impurity Content of Batches

Analytical results should be provided in tabular format for all relevant batches of new drug product used for clinical, safety and stability testing, as well as batches which are representative of the proposed commercial process. Levels of degradation products greater than or equal to more than one half the identification threshold should be reported. In addition, where an analytical method reveals the presence of impurities in addition to the degradation products (e.g., impurities arising from the synthesis of the drug substance), the origin of these impurities should be discussed. Chromatograms from representative batches should be provided showing the location of the observed degradation products and impurities from the new drug substance.

The following information should be provided:

- Batch identity, strength, and size
- Date of manufacture
- Site of manufacture
- Manufacturing process, where applicable
- Immediate container/closure
- Degradation product content, individual and total
- Use of batch
- Reference to analytical procedure(s) used
- Batch number of the drug substance used in the drug product
- Storage conditions

2.4 Specification Limits for Impurities

The specifications for a new drug product should include limits for degradation products expected to occur under recommended storage conditions. Stability studies, knowledge of degradation pathways, product development studies, and laboratory studies should be used to define the degradation profile. Specifications should be set taking into account the qualification of the degradation products, the stability data, the expected expiry period, and the recommended storage conditions for the new drug product, allowing sufficient latitude to deal with normal manufacturing, analytical, and stability profile variation. Although some variation is expected, significant variation in batch-to-batch degradation profiles may indicate that the manufacturing process of the new drug product is not adequately controlled and validated. A rationale for the inclusion or exclusion of impurities in the specifications should be presented. This rationale should include a discussion of the impurity profiles observed in the safety and clinical development studies, together with a consideration of the impurity profile of the product manufactured by the proposed commercial process.

2.5 Qualification of Impurities

Qualification is the process of acquiring and evaluating data that establish the biological safety of an individual degradation product or a given degradation profile at the level(s) specified. The applicant should provide a rationale for selecting degradation product limits based on safety considerations. The level of any degradation product present in a new drug product that has been adequately tested and found safe in safety and/or clinical studies is considered qualified. Therefore, it is useful to include any available information on the actual content of degradation products in the relevant batches at the time of use in safety and/or clinical studies. Degradation products that are also significant metabolites, present in animal and/or human studies, do not need further qualification. It may be possible to justify a higher level of a degradation product than the level administered in safety studies. The justification should include consideration of factors such as: (1) The amount of degradation product administered in previous safety studies and found to be safe; (2) the percentage change in the degradation product; and (3) other safety factors as appropriate.

If data are not available to qualify the proposed specification level of a degradation product, studies to obtain such data may be needed (see ATTACHMENT II) when the usual qualification thresholds given in ATTACHMENT I are exceeded. Higher or lower thresholds for qualification of degradation products may be appropriate for some individual drug products based on scientific rationale and level of concern, including drug class effects and clinical experience. For example, qualification may be especially important when there is evidence that such degradation products in certain drugs or therapeutic classes have previously been associated with adverse reactions in patients. In these instances, a lower qualification threshold may be appropriate. Conversely, a higher qualification threshold may be appropriate for individual drugs when the level of concern for safety is less than usual based on similar considerations (e.g., patient population, drug class effects, and clinical considerations). In unusual circumstances, technical factors (e.g., manufacturing capability, a low drug substance to excipient

ratio, or the use of excipients that are also crude products of animal or plant origin) may be considered as part of the justification for selection of alternative thresholds. Proposals for alternative thresholds will be considered on a case-by-case basis.

The ''Decision Tree for Safety Studies'' (See Guideline on Impurities in New Drug Substances and ATTACHMENT II) describes considerations for the qualification of impurities when thresholds are exceeded. Alternatively, adequate data may be available in the scientific literature to qualify a degradation product. If neither is the case, additional safety testing should be considered. The studies desired to qualify a degradation product will depend on a number of factors, including the patient population, daily dose, route and duration of drug administration. Such studies should normally be conducted on the drug product or drug substance containing the degradation products to be controlled, although studies using isolated degradation products are acceptable.

2.6 New Impurities

During the course of a drug development program the qualitative degradation profile of a new drug product may change resulting in new degradation products which exceed the identification and/or qualification threshold and, in this event, these new degradation products should be identified and/or qualified. Such changes call for consideration of the need for qualification of the level of the impurity unless it is below the threshold values as noted in ATTACHMENT I.

When a new degradation product exceeds the threshold, the ''Decision Tree for Safety Studies'' should be consulted. Safety studies should provide a comparison of results of safety testing of the drug product or drug substance containing a representative level of the degradation product with previously qualified material, although studies using the isolated degradation products are also acceptable (these studies may not always have clinical significance).

3. Glossary

Degradation Product: A molecule resulting from a chemical change in the drug molecule brought about over time and/or by the action of, e.g., light, temperature, pH, or water, or by reaction with an excipient and/or the immediate container/closure system (also called decomposition product).

Degradation Profile: A description of the degradation products observed in the drug substance or drug product.

Development Studies: Studies conducted to scale-up, optimize, and validate the manufacturing process for a drug substance or drug product.

Identified Impurity: An impurity for which a structural characterization has been achieved.

Impurity: Any component of the drug product that is not the chemical entity defined as the drug substance or an excipient in the drug product.

Impurity Profile: A description of the identified and unidentified impurities present in a drug product.

New Drug Substance: The designated therapeutic moiety which has not been previously registered in a region or member State (also referred to as a new molecular entity or new chemical entity). It may be a complex, simple ester, or salt of a previously approved drug substance.

Potential Degradation Product: An impurity which, from theoretical considerations, may arise during or after manufacture or storage of the drug product. It may or may not actually appear in the drug substance or drug product.

Qualification: The process of acquiring and evaluating data that establish the biological safety of an individual impurity or a given impurity profile at the level(s) specified.

Reaction Product: Product arising from the reaction of a drug substance with an excipient in the drug product or immediate container/closure system.

Safety Information: The body of information that establishes the biological safety of an individual impurity or a given impurity profile at the level(s) specified.

Specified Degradation Product: Identified or unidentified degradation product that is selected for inclusion in the new drug product specifications and is individually listed and limited in order to assure the safety and quality of the new drug product.

Toxic Impurity: An impurity having significant undesirable biological activity.

Unidentified Degradation Product: An impurity which is defined solely by qualitative analytical properties, e.g., chromatographic retention time.

Unspecified Degradation Products: A degradation product which is not recurring and is not defined by qualitative analytical properties.

ATTACHMENT I

THRESHOLDS FOR IDENTIFICATION OF DEGRADATION PRODUCTS IN NEW DRUG PRODUCTS

Maximum daily dose[1]	Threshold
< 1 mg	1.0% or 5 μg TDI[2] whichever is lower
1 mg - 10 mg	0.5% or 20 μg TDI whichever is lower
>10 mg - 2 g	0.2% or 2 mg TDI whichever is lower
>2 g	0.1%

[1] The amount of drug substance administered per day.
[2] Total Daily Intake.

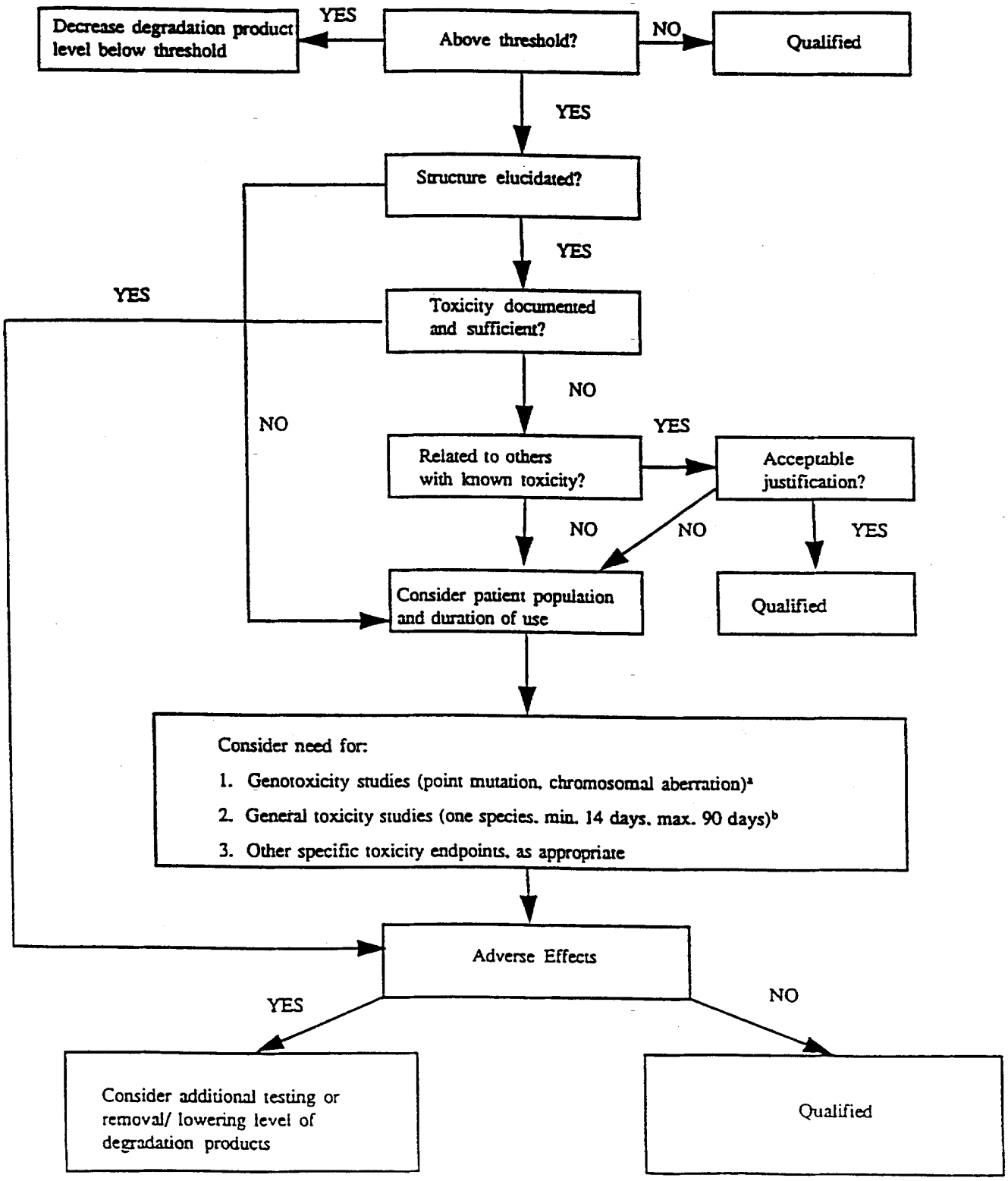
THRESHOLDS FOR QUALIFICATION OF DEGRADATION PRODUCTS IN NEW DRUG PRODUCTS

Maximum daily dose	Threshold
<10 mg	1.0% or 50 μg TDI whichever is lower
10 mg - 100 mg	0.5% or 200 μg TDI whichever is lower
>100 mg - 2 g	0.2% or 2 mg TDI whichever is lower
>2 g	0.1%

BILLING CODE 4160–01–F

ATTACHMENT II

DECISION TREE FOR SAFETY STUDIES



BILLING CODE 4160–01–C

[a] If considered desirable, a minimum screen for genotoxic potential should be conducted. A study to detect point mutations and one to detect chromosomal aberrations, both in vitro, are seen as an acceptable minimum screen.

[b] If general toxicity studies are desirable, study(ies) should be designed to allow comparison of unqualified to qualified material. The study duration should be based on available relevant information and performed in the species most likely to maximize the potential to detect the toxicity of an impurity. In general, a minimum duration of 14 days and a maximum duration of 90 days will be acceptable.

Dated: March 7, 1996.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 96–6580 Filed 3–18–96; 8:45 am]

BILLING CODE 4160–01–F

federal register

Tuesday
March 19, 1996

Part V

Department of Justice

Bureau of Prisons

28 CFR Part 551

Inmate Organizations; Final Rule

DEPARTMENT OF JUSTICE

Bureau of Prisons

28 CFR Part 551

[BOP–1045–F]

RIN 1120–AA42

Inmate Organizations

AGENCY: Bureau of Prisons, Justice.

ACTION: Final rule.

SUMMARY: The Bureau of Prisons is revising its regulations on Inmate Organizations to prohibit fund-raising activities by inmates and to phase out provisions governing inmate accountability for funds. This amendment is intended to provide for the continued efficient and orderly operation of the institution and the Bureau.

EFFECTIVE DATE: This rule is effective April 18, 1996, except § 551.37 is effective from April 18, 1996 through June 30, 1996.

ADDRESSES: Office of General Counsel, Bureau of Prisons, HOLC Room 754, 320 First Street, NW., Washington, DC 20534.

FOR FURTHER INFORMATION CONTACT: Roy Nanovic, Office of General Counsel, Bureau of Prisons, phone (202) 514–6655.

SUPPLEMENTARY INFORMATION: The Bureau of Prisons is revising its regulations on Inmate Organizations (28 CFR part 551, subpart D). A proposed rule on this subject was published in the Federal Register on October 20, 1995 (60 FR 54289). The Bureau received comment from three respondents. A summary of this public comment and Bureau response follows.

One commenter, writing for a specific inmate organization, objected to the proposed ban on fund-raising activities on the grounds that the activities benefitted both inmate and local community populations. The commenter noted that his organization operated in a fiscally responsible manner and had not been the cause of any financial problem. The commenter stated that fund-raising activities were important to the successful continuation of the club and its camp efforts, and urged that the proposed rule be withdrawn or modified in order to allow for exemption of specific organizations.

While not all inmate organizations have posed financial concerns, the potential for problems and the dedication of staff resources to help ensure that such problems do not arise under the current provisions is sufficient to warrant the Bureau's proposed action. As stated in the proposed rule, the amendment is not intended to eliminate inmate activities, but rather to fund such approved inmate activities from designated sources, including, for example, the Trust Fund.

Another commenter raised a variety of objections to the proposed rule. This commenter objected to the determinations that the proposed rule was not a significant regulatory action nor had a significant impact on small entities, and was not reviewed by the Office of Management and Budget. The Bureau notes that the proposed rulemaking was promulgated in accordance with the procedures of E.O. 12866, including those provisions pertinent to the oversight of the Office of Management and Budget. This rulemaking does not meet the definition of significant regulatory action contained in E.O. 12866 and accordingly is not required to be submitted to the Office of Management and Budget. The commenter speculated that several small businesses will be negatively impacted by the rulemaking. The Bureau notes that this speculation does not approach the defined threshold of significant impact (see 5 U.S.C. 605(b)).

In general, this commenter felt that the proposed rule was regressive and not supportive of rehabilitation. More specifically, the commenter objected on the grounds that the proposed rule would reduce the number of inmate activities and consequently increase inmate idleness and unrest. The commenter noted that inmate organizations provided inmates with access to national organizations and consequently served a positive goal of maintaining contact with the public. The commenter stated that allowing the organizations to maintain themselves through dues prevented significant impact on the Bureau's appropriations. The Bureau notes that the revised regulations do not limit access to national organizations and therefore do not adversely affect the maintenance of community contacts. With respect to a possible reduction of inmate activities and the possible growth of inmate idleness and unrest, the Bureau believes this concern is overstated. A variety of activities are available to inmates, as indicated in 28 CFR 551.34. The Bureau is committed to funding approved activities. The elimination of fund-raising activities (particularly when the purpose of the fund-raising activity is to fund other activities) should not significantly reduce the number of approved activities for inmates. With respect to the comment on financial impact, the Bureau points out that while some inmate organizations have not posed financial problems, as noted above, this is not true for all inmate organizations. Remedying these financial problems does have an impact on Bureau appropriations. The Bureau prefers to allocate its resources (whether monetary or staffing) to activities which do not entail the potential problems of fund-raising.

The commenter also objected alleging that inmates were not advised of the proposed regulation until December 1, 1995, and consequently were impeded in their ability to respond to the proposal or to inform their families for added comment. Publication in the Federal Register provides sufficient and proper notice of agency rulemaking to the general public. The Bureau, in order to help ensure notice to the inmate population, posts its rulemaking documents in Bureau institutions. The Bureau notes that copies of the proposed rule were distributed to institutions for posting on November 3, 1995. Access to these postings at certain institutions may have been delayed due to security conditions necessitated by inmate disturbances. As evidenced by the fact that the commenter's comment has been considered in this rulemaking, the Bureau believes the December 19, 1995, deadline afforded sufficient opportunity for comment.

A third commenter, whose submitted comments were dated December 11, 1995, objected to late posting of the proposed rule at a particular institution. This commenter also objected to the statement that the proposed rule was intended to provide for the continued efficient and orderly running of the institution, stating that the security concerns were an exaggeration. The commenter suggested that the Bureau's motivation was to increase commissary sales.

As noted above, delays in posting may have resulted in certain institutions due to security concerns necessitated by inmate disturbances. The timing of the posting at the institution cited did not appear to impede the timely filing by the commenter. With respect to motivation for the proposed rule, the Bureau believes that budgetary constraints do play a role in the efficient and orderly operation of the institution, and that the proposed changes were a reasonable means of achieving legitimate penological goals.

This commenter also questioned the certification under the Regulatory Flexibility Act that the rulemaking did not have a significant impact on a substantial number of small entities. The commenter also claimed that the Bureau was in violation of the law for

refusing to present rule changes to the Office of Management and Budget and Congress. The Bureau notes, as above, that the rulemaking was promulgated in accordance with the procedures of E.O. 12866, including those provisions pertinent to Office of Management and Budget oversight.

In adopting the proposed rule as final, the Bureau has made the following organizational or editorial changes to the regulations. In § 551.31, paragraph (a) was reworded to clarify that activation of the organization is dependent upon the Warden's approval. The provisions in proposed paragraph (c) have been restated in a new § 551.35. In § 551.33, the phrase ''national organization'' has been used instead of the phrase ''National Chapter.'' That same paragraph is further amended to clarify that the Warden is authorized to approve the rate and method of institution collection of dues. The Warden was not intended to exercise authority over non-institution collection of dues by a national organization. Section 551.34 was amended to remove reference to purchase of items. This provision is covered in a new § 551.36 (proposed as § 551.35). Section 551.34 was further amended to remove the parenthetical phrase ''(if appropriate)''. Proposed §§ 551.35 and 551.36 were redesignated as §§ 551.36 and 551.37 in order to accommodate the new section on withdrawal of approval, as noted above. Finally, for reasons of orderly codification, newly designated § 551.37 is not included in the revised subpart, but is added to the subpart separately in order to facilitate a ''sunset'' provision. Because these further changes are either organizational or editorial in nature and have no adverse impact upon inmates, the Bureau finds good cause for exempting the provisions of the Administrative Procedure Act (5 U.S.C. 553) requiring notice of proposed rulemaking, the opportunity for public comment. Members of the public may submit comments concerning these changes or other provisions of the rule by writing to the previously cited address. These comments will be considered but will receive no response in the Federal Register.

The Bureau of Prisons has determined that this rule is not a significant regulatory action for the purpose of E.O. 12866, and accordingly was not reviewed by the Office of Management and Budget. After review of the law and regulations, the Director, Bureau of Prisons has certified that this rule, for the purpose of the Regulatory Flexibility Act (5 U.S.C. 601 et seq.), does not have a significant economic impact on a substantial number of small entities within the definition of the Act.

List of Subjects in 28 CFR Part 551

Prisoners.

John L. Clark,

Acting Director, Bureau of Prisons.

Accordingly, pursuant to the rulemaking authority vested in the Attorney General in 5 U.S.C. 552(a) and delegated to the Director, Bureau of Prisons in 28 CFR 0.96(p), part 551 in subchapter C of 28 CFR, chapter V is amended as set forth below.

SUBCHAPTER C—INSTITUTIONAL MANAGEMENT

PART 551—MISCELLANEOUS

1. The authority citation for 28 CFR part 551 continues to read as follows:

Authority: 5 U.S.C. 301; 18 U.S.C. 1512, 3621, 3622, 3624, 4001, 4005, 4042, 4081, 4082 (Repealed in part as to offenses committed on or after November 1, 1987), 4161–4166 (Repealed as to offenses committed on or after November 1, 1987), 5006–5024 (Repealed October 12, 1984 as to offenses committed after that date), 5039; 28 U.S.C. 509, 510; Pub. L. 99–500 (sec. 209); 28 CFR 0.95–0.99; Attorney General's August 6, 1991 Guidelines for Victim and Witness Assistance.

2. Subpart D, consisting of §§ 551.30 through 551.36, is revised to read as follows.

Subpart D—Inmate Organizations

Sec.
551.30 Purpose and scope.
551.31 Approval of an organization.
551.32 Staff supervision.
551.33 Dues.
551.34 Organization activities.
551.35 Withdrawal of approval of an organization.
551.36 Funding.

Subpart D—Inmate Organizations

§ 551.30 Purpose and scope.

The Bureau of Prisons permits inmates and persons in the community to participate in approved inmate organizations for recreational, social, civic, and benevolent purposes.

§ 551.31 Approval of an organization.

(a) An inmate must submit a request for recognition of a proposed inmate organization to the Warden. The organization may not become active without the Warden's approval.

(b) The Warden may approve an inmate organization upon determining that:

(1) The organization has a constitution and bylaws duly approved by its members; the constitution and bylaws must include the organization's purpose and objectives, the duties and responsibilities of its officer(s), and the requirements for activities reporting and operational review; and

(2) The organization does not operate in opposition to the security, good order, or discipline of the institution.

§ 551.32 Staff supervision.

(a) The Warden shall appoint a staff member as the institution's Inmate Organization Manager (IOM). The IOM shall be responsible for monitoring the activities of the institution's inmate organizations and staff sponsors.

(b) The Warden or designee shall assign to a staff sponsor responsibility for supervising the activities of an individual inmate organization. The staff sponsor's duties are performed while in official duty status.

§ 551.33 Dues.

Dues may be collected if they are required by the national organization, are collected by that same national organization, and the rate and method of institution collection have been approved by the Warden. No portion of the dues may be kept by the inmate organization for use at the institution. The organization may not make payment of dues a requirement of membership for an inmate who lacks funds.

§ 551.34 Organization activities.

(a) An officer of the inmate organization must submit a written request for approval of an activity to the Warden or designee. Activities include, but are not limited to, meetings, guest speakers, sports competitions, banquets, or community programs. Activities may not include fund-raising projects. The request must specifically include:

(1) Name of the organization;

(2) Nature or purpose of the activity;

(3) Date, time, and estimated duration of the activity;

(4) Estimated cost;

(5) Information concerning guest participation; and

(6) Other pertinent information requested by the Warden.

(b) The Warden may approve the request if the activity:

(1) Does not conflict with scheduled inmate work or program activities;

(2) Has confirmation of staff supervision;

(3) Can be appropriately funded when applicable (see § 551.36); and

(4) Does not conflict with the security, good order, or discipline of the institution.

(c) When an activity requires the expenditure of government funds, the Warden ordinarily shall require reimbursement from non-inmate participants (guests or members).

(d) Each inmate organization shall be responsible for maintaining accurate records of its activities.

(e) The activities of an inmate organization may be suspended temporarily due to noncompliance with Bureau policy. The IOM is responsible for recommending the specific suspension sanction for the Warden's approval. The inmate organization is to receive written notice of the proposed suspension sanction and shall have the opportunity to respond to the Warden. Continued noncompliance with Bureau policy shall result in an increase in the severity of the suspension sanction, and may include withdrawal of approval of the organization.

§ 551.35 Withdrawal of approval of an organization.

The Warden may withdraw approval of an inmate organization for reasons of the security, good order, and discipline of the institution, or in accordance with § 551.34(e).

§ 551.36 Funding.

The Bureau of Prisons may fund approved activities of inmate organizations or organization requests for purchase of equipment or services for all inmates subject to the availability of designated funds.

3. Effective from April 18, 1996 through June 30, 1996, § 551.37 is added to Subpart D to read as follows:

§ 551.37 Accountability for accumulated funds.

Effective April 18, 1996 through June 30, 1996, all inmate organizations must, in accordance with Bureau policy and generally accepted accounting principles, close-out financial records and dispose of all assets previously accumulated by them.

[FR Doc. 96–6538 Filed 3–18–96; 8:45 am]

BILLING CODE 4410–05–P

federal register

Tuesday
March 19, 1996

Part VI

Department of Transportation

Federal Aviation Administration

14 CFR Part 11

Direct Final Rulemaking Procedure; Final Rule

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 11

[Docket No. 27925; Amendment No. 11–40]

RIN 2120–AF55

Direct Final Rulemaking Procedure

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: In response to the President's Executive Order on Regulatory Planning and Review, the Vice President's National Performance Review, and the Administration's Civil Aviation Initiative, the Federal Aviation Administration (FAA) is implementing a new and more efficient procedure for adopting non-controversial or consensual rules. The ''direct final rulemaking'' procedure involves issuing a final rule with an opportunity for notice and comment. This final rule will contain a statement that if the FAA receives no adverse or negative comment, or notice of intent to file such a comment, the rule will become effective at the end of a specified period of time after the close of the comment period. This new procedure is expected to reduce significantly the time needed to publish non-controversial or consensual final rules.

EFFECTIVE DATE: April 18, 1996.

FOR FURTHER INFORMATION CONTACT: Donald P. Byrne, Assistant Chief Counsel for Regulations, AGC–200, Federal Aviation Administration, 800 Independence Ave., SW., Washington, DC 20591; telephone (202) 267–3073.

SUPPLEMENTARY INFORMATION:

Background

In Executive Order 12866, ''Regulatory Planning and Review'' (58 FR 51735, October 4, 1993), the President set forth the Administration's regulatory philosophy and principles. The Executive Order contemplates an efficient and effective rulemaking process, including the conservation of the limited government resources available for carrying out its regulatory functions. In responding to both the letter and the spirit of the President's order, the Secretary of Transportation has directed administrations within the Department of Transportation (DOT) to focus on improvements that can be made in the way in which they propose and adopt regulations.

The Administrative Conference of the United States (ACUS), prior to its dissolution, observed that the rulemaking process has become increasingly time consuming. Aviation interests in particular have expressed concern to the FAA over the time-consuming nature of the regulatory process. ACUS believed that agencies should consider innovative methods for developing rules and obtaining public input, including the use of groups such as advisory committees and negotiated rulemaking committees. The FAA and the aviation industry have been engaged in one such effort for several years through the Aviation Rulemaking Advisory Committee (ARAC).

In addition to focusing on consensus-based rulemaking, ACUS believe that agencies should consider the use of ''direct final'' rulemaking where appropriate to eliminate duplicative agency review and publication of non-controversial rules. Under the direct final rule procedure, an agency issues a final rule with an opportunity for comment and a statement that if the agency receives no adverse or negative comments, the rule becomes effective at a specified time after the close of the comment period. If an adverse comment, or a notice of intent to file such a comment, is received, the agency withdraws the rule before the effective date and issues a notice of proposed rulemaking (NPRM) in the normal manner.

This expedited process was recommended also by the Vice President in his report on the National Performance Review (''Creating a Government That Works Better and Costs Less; Improving Regulatory Systems''). Use of the process is encouraged in rulemakings in which agencies do not believe there will be adverse public comment, in order to help agencies streamline their rulemaking procedures.

The FAA published a notice of proposed rulemaking in the Federal Register on October 4, 1994 (59 FR 50676) that proposed using the direct final rulemaking procedure for non-controversial rules and for consensual rules, where the FAA believes there will be no adverse public comment. The FAA has determined that this expedited process can be used effectively for a number of future agency rules, including many of the proposed regulations based on recommendations of broad-based advisory committee groups such as ARAC. The FAA would consider issuing a direct final rule where such an advisory committee has involved representatives of all interested parties in negotiating a proposed rule; the committee has reached a unanimous recommendation; and the nature of the negotiations leads the FAA to believe the public will not file adverse comments. The FAA would expect this often to be the case, for example, for recommendations of the ARAC intended to harmonize FAA and European technical standards for the manufacture of aircraft.

The direct final rulemaking process may also be used to issue some airworthiness directives (AD) whenever there is broad consensus within the aviation community on the FAA's view of the appropriate correction for an unsafe condition in an aviation product. Other possible uses of the process could include regulations amending airspace designations or extending compliance dates when such regulations are not expected to be controversial. There may be other effective uses of this procedure.

The Direct Final Rule Procedure

When the FAA believes that a proposed regulation is unlikely to result in adverse comment, it may choose to use the direct final rulemaking process. The direct final rule will advise the public that no adverse comments are anticipated, and that unless a written adverse comment, or a written notice of intent to submit such an adverse comment, is received within the comment period, the regulation will become effective at the end of a specified period of time after the close of the comment period. If no written adverse or negative comment, or notice of intent to submit such a comment, is received within the comment period, the direct final rule will become effective on the date indicated in the rule. The FAA will publish a notice in the Federal Register indicating that no adverse comments were received and confirming the date on which the final rule will become effective. The confirmation notice will be issued at least 30 days prior to the effective date specified in the direct final rule.

If the FAA does receive, within the comment period, an adverse or negative comment, or written notice of intent to submit such a comment, a notice of withdrawal of the direct final rule will be published in the Federal Register, and an NPRM may be published with a new comment period. Normal procedures for the agency's receipt and consideration of comments will then apply.

The direct final rulemaking procedure provides that either the adverse comment or the notice of intent to submit such a comment must be received within the comment period. If a commenter files a notice of intent to submit an adverse comment within the comment period, the substantive comment does not have to be received

within the comment period. Although no specific time interval between the filing of the notice and the receipt of the substantive comment is specified, the FAA would expect to receive the substantive comment no later than 30 days after the comment period closes. The FAA may consider mandating a specific interval if experience shows a set deadline is needed. If no substantive comment is received following the submission of a notice, the FAA may elect to publish a new direct final rule that addresses the filing of a notice of intent to submit an adverse or negative comment without the subsequent comment being received by the agency. The agency intends to monitor the notice of intent to file an adverse comment process over the next year and may propose changes to this procedure if substantive adverse comments are not received following the submission of a notice.

Comments that are outside the scope of the rule will not be considered adverse under this procedure. A comment recommending other rule changes in addition to the changes in the direct final rule would not be considered an adverse comment, unless the commenter states that the rule would be inappropriate as proposed or would be ineffective without the additional change. A comment not so qualified may be considered beyond the scope of the rulemaking.

Although the FAA anticipates that direct final rulemaking will improve the rulemaking process and that the procedures established by this action will work well in actual practice, the FAA may propose modifications to the procedures. The FAA will closely monitor those rulemaking actions selected for direct final rulemaking to determine whether further action is warranted on the following issues:

(1) Are notices of intent to file an adverse comment followed by a substantive comment, and within what time period?

(2) Should the notice of intent to file an adverse comment include a general discussion of the nature of the adverse comment?

(3) Could the adverse comment be addressed by a subsequent direct final rule or should an NPRM always be issued?

Discussion of Comments

Twenty-nine comments were received from aviation industry associations, state aviation authorities, businesses, and the general public. The commenters raised several common themes and they have been grouped together.

Opportunity to Comment

One theme was a concern that the FAA would use the new procedure to deny or limit the right to comment on agency rulemaking proposals. A particular type of rulemaking, the ''final rule with request for comments'' procedure used for some AD's, was cited by several commenters.

The final rule with request for comments procedure has always been an option that was available to the agency under the Administrative Procedure Act (APA). The final rule with request for comments procedure is based on section 553(b)(3)(B) of the APA that provides that prior notice and public comment are not required when allowing time for comment would be ''impracticable'' and ''contrary to the public interest,'' as in the case of an emergency. The agency was not required to provide any comment period but decided to do so anyway. Adopting the direct final rule procedure will not change those procedures. The direct final rule procedure is based on the third APA exception to the prior publication requirement where notice and comment are ''unnecessary.'' Even though the agency will be making the finding that prior notice and comment would be unnecessary, the direct final rule procedure does provide an opportunity for public comment prior to the proposed effective date of the rule. Moreover, regardless of their merits, any comment (within the scope of the rule) or intent to file a negative or adverse comment will result in the withdrawal of the direct final rule.

Although some of the AD's that will be issued may be candidates for the direct final rule procedure, those AD's that are covered under final rule with request for comments procedures would not be candidates for a direct final rule. These methods of rulemaking are entirely distinct from the direct final rule process. Emergency rulemaking has been permitted under the APA for many years, and the FAA will continue to use that authority whenever it is necessary. Emergency rulemaking frequently results in the rule becoming effective before the close of the comment period. The emergency nature of the rulemaking demands that action be taken before an opportunity for notice and comment can be completed. The rationale for using that emergency authority will continue to be expressed in the preamble to the rule as required by the APA. Direct final rulemaking, on the other hand, is not designed for emergency situations. In an emergency rule, the agency makes a finding that prior notice and comment is not possible due to the nature of the emergency. In a direct final rule, the agency would ask if there were any negative comments and might subsequently have to publish an NPRM. Any action taken under direct final rulemaking would follow the solicitation of comments.

The FAA intends to use the direct final rule procedure when adverse comments are not expected. Many of the rules, including AD's, for which the FAA publishes a notice of proposed rulemaking do not generate any comments. Some rules only generate general letters of support thanking the agency for the opportunity to comment without raising any substantive issues or concerns. These rulemaking proposals are subsequently adopted as proposed with only minor format changes to conform to final rule requirements. Although these rules are not controversial, considerable agency resources are expended to prepare both the notice and the final rule.

More than thirty years of rulemaking experience has made the FAA cognizant of which rules are likely to generate adverse comments. The agency intends to use its years of experience to decide which rules are likely to be noncontroversial and thus appropriate for direct final rule procedures. If the agency has misjudged a particular rule, the public still would be afforded an opportunity for adverse comment and subsequently for comment through the normal NPRM process when the direct final rule is withdrawn. The direct final rulemaking procedure is not designed to keep the public from having an adequate opportunity to comment.

One commenter believes that the voices of part of the public would not be heard because other interests are more likely to dominate the process. The FAA does not intend to use the direct final rule procedure when the circle of those affected is so large or inadequately represented that the level of controversy cannot be determined. Even one adverse comment, from any source, would trigger the traditional NPRM process.

Time Allotted for Comment

Several commenters raise the concern that the time available for comment on a direct final rule would be inadequate. The Helicopter Association International (HAI) is concerned that the effective date of the direct final rule could be set before the close of the comment period. The Aircraft Owners and Pilots Association (AOPA) raises concerns that the direct final rule proposal truncates the minimum procedural requirements of the APA. Some small organizations comment that

as small organizations they do not have a full time staff to monitor proposed rulemaking and other developments within the FAA. In addition, the United States Parachute Association suggests that the FAA provide automatic notice to any special interest group that is affected by a proposed rulemaking.

Every effort is made to distribute news of upcoming FAA rulemaking activities to the public. For example, the FAA routinely issues news releases to the national media and trade publications. In addition, the FAA has established an electronic bulletin board that has copies of recently issued notices of proposed rulemaking and final rules available for the public to view at no charge. The telephone number to access the bulletin board is 1–800–FAA–ARAC. All direct final rules would be included in these methods of dissemination. These dissemination methods are in addition to the required Federal Register publication of rulemaking documents. Unfortunately, resource limitations prevent the FAA from providing personal notification to all parties potentially affected by a rulemaking.

Section 553(c) of the APA requires that, once a notice has been published, the public must be given time to comment on the proposal. While the APA does not prescribe any particular amount of time for a comment period to remain open, Executive Order 12866 provides that the comment period remain open for a minimum of 60 days unless a shorter period is justified in the preamble to the rule. Most FAA rulemaking projects, particularly those with international ramifications, have comment periods ranging from 60 to 120 days. Many AD's and airspace actions have comment periods of 30, 45, or 60 days. The FAA is aware that occasionally some members of the public do not learn of a rulemaking until close to the end of the comment period. Although no system is perfect, the FAA tries to allow adequate time for the submission of comments. For direct final rules of interest to non-U.S. commenters, the FAA intends to have a comment period that is adequately long to accommodate these commenters. Section 11.29(c) of the Federal Aviation Regulations (14 CFR 11.29(c)) contains a provision for a potential commenter to request an extension of the comment period. That provision may be invoked under direct final rulemaking procedures. On many occasions, the FAA has extended or reopened a comment period when commenters have asserted that they had insufficient time to prepare substantive comments.

The direct final rule program will follow the guidelines established under the APA and FAA policy for the solicitation of comments. Although a commenter may not have had time to fully develop its concerns, the filing of a notice of the intent to submit adverse comments, in effect, will stop the direct final rule from becoming effective. The FAA does not intend to require that a written notice of the intent to submit adverse comments adhere to any specific format. The notice may be merely a letter to the FAA Rules Docket clearly stating its purpose. The commenter should then submit its substantive objections and concerns as soon as possible.

Nature of an Adverse Comment

Several commenters raise concerns that the agency would label adverse or negative comments as ''non-adverse'' and proceed to finalize the rule. These commenters request either standards for determining or guidance for deciding what would constitute an adverse comment. The Air Transport Association (ATA) suggests that the FAA define the terms ''adverse'' and ''negative.'' In addition, ATA is concerned that a proposal drafted with the consensus of the regulated entities (such as an ARAC proposal) that addresses counterpoints that were considered and rejected (as explained in the preamble) could be subject to delay if a party to the process or a non-party to the process elected to file a notice of intent to file an adverse comment.

The FAA finds its unnecessary to specifically define ''adverse'' and ''negative''. If commenters are concerned that their comments may be misinterpreted, they can clearly state in their comment that the comment is adverse. In determining whether an adverse comment is sufficient to terminate a direct final rulemaking, the FAA would consider whether a comment would be one that would warrant a substantive response in a notice-and-comment process. The FAA would recognize the following, among other things, as an indication of the adverse nature of a comment:

—The commenter so states.
—The commenter states that the requirements are unusually burdensome.
—The commenter states that the requirements would generate significant controversy as to the agency's proposed solution to the problem.
—The commenter states that the requirement would result in an unwarranted significant change in existing practice.
—The commenter states that the requirement would impose a significant cost.
—The commenter states that viable, named alternatives should have been considered.
—The commenter states that the proposed rule would be ineffective or inappropriate.
—The commenter states that the rule would have an unintended effect.

The FAA realizes that the filing of an adverse comment has the potential to delay the rulemaking process. Therefore, the agency intends to use the direct final rule procedure only in those cases where the agency has reason to believe that adverse comments will not be received. As mentioned previously, many agency rulemakings go from the notice stage to the final rule stage without comments being received and without substantive change.

Corrections to Published Rules

The Aerospace Industries Association (AIA) and the Regional Airline Association (RAA) comment that the direct final rule procedure does not provide for the possible need to make minor corrections based on the comments received.

''Corrections'' generally fall into two categories. The first category are those errors and omissions that should not have occurred. Using an AD as an example, such an error could be specifying a particular part number for all models of an aircraft when it was incorrectly thought that that part was used in all variants of that model aircraft. The FAA agrees that the commenters, particularly the part manufacturers and aircraft operators, note these errors in their comments. In this type of situation, the ''notice'' confirming the effective date of the rule would be styled as a ''final rule; correction'' to address the error. Because this type of correction would not impose any additional burden on the operators, the correction would be within the scope of the direct final rule, and an NPRM would not need to be issued. The second type of error typically involves a proposal that has an unintended result or neglects to cover all that it should. Again using the AD context, such an error could occur if the FAA learns that a particular variant of a model aircraft that should have been covered by the AD was not. Because the operators of the noncovered aircraft would not have been alerted to the potential requirements, the comment period must be reported to give them notice and an opportunity to comment. If such a situation were to occur in the

direct final rule context, the FAA may issue a new, superseding direct final rule or an NPRM. The more significant the correction, the more likely an NPRM would be issued. The FAA anticipates that the need for corrections in direct final rulemaking to be infrequent.

Response to Comments

Several commenters note that the discussion of comments in a final rule preamble is beneficial to the public in understanding the intent of the proposal, and one commenter questions what would become of adverse comments leading to the withdrawal of the direct final rule and the issuance of an NPRM.

The FAA agrees the discussion of comments in a final rule can be beneficial to the public because the disposition of comments provides the FAA the opportunity to clarify and explain difficult points in a proposal. Where comments to a direct final rule indicate that the rule is not clear, such comments could be considered adverse and, if so, would result in withdrawal of the direct final rule. However, if comments to a direct final rule indicate that only minor changes are needed to clarify the rule language without changing the substance of the requirement, such a minor revision could be made at the time notice confirming the effective date is given.

Any adverse comments received on a proposed direct final rule would be discussed either in the subsequent NPRM preamble or in the preamble of the subsequent final rule.

Review Process

Some commenters would like guidance to be issued as to who would decide, and how, that a new or revised rule is noncontroversial or consensual. Another commenter believes that the current NPRM process is adequate, but the delays in issuing rules is the result of the FAA review process.

The agency will base its decision as to which rules are noncontroversial or consensual on its extensive interface with the aviation community, industry comments to the FAA's rulemaking programs, petitions for rulemaking, and the guidelines discussed previously. The agency's conclusion also will be reviewed, in effect, by the highest levels within the agency and by the Office of the Secretary and the Office of Management and Budget during their review of the ''non-significant'' designation for the rule. Because the potential for lost time is present if the agency misjudges the acceptability of a particular rule, the agency will tend to be very conservative in its assessment of those projects that are candidates for direct final rulemaking.

As to the timeliness of the rulemaking process, most of the reviews and analyses that must be performed by the agency are mandated by statutory provisions, Executive Orders, or Departmental policy. Because rulemaking in today's complex environment touches many diverse interests, review by many internal FAA offices is necessary to prevent later problems that may require revising the rule. The FAA has expanded its use of advisory committees to obtain predecisional input, sought increases in delegations of authority to reduce the levels of review, and instituted projects such as this proposal to improve the rulemaking process.

Economic Burdens

One commenter alleges that many proposed rules are labeled as ''not substantial'' yet the rules actually carried a significant economic burden. Another commenter fears that direct final rules would permit the imposition of burdensome regulations on ''Part 135 Operators'' without proper opportunity for review.

The FAA believes that the commenter who references rules being labeled ''not substantial'' is referring to the FAA's finding that a rule is ''not significant.'' The FAA is not aware of any rule that it has designated as ''non-significant'' that has imposed a significant economic burden. Rules that are determined to be significant would not be candidates for the direct final rule process.

Whether a proposal begins as a traditional NPRM or as a direct final rule, the public will be given an opportunity to review the proposal and provide comment, just as with the NPRM-to-final rule process that predominates today. The only significant difference is that when direct final rules receive no adverse comment, only a confirmation notice of the effective date will be published after the close of the comment period.

Comments Outside the Scope of the Notice

The ATA notes that the FAA's labeling of a comment as ''outside the scope'' of the rulemaking should not automatically make that comment nonadverse. In addition, AOPA wishes the phrase ''comments outside the scope of the rule'' to be narrowly construed.

A comment that is designated as ''outside the scope'' of the rule would not be considered adverse because the comment does not address the subject of the specific rule change that is being made. The FAA intends to label a comment as being beyond the scope of the rulemaking only when the commenter raises an issue that was not the subject of the rulemaking. An alternative to the rulemaking is generally within the scope of the rulemaking. The FAA addresses comments received that are relevant to the proposed rule. The FAA will make every attempt to properly address and characterize all comments. The ''scope'' concept is not new; it is part of the agency's determination concerning comments on NPRM's. All comments received, including those determined to be outside the scope of the rule, will become part of the official rulemaking file.

ARAC

The ATA feels the proposal is premature until problems with the ARAC process are resolved. In addition, AOPA wants to ensure that its members will be given an adequate opportunity to provide input to the agency before the agency's position has been determined. The RAA opposes the use of direct final rules for AD's and other rules that have not had the benefit of consensus-building through the ARAC, but would consider changes that make rules less stringent appropriate for direct final rulemaking.

The FAA agrees that it is important for the public to have their views considered as early as practicable in the rulemaking process. The ARAC process is one means by which the agency is trying to seek out public input before a rule is drafted. Because ARAC-proposed rules have early public involvement, the FAA believes that they would be ideal candidates for the direct final rule process. In addition, the FAA is working to improve the ARAC process. A meeting was held with the ARAC members in late 1994 to resolve issues and improve the process. Recommendations from that meeting are being implemented. However, the FAA must start the process for implementing direct final rulemaking now in order to have it in place when the majority of ARAC-prepared proposals reach the agency. When the ARAC makes a recommendation to the FAA, the FAA may elect to turn that recommendation into a direct final rule. Other ARAC recommendations may become NPRM's. If the ARAC has not been able to reach consensus on a particular proposal, such a proposal would be considered to result in public comment.

The FAA agrees with the RAA that some changes that make rules less stringent and many ARAC rule proposals would be appropriate for the direct final rule process. The FAA does

not agree, however, that direct final rulemaking should not be used for some AD's or other non-ARAC projects. Many AD's are issued each year in which no comments are received on the proposal. In many others, the comments result in only minor changes. The time saved by using the direct final rule process will benefit the public. The FAA notes that some AD's and other important rulemaking projects would be inappropriate for the direct final rulemaking process. The FAA emphasizes that direct final rulemaking will only be used when there is a reasonable assurance that adverse comments are unlikely.

Other Comments

One commenter is concerned that the direct final rule process would make it difficult for aviation mechanics to track AD's issued through direct final rulemaking in the ''Airworthiness Bi-Weekly Issues'' (a compilation of issued airworthiness directives).

AD's issued in the form of an NPRM are not incorporated into the ''Airworthiness Bi-Weekly Issues'' until they are issued as final rules. Similarly, any AD issued under the direct final rule process will not appear in the ''Airworthiness Bi-Weekly Issues'' until the FAA publishes a notice in the Federal Register confirming the proposed effective date of the direct final rule; a direct final rule would be substantially indistinguishable from an NPRM for the purposes of the ''Airworthiness Bi-Weekly Issues''. No action would be required by a direct final rule until such time as it becomes effective.

Another commenter would like to amend the proposal to require a ''high'' degree of consensus among the parties affected by the rule before the direct final rule procedure is invoked. (The proposal used the term ''broad'' instead of ''high.'') The FAA would only consider ''consensus'' as indicating that a direct final rule is appropriate when that consensus is complete, i.e., when there are no indications of dissenting opinion. This could be characterized as a ''high'' degree of consensus.

A commenter suggests issuing some form of public periodical containing a listing of those upcoming proposals that the agency believes are non-controversial. The FAA agrees and intends to use the ''Semiannual Regulatory Agenda'' (Agenda) to partially fulfill this request. Published twice a year, the Agenda provides a summary of every known future rulemaking, except routine actions such as AD's and airspace actions. The FAA believes that such a listing could be included as part of the electronic bulletin board and will investigate adding the listing.

One commenter raises several concerns with the AD system that were beyond the scope of the notice. These concerns will be forwarded to the office with responsibility for the AD system for review.

General Support for Proposal

Five commenters stated general support for the direct rule proposal, but some had concerns that have been discussed earlier. The Joint Aviation Authorities (JAA) supports the direct final rule proposal because it will speed up the FAA rulemaking process for those rules that are being harmonized with the Joint Aviation Regulations.

Regulatory Evaluation

This amendment to part 11 will provide a new and more efficient procedure for adopting non-controversial or consensual rules. The FAA believes that there will be no cost with the use of this procedure in appropriate instances. Use of this alternative procedure is expected to reduce the costs of rulemaking to the FAA by eliminating duplicate publication of rule text when no adverse comment was received. In cases where the rule will result in cost savings to the aviation industry, use of this alternative will allow the industry to achieve these cost savings sooner than if the current rulemaking procedures were used. Accordingly, the FAA has determined that because no costs can be foreseen and the expected economic impact of the amendment is minimal and may save the industry money, a full regulatory evaluation is not warranted.

International Trade Impact

The rule is only a change in the FAA's procedure for rulemaking and will result in some improvement in the processing time for projects to harmonize FAA regulations with those of the JAA.

Regulatory Flexibility Determination

The Regulatory Flexibility Act (RFA) of 1980 ensures that small entities are not unnecessarily or disproportionately burdened by Government regulations. The RFA requires agencies to review rules that may have a significant economic impact on a substantial number of small entities. The costs associated with this proposed rule are minimal, and are well below any threshold established by FAA Order 2100.14A. Accordingly, this rule will not have a significant economic impact on any small entity.

Federalism Implications

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

Conclusion

For the reasons discussed in the preamble, I certify that this regulation (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under Department of Transportation (DOT) Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act; and (4) that because any economic impact would be minimal, a full regulatory evaluation is not warranted.

List of Subjects in 14 CFR Part 11

Administrative practice and procedure, reporting and recordkeeping requirements.

The Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 11 as follows:

PART 11—GENERAL RULE-MAKING PROCEDURES

1. The authority citation for part 11 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40101, 40103, 40105, 40109, 40113, 44110, 44502, 44701–44702, 44711, and 46102.

2. A new § 11.17 is added to subpart A to read as follows:

§ 11.17 Direct final rule.

Whenever the FAA anticipates that a proposed regulation is unlikely to result in adverse comment, it may choose to issue a direct final rule. The direct final rule will advise the public that no adverse or negative comments are anticipated, and that unless a written adverse or negative comment, or a written notice of intent to submit an adverse or negative comment is received within the comment period, the regulation will become effective on the date specified in the direct final rule. If no written adverse or negative comment, or notice of intent to submit such a comment is received within the comment period, the direct final rule will become effective on the date

indicated in the direct final rule. The FAA will publish a document in the Federal Register indicating that no adverse or negative comments were received and confirming the date on which the final rule will become effective. If the FAA does receive, within the comment period, an adverse or negative comment, or written notice of intent to submit such a comment, a document withdrawing the direct final rule will be published in the Federal Register, and a notice of proposed rulemaking may be published with a new comment period. Normal procedures for the agency's receipt and consideration of comments will then apply.

Issued in Washington, DC on March 12, 1996.

David R. Hinson,

Administrator.

[FR Doc. 96–6594 Filed 3–18–96; 8:45 am]

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federal register

Tuesday
March 19, 1996

Part VII

The President

Executive Order 12992—President's Council on Counter-Narcotics

Federal Register
Vol. 61, No. 54
Tuesday, March 19, 1996

Presidential Documents

Title 3—

The President

Executive Order 12992 of March 15, 1996

President's Council on Counter-Narcotics

By the authority vested in me as President by the Constitution and the laws of the United States of America, including section 301 of title 3, United States Code, it is hereby ordered as follows:

Section 1. *Establishment.* There is established the President's Council on Counter-Narcotics (''Council'').

Sec. 2. *Membership.* The Council shall comprise the:

(a) President, who shall serve as Chairman of the Council;

(b) Vice President;

(c) Secretary of State;

(d) Secretary of the Treasury;

(e) Secretary of Defense;

(f) Attorney General;

(g) Secretary of Transportation;

(h) Representative of the United States of America to the United Nations;

(i) Director of the Office of Management and Budget;

(j) Chief of Staff to the President;

(k) Director of National Drug Control Policy;

(l) Director of Central Intelligence;

(m) Assistant to the President for National Security Affairs;

(n) Counsel to the President;

(o) Chairman, Joint Chiefs of Staff; and

(p) National Security Advisor for the Vice President.

As applicable, the Council shall also comprise the Secretary of Health and Human Services; the Secretary of Education; and the Assistant to the President for Domestic Policy and such other officials of the departments and agencies as the President may, from time to time, designate.

Sec. 3. *Meetings of the Council.* The President, or upon his direction, the Vice President, may convene meetings of the Council. The President shall preside over meetings of the Council, provided that in his absence, the Vice President will preside. The Council will meet at least quarterly.

Sec. 4. *Functions.* (a) The functions of the Council are to advise and assist the President in: (1) providing direction and oversight for the national drug control strategy, including relating drug control policy to other national security interests and establishing priorities; and (2) ensuring coordination among departments and agencies concerning implementation of the President's national drug control strategy.

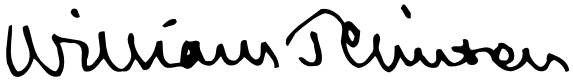
(b) The Director of National Drug Control Policy will continue to be the senior drug control policy official in the executive branch and the President's chief drug control policy spokesman.

(c) In matters affecting national security interests, the Director of National Drug Control Policy shall work in conjunction with the Assistant to the President for National Security Affairs.

Sec. 5. *Administration.* (a) The Council may utilize established or ad hoc committees, task forces, or interagency groups chaired by the Director of National Drug Control Policy or his representative, in carrying out its functions under this order.

(b) The staff of the Office of National Drug Control Policy, in coordination with the staffs of the Vice President and the Assistant to the President for National Security Affairs, shall act as staff for the Council.

(c) All executive departments and agencies shall cooperate with the Council and provide such assistance, information, and advice as the Council may request, to the extent permitted by law.



THE WHITE HOUSE,
March 15, 1996.

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The rules and proposed rules in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

RULES GOING INTO EFFECT TODAY

AGRICULTURE DEPARTMENT

Agricultural Marketing Service

Grapes grown in California; published 3-19-96

COMMERCE DEPARTMENT

National Oceanic and Atmospheric Administration

Fishery conservation and management:

Gulf of Alaska and Bering Sea and Aleutian Islands groundfish; correction; published 3-19-96

Reporting and recordkeeping requirements; published 3-19-96

ENVIRONMENTAL PROTECTION AGENCY

Air quality implementation plans; approval and promulgation; various States:

Virginia; published 3-19-96

FEDERAL COMMUNICATIONS COMMISSION

Common carrier services:

International accounting rates reform; policy statement; published 3-19-96

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AGRICULTURE DEPARTMENT

Agricultural Marketing Service

Melons grown in Texas; comments due by 3-29-96; published 2-28-96

Universal Cotton Standards Advisory Committee recommendations; comments due by 3-29-96; published 2-28-96

AGRICULTURE DEPARTMENT

Animal and Plant Health Inspection Service

Plant-related quarantine, domestic:

Mexican fruit fly; comments due by 3-26-96; published 1-26-96

AGRICULTURE DEPARTMENT

Food and Consumer Service

Federal regulatory review:

Food stamp program affecting Alaska, Commonwealth of Northern Mariana Islands, Puerto Rico, and demonstration projects; comments due by 3-25-96; published 1-24-96

AGRICULTURE DEPARTMENT

Food Safety and Inspection Service

Meat and poultry inspection:

Cooked roast beef products; sorbitol use; comments due by 3-28-96; published 2-27-96

AGRICULTURE DEPARTMENT

National Appeals Division procedure rules:

Adverse decisions appeals procedures and jurisdiction; comments due by 3-28-96; published 12-29-95

COMMERCE DEPARTMENT

National Oceanic and Atmospheric Administration

Fishery conservation and management:

Gulf of Mexico and South Atlantic coastal migratory pelagic resources; comments due by 3-26-96; published 3-13-96

COMMODITY FUTURES TRADING COMMISSION

Commodity Exchange Act:

Financial reporting and debt-equity ratio requirements for futures commission merchants and introducing brokers; comments due by 3-27-96; published 2-26-96

DEFENSE DEPARTMENT

Acquisition regulations:

Contract financing; comments due by 3-25-96; published 1-24-96

Federal Acquisition Regulation (FAR):

Mentor-protege program; comments due by 3-26-96; published 1-26-96

ENERGY DEPARTMENT

Radiation protection of public and environment; comments due by 3-25-96; published 2-22-96

ENVIRONMENTAL PROTECTION AGENCY

Air pollution control; new motor vehicles and engines:

Heavy-duty vehicles and engines; 1996 and 1998 model year emission standards; nonconformance penalties; comments due by 3-25-96; published 2-23-96

Air quality implementation plans; approval and promulgation; various States:

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Maryland; comments due by 3-29-96; published 2-28-96

Texas; comments due by 3-29-96; published 1-29-96

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National oil and hazardous substances contingency plan--

National priorities list update; comments due by 3-25-96; published 2-22-96

National priorities list update; comments due by 3-25-96; published 2-22-96

Toxic substances:

Acrylamide and N-methylolacrylamide grouts; ban; comments due by 3-29-96; published 2-28-96

Water pollution control:

National pollutant discharge elimination system--

Marine waters; secondary treatment requirements; comments due by 3-28-96; published 2-27-96

Publicly owned treatment works, etc.; permit application requirements; comments due by 3-29-96; published 3-4-96

Water programs:

Pollutants analysis test procedures; guidelines--

Oil and grease and total petroleum hydrocarbons; comments due by 3-25-96; published 1-23-96

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Foreign banks, shell branches management; U.S. branches or agencies prohibition from management through offshore branches; comments due by 3-25-96; published 2-23-96

FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

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District of Columbia Financial Responsibility and Management Authority employees participation; comments due by 3-29-96; published 1-29-96

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Mentor-protege program; comments due by 3-26-96; published 1-26-96

HEALTH AND HUMAN SERVICES DEPARTMENT

Children and Families Administration

Child support enforcement program; required reporting to consumer reporting agencies; Federal regulatory review; comments due by 3-29-96; published 1-29-96

HEALTH AND HUMAN SERVICES DEPARTMENT

Indian Health Service

Contracts and grants:

Indian Self-Determination and Education Assistance Act amendments; implementation; comments due by 3-25-96; published 1-24-96

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Indian Affairs Bureau

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Indian Self-Determination and Education Assistance Act amendments; implementation; comments due by 3-25-96; published 1-24-96

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Pennsylvania; comments due by 3-29-96; published 2-28-96

LABOR DEPARTMENT

Mine Safety and Health Administration

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LIST OF PUBLIC LAWS

This is a list of public bills from the 104th Congress which have become Federal laws. It may be used in conjunction with ''P L U S'' (Public Laws Update Service) on 202–523–6641. The text of laws is not published in the **Federal Register** but may be ordered in individual pamphlet form (referred to as ''slip laws'') from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–2470).

H.J. Res. 163/P.L. 104–116

Making further continuing appropriations for the fiscal year 1996, and for other purposes. (Mar. 15, 1996; 110 Stat. 826)

Last List March 15, 1996