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

WASHINGTON, DC

WHEN: February 18, 1997 at 9:00 am

WHERE: Office of the Federal Register
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Reader Aids

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

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CFR PARTS AFFECTED IN THIS ISSUE

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

Rules and Regulations

Federal Register
Vol. 62, No. 26
Friday, February 7, 1997

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 94

[Docket No. 97–003–1]

Change in Disease Status of Great Britain Because of Exotic Newcastle Disease

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule and request for comments.

SUMMARY: We are amending the regulations by removing Great Britain from the list of countries that are considered to be free of exotic Newcastle disease. We are taking this action based on reports we have received from the Office International des Epizooties and Great Britain's Ministry of Agriculture, Fisheries, and Food, which confirm that an outbreak of exotic Newcastle disease has occurred in Great Britain. This action restricts the importation of live birds, poultry, and poultry products into the United States from Great Britain.

DATES: Interim rule effective January 31, 1997. Consideration will be given only to comments received on or before April 8, 1997.

ADDRESSES: Please send an original and three copies of your comments to Docket No. 97–003–1, Regulatory Analysis and Development, PPD, APHIS, suite 3C03, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Please state that your comments refer to Docket No. 97–003–1. Comments received may be inspected at USDA, room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Persons wishing to inspect comments are requested to call ahead on (202) 690–2817 to facilitate entry into the comment reading room.

FOR FURTHER INFORMATION CONTACT: Dr. John Cougill, Staff Veterinarian, Animal Products Program, National Center for Import and Export, VS, APHIS, 4700 River Road Unit 39, Riverdale, MD 20737–1231, (301) 734–3399; or e-mail: jcougill@aphis.usda.gov.

SUPPLEMENTARY INFORMATION:

Background

The regulations in 9 CFR part 94 (referred to below as the regulations) govern the importation into the United States of specified animals and animal products in order to prevent the introduction into the United States of various animal diseases, including exotic Newcastle disease (END). END is a contagious, infectious, and communicable disease of birds and poultry.

Section 94.6(a)(1) of the regulations provides that END exists in all countries of the world except those listed in § 94.6(a)(2), which have been declared to be free of END. We will consider declaring a country to be free of END if there have been no reported cases of the disease in that country for at least the previous 1-year period and no vaccinations for END have been administered to poultry in that country for at least the previous 1-year period.

The Office International des Epizooties (OIE) and Great Britain's Ministry of Agriculture, Fisheries, and Food, have sent the Animal and Plant Health Inspection Service (APHIS) reports that an outbreak of exotic Newcastle disease has occurred in Great Britain. After reviewing the reports submitted by OIE and Great Britain's Ministry of Agriculture, Fisheries, and Food, APHIS has determined to remove Great Britain from the list of countries free of END.

Therefore, we are amending § 94.6(a)(2) by removing Great Britain from the list of countries declared to be free of END. This action prohibits the importation of live birds and poultry and restricts the importation into the United States of carcasses and products of poultry, game birds, and other birds from Great Britain.

Emergency Action

The Administrator of the Animal and Plant Health Inspection Service has determined that an emergency exists that warrants publication of this interim rule without prior opportunity for public comment. Immediate action is necessary to prevent the introduction of END into the United States.

Because prior notice and other public procedures with respect to this action are impracticable and contrary to the public interest under these conditions, we find good cause under 5 U.S.C. 553 to make if effective upon signature. We will consider comments that are received within 60 days of publication of this rule in the Federal Register. After the comment period closes, we will publish another document in the Federal Register. It will include a discussion of any comments we receive and any amendments we are making to the rule as a result of the comments.

Executive Order 12866 and Regulatory Flexibility Act

This rule has been reviewed under Executive Order 12866. For this action, the Office of Management and Budget has waived its review process required by Executive Order 12866.

This action amends the regulations by removing Great Britain from the list of countries that are considered to be free of exotic Newcastle disease. We are taking this action based on reports we have received from OIE and Great Britain's Ministry of Agriculture, Fisheries, and Food, which confirm that an outbreak of exotic Newcastle disease has occurred in Great Britain.

This emergency situation makes compliance with section 603 and timely compliance with section 604 of the Regulatory Flexibility Act (5 U.S.C. 603 and 604) impracticable. This rule may have a significant economic impact on a substantial number of small entities. If we determine this is so, then we will discuss the issues raised by section 604 of the Regulatory Flexibility Act in our Final Regulatory Flexibility Analysis.

Executive Order 12988

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule: (1) Preempts all State and local laws and regulations that are inconsistent with this rule; (2) has no retroactive effect; and (3) does not require administrative proceedings before parties may file suit in court challenging this rule.

Paperwork Reduction Act

This rule contains no information collection or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq*.).

List of Subjects in 9 CFR Part 94

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

Accordingly, 9 CFR part 94 is amended as follows:

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

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

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

§ 94.6 [Amended]

2. In § 94.6, paragraph (a)(2) is amended by removing the phrase ''Great Britain (England, Scotland, Wales, and the Isle of Man),''.

Done in Washington, DC, this 31st day of January 1997.

Donald W. Luchsinger,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 97–3091 Filed 2–6–97; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 96–NM–233–AD; Amendment 39–9916; AD 97–03–11]

RIN 2120–AA64

Airworthiness Directives; Saab Model SAAB 2000 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Saab Model SAAB 2000 series airplanes, that requires modification and sealing of the firezone compartment of the nacelle of the left and right engines. This amendment is prompted by reports indicating that firezone compartments have not been completely sealed. The actions specified by this AD are intended to prevent flame, fuel, and vapor from entering compartments behind the firezone compartment. This condition, if not corrected, and if combined with a fire source in the firezone compartment, could result in an uncontrollable fire outside the firezone compartment.

DATES: Effective March 14, 1997.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of March 14, 1997.

ADDRESSES: The service information referenced in this AD may be obtained from SAAB Aircraft AB, SAAB Aircraft Product Support, S–581.88, Linköping, Sweden. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Ruth Harder, Aerospace Engineer, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (206) 227–1721; fax (206) 227–1149.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain Saab Model SAAB 2000 series airplanes was published in the Federal Register on October 28, 1996 (61 FR 55587). That action proposed to require modification and sealing of the firezone compartment of the nacelle of the left and right engines.

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

Support for the Proposal

The commenter supports the proposed rule.

Conclusion

After careful review of the available data, including the comment noted above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

Cost Impact

The FAA estimates that 3 Saab Model SAAB 2000 series airplanes of U.S. registry will be affected by this AD, that it will take approximately 6 work hours per airplane to accomplish the required actions, and that the average labor rate is $60 per work hour. Required parts will be provided by the manufacturer at no cost to operators. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be $1,080, or $360 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

Regulatory Impact

The regulations 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 osignificant ruleo under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

97–03–11 Saab Aircraft AB: Amendment 39–9916. Docket 96-NM–233-AD.

Applicability: Model SAAB 2000 series airplanes, having serial numbers 002 through 025, inclusive; certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent flame, fuel, and vapor from entering compartments behind the firezone compartment of the nacelle of the left and right engines, which, if combined with a fire source in a firezone compartment, could result in an uncontrollable fire outside the firezone compartment, accomplish the following:

(a) Prior to the accumulation of 200 hours time in service after the effective date of this AD, modify and seal the firezone compartment of the nacelle of the left and right engines, in accordance with Saab Service Bulletin 2000–54–008, dated March 7, 1996.

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Manager, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Standardization Branch, ANM–113.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Standardization Branch, ANM–113.

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

(d) The modification and sealing shall be done in accordance with Saab Service Bulletin 2000–54–008, dated March 7, 1996. 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 SAAB Aircraft AB, SAAB Aircraft Product Support, S–581.88, Linköping, Sweden. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(e) This amendment becomes effective on March 14, 1997.

Issued in Renton, Washington, on January 29, 1997.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 97–2672 Filed 2–6–97; 8:45 am]

BILLING CODE 4910–13–U

14 CFR Part 39

[Docket No. 96–NM–97–AD; Amendment 39–9917; AD 96–03–12]

RIN 2120–AA64

Airworthiness Directives; Jetstream Model 4101 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Jetstream Model 4101 airplanes, that requires a one-time inspection for damage caused by arcing and overheating of the electrical ground posts (''earth posts'') and ground cables for the direct current (DC) power generation and propeller de-icing systems of the left and right engines; and repair and replacement, if necessary. This amendment also requires the eventual replacement of earth posts with new posts. This amendment is prompted by reports indicating that earth posts on some airplanes have failed due to overheating. The actions specified by this AD are intended to prevent potential consequences of overheating, such as failure of the DC power generation and propeller de-icing systems.

DATES: Effective March 14, 1997.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of March 14, 1997.

ADDRESSES: The service information referenced in this AD may be obtained from Jetstream Aircraft, Inc., P.O. Box 16029, Dulles International Airport, Washington, DC 20041–6029. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., Suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: William Schroeder, Aerospace Engineer, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (206) 227–2148; fax (206) 227–1149.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain Jetstream Model 4101 airplanes was published in the Federal Register on November 20, 1996 (61 FR 59038). That action proposed to require a one-time inspection to detect damage or signs of overheating of the earth posts and earth cables for the DC power generation and propeller de-icing systems of the left and right engines. That action proposed to require, prior to further flight, repair and replacement of damaged earth posts with new posts, and replacement of damaged earth cables with new or serviceable cables. That action also proposed to require the eventual replacement of all earth posts on all affected airplanes.

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were submitted in response to the proposal or the FAA's determination of the cost to the public.

Conclusion

The FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

Cost Impact

The FAA estimates that 44 Jetstream Model 4101 airplanes of U.S. registry will be affected by this proposed AD.

It will take approximately 8 work hours per airplane to accomplish the required inspection, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the required inspection on U.S. operators is estimated to be $21,120, or $480 per airplane.

It will take approximately 8 work hours per airplane to accomplish the required replacement of earth posts, at an average labor rate of $60 per work hour. Required parts will be provided by the manufacturer at no charge. Based on these figures, the cost impact of the required replacement on U.S. operators is estimated to be $21,120, or $480 per airplane.

The cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish

those actions in the future if this AD were not adopted.

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

96–03–12 Jetstream Aircraft Limited: Amendment 39–9917. Docket 96NM–97–AD.

Applicability: Model 4101 airplanes having constructor number 41004 through 41074 inclusive, certificated in any category.

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

To prevent overheating of the electrical ground posts (''earth posts'') for the direct current (DC) power generation and de-icing systems of the left and right engines, which could result in such things as failure of these systems, accomplish the following:

(a) Within 300 hours time-in-service after the effective date of this AD, accomplish the actions specified in paragraphs (a)(1) and (a)(2) of this AD on both the left and right engines:

(1) Inspect each earth post and earth post bracket to detect damage caused by arcing, signs that it has been overheated, and lateral movement of the earth post, in accordance with Part A of Jetstream Service Bulletin J41–24–033, Revision 2, dated January 24, 1996. If any discrepancy is detected, prior to further flight, accomplish both paragraphs (a)(1)(i) and (a)(1)(ii) of this AD:

(i) Repair any damage and lateral movement in accordance with a method approved by the Manager, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate; and

(ii) Replace the earth post with a new earth post in accordance with Part B of the service bulletin.

(2) Inspect each ground cable (''earth cable'') for the DC power generation and propeller de-icing systems to detect damage caused by arcing, and signs that the terminal tags and cable insulation have been overheated, in accordance with Part A of the service bulletin. If any discrepancy is detected, prior to further flight, replace the earth cable with a new or serviceable cable, in accordance with Part A of the service bulletin.

(b) Within 6 months after the effective date of this AD, replace each earth post with a new earth post, in accordance with Part B of Jetstream Service Bulletin J41–24–033, Revision 2, dated January 24, 1996. Any earth post that is replaced in accordance with paragraph (a)(1)(ii) of this AD need not be replaced again under the requirements of this paragraph.

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Manager, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Standardization Branch, ANM–113.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Standardization Branch, ANM–113.

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

(e) The actions shall be done in accordance with Jetstream Service Bulletin J41–24–033, Revision 2, dated January 24, 1996. 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 Jetstream Aircraft, Inc., P.O. Box 16029, Dulles International Airport, Washington, DC 20041–6029. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(f) This amendment becomes effective on March 14, 1997.

Issued in Renton, Washington, on January 29, 1997.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 97–2673 Filed 2–6–97; 8:45 am]

BILLING CODE 4910–13–U

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14 CFR Part 39

[Docket No. 96–NM–89–AD; Amendment 39–9918; AD 97–03–13]

RIN 2120–AA64

Airworthiness Directives; Construcciones Aeronauticas, S.A. (CASA), Model C–212 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to all CASA Model C–212 series airplanes, that requires that the rudder pedal assemblies be adjusted prior to each flight until the rudder pedal setting mechanisms are modified. This amendment also requires replacement of the attachment rails for certain flight crew seats. This amendment is prompted by reports indicating that the flight crew may not be able to achieve the maximum certified deflection of the rudder at the airplane's minimum controllable airspeed and in other flight conditions, because the existing range of settings for adjusting the rudder pedals restricts the flight crew in its ability to move the rudder. This condition, if not corrected, could result in insufficient rudder deflection, and consequent reduction in controllability of the airplane.

DATES: Effective March 14, 1997.

The incorporation by reference of certain publications listed in the

regulations is approved by the Director of the Federal Register as of March 14, 1997.

ADDRESSES: The service information referenced in this AD may be obtained from Construcciones Aeronauticas, S.A., Getafe, Madrid, Spain. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Greg Dunn, Aerospace Engineer, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (206) 227–2799; fax (206) 227–1149.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to all CASA Model C–212 series airplanes was published in the Federal Register on November 12, 1996 (61 FR 58014). That action proposed to require that the rudder pedal assemblies be adjusted prior to each flight until the rudder pedal setting mechanisms are modified (by the installation of stops and other parts). That action also proposed to require replacement of the attachment rails for certain flight crew seats.

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were submitted in response to the proposal or the FAA's determination of the cost to the public.

Conclusion

The FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

Cost Impact

The FAA estimates that 41 CASA Model C–212 series airplanes of U.S. registry will be affected by this AD.

The required adjustment of the rudder pedal assemblies will take approximately .10 work hour per airplane to accomplish, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the adjustment requirement on U.S. operators is estimated to be $246, or $6 per airplane, per adjustment (prior to each flight).

The required modification and replacement will take approximately 64 work hours per airplane to accomplish, at an average labor rate of $60 per work hour. Required parts will cost between $2,000 and $5,500 per airplane, depending on the kit that is installed. Based on these figures, the cost impact of these actions on U.S. operators is estimated to be between $239,440 and $382,940, or between $5,840 and $9,340 per airplane.

The cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive: 97–03–13 CASA: Amendment 39–9918. Docket 96–NM–89–AD.

Applicability: All Model C–212 series airplanes, certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent the settings for the rudder pedals from restricting the flight crew in its ability to move the rudder to its maximum certified deflection, which could result in insufficient deflection and consequent reduction in controllability of the airplane, accomplish the following:

(a) As of the effective date of this AD, prior to each flight, adjust the left and right rudder pedal setting mechanisms in accordance with CASA Flight Operation Instructions COM 212–245, Revision 1, dated November 16, 1993, until the modification required by paragraph (b) of this AD has been accomplished.

(b) Within 6 months after the effective date of this AD, modify the left and right rudder pedal assemblies by installing stops and other parts, in accordance with CASA Service Bulletin SB–212–27–47, Revision 1, dated April 13, 1994. Accomplishment of this modification constitutes terminating action for the repetitive adjustments required by paragraph (a) of this AD.

(c) For CASA Model C–212 series airplanes listed in CASA Service Bulletin SB–212–27–47, Revision 1, dated April 13, 1994: Within 6 months after the effective date of this AD, replace the attachment rails for the pilot and co-pilot seats in accordance with CASA Service Bulletin SB–212–27–47, Revision 1, dated April 13, 1994.

(d) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Manager, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Standardization Branch, ANM–113.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Standardization Branch, ANM–113.

(e) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to

a location where the requirements of this AD can be accomplished.

(f) The actions shall be done in accordance with CASA Flight Operation Instructions COM 212–245, Revision 1, dated November 16, 1993; and CASA Service Bulletin SB–212–27–47, Revision 1, dated April 13, 1994, which contains the following list of effective pages:

Page number	Revision level shown on page	Date shown on page
1–5, 8, 14–17, 19–23, 26, 34, 35.	1	April 13, 1994.
6, 7, 9–13, 18, 24, 25, 27–33.	Original ..	September 14, 1993.

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 Construcciones Aeronauticas, S.A., Getafe, Madrid, Spain. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(g) This amendment becomes effective on March 14, 1997.

Issued in Renton, Washington, on January 29, 1997.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 97–2674 Filed 2–6–97; 8:45 am]

BILLING CODE 4910–13–U

14 CFR Part 39

[Docket No. 96–NM–148–AD; Amendment 39–9919; AD 97–03–14]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 737–300 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Boeing Model 737–300 series airplanes, that requires an inspection to detect fatigue cracking, base trim, and upper flange over-trim of the pulley brackets of the aileron control cables. This amendment also requires, if necessary, replacement of the pulley brackets with new pulley brackets, and replacement of the two button-head rivets with flush-head rivets. This amendment is prompted by a review of the design of the flight control systems on Model 737 series airplanes. The actions specified by this AD are intended to prevent fatigue cracking or fracturing of the pulley brackets, which could result in slack in the cables and consequent reduced ability of the flightcrew to control the aileron.

DATES: Effective March 14, 1997.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of March 14, 1997.

ADDRESSES: The service information referenced in this AD may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

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

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain Boeing Model 737–300 series airplanes was published in the Federal Register on August 28, 1996 (61 FR 44237). That action proposed to require a visual inspection to detect fatigue cracking, base trim, and upper flange over-trim of the pulley brackets of the aileron control cables. That action also proposed to require, if necessary, replacement of the pulley brackets with new pulley brackets, and replacement of the two button-head rivets with flush-head rivets.

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

Support for the Proposal

One commenter supports the proposed rule.

Request To Revise Statement of Findings of Critical Design Review Team

One commenter requests the second paragraph of the Discussion section that appeared in the preamble to the proposed rule be revised to accurately reflect the findings of the Critical Design Review (CDR) team. The commenter asks that the FAA delete the one sentence in that paragraph, which read: ''The recommendations of the team include various changes to the design of the flight control systems of these airplanes, as well as correction of certain design deficiencies.'' The commenter suggests that the following sentences should be added: ''The team did not find any design issues that could lead to a definite cause of the accidents that gave rise to this effort. The recommendations of the team include various changes to the design of the flight control systems of these airplanes, as well as incorporation of certain design improvements in order to enhance its already acceptable level of safety.''

The FAA does not find that a revision to this final rule in the manner suggested by the commenter is necessary, since the Discussion section of a proposed rule does not reappear in a final rule. The FAA acknowledges that the CDR team did not find any design issue that could lead to a definite cause of the accidents that gave rise to this effort. However, as a result of having conducted the CDR of the flight control systems on Boeing Model 737 series airplanes, the team indicated that there are a number of recommendations that should be addressed by the FAA for each of the various models of the Model 737.

Request To Extend Compliance Time

The Air Transport Association (ATA) of America, on behalf of one of its members, requests that the proposed compliance time be extended from 18 months to four years. The ATA member indicates that the consequences of bracket failure are minimal since a dual control path exists. The commenter adds that, even in the event of total cable input failure on one side of the control path, control of the aircraft would not be lost. The commenter points out that the referenced service bulletin states that resultant cable slack will cause sluggish aileron control, which should be apparent to the flightcrew in the event of failure of a bracket. The commenter also states that the adoption of an 18-month compliance time would pose an unnecessary burden on operators, and that a compliance time of four years is adequate to address the unsafe condition. The ATA states that it does not view the identified unsafe condition as an airworthiness concern. However, in the interest of enhancing safety, the ATA requests that the rule be adopted with the extended compliance time.

The FAA does not concur. The FAA acknowledges that a dual control path exists, and that in the event of failure of a bracket, the second load path will

allow operation of the aileron. However, under heavy flightcrew workload conditions, the ability of the flightcrew to control the airplane would be reduced; the FAA has determined that this poses a potential unsafe condition that must be corrected in a timely manner.

In developing an appropriate compliance time for the proposed inspection, the FAAs' intent is that it be performed during a regularly scheduled maintenance visit for the majority of the affected fleet when the airplanes would be located at a base where special equipment and trained personnel would be readily available, if necessary. The FAA finds that 18 months corresponds closely to the interval representative of most of the affected operators' normal maintenance schedules. Additionally, since the service bulletin cited in this AD was issued in 1988, the FAA anticipates that a majority of the pulley brackets and rivets that require replacement have already been replaced. Finally, in light of the fact that the required actions take only one work hour per airplane to accomplish, the FAA is puzzled by the commenter's assertion that the 18-month compliance time imposes an ''unnecessary burden'' on affected operations. The FAA considers that an 18-month compliance time is appropriate and will provide an acceptable level of safety.

Conclusion

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

Cost Impact

There are approximately 262 Model 737–300 series airplanes of the affected design in the worldwide fleet. The FAA estimates that 169 airplanes of U.S. registry will be affected by this AD, that it will take approximately 1 work hour per airplane to accomplish the required actions, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be $10,140, or $60 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

Should an operator be required to accomplish the replacement of pulley brackets and rivets, it will take approximately 15 work hours per airplane to accomplish those actions, at an average labor rate of $60 per work hour. Required parts will cost approximately $713 per airplane. Based on these figures, the cost impact of any necessary replacement action is estimated to be $1,613 per airplane.

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

97–03–14 Boeing: Amendment 39–9919. Docket 96–NM–148–AD.

Applicability: Model 737–300 series airplanes; as listed in Boeing Service Bulletin 737–27–1154, dated August 25, 1988; certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent fatigue cracking or fracturing of the pulley brackets, which could result in slack in the cables and consequent reduced ability of the flightcrew to control the aileron, accomplish the following:

(a) Within 18 months after the effective date of this AD: Perform a visual inspection to detect fatigue cracking, base trim, or upper flange over-trim of the pulley brackets, part number (P/N) 65C25555–3, 65C25555–501, or 69–73479–1, of the aileron control cables, in accordance with Boeing Service Bulletin 737–27–1154, dated August 25, 1988.

(b) If any cracking or over-trim of the pulley brackets is detected: Prior to further flight, replace the pulley brackets with new pulley brackets; and replace the two existing button-head rivets with flush-head rivets; in accordance with Boeing Service Bulletin 737–27–1154, dated August 25, 1988.

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

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

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

(e) The inspection and replacement shall be done in accordance with Boeing Service Bulletin 737–27–1154, dated August 25, 1988. 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 Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(f) This amendment becomes effective on March 14, 1997.

Issued in Renton, Washington, on January 29, 1997.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 97–2675 Filed 2–6–97; 8:45 am]

BILLING CODE 4910–13–P

14 CFR Part 39

[Docket No. 96–NM–57–AD; Amendment 39–9922; AD 97–03–17]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 747 and 757 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to all Boeing Model 747 and 757 series airplanes, that requires repetitive visual inspections to detect discrepancies of the wire terminal assembly, electrical connector, and wire insulation on the fuel pump; and replacement of the fuel pump with a new fuel pump, if necessary. This amendment also requires repetitive insulation resistance tests of the fuel pump wiring. This amendment is prompted by reports of fuel leaks at the fuel boost and override/jettison pumps due to corrosion. The actions specified by this AD are intended to prevent such a fuel leakage, which could result in a fire at the location of the affected fuel pump.

DATES: Effective March 14, 1997.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of March 14, 1997.

ADDRESSES: The service information referenced in this AD may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: G. Michael Collins, Aerospace Engineer, Seattle Aircraft Certification Office, Propulsion Branch, ANM–140S, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (206) 227–2689; fax (206) 227–1181.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to all Boeing Model 747 and 757 series airplanes was published in the Federal Register on August 14, 1996 (61 FR 42195). That action proposed to require a visual inspection to detect discrepancies of the wire terminal assembly, electrical connector, and wire insulation on the fuel pump; and replacement of the fuel pump with a new fuel pump, if necessary. That action also proposed to require repetitive insulation resistance tests of the fuel pump wiring.

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

Support for the Proposal

One commenter supports the proposed AD.

Request To Allow Credit for Use of Previous Versions of Service Bulletins

Several commenters request that the proposal be revised to provide credit to those operators who have already initiated the inspections in accordance with the original versions of Boeing Service Bulletins 747–28A2194 and 757 28A0043. One of these commenters, states that Revision 1 of both of these service bulletins, which are referenced in the proposal, contain essentially the same inspection and test procedures of the subject fuel pumps as is contained the original versions.

The FAA concurs partially with the commenters' request:

The FAA finds that both the original version and Revision 1 of Boeing Service Bulletin 757 28A0043, which is applicable to Model 757 series airplanes, contain essentially identical inspection procedures. Therefore, operators of those airplanes will be given credit for any inspections conducted in accordance with the original version of the service bulletin accomplished prior to the effective date of this AD. The final rule has been revised to indicate this.

However, the FAA finds that Revision 1 of Boeing Service Bulletin 747–28A2194, which is applicable to Model 747 series airplanes, is substantively different from the original version, in that Revision 1 adds a continuity check of the pin 4 bonding strap internal to the pump (the pump ground wire). Although the manufacturer asserts that this continuity check ''does not affect the result of the key insulation resistance test which determines the condition of the pump connector,'' the FAA maintains that the continuity check is an important step, without which the resistance test cannot be considered adequate. Therefore, operators who previously have performed the resistance tests in accordance with the original version of that service bulletin will not be granted credit for those tests as compliance with the applicable requirements of this AD.

Request To Clarify Applicability of Requirements to New Airplanes

One commenter requests that the proposal be revised to clarify what inspection actions would be required of new airplanes that are delivered after the effective date of the AD. The commenter states that the proposal is not clear whether the AD applies to these new airplanes or not, and, if it does apply, when the first inspection is required.

The FAA does not consider that any further clarification of the applicability of the AD is necessary. The applicability statement of the AD clearly indicates that it is applicable to ''all Model 747 and 757 airplanes.'' This includes airplanes delivered now or in the future; it is not limited to any range of existing airplanes. Since the configuration of the subject area on all of these airplanes, from the earliest manufactured to the most recent, is similar, all are subject to the unsafe condition addressed by this AD.

To clarify the commenter's concern as to when the first inspection of new airplanes is required, the FAA points out that any airplane that is manufactured and/or delivered after 120 days after the effective date of this AD, will have to be inspected in accordance with the AD prior to its delivery, as required by the Federal Aviation Regulations (FAR). The AD stipulates in its compliance provisions that the actions are required at the time specified in the AD, ''unless [those actions have been] accomplished previously.'' The inspection of the pumps that is conducted previous to the delivery of the new airplanes is considered to be the initial inspection required by the AD.

Request To Extend Compliance Time for Initial Inspection

Several commenters request that the proposal be revised to extend the proposed compliance time of 120 days for the initial inspection to as much as 9 months. Most of these commenters are airline operators, and request the extension in order to accommodate the inspection during their regular maintenance schedules. One of these

commenters requests that the initial inspection interval be based on how many hours have accumulated on the affected fuel pump. Another commenter requests that the compliance time be stated as ''the operator's next 'C'-check'' for new airplanes delivered after the effective date of the AD. Several commenters request an extension because they are concerned that an ample number of spare fuel pumps will not be available to support the affected fleet, should it be necessary to replace all pumps within the proposed 120-day compliance period.

The FAA does not concur with the commenters' requests to extend the compliance time. In developing an appropriate compliance time for this action, the FAA considered not only the degree of urgency associated with addressing the subject unsafe condition, but the availability of necessary parts and the practical aspect of conducting the required inspections within an interval of time that parallels normal scheduled maintenance for the majority of affected operators. The FAA also took into account the manufacturer's recommendation (specified in the referenced Boeing service bulletin) that the first inspection to be conducted ''at the next maintenance time when manpower and equipment are available.'' The FAA finds that, for the majority of affected operators, some scheduled maintenance will occur within the 120-day compliance period.

As for the commenters' concern that the availability of an ample number of replacement parts will be a problem, the FAA has received no indication to substantiate that parts will not be available during the compliance period. The FAA has been advised that there is a 60-day turnaround time for ordering retrofit pumps from at least one vendor; this should provide enough time for operators to obtain parts within the 120-day compliance time for the initial inspection.

In light of these factors, the FAA finds no technical justification for delaying the initiation of inspections any further. The FAA has determined that the 120-day compliance time for accomplishing the initial inspection is not only appropriate, but warranted.

Request To Extend Repetitive Inspection Intervals

Several commenters request that the proposal be revised to extend the intervals for repetitive visual inspections of the pumps from the proposed ''5,000 hours or 18 months, whichever occurs first.'' Some commenters request that the interval be specified as ''every 'C'-check;'' others request that it be ''every 8,000 flight hours.'' The commenters indicate that such extensions would allow the inspections to be conducted during regularly scheduled maintenance intervals. One commenter requests that the repetitive inspection interval be extended for airplanes equipped with permanently mounted fuel vapor sensors that can detect leaked fuel and fuel vapor in the vicinity of the pump.

The FAA does not concur with the commenters' requests to extend the repetitive inspection interval. Based on the fact that the subject problem is associated with corrosion, the FAA considers that a 5,000 flight hour/18-month interval represents the maximum time allowable for the affected airplanes to continue to operate prior to accomplishing the required inspections without compromising safety. Since maintenance schedules may vary from operator to operator, there would be no assurance that the inspection (and any necessary replacement) would be accomplished during that maximum interval. Therefore, to specify the interval as a ''C''-check would not be appropriate.

The FAA cannot concur with the commenter who requested an extension if a permanently mounted fuel vapor sensor is installed, since the device has not been approved by the FAA for use in the affected airplanes for the specific purpose of detecting fuel leaks near a fuel booster pump. Since the certification process for approval of such a device may take many months, the FAA considers that, for the time being, revising the requirements of the AD in relation to the use of such a device is not appropriate.

Request To Specify Flight Hours in Compliance Time Intervals

One commenter requests that the proposal be revised to indicate that the various inspections and tests are required to be performed at intervals stated in terms of ''flight hours.'' The proposal stated these compliance times in terms of ''hours.''

The FAA concurs, since this was the intent of those requirements. (The word ''flight'' was inadvertently omitted from the published version of the proposal.) The final rule has been corrected to indicate that the initial inspection is to be repeated at intervals not to exceed 5,000 *flight* hours or 18 months, whichever occurs first; and the insulation resistance test is to be repeated at intervals not to exceed 500 *flight* hours.

Request To Allow Replacement With Other Than ''New'' Fuel Pumps

Several commenters request that the proposal be revised to allow the installation of other than ''new'' fuel pumps whenever replacement of the pump is required. These commenters point out that the reference to ''new'' fuel pump in the provisions of the proposed AD literally excludes the use of a refurbished or overhauled pump. Since both an overhauled and a new pump are airworthy, the commenters request that either be allowed to be installed as replacement parts. Another commenter points out that the use of the word ''new'' may create the misunderstanding that a replacement pump must be a ''new model'' or a later configuration.

The FAA concurs with the commenters' request, and has revised the provisions in the final rule to indicate that discrepant fuel pumps must be replaced with ''new or serviceable'' pumps.

Request To Delete Resistance Test on Replacement Pumps

Several commenters request that the proposal be revised to delete the requirement to perform an insulation resistance test of the fuel pump wiring after a fuel pump is replaced. The commenters maintain that the insulation resistance test provided in the Component Maintenance Manual (CMM) is more stringent than that provided in the referenced Boeing service bulletins. Several of these commenters (both U.S. and non-U.S. operators) state that all of the spare pumps in their inventories must pass an insulation resistance test in accordance with the CMM before they are put on the shelf. The commenters assert that, to require another resistance test immediately after a spare is installed as a replacement pump, is needlessly redundant.

The FAA does not concur with the commenters' request. While some operators may be conducting the resistance tests on the spares in their inventory, the FAA has no assurance that all operators are doing so. The FAA cannot assume that all operators, worldwide, are following such procedures. Further, the FAA has determined that the resistance test procedures described in the referenced Boeing service bulletins are both adequate and appropriate for detecting the sort of reduced resistance that would pose safety concerns. In light of these factors, the FAA finds no reason to delete the requirement for a

resistance test of replaced fuel pumps prior to flight.

Request To Allow Continued Flight if Replacement Pump is Unavailable

One commenter requests that paragraph (a)(1)(i) of the proposal be revised to allow continued flight if the resistance measurement is less than or equal to 1 megohms and a new unit is not available. The proposal would require that the fuel pump be replaced prior to further flight. This commenter suggests that a pump that fails the insulation resistance test could be deactivated and the airplane be allowed to continue in service in accordance with the Minimum Equipment List (MEL) under the guidelines contained in sections 2–28–22–1 and 2–28–22–2 of the Boeing Dispatch Deviation Guide, Document D630N002. The failed pump should then be replaced as soon as a new unit is available.

The FAA does not concur with the commenter's request. The actions specified by this AD are intended to prevent fuel leakage in the area of the fuel boost and override pumps; such leakage could result in a fire at the location of the affected fuel pump. Based on the safety implications associated with this unsafe condition, the FAA has determined that, if a pump is found to be defective during the inspections required by this AD, that pump must be replaced and the airplane must not continue to operate until the pump is replaced. The FAA finds no technical justification to permit further flight without an operative pump. Where there are differences between an AD and an MEL, the AD prevails.

Further, as indicated earlier, the FAA is not aware of any problem regarding obtaining replacement pumps as needed to comply with this AD. If operators are concerned about the availability of replacement parts, they should schedule the required inspections so that another pump is always available if needed for replacement.

Request To Clarify Need for Fuel Pump Ground Continuity Check

One commenter requests clarification as to whether a continuity check of the fuel pump ground wire is required as part of the insulation resistance test. The commenter does not consider the proposal to be clear on this.

The FAA considers that the requirement to conduct the continuity check was implicit in the proposal. The procedures for conducting the continuity check are clearly iterated in the same paragraph of the Accomplishment Instructions (of both Boeing service bulletins referenced in the proposal) as the procedures for the insulation resistance test. Since the continuity check of the ground wire is unquestionably a part of the required resistance test, it is required to be conducted for compliance with this AD. (As stated previously, the FAA considers the check to be an important step, without which the resistance test cannot be considered adequate.) To make this eminently clear to operators, however, the FAA has added NOTE 3 to paragraph (a) of the final rule to indicate that the continuity check of the pump ground wire is part of the insulation resistance test.

Request To Revise Criteria of Insulation Resistance Test

One commenter requests that paragraphs (a)(1)(ii), (a)(1)(iii), (a)(2)(ii), and (a)(2)(iii) be revised to specify that ''all'' resistance measurements must be greater than the indicated value in order to allow the continuation of inspections (rather than replacement of the fuel pump). There are three resistances to be measured, one per power pin, and all of them should register between 1 and 5 megohms or more than 5 megohms to be considered acceptable for remaining on the airplane. However, the wording in the proposal states that inspections are to be repeated if ''any'' resistance measurement is greater than the specific value; this implies that only one of the three power pins must meet this resistance requirement. The referenced service bulletin instructions specify that ''all'' of the pins should meet the requirement.

The FAA concurs that revision is necessary. It was the intent of the FAA to make the requirements of the AD as parallel as possible to the instructions and recommendations of the manufacturer's reference service bulletin. The final rule has been revised accordingly.

Request To Allow Use of Alternative Equipment for Testing

One commenter requests that the proposal be revised to indicate that use of testing equipment, other than that specified in the referenced Boeing service bulletins, is permitted when accomplishing the required inspections. The commenter first points out that the AVTRON Model T477W bonding meter called out in the Accomplishment Instructions of Boeing Service Bulletin 757–28A0043, Revision 1, does not measure the full range of acceptable resistance values (10 megohms or less). The commenter requests that use of this meter not be required. Additionally, the commenter states that it is nearly impossible to accomplish the resistance checks by pressing the meter probes against the electrical contacts of the motor. To facilitate obtaining these measurements, the commenter recommends, instead, the use of a break-out box with a connector that mates to the pump; the commenter has used this method successfully on eight airplanes in its fleet. The commenter also states that other options are available, such as adapter leads for meter probes, and the proposal should reference these.

The FAA does not consider that a revision to the requirements of the AD is necessary. As for use of the AVTRON bonding meter, Boeing has reiterated to the FAA that this ohmmeter is perfectly appropriate for measuring low resistances, and is currently the only ohmmeter that can be used in areas where there is the potential existence of flammable fluids. As for the use of a break-out box or other equipment not specified in the referenced Boeing service bulletins, the FAA cannot comment without further data. However, under the provisions of paragraph (c) of the final rule, the FAA may approve requests for use of alternative methods of compliance if data are submitted to substantiate that such methods would provide an acceptable level of safety.

Request for Terminating Action

Two commenters request that the proposed rule be revised to include terminating action for the repetitive inspections.

The FAA cannot concur with these commenters, since a terminating action does not currently exist. The addressed unsafe condition is related to the problems associated with corrosion that occurs in the fuel pump assembly; unless the materials of the components themselves are changed to more corrosion-resistant materials, or unless the design of the assembly itself is totally reconfigured, there likely will be no terminating action in the very near future. However, via the reporting requirement included in this AD, the FAA will continue to monitor the on-going condition of this area within the fleet. If conditions warrant, the FAA may consider additional rulemaking action to ensure further improvements of the pump assembly.

Request for Extension of Reporting Requirement

Two commenters request that paragraph (b) of the proposal be revised to extend the time for submitting the initial inspection results from the proposed 10 days to 30 days.These commenters indicate that, due to the sheer volume of data required,

especially of operators with large fleets, additional time will be needed to prepare a complete and comprehensive report of findings.

The FAA concurs and has revised paragraph (b) of the final rule accordingly.

The FAA has also revised paragraph (b) to indicate that operators who already accomplished the initial inspection prior to the effective date of the AD should submit the report within 30 days after the effective date.

Request To Specify Additional Service Information

Crane Company, Hydro-Aire Division, which the manufacturer of the fuel boost and override pumps, requests that the proposal be revised to cite Crane's Service Information Letter (SIL) 989–9–8, dated July 22, 1996, as an additional source of appropriate service instructions. This commenter states that the SIL provides detailed instructions regarding replacement of the connectors that exhibit resistance lower than the acceptable limits specified in the referenced Boeing service bulletins.

The FAA does not concur. The SIL provides instructions for repairing existing fuel pumps that require the replacement of electrical connectors. This information could be used for pump repair, but the FAA does not consider it necessary for accomplishing the actions required by this AD. The FAA finds that the information contained in the reference Boeing service bulletins is sufficient for conducting those actions properly.

Conclusion

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the changes previously described. The FAA has determined that these changes will neither increase the economic burden on any operator nor increase the scope of the AD.

Cost Impact

There are approximately 1,084 Model 747 series airplanes and 716 Model 757 series airplanes of the affected design in the worldwide fleet. Of these airplanes, 242 Model 747 series airplanes and 462 Model 757 series airplanes are of U.S. registry and will be affected by this AD.

For the 242 Model 747 series airplanes, it will take approximately 18 work hours per airplane to accomplish the required actions, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the AD on U.S. operators of Model 747 series airplanes is estimated to be $261,360, or $1,080 per airplane.

For the 462 Model 757 series airplanes, it will take approximately 12 work hours per airplane to accomplish the required actions, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the AD on U.S. operators of Model 757 series airplanes is estimated to be $332,640, or $720 per airplane.

The cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

97–03–17 Boeing: Amendment 39–9922. Docket 96–NM–57–AD.

Applicability: All Model 747 and 757 series airplanes, certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent fuel leakage at the fuel boost and override/jettison pumps, which could result in a fire at the location of the affected fuel pump, accomplish the following:

(a) Within 120 days after the effective date of this AD, perform a visual inspection to detect discrepancies (i.e., fuel leak, heat discoloration, and damage) of the wire terminal assembly, electrical connector, and wire insulation on the fuel pump, in accordance with Boeing Service Bulletin 747–28A2194, Revision 1, dated January 18, 1996 (for Model 747 series airplanes), or Boeing Service Bulletin 757–28A0043, Revision 1, dated January 18, 1996 (for Model 757 series airplanes), as applicable.

Note 2: Inspections accomplished prior to the effective date of this AD in accordance with Boeing Service Bulletin 757–280043, dated November 7, 1995, are considered acceptable for compliance with the requirements of this paragraph.

(1) If no discrepancy is detected, prior to further flight, perform an insulation resistance test of the fuel pump wiring, in accordance with the Accomplishment Instructions of the applicable service bulletin.

Note 3: Each insulation resistance test of the fuel pump wiring includes a continuity check of the fuel pump ground wire, as specifically indicated in the Accomplishment Instructions of the applicable Boeing service bulletin(s).

(i) If any resistance measurement is less than or equal to 1 megohms, prior to further flight, replace the fuel pump with a new or serviceable fuel pump, in accordance with the applicable service bulletin. Prior to further flight following accomplishment of the replacement, repeat the insulation resistance test.

(ii) If all resistance measurements are greater than 1 megohm, but one or more are less than 5 megohms: Repeat the visual inspection and insulation resistance test within 500 flight hours, or replace the fuel

pump with a new or serviceable fuel pump. Prior to further flight following accomplishment of the replacement, repeat the insulation resistance test.

(iii) If all resistance measurements are greater than or equal to 5 megohms, repeat the visual inspection and insulation resistance test within 5,000 flight hours or 18 months, whichever occur first.

(2) If any discrepancy is detected, prior to further flight, replace the fuel pump with a new or serviceable fuel pump, in accordance with the applicable service bulletin. Prior to further flight following accomplishment of the replacement, perform an insulation resistance test of the fuel pump wiring, in accordance with the Accomplishment Instructions of the applicable service bulletin.

(i) If any resistance measurement is less than or equal to 1 megohms, prior to further flight, replace the fuel pump with a new or serviceable fuel pump, in accordance with the applicable service bulletin. Prior to further flight following accomplishment of the replacement, repeat the insulation resistance test.

(ii) If all resistance measurements are greater than 1 megohm, but one or more are less than 5 megohms: Repeat the visual inspection and insulation resistance test within 500 flight hours, or replace the fuel pump with a new or serviceable fuel pump. Prior to further flight following accomplishment of the replacement, repeat the insulation resistance test.

(iii) If all resistance measurements are greater than or equal to 5 megohms, repeat the visual inspection and insulation resistance test within 5,000 flight hours or 18 months, whichever occur first.

(b) Within 30 days after accomplishing the initial visual inspection required by paragraph (a) of this AD, or within 30 days after the effective date of this AD, whichever is later, submit a report of the inspection results (both positive and negative findings) to the Manager, Seattle Aircraft Certification Office (ACO), 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (206) 227–2180; fax (206) 227–1181. Information collection requirements contained in this regulation have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*) and have been assigned OMB Control Number 2120–0056.

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

Note 4: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Seattle ACO.

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

(e) Except as specified in NOTE 2 of this AD, the actions shall be done in accordance with Boeing Service Bulletin 747–28A2194, Revision 1, dated January 18, 1996 (for Model 747 series airplanes); or Boeing Service Bulletin 757–28A0043, Revision 1, dated January 18, 1996 (for Model 757 series airplanes); as applicable. 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 Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(f) This amendment becomes effective on March 14, 1997.

Issued in Renton, Washington, on January 30, 1997.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 97–2854 Filed 2–6–97; 8:45 am]

BILLING CODE 4910–13–P

14 CFR Part 39

[Docket No. 96–NM–124–AD; Amendment 39–9920; AD 97–03–15]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Model DC–9 and Model DC–9–80 Series Airplanes, Model MD–88 Airplanes, and C–9 (Military) Series Airplanes Equipped With BFGoodrich Evacuation Slides

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain McDonnell Douglas Model DC–9 and Model DC–9–80 series airplanes, Model MD–88 airplanes, and C–9 (military) series airplanes, that requires modification of the girt and firing lanyard stowage. This amendment is prompted by reports of in-cabin inflation of certain evacuation slides due to the impingement of the galley service cart on the slide girt and firing lanyard. The actions specified by this AD are intended to prevent inadvertent inflation of the evacuation slides inside the cabin, which could contribute to injury of passengers and/or flightcrew in the passenger cabin.

DATES: Effective March 14, 1997.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of March 14, 1997.

ADDRESSES: The service information referenced in this AD may be obtained from BFGoodrich Company, Aircraft Evacuation Systems, Department 7916, Phoenix, Arizona 85040. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Tracy Ton, Aerospace Engineer, Systems and Equipment Branch, ANM–130L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712; telephone (310) 627–5352; fax (310) 627–5210.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain McDonnell Douglas Model DC–9 and Model DC–9–80 series airplanes, Model MD–88 airplanes, and C–9 (military) series airplanes was published in the Federal Register on November 5, 1996 (61 FR 56919). That action proposed to require modification of the girt and firing lanyard stowage.

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

Both commenters support the proposed rule.

Conclusion

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

Cost Impact

There are approximately 300 BFGoodrich evacuation slides installed on 100 McDonnell Douglas Model DC–9 and Model DC–9–80 series airplanes, Model MD–88 airplanes, and C–9 (military) series airplanes of the affected design in the worldwide fleet.

The FAA estimates that 180 BFGoodrich evacuation slides installed on 60 airplanes of U.S. registry will be affected by this AD, that it will take approximately 2 work hours per slide to accomplish the required actions, and

that the average labor rate is $60 per work hour. Required parts will cost approximately $75 per forward slide and $100 per aft slide. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be $195 per forward slide and $220 per aft slide.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

97–03–15 McDonnell Douglas: Amendment 39–9920. Docket 96–NM–124–AD.

Applicability: Model DC–9–10, –20, –30, –40, and –50 series airplanes; Model DC–9–81 (MD–81), DC–9–82 (MD–82), DC–9–83 (MD–83), DC–9–87 (MD–87) series airplanes, Model MD–88 airplanes; and C–9 (military) series airplanes; equipped with BFGoodrich Evacuation Slides, as listed in BFGoodrich Service Bulletin 25–280, Revision 2, dated August 15, 1996; certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent in-cabin inflation of the evacuation slides, which could contribute to injury of passengers and/or flightcrew in the passenger cabin, accomplish the following:

(a) Within 36 months after the effective date of this AD, modify the girt and firing lanyard stowage in accordance with BFGoodrich Service Bulletin 25–280, Revision 2, dated August 15, 1996.

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

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

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

(d) The modification shall be done in accordance with BFGoodrich Service Bulletin 25–280, Revision 2, dated August 15, 1996. 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 BFGoodrich Company, Aircraft Evacuation Systems, Department 7916, Phoenix, Arizona 85040. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(e) This amendment becomes effective on March 14, 1997.

Issued in Renton, Washington, on January 30, 1997.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 97–2853 Filed 2–6–97; 8:45 am]

BILLING CODE 4910–13–P

14 CFR Part 39

[Docket No. 96–NM–218–AD; Amendment 39–9921; AD 96–03–16]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Model MD–11 and MD–11F Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD), applicable to certain McDonnell Douglas Model MD–11 and MD–11F series airplanes, that currently requires, among other things, repetitive visual inspections to detect discrepancies of the fuel pipe of the fuel transfer system of the tail tank and associated mounting bracket located in the aft fuselage compartment. That AD was prompted by reports of cracking or bending of the fuel pipe mounting support and/or attaching bracket in the aft fuselage compartment due to a fuel pressure surge that caused repetitive loading of this area. This amendment adds a requirement to install a restraint on the tail tank fuel pipe, which would terminate the repetitive visual inspections. The actions specified by this AD are intended to prevent such cracking/bending, which could expose the fuel pipe coupling O-ring. An exposed O-ring could lose its sealing effect and could allow a fuel leak in the aft fuselage compartment, which would present a fire hazard.

DATES: Effective March 14, 1997.

The incorporation by reference of McDonnell Douglas Alert Service Bulletin MD11–28A082, dated May 14, 1996, as listed in the regulations, was approved previously by the Director of the Federal Register as of July 24, 1996 (61 FR 35946, July 9, 1996).

The incorporation by reference of McDonnell Douglas Service Bulletin MD11–28–082, dated July 29, 1996, as listed in the regulations, is approved by the Director of the Federal Register as of March 14, 1997.

ADDRESSES: The service information referenced in this AD may be obtained from McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Technical Publications Business Administration, Department C1–L51 (2–60). This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Ray Vakili, Aerospace Engineer, Propulsion Branch, ANM–140L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712; telephone (310) 627–5262; fax (310) 627–5210.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) by superseding AD 96–14–07, amendment 39–9691 (61 FR 35946, July 9, 1996), which is applicable to certain McDonnell Douglas Model MD–11 and MD–11F series airplanes, was published in the Federal Register on November 20, 1996 (61 FR 59036). The action proposed to supersede AD 96–14–07 to continue to require repetitive visual inspections to detect discrepancies (i.e., cracks or deformation) of the fuel pipe of the fuel transfer system of the tail tank and associated mounting bracket located in the aft fuselage compartment and to verify the correct position of the fuel pipe flange, and various follow-on actions. The action also proposed to require installation of a restraint on the tail tank fuel pipe, which would constitute terminating action for the repetitive visual inspection requirements.

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

The commenter supports the proposed rule.

Conclusion

After careful review of the available data, including the comment noted above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

Cost Impact

There are approximately 152 McDonnell Douglas Model MD–11 and MD–11F series airplanes of the affected design in the worldwide fleet. The FAA estimates that 42 airplanes of U.S. registry will be affected by this AD.

The actions that are currently required by AD 96–14–07, and retained in this AD, take approximately 6 work hours per airplane to accomplish, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the currently required actions on U.S. operators is estimated to be $15,120, or $360 per airplane, per inspection cycle.

The new actions that are required by this new AD will take approximately 3 work hours per airplane to accomplish, at an average labor rate of $60 per work hour. Required parts will be supplied by the manufacturer at no cost to the operators. Based on these figures, the cost impact of the new requirements of this AD on U.S. operators is estimated to be $7,560, or $180 per airplane.

The cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by removing amendment 39–9691 (61 FR 35946, July 9, 1996), and by adding a new airworthiness directive (AD), amendment 39–9921, to read as follows:

97–03–16 McDonnell Douglas: Amendment 39–9921. Docket 96-NM–218-AD. Supersedes AD 96–14–07, Amendment 39–9691.

Applicability: Model MD–11 and MD–11F series airplanes, manufacturer's fuselage numbers 0447 through 0599 inclusive; certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent the possibility of an in-flight or ground fire due to fuel leaking from the fuel pipe coupling, accomplish the following:

Restatement of Requirements of AD 96–14–07, Amendment 39–9691

(a) Perform a visual inspection to detect discrepancies (i.e., cracks or deformation) of the fuel pipe of the fuel transfer system of the tail tank and associated mounting bracket located in the aft fuselage compartment; and to verify the correct position of the fuel pipe flange, in accordance with McDonnell Douglas Alert Service Bulletin MD11–28A082, dated May 14, 1996; at the time specified in paragraph (a)(1) or (a)(2) of this AD, as applicable.

(1) For airplanes on which the modification specified in McDonnell Douglas Service Bulletin 28–22, dated September 24,

1991, has been accomplished; or that have been repaired in accordance with an FAA-approved repair procedure, as specified in paragraph (a)(3) of AD 91–24–09, amendment 39–8095; or on which the shroud assembly has been replaced with a serviceable part: Prior to the accumulation of 600 flight hours, or within 60 days after July 24, 1996 (the effective date AD 96–14–07, amendment 39–9691), whichever occurs later.

(2) For airplanes on which the modification specified in McDonnell Douglas Service Bulletin 28–22, dated September 24, 1991, has not been accomplished: Prior to the accumulation of 600 flight hours, or within 60 days since accomplishment of the last visual inspection in accordance with AD 91–24–09, amendment 39–8095; whichever occurs first.

(b) Condition 1. No Discrepancy Found. If no discrepancy is detected during any visual inspection required by paragraph (a) of this AD, accomplish either paragraph (b)(1) or (b)(2) of this AD.

(1) Condition 1. Option 1. Repeat the visual inspection required by paragraph (a) of this AD thereafter at intervals not to exceed 600 flight hours or 60 days, whichever occurs later. Or

(2) Condition 1. Option 2. Prior to further flight, install a temporary phenolic support block assembly, shim, clamp, and bracket between the tail tank fuel pipe and station Y=2033.750 bulkhead, in accordance with Condition 1, Option 2, of McDonnell Douglas Alert Service Bulletin MD11–28A082, dated May 14, 1996. Within 6 months after accomplishment of this installation, perform a one-time inspection to verify the correct position of the temporary support block assembly installation in accordance with Figure 2 (Sheet 2 of 3) of the alert service bulletin.

(i) If the assembly is found to be positioned properly, repeat the verification of the correct position of the fuel pipe flange, as specified in paragraph (a) of this AD, thereafter at intervals not to exceed 15 months.

(ii) If the assembly is found be improperly positioned, prior to further flight, reposition the fuel pipe in accordance with Figure 2 (Sheet 2 of 3) of the alert service bulletin. Repeat the verification of the correct position of the fuel pipe flange, as specified in paragraph (a) of this AD, thereafter at intervals not to exceed 15 months.

(c) Condition 2. Discrepancy Found; O-Ring Not Exposed. If any discrepancy is detected, and the fuel pipe is found to be improperly positioned, but the O-ring is not exposed, during any visual inspection required by paragraph (a) of this AD, prior to further flight, accomplish either paragraph (c)(1) or (c)(2) of this AD.

(1) Condition 2. Option 1. Repeat the visual inspection in paragraph (a) of this AD thereafter at intervals not to exceed 600 flight hours or 60 days, whichever occurs later. Or

(2) Condition 2. Option 2. Prior to further flight, install a temporary phenolic support block assembly, shim, clamp, and bracket between the tail tank fuel pipe and station Y=2033.750 bulkhead; and reposition the fuel pipe assembly, as applicable; in accordance with Condition 2, Option 2, of McDonnell Douglas Alert Service Bulletin MD11–28A082, dated May 14, 1996. Within 6 months after accomplishment of this installation, perform a one-time inspection to verify the correct position of the temporary support block assembly installation in accordance with Figure 2 (Sheet 2 of 3) of the alert service bulletin.

(i) If the assembly is found to be positioned properly, repeat the verification of the correct position of the fuel pipe flange, as specified in paragraph (a) of this AD, thereafter at intervals not to exceed 15 months.

(ii) If the assembly is found to be improperly positioned, prior to further flight, reposition the fuel pipe in accordance with Figure 2 (Sheet 2 of 3) of the alert service bulletin. Repeat the verification of the correct position of the fuel pipe flange, as specified in paragraph (a) of this AD, thereafter at intervals not to exceed 15 months.

(d) Condition 3. Discrepancy Found; O-Ring Exposed. If any discrepancy is detected, and the fuel pipe is found to be improperly positioned, and the O-ring is exposed, during any visual inspection required by paragraph (a) of this AD, prior to further flight, replace the O-ring with a new O-ring, and install a temporary phenolic support block assembly, shim, clamp, and bracket between the tail tank fuel pipe and station Y=2033.750 bulkhead, in accordance with McDonnell Douglas Alert Service Bulletin MD11–28A082, dated May 14, 1996. Within 6 months after accomplishment of the replacement and installation, perform a one-time inspection to verify the correct position of the temporary support block assembly installation in accordance with Figure 2 (Sheet 2 of 3) of the alert service bulletin.

(1) If the assembly is found to be positioned properly, repeat the verification of the correct position of the fuel pipe flange, as specified in paragraph (a) of this AD, thereafter at intervals not to exceed 15 months.

(2) If the assembly is found to be improperly positioned, prior to further flight, reposition the fuel pipe in accordance with Figure 2 (Sheet 2 of 3) of the alert service bulletin. Repeat the verification of the correct position of the fuel pipe flange, as specified in paragraph (a) of this AD, thereafter at intervals not to exceed 15 months.

New Requirements of this AD

(e) Within 24 months after the effective date of this AD, install a restraint on the tail tank fuel pipe in accordance with McDonnell Douglas Service Bulletin MD11–28–082, dated July 29, 1996. Accomplishment of the installation constitutes terminating action for the repetitive inspection requirements of this AD.

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

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

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

(h) The actions shall be done in accordance with McDonnell Douglas Alert Service Bulletin MD11–28A082, dated May 14, 1996; and McDonnell Douglas Service Bulletin MD11–28–082, dated July 29, 1996. The incorporation by reference of McDonnell Douglas Alert Service Bulletin MD11–28A082, dated May 14, 1996, was approved previously by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51 as of July 24, 1996 (61 FR 35946, July 9, 1996). The incorporation by reference of McDonnell Douglas Service Bulletin MD11–28–082, dated July 29, 1996, is approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Technical Publications Business Administration, Department C1-L51 (2–60). Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(i) This amendment becomes effective on March 14, 1997.

Issued in Renton, Washington, on January 30, 1997.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 97–2852 Filed 2–6–97; 8:45 am]

BILLING CODE 4910–13–p

14 CFR Part 71

[Airspace Docket No. 97–ANE–02]

Amendment to Class E Airspace; New Haven, CT

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Direct final rule; request for comments.

SUMMARY: This action modifies the Class E airspace at New Haven, CT (KHVN) by removing the Class E airspace extending upward from the surface, effective during the times when the Airport Traffic Control Tower (ATCT) is not operating. This action results from the lack of continuous weather reporting at Tweed-New Haven Municipal Airport.

DATES: Effective 0901 UTC, March 27, 1997.

Comments for inclusion in the Rules Docket must be received on or before March 10, 1997.

ADDRESSES: Send comments on the proposal to: Manager, Operations Branch, ANE–530, Federal Aviation Administration, Docket No. 97–ANE–02, 12 New England Executive Park, Burlington, MA 01803–5299; telephone (617) 238–7530; fax (617) 238–7596. Comments may also be submitted electronically to the following Internet address: ''9 ne airspace@faa.dot.gov'' Comments must indicate Docket No. 97–ANE–02 in the subject line.

The official docket file may be examined in the Office of the Assistant Chief Counsel, New England Region, ANE–7, Room 401, 12 New England Executive Park, Burlington, MA 01803–5299; telephone (617) 238–7050; fax (617) 238–7055.

An informal docket may also be examined during normal business hours in the Air Traffic Division, Room 408, by contacting the Manager, Operations Branch at the first address listed above.

FOR FURTHER INFORMATION CONTACT: Raymond Duda, Operations Branch, ANE–530.3, 12 New England Executive Park, Burlington, MA 01803–5299; telephone (617) 238–7533; fax (617) 238–7596.

SUPPLEMENTARY INFORMATION: On May 16, 1994, the FAA established Class E airspace at Tweed-New Haven Airport, New Haven, CT (59 FR 25301, effective June 23, 1994) based on the availability of continuous weather reporting and need for controlled airspace for aircraft operating under instrument flight rules (IFR) when the Airport Traffic Control Tower (ATCT) was closed. That Class E airspace extends upward from the surface, and is effective during the hours when the ATCT is closed.

The FAA has been advised that continuous surface weather observations are no longer available at Tweed-New Haven. While the FAA has selected Tweed-New Haven as a future site for fully automated weather observations using the Automated Surface Observing System (ASOS), the commissioning date for the New Haven ASOS is unknown at this time. Accordingly, the FAA must remove the Class E airspace area that extends upward from the surface during the times when the ATCT does not operate. This action does not affect the Class E airspace area that extends upward from 700 feet above the surface, which remains in place to provide adequate controlled airspace for those aircraft using the standard instrument approach procedures at Tweed-New Haven when the ATCT is closed.

Class E airspace designations for airspace areas extending upward from the surface of the earth are published in paragraph 6002 of FAA Order 7400.9D, dated September 4, 1996, and effective September 16, 1996, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be removed subsequently from this Order.

The Direct Final Rule Procedure

The FAA anticipates that this regulation will not result in adverse or negative comment, and, therefore, issues it as a direct final rule. The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. 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 above. After the close of the comment period, 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.

Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. 97–ANE–02.'' The postcard will be date stamped and returned to the commenter.

Agency Findings

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

The FAA has determined that this regulation is noncontroversial and unlikely to result in adverse or negative comments. 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); and (3) does not warrant preparation of a Regulatory Evaluation as these routine matters will only affect air traffic procedures and air navigation. It is certified that these proposed rules will not have significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration amends part 71 of the Federal Aviation Regulations (14 CFR part 71) as follows:

PART 71—[AMENDED]

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

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

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

Administration Order 7400.9D, Airspace Designations and Reporting Points, dated September 4, 1996, and effective September 16, 1996, is amended as follows:

Paragraph 6002 Class E Airspace Areas Designated as a Surface Area for an Airport

* * * * *

ANE CT E2 New Haven, CT [Removed]

* * * * *

Issued in Burlington, MA, on January 31, 1997.

David J. Hurley,

Manager, Air Traffic Division, New England Region.

[FR Doc. 97–3073 Filed 2–6–97; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 71

[Airspace Docket No. 96–ANE–29]

Amendment of Class E Airspace; Old Town, ME

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Direct final rule; correction.

SUMMARY: This action corrects the longitude and latitude coordinates for Dewitt Field, Old Town Municipal Airport (KOLD) in the description of revised Class E airspace intended to provide for adequate controlled airspace for those aircraft using the new GPS RWY 12 and GPS RWY 30 Instrument Approach Procedures.

EFFECTIVE DATE: 0901 UTC, January 30, 1997.

FOR FURTHER INFORMATION CONTACT: Joseph A. Bellabona, Operations Branch, ANE–530.6, 12 New England Executive Park, Burlington, MA 01803–5299; telephone (617) 238–7536; fax (617) 238–7596.

SUPPLEMENTARY INFORMATION:

History

On October 24, 1996, the FAA published in the Federal Register (61 FR 55091) a direct final rule revising Class E airspace at Old Town, ME. That action was necessary to provide adequate controlled airspace for aircraft using the new GPS RWY 12 and GPS RWY 30 Instrument Approach Procedures to Dewitt Field, Old Town Municipal Airport (KOLD). The FAA uses the direct final rulemaking procedure for non-controversial rules when the FAA believes that no adverse public comment will be received. On December 19, 1996, the FAA published in the Federal Register (61 FR 66910) confirmation that the FAA received no adverse comments to this direct final rule, and that the effective date of the rule was December 5, 1996. Since publication of that confirmation, the FAA has determined that this action is necessary to correct the longitude and latitude coordinates for the Dewitt Field and the Old Town Non-Directional Beacon (NDB) that appear in the description of the revised Class E airspace at Old Town, ME.

Correction to the Final Rule

Accordingly, pursuant to the authority delegated to me, the geographic coordinates of Dewitt Field and the Old Town NDB contained in the description of Class E airspace at Old Town, ME, as published in the Federal Register on October 24, 1996 (61 FR 55091), Federal Register document 96–27184: page 55092, column 2; and the description in FAA Order 7400.9D, dated September 4, 1996, and effective September 16, 1996, which is incorporated by reference in 14 CFR 71.1; are corrected as follows:

§ 71.71 [Corrected]

Subpart E—Class E Airspace

* * * * *

ANE ME E5—Old Town, ME [Corrected]

Dewitt Field, Old Town Municipal Airport, ME

By removing ''(lat. 44°57′10″ N, long. 68°40′25″ W)'' and substituting ''(lat. 44°57′09″ N, long. 68°40′28″ W),'' and

Old Town NDB

By removing ''(lat. 44°00′24″ N, long. 68°38′00″ W)'' and substituting ''(lat. 45°00′24″ N, long. 68°38′00″ W),''

* * * * *

Issued in Burlington, MA on January 31, 1997.

David J. Hurley,

Manager, Air Traffic Division, New England Region.

[FR Doc. 97–3072 Filed 2–6–97; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 71

[Airspace Docket No. 96–ANE–28]

Amendment to Class E Airspace; Lebanon, NH

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Direct final rule; correction.

SUMMARY: This document makes a correction to the amendment to the Class E airspace at Lebanon, NH (LEB) published in the Federal Register on September 10, 1996 (61 FR 47672). In the description of the airspace removed, the state identifier is incorrect, listing Lebanon as in ''ME'' rather than ''NH.'' This document corrects that typographical error.

EFFECTIVE DATE: February 7, 1997.

FOR FURTHER INFORMATION CONTACT: Raymond Duda, Operations Branch, ANE–530.3, Federal Aviation Administration, 12 New England Executive Park, Burlington, MA 01803–5299; telephone: (617) 238–7533; fax (617) 238–7596.

SUPPLEMENTARY INFORMATION: On September 10, 1996, the FAA published in the Federal Register an amendment to the Class E airspace at Lebanon, NH removing the Class E airspace extending upward from the surface of the airport (61 FR 47672). A confirmation of the effective date for this amendment was published in the Federal Register on December 19, 1996 (61 FR 66910).

Correction to the Final Rule

Accordingly, pursuant to the authority delegated to me, the amendment to Class E airspace at Lebanon, NH as published in the Federal Register on September 10, 1996 (61 FR 47672), Federal Register document 96–23091: page 47673, column 1; and the description in FAA Order 7400.9D, dated September 4, 1996, and effective September 16, 1996, which is incorporated by reference in 14 CFR 71.1; are corrected by revising ''ANE ME E2 Lebanon, NH [Removed]'' to read ''ANE NH E2 Lebanon, NH [Removed]''.

Issued in Burlington, MA, on January 31, 1997.

David J. Hurley,

Manager, Air Traffic Division, New England Region.

[FR Doc. 97–3071 Filed 2–6–97; 8:45 am]

BILLING CODE 4910–13–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 1 and 61

[CC Docket No. 96–187; FCC 97–23]

Implementation of Section 402(b)(1)(a) of the Telecommunications Act of 1996 (Tariff Streamlining Provisions for Local Exchange Carriers)

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In light of the passage of the Telecommunications Act of 1996 (1996 Act), which provides for streamlined tariff filings by local exchange carriers (LECs), the Commission is issuing this Report and Order to implement the

specific streamlining requirements of the Act. The Report and Order determines that the statutory effect of LEC tariffs subject to streamlined regulation being ''deemed lawful'' is that a LEC tariff will be lawful upon its effective date unless it is supended by the Commission prior to that time. In addition, the Report and Order finds that all LEC tariff filings, not just those proposing a rate decrease or increase, are eligible for streamlined treatment. Finally, the Report and Order adopted additional measures to streamline the administration of the LEC tariff review process.

EFFECTIVE DATE: February 8, 1997.

FOR FURTHER INFORMATION CONTACT: Patrick Donovan or Dan Abeyta at (202) 418–1520, Common Carrier Bureau, Competitive Pricing Division. For additional information concerning the information collections contained in this Report and Order, contact Dorothy Conway at (202) 418–0217, or via the Internet at dconway@fcc.gov.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order in CC Docket No. 96–187 (FCC 97–23) adopted on January 30, 1997 and released on January 31, 1997. The full text of this Report and Order is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M St., N.W., Washington, D.C. 20037. The complete text may also be obtained through the World Wide Web, at http:/www.fcc.gov/Bureau/Common/Carrier/Order/fcc9723.wp or may be purchased from the Commission's copy contractor, International Transcription Service, Inc. (202) 857–3800, 2100 M St., NW., Suite 140 Washington, DC 20037.

Regulatory Flexibility Analysis

As required by the Regulatory Flexibility Act, the Report and Order contains a Final Regulatory Flexibility Analysis which is set forth in the Report and Order. A brief description of the analysis follows.

Pursuant to section 604 of the Regulatory Flexibility Act, the Commission performed a comprehensive analysis of the Report and Order with regard to small entities. This analysis includes: (1) A succinct statement of the need for; and objectives of the Commission's decisions in the Report and Order; (2) a summary of the significant issues raised by the public comments in response to the initial regulatory flexibility analysis, a summary of the Commission's assessment of these issues, and a statement of any changes made in the Report and Order as a result of the comments; (3) a description of and estimate of the number of small entities and small incumbent LECs to which the Report and Order will apply; (4) a description of the projected recordkeeping and other compliance requirements of the Report and Order, including an estimate of the classes of small entities which will be subject to the requirement and the type of professional skills necessary for compliance with the requirement; (5) a description of the steps the Commission has taken to minimize the significant economic impact on small entities consistent with the stated objectives of applicable statutes, including a statement of the factual, policy, and legal reasons for selecting the alternative adopted in the Report and Order and why one of the other significant alternatives to each of the Commission's decisions which affect small entities was rejected.

The rules adopted in this Report and Order are necessary to implement the provisions of the Telecommunications Act of 1996.

Paperwork Reduction Act

1. On November 27, 1996, the Office of Management and Budget (OMB) approved all of the proposed changes to our information collection requirements in accordance with the Paperwork Reduction Act. We have, however, decided not to adopt several of the information collection requirements proposed in the NPRM and we have modified others. For example, we declined to adopt the proposal to require the LECs to include a summary and legal analysis with their tariff filings, but we will require that LEC tariff filings include a statement in tariff transmittal letters clearly indicating that the tariff is being filed on a streamlined basis under section 204(a)(3) of the Act and whether the tariff filing contains a proposed rate increase, decrease or both for purposes of section 204(a)(3). We conclude that these requirements and modifications constitute a new ''collection of information,'' within the meaning of the Paperwork Reduction Act of 1995, 44 U.S.C. §§ 3501-3520. These requirements and modifications have been approved by OMB. 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.

2. The Commission concurs with OMB's recommendation that we consider input from the industry before implementing a system for the electronic filing of tariffs and related pleadings.

OMB Approval Number: 3060–0745.

Expiration Date: August 31, 1997.

Title: Implementation of Section 402(b)(1)(A) of the Telecommunications Act of 1996 (Tariff Streamlining Provisions for Local Exchange Carriers) CC Docket No. 96–187.

Respondents: Business or other for-profit, including small businesses.

Proposed requirement	Number of respondents	Annual hour burden per response
Electronic filing	50	72
Separate filing for rate decreases	10	4
Identification/labelling of streamlined tariffs	50	9

Total Annual Burden: 4090.

Estimated Costs Per Respondents: $3,400.

Total Estimated Annual Reporting and Recordkeeping Costs: $170,000.

Needs and Uses: The information collections adopted in this Report and Order will be used to ensure that affected telecommunications carriers fulfill their obligations under the Communications Act, as amended.

Public reporting burden for the collections of information is as noted above. Send comments regarding the burden estimate or any other aspect of the collection of information, including suggestions for reducing the burden to the Record Management Branch, Washington, D.C. 20554.

Synopsis of Report and Order

I. Introduction

3. On February 8, 1996, the ''Telecommunications Act of 1996''

(1996 Act) became law. The intent of this legislation is ''to provide for a pro-competitive, de-regulatory national policy framework designed to accelerate rapid private sector deployment of advanced telecommunications and information technologies and services to all Americans by opening all telecommunications markets to competition.'' This Report and Order adopts rules to implement section 402(b)(1)(A)(iii) of the 1996 Act, which adds section 204(a)(3) to the Communications Act. This section provides for streamlined tariff filings by local exchange carriers (LECs). In the NPRM, 61 FR 49987 (September 24, 1996), we proposed measures to implement the tariff streamlining requirements of section 204(a)(3). Twenty-nine parties filed comments and twenty-one filed replies.

II. The 1996 Act

4. Section 402(b)(1)(A)(iii) of the 1996 Act adds new subsection 3 to section 204(a) of the Communications Act of 1934 (the Act):

(3) A local exchange carrier may file with the Commission a new or revised charge, classification, regulation, or practice on a streamlined basis. Any such charge, classification, regulation, or practice shall be deemed lawful and shall be effective 7 days (in the case of a reduction in rates) or 15 days (in the case of an increase in rates) after the date on which it is filed with the Commission unless the Commission takes action under paragraph (1) before the end of that 7-day or 15-day period as is appropriate.

Section 402 of the 1996 Act also amends section 204(a) of the Act to provide that the Commission shall conclude any hearings initiated under this section within five months after the date the charge, classification, regulation, or practice subject to the hearing becomes effective. Section 402(b)(4) of the 1996 Act provides that these amendments shall apply to any charge, classification, regulation, or practice filed on or after one year after the date of enactment of the Act, *i.e.*, February 8, 1997.

5. Under the 1996 Act, a LEC is defined as ''any person that is engaged in the provision of telephone exchange service or exchange access.'' A LEC ''does not include a person insofar as such person is engaged in the provision of commercial mobile radio service under section 332(c), except to the extent that the Commission finds that such service should be included in the definition of such term.''

III. Streamlined LEC Tariff Filings Under Section 402 of the 1996 Act

A. Commission Authority Under the 1996 Act to Defer LEC Tariffs Eligible for Streamlined Treatment

6. In the NPRM, we stated that by adopting section 204(a)(3) Congress intended to streamline LEC tariff filings by providing that they would become effective within seven or fifteen days notice unless suspended and investigated by the Commission. Section 203(b)(2) of the Act, however, provides that the Commission may defer the effective date of tariffs for up to 120 days. In the NPRM, we tentatively concluded that Congress intended to foreclose the exercise of our general deferral authority under section 203(b)(2) of the Act with respect to the tariffs eligible for streamlined treatment. We solicited comment on this tentative conclusion.

7. ALLTEL Telephone Services Corporation (ALLTEL), Ameritech, Bell Atlantic, BellSouth Corp. (BellSouth), Cincinnati Bell Telephone (CBT), GTE Services Corp. (GTE), NYNEX Telephone Companies (NYNEX), Pacific Telesis Group (Pacific Telesis), Southwestern Bell Telephone Company (SWBT), United States Telephone Association (USTA), and US West, Inc. (US West) agree with the tentative conclusion set out in the NPRM that the Commission does not have discretion to defer for up to 120 days tariffs that LECs may file under the new streamlining provisions. GTE asserts that granting the Commission such discretion would enable competitors to continue to use the tariff review process to delay implementation of LEC pricing changes, a result that GTE contends would be contrary to Congressional intent to accelerate the tariff review process. NYNEX asserts that the Commission's deferral authority is derived from section 203(b)(1) of the Act while section 204(a)(3) provides for streamlined tariff filings. NYNEX concludes that, because there is no provision in section 204(a)(3) for deferring streamlined tariffs, Congress did not intend the deferral authority in section 203 to be applicable to tariffs filed pursuant to section 204. In contrast, AT&T Corp. (AT&T), America's Carrier Telecommunications Association (ACTA), and Telecommunications Resellers Association (TRA) contend that the 1996 Act does not affect the Commission's authority to defer LEC tariff filings. According to AT&T, Congress could not have intended to preclude the Commission from deferring tariff filings made by monopoly LECs while retaining the authority to defer tariff filings made by carriers who face significant competition. MCI Communications Corporation (MCI) states that the Commission's deferral authority is foreclosed only for rate increases and decreases and that the Commission may continue to exercise its deferral authority for all other LEC tariffs. The General Services Administration (GSA) contends that the Commission retains its deferral authority because Congress did not amend section 203(b)(1).

8. Neither the statute nor the legislative history to the 1996 Act directly addresses whether Congress intended to foreclose our exercise of deferral authority with respect to LEC streamlined tariffs. We conclude that the more recent and specific provisions of the 1996 Act take precedence over our general deferral authority in section 203. We believe continued application of the general deferral authority contained in section 203 to LEC tariffs filed on a streamlined basis under the specific provisions set out in new section 204(a)(3) would be contrary to Congressional intent. Accordingly, we adopt our tentative conclusion in the NPRM that we may not defer LEC tariffs filed under the tariff streamlining provisions of the 1996 Act.

B. Effect of Streamlined LEC Tariff Filings Being ''Deemed Lawful''

9. Section 204(a)(3) of the Act provides that LEC tariffs filed on a streamlined basis ''shall be deemed lawful.'' The 1996 Act and the legislative history are silent regarding the specific legal consequences of this provision. In the NPRM, we tentatively concluded that, by specifying that LEC tariffs shall be ''deemed lawful,'' Congress intended to change the current regulatory treatment of LEC tariff filings. The Commission set forth two possible interpretations of ''deemed lawful.''

10. Under the first interpretation, a tariff that becomes effective without suspension and investigation would be a ''lawful'' tariff. It could subsequently be found unlawful in a rate prescription proceeding under section 205, or in a complaint proceeding under section 208. The Commission, however, could not award refunds or damages for the time that the rate was in effect but could only order tariff revisions or award damages on a prospective basis. This would differ radically from the current practice, where a rate that goes into effect without suspension and investigation is the ''legal'' rate, leaving carriers liable for damages, for the time the tariff was in effect, subject to the applicable two-year statute of

limitations set out in section 415(a) of the Act, if the tariff is subsequently found unlawful.

11. Under the second interpretation, the statutory language would be construed to establish higher burdens for suspension and investigation by presuming LEC tariffs lawful. Under this interpretation, the statutory language ''unless the Commission [suspends and investigates the tariff] before the end of that 7-day or 15-day period,'' would not apply to the ''deemed lawful'' phrase, but only to the ''shall be effective'' phrase of section 204(a)(3). We noted in the NPRM that Congress did not otherwise amend the statutory scheme for tariffs filed by interstate communications common carriers. Therefore, the Commission or parties to a tariff proceeding could rebut the presumption of lawfulness in the truncated pre-effective tariff review process established by the 1996 Act. Tariffs would still be subject to complaint and/or investigation, and refunds or damages could be awarded for any time that the tariff was in effect, subject to the applicable statute of limitations.

12. We also solicited comment on other possible interpretations of ''deemed lawful.'' We stated in the NPRM that we would adopt the interpretation that would best implement the intent of the 1996 Act's tariff streamlining provisions. We also solicited comment on the impact of these interpretations of ''deemed lawful'' on small entities, both LECs and other small entities, that might be customers of LEC tariffed services. In particular, we solicited comment on the relative burdens that would be imposed on small entities by possible interpretations of ''deemed lawful.''

13. The LECs and USTA support adoption of the first interpretation of ''deemed lawful.'' They favor the position that tariffs filed on a streamlined basis are lawful unless the Commission takes action prior to the effective date of the tariffs and that retroactive damage awards for successful challenges to LEC tariffs are prohibited by the 1996 Act. According to these parties, this interpretation of ''deemed lawful'' is consistent with the precedent established in *Arizona Grocery*. There the U.S. Supreme Court held that a tariff rate that is allowed to become effective is considered the ''legal'' rate, that is, the rate that the carrier is required to collect and the customer to pay under the filed rate doctrine. The lawfulness of an effective rate, however, remains subject to challenge either pursuant to a section 204(a)(1) hearing, a complaint proceeding initiated pursuant to section 208 of the Act, or an investigation established under section 205 of the Act. If, after completion of one of these proceedings, the Commission determines that some element of the effective tariff is unlawful, the Commission may order the filing carrier to pay damages, pursuant to section 207 of the Act, on a prospective basis only. The Supreme Court, these commenters point out, has held that an agency generally may not retroactively subject a carrier to refund liability if the agency subsequently declares the tariff rate to be unreasonable.

14. Furthermore, these commenters maintain that Congress intended to alter the regulatory treatment for LEC tariff filings by adjudging streamlined LEC filings lawful by operation of the statute without need for a regulatory hearing and determination. BellSouth, for example, argues that, if the Commission does not exercise its discretion to suspend and investigate a LEC tariff filing, then the statute deems the filing to be lawful upon its effective date. In addition, BellSouth maintains that the statute confers upon the tariff the same status that previously could only be acquired through a Commission determination or adjudication. Pacific Telesis argues that, in determining Congressional intent, the starting point is the text of the statute and that, where as here, the statute is clear, no further inquiry is needed. According to Pacific Telesis, the phrase ''shall be deemed lawful'' expressly mandates that a filed tariff be treated, by operation of law, as lawful at the time of filing. It further states that the next phrase, ''and shall be effective,'' states a separate requirement regarding the time within which the tariff applies and therefore any consideration by the Commission of the tariff, even in the pre-effective period, must recognize this lawful status. SWBT argues that the ''shall be deemed lawful'' language of the 1996 Act limits any subsequent Commission review of a section 208 complaint challenging a LEC tariff filed on a streamlined basis. According to SWBT, the complainant in a section 208 proceeding would have the insurmountable burden of overcoming the Commission's prior determination that the tariff is lawful. Thus, SWBT believes that a tariff revision that becomes effective under the streamlined procedures would be the lawful rate until the Commission concluded in a section 205 proceeding that a different charge, classification, or regulation would be lawful in the future. In addressing the question of limitation on damages, NYNEX asserts that several factors should minimize customers' concern about possible overcharges. NYNEX maintains that the Commission still has the authority to suspend and investigate a tariff that appears unlawful and to impose an accounting order. According to NYNEX, this action should serve to protect customers' rights to obtain damages if the tariff is later found to be unlawful at the conclusion of an investigation. In addition, NYNEX contends that, even if an unlawful tariff has gone into effect, a five-month time limit on investigations and complaint proceedings imposed by the 1996 Act will limit the time during which potentially unlawful rates would be in effect. Finally, NYNEX points out that, with increased competition, customers will have other choices if a LEC attempts to charge unlawful rates. USTA supports adoption of the first interpretation of ''deemed lawful,'' arguing that the statutory language provides that tariffs filed on a streamlined basis shall be deemed lawful unless the Commission takes action pursuant to section 204(a)(1).

15. The remainder of the commenting parties oppose adoption of the first interpretation of ''deemed lawful.'' They are concerned that customers would be precluded from recovering damages for overpayments where a tariff was later found to be unlawful. MFS states that the first interpretation would create a ''perverse incentive'' for LECs to overcharge because they would be allowed to continue to collect such payments for the duration of any later tariff investigation or complaint proceeding. The only burden on the LECs would be defending their position in a complaint or investigation proceeding. Ad Hoc Telecommunications Users Committee (Ad Hoc) states that the LECs' analysis of the first interpretation of ''deemed lawful'' overlooks the Communications Act requirement that carrier rates be just and reasonable and that consumers be protected from unjust and unreasonable rates. Furthermore, Ad Hoc maintains that, contrary to the LECs' position, customers are not protected from unlawful rates due to the availability of other options because the marketplace has yet to reach a competitive state. In addition, MCI, AT&T, and GSA contend that this interpretation must be rejected because Congress gave no indication that it intended to limit customers' remedies.

16. GSA notes that, in the NPRM, the Commission recognized that the Act and its legislative history do not provide an explanation of the term ''deemed lawful.'' According to GSA, it would be

unreasonable for the Commission to adopt the first interpretation of ''deemed lawful'' absent a clear indication that Congress intended to make a fundamental change to the regulatory framework for LEC tariffs. GSA argues as well that Congress made no corresponding changes to other sections of the Act designed to assure that LEC rates are reasonable, and that this interpretation of section 204(a)(3) would appear to be in conflict with these sections. GSA maintains that, without changes to these sections, Congress could not have intended this radical departure from existing tariff regulatory procedures. Capital Cities/ABC, Inc., CBS, Inc., National Broadcasting Company, Inc., and Turner Broadcasting System, Inc. (CapCities) contend that the new section 204(a)(3) of the Act does not modify the long-standing statutory scheme of pre-effective tariff review by the Commission on its own initiative or upon complaint of interested parties, and potential refunds if carrier tariffs which have been allowed to become effective are found unlawful after investigation and opportunity for hearing. Rather, CapCities argues, section 204(a)(3) serves to extend formally to dominant LECs a variation of the streamlined tariff filing mechanism that the Commission has applied in various forms to other tariff filings.

17. The other non-LEC parties likewise support the adoption of the second interpretation of ''deemed lawful.'' AT&T, for example, contends that the purpose of the ''deemed lawful'' provisions is to establish a presumption of lawfulness for the relevant tariffs during pre-effectiveness review. AT&T contends that this presumption is, as the NPRM suggests, analogous to that accorded to LEC rate filings that are within applicable price cap limits, or to filings by non-dominant carriers under section 1.773 of the Commission rules. Therefore, AT&T maintains that tariffs filed pursuant to Section 204(a)(3) should not be suspended unless a petitioner makes a showing similar to the four-part test required under section 1.773. Moreover, AT&T contends that, because incumbent LECs retain significant market power and therefore are more likely than carriers facing competition to charge unreasonable rates, petitioners challenging a tariff filed pursuant to section 204(a)(3) should be required to show only that it is ''more likely than not'' that the disputed tariff is unlawful, rather than ''a high probability'' that the tariff will be found unlawful. Accordingly, AT&T argues that, because of the LECs' market position, petitions challenging their tariffs should have a lower threshold showing than petitions filed against tariffs proposed by nondominant carriers.

18. MFS takes a position similar to AT&T, claiming that the Commission should adopt rules that presume section 204(a)(3) filings are lawful and assign the burden of proof to those wishing to challenge the lawfulness of the filing. Sprint Corp (Sprint) maintains that the second interpretation is ''clearly the correct one.'' Sprint also states that there is nothing in the statute itself nor in the legislative history that indicates a Congressional intent to overturn well established precedent that holds that an effective tariff establishes only the legal rate and not the lawful rate, citing *Arizona Grocery*.

19. With respect to how the Commission should interpret ''deemed lawful,'' KMC Telecom Inc. (KMC), ACTA, TRA and SWBT discussed the effect the Commission's decision would have on small entities. KMC opposes adoption of the first interpretation of ''deemed lawful'' because it states that such a finding would render the pre-effective tariff review process meaningless for small competitors because it would be nearly impossible for them to monitor and review all LEC tariff filings sufficiently to overcome any presumption of lawfulness within the limited time period for filing petitions. KMC further states that, if the deadline for opposing tariffs is missed, then the only relief available is the filing of a formal complaint, which involves a lengthy and costly process that is not a practical remedy for a small company. ACTA states that, as a practical matter, precluding damages as a remedy will endanger the viability of small carriers because the LECs could litigate protested issues indefinitely without any threat of liability for damages. TRA states that LECs should not be permitted to charge and retain unreasonable rates while being exempt from paying damages for such unlawful charges. SWBT states that adoption of an interpretation of ''deemed lawful'' that would limit participation in review would not negatively impact small carriers because ''their current participation in the tariff review process is rare, and * * * Commission policy assumes that there is no need to allow for small entity/customer participation in the tariff filings of non-dominant carriers.''

20. Based on our analysis of the statute in light of the record compiled in this proceeding and relevant judicial precedent, we adopt the first interpretation of ''deemed lawful.'' In reaching this conclusion, we determine that this interpretation is compelled by the language of the statute viewed in light of relevant appellate decisions, and that our alternative approach outlined in the NPRM is not a permissible reading of this statutory provision.

21. The first step in statutory construction is to look at the language of the statute. In the NPRM, we suggested that the statutory phrase, ''deemed lawful,'' may be interpreted in two different ways. Appellate cases, however, have consistently found that the term ''deemed,'' in this context, is not ambiguous. Developed in the context of energy rate regulation, this precedent states that the term ''deemed to be reasonable'' must be read to establish a conclusive presumption of reasonableness. In addition, we note that in this context the courts have explained that, while a rate contained in a properly filed tariff is the legal rate, a rate is ''lawful'' only if it is reasonable. Accordingly, we conclude that, because section 204(a)(3) uses the phrase ''deemed lawful,'' it must be read to mean that a streamlined tariff that takes effect without prior suspension or investigation is conclusively presumed to be reasonable and, thus, a lawful tariff during the period that the tariff remains in effect. For the reasons discussed below, we do not find, however, that the Commission is precluded from finding, under section 208, that a rate will be unlawful if a carrier continues to charge it during a future period or from prescribing a reasonable rate as to the future under section 205. Given the unambiguous meaning of the term ''deemed lawful,'' we see no reason to resort to the legislative history (although there is none on point) in concluding that this term denotes a conclusive presumption. In light of this statutory language as viewed under relevant appellate case law, we find that this interpretation is required in order to give effect to the language of the statute and therefore decline to adopt the alternative interpretation suggested in the NPRM. We find further, however, that the ''deemed lawful'' language does not govern streamlined tariff filings that become effective after suspension in those instances where the Commission suspends and initiates an investigation of a LEC tariff within the 7 or 15 day notice periods specified in section 204(a)(3). In those cases, the LEC streamlined tariffs would not be ''deemed lawful'' under section 204(a)(3) because they were suspended and set for investigation. Rather, they would be ''legal'' until the Commission

concluded an investigation and made a determination as to their lawfulness. The lawfulness of such tariffs would be determined by the orders issued by the Commission at the conclusion of those proceedings.

22. We recognize that our interpretation of section 204(a)(3) will change significantly the legal consequences of allowing tariffs filed under this provision to become effective without suspension. Under current practice, a tariff filing that becomes effective without suspension or investigation is the legal rate but is not conclusively presumed to be lawful for the period it is in effect. Indeed, if such a tariff filing is subsequently determined to be unlawful in a complaint proceeding commenced under section 208 of the Act, customers who obtained service under the tariff prior to that determination may be entitled to damages. In contrast, tariff filings that take effect, without suspension, under section 204(a)(3) that are subsequently determined to be unlawful in a section 205 investigation or a section 208 complaint proceeding would not subject the filing carrier to liability for damages for services provided prior to the determination of unlawfulness. We find, based on the language of the statute, that this is the balance between consumers and carriers that Congress struck when it required eligible streamlined tariffs to be deemed lawful.

23. Further, section 204(a)(3) does not mean that tariff provisions that are deemed lawful when they take effect may not be found unlawful subsequently in section 205 or 208 proceedings. No language in section 204(a)(3) states or requires us to infer such a limitation, nor is there any legislative history suggesting such a limitation. As the 1996 Act did not amend section 205 or 208, nor refer to them in amending section 204, it did not limit our authority either to conduct tariff investigations under section 205 or to process complaint proceedings commenced under section 208. In fact, the language of section 205, which was not changed by the 1996 Act, makes clear that the Commission may find that a rate ''is or will'' be in violation of the Act and prescribe ''what will be the just and reasonable charge'' for the future. The ''deemed lawful'' language in section 204(a)(3) changes the current regulatory scheme only by immunizing from challenge those rates that are not suspended or investigated before a finding of unlawfulness. It does nothing to change the Commission's ability to prescribe rates as to the future under section 205 or to find under section 208 that a rate will be unlawful if charged in the future. Even where the agency has made an affirmative finding of lawfulness, which would not be the case where a tariff has become effective without suspension under section 204(a)(3), the tariff remains subject to further review under section 205. Thus, a rate that is ''deemed lawful'' can also be reevaluated as to its future effect under sections 205 and 208 and the Commission may prescribe a rate as to the future under section 205.

24. In this decision, we do not adopt the view of Pacific Telesis that the phrase ''shall be deemed lawful and shall be effective 7 days * * * or 15 days * * * after the date on which it is filed'' mandates that a tariff be treated as lawful at the time of filing. In our view, the better reading of section 204(a)(3) is that a streamlined tariff becomes both effective and ''deemed lawful'' 7 or 15 days after the date on which it is filed. Congress did not amend the Act to eliminate the Commission's suspension authority for LEC tariffs and therefore, Congress did not intend that LEC tariffs be deemed lawful when filed. Moreover, it would be illogical if, for example, a tariff could be considered lawful before it even takes effect and while another tariff is already in place.

25. We also conclude that the Commission may find a tariff provision that is ''deemed lawful'' under section 204(a)(3) to be unlawful at the conclusion of a section 205 investigation or 208 complaint proceeding based on a preponderance of the evidence presented in either proceeding. We currently employ this standard in section 205 and 208 proceedings and find nothing in section 204(a)(3) requiring us to establish a higher evidentiary standard for determining the prospective lawfulness of a streamlined tariff provision. Further, we decline to impose a higher burden as a matter of policy.

26. In adopting the first interpretation of ''deemed lawful,'' we have considered the comments of KMC, ACTA, and TRA, which expressed a concern that adoption of this interpretation would be unfair to small consumers and competitors of LECs. With respect to KMC's concern that the adoption of the first interpretation would make it difficult for small competitors to challenge LEC tariff filings, we note that all parties, including small entities, will have the same opportunity to challenge tariff filings eligible for streamlined regulation before they become effective or to initiate a section 208 complaint proceeding after the filings become effective. These procedures will permit small businesses to participate fully in pre-effective review of LEC tariffs and to obtain a determination of the lawfulness of a LEC tariff after it has gone into effect. Small businesses will be able to protect against this possible impact on them caused by ''deemed lawful'' treatment of LEC tariffs by participating in the pre-effective tariff review process. In addition, the program of electronic filing of tariffs that we discuss in Section III, D, 1, *infra.* will facilitate participation by small entities in the tariff review process. To the extent that small entities will have greater difficulty than larger entities in participating in the tariff review process, we note that the shortened time period for pre-effective review of LEC tariffs is required by the 1996 Act and that, as explained above, we are compelled by the language in the statute as interpreted by relevant judicial precedent to adopt the first interpretation of ''deemed lawful.''

C. LEC Tariffs Eligible for Filing on a Streamlined Basis

1. Types of Tariff Filings Eligible for Streamlined Filing

27. The first sentence of section 204(a)(3) provides that LECs may file ''a new or revised charge, classification, regulation, or practice on a streamlined basis.'' The NPRM observed that this suggests that LEC tariff filings that propose any change, including rate increases and decreases, may be eligible for streamlined filing. The second sentence of section 204(a)(3) provides for specified effective dates only for tariffs proposing rate increases or decreases. In the NPRM, we tentatively concluded that all LEC tariff filings that involve changes to the rates, terms, and conditions of existing service offerings, regardless of whether they involve a rate increase or decrease, would be eligible for streamlined treatment, with the possible exception of tariffs for new services.

28. Concerning new services, the NPRM asked whether the phrase ''a new or revised charge'' included tariffs introducing entirely new services or whether the word ''new'' refers only to new charges, classifications, regulations, or practices for existing services. The NPRM therefore solicited comment on whether section 204(a)(3) applies to new or revised charges associated with existing services, but not to charges associated with new services. The NPRM stated that this approach may be preferable as a matter of policy, to the extent permissible under the statute, because it would permit the Commission and interested parties

greater opportunity to review tariffs that propose to introduce new services since those filings are more likely to raise sensitive pricing issues than revisions to tariffs for services that have already been subject to review.

29. The LECs, Ad Hoc, TRA, Sprint, USTA, AT&T, National Exchange Carrier Association (NECA), and GSA support our tentative conclusion that the streamlining provisions of the 1996 Act apply to tariffs proposing changes to a rate, term, or condition as well as to rate increases and decreases. Generally, these commenters contend that almost any change in the terms and conditions of an existing service, regardless of whether the change involves a rate increase or decrease, will affect the overall rate or cost to the consumer and therefore should be subject to streamlining. Ameritech contends that the plain meaning of the first sentence of section 204(a)(3) clearly states that LECs may file a new or revised charge, classification, regulation, or practice on a streamlined basis. Ameritech concludes from this language that Congress intended streamlining to apply to all tariff revisions, not just those involving rate increases or decreases. While AT&T and NECA agree with the Commission's tentative conclusion that streamlining should apply to changes in rates, terms, and conditions of existing services, as well as to rate increases and decreases, they note that the statute does not specify time periods for consideration of suspension or deferral in the case of changes to a ''classification, regulation, or practice'' to an existing service. AT&T recommends that the Commission require LECs to file such tariffs thirty days prior to the tariff's proposed effective date. NECA suggests that the Commission adopt a rule that permits tariff filings containing only terms and conditions only to be filed on seven days' notice.

30. Time Warner Communications Holdings, Inc. (TW Comm), MCI, and the Association for Local Telecommunications Services (ALTS) disagree with the tentative conclusion in the NPRM, arguing that the statute is clear that streamlining applies only to rate increases and decreases to existing services. MCI, for example, argues that changes to terms and conditions should not be eligible for streamlined treatment because the second sentence of section 204(a)(3) applies reduced notice periods only to rate increases or decreases. In addition, MCI contends that, given the LECs' continued market share, there is still a ''substantial possibility'' that any proposed terms and conditions in LEC tariffs will result in unreasonable discrimination in violation of section 202 of the Act. MCI asserts that proposed changes to LEC tariffs that do not include rate increases or decreases should be subject to more thorough scrutiny than would be possible under the streamlining provisions of the 1996 Act.

31. While the LECs, USTA, the Competitive Telecommunications Association (CompTel), and GTE support the Commission's tentative conclusion that section 204(a)(3) should be construed to include changes to existing rates, they disagree with the Commission's stated inclination to exclude new services from streamlined treatment. NYNEX maintains that the terms ''new or revised charge, classification or practice'' in section 204(a)(1) are repeated in section 204(a)(3) and that the Commission has consistently interpreted the former section as giving it authority to investigate and impose an accounting order for all types of tariffs, including those for new services and revised rates for existing services. If the Commission interpreted the terms ''new'' and ''revised'' for purposes of section 204(a)(3) to exclude tariffs proposing new services, NYNEX argues that it would imply that the Commission does not have authority under section 204(a)(1) to order investigations or conduct complaint proceedings of any tariffs proposing new services. US West argues that streamlining new services will facilitate competition by allowing the LECs to respond quickly to changing market conditions, such as the introduction of new services by their competitors, and to reward innovation. Ameritech and USTA further argue that it would not be in the public interest to permit LECs' competitors, but not the LECs, to introduce new services on an expedited basis. GTE maintains that, when the first two sentences of the statute are considered together, it is clear that tariffs proposing new services, as described in the first sentence, are to be afforded the streamlined treatment described in the second sentence.

32. A number of commenters believe that new services should be excluded from eligibility for streamlined treatment. ALTS argues that tariffs for new services should not be eligible for streamlined treatment because they do not involve changes in rates and they are more likely to raise policy questions than rate changes. MCI takes a similar position, stating that the statute is clear that the streamlining provisions apply only to ''a new or revised charge, classification, regulation, or practice'' associated with existing services. Both ALTS and MCI maintain that the current 45-day notice period for new services is reasonable and should be retained. Sprint believes that new services are not covered by the streamlining provisions because the word ''new'' in the statute does not modify or relate to a new service, but rather relates to a new charge, term, condition, or practice for an existing service. In addition, Sprint maintains that charges for new services are neither rate reductions nor rate increases and, thus, are not eligible for streamlining under the language of the statute. Ad Hoc asserts that, because LECs have market power, the Commission should construe the statute narrowly to ensure that LEC tariffs for new services are thoroughly reviewed. GSA is in favor of excluding new services from streamlining because of the complexity of new service offerings. GSA supports a policy of giving such tariffs a higher level of scrutiny.

33. We find that all LEC tariffs involving rate increases, decreases, and/or changes to the rates, terms, and conditions of existing services are eligible for streamlining. We also conclude that LEC tariffs introducing new services are eligible for streamlined filing. Making all LEC tariffs eligible for streamlining will provide a consistent reading of section 204(a)(3) and section 204(a)(1) by establishing that all tariff filings are subject to the provisions of section 204. We agree with NYNEX that we have consistently interpreted section 204(a)(1) as giving the Commission authority to investigate and impose an accounting order on all types of tariffs, including those for new services. Making all LEC tariffs eligible for streamlining will continue this practice as well as give greatest effect to Congressional intent to streamline the LEC tariff process. In addition, we find that this interpretation will simplify the administration of the LEC tariff process by making it unnecessary for the Commission, carriers, or interested persons to determine whether a particular tariff qualifies for streamlining. Accordingly, we determine that all LEC tariffs are eligible for streamlined filing.

2. Optional Nature of LEC Streamlined Tariff Filings

34. Section 204(a)(3) states that LECs ''may'' file under streamlined provisions. In the NPRM, we tentatively concluded that LECs may elect to file on longer notice periods than those provided for in section 204(a)(3), but that, if they chose to do so, such tariffs would not be ''deemed lawful.''

35. SWBT, ALLTEL, USTA, NYNEX, NECA, and GTE disagree with the Commission's tentative conclusion and

contend that tariffs should be deemed lawful whether or not they are filed on a streamlined basis. USTA and SWBT, for example, maintain that, while the statute may give LECs the option to file their tariffs on a streamlined basis, a determination that the tariff is ''deemed lawful'' is not dependant on whether the LEC filed on a streamlined basis. ACTA and TRA support the Commission's tentative conclusion.

36. We determine, as set out in the NPRM, that LECs may, but are not required to, file tariffs on a streamlined basis. As noted above, the first sentence of section 204(a)(3) states that LECs ''may'' file a tariff on a streamlined basis. We also interpret this section to mean that, if a LEC chooses not to avail itself of the streamlining provisions, then the tariff would be filed pursuant to the general tariffing requirements set out in section 203 of the Act and governed by the notice periods set out in section 61.58 of our rules. In addition, LEC tariffs filed outside the scope of section 204(a)(3) shall not be ''deemed lawful'' because, by definition, they are not filed pursuant to that section and are not, therefore, accorded the treatment provided for in that section. We also conclude that we may exercise our deferral authority with respect to such tariffs.

37. In the NPRM, we tentatively concluded that section 204(a)(3) does not preclude the Commission from exercising its forbearance authority under section 10(a) of the Act to establish permissive or complete detariffing of LEC tariffs.

38. Most of the commenters agree with the tentative conclusion set out in the NPRM that the Commission has forbearance authority to reduce or eliminate filing requirements for LEC tariffs. Pacific Telesis believes that the Commission has forbearance authority to remove tariff filing requirements when competition develops to the point where regulation is unnecessary. GSA states that nothing in either section 204(a)(3) or section 10(a) of the 1996 Act restricts the Commission from applying its forbearance authority to LEC tariff filings. CompTel and ACTA, on the other hand, argue that the general provisions of section 10(a) are overridden by the specific language of new section 204(a)(3), which requires LECs to file tariffs. They contend that this interpretation is consistent with general statutory construction principles mandating that specific provisions take precedence over more general ones. They further argue that any interpretation of the statute that gave the Commission authority to eliminate LEC tariff filing requirements entirely would void the new streamlining provisions.

39. We affirm our tentative conclusion that we may exercise forbearance authority to reduce or eliminate tariff filing requirements for LECs, including the filing of tariffs eligible for streamlined treatment. Section 10(a) accords the Commission general authority to forbear from enforcing almost any provision of the Act applicable to common carriers if specific preconditions are met. The only limitation on this authority is provided in subsection 10(d), which states that the Commission may not forbear from applying certain interconnection requirements on incumbent LECs set out in section 251(c) of the 1996 Act or from authorizing Bell Operating Company interLATA entry pursuant to section 271 of the 1996 Act until ''those requirements have been fully implemented.'' Absent any express limitation on our authority to forbear from applying tariffing requirements of section 203 of the Act, we conclude that we have authority to do so under section 10(a). In addition, we find it difficult to construe section 204(a)(3), which states that LECs ''may'' file streamlined tariffs, and our section 10 forbearance authority to mean that the statute imposes a requirement that LECs ''must'' file tariffs. Rather, we find that Congress intended to reduce or eliminate regulation as competition develops and to provide for the detariffing of LEC services under appropriate conditions.

4. Applications of Section 204(a)(3) of the Act to Tariff Filings of Nondominant LECs

40. As noted above, under the 1996 Act, a LEC is defined as ''any person that is engaged in the provision of telephone exchange service or exchange access.'' The NPRM did not address the application of section 204 to nondominant LECs.

41. Several of the commenters assert that the 1996 Act's streamlined tariffing provisions should not apply to nondominant LECs. They argue that there is nothing in the 1996 Act or its legislative history to suggest that Congress intended to increase the current one-day's notice period for nondominant LECs. In any event, MCI asserts that, if the Commission determines that Section 204(a)(3) applies to nondominant LECs, it should forbear from applying Section 204 (a)(3) to nondominant providers of interstate access service that do not have market power.

42. The statute does not distinguish between incumbent LEC and competitive LECs for purposes of Section 204. Therefore, we conclude that all LECs, including nondominant LECs, to the extent they file tariffs, are eligible to file tariffs on a streamlined basis. At this time, we have not addressed the extent to which nondominant LECs are required to comply with our tariffing rules. Two petitions before the Commission will provide an opportunity for us to do so. As noted above, the statute also provides that LECs ''may'' file under streamlined provisions. We have interpreted this section to mean that LECs may choose to use these streamlined provisions, but that tariffs filed outside of the scope of these provisions are governed by the general tariffing provisions of section 203. Accordingly, we also conclude that Section 204(a)(3) does not limit the ability of nondominant LECs to file tariffs on one-day's notice under § 61.23(c) of our rules. We also conclude that such tariffs would not be eligible for ''deemed lawful'' treatment, but that such tariffs would continue to enjoy the presumption of lawfulness accorded all nondominant carrier filings under § 1.773(a)(ii) of our rules.

D. Streamlined Administration of LEC Tariffs

1. Electronic Filing

43. In the NPRM, we proposed establishing a program for electronic filing of tariffs and associated documents. We sought comment on: (a) whether or not to establish an electronic filing program; (b) whether such a system should be operated by the Commission or carriers; (c) whether tariffs should be filed in a specified database format; and (d) what system security measures should be adopted.

44. Nearly every commenter supports establishing an electronic filing system. Many commenters suggest, however, that, before we implement a mandatory system of electronic filing, we initiate either an industry working group or issue a further NPRM to ensure the security of the program and to discuss its functional requirements. Sprint asserts that the industry is not ready to participate in an electronic filing system because there are no industry standards regarding systems, format, or software. There is also disagreement regarding whether participation in the system should be mandatory or not. None of the commenters includes a precise time frame for implementing such a system, although Frontier Corp. (Frontier) states that it should be implemented before the LEC streamlining provisions take effect.

45. Commenters are divided on who should design and maintain the system. Some commenters support having the Commission maintain and control the system. Other commenters support a system designed by the Commission but run by carriers subject to Commission oversight over access and security. MFS and McLeod Telemanagement, Inc. (McLeod) suggest that a third-party contractor should maintain the system.

46. Most commenters advocate the use of an Internet-based system. Some of these commenters support a system of dial-up access in addition to the Internet-based system. USTA favors utilization of the World Wide Web over the use of bulletin boards or dial-in databases. It argues that bulletin boards are slower than the World Wide Web, and dial-in databases require specific software, which are difficult to administer. Ameritech, BellSouth, and CITI propose specific systems, such as EDGAR, the electronic filing system of the SEC. NYNEX, SWBT, and ACTA propose that the Commission post notices of tariff filings on its Web page, which would be linked to LEC Web pages where the LECs would post their tariffs. USTA proposes a system with company-specific sections on the FCC's Web page. NECA proposes that the Commission set up separate servers for providing information and posting of tariffs for public review, which would permit anonymous log-ons to the public server.

47. Ameritech suggests that the system adopted by the Commission should accommodate multiple platforms and software packages rather than specify a database that would require re-drafting tariffs into a standardized system. GSA and CITI, however, contend that the Commission should prescribe a standardized format for tariff filings. AT&T and USTA suggest that the system be structured to allow carriers to download tariffs in spreadsheet formats and as ASCII text files.

48. Many commenters suggest methods to prevent unauthorized changes to tariffs, such as using: password or PIN number protection; electronic signatures; and encryption devices. NTCA recommends that the Commission ensure that a permanent record of historically filed tariffs is maintained. Ad Hoc and AT&T urge that the notice period not begin to run until the filing is posted. GSA and AT&T propose that we establish a return receipt confirmation to specify the date of filing and commencement of the notice period. Several commenters urge the Commission to require that filings be posted on the system at a specified time early in the day of filing, *i.e.*, 10 a.m. Pacific Telesis and U.S. West oppose this suggestion.

49. We find that a program for the electronic filing of tariffs and associated documents would facilitate administration of tariffs. An electronic filing program could afford filing parties a quick and economical means to file tariffs while giving interested parties virtually instant notification and access to the tariffs. In addition, we conclude that participation in such a system should be mandatory for all LECs, because, if some LECs are allowed to continue to file on paper, we would not realize the full benefit of electronic filing. An electronic filing system also should not impose undue burdens on LECs, but rather reduce their overall administrative burdens. Accordingly, subject to the availability of adequate funding, we will establish a program for the electronic filing of tariffs and associated documents, such as transmittal letters, requests for special permission, and cost support documents. We will require LECs to file this information electronically. Our program will also permit filing of petitions to suspend and investigate and responsive documents electronically and we encourage parties to do so. Because a database system would place significant strictures on filing, including a significant alteration of the format of current tariffs, we will not require that tariffs and associated documents be filed in a database format. Instead, our electronic filing program will permit entities to file electronically consistent with their current formats. We further determine that the Commission, at least at the initial stage of implementation, will be responsible for administering the electronic filing program. We may consider other alternatives at a later time.

50. We delegate authority to the Chief, Common Carrier Bureau to establish this program including determinations concerning transition mechanisms, establishment of procedures to assure security, when the program should be initiated, and any other issues that may arise regarding the initiation of the electronic filing program. We direct the Bureau to consult with industry and potential users informally and share plans for its proposed implementation and make any necessary adjustments in light of industry and user views, as appropriate. We also direct the Bureau to permit filing of, and access to, LEC tariffs and associated documents by means of the Internet. We direct the Bureau to implement this program in coordination with other electronic filing initiatives within the agency.

2. Exclusive Reliance on Post-Effective Tariff Review

51. We currently rely on pre- and post-effective review of tariffs to ensure LEC compliance with Title II of the Communications Act. In the NPRM, we solicited comment on whether we can, and should, in implementing the streamlined tariff provisions of the 1996 Act, adopt a policy of relying exclusively on post-effective tariff review, at least for certain types of tariff filings, to oversee LEC compliance with the Act. In the NPRM, we asked whether exclusive reliance on post-effective review could significantly streamline the tariff review process while continuing to provide an opportunity for evaluation of the lawfulness of tariffs. We sought comment on whether, under such a policy, we should retain the discretion to conduct a pre-effective tariff review in individual cases. We also solicited comment on the extent to which section 204(a), which provides that when a tariff is filed, the Commission may either on its own initiative or ''upon complaint'' suspend and investigate the tariff, limits our ability to rely exclusively on post-effective tariff review.

52. Commenters generally oppose relying exclusively on post-effective tariff review. AT&T states that Congress did not intend to eliminate pre-effective review of LEC tariffs. To find otherwise, AT&T explains, would permit LECs to impose rates and terms on customers that would stay in effect until such time as the Commission could conclude an investigation. In addition, AT&T contends that such a finding would negate section 204(a), which authorizes the Commission to initiate an investigation when a complaint is filed or upon its own initiative ''whenever there is filed any new or revised charge, classification, regulation or practice.'' CompTel points out that reliance solely on post-effective review would be particularly inappropriate if the Commission interprets the term ''deemed lawful'' as changing the legal status of tariffs. Under this scenario, CompTel claims that consumers would be denied any protection from LEC tariff filings that are given the force of an affirmative finding of lawfulness and reviewed only after taking effect. According to CompTel, consumer remedies would be further limited by the Commission's inability to suspend a tariff after it has become effective.

53. Sprint, Frontier, and NECA are the only commenters that favor our proposal to rely solely on post-effective review of tariffs. According to NECA, relying on post-effective tariff review

would eliminate the need for filing of petitions and allow tariffs to go into effect within the streamlined notice periods, thereby furthering the intent of the 1996 Act to accelerate the tariff review process. Sprint asserts that post-effective review of LEC tariffs will suffice, provided that the Commission adopts the position that ''deemed lawful'' only creates a rebuttable presumption of lawfulness. The remedies provided under sections 205 and 208 of the Act would still be available, and LEC customers could recover damages for tariffs found to be unlawful as of the effective date of the tariff filing, according to Sprint.

54. We conclude that pre-effective tariff review is required by the statute which contemplates pre-effective tariff review by identifying specific actions that we can take, i.e., suspension and investigation, prior to the effective date of the tariff. In addition, eliminating pre-effective tariff review would restrict the opportunity for interested parties to obtain review of potentially unlawful tariffs. We further find that pre-effective review is a useful tool to assure carriers' compliance with sections 201 through 203 of the Act. Therefore, we will retain our practice of pre-effective review. We will continue to rely additionally on post-effective tariff review, including the section 208 complaint process and in section 205 tariff investigations.

3. Pre-Effective Tariff Review of Streamlined Tariff Filings

55. In the NPRM, we solicited comment on what measures, if any, the Commission should take to facilitate decision-making within seven or fifteen days concerning whether to suspend and investigate tariffs filed pursuant to section 204(a)(3).

a. Summaries and Legal Analyses

56. In the NPRM, we solicited comment on whether we should establish requirements that LECs file summaries of proposed tariff revisions with their streamlined tariff filings in order to provide a more complete description than under current requirements, and that LEC tariffs filed on a streamlined basis be accompanied by an analysis showing that they are lawful under applicable rules.

57. With the exception of Ameritech, the LECs unanimously oppose the Commission's proposal to require them to file a summary with tariff filings. All of the LECs also oppose a requirement that they file an analysis demonstrating that the tariff filing is lawful. LECs argue that these requirements would impose increased burdens, contrary to the deregulatory goals of the 1996 Act. They also argue that the information contained in the proposed summaries is already provided in the Description and Justification (D&J) section of tariff transmittals. Ameritech further states that requiring a legal analysis is inconsistent with the directive in section 204(a)(3) that LEC tariffs are deemed lawful and that the burden of demonstrating otherwise should rest on parties opposing the filing. NYNEX states that the Commission should adopt reduced tariff support requirements for streamlined tariff filings. Finally, CBT states that the legal analysis requirement would have a chilling effect on small and mid-size LECs that may be sensitive to legal fees.

58. Non-LEC commenters support these possible requirements, stating that they would assist the Commission and the public in reviewing tariff filings without imposing a significant burden on the LECs. CapCities suggests that the summaries include details, on a service-by-service basis, of the rate or service impact of the proposed tariff and the reasons in support of the proposed changes.

59. We will not impose any additional requirements for supporting information concerning LEC tariff filings at this time. Although a summary and legal analysis could be useful to the Commission and the public, we find that it is not necessary to require it as part of our initial implementation of streamlined LEC tariff filings because we are not convinced that it would expedite the tariff review process. Instead, we will gain experience from our initial administration of streamlined LEC tariffs and revisit this issue if necessary.

b. Presumptions of Unlawfulness

60. In the NPRM, we solicited comment on whether it would be consistent with the 1996 Act to establish presumptions of unlawfulness for narrow categories of tariffs, such as tariffs facially not in compliance with our price cap rules, that would permit suspension and designation of issues for investigation through abbreviated orders or public notices. We solicited comment on what kinds of tariffs could be accorded this presumption.

61. All LECs oppose establishing presumptions of unlawfulness. They argue that these presumptions would be contrary to section 204(a)(3). For example, Bell Atlantic argues that, ''[t]here is no way to reconcile [establishing presumptions of unlawfulness] with the statutory mandate, that absent direct action by the Commission, tariff filings are 'deemed lawful' within 7 to 15 days.'' Pacific Telesis explained that, ''[b]y deeming LEC tariffs lawful at the time of filing, Congress created a presumption of continuing lawfulness which puts the burden on the party challenging the tariff to overcome the presumption.''

62. The Interexchange Carriers (IXCs) support the proposal, suggesting further that the Commission should reject any tariff filing that is facially inconsistent with any existing rule or regulation. CompTel states that the presumptions would help the Commission serve its dual mandates of protecting consumer interests and expediting the tariff review process.

63. We will not establish presumptions of unlawfulness for any categories of tariffs. Such presumptions would be inconsistent with the legislative intent of this provision. Instead, consistent with our current practice, we intend to utilize the tariff review process to identify problematic tariffs that warrant suspension. We note, however, that tariffs that facially do not comply with our rules, such as out-of-band price cap filings, will, for that reason, continue to have a high probability of rejection or suspension and investigation.

c. Treatment of Tariffs Containing Both Rate Increases and Decreases

64. The 1996 Act provides that LEC tariffs that propose to decrease rates shall be effective in 7 days and tariffs proposing rate increases shall be effective in 15 days. The statute is silent on which notice period will apply to tariffs that contain both increases and decreases. In the NPRM, we tentatively concluded that the 15-day notice period should apply to such tariffs and that carriers wishing to take advantage of the 7-day notice period should file rate decreases in separate transmittals.

65. Non-LEC commenters support the Commission's proposal. They argue that it is necessary to protect the interest of customers to challenge rate increases, and that, therefore, the longer notice period shall apply. All the LECs, except BellSouth, oppose this requirement because requiring separate transmittals would purportedly increase the regulatory burden on LECs. As an alternative, NYNEX, SWBT, and Pacific Telesis suggest that the Commission look at the overall effect on the Actual Price Index (API) for a service category to determine if a tariff filing should be classified as an increase or a decrease. They explain that most access services contain numerous individual rate elements, so that a tariff that reduces most rate elements for a particular service may nonetheless contain rate increases for individual elements. ALLTEL suggests that small and mid-

sized companies be permitted to define rate increases and decreases at the access category level. CBT suggests that all of the increases and decreases in a given transmittal be aggregated and the applicable notice period determined by the net overall change.

66. USTA states that price cap LECs should continue to identify increases or decreases at the rate element level pursuant to the current Part 61 rules. It further proposes that the Commission ensure a streamlined approach for small and mid-sized LECs by permitting rate-of-return LECs to define rate increases or decreases at the access category level and file accordingly. USTA also proposes that LECs under Optional Incentive Regulation be permitted to define rate increases at the basket level. Finally, USTA proposes the elimination of those Part 61 rules that require non-price cap LECs to list increases or decreases in specific rate elements in tariff transmittals.

67. Ad Hoc opposes the LECs' suggestion that the Commission use API calculations to determine whether the tariff should be considered a rate increase or decrease because section 204(a)(3) of the Act specifically provides for a fifteen-day notice period whenever a LEC files a tariff with a rate increase. Ad Hoc argues that, with the use of the API, there may be significant increases that are balanced out by decreases, thereby shortening the time interested members of the public would otherwise have to review the proposed rate increase. Ad Hoc also states that customers typically purchase only some of the services made available in a carrier's tariff offering so there is the risk that members of the public could be subjected to rate increases without proper time to respond.

68. Several commenters also address the need for establishing new notice periods for streamlined tariffs that propose changes in terms and conditions and for new services. AT&T proposes that the Commission require that LECs file tariffs proposing changes in terms and condition 30 days prior to the tariff's proposed effective date. GTE states that, because there is ''no functional difference'' between an increase in rates and a new service, new services should be subject to the same 15-day notice period as price increases. Pacific Telesis suggests that the Commission treat new services as rate reductions and apply the 7-day notice period. Pacific Telesis maintains that new services, like rate reductions, benefit the public and therefore should be implemented as quickly as possible.

69. We conclude that the 15-day notice period will apply whenever a tariff filing includes both rate increases and rate decreases and limit the application of the 7-day notice period to tariffs that only contain a rate decrease. Therefore, whenever a tariff transmittal includes an increase to any rate element, the longer notice period will apply even if other rates in the same transmittal are simultaneously decreased. Our conclusion is supported by the statute, which specifically provides for a 15 day notice period whenever a LEC files a tariff with a rate increase. We reject arguments advanced by the LECs that this approach is contrary to the concept of streamlining or that this will increase the regulatory burden on them. Rather, this result will permit LECs to propose rate increases and decreases in the same tariff filing. All of the carriers' rate changes will still receive streamlined treatment. Rate decreases will be subject to the longer notice period because of the carriers' decision to include them in the same tariff filing as a rate increase. Carriers are free to take full advantage of the shorter 7 day notice period by transmitting rate decreases in a separate filing. We also reject the LECs' various suggestions to base the applicable notice period on the net effect of changes to rate elements either at the access category level, basket level, or API. This will assure that customers that purchase only some elements of a tariff will receive the 15-days' notice that Congress intended for rate increases, even though rates for other elements decrease and even though rates measured at some aggregate level may decrease. In addition, we find that review of such calculations would unnecessarily complicate the tariff review process.

70. We further determine that the 15-day notice period shall also apply to tariffs that change terms and conditions or apply to new services even where there is no rate increase or decrease. This will result in the most efficient implementation of section 204(a)(3) by minimizing analysis of each filing to determine whether or not it should be considered a rate increase, decrease, or a change in terms and conditions. Thus, under the rules we establish, all LEC tariff transmittals, other than those that solely reduce rates, shall be filed on 15-days' notice. If there are other significant changes, the tariff transmittal will be subject to a 15-day notice period.

d. Mechanisms to Identify Contents of Filings

71. In the NPRM, we proposed requiring carriers to identify specifically tariffs filed pursuant to section 204(a)(3) and whether the transmittal contains a rate increase, decrease or both. We solicited comment on requiring either a label or a statement in the transmittal letter to achieve this result.

72. Only SWBT opposes our proposal. It explains that the proposal is unnecessary because the LECs currently provide this information by making a notation on tariff pages indicating that it contains either an increase or reduction, and through the Description and Justification (D&J) accompanying a new or restructured tariff. USTA also states that the D&J accompanying LEC tariffs adequately informs interested parties of the contents of a filing. USTA argues, however, that, should the Commission adopt such a requirement, it should apply to tariff filings of LEC competitors as well. Ad Hoc, ALLTEL, BellSouth, and TRA support the proposal to require LECs to identify such tariffs in the transmittal letter.

73. We will require that all LECs display prominently in the upper right hand corner of the tariff transmittal letters a statement indicating that the tariff is being filed on a streamlined basis under section 204(a)(3) of the Act and whether it is being filed on 7- or 15-days' notice. While review of the LEC tariff including notations on tariff pages and the D&J would inform interested parties of the contents of the filing, this statement by the carrier will allow the Commission and the public to identify quickly whether the tariff is eligible for streamlined treatment and the notice period to be applied to the filing, without imposing any undue burdens on carriers. Without such a statement, we will treat a tariff transmittal as filed outside of section 204(a)(3), *i.e.*, not on a streamlined basis.

e. Commission Notification to Interested Parties

74. In the NPRM, we sought comment on the best mechanism for alerting Commission staff and interested parties about the contents of LEC tariff filings. The NPRM proposed that we provide affirmative notice of LEC tariff filings to interested parties via e-mail. We sought comment on whether we should adopt the proposal before, or, only when, electronic filing of tariffs is implemented.

75. Most commenters support the proposal. McLeod suggests that the Commission require LECs to send notification to interested parties in order to preserve Commission resources. CapCities suggests that the LECs notify interested parties by facsimile as well as by e-mail. Only NECA and SWBT oppose the proposal. They argue that e-mail notification will be unnecessary upon implementation of an electronic filing system, and that parties already

have procedures in place to monitor filings.

76. Several supporters of the proposal suggest that additional notification requirements be placed on the LECs. MCI, KMC, and MFS urge the Commission to require that a carrier provide advance public notice of its intention to transmit a tariff filing and identify the service that would be affected. The LECs express strong opposition to these suggestions, stating that requiring advance notice would violate the Congressional mandate to streamline the tariff review process. TRA, the only commenter to address whether the proposal should be implemented immediately or upon implementation of the electronic filing system, advocated the former.

77. We find that e-mail notification is a simple, informal method of assisting parties in complying with the expedited notice periods required under the 1996 Act. Affirmative notice of tariff filings for the convenience of interested parties is possible without expending significant Commission resources. Despite the assertions from SWBT and NECA that parties have other means of learning of tariff filings, affirmative notice by e-mail will provide a useful way for interested parties to learn of tariff filings. Accordingly, we will notify by e-mail interested persons who request such notice of LEC tariff filings eligible for streamlined treatment. We delegate to the Chief, Common Carrier Bureau authority to establish this mechanism and to institute a means of receiving requests from interested persons. We envision that this e-mail notification will be provided on the day after the filing is made with the Commission. We emphasize that notice by e-mail will not constitute legal notice of filings, and failure of the Commission to provide the affirmative notice for any reason will not extend comment periods. In view of our decision, we see no benefit in requiring LECs to send e-mail notification of filings to interested parties. We also reject suggestions that we establish an additional requirement that LECs furnish advance notice of tariff filings. That requirement is not necessary to provide adequate notice to interested parties of LEC tariff filings.

4. NPRM Period and Filing Procedures

a. Deadlines for Petitions and Replies

78. As indicated in the NPRM, we need to establish new filing periods for petitions to suspend and reject LEC transmittals filed on 7- or 15-days' notice. The current pleading cycles listed in section 1.773 of our rules will not accommodate the filing of petitions and replies in response to LEC tariff changes made on 7-days' notice. In the NPRM, we proposed to require that petitions against those LEC tariff filings that are effective within 7 or 15 days of filing must be filed within 3 days after the date of the tariff filing and replies 2 days after service of the petition.

79. Most of the commenting LECs, as well as GSA, support the Commission's proposal to require that petitions be filed within 3 days of the tariff filing and that replies be filed within 2 days of service of the petition. NYNEX, MCI, AT&T, CapCities, and Ad Hoc state there is no reason to have the same filing periods for both tariffs filed on 15-days' notice and tariffs filed on 7-days' notice. AT&T and SWBT suggest shorter notice periods for replies than the Commission's proposal. Ameritech and Pacific Telesis sharply criticize AT&T's proposal for replies as one-sided and overly restrictive.

80. We agree with commenters who recommend establishing different filing periods for petitions and replies based on whether the tariff filing at issue was filed on 7-days' notice or 15-days' notice. We require that petitions against LEC tariff transmittals that are effective 7 days from filing must be filed within 3 calendar days from the date of tariff filing, and replies must be filed within 2 calendar days of service of petition. We reject SWBT's suggestion that petitions be required on the business day following the filing, as well as AT&T's suggestion that replies be required on the calendar day following service of the petition, because these proposals unreasonably abbreviate the amount of time within which to submit filings.

81. With respect to LEC tariff filings that are effective on 15-days' notice, we agree with NYNEX, CapCities, and Ad Hoc, that the current filing schedule set forth in sections 1.773(a)(2)(ii) and 1.773(b)(1)(ii) is sufficient. These rules require petitions to be filed within 7 calendar days of the tariff filing. Replies must be filed within 4 days of service of the petition.

b. Other Issues Relating to Computation of Time

82. The Act is silent on whether the new statutory notice periods refer to calendar days or working days. In the NPRM, we tentatively concluded that the statutory notice periods refer to calendar days, not working days. All the LECs, except Bell Atlantic, and USTA, agree that calendar days should be used in computing notice periods. Bell Atlantic argues that filings should not be calculated on a calendar day basis because this would leave inadequate time for the Commission to review the tariff. ACTA also disagrees with the Commission's tentative conclusion because of concerns that LECs will strategically submit tariffs at times that limit the ability of interested parties to review them. We interpret the statutory notice periods set out in section 204(a)(3) of the Act to refer to calendar days. This interpretation is consistent with the present computation of time set forth in section 1.773(a)(3) of the rules, which uses calendar days when calculating dates for filing petitions to suspend or reject a tariff. We find that using calendar days is consistent with existing Commission practice and best fulfills the intent of Congress to shorten the tariff review process.

83. The NPRM proposed that, when a due date falls on a holiday or weekend, the document shall be filed on the next business day. The LECs, the only parties to address this issue, support this proposal. We adopt the proposal as stated in the NPRM. This is consistent with sections 1.4(g) and 1.773(a)(3) of the Commission's rules. Therefore, when a due date falls on a holiday or weekend, the document shall be filed on the next business day.

84. The NPRM also proposed including intermediate holidays and weekends in computing time periods for petitions and replies. All comments received support this proposal. We adopt the proposal as stated in the NPRM, which is consistent with existing Commission practice set forth in section 1.773(a)(3). Therefore, intermediate holidays and weekends will be included in computing time periods.

c. Hand Delivery

85. Section 61.33(d) requires the transmittal letter of any tariff filing made on less than 15-days' notice to include the name, address, and facsimile number of the person designated to receive service of petitions against the filing. Section 1.773(a)(4) of the Commission's rules requires that petitions against a filing made on less than 15-days' notice be served personally or by facsimile. The NPRM proposed requiring that petitions and replies be hand-delivered to all affected parties where the filing party is a commercial entity.

86. NECA, GSA, and Pacific Telesis support the Commission's proposal. USTA and SWBT support requiring hand delivery of petitions, but not replies. CBT and MCI state that facsimile service is sufficient with confirmed receipt. In the alternative, MCI suggests that required hand delivery be limited to parties with a

representative in Washington, D.C. TRA states that facsimile transmissions should be added to hand delivery requirements as a consideration for small carriers with limited budgets. BellSouth states that only minor changes to sections 61.33 and 1.773(a)(4) are necessary to carry out the goals of the Commission. BellSouth proposes changing these rules to apply to tariffs and petitions filed on 15-days' notice or less.

87. We find that in-hand service of petitions and reply pleadings will facilitate full participation by carriers and interested persons in the Commission's review of LEC tariffs, particularly in view of the shortened statutory notice periods in section 204(a)(3) and the implementing rules adopted here. In light of the comments of TRA, we also find that it is important to provide for service by facsimile transmission as an alternative to hand delivery. Therefore, we will amend sections 61.33 and 1.773(a)(4) to apply to tariffs and to all associated documents filed on 15-days' notice or less, and require that such tariff filings include, among other things, the facsimile number of the individual designated by the filing carrier to receive personal or facsimile service of petitions and that petitions and replies in connection with such tariff filings be served by hand or by facsimile.

d. Elimination of Public Comment Period

88. In the NPRM, we sought comment on whether we should eliminate the public comment period during the 7- or 15-days' notice period. Only CBT supports our proposal to eliminate the public comment period. MCI, NYNEX, Ad Hoc, and Pacific Telesis all oppose the proposal as contrary to the right of the public to seek suspension and investigation of a tariff under section 204(a) of the Act. As discussed above, we will retain pre-effective tariff review as a useful tool for ensuring that LEC tariffs are just and reasonable. Public participation in tariff proceedings serve the public interest. Accordingly, we will not eliminate the public comment period for LEC tariffs filed on 7- or 15-days' notice.

e. Protective Orders

89. We regularly receive requests by carriers for confidential treatment of cost data filed with tariff transmittals. In many cases, we also receive requests under the Freedom of Information Act (FOIA) for cost information for which a filing carrier has requested confidential treatment. As a practical matter, we frequently will be unable to respond to these requests within the 7- and 15-days tariff review periods established by the 1996 Act. In the NPRM, we sought comment on whether we should routinely impose a standard protective order whenever a carrier claims in good faith that information qualifies as confidential under relevant Commission precedent. We also solicited comment regarding the terms that we should include in a standard protective order and the types of data that should be eligible for confidential treatment.

90. The majority of the parties commenting on this proposal oppose the use of a standard protective order, albeit for conflicting reasons. AT&T contends that we do not have the authority to issue a standard protective order because nothing in the FOIA or in the 1996 Act relieves us of our obligation to determine whether information in our possession may properly be withheld from the public despite the shortened tariff review process. AT&T states that, although Exemption 4 of the FOIA protects certain trade secrets and financial data from disclosure, it is well-settled that an agency invoking a FOIA exemption bears the burden of establishing its right to withhold information from the public. Therefore, AT&T concludes, we cannot simply accept a submitting party's assertion that tariff support materials are confidential. Moreover, AT&T asserts, data that are subject to a protective order are not automatically covered by Exemption 4. An agency still must demonstrate that the information in question is exempt from FOIA disclosure. Bell Atlantic takes the position that there is no legal requirement that cost support data must be available to the public. Moreover, even if there were such a requirement, Bell Atlantic contends, there would be no reason to continue following such a rule given the current level of competition. USTA also favors elimination of cost support data for streamlined tariff filings and states that, if this proposal were adopted, there would be no need for protective orders. In the alternative, USTA favors the use of standard protective agreements on a case-by-case basis. Ad Hoc maintains that the openness of the tariff review process would be compromised if data are routinely withheld from disclosure.

91. Ameritech, NYNEX, and TW Comm support, to some extent, the routine use of standard protective orders. Ameritech first argues that it supports elimination of the requirement to file cost support data. To the extent, however, that this requirement is retained, Ameritech favors the use of standard protective orders. Ameritech contends that the use of protective orders provides protection to data that in its view are intrinsically proprietary while enabling the tariff review process to go forward. Ameritech supports using the model protective order it submitted with a number of other parties in GC Docket No. 96–55. While NYNEX supports the use of a standard protective order, it also wants carriers to have the option of seeking nondisclosure of highly sensitive data under certain circumstances. TW Comm states that the use of protective orders should be limited to those circumstances where a LEC demonstrates that confidential treatment of its data is necessary to prevent competitive harm. If the LEC makes such a showing, TW Comm suggests, the data should be made available to interested persons under a narrowly-drawn protective order. TW Comm states that the terms of the protective order should be limited only to protecting the legitimate competitive interests of the LEC. TW Comm maintains that this goal could be accomplished by narrowly limiting access to the material to those persons who are preparing petitions in opposition to the tariff or participating in a tariff investigation.

92. TRA contends that, if a carrier chooses to use streamlined tariff procedures, it forfeits its right to request confidential treatment of its cost support data. SWBT opposes this position. CBT argues that, while it generally supports the use of protective orders, it recognizes that they do not afford absolute protection against disclosure of data. CBT maintains that it would be preferable for us to determine that the new competitive environment has caused a fundamental change in the nature of tariff proceedings and that the public interest in open tariff proceedings is now outweighed by the submitting party's need to protect competitively sensitive information. CBT suggests, therefore, that competitors' requests to review competitively sensitive information be rejected. GSA maintains that standard protective orders should be imposed on a routine basis. It contends that LECs should be able to prevent disclosure of their data and that interested parties should be able to petition the Commission for access. Further, GSA proposes that the Commission establish standards for a LEC to prevent disclosure of its cost support data, but GSA does not suggest what these standards should be.

93. It is evident that existing procedures for responding to requests for confidential treatment or for disclosing supporting cost data under

the FOIA cannot be completed in the limited time available for streamlined tariff review. We find that use of standard protective orders for purposes of streamlined LEC tariff review will properly serve the dual purpose of permitting limited access to important information by interested persons while protecting proprietary information from public disclosure. We have used protective orders in a variety of proceedings to protect competitively sensitive material from public disclosure while allowing interested parties to have access to potentially decisional documents. In so doing, the Common Carrier Bureau stated that * * * the competitive threat posed by widespread disclosure under FOIA may outweigh the public benefit in disclosure. In such instances, disclosure under a protective order or agreement may serve the dual purpose of protecting competitively valuable information while still permitting limited disclosure for a specific public purpose.

Accordingly, we are issuing, in this Report and Order, a standard protective order for use in review of LEC tariff filings submitted pursuant to section 204(a)(3). The Bureau will use the protective order where the submitting party includes with the tariff filing a showing by a preponderance of the evidence to support its case that the data should be accorded confidential treatment consistent with the provisions of the FOIA or makes a sufficient showing that the information should be subject to a protective order. This is the standard applicable in section 0.459 of our rules to requests that materials or information submitted to us be withheld from public disclosure. Therefore, at a minimum, the submitting party must comply with Section 0.459 (b) and (c) of the rules regarding the supporting information that must be included in its request for confidentiality. Because of the shortened LEC tariff notice periods in the 1996 Act, the Bureau will not have time to issue written determinations concerning whether the data are entitled to confidential treatment and still complete the tariff review process. Instead, it will routinely employ the standard protective order in the pre-effective tariff review process to permit meaningful participation by interested parties, so long as the carrier has made a good faith showing in support of confidential treatment. During the course of any follow-on investigation of tariffs filed under section 204(a)(3), the Bureau can make any further determination as necessary concerning a carrier's entitlement to confidentiality. We can and will employ appropriate sanctions against any carriers that abuse opportunities to obtain confidential treatment.

94. This will fully comport with our obligations under the FOIA. We are not, as AT&T suggests, ignoring our obligation to determine whether information qualifies for nondisclosure under either the FOIA or our confidentiality rules as submitting parties will continue to be required to make a persuasive showing that the data in question meet these standards. Moreover, the use of protective orders will prevent the unlimited disclosure of sensitive financial data, and will thereby protect the competitive interests of the filing party. Thus, this approach appropriately balances the competing interests at stake. We, therefore, decline to adopt the approaches proposed by CBT and TRA that propose either that all tariff support material be made public or that, alternatively all such material should be held in absolute confidence. We also believe that protective orders will afford adequate protection to even the highly sensitive data referenced by NYNEX. In addition, we find that ruling on individual requests, as NYNEX proposes, will cause unacceptable delays during a very short tariff review process and our goal in using standard protective orders is to eliminate the opportunity for such delays. Accordingly, we find that the routine use of a standard protective order in LEC streamlined tariff proceedings will eliminate delay during this shortened tariff review process as well as address the concerns of various parties concerning the protection of competitively sensitive financial data. Routine use of a standard protective order will also serve the public interest by enabling interested parties to comment, as provided for in the rules, in LEC streamlined tariff review proceedings. The NPRM in this proceeding only proposed use of a standard protective order in the pre-effective review of streamlined tariffs filed pursuant to section 204(a)(3). Thus, the standard protective order adopted here is not required to be used in tariff investigations, although its use is not precluded in those investigations where we find it appropriate.

95. As noted above, the NPRM sought comment on whether the Commission should routinely impose a protective order and what terms should be included in such a standard protective order. The NPRM also cited to GC Docket No. 96–55, 61 FR 16424 (April 15, 1996) in which a model protective order has been released for public comment. While, as described below, the standard protective order adopted herein is similar to the standard protective order released for public comment in that proceeding, our decision here is not binding upon any final Commission decision in GC Docket No. 96–55, which is intended to create a standard protective order for use in Commission proceedings generally. We note, however, that a number of the commenters in this proceeding incorporated by reference their comments submitted in GC Docket No. 96–55.

96. The standard protective order we adopt is similar to the model protective order in GC Docket No. 96–55, but includes several changes that were suggested by comments in this proceeding, as well as additional clarifying changes that we are adopting *sua sponte*. Significant modifications to the draft model protective order in GC Docket No. 96–55 include: (i) clarifying that consultants under contract to the Commission must execute a Declaration that they will abide by the protective order, unless they have signed a general non-disclosure agreement as part of their agreement with the Commission; (ii) clarifying that unauthorized use of Confidential Information, as well as unauthorized disclosure, is prohibited and subject to sanctions; (iii) clarifying that the prohibition on the unauthorized disclosure or use of the Confidential Information remains binding indefinitely unless the Submitting Party otherwise agrees; (iv) specifying that possible sanctions for violation of a protective order include disbarment from Commission proceedings, forfeitures, cease and desist orders, and a denial of access to Confidential Information in that and other Commission proceedings; (v) clarifying that the Protective Order is also an agreement between the Reviewing Parties and the Submitting Party; and (vi) clarifying that the Submitting Party retains all rights and remedies available at law or equity against any party using confidential information in a manner not authorized by the protective order. We note that the model protective order, as originally proposed, already contains the requirement proposed by the Joint Parties to require each person examining Confidential Information to execute a declaration agreeing to be bound by the terms of the protective order. Finally, because of the requirement for expedited tariff review, we have modified the provision in paragraph 7(b), which would have permitted parties to give certain entities access to confidential material if the Commission gave its approval. Because

of the shortened time periods for tariff review, we do not have time to entertain and rule on such requests.

97. The Commission has, however, declined to adopt certain modifications proposed by commenters. The Joint Parties' proposed to limit the number of authorized representatives able to examine Confidential Information to a maximum of seven with various sub-limits, such as one inside counsel and one outside counsel per party. We believe such a limitation would unduly limit the ability of, for example, a partner in a law firm to obtain the counsel of associates and that the serious consequences of violating a Commission protective order make this limitation unnecessary. We also decline to adopt the Joint Party's suggestion to bar the copying of Confidential Information, because we believe that the proposal imposes an unnecessary burden on the review of such information. We will, however, modify the Protective Order to require a Reviewing Party to keep a written record of all copies made and to provide this record to the Submitting Party on reasonable request.

5. Annual Access Tariff Filings

98. Section 69.3(a) of the Commission's rules requires LECs and the National Exchange Carrier Association (NECA) to submit revisions to their annual access tariffs on 90-days' notice to be effective on July 1 of each year. We indicated in the NPRM that these filings are limited to changes in rate levels, and therefore, are eligible for filing on a streamlined basis. As part of the annual access tariff filings, LECs are required to file summary material, known as tariff review plans (TRPs), to support the revisions to rates in the annual access tariffs. The TRPs partially fulfill the requirements of sections 61.38, 61.39, and 61.41 through 61.50 of the Commission's rules regarding the supporting information that LECs must provide with their tariff filings. We use the TRPs to monitor the LECs' compliance with Part 61 of the rules.

99. In the NPRM, we proposed to modify the annual access filing process in light of requirements of the 1996 Act. With respect to carriers subject to price cap regulation, we proposed to require carriers that elect to file under streamlined procedures to file a TRP prior to the filing of the annual tariff revisions that excluded information regarding the carriers' proposed rates but included information regarding the carriers' pricing indices, and to make it available to the public. Under this approach, this agency and interested parties could examine the carriers' current and proposed price cap indices, exogenous cost adjustments, and supporting information in advance of the LECs' submissions of their prospective rates and required supporting documents. We sought comment on this approach and on whether we may, under the 1996 Act, require price cap LECs to submit their TRPs prior to the date that they file their annual access tariffs. Because the price cap TRP would not include information regarding a LEC's tariffed rates, charges, classifications, or practices, we tentatively concluded that the TRP would not trigger application of the notice periods of section 204(a)(3) and that we could require its submission prior to the filing of the annual access tariffs. We also solicited comment on the filing date we should establish for the related TRP if we adopt this approach. With respect to carriers subject to rate-of-return regulation, we proposed to require them to file their TRPs and annual access filings that propose rate increases fifteen days prior to the scheduled effective date of July 1. With respect to each of these proposals, we proposed in the NPRM that LECs may nevertheless elect to file under existing rules, and therefore, file their TRPs with the annual access tariffs.

100. Frontier, CompTel, GSA, MCI, AT&T, ACTA, and, to some extent, Ameritech support the Commission's proposal to require the LECs to file their TRPs in advance of their annual access charge filing. They contend that it is within our jurisdiction as part of our regulatory oversight of access tariffs to require the advance filing of TRPs, and that this requirement will enable both this agency and consumers to review the support information fully before reviewing the access tariffs. While AT&T concurs with the NPRM's finding that revisions to annual access tariffs involve changes in rate levels and therefore qualify for streamlined treatment, it claims there is nothing in the 1996 Act that prevents us from requiring that TRPs and cost support data be filed in advance of the access tariff filings. AT&T therefore recommends that we retain our current timetable, under which LECs are to file their TRPs 90 days prior to the effective date of their annual access tariffs. CompTel urges that we treat annual access tariffs filed without proper prior notice of the TRP as presumed unlawful.

101. USTA and the LECs generally oppose requiring advance submission of the TRPs. They argue that the adoption of this proposal would impose an unnecessary burden on LECs, and would be inconsistent with the LEC tariff streamlining requirements of section 402 of the 1996 Act. Furthermore, they contend that the TRPs have no significance without the inclusion of the proposed rates. For example, Sprint states that, without the rates, the TRP is pointless because the rates drive the indices. USTA contends that the EXG–1 chart and the PCI–1 chart are the only pages that do not reference rates and, therefore, could be submitted early. These pages, however, cannot be completed until NECA calculates Long Term Support, which is contained in the Common Line Basket. USTA further argues that none of the TRP information can even be filed until the LECs' and NECA's tariffs are completed. These parties argue, therefore, that the annual access filing and the TRP should be filed on the shortened statutory notice periods. CBT recommends that the TRP should be eliminated for all LEC carriers in order to establish symmetrical regulation for all types of carriers.

102. Sprint and Ameritech acknowledge that at least some part of the TRP could be completed before the annual access tariff would actually be filed and that the information would be valuable to potential customers. Sprint argues that the LECs could be required to file their exogenous cost changes and PCI development 15 days prior to the filing of the annual access tariffs. Ameritech favors the submission of a modified TRP 15 days before the annual filing. Specifically, Ameritech suggests that price cap LECs file the following information for each price cap basket other than the common line basket: the PCI form showing the existing and proposed PCI; a description and explanation of any exogenous cost adjustments being made; and the proposed upper and lower bounds for the Service Band Indices. Ameritech states that, pending access reform, price cap LECs cannot file this information for the common line basket prior to their annual filings because of the interrelationship of NECA's calculation of long-term support and exogenous cost adjustments. Ameritech proposes that the price cap and rate-of-return LECs file a full TRP at the time of their annual filing. NYNEX suggests that the Commission use this proceeding to further streamline annual access tariff filings by eliminating the requirement for a detailed list of demand by rate elements, a discussion of how the indices were developed, and other required information.

103. The chief purposes of TRPs are to: (i) justify LECs' exogenous cost adjustments to their PCIs; (ii) verify revisions to the price cap indices; and

(iii) verify that the proposed rates are within the established price caps. We find that the first two purposes can be accomplished through early filing of TRPs that do not contain proposed rates. Early filing of information concerning exogenous costs and recalculation of PCIs would facilitate review of price cap LECs' annual access filings. We disagree with the LECs' arguments that this information cannot be filed until the tariff is submitted and that the information will have no significance without the proposed rates. Price cap indices are a function of inflation, productivity, and exogenous cost changes. None of these factors is dependent on a LEC's specific rates. Early filing of changes in these areas would facilitate review of the annual access filings within the streamlined notice periods by resolving most of the major issues currently raised in the annual access proceedings.

104. We also disagree with the arguments that the early submission of this TRP information is inconsistent with the streamlined notice provisions; to the contrary, as the statute contemplates, the actual tariff with rates will be filed on 7- or 15-days' notice. In addition, this submission of TRP information does not impose an unnecessary burden on price cap LECs. LEC are currently required to file TRPs at the time they file their annual access tariffs in order to comply with the cost support requirements of our rules. Early filing of the TRPs, absent rate information, will result in the filing of supporting information at the same time as under current rules, while allowing actual rates to be filed later on 7 or 15 days' notice. Accordingly, we will continue to require price cap LECs to file the TRP for their annual access filing, 90 days prior to July 1 of each year, but rate information need not be included. In view of the volume and complexity of the information submitted in the price cap carriers' TRPs, we conclude that any notice period less than 90 days would be inadequate to allow interested parties to review these filings carefully. Therefore, we reject Sprint's and Ameritech's proposals to file the TRP in 15 days. Finally, we conclude that NYNEX's suggestion to further streamline the annual access filing process is outside the scope of this proceeding. Non-price-cap LECs will be required to file their TRPs at the same time that they file their annual access tariffs. The notice period for non-price-cap annual access filings will be governed by the rules we adopt generally governing LEC streamlined filings. Thus, only annual access filings that solely decrease rates may be filed on 7-days' notice. As stated above, LECs may elect to file under existing rules and, therefore, file their TRPs with annual access tariffs that are filed subject to the applicable notice periods of our rules.

6. Tariff Investigations

105. Section 402 of the 1996 Act amends section 204(a) of the Act, effective February 8, 1997, to provide that the Commission shall conclude all hearings initiated under this section within five months after the date the charge, classification, regulation, or practice subject to the hearing becomes effective. Currently, we do not have procedural rules governing tariff investigations; instead, the procedures are established in the orders designating issues for investigation. We solicited comment on whether we should establish procedural rules to expedite the hearing process in light of the shortened period in which the Commission must complete tariff investigations. Specifically, we sought comment on whether we should establish time periods for pleading cycles, and page limits for pleadings and exhibits, and whether we should require the filing of proposed orders. We also noted that, while section 204 investigations may be initiated by the Bureau, they must be terminated by the full Commission under section 5(c) of the Communications Act. We solicited suggestions for reforms that will permit more expeditious termination of tariff investigations, such as the use of abbreviated orders without extensive findings, especially where we find that the tariff under investigation is lawful. We also solicited comment on whether we can, consistent with section 5(c) of the 1934 Act, as amended, terminate investigations by a pro forma order that adopts a decisional memorandum or order of the Common Carrier Bureau. Finally, we solicited comment on whether we should establish procedures for informal mediation of tariff investigation issues.

106. Ad Hoc, USTA, NECA, Bell Atlantic, US West, and NYNEX support the adoption of procedural rules that would expedite the completion of tariff investigations within the five-month statutory deadline. NECA and Bell Atlantic support the use of abbreviated orders where we make a finding that a tariff is lawful. NYNEX proposed that we adopt the following filing schedule for investigations, calculated from the tariff's effective date: 21 days for the LECs to file the direct case; 35 days for comments/oppositions to the direct case; and 49 days for replies. Under this schedule, we would have over three months to conclude the investigation. MCI favors the establishment of time periods for pleading cycles and page limits in the designation order. In addition, MCI suggests that the designation order could specify that the parties should file proposed orders. CBT, US West, and Ameritech support the use of pro forma orders to terminate investigations. US West supports the use of pro forma orders, provided that they are in fact full Commission determinations of the lawfulness of tariffs and thus final appealable orders. Ameritech opposes the imposition of mandatory informal mediation.

107. GSA, AT&T, Bell Atlantic, and SWBT do not support the establishment of expedited procedures for investigations. GSA points out that section 204(a)(1) places the burden of proof for any rate changes or revisions on the carriers. In addition, GSA contends that we have the authority to reject a tariff if we find by our investigation that the proposed tariff is unjust and unreasonable. AT&T and Bell Atlantic suggest that we maintain our flexibility in conducting investigations so we may tailor procedures according to the requirements of a particular proceeding, rather than commit ourselves to any particular procedural rules.

108. We agree with the commenters that oppose the establishment of specific rules for expediting tariff investigations at this time. Rather, we will continue to set out procedures in designation orders that best meet the needs of a particular proceeding. We have the discretion, for example, to set page limits, establish pleading cycles, or use pro forma designation orders. We find that retaining the flexibility to tailor each investigation individually is the best means of ensuring that tariff investigations are completed within the five month time limit. We also intend, to the extent we may do so while giving full consideration to all issues, to use abbreviated orders for terminating tariff investigations, subject to the new requirements of the 1996 Act. We also favor encouraging parties to use informal mediation to resolve tariff disputes, but will not impose such a requirement at this time. Moreover, in order to expedite the tariff review process and ensure that we conclude all tariff investigations within the five month statutory period, we delegate authority to the Chief, Common Carrier Bureau to work within the cost support rules to establish format requirements for cost data that must be submitted by carriers with certain tariffs. We note that we recently proposed rules to improve

the speed and effectiveness of the formal complaint process. In constrast to formal complaints, we can better provide for expedited tariff investigations by establishing procedural requirements on a case-by-case basis because those requirements can be closely tailored to the issues that have been revealed in the tariff review process.

7. Requirements

109. Existing rules specifying notice periods for LEC tariffs must be amended to conform to the streamlined notice periods for LEC tariffs established in section 204(a)(3). For example, section 61.58 of our rules specifies the notice requirements for dominant carriers before new tariff proposals can go into effect. In particular, section 61.58 states that carriers subject to rate-of-return regulation must file a tariff on either 15-35-, or 45-days' notice, depending on the type of tariff at issue. Section 61.58(e) states that carriers subject to optional incentive regulation pursuant to section 61.50 of our rules must file a tariff on either 15- or 90-days' notice, depending on the type of tariff at issue. Finally, section 61.58(c) states that carriers subject to price cap regulation must file a tariff on either 14-, 45-, or 120-days' notice, depending on the type of tariff change. Therefore, in the NPRM we proposed to change section 61.58 of the Commission's existing rules governing notice periods for LEC tariff filings to make this section consistent with the streamlined notice periods of 7 and 15 days required by the 1996 Act. The few comments filed regarding this section of the rules support our proposal. Accordingly, we are amending section 61.58 of the rules to establish notice periods consistent with the 1996 Act.

IV. Effective Date

110. Section 402(b)(4) of the 1996 Act provides that the LEC tariff streamlining provisions shall apply to any charge, classification, regulation, or practice filed on or after one year after the effective date of the 1996 Act, *i.e.*, February 8, 1997. Section 553(d) of the Administrative Procedure Act (APA) provides that the required publication in the Federal Register of changes to the Code of Federal Regulations shall not be made less than thirty days before the effective date except, *inter alia,* as otherwise provided by the agency for good cause found and published with the rule. We find that it is necessary for our rules implementing the LEC streamlined tariff provisions of the 1996 Act to be effective at the time those statutory provisions become effective. Section 402(b)(4) of the 1996 Act is self-effectuating and will become effective on February 8, 1997, regardless of whether the rules adopted in this proceeding have become effective. Making these rules effective by February 8, 1997 will assist parties in complying with the LEC tariff streamlining provisions of the 1996 Act and will avoid possible confusion to LECs and their customers that could result if the Commission's existing LEC tariffing rules remain in effect after February 8, 1997. This constitutes good cause for making these rules effective earlier than thirty days prior to their publication in the Federal Register. We note as well, that much of this order is devoted to interpretation of the statute and promulgation of procedural rules, subject matters that are not subject to the thirty day period mandated by section 553(d) of the APA. Accordingly, we are making the rules adopted in this proceeding effective February 8, 1997.

V. Final Regulatory Flexibility Analysis

111. As required by section 603 of the Regulatory Flexibility Act, 5 U.S.C. 603 (RFA), an Initial Regulatory Flexibility Analysis (IRFA) was incorporated in the NPRM to implement section 402(b)(1)(a) of the Telecommunications Act of 1996, which provides for streamlined tariff filings by local exchange carriers. We sought written public comment on the IRFA proposals in the NPRM. Our Final Regulatory Flexibility Analysis (FRFA) in this Report and Order conforms to the RFA, as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA). None of the comments specifically addressed IRFA.

112. *Need for and Objectives of the Proposed Rule:* We promulgate the rules in this Report and Order to implement section 204(a) of the Communications Act of 1934, as amended by section 402 of the Telecommunications Act of 1996. Section 402 provides for streamlined tariff filings by local exchange carriers. In accordance with section 204(a), our implementing rules will implement streamlined tariff filing requirements by LECs with the minimum regulatory and administrative burden on telecommunications carriers. The objective of these rules is to ''streamline the procedures for revision by local exchange carriers of charges, classifications and practices.''

113. *Summary of Significant Issues Raised by the Public Comments In Response to the IRFA:* While none of the commenters specifically addressed the Commission's IRFA, we received several comments regarding the impact that the various alternatives facing the Commission would have on small companies. For instance, with respect to how the Commission should interpret ''deemed lawful,'' commenters including KMC, ACTA, TRA, and SWBT discussed the effect the Commission's decision would have on small entities.

114. With respect to treatment of tariff filings that include both increases and decreases, ALLTEL suggests that small and mid-sized companies be permitted to define rate increases and decreases at the access category level, and CBT suggests that all of the increases and decreases in a given transmittal be aggregated with the applicable notice period based on the net change. USTA proposes that the Commission ensure a streamlined approach for small and mid-sized LECs by permitting rate-of-return LECs to define rate increases or decreases at the access category level and file accordingly. USTA also proposes that LECs under Optional Incentive Regulation be permitted to define rate increases at the basket level.

115. We have also received comments from various parties regarding several discrete issues. For example, with respect to electronic filing, USTA states that the Commission must consider the impact on small LECs who may wish to file their own tariffs but do not have the resources to implement electronic filing at this time. Hence, USTA maintains that electronic filing should not be mandatory. Regarding our proposal in the NPRM that each LEC submit an analysis accompanying its tariff filing demonstrating that the transmittal is lawful, CBT states that this requirement would have a chilling effect on small and mid-size LECs that are sensitive to increased legal fees. TRA states that facsimile transmissions should be added to hand delivery requirements as a consideration for small carriers with limited budgets.

116. *Description and Estimate of the Number of Small Entities To Which the Proposed Rules Will Apply:* The RFA defines a ''small business'' to be the same as a ''small business concern'' under the Small Business Act (SBA), 15 U.S.C. § 632, unless the Commission has developed one or more definitions that are appropriate to its activities. Under the SBA, a ''small business concern'' is one that: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) meets any additional criteria established by the SBA. SBA has defined a small business for Standard Industrial Classification (SIC) category 4813 (Telephone Communications, Except Radiotelephone) to be small entities when they have fewer than 1500 employees.

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

118. Our rules governing the streamlining of the LEC tariff process apply to all LECs. These companies may have fewer than 1,500 employees and thus fall within the SBA's definition of small telecommunications entity, we do not believe that such entities should be considered small entities within the meaning of the RFA. Because the small incumbent LECs subject to these rules are either dominant in their field of operations or are not independently owned and operated, consistent with our prior practices, they are excluded from the definition of ''small entity'' and ''small business concerns.'' Accordingly, our use of the terms ''small entities'' and ''small businesses'' does not encompass small incumbent LECs. Out of an abundance of caution, however, for regulatory flexibility analysis purposes, we will consider small incumbent LECs that arguably might be defined by SBA as ''small business concerns.''

119. *Local Exchange Carriers.* Neither this agency nor SBA has developed a definition of small providers of local exchange service (LECs). The closest applicable definition under SBA rules is for telephone communications companies other than radiotelephone (wireless) companies. The most reliable source of information regarding the number of LECs nationwide of which we are aware appears to be the data that we collect annually in connection with Telecommunications Relay Service (TRS). According to our most recent data, 1,347 companies reported that they were engaged in the provision of local exchange service. Although it seems certain that some of these carriers are not independently owned and operated, or have fewer than 1,500 employees, we are unable at this time to estimate with greater precision the number of LECs that would qualify as small business concerns under SBA's definition. We conclude that there are fewer than 1,347 small incumbent LECs that may be affected by the proposals in this Report and Order.

120. Potential Petitioners Subject to 47 CFR 1.773: Section 1.773 of the Commission's rules apply to any entity who files a petition to suspend or reject a new tariff filing. Petitioners may be other telecommunications businesses, competitors of LECs or end users (i.e., consumers). It is not possible to determine with any specificity the primary field of business of an end user, nor is it possible to determine whether they may be a small entity. Therefore, for purposes of this FRFA, we have included general information about small businesses, small governmental jurisdictions, and small not-for-profit establishments, as well as telecommunications entities as potential petitioners that may be impacted by this R & O. An individual petitioner is not considered a small business under the RFA.

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

122. *Governmental Jurisdictions.* The definition of a small governmental jurisdiction is one with a population of less than 50,000. There are 85,006 governmental jurisdictions in the nation. This number includes such jurisdictions as states, counties, cities, utility districts and school districts. There are no figures available on what portion of this number has populations of fewer than 50,000. However, this number includes 38,978 counties, cities and towns, and of those, 37,566, or 96 percent, have populations of fewer than 50,000. The Census Bureau estimates that this ratio is approximately accurate for all governmental entities. Thus, of the 85,006 governmental jurisdictions, we estimate that 96 percent, or 81,600, are small jurisdictions.

123. *Small Organizations.* The Commission has not established a definition of small organization therefore, we will use the definition under the RFA. The RFA defines a small organization as any not-for-profit enterprise which is independently owned and operated and is not dominant in its field. There are approximately 257,038 total non-profit organizations in the United States.

124. *Total Number of Telephone Companies Affected. See supra* para. 115.

125. *Local Exchange Carriers. See supra* para. 117.

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

127. *Competitive Access Providers.* Neither the Commission nor SBA has developed a definition of small entities specifically applicable to providers of competitive access services (CAPs). The closest applicable definition under SBA rules is for telephone communications companies other than radiotelephone (wireless) companies. The most reliable source of information regarding the number of CAPs nationwide of which we are aware appears to be the data that we collect annually in connection with the TRS. According to our most recent data, 30 companies reported that they were engaged in the provision of competitive access services. Although it seems certain that some of these carriers are not independently owned and operated, or have more than 1,500 employees, we are unable at this time to estimate with greater precision the number of CAPs that would qualify as small business concerns under SBA's definition. Consequently, we estimate that there are fewer than 30 small entity CAPs.

128. *Wireless (Radiotelephone) Carriers.* SBA has developed a definition of small entities for radiotelephone (wireless) companies (SIC 4812) as an entity with 1,500 or less employees. The Census Bureau

reports that there were 1,176 such companies in operation for at least one year at the end of 1992. According to SBA's definition, a small business radiotelephone company is one employing fewer than 1,500 persons. The Census Bureau also reported that 1,164 of those radiotelephone companies had fewer than 1,000 employees. Thus, even if all of the remaining 12 companies had more than 1,500 employees, there would still be 1,164 radiotelephone companies that might qualify as small entities if they are independently owned are operated. Although it seems certain that some of these carriers are not independently owned and operated, we are unable at this time to estimate with greater precision the number of radiotelephone carriers and service providers that would qualify as small business concerns under SBA's definition. Consequently, we estimate that there are fewer than 1,164 small entity radiotelephone companies.

129. *Cellular Service Carriers.* Neither the Commission nor SBA has developed a definition of small entities specifically applicable to providers of cellular services. The closest applicable definition under SBA rules is for telephone communications companies other than radiotelephone (wireless) companies (SIC 4812). The most reliable source of information regarding the number of cellular service carriers nationwide of which we are aware appears to be the data that we collect annually in connection with the TRS. According to our most recent data, 789 companies reported that they were engaged in the provision of cellular services. Although it seems certain that some of these carriers are not independently owned and operated, or have more than 1,500 employees, we are unable at this time to estimate with greater precision the number of cellular service carriers that would qualify as small business concerns under SBA's definition. Consequently, we estimate that there are fewer than 789 small entity cellular service carriers.

130. *Mobile Service Carriers.* Neither the Commission nor SBA has developed a definition of small entities specifically applicable to mobile service carriers, such as paging companies. The closest applicable definition under SBA rules is for radiotelephone (wireless) companies (SIC 4812). The most reliable source of information regarding the number of mobile service carriers nationwide of which we are aware appears to be the data that we collect annually in connection with the TRS. According to our most recent data, 117 companies reported that they were engaged in the provision of mobile services. Although it seems certain that some of these carriers are not independently owned and operated, or have more than 1,500 employees, we are unable at this time to estimate with greater precision the number of mobile service carriers that would qualify under SBA's definition. Consequently, we estimate that there are fewer than 117 small entity mobile service carriers.

131. *Broadband PCS Licensees.* The broadband PCS spectrum is divided into six frequency blocks designated A through F. As set forth in 47 CFR section 24.720(b), the Commission has defined ''small entity'' in the auctions for Blocks C and F as a firm that had average gross revenues of less than $40 million in the three previous calendar years. Our definition of a ''small entity'' in the context of broadband PCS auctions has been approved by SBA. The Commission has auctioned broadband PCS licenses in Blocks A, B, and C. We do not have sufficient data to determine how many small businesses bid successfully for licenses in Blocks A and B. There were 90 winning bidders that qualified as small entities in the Block C auctions. Based on this information, we conclude that the number of broadband PCS licensees affected by the decisions in this Order includes, at a minimum, the 90 winning bidders that qualified as small entities in the Block C broadband PCS auctions.

132. At present, no licenses have been awarded for Blocks D, E, and F of broadband PCS spectrum. Therefore, there are no small businesses currently providing these services. However, a total of 1,479 licenses will be awarded in the D, E, and F Block broadband PCS auctions, which commenced on August 26, 1996. Eligibility for the 493 F Block licenses is limited to entrepreneurs with average gross revenues of less than $125 million. We cannot estimate, however, the number of these licenses that will be won by small entities under our definition, nor how many small entities will win D or E Block licenses. Given that nearly all radiotelephone companies have fewer than 1,000 employees and that no reliable estimate of the number of prospective D, E, and F Block licensees can be made, we assume for purposes of this FRFA, that a majority of the licenses in the D, E, and F Block Broadband PCS auctions.

133. *SMR Licensees.* Pursuant to 47 CFR section 90.814(b)(1), the Commission has defined ''small entity'' in auctions for geographic area 800 MHz and 900 MHz SMR licenses as a firm that had average annual gross revenues of less than $15 million in the three previous calendar years. This definition of a ''small entity'' in the context of 800 MHz and 900 MHz SMR has been approved by the SBA. The rules adopted in this Order may apply to SMR providers in the 800 MHz and 900 MHz bands that either hold geographic area licenses or have obtained extended implementation authorizations. We do not know how many firms provide 800 MHz or 900 MHz geographic area SMR service pursuant to extended implementation authorizations, nor how many of these providers have annual revenues of less than $15 million. We assume, for purposes of this FRFA, that all of the extended implementation authorizations may be held by small entities.

134. The Commission recently held auctions for geographic area licenses in the 900 MHz SMR band. There were 60 winning bidders who qualified as small entities in the 900 MHz auction. Based on this information, we conclude that the number of geographic area SMR licensees affected by the rule adopted in this Order includes these 60 small entities. No auctions have been held for 800 MHz geographic area SMR licenses. Therefore, no small entities currently hold these licenses. A total of 525 licenses will be awarded for the upper 200 channels in the 800 MHz geographic area SMR auction. However, the Commission has not yet determined how many licenses will be awarded for the lower 230 channels in the 800 MHz geographic area SMR auction. It is not possible to ascertain how many small entities will win these licenses. Given that nearly all radiotelephone companies have fewer than 1,000 employees and that no reliable estimate of the number of prospective 800 MHz licensees can be made, we assume, for purposes of this FRFA, that a majority of the licenses may be awarded to small entities.

135. *Resellers.* Neither the Commission nor SBA has developed a definition of small entities specifically applicable to resellers. The closest applicable definition under SBA rules is for all telephone communications companies (SIC 4812 and 4813 combined). The most reliable source of information regarding the number of resellers nationwide of which we are aware appears to be the data that we collect annually in connection with the TRS. According to our most recent data, 206 companies reported that they were engaged in the resale of telephone services. Although it seems certain that some of these carriers are not independently owned and operated, or have more than 1,500 employees, we are unable at this time to estimate with greater precision the number of resellers

that would qualify as small business concerns under SBA's definition. Consequently, we estimate that there are fewer than 206 small resellers.

136. *Description of Projected Reporting, Recordkeeping and Other Compliance Requirements:* LECs subject to price cap regulation and LECs that elect to file tariffs subject to price cap regulation will be required to file their tariff review plans (TRP) prior to the filing of their annual tariff revisions. This requirement will not impose a significant burden on the LECs because they currently file TRPs at the time they file their annual access tariffs. Adoption of this proposal will require that the carriers allocate the resources needed to complete the TRPs prior to their filing of the annual access tariffs. In order to comply with this filing requirement, LECs will need to utilize tariff analysts and legal and accounting personnel. LECs have the personnel necessary to meet these requirements since they are already required to utilize staff with skills necessary to establish tariffs that comply with sections 201–205 of the Communications Act. Although this requirement that price cap LECs file their TRP prior to the filing of their annual tariff revisions will establish a new TRP filing deadline, we believe it is justified under the new streamlined tariff filing procedures. To date, we are not aware of any small entities that have elected to be subject to price cap regulation. Therefore, at the time these rules become effective, no small carriers will be required to file their TRPs prior to the filing of their annual tariff revisions. In the future, however, small entities that elect to be subject to price cap regulation pursuant to section 61.41(a)(3) of our rules will be required to comply with this reporting requirement.

137. In addition, our requirement that all petitions and reply pleadings be hand served or served by facsimile transmission will not impose a significant burden on small entities. Facsimile and hand delivery service are readily available throughout the country for any entities that may not have their own capabilities in these areas.

138. *Significant Alternatives and Steps Taken By Agency to Minimize Significant Economic Impact on a Substantial Number of Small Entities and Small Incumbent LECs Consistent with Stated Objectives:* We believe that our proposed actions to implement the specific streamlining requirements of section 204(a)(3) of the Communications Act, as well as additional steps for streamlining the tariff process, minimize the economic impact on small carriers that are eligible to file tariffs on a streamlined basis. For example, our proposal to establish a program for the electronic filing of tariffs will reduce the existing economic burden on carriers who are now required to file paper tariffs with the Commission. To the extent that specific concerns have been expressed regarding the ability of smaller companies to comply with electronic filing requirements, we conclude that this issue can be addressed by the Bureau in consultation with the industry when establishing the system.

139. Under the new competitive provisions of the 1996 Act, there could be a number of new LECs entering the local exchange market that would be considered small businesses. To the extent that such carriers file tariffs and would be considered non-dominant, we conclude that our rules would not create any additional burdens because under section 63.23(c), 47 CFR section 63.23(c), non-dominant carriers are permitted to file tariffs on one day's notice. Further, our determinations in this proceeding that will apply to such carriers will reduce administrative burdens for these carriers, to the extent they file tariffs pursuant to section 204(a)(3) of the Act.

140. In adopting the first interpretation of ''deemed lawful,'' we have considered the comments of KMC, ACTA, and TRA which expressed a concern that adoption of this interpretation would be unfair to small consumers and competitors of LECs. With respect to KMC's concern that the adoption of the first interpretation would make it difficult for small competitors to challenge LEC tariff filings, as discussed above in Section III., B, all parties, including small entities, will have the same opportunity to challenge tariff filings eligible for streamlined regulation before they become effective or to initiate a section 208 complaint proceeding after the filings become effective. These procedures will permit small businesses to fully participate in pre-effective review of LEC tariffs and to obtain a determination of the lawfulness of a LEC tariff after it has gone into effect. To the extent that small entities will have greater difficulty than larger entities in participating in the tariff review process, we note that the shortened time period for pre-effective review of LEC tariffs is required by the 1996 Act and that, as explained above, we are compelled by the language in the statute as interpreted by relevant judicial precedent to adopt the first interpretation of ''deemed lawful.'' Similarly, as to ACTA's and TRA's concern that the adoption of the first interpretation will adversely affect small carriers and consumers by precluding damages as a remedy for the period that tariffs are effective but have been found unlawful subsequently in a section 205 or 208 proceeding, we are compelled by the language in the statute as interpreted by relevant judicial precedent to adopt the first interpretation of ''deemed lawful.'' Small businesses will be able to protect against this possible impact on them caused by ''deemed lawful'' treatment of LEC tariffs by participating in the pre-effective tariff review process. Our program of electronic filing of tariffs will facilitate participation of small entities in the tariff review process.

141. In choosing not to impose a requirement that carriers submit an analysis accompanying their tariff filings demonstrating that the filing is lawful, we have addressed the concerns of CBT that this requirement might have a chilling effect on small and mid-size LECs that are sensitive to increased legal fees.

142. Finally, we have addressed the concern expressed by TRA that requiring hand delivery of petitions and replies could be prejudicial to small companies which may not be able to afford such service by adopting TRA's suggestion that facsimile transmission be added as an alternative to required hand delivery.

143. With respect to treatment of tariff filings that include both increases and decreases, we have considered the various alternative suggestions provided by ALLTEL, CBT, and USTA to permit small LECs to aggregate the rate increases and decreases in their filings, and file those with a net rate decrease on 7 days' notice. As stated above, we have rejected these suggestions because we believe that this approach would be contrary to the plain language of the statute which clearly states that the longer, 15 days' notice period will apply ''in the case of an increase in rates.'' Moreover, we have concluded that by requiring tabulation of net increases and decreases, this approach would create confusion and add another step to an already brief review process.

144. *Report to Congress:* The Commission shall send a copy of this Final Regulatory Flexibility Analysis, along with this Report and Order, in a report to Congress pursuant to the Small Business Regulatory Enforcement Fairness Act of 1996, 5 U.S.C. § 801(a)(1)(A). A copy of this FRFA will also be published in the Federal Register.

VI. Final Paperwork Reduction Analysis

145. On November 27, 1996, the Office of Management and Budget (OMB) approved all of the proposed changes to our information collection requirements in accordance with the Paperwork Reduction Act. We have, however, decided not to adopt several of the information collection requirements proposed in the NPRM and we have modified others. For example, we declined to adopt the proposal to require the LECs to include a summary and legal analysis with their tariff filings, but we will require that LEC tariff filings include a statement in tariff transmittal letters clearly indicating that the tariff is being filed on a streamlined basis under section 204(a)(3) of the Act and whether the tariff filing contains a proposed rate increase, decrease or both for purposes of section 204(a)(3). We conclude that these requirements and modifications constitute a new ''collection of information,'' within the meaning of the Paperwork Reduction Act of 1995, 44 U.S.C. §§ 3501–3520. These requirements and modifications are subject to OMB review and the Commission has requested emergency approval of these modifications to ensure that the requirements may be effective on February 8, 1997.

146. The Commission concurs with OMB's recommendation that we consider input from the industry before implementing a system for the electronic filing of tariffs and related pleadings.

VII. Ordering Clauses

147. Accordingly, *It is ordered* that pursuant to authority contained in sections 1,4(i), and 204(a)(3) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 154(i) and 204(a)(3), Parts 1 and 61 of the Commission's rules are amended as set forth below.

148. *It is further ordered* that the policies, rules, and requirements set forth herein *are adopted.*

149. *It is further ordered* that the policies, rules and requirements adopted herein *shall be effective* February 8, 1997.

150. *It is further ordered* that authority is delegated to the Chief, Common Bureau, as set forth *supra* in paras. 48, 75 and 106.

List of Subjects in 47 CFR Parts 1 and 61.

Communications common carriers, Reporting and recordkeeping requirements, Telephone.

Federal Communications Commission
William F. Caton,
Acting Secretary.

Rule Changes

Parts 1 and 61 of Title 47 of the Code of Federal Regulations are amended as follows:

PART 1—PRACTICE AND PROCEDURE

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

Authority: 47 U.S.C. 151, 154, 204(a)(3), 303, and 309(j), unless otherwise noted.

2. In § 1.773, paragraphs (a)(2)(i) through (a)(2)(iv) are redesignated as paragraphs (a)(2)(ii) through (a)(2)(v), paragraphs (b)(1)(i) through (b)(1)(v) are redesignated as paragraphs (b)(1)(ii) through (b)(1)(vi), new paragraphs (a)(2)(i) and (b)(1)(i) are added, paragraphs (a)(4) and (b)(3) are revised to read as follows:

§ 1.773 Petitions for suspension or rejection of new tariff filings.

(a) * * *

(2) * * *

(i) Petitions seeking investigation, suspension, or rejection of a new or revised tariff filed pursuant to section 204(a)(3) of the Communications Act made on 7 days notice shall be filed and served within 3 calendar days after the date of the tariff filing.

* * * * *

(4) *Copies, service.* An original and four copies of each petition shall be filed with the Commission as follows: the original and three copies of each petition shall be filed with the Secretary, FCC room 222, 1991 M Street, NW., Washington, DC 20554; one copy must be delivered directly to the Commission's copy contractor, International Transcription Service, Inc., 2100 M St., NW., Suite 140, Washington, DC. Additional, separate copies shall be served simultaneously upon the Chief, Common Carrier Bureau; the Chief, Competitive Pricing Division; and the Chief, Tariff and Price Analysis Branch of the Competitive Pricing Division. Petitions seeking investigation, suspension, or rejection of a new or revised tariff made on 15 days or less notice shall be served either personally or via facsimile on the filing carrier. If a petition is served via facsimile, a copy of the petition must also be sent to the filing carrier via first class mail on the same day of the facsimile transmission. Petitions seeking investigation, suspension, or rejection of a new or revised tariff filing made on more than 15 days notice may be served on the filing carrier by mail.

(b)(1) * * *

(i) Replies to petitions seeking investigation, suspension, or rejection of a new or revised tariff filed pursuant to section 204(a)(3) of the Act made on 7 days notice shall be filed and served within 2 days after the date the petition is filed with the Commission.

* * * * *

(3) *Copies, service.* An original and four copies of each reply shall be filed with the Commission, as follows: the original and three copies must be filed with the Secretary, FCC room 222, 1919 M Street, NW., Washington, DC 20554; one copy must be delivered directly to the Commission's Copy contractor, International Transcription Service, Inc., 2100 M St., NW/. Suite 140, Washington, DC. Additional separate copies shall be served simultaneously upon the Chief, Common Carrier Bureau; the Chief, Competitive Division; and the Chief, Tariff and Price Analysis Branch of the Competitive Pricing Division and the petitioner. Replies to petitions seeking investigation, suspension, or rejection of a new or revised tariff made on 15 days or less notice shall be served on petitioners personally or via facsimile. Replies to petitions seeking investigation, suspension, or rejection of a new or revised tariff made on more than 15 days notice may be served upon petitioner personally, by mail or via facsimile.

PART 61—TARIFFS

3. The authority citation for part 61 continues to read as follows:

Authority: Sections 1, 4(i), 4(j), 201–205, and 403 of the Communications Act of 1934, as amended; 47 U.S.C. 151, 154(i), 154(j), 201–205, and 403, unless otherwise noted.

4. Section 61.3(s) is revised to read as follows:

§ 61.3 Definitions.

* * * * *

(s) *Local Exchange Carrier.* Any person that is engaged in the provision of telephone exchange service or exchange access as defined in section 3(26) of the Act.

* * * * *

5. In section 61.33, paragraphs (d), (e), (f), and (g) are redesignated as paragraphs (e), (f), (g), and (h), new paragraph (d) is added and newly redesignated paragraph (e) is revised to read as follows:

§ 61.33 Letters of transmittal.

* * * * *

(d) Tariffs filed pursuant to section 204(a)(3) of the Communications Act

shall display prominently in the upper right hand corner of the letter of transmittal a statement that the filing is made pursuant to that section and whether it is being filed on 7- or 15-days' notice.

(e) In addition to the requirements set forth in paragraph (a) of this section, any carrier filing a new or revised tariff made on 15 days' notice or less shall include in the letter of transmittal, the name, room number, street address, telephone number, and facsimile number of the individual designated by the filing carrier to receive personal or facsimile service of petitions against the filing as required under § 1.773(a)(4) of this chapter.

6. Section 61.49 is amended by adding new paragraph (l) to read as follows:

§ 61.49 Supporting information to be submitted with letters of transmittal for tariffs of carriers subject to price cap regulation.

* * * * *

(l) In accordance with §§ 61.41 through 61.49, local exchange carriers subject to price cap regulation that elect to file their annual access tariff pursuant to section 204(a)(3) of the Communications Act shall submit supporting material for their interstate annual access tariffs, absent rate information, 90 days prior to July 1 of each year.

7. New section 61.51 is added to part 61 under the heading ''Specific Rules for Tariff Publications'' to read as follows:

§ 61.51 LEC tariff filings requirements pursuant to section 204(a)(3) of the Communications Act.

(a) Local exchange carriers may file tariffs pursuant to section 204(a)(3) of the Communications Act. Such tariffs shall be filed in accordance with the notice periods set forth in § 61.58(d).

(b) Local exchange carriers may elect not to file any tariffs pursuant to section 204(a)(3) of the Communications Act that may be eligible for filing under that section. Any such tariffs not filed pursuant to section 204(a)(3) of the Communications Act shall be filed in accordance with the notice requirements of §§ 61.23 and 61.58.

(c) Local exchange carrier tariff filings pursuant to section 204(a)(3) must comply with the requirements of §§ 61.38, 61.39, and 61.41 through 61.50.

(d) Local exchange carriers subject to price cap regulation that elect to file their annual access tariff pursuant to section 204(a)(3) of the Communications Act shall submit support material for their interstate annual access tariffs, in accordance with § 61.49(l).

8. Section 61.52 is amended by adding new paragraph (c) to read as follows:

§ 61.52 Form, size, type, legibility, etc.

* * * * *

(c) Local exchange carriers shall file all tariff publications and associated documents, such as transmittal letters, requests for special permission, and cost support documents, electronically in accordance with the requirements established by the Chief, Common Carrier Bureau.

9. Section 61.58 is amended by revising paragraph (a)(2), redesignating paragraphs (d) and (e) as paragraphs (e) and (f), and adding new paragraph (d) to read as follows:

§ 61.58 Notice requirements.

(a) * * *

(2) Except for tariffs filed pursuant to section 204(a)(3) of the Communications Act, the Chief, Common Carrier Bureau, may require the deferral of the effective date of any tariff filing made on less than 120-days' notice, so as to provide for a maximum of 120-days' notice, or of such other maximum period of notice permitted by section 203(b) of the Communications Act, regardless of whether petitions under § 1.773 of this chapter have been filed.

* * * * *

(d) *Tariffs filed pursuant to section 204(a)(3) of the Communications Act.* Local exchange carriers filing tariffs pursuant to section 204(a)(3) of the Communications Act may file the tariff on 7-days' notice if it proposes only rate decreases. Any other tariff filed pursuant to section 204(a)(3) of the Communications Act, including those that propose a rate increase or any change in terms and conditions of service other than a rate change, shall be filed on 15-days' notice.

[FR Doc. 97–3113 Filed 2–6–97; 8:45 am]

BILLING CODE 6712–01–P

47 CFR Part 73

[MM Docket No. 93–316, RM–8403, RM–8576]

Radio Broadcasting Services; Douglas, Tifton and Unionville, GA

AGENCY: Federal Communications Commission.

ACTION: Final rule; petition for reconsideration.

SUMMARY: This document denies the petition for reconsideration filed by Tifton Broadcasting Corporation and affirms our action in the *Report and Order* 60 FR 37597 (July 21, 1995) which substituted Channel 223C3 for Channel 223A at Douglas, Georgia, reallotted Channel 223C3 from Douglas to Tifton, Georgia, and modified the construction permit for Station WKZZ(FM) accordingly. With this action, this proceeding is terminated.

EFFECTIVE DATE: February 7, 1997.

FOR FURTHER INFORMATION CONTACT: Authur D. Scrutchins, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Memorandum Opinion and Order,* MM Docket No. 93–316, adopted January 24, 1997 and released January 31, 1997. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Roomm 239), 1919 M St, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, Inc., (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Douglas W. Webbink,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 97–3118 Filed 2–6–97; 8:45 am]

BILLING CODE 6712–01–F

47 CFR Part 73

[MM Docket No. 96–209; RM–8885]

Radio Broadcasting Services; Belview, MN

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Action in this document allots Channel 290A to Belview, Minnesota, as that community's first local broadcast service in response to a petition filed by Harbor Broadcasting, Inc. *See* 61 FR 55124, October 24, 1996. The coordinates for Channel 290A at Belview are 44–42–08 and 95–14–46. There is a site restriction 12.4 kilometers (7.7 miles) northeast of the community. With this action, this proceeding is terminated.

DATES: Effective March 17, 1997. The window period for filing applications for Channel 290A at Belview, Minnesota, will open on March 17, 1997, and close on April 17, 1997.

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

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 96–209, adopted January 24, 1997, and released January 31, 1997. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Center (Room 239), 1919 M Street, NW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Services, Inc., 2100 M Street, NW., Suite 140, Washington, DC. 20037, (202) 857–3800.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

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

47 CFR PART 73—[AMENDED]

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

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

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Minnesota, is amended by adding Belview, Channel 290A.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 97–3115 Filed 2–6–97; 8:45 am]

BILLING CODE 6712–01–F

DEPARTMENT OF DEFENSE

48 CFR Parts 212, 225, 244, and 252

[DFARS Case 96–D333]

Defense Federal Acquisition Regulation Supplement; Application of Berry Amendment

AGENCY: Department of Defense (DoD).

ACTION: Interim rule with request for comments.

SUMMARY: The Director of Defense Procurement has issued an interim rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to implement Section 8109 of the National Defense Appropriations Act for Fiscal Year 1997. Section 8109 provides that, in applying the Berry Amendment (10 U.S.C. 2241 note), the term ''synthetic fabric and coated synthetic fabric'' shall be deemed to include all textile fibers and yarns that are for use in such fabrics; and that the domestic source restrictions of the Berry Amendment shall apply to contracts and subcontracts for the procurement of commercial items.

DATE: *Effective date:* February 7, 1997.

Comment date: Comments on the interim rule should be submitted in writing to the address shown below on or before April 8, 1997, to be considered in the formulation of the final rule.

ADDRESSES: Interested parties should submit written comments to: Defense Acquisition Regulations Council, Attn: Ms. Amy Williams, PDUSD (A&T) DP (DAR), IMD 3D139, 3062 Defense Pentagon, Washington, DC 20301–3062. Telefax number (703) 602–0350. Please cite DFARS Case 96–D333 in all correspondence related to this issue.

FOR FURTHER INFORMATION CONTACT: Ms. Amy Williams, (703) 602–0131.

SUPPLEMENTARY INFORMATION:

A. Background

This interim rule amends the DFARS to implement Section 8109 of the National Defense Appropriations Act for Fiscal Year 1997 (Pub. L. 104–208). This rule extends the application of the Berry Amendment domestic source restrictions to textile fibers and yarns that are for use in synthetic fabric and coated synthetic fabric; requires flowdown of the Berry Amendment restrictions to subcontracts for the procurement of commercial items; and clarifies the application of Berry Amendment restrictions through the use of Federal supply classification codes.

B. Regulatory Flexibility Act

This interim rule is expected to have a significant positive economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.* An Initial Regulatory Flexibility Analysis has been prepared and is summarized as follows:

This interim rule amends the DFARS to implement Section 8109 of the National Defense Appropriations Act for Fiscal Year 1997 (Pub. L. 104–208). The aspect of the rule that is expected to benefit small entities is the requirement for flowdown of the Berry Amendment restrictions to subcontracts for the procurement of commercial items. In particular, this rule will lessen foreign competition in commercial subcontracts for the acquisition of items containing cotton and other natural fiber products or wool (whether in the form of fiber or yarn or contained in fabrics, materials, or manufactured articles); woven silk or woven silk blends; spun silk yarn for cartridge cloth; canvas products; and certain specialty metals. Statistics are not readily available pertaining to the number of subcontracts for the acquisition of such items awarded to small entities under DoD prime contracts. This rule contains no new reporting, recordkeeping, or other compliance requirements for large or small entities; and does not duplicate, overlap, or conflict with any other Federal rules. The rule is expected to have a positive impact on domestic sources of certain commodities and, therefore, applies equally to both large and small entities. There are no practical alternatives that will meet the statutory requirements implemented in this rule.

A copy of the Initial Regulatory Flexibility Analysis has been submitted to the Chief Counsel for Advocacy of the Small Business Administration. Interested parties may obtain a copy of the analysis from the address specified herein. Comments are invited from small businesses and other interested parties. Comments from small entities concerning the affected DFARS subparts also will be considered in accordance with 5 U.S.C. 610. Such comments should be submitted separately and should cite DFARS Case 96–D333 in correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because this interim rule does not contain any information collection requirements that require approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

D. Determination to Issue an Interim Rule

A determination has been made under the authority of the Secretary of Defense that urgent and compelling reasons exist to publish this interim rule prior to affording the public an opportunity to comment. This action is necessary because Section 8109 of the National Defense Appropriations Act for Fiscal Year 1997 (Pub. L. 104–208) was effective upon enactment on September 30, 1996. Comments received in response to the publication of this interim rule will be considered in formulating the final rule.

List of Subjects in 48 CFR Parts 212, 225, 244, and 252

Government procurement.

Michele P. Peterson,

Executive Editor, Defense Acquisition Regulations Council.

Therefore, 48 CFR Parts 212, 225, 244, and 252 are amended as follows:

1. The authority citation for 48 CFR Parts 212, 225, 244, and 252 continues to read as follows:

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

PART 212—ACQUISITION OF COMMERCIAL ITEMS

1a. The heading for part 212 is revised to read as set forth above.

212.504 [Amended]

2. Section 212.504 is amended by removing and reserving paragraph (a)(i).

PART 225—FOREIGN ACQUISITION

3. Section 225.70002–1 is amended by revising the introductory text of paragraph (a) and paragraphs (a)(7) and (a)(9) to read as follows:

225.7002–1 Restrictions.

(a) In accordance with Section 9005 of Public Law 102–396, as amended (10 U.S.C. 2241 note, Limitations on Food, Clothing, and Specialty Metals Not Produced in the United States), and Section 8109 of Public Law 104–208, do not acquire supplies consisting in whole or in part of any of the following, that have not been grown or produced in the United States or its possessions—

* * * * *

(7) Synthetic fabric or coated synthetic fabric, including all textile fibers and yarns that are for use in such fabrics;

* * * * *

(9) Any item of individual equipment (Federal Supply Classification 8465) manufactured from or containing any of the listed fibers, yarns, fabrics, or materials.

* * * * *

4. Section 225.7002–2 is amended by revising paragraphs (e) and (j) to read as follows:

225.7002–2 Exceptions.

* * * * *

(e) Acquisitions not exceeding the simplified acquisition threshold.

* * * * *

(j) Purchase of fibers and yarns that are for use in synthetic fabric or coated synthetic fabric, if such fabric is to be used as a component of an end item not classified in Federal Supply Group 83, Textile/leather/furs/apparel/findings/tents/flags, or Federal Supply Group 84, Clothing, Individual Equipment and Insignia.

PART 244—SUBCONTRACTING POLICIES AND PROCEDURES

5. Subpart 244.4 is added to read as follows:

Subpart 244.4—Subcontracts for Commercial Items and Commercial Components

Sec.
244.403 Contract clause.

Subpart 244.4—Subcontracts for Commercial Items and Commercial Components

244.403 Contract clause.

Use the clause at 252.244–7000, Subcontracts for Commercial Items and Commercial Components (DoD Contracts), in solicitations and contract for supplies or services other than commercial items, that contain the clause at 252.225–7014, Preference for Domestic Specialty Metals, Alternate I.

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

6. Section 252.212–7001 is amended by revising the clause date to read ''(FEB 1997)''; and by adding paragraph (c) to the clause to read as follows:

252.212–7001 Contract terms and conditions required to implement statutes or Executive Orders applicable to Defense acquisitions of commercial items.

* * * * *

(c) In addition to the clauses listed in paragraph (e) of the Contract Terms and Conditions Required to Implement Statutes or Executive Orders-Commercial Items clause of this contract, the Contractor shall include the terms of the following clause, if applicable, in subcontracts for commercial items or commercial components, awarded at any tier under this contract:

252.225–7014, Preference for Domestic Specialty Metals, Alternate I (10 U.S.C. 2241 note).

(End of clause)

7. Section 252.225–7012 is amended by revising the clause date to read ''(FEB 1997)''; and by revising paragraphs (a)(7), (a)(10), and (b)(4) of the clause to read as follows:

252.225–7012 Preference for certain domestic commodities.

* * * * *

(a) * * *

(7) Synthetic fabric, and coated synthetic fabric, including all textile fibers and yarns that are for use in such fabrics;

* * * * *

(10) Any item of individual equipment (Federal Supply Classification 8465) manufactured from or containing such fibers, yarns, fabrics, or materials.

(b) * * *

(4) To purchases of fibers and yarns that are for use in synthetic fabric or coated synthetic fabric, if such fabric is to be used as a component of an end item not classified in Federal Supply Group 83, Textile/leather/furs/apparel/findings/tents/flags, or Federal Supply Group 84, Clothing, Individual Equipment and Insignia.

(End of clause)

8. Section 252.225–7014 is amended by revising the clause date to read ''(FEB 1997)''; and by revising paragraph (c)(4) of the clause and Alternate I to read as follows:

252.225–7014 Preference for domestic specialty metals.

* * * * *

(c) * * *

(4) The specialty metal is purchased by a subcontractor at any tier.

(End of clause)

Alternate I (Feb 1997)

As prescribed in 225.7002–3(b), substitute the following paragraph (c) for paragraph (c) of the basic clause, and add the following paragraph (d) to the basic clause:

(c) This clause does not apply to the extent that—

(1) The Secretary or designee determines that a satisfactory quality and sufficient quantity of such articles cannot be acquired when needed at U.S. market prices;

(2) The acquisition is for an end product of a country listed in subsection 225.872–1 of the Defense Federal Acquisition Regulation Supplement; or

(3) The acquisition is necessary to comply with agreements with foreign governments requiring the United States to purchase supplies from foreign sources to offset sales made by the U.S. Government or U.S. firms under approved programs.

(d) The Contractor agrees to include the terms of this clause, including this paragraph (d), in every subcontract or purchase order awarded under this contract unless the item being purchased contains no specialty metals.

9. Section 252.244–7000 is added to read as follows:

252.244–7000 Subcontracts for commercial items and commercial components (DoD contracts).

As prescribed in 244.403, use the following clause:

Subcontracts for Commercial Items and Commercial Components (DoD Contracts) (Feb 1997)

In addition to the clauses listed in paragraph (c) of the Subcontracts for Commercial Items and Commercial Components clause of this contract, the Contractor shall include the terms of the following clause, if applicable, in subcontracts for commercial items or commercial components, awarded at any tier under this contract:

252.225–7014, Preference for Domestic Specialty Metals, Alternate I (10 U.S.C. 2241 note).

(End of clause)

[FR Doc. 97–3019 Filed 2–6–97; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 961114318–6318–01; I.D. 020397F]

Fisheries of the Exclusive Economic Zone Off Alaska; Atka Mackerel in the Eastern Aleutian District and Bering Sea Subarea of the Bering Sea and Aleutian Islands

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

ACTION: Closure.

SUMMARY: NMFS is prohibiting directed fishing for Atka mackerel in the Eastern Aleutian District and the Bering Sea Subarea of the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to prevent exceeding the 1997 interim specifications of Atka mackerel in these areas.

EFFECTIVE DATE: 1200 hrs, Alaska local time (A.l.t.), February 4, 1997, until 2400 hrs, A.l.t., December 31, 1997.

FOR FURTHER INFORMATION CONTACT: Andrew Smoker, 907–586-7228.

SUPPLEMENTARY INFORMATION: The groundfish fishery in the BSAI exclusive economic zone is managed by the NMFS according to the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Fishing by U.S. vessels is governed by regulations implementing the FMP at Subpart H of 50 CFR parts 600 and 679.

The 1997 interim specifications of Atka mackerel total allowable catch for the Eastern Aleutian District and the Bering Sea Subarea was established by Interim 1997 Harvest Specifications (61 FR 60044, November 26, 1996) for the BSAI as 3,187 metric tons (mt). See § 679.20(c)(2)(ii).

In accordance with § 679.20(d)(1), the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that the 1997 interim specification for Atka mackerel in the Eastern Aleutian District and the Bering Sea Subarea soon will be reached. Therefore, the Regional Administrator is establishing a directed fishing allowance of 2,587 mt, and is setting aside the remaining 600 mt as bycatch to support other anticipated groundfish fisheries. In accordance with § 679.20(d)(1)(iii), the Regional Administrator finds that this directed fishing allowance soon will be reached. Consequently, NMFS is prohibiting directed fishing for Atka mackerel in the Eastern Aleutian District and the Bering Sea Subarea.

Maximum retainable bycatch amounts for applicable gear types may be found in the regulations at § 679.20(e).

Classification

This action is required by § 679.20 and is exempt from review under E.O. 12866.

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

Dated: February 3, 1997.

Bruce Morehead,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 97–3089 Filed 2–4–97; 3:52 pm]

BILLING CODE 3510–22–F

50 CFR Part 679

[Docket No. 961126333–6333–01; I.D. 020397D]

Fisheries of the Exclusive Economic Zone Off Alaska; Pollock in Statistical Area 630

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

ACTION: Closure.

SUMMARY: NMFS is prohibiting the directed fishery for pollock in Statistical Area 630 in the Gulf of Alaska (GOA). This action is necessary to prevent exceeding the interim specification for pollock in this area.

EFFECTIVE DATE: 1200 hrs, Alaska local time (A.l.t.), February 4, 1997, until superseded by the Final 1997 Harvest Specifications for groundfish.

FOR FURTHER INFORMATION CONTACT: Thomas Pearson, 907–486-6919.

SUPPLEMENTARY INFORMATION: The groundfish fishery in the GOA exclusive economic zone is managed by NMFS according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Fishing by U.S. vessels is governed by regulations implementing the FMP at subpart H of 50 CFR 600 and 50 CFR part 679.

The interim specification of pollock total allowable catch in Statistical Area 630 was established by Interim 1997 Harvest Specifications (61 FR 64299, December 4, 1996) as 4,875 metric tons (mt), determined in accordance with § 679.20(c)(2)(i).

In accordance with § 679.20(d)(1)(i), the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that the 1997 interim specification of pollock in Statistical Area 630 soon will be reached. Therefore, the Regional Administrator is establishing a directed fishing allowance of 4,675 mt, and is setting aside the remaining 200 mt as bycatch to support other anticipated groundfish fisheries. In accordance with § 679.20(d)(1)(iii), the Regional Administrator finds that this directed fishing allowance will soon be reached. Consequently, NMFS is prohibiting directed fishing for pollock in Statistical Area 630 until superseded by the Final 1997 Harvest Specifications of Groundfish.

Maximum retainable bycatch amounts for applicable gear types may be found in the regulations at § 679.20(e).

Classification

This action is required by 50 CFR 679.20 and is exempt from review under E.O. 12866.

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

Dated: February 3, 1997.

Bruce Morehead,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 97–3088 Filed 2–4–97; 3:52 pm]

BILLING CODE 3510–22–F

Proposed Rules

Federal Register
Vol. 62, No. 26
Friday, February 7, 1997

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

DEPARTMENT OF ENERGY

Office of Energy Efficiency and Renewable Energy

10 CFR Part 430

[Docket No. EE–RM–97–500]

RIN 1904–AA75

Energy Conservation Program for Consumer Products: Public Workshop on Revised Life Cycle Cost and Engineering Analysis of Fluorescent Lamp Ballasts

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

ACTION: Notice of availability and public workshop.

SUMMARY: The Department of Energy (the Department or DOE) today gives notice that copies of the ''Revised Draft Report on Potential Impact of Possible Energy Efficiency Levels for Fluorescent Lamp Ballasts,'' and ''Summary Report of Interviews'' are available for review and comment. In addition, the Department will hold a public workshop to discuss the reports and other relevant topics pertaining to possible revised energy efficiency levels for fluorescent lamp ballasts.

DATES: Written comments in response to this notice must be received by April 1, 1997. The public workshop will be held on Tuesday, March 18, 1997, from 9:30 a.m. to 4:30 p.m.

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

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

The workshop will be held at the U.S. Department of Energy, Forrestal Building, Room 1E–245, 1000 Independence Avenue, SW, Washington, DC 20585.

FOR FURTHER INFORMATION CONTACT:

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

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

SUPPLEMENTARY INFORMATION: The Department of Energy has initiated an extensive standards rulemaking process improvement effort to expedite and improve the procedures for developing appliance efficiency standards. This effort includes priority setting for various products, and the Department has determined that the fluorescent lamp ballast standards rulemaking be assigned a ''High Priority.'' The new process is described in the July 15, 1996, Federal Register, and includes a planning and prioritization process, data collection and analysis, and decision making criteria. (61 FR 36973).

The Department is making available the following documents: ''Revised Draft Report on Potential Impact of Possible Energy Efficiency Levels for Fluorescent Lamp Ballasts,'' and ''Summary Report of Interviews.'' The revised analysis of energy efficiency levels identifies product categories and includes life cycle cost (LCC) and engineering analyses of the options being considered as potential standards levels for ballasts. The report is a revision of a February 1996 report and incorporates comments from the June 1996 workshop and stakeholder interviews. The interview summary report contains summaries of discussions that DOE held with manufacturers and other interested parties regarding technical, economic and ballast industry issues.

In order to determine how to proceed with a rulemaking concerning standards for fluorescent lamp ballasts, the Department is taking steps consistent with the new process for developing efficiency standards. To obtain information from stakeholders and interested parties relative to the revised LCC and engineering analyses, the interview summaries, and other relevant topics pertaining to the energy efficiency levels for fluorescent lamp ballasts, a workshop will be held on Tuesday, March 18, 1997. The workshop will be held at the U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585–0121 in Room 1E–245 from 9:30 a.m. to 4:30 p.m. In addition, the Department invites the submission of written comments on the Draft Report and on the Report of Interviews.

The tentative list of major topics for discussion at the workshop is as follows:

A. The Life Cycle Cost (LCC) discussion will focus on the comparison of the LCC for:
   1. Energy Efficient Magnetic (EEM) Ballasts v. Cathode Cutout Ballasts
   2. EEM Ballasts v. Electronic Rapid Start Ballasts

B. The Engineering Analysis discussion will focus on:
   1. Ballast Life
   2. Ballast Prices
   3. Energy Prices

C. The Interviews discussion will focus on how DOE will use the qualitative data it has gathered.

The Department will use the information in the revised draft report, the stakeholder interviews, comments from the workshop, and written comments to guide its approach to development of new efficiency standards for fluorescent lamp ballasts.

Copies of the two above mentioned reports and this notice are available in the DOE Freedom of Information Reading Room. A copy of the workshop transcript and comments received will be available in the DOE public reading room.

Please notify Sandy Beall at the above address of your intention to attend the workshop or if you have written comments.

Issued in Washington, DC on January 31, 1997.

Christine A. Ervin,

Assistant Secretary, Energy Efficiency and Renewable Energy.

[FR Doc. 97–3063 Filed 2–6–97; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 96–NM–260–AD]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 747–100, –200, –300, and –400 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Boeing Model 747–100, –200, –300, and –400 series airplanes. This proposal would require a one-time visual inspection to determine the part number of the fuel shutoff valve installed in the outboard engines. The proposed AD also would require replacement of certain valves with new valves, or modification of the spar valve body assembly, and various follow-on actions. This proposal is prompted by reports indicating that, due to high fuel pressure, certain fuel system components of the outboard engines have failed on in-service airplanes. The actions specified by the proposed AD are intended to prevent such high fuel pressure, which could result in failure of the fuel system components; this situation could result in fuel leakage and, consequently, lead to an engine fire.

DATES: Comments must be received by March 20, 1997.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 96–NM–260–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207; or ITT Aerospace Controls, 28150 Industry Drive, Valencia, California 91355. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Sulmo Mariano, Aerospace Engineer, Propulsion Branch, ANM–140S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington; telephone (206) 227–2686; fax (206) 227–1181.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 96–NM–260–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 96–NM–260–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The FAA has received several reports indicating that, due to high fuel pressure, the fuel system components of the outboard engines have failed on Boeing Model 747 series airplanes:

1. Four incidents on airplanes powered by General Electric engines in which the fuel pump inlet of the engine was found to be cracked.

2. Two incidents on airplanes powered by Rolls Royce engines, in which the low pressure fuel filter housing on the engine was found to be cracked.

3. Two incidents on airplanes powered by Rolls Royce engines, in which the fuel cooled oil cooler on the engine was found to be ruptured.

The existing design of the fuel shutoff spar valve installed on certain Model 747 series airplanes powered by General Electric and Rolls Royce engines can cause high pressure to occur in the fuel line. High fuel pressure can occur after the fuel shutoff spar valve and the engine fuel shutoff valve are closed during engine shutdown. This can result in heating of the trapped fuel and, because these valves are closed, the pressure created from the heating process is not released.

High fuel pressure could result in failure of the fuel system components. If any of these components fails, the resultant fuel leakage could result in a possible engine fire.

Explanation of Relevant Service Information

The FAA has reviewed and approved Boeing Alert Service Bulletin 747–28A2199, dated August 1, 1996. The alert service bulletin describes procedures for performing a visual inspection to determine the part number of the fuel shutoff valve installed in the left and right-hand outboard engines; and replacement of certain valves with new valves and various follow-on actions, if necessary. [These follow-on actions include aligning valve(s), performing a check to detect leaks, and correcting any discrepancy.] The new fuel shutoff valve will ensure that the fuel pressure is released at 55–70 pounds per square inch gauge (p.s.i.g.).

The FAA has also reviewed and approved ITT Service Bulletins SB125120–28–01, SB107970–28–01, and SB125334–28–01; all dated July 15, 1996. These service bulletins describe procedures for modification of the spar valve body assembly. The modifications involve replacement of the thermal relief valves located in the valve disc with new thermal relief valves. Back pressure on the thermal relief valve can cause the valves to open at a higher pressure than desired. Accomplishment of these modifications will reduce the opening pressure of the thermal relief valves.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would require a one-time visual inspection to verify if the proper fuel shutoff valve is installed in the left and right-hand outboard engines. The proposed AD also would require replacement of any improper valve with a new valve or modification of the spar valve body assembly, and various follow-on actions. The actions would be required to be accomplished in accordance with the service bulletins described previously.

The FAA also has determined that, following accomplishment of the proposed visual inspection and replacement or modifications, a one-time inspection to detect fuel leaks of the components between the fuel shutoff spar valve and the engine fuel shutoff valve to ascertain the integrity of these components is necessary. This proposed AD would require that this one-time inspection for leakage be accomplished and that any discrepant part be replaced with a serviceable part. These actions would be required to be accomplished in accordance with the applicable section that pertains to Rolls Royce RB211 series engines or General Electric CF6–80C and CF6–45/50 series engines in Chapter 71 of the Boeing 747 Airplane Maintenance Manual (AMM).

Cost Impact

There are approximately 418 Boeing Model 747–100, –200, –300, and –400 series airplanes of the affected design in the worldwide fleet. The FAA estimates that 24 airplanes of U.S. registry would be affected by this proposed AD.

It would take approximately 4 work hours per airplane to accomplish the proposed one-time visual inspection to determine the part number of the valve, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the visual proposed by this AD on U.S. operators is estimated to be $5,760, or $240 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

Should an operator elect to modify the valve body assembly of the fuel system rather than replace a discrepant valve, it would take approximately 20 work hours per airplane, at an average labor rate of $60 per work hour. Required parts would cost approximately $404 (2 kits) per airplane. Based on these figures, the cost impact of any necessary modification action is estimated to be $1,604 per airplane.

Should an operator be required to accomplish the necessary one-time inspection to detect leaks and cracks (after replacement of the valve or modification of the assembly), it would take approximately 16 work hours per airplane, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of this one-time inspection is estimated to be $960 per airplane.

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Boeing: Docket 96–NM–260–AD.

Applicability: Model 747–100, –200, –300, and –400 series airplanes, having line numbers 001 through 1006, inclusive, and powered by General Electric or Rolls Royce engines; certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent high fuel pressure in components between the fuel shutoff spar valve and the engine fuel shutoff valve, which could result in failure of the fuel system components, lead to fuel leakage, and, consequently, lead to a possible engine fire, accomplish the following:

(a) Within 12 months after the effective date of this AD, perform a one-time visual inspection to determine the part number of the fuel shutoff valve installed in the left- and right-hand outboard engines, in accordance with Boeing Alert Service Bulletin 747–28A2199, dated August 1, 1996.

(1) If a valve having P/N S343T003–40 (ITT P/N 125334D–1) is installed, no further action is required by this AD.

(2) If a valve having P/N S343T003–40 (ITT P/N 125334D–1) is not installed, prior to further flight, accomplish either paragraph (a)(2)(i) or (a)(2)(ii) of this AD.

(i) Replace the valve with a new valve, in accordance with the alert service bulletin. Prior to further flight following accomplishment of the replacement, align the valve(s), perform a check to detect leaks, and correct any discrepancy, in accordance with the alert service bulletin. Or

(ii) Modify the valve body assembly of the fuel system in accordance with ITT Service Bulletin SB125120–28–01, ITT Service Bulletin SB107970–28–01, and ITT Service Bulletin SB125334–28–01; all dated July 15, 1996.

(b) Prior to further flight following accomplishment of paragraph (a)(2) of this AD, perform a one-time inspection to detect fuel leaks of the components between the fuel shutoff spar valve and the engine fuel shutoff valve on all four engines, in accordance with the applicable section that pertains to Rolls Royce RB211 series engines or General Electric CF6–80C and CF6–45/50 series engines in Chapter 71 of the Boeing 747 Airplane Maintenance Manual (AMM). If

any leak is detected, prior to further flight, replace the part with a serviceable part.

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

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

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

Issued in Renton, Washington, on January 31, 1997.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 97–3029 Filed 2–6–97; 8:45 am]

BILLING CODE 4910–13–P

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14 CFR Part 39

[Docket No. 96–NM–137–AD]

RIN 2120–AA64

Airworthiness Directives; Construcciones Aeronauticas, S.A. (CASA) Model CN–235 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain CASA Model CN–235 series airplanes. This proposal would require repetitive inspections of the torsion tubes and fittings of the elevator and rudder assemblies to detect stress corrosion cracking, and replacement of cracked parts. This proposed action also would require the accomplishment of a modification that would constitute terminating action for the repetitive inspections. This proposal is prompted by reports indicating that stress corrosion cracking in these parts has been found on some airplanes. The actions specified by the proposed AD are intended to prevent loss of control of the elevator and/or rudder, due to failure of the elevator and/or rudder assemblies as a result of stress corrosion cracking.

DATES: Comments must be received by March 20, 1997.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 96–NM–137–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Construcciones Aeronauticas, S.A., Getafe, Madrid, Spain. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Greg Dunn, Aerospace Engineer, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (206) 227–2799; fax (206) 227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 96–NM–137–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 96–NM–137–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The Dirección General de Aviación (DGAC), which is the airworthiness authority for Spain, has notified the FAA that an unsafe condition may exist on certain CASA Model CN–235 series airplanes. The DGAC advises that it has received reports indicating that stress corrosion cracks were detected in the torsion tubes and fittings of the elevator and rudder assemblies on some of these airplanes. This condition, if not corrected, could result in failure of these assemblies and subsequent loss of control of the elevator and/or rudder.

Explanation of Relevant Service Information

CASA has issued Service Bulletin SB–235–27–05, Revision 1, dated September 29, 1993 (for non-military airplanes), and Service Bulletin SB–235–27–05M, Revision 2, dated January 25, 1996 (for military airplanes). These service bulletins describe procedures for conducting repetitive visual inspections of the torsion tubes for the rudder and elevator to detect stress corrosion cracking, and replacement of discrepant tubes with tubes of a new design. Installation of the newly-designed torsion tubes is intended to preclude stress corrosion cracking and eliminates the need for repetitive visual inspections.

The DGAC classified Service Bulletin SB–235–27–05 (for non-military airplanes) as mandatory and issued Spanish airworthiness directive 06/94, dated August 1994, in order to assure the continued airworthiness of these airplanes in Spain. The DGAC classified Service Bulletin SB–235–27–05M (for military airplanes) as ''recommended.''

FAA's Conclusions

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

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design, the proposed AD would require repetitive visual inspections of the torsion tubes and fittings of the rudder and elevator assemblies to detect stress corrosion cracking, and replacement of discrepant parts. This proposed AD also would require the eventual installation of newly-designed torsion tubes assemblies on all airplanes, which, when accomplished, would constitute terminating action for the required inspections. The actions would be required to be accomplished in accordance with the applicable service bulletin described previously.

Differences Between Proposed AD and Parallel Spanish Action

Operators should note that the Spanish DGAC has not mandated the accomplishment of the terminating modification; however, this AD proposes to require it.

The FAA has determined that long term continued operational safety will be better assured by design changes to remove the source of the problem, rather than by repetitive inspections. Long term inspections may not be providing the degree of safety assurance necessary for the transport airplane fleet. This, coupled with a better understanding of the human factors associated with numerous continual inspections, has led the FAA to consider placing less emphasis on inspections and more emphasis on design improvements. The proposed modification requirement is in consonance with these considerations.

Cost Impact

The FAA estimates that 1 CASA Model CN–235 series airplane of U.S. registry would be affected by this proposed AD.

It would take approximately 6 work hours per airplane to accomplish each proposed visual inspection, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the proposed inspections on the single affected U.S. operator is estimated to be $360 per inspection.

It would take approximately 40 work hours to accomplish the proposed terminating modification, at an average labor rate of $60 per work hour. (The work hour figure does not include the time needed for preparation of the airplane or equipment: familiarization with the service bulletin; curing times for adhesive, sealant, paint, etc.; tool collection; or down time.) Required parts would cost approximately $8,900 per airplane. Based on these figures, the cost impact of the proposed modification on the single affected U.S. operators is estimated to be $9,140.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

CASA: Docket 96–NM–137–AD.

Applicability: Model CN–235 airplanes as listed in CASA Service Bulletin SB–235–27–05, Revision 1, dated September 29, 1993 (non-military airplanes), and CASA Service Bulletin SB–235–27–05M, Revision 2, dated January 25, 1996 (military airplanes); certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent loss of control of the elevator and/or rudder, due to failure of the elevator and/or rudder assemblies as a result of stress corrosion cracking in the torsion tubes and fittings, accomplish the following:

Note 2: Actions required by this AD that were accomplished previous to the effective date of this AD, and in accordance with earlier versions of the specified CASA service bulletins, are considered acceptable for compliance with the applicable requirements of this AD.

(a) At the applicable time specified in either paragraph (a)(1) or (a)(2) of this AD, conduct a visual inspection of the torsion (torsion) tubes on the elevator and rudder assemblies to detect stress corrosion cracking, in accordance with CASA Service Bulletin SB–235–27–05, Revision 1, dated September 29, 1993 (for non-military airplanes) or CASA Service Bulletin SB–235–27–05M, Revision 2, dated January 25, 1996 (for military airplanes), as applicable.

(1) For airplanes that have accumulated more than 600 total hours time-in-service, or more than 1,000 total landings, as of the effective date of this AD: Conduct the inspection required by paragraph (a) of this AD prior to the accumulation of 50 hours time-in-service, or 100 landings, or within 3 months, after the effective date of this AD, whichever occurs first.

(2) For all other airplanes: Conduct the inspection required by paragraph (a) of this AD prior to the accumulation of 600 total hours time-in-service, or 1,000 total landings, or within 6 months, after the effective date of this AD, whichever occurs first.

(b) If no cracking is detected during the inspection required by paragraph (a) of this AD, repeat that inspection at intervals not to exceed 600 hours time-in-service, or 1,000 landings, or 6 months, whichever occurs first.

(c) If any cracking is detected during the inspection required by paragraph (a) of this AD, prior to further flight, accomplish either paragraph (c)(1) or (c)(2) of this AD.

(1) Replace cracked parts with a new parts of the original design, in accordance with the

service bulletin. After replacement, repeat the visual inspection required by paragraph (a) of this AD at intervals not to exceed 600 hours time-in-service, or 1,000 landings, or 6 months, whichever occurs first. OR

(2) Replace cracked parts with a newly-designed parts, in accordance with CASA Service Bulletin SB–235–27–05, Revision 1, dated September 29, 1993 (for non-military airplanes); or CASA Service Bulletin SB–235–27–05M, Revision 2, dated January 25,1996 (for military airplanes); as applicable. This replacement constitutes terminating action for the repetitive visual inspections of that part required by paragraph (b) of this AD.

(d) Within 2 years after the effective date of this AD, replace all original design parts comprising the torsion tube assemblies on the elevator and rudder assemblies with newly-designed parts, in accordance with CASA Service Bulletin SB–235–27–05, Revision 1, dated September 29, 1993 (for non-military airplanes); or CASA Service Bulletin SB–235–27–05M, Revision 2, dated January 25, 1996 (for military airplanes); as applicable. This action constitutes terminating action for the inspection requirements of this AD.

(e) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Standardization Branch, ANM–113.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Standardization Branch, ANM–113.

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

Issued in Renton, Washington, on January 31, 1997.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 97–3028 Filed 2–6–97; 8:45 am]

BILLING CODE 4910–13–U

14 CFR Part 39

[Docket No. 90–CE–59–AD]

RIN 2120–AA64

Airworthiness Directives; The New Piper Aircraft, Inc. (Formerly Piper Aircraft Corporation) Models PA–31, PA-31–325, PA–31–350, PA–31P, PA–31T1, and PA–31T Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Proposed rule; withdrawal.

SUMMARY: This document withdraws a notice of proposed rulemaking (NPRM) that proposed a new airworthiness directive (AD) that would have applied to The New Piper Aircraft, Inc. (Piper) Models PA–31, PA–31–325, PA–31–350, PA–31P, PA–31T1, and PA–31T airplanes. That NPRM would have superseded AD 80–26–05 with a new AD that would have retained the requirement of repetitively inspecting the main landing gear (MLG) inboard door hinges and attachment angles for cracks, and replacing any cracked MLG inboard door hinge or attachment angle; and would have required incorporating MLG inboard door hinge and attachment angle assembly, part number (P/N) 47529–32, as terminating action for the repetitive inspection requirement. Since the issuance of the NPRM, the Federal Aviation Administration (FAA) has received reports of cracks in the P/N 47529–32 MLG inboard door hinge and attachment angle assembly, and has determined that more information and analysis is needed before hinge assembly replacements are mandated through an AD. The FAA will solicit service history and comments from affected airplane owners/operators in a separate action through an advanced notice of proposed rulemaking (ANPRM). Based on the comments, the FAA may initiate further rulemaking in the future.

FOR FURTHER INFORMATION CONTACT: Christina Marsh, Aerospace Engineer, FAA, Atlanta Aircraft Certification Office, Campus Building, 1701 Columbia Avenue, suite 2-160, College Park, Georgia 30337–2748; telephone (404) 305–7362; facsimile (404) 305–7348.

SUPPLEMENTARY INFORMATION:

Discussion

A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an AD that would apply to Piper Models PA–31, PA–31–325, PA-31–350, PA–31P, PA–31T1, and PA–31T airplanes was published in the Federal Register as a notice of proposed rulemaking (NPRM) on December 7, 1995 (60 FR 62774). The action proposed to supersede AD 80–26–05, Amendment 39–3994, with a new AD that would (1) retain the requirement of repetitively inspecting the MLG inboard door hinges and attachment angles for cracks, and replacing any cracked MLG inboard door hinge or attachment angle; and (2) require incorporating a MLG inboard door hinge and attachment angle assembly of improved design (part number 47529–32) or FAA-approved hinges and angles made of steel as terminating action for the repetitive inspection requirement. Accomplishment of the proposed inspections would be in accordance with Piper Service Bulletin (SB) No. 682, dated July 24, 1980.

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

Improved Design Hinge Assemblies Susceptible to Fatigue Cracking

The commenter believes that the improved hinge assemblies, part number (P/N) 47529–32, are also susceptible to fatigue cracking, and that installing this assembly should not eliminate the need for the repetitive inspections currently required by AD 80–26-05. The commenter states that three failures and three incidents related to fatigue cracking of the P/N 47529-32 hinge assemblies have occurred on the commenter's fleet of airplanes.

The FAA conducted a review of the manufacturer's service history and service difficulty reports in the FAA database associated with the P/N 47529–32 main landing gear hinge assembly. Based on a review of this information, including the information received from the commenter, the FAA has determined that more information and analysis is needed before hinge assembly replacements are mandated through an AD as terminating action for the repetitive inspections currently required by AD 80–26–05.

FAA's Conclusions

Upon further consideration, the FAA has determined that the NPRM should be withdrawn until further information is received and analyzed regarding the service history of P/N 47529–32 hinge assemblies. The FAA is issuing an advance notice of proposed rulemaking (ANPRM) in a separate action to provide an opportunity for the general public to participate in the decision as to what course of rulemaking the FAA should take.

Withdrawal of this NPRM constitutes only such action, and does not preclude the agency from issuing another notice in the future, nor does it commit the agency to any course of action in the future.

Regulatory Impact

Since this action only withdraws an NPRM, it is neither a proposed rule nor a final rule and, therefore, is not covered under Executive Order 12866, the Regulatory Flexibility Act, or DOT

Regulatory Policies and Procedures (44 FR 11034, February 26, 1979).

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Withdrawal

Accordingly, the notice of proposed rulemaking, Docket No. 90-CE–59-AD, published in the Federal Register on December 7, 1995 (60 FR 62774), is withdrawn.

Issued in Kansas City, Missouri, on January 31, 1997.

Michael Gallagher,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 97–3022 Filed 2–6 97; 8:45 am]

BILLING CODE 4910–13–P

14 CFR Part 135

[Docket No. 28743; Notice No. 96–14]

RIN 2120–AG22

Commercial Passenger-Carrying Operations in Single-Engine Aircraft Under Instrument Flight Rules

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking; Extension of comment period.

SUMMARY: This action extends the comment period on Notice No. 96–14, Commercial Passenger-Carrying Operations in Single-Engine Aircraft under Instrument Flight Rules from February 3, 1997 to March 3, 1997. This extension is a result of the formal request by the Joint Aviation Authorities, supported by certain trade associations, to extend the comment period. The extension will allow all interested persons additional time to comment on the rulemaking proposal.

DATES: The comment period is extended until March 3, 1997.

ADDRESSES: Comments on Notice 96–14 should be submitted in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC–200), Room 915–G, Docket No. 28743, 800 Independence Ave., SW, Washington, DC 20591. Comments must be marked Docket No. 28743. Comments also may be submitted electronically to the following Internet address: nprmcmts@faa.dot.gov. Comments may be examined in room 915G weekdays between 8:30 a.m. and 5 p.m. except on Federal holidays.

FOR FURTHER INFORMATION CONTACT: Ms. Katherine Hakala, Flight Standards Service, Federal Aviation Administration, 800 Independence Ave, SW, Washington, DC, 20591 (202) 267–8166.

SUPPLEMENTARY INFORMATION: On November 21, 1996, the Federal Aviation Administration (FAA) issued Notice No. 96–14, Commercial Passenger-Carrying Operations in Single-Engine Aircraft under Instrument Flight Rules (December 3, 1996, 61 FR 64230). Comments to this notice were to be received on or before February 3, 1997.

By letter dated January 31, 1997, the Joint Aviation Authorities (JAA) requested that the FAA extend the comment period for Notice No. 96–14 for 4 weeks. JAA stated that they are working on a similar rule and have had discussions on the proposal among the member countries. Therefore, they wished to provide a comment which was coordinated among their member countries; however they needed more time than the current comment period allowed. Thus the JAA made a request for a 4-week extension.

The FAA has determined that an extension of time to obtain the comments on the proposal from the European nations is warranted and therefore the requested extension is granted. This notice announces that 4-week extension of the comment period.

Issued in Washington, DC on February 3, 1997.

David R. Harrington,

Acting Director, Flight Standards Service.

[FR Doc. 97–3097 Filed 2–4–97; 3:52 pm]

BILLING CODE 4910–13–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 97–40, RM–8949]

Radio Broadcasting Services; Glenwood Springs, CO

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition for rule making filed on behalf of Roaring Fork Broadcasting Company requesting the allotment of Channel 238A to Glenwood Springs, Colorado, as its third local FM transmission service. Coordinates used for Channel 238A at Glenwood Springs are 39–32–36 and 107–19–18.

DATES: Comments must be filed on or before March 24, 1997, and reply comments on or before April 8, 1997.

ADDRESSES: Secretary, Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner's counsel, as follows: Henry E. Crawford, Esq., Law Offices of Henry E. Crawford, 1150 Connecticut Avenue, NW., Suite 900, Washington, DC 20036.

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

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 97–40, adopted January 24, 1997, and released January 31, 1997. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Services, Inc., 2100 M Street, NW., Suite 140, Washington, DC 20037, (202) 857–3800.

Provisions of the Regulatory Flexibility Act of l980 do not apply to this proceeding.

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

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

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 97–3122 Filed 2–6–97; 8:45 am]

BILLING CODE 6712–01–F

47 CFR Part 73

[MM Docket No. 97–38, RM–8971]

Radio Broadcasting Services; Weston, ID

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition for rule making filed on behalf of West Wind

Broadcasting requesting the allotment of Channel 240A to Weston, Idaho, as that community's first local aural transmission service. Coordinates used for Channel 240A at Weston are 42–02–18 and 111–58–48.

DATES: Comments must be filed on or before March 24, 1997, and reply comments on or before April 8, 1997.

ADDRESSES: Secretary, Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, as follows: West Wind Broadcasting, Attn: Victor A. Michael, Jr., President, c/o Magic City Media, 1912 Capitol Ave., Suite 300, Cheyenne, WY 82001.

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

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 97–38, adopted January 24, 1997, and released January 31, 1997. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Services, Inc., (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of l980 do not apply to this proceeding.

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

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

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 97–3121 Filed 2–6–97; 8:45 am]

BILLING CODE 6712–01–F

47 CFR Part 73

[MM Docket No. 97–39, RM–8905]

Radio Broadcasting Services; Driggs, ID

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition for rule making filed on behalf of Vixon Valley Broadcasting requesting the allotment of Channel 271A to Driggs, Idaho, an incorporated community, as its first local aural transmission service. Coordinates used for Channel 271A at Driggs are 43–43–36 and 111–06–18.

DATES: Comments must be filed on or before March 24, 1997, and reply comments on or before April 8, 1997.

ADDRESSES: Secretary, Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner's counsel, as follows: Henry E. Crawford, Esq., Law Offices of Henry E. Crawford, 1150 Connecticut Avenue, NW., Suite 900, Washington, DC 20036.

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

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 97–39, adopted January 24, 1997, and released January 31, 1997. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Services, Inc., (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of l980 do not apply to this proceeding.

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

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

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 97–3120 Filed 2–6–97; 8:45 am]

BILLING CODE 6712–01–F

47 CFR Part 73

[MM Docket No. 97–37, RM–8975]

Radio Broadcasting Services; Victor, ID

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition for rule making filed on behalf of West Wind Broadcasting requesting the allotment of Channel 222A to Victor, Idaho, as that community's first local aural transmission service. Coordinates used for Channel 222A at Victor are 43–36–12 and 111–06–36. See also Supplementary Information, *infra*.

DATES: Comments must be filed on or before March 24, 1997, and reply comments on or before April 8, 1997.

ADDRESSES: Secretary, Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, as follows: West Wind Broadcasting, Attn: Victor A. Michael, Jr., President, c/o Magic City Media, 1912 Capitol Ave., Suite 300, Cheyenne, WY 82001.

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

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 97–37, adopted January 24, 1997, and released January 31, 1997. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Services, Inc., (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

Channel 282A has been proposed for allotment to Victor, Idaho in the context of MM Docket No. 97–33 (RM–8937). See *Notice of Proposed Rule Making* released January 24, 1997 (DA 97–96). In the event the earlier filed proposal is ultimately granted, the instant request

could provide an additional local FM service to Victor, Idaho.

Provisions of the Regulatory Flexibility Act of l980 do not apply to this proceeding.

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

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

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 97–3124 Filed 2–6–97; 8:45 am]

BILLING CODE 6712–01–F

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47 CFR Part 73

[MM Docket No. 97–36, RM–8991]

Radio Broadcasting Services; Mendota, CA

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition for rule making filed on behalf of Mendota Broadcasting Company requesting the allotment of Channel 263A to Mendota, California, an incorporated community, as its first local aural transmission service. Coordinates used for Channel 263A at Mendota are 36–45–12 and 120–22–54.

DATES: Comments must be filed on or before March 24, 1997, and reply comments on or before April 8, 1997.

ADDRESSES: Secretary, Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner's counsel, as follows: Henry E. Crawford, Esq., Law Offices of Henry E. Crawford, 1150 Connecticut Avenue, NW., Suite 900, Washington, DC 20036.

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

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 97–36, adopted January 24, 1997, and released January 31, 1997. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Services, Inc., 2100 M Street, NW., Suite 140, Washington, DC 20037, (202) 857–3800.

Provisions of the Regulatory Flexibility Act of l980 do not apply to this proceeding.

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

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

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 97–3119 Filed 2–6–97; 8:45 am]

BILLING CODE 6712–01–F

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47 CFR Part 73

[MM Docket No. 97–43, RM–8986]

Radio Broadcasting Services; Pincomming, MI

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition filed by Queso Broadcasting Company proposing the allotment of Channel 281A to Pinconning, Michigan, as that community's second FM broadcast service. The coordinates for Channel 281A are 43–52–56 and 83–55–07. There is a site restriction 4.5 kilometers (2.8 miles) northeast of the community. Canadian concurrence will be requested for this allotment.

DATES: Comments must be filed on or before March 24, 1997, and reply comments on or before April 8, 1997.

ADDRESSES: Federal Communications Commission, Washington, DC. 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner's counsel, as follows: Henry E. Crawford, 1150 Connecticut Avenue, NW., Suite 900, Washington, D. C. 20036.

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

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 97–43, adopted January 24, 1997, and released January 31, 1997. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Services, Inc., 2100 M Street, NW., Suite 140, Washington, DC. 20037, (202) 857–3800.

Provisions of the Regulatory Flexibility Act of l980 do not apply to this proceeding.

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

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

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 97–3123 Filed 2–6–97; 8:45 am]

BILLING CODE 6712–01–F

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47 CFR Part 73

[MM Docket No. 97–42, RM–8988]

Radio Broadcasting Services; Charlevoix, MI

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition filed by Peninsula Broadcasting Company proposing the allotment of Channel 300A to Charlevoix, Michigan, as that community's second FM broadcast service. The coordinates for Channel 300A are 45–14–30 and 85–23–01. There is a site restriction 12.6

kilometers (7.8 miles) sourthwest of the community. Canadian concurrence will be requested for this allotment.

DATES: Comments must be filed on or before March 24, 1997, and reply comments on or before April 8, 1997.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner's counsel, as follows: Henry E. Crawford, 1150 Connecticut Avenue, NW., Suite 900, Washington, DC. 20036.

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

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 97–42, adopted January 24, 1997, and released January 31, 1997. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Services, Inc., 2100 M Street, NW., Suite 140, Washington, DC. 20037, (202) 857–3800.

Provisions of the Regulatory Flexibility Act of l980 do not apply to this proceeding.

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

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

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 97–3114 Filed 2–6–97; 8:45 am]

BILLING CODE 6712–01–F

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47 CFR Part 73

[MM Docket No.97–41, RM–8985]

Radio Broadcasting Services; Glen Arbor, MI

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition filed by Arborland Broadcasting Company proposing the allotment of Channel 227A to Glen Arbor, Michigan, as that community's third FM broadcast service. The coordinates for Channel 227A are 44–50–05 and 86–01–55. There is a site restriction 7.9 kilometers (4.9 miles) south of the community. Canadian concurrence will be requested for this allotment.

DATES: Comments must be filed on or before March 24, 1997, and reply comments on or before April 8, 1997.

ADDRESSES: Federal Communications Commission, Washington, DC. 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner's counsel, as follows: Henry E. Crawford, 1150 Connecticut Avenue, NW., Suite 900, Washington, DC. 20036.

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

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 97–41, adopted January 24, 1997, and released January 31, 1997. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Services, Inc., 2100 M Street, NW., Suite 140, Washington, DC. 20037, (202) 857–3800.

Provisions of the Regulatory Flexibility Act of l980 do not apply to this proceeding.

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

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

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 97–3117 Filed 2–6–97; 8:45 am]

BILLING CODE 6712–01–F

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47 CFR Part 73

[MM Docket No. 97–44; RM–8974]

Radio Broadcasting Services; Mills, WY

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition filed by Mountain Tower Broadcasting proposing the allotment of Channel 288A at Mills, Wyoming, as the community's first local aural transmission service. Channel 288A can be allotted to Mills in compliance with the Commission's minimum distance separation requirements at city reference coordinates. The coordinates for Channel 288A at Mills are North Latitude 42–50–24 and West Longitude 106–22–06.

DATES: Comments must be filed on or before March 24, 1997, and reply comments on or before April 8, 1997.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Victor A. Michael, Jr., President, Mountain Tower Broadcasting, c/o Magic City Media, 1912 Capitol Avenue, Suite 300, Cheyenne, Wyoming 82001(Petitioner).

FOR FURTHER INFORMATION CONTACT: Sharon P. McDonald, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 97–44, adopted January 24, 1997, and released January 31, 1997. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, Inc., (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

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

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments.

See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

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

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 97–3116 Filed 2–6–97; 8:45 am]

BILLING CODE 6712–01–F

DEPARTMENT OF TRANSPORTATION

Bureau of Transportation Statistics

49 CFR Ch. XI

[BTS–96–1979]

Negotiated Rulemaking Committee To Revise the Motor Carrier Financial and Operating Data Collection Program; Rescheduling of Meeting and Extension of Comment Period on Proposed Establishment

AGENCY: Bureau of Transportation Statistics (BTS), DOT.

ACTION: Notice of rescheduled meeting; Extension of comment period.

SUMMARY: On January 23, 1997, the Bureau of Transportation Statistics (BTS) published a notice in the Federal Register announcing that BTS would hold a public meeting on its proposal to establish a negotiated rulemaking committee to examine the relevant issues and attempt to reach a consensus in developing regulations governing the collection of financial and operating data from motor carriers of property. The meeting was to take place in Washington, D.C., on February 10, 1997. The notice also extended to February 28, 1997, the comment period on the proposal to establish the negotiated rulemaking committee, on the proposed membership of the Committee, and on the proposed issues for consideration by the Committee.

Due to scheduling conflicts with several people and entities that wish to participate, BTS has decided to reschedule the public meeting. The new meeting date is March 31, 1997, 9:30 am to 3:00 pm, Eastern Standard Time. In addition, BTS is further extending the comment period to April 30, 1997.

DATES: Rescheduled meeting. The meeting will be held Monday, March 31, 1997, 9:30 am to 3:00 pm, Eastern Standard Time.

Extended comment period. Interested parties may file comments and nominations for committee membership on or before April 30, 1997.

ADDRESSES: Meeting. The meeting will take place at the U.S. Department of Transportation, 400 Seventh Street, SW., Washington, D.C., in conference room 2230 of the Nassif Building. Since access to the DOT building is controlled, all persons who plan to attend the meeting must notify David Mednick on (202) 366–8871 prior to March 27. Attendance is open to the interested public but limited to space available. Persons with a disability requiring special services, such as an interpreter for the hearing impaired, should contact Mr. Mednick at least seven days prior to the meeting.

Comment Period. When sending comments and/or nominations, send the original plus three copies. Mail to Docket Clerk, Docket No. BTS–96–1979, Department of Transportation, 400 Seventh Street, SW., Room PL–401, Washington, D.C. 20590. Commenters desiring notification of receipt of comments must include a stamped, self-addressed postcard. The Docket Clerk will date stamp the postcard and mail it back to the commenter.

FOR FURTHER INFORMATION CONTACT: David Mednick, Bureau of Transportation Statistics, K–2, 400 Seventh Street, SW., Washington, D.C. 20590; by phone at (202) 366–8871; by e-mail at david.mednick@bts.gov; or by Fax at (202) 366–3640.

SUPPLEMENTARY INFORMATION:

Background

On December 9, 1996, BTS published a notice in the Federal Register proposing to establish a negotiated rulemaking advisory committee (the Committee) under the Federal Advisory Committee Act and the Negotiated Rulemaking Act. 61 FR 64849. The Committee would consider the relevant issues and attempt to reach a consensus on regulations governing the collection of financial and operating data from motor carriers of property. This effort also is in response to the President's Regulatory Reinvention Initiative, which specifically directed agencies to increase use of regulatory negotiation in rulemaking proceedings. The Committee would be composed of people who represent the interests that would be substantially affected by the rule.

On January 23, 1997, BTS published a notice in the Federal Register announcing it would hold a public meeting on the proposal on February 10, 1997. 62 FR 3492. The purpose of the meeting was to better determine the utility of negotiating a rule on this matter. While negotiated rulemaking would attempt to resolve issues surrounding the motor carrier data collection program, several initial matters deserve attention. First, do we need to amend the existing rule and, if so, is negotiated rulemaking the best process for updating the motor carrier data collection program? Second, if so, what are the core issues in dispute and differing legitimate needs of the interested parties? Third, which organizations or interests should be represented on the Committee? Because of scheduling conflicts, the original date of the public meeting is being changed. This notice reschedules that meeting and provides an extension for submitting comments on the proposal published December 19, 1996.

No Other Changes to the January 23, 1996, Notice

No other changes are made to the January 23, 1996, notice by this supplementary notice.

Issued in Washington, DC, on February 4, 1997.

Robert A. Knisely,

Deputy Director, Bureau of Transportation Statistics.

[FR Doc. 97–3168 Filed 2–5–97; 10:30 am]

BILLING CODE 4910–FE–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[I.D. 020397B]

RIN 0648–AJ23

Fisheries off West Coast States and in the Western Pacific; Pacific Coast Groundfish Fishery; Amendment 9

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; request for comments.

SUMMARY: NMFS announces that the Pacific Fishery Management Council (Council) has submitted Amendment 9 to the Pacific Coast Groundfish Fishery Management Plan for Secretarial review. Amendment 9 would require a sablefish endorsement on limited entry permits for permit holders to participate in the regular limited entry fixed gear sablefish fishery, north of 36°N. latitude (the U.S.-Vancouver, Columbia, Eureka, and Monterey management areas).

DATES: Comments on Amendment 9 must be received on or before April 8, 1997.

ADDRESSES: Comments on Amendment 9 or supporting documents should be sent to Mr. William Stelle, Administrator, Northwest Region, NMFS, Sand Point Way NE., BIN C15700, Seattle, WA 98115–0070; or to Ms. Hilda Diaz-Soltero, Administrator, Southwest Region, NMFS, 501 West Ocean Boulevard, Suite 4200, Long Beach, CA 90802–4213.

Copies of Amendment 9, the Environmental Assessment, the Regulatory Impact Review (RIR)/Initial Regulatory Flexibility Analysis (IRFA), and Fishing Impact Statement are available from Larry Six, Executive Director, Pacific Fishery Management Council, 2130 SW Fifth Ave., Suite 224, Portland, OR 97201.

FOR FURTHER INFORMATION CONTACT: William L. Robinson at 206–526–6140, Rodney McInnis at 310–980–4040, or the Pacific Fishery Management Council at 503–326–6352.

SUPPLEMENTARY INFORMATION: The Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) requires that each Regional Fishery Management Council submit any fishery management plan (FMP) or plan amendment it prepares to NMFS for review and approval, disapproval, or partial approval. The Magnuson-Stevens Act also requires that NMFS, upon receiving an FMP or amendment, immediately publish a notice that the FMP or amendment is available for public review and comment. NMFS will consider the public comments received during the comment period in determining whether to approve the FMP or amendment.

Amendment 9 would require a sablefish endorsement on limited entry permits for permit holders to participate in the regular, limited entry, nontrawl sablefish fishery north of 36°N. latitude. The Council recommended that the qualifying criteria for a sablefish endorsement be at least 16,000 lb (7,257.5 kg) of sablefish catch in any one calendar year from 1984 through 1994 based on the catch history of the limited entry permit. Limited entry, fixed gear permit holders without sablefish endorsements will still be able to participate in the small, daily trip limit fishery.

NMFS invites comments on proposed Amendment 9 through the end of the comment period. NMFS will consider the public comments received during the comment period in determining whether to approve the proposed amendment. A proposed rule to implement Amendment 9 has been submitted for Secretarial review and approval. NMFS expects to publish the proposed rule and request public comment on the proposed regulations to implement Amendment 9 in the near future. Public comments on the proposed rule must be received by April 8, 1997 to be considered in the approval/disapproval decision on Amendment 9. All comments received by April 8, 1997 whether specifically directed to Amendment 9 or the proposed rule, will be considered in the approval/disapproval decision on Amendment 9.

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

Dated: February 4, 1997.

Bruce C. Morehead,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 97–3125 Filed 2–6–97; 8:45 am]

BILLING CODE 3510–22–F

Notices

Federal Register
Vol. 62, No. 26
Friday, February 7, 1997

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

DEPARTMENT OF AGRICULTURE

Forest Service

Jericho Salvage Project; Helena National Forest, Powell County, Montana

AGENCY: Forest Service, USDA.

ACTION: Notice; intent to prepare Environmental Impact Statement.

SUMMARY: The USDA, Forest Service is gathering information and preparing an Environmental Impact Statement (EIS) for the Jericho Salvage Project located approximately 18 air miles southwest of Helena, Montana.

The Helena Ranger District of the Helena National Forest proposes to salvage winter killed and severely damaged trees on approximately 200 acres in the Sally Ann Creek drainage. This area is located west of the Continental Divide approximately eight miles southeast of Elliston, Montana (Sections 1, 2, 3, 10, 11, 12 Township 8 North, Range 6 West).

The Proposed Action includes the construction of two temporary roads to provide logging truck access to the log collection sites. The total length of the temporary road construction is about two miles. No permanent road construction is proposed.

The areas proposed for harvest are located within the Jericho Mountain Roadless Area (1607) and are located in or immediately adjacent to management areas designated by the Helena Forest Plan as suitable for timber management.

DATES: Comments concerning the scope of the analysis should be received in writing on or before March 10, 1997.

ADDRESSES: The responsible official is Denis Hart, District Ranger, Helena Ranger District, Helena National Forest, 2001 Poplar St., Helena, MT. 59601. Phone: (406) 449–5490.

FOR FURTHER INFORMATION CONTACT: Denis Hart, Helena District Ranger or Dan Mainwaring, Interdisciplinary Team Leader, Helena Ranger District, Helena National Forest, 2001 Poplar Street, Helena, MT 59601. Phone: (406) 449–5490.

SUPPLEMENTARY INFORMATION: The 200 acres of timber salvage and associated two miles of temporary road construction would occur on National Forest lands in portions of Sally Ann Creek drainage. Included in the area being analyzed is all or portions of Sections, 1, 2, 3, 10, 11, 12 Township 8 North, Range 6 West, Montana Principle Meridian.

Most of the trees in the Sally Ann Creek drainage were killed during the winter of 1989 from stress associated with a weather event in which temperatures rose from well below freezing to the mid-60's and then plunged to below the zero mark, all in the period of 24 hours.

The Proposed Action for this site includes the salvage of approximately 1 million board feet of timber and the regeneration of a new generation of trees. The District also proposes to construct 2 temporary access spurs to provide logging truck access from Forest Road #495 to the log collection sites. The total length of temporary road construction is approximately 2 miles. No new permanent road would be constructed.

The proposed harvest is within the Jericho Mountain Roadless Area. The treated sites will be planned for natural regeneration and/or planting of conifers, if necessary, to meet required regeneration goals and time frames. The proposed two miles of temporary, low standard road construction will be returned to contour and seeded to native grass species following harvest. Improvements will also be made to the main log haul route along Forest Road #495 by improving drainage and regarding the road surface.

The responsible official is the Helena District Ranger of the Helena National Forest. This responsible official will decide (1) whether dead and dying trees within the proposed project area should be harvested and, if so, how much and by what methods, (2) what mitigation measures will be needed under the selected alternative, (3) how much temporary road will be constructed and how much road improvement will be done on Forest Road #495 and, (4) how much of the temporary road will be returned to contour and seeded to native grasses.

If the decision is to implement an action alternative, salvage operations would begin as soon as the fall of 1997 and should be completed by the end of 1998. Public firewood gathering, road recontouring, and brush disposal work may extend into 1999. Other resource objectives for this site are within Forest Plan standards. All activities are designed to comply with the Forest Plan.

This EIS will tier to the Helena Forest Plan Final EIS of April 1986, that provides program goals, objectives and standards and guidelines for conducting management activities in this area. All activities associated with the proposal will be designed to maintain or enhance the resource objectives identified in the Forest Plan and further refined in the Divide Landscape Analysis.

The Forest Service is seeking information and comments from Federal, State, local agencies and other organizations or individuals who may be interested in or affected by the proposed action. The Forest Service invites written comments and suggestions on the issues for the proposal and the area being analyzed. Information received will be used in preparation of the Draft EIS. Preparation of the EIS will include (1) identification of potential issues, (2) identification of issues to be analyzed in depth, (3) elimination of issues that have been covered by a relevant previous environmental analysis, (4) identification of reasonable alternatives to the Proposed Action and, (5) identification of potential environmental effects of the alternatives.

The preliminary issues identified are (1) the effects on forest health and sustaining ecosystems, (2) the effects on recreation and scenic resources, (3) the effects on fish/wildlife and, (4) the effects on the roadless and wilderness character of the Jericho Mountain Roadless Areas.

The Forest Service will analyze and disclose in the DEIS and FEIS the environmental effects of the proposed action and a reasonable range of alternatives. The DEIS and FEIS will disclose the direct, indirect and cumulative environmental effects of each alternative and its associated site specific mitigation measures.

Public participation is especially important at several points of the analysis. Interested parties may visit with the Forest Service officials at any time during the analysis. However, two periods of time are specifically identified for the receipt of comments. The first comment period is during the scoping process when the public is invited to give written comments to the Forest Service. The scoping period ends on March 24, 1997. The second review period is during the 45 day review of the DEIS when the public is invited to comment on the DEIS.

The DEIS is expected to be filed with the Environmental Protection Agency (EPA) and available for public review in May, 1997. At that time, the EPA will publish a notice of availability of the DEIS in the Federal Register.

The comment period on the DEIS will be 45 days from the date the notice of availability is published in the Federal Register.

At this early stage in the scoping process, the Forest Service believes it is important to give reviewers notice of several court rulings related to public participation in the environmental review process. First, reviews of DEIS must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp.* v. *NRDC, 435 U.S. 519, 553 (1978).* Secondly, environmental objections that could be raided at the draft environmental impact statement stage, but that are not raised until after completion of the FEIS may be waived or dismissed by the courts. *City of Angoon* v. *Hodel,* 803 F. 2d 1016, 1022 (9th cir. 1986) and Wisconsin *Heritages, Inc.* v. *Harris,* 490 F. Supp. 1338 (E.D. Wis. 1980). Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the 45-day comment period so that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the FEIS.

To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments on the DEIS should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the draft statement. Comments may also address the adequacy of the DEIS or the merits of the alternatives formulated and discussed in the statement. (Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points.)

After the comment period ends on the DEIS, the comments will be analyzed and considered by the Forest Service in preparing the FEIS. The FEIS is expected to be filed in August, 1997.

Dated: January 21, 1997.

Denis Hart,

District Ranger, Helena Ranger District, Helena National Forest.

[FR Doc. 97–3023 Filed 2–6–97; 8:45 am]

BILLING CODE 3410–11–M

Grain Inspection, Packers and Stockyards Administration

Posting of Stockyards

Pursuant to the authority provided under Section 302 of the Packers and Stockyards Act (7 U.S.C. 202), it was ascertained that the livestock markets named below were stockyards as defined by Section 302 (a). Notice was given to the stockyard owners and to the public as required by Section 302 (b), by posting notices at the stockyards on the dates specified below, that the stockyards were subject to the provisions of the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 *et seq.*).

	Facility Number, name, and location of stockyard	Date of posting
AL–190	Natural Bridge Stockyard, Natural Bridge, Alabama.	October 18, 1996.
GA–218	R & R Goat and Livestock Auction, Swainsboro, Georgia.	November 9, 1996.
MN–191	Iron Range Livestock Exchange, Inc., Aitkin, Minnesota.	October 24, 1996.
WI–145	Richland Cattle Center L. L. C., Richland Center, Wisconsin.	November 1, 1996.

Done at Washington, D.C. this 28th day of January 1997.

Daniel L. Van Ackeren,

Director, Livestock Marketing Division Packers and Stockyards Programs.

[FR Doc. 97–3033 Filed 2–6–97; 8:45 am]

BILLING CODE 3410–EN–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Additions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Additions to the procurement list.

SUMMARY: This action adds to the Procurement List services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

EFFECTIVE DATE: March 10, 1997.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Crystal Square 3, Suite 403, 1735 Jefferson Davis Highway, Arlington, Virginia 22202–3461.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman (703) 603–7740.

SUPPLEMENTARY INFORMATION: On November 15, December 20, 1996, the Committee for Purchase From People Who Are Blind or Severely Disabled published notices (61 FR 58510 and 67306) of proposed additions to the Procurement List.

After consideration of the material presented to it concerning capability of qualified nonprofit agencies to provide the services and impact of the additions on the current or most recent contractors, the Committee has determined that the services listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.4.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the services to the Government.

2. The action will not have a severe economic impact on current contractors for the services.

3. The action will result in authorizing small entities to furnish the services to the Government.

4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the services proposed for addition to the Procurement List.

Accordingly, the following services are hereby added to the Procurement List:

Administrative Services

General Services Administration, PBS, Pacific Rim Region, 450 Golden Gate Avenue, San Francisco, California

Disposal Support Services

Defense Reutilization and Marketing Office, Hill Air Force Base, Utah
Janitorial/Custodial, Chicago Air Route Traffic Control Center, 619 W. Indian Trail Road, Aurora, Illinois
Janitorial/Custodial, O'Hare International Airport, O'Hare Air Traffic Control Tower, Chicago, Illinois
Janitorial/Custodial, Bell Hall, Building 111, Fort Leavenworth, Kansas

This action does not affect current contracts awarded prior to the effective date of this addition or options that may be exercised under those contracts.

Beverly L. Milkman,

Executive Director.

[FR Doc. 97–3110 Filed 2–6–97; 8:45 am]

BILLING CODE 6353–01–P

Procurement List; Addition

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Addition to the procurement list.

SUMMARY: This action adds to the Procurement List a commodity to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

EFFECTIVE DATE: March 10, 1997.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Crystal Square 3, Suite 403, 1735 Jefferson Davis Highway, Arlington, Virginia 22202–3461.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman (703) 603–7740.

SUPPLEMENTARY INFORMATION: On October 25, 1996, the Committee for Purchase From People Who Are Blind or Severely Disabled published notice (61 F.R. 55268) of proposed addition to the Procurement List. Comments were received from both current contractors for the cord and from a small disadvantaged business which is in the industry. One of the current contractors indicated that it supplies a substantial amount of the cord to the Government, but it also supplies many other cords to nonprofit agencies participating in the Committee's Javits-Wagner-O'Day (JWOD) Program, so it does not oppose the addition of this cord to the Procurement List. The small disadvantaged business indicated that it had asked for the cord to be set aside for the Small Business Administration's 8(a) Program, in which it participates, rather than the JWOD Program, but the Government contracting activity has informed the Committee that the cord is not involved in the 8(a) Program.

The other current contractor indicated that it is a small business and the actual manufacture of the cord is done by a division which would be severely impacted by the addition of the cord to the Procurement List as the company might discontinue the division because of the loss of sales. If this happened, the Government would lose one of a small number of manufacturers of this cord. The contractor also questioned the ability of people who are blind to perform the operations necessary to manufacture the cord to Government specifications. The contractor also expressed its understanding that the nonprofit agency would merely serve as a warehouse for manufactured cord from another supplier, and questioned how the nonprofit agency would meet the Committee's statutory direct labor requirement.

The nonprofit agency will not be making the cord, so the concerns over the ability of people who are blind to perform cordmaking operations are not relevant to the Committee's decision. The nonprofit agency will, however, be doing far more than warehousing the cord. It will receive bulk shipments of the cord and wind the required amount on spools, label and wrap the spools and package them for shipment, as well as perform warehousing and shipping functions. These activities create considerable work for people who are blind, as opposed to the cord manufacturing operations which are largely machine operations.

The contractor interprets the statutory direct labor requirement as requiring that at least 75 percent of the total direct labor required to manufacture the cord must be done by people who are-3-blind. The Committee's interpretation, which has been upheld by a court decision, HLI Lordship Industries, Inc. v. Committee for Purchase From the Blind and Other Severely Handicapped, 615 F. Supp. 970, 975 (E.D. Va. 1985), is that the requirement applies to the direct labor done by the nonprofit agency. In this case, the nonprofit agency has indicated that all of the direct labor, and some of the indirect labor, will be performed by people who are blind.

The Committee's rationale for looking to a total corporate entity as the current contractor for impact analysis rather than an individual division that is performing the contract is that the corporation has the ability to shift its assets among divisions and thus mitigate the impact of a Procurement List addition on a specific division. In a supplemental comment, this contractor challenged the application of this rationale in the case of a small business like itself and again raised the possibility that it might have to close its cord division if it did not have Government sales of the cord along with its own cord demands for the parachutes the corporation produces.

Nonprofit agencies participating in the JWOD Program are required by Committee regulation to seek broad competition for components used in commodities furnished to the Government. 41 CFR 51–4.4(a). Nonprofit agencies are further required to maximize their subcontracting for components with other nonprofit agencies and small businesses such as this contractor. 41 CFR 51–4.4(b). In this case, the nonprofit agency has been instructed to assure that it will continue to seek competition between existing cord suppliers, including this contractor. Accordingly, the contractor will continue to have the opportunity to sell its cord to the Government through the nonprofit agency, which should mitigate the possibility of closing its cordmaking division and depriving the Government of a source of supply for this cord.

After consideration of the material presented to it concerning capability of qualified nonprofit agencies to provide the commodity and impact of the addition on the current or most recent contractors, the Committee has determined that the commodity listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.4.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the commodity to the Government.

2. The action will not have a severe economic impact on current contractors for the commodity.

3. The action will result in authorizing small entities to furnish the commodity to the Government.

4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the commodity proposed for addition to the Procurement List.

Accordingly, the following commodity is hereby added to the Procurement List:

Cord, Nylon
4020–00–240–2146

This action does not affect current contracts awarded prior to the effective date of this addition or options that may be exercised under those contracts.

Beverly L. Milkman,

Executive Director.

[FR Doc. 97–3111 Filed 2–6–97; 8:45 am]

BILLING CODE 6353–01–P

Procurement List; Proposed Additions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled

ACTION: Proposed additions to Procurement List

SUMMARY: The Committee has received proposals to add to the Procurement List commodities and services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

COMMENTS MUST BE RECEIVED ON OR BEFORE: March 10, 1997.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Crystal Square 3, Suite 403, 1735 Jefferson Davis Highway, Arlington, Virginia 22202–3461.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman (703) 603–7740.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed actions.

If the Committee approves the proposed additions, all entities of the Federal Government (except as otherwise indicated) will be required to procure the commodities and services listed below from nonprofit agencies employing persons who are blind or have other severe disabilities.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the commodities and services to the Government.

2. The action does not appear to have a severe economic impact on current contractors for the commodities and services.

3. The action will result in authorizing small entities to furnish the commodities and services to the Government.

4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the commodities and services proposed for addition to the Procurement List.

Comments on this certification are invited. Commenters should identify the statement(s) underlying the certification on which they are providing additional information.

The following commodities and services have been proposed for addition to Procurement List for production by the nonprofit agencies listed:

Commodities

Floor Care Products
7930–00–NIB–0039 (GP Forward—Cleaner)
7930–00–NIB–0040
7930–00–NIB–0041
7930–00–NIB–0043 (Complete—Floor Finish)
7930–00–NIB–0044
7930–00–NIB–0045
7930–00–NIB–0046 (Bravo—Polish Remover)
7930–00–NIB–0047
7930–00–NIB–0048
7930–00–NIB–0049 (Snapback Spraybuff—Restorer)
NPA: The Lighthouse of Houston, Houston, Texas

Insignia, Embroidered, Tab, Shoulder Sleeve, Army
8455–00–121–1315
NPA: Georgia Industries for the Blind, Bainbridge, Georgia

Insignia, Embroidered, Marine PFC
8455–00–292–9558
NPA: Georgia Industries for the Blind, Bainbridge, Georgia

Services

Grounds Maintenance, Wheeler Air Force Base, Hawaii and Outlying Air Force Installations
NPA: Lanakila Rehabilitation Center, Inc., Honolulu, Hawaii

Grounds Maintenance, Federal Bureau of Investigation, Criminal Justice Information Services Complex, Clarksburg, West Virginia
NPA: Job Squad, Inc., Clarksburg, West Virginia

Switchboard Operation, Department of Veterans Affairs, New Jersey Health Care System, Lyons, New Jersey
NPA: New Jersey Association for the Deaf-Blind, Inc Somerset, New Jersey

Beverly L. Milkman,

Executive Director.

[FR Doc. 97–3112 Filed 2–6–97; 8:45 am]

BILLING CODE 6353–01–P

DEPARTMENT OF COMMERCE

Bureau of Export Administration

Sensors and Instrumentation Technical Advisory Committee; Partially Closed Meeting

A meeting of the Sensors and Instrumentation Technical Advisory Committee will be held March 4, 1997, 9 a.m., in the Herbert C. Hoover Building, Room 1617M–2, 14th Street between Constitution and Pennsylvania Avenues, N.W., Washington, DC. The Committee advises the Office of the Assistant Secretary for Export Administration with respect to technical questions that affect the level of export controls applicable to sensors and instrumentation equipment and technology.

Agenda

General Session

1. Opening remarks by the Chairman.
2. Report on the status of The Wassenaar Arrangement.
3. Discussion on the Encryption Reg.
4. Presentation of papers or comments by the public.

Executive Session

5. Discussion of matters properly classified under Executive Order 12958, dealing with the U.S. export control program and strategic criteria related thereto.

The General Session of the meeting will be open to the public and a limited number of seats will be available. To the extent that time permits, members of the public may present oral statements to the Committee. Written statements may be submitted at any time before or after the meeting. However, to facilitate distribution of public presentation materials to the Committee members, the Committee suggests that presenters forward the public presentation materials two weeks prior to the meeting date to the following address:

Ms. Lee Ann Carpenter, OAS/EA/BXA—Room 3886C, U.S. Department of Commerce, Washington, D.C. 20230.

The Assistant Secretary for Administration, with the concurrence of the General Counsel, formally determined on December 13, 1995, pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, that the series of meetings of the Committee and of any Subcommittees thereof, dealing with the classified materials listed in 5 U.S.C., 552b(c)(1) shall be exempt from the provisions relating to public meetings found in section 10 (a)(1) and (a)(3), of the Federal Advisory Committee Act. The

remaining series of meetings or portions thereof will be open to the public.

A copy of the Notice of Determination to close meetings or portions of meetings of the Committee is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 6020, U.S. Department of Commerce, Washington, D.C. 20230. For further information or copies of the minutes, contact Lee Ann Carpenter on (202) 482–2583.

Dated: February 4, 1997.

Kathleen M. Grove,

Acting Director, Technical Advisory Committee Unit.

[FR Doc. 97–3127 Filed 2–6–97; 8:45 am]

BILLING CODE 3510–DT–M

International Trade Administration

[A–351–605]

Notice of Final Results of Antidumping Duty Administrative Review: Frozen Concentrated Orange Juice From Brazil

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: In response to timely requests from the respondents, Branco Peres Citrus, S.A. (Branco) and CTM Citrus S.A., formerly Citropectina (CTM), the Department of Commerce (the Department) has conducted an administrative review of the antidumping order on frozen concentrated orange juice from Brazil. The review covers merchandise exported to the United States by these two respondents during the period of May 1, 1992, through April 30, 1993.

EFFECTIVE DATE: February 7, 1997.

FOR FURTHER INFORMATION CONTACT: John Brinkmann or Greg Thompson Office of Antidumping Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 482–5288 or (202) 482–3003, respectively.

SUPPLEMENTARY INFORMATION:

Case History

On August 14, 1995, the Department published in the Federal Register the preliminary results of its 1992–93 administrative review of the antidumping duty order on Frozen Concentrated Orange Juice (FCOJ) from Brazil (60 FR 41874). On August 25, 1995, both respondents submitted case briefs. The petitioners submitted a rebuttal brief on August 29, 1995. There was no request for a hearing. The Department has now conducted this review in accordance with section 751 of the Tariff Act of 1930, as amended (the Tariff Act). The final margins for Branco and CTM are listed below in the section ''Final Results of Review.''

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the Statute and to the Department's regulations are in reference to the provisions as they existed on December 31, 1994.

Scope of the Review

Imports covered by this review are shipments of FCOJ from Brazil. The merchandise is currently classifiable under item 2009.11.00 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheading is provided for convenience and Customs purposes, our written description of the scope of this review is dispositive.

Fair Value Comparisons

We compared the United States price (USP) to the foreign market value (FMV), as specified in the ''United States Price'' and ''Foreign Market Value'' sections of this notice.

United States Price

We calculated USP according to the methodology described in our preliminary results.

Foreign Market Value (FMV)

As stated in the preliminary results, we found that the home market was not viable for either respondent and based FMV on third country FOB sales or offers for sale.

We calculated FMV according to the methodology described in our preliminary results.

Interested Party Comments

Comment 1: Packing Cost for Branco

Branco contends that the Department mistakenly added U.S. packing costs to the third-country price used to calculate foreign market value.

The petitioners contend that the Department adjusted the prices to make an accurate comparison of net prices, and that the Department should continue with this approach in the final results.

Department Position

We agree with the petitioners. It is Department practice to compare ex-factory packed prices. In order to adjust for differences in packing expenses, the Department subtracts the comparison market packing from the FMV and adds U.S. packing to the FMV (*see Final Results of Antidumping Administrative Review Roller Chain, Other Than Bicycle, from Japan*, 60 FR 62387–89, December 6, 1995).

Comment 2: Use of Shorter Periods

In the preliminary results, we confirmed that there is a direct linkage between respondents' prices in this review period and the minimum export price (MEP) which is based on the price of FCOJ on the New York Cotton Exchange (NYCE) futures market. Given the price volatility of the MEP during this review period, we adopted the methodology used in past FCOJ reviews of using FMV periods that are shorter than a month. Insofar as the fluctuations in the MEP reached up to 51% in a given month for this review period, we determined that it was necessary for comparison periods to be based on any change in the MEP throughout the continuum of the period of review (POR).

CTM states that the Department has retroactively defined the time periods for price-to-price comparisons. The respondent further states that this approach was not well considered, and urges the Department to rely on monthly weighted average comparisons.

The petitioners contend that the MEP has been used as a tool to define shorter FMV comparison periods in three prior administrative reviews of FCOJ. The petitioners further contend that this methodology should, in theory, be a more accurate measure of whether less-than-fair-value pricing has occurred in this volatile commodity market.

Department Position

We agree with the petitioners that changes in the MEP have been used in past reviews to establish FMV comparison periods shorter than one month, and that using the MEP should, in theory, be a more accurate measure in a volatile market. The Department first used shorter FMV periods in the third review because a severe freeze in Florida had a dramatic effect on the price for FCOJ on the NYCE futures market and, thus, the MEP. In that review, shorter FMV periods were defined by changes of ten percent in the MEP in a given month. While the same methodology was used in the fourth and fifth reviews, the reason for using it was not discussed. In the sixth review, we have continued to use the MEP to determine shorter FMV periods, however, we have refined the methodology in the following manner. First, since FCOJ commodity prices on the NYCE fluctuate on a continuum, unrelated to the starting and ending of

months, we based the periods on changes throughout the review period and not just changes in a given month. Second, we believe that comparison periods based on any change in the MEP, as opposed to a ten percent change, provide us with a more accurate analysis, given the significant price fluctuations in this review period. For further discussion of this issue, see the preliminary results concurrence memorandum, dated August 8, 1995.

Comment 3: Date of Sale for CTM

CTM contends that the Department incorrectly used the date of issuance of the export license as the date of sale. CTM further contends that the date of shipment is its appropriate date of sale.

The petitioners state that the use of the date of issuance of the export license is harmonious with the Department's contemporaneous sales methodology (*i.e.*, price is set as of that date regardless of when the merchandise is shipped). The petitioners also state that using this methodology allows the Department to match U.S. with third-country sales which were made under similar market pressures (*i.e.*, hyperinflation and rapid FCOJ price fluctuations in the NYCE futures market).

Department Position

We agree with the petitioners. In its September 9, 1994, submission, CTM stated that while the price for the transaction is set as of the date of issuance of the export license, the quantity is not fixed until the date of the shipment. However, after reviewing CTM's export documents and invoices for all third-country and U.S. sales made during the POR, it is clear that the terms of sale were established on the date of issuance of the export license. With one exception, a quantity difference of less than one percent, the terms of sale on the export license matched the terms on the relevant invoice. (*see* preliminary results concurrence memorandum).

Comment 4: Use of Exchange Rates for CTM

CTM contends that in converting the inland freight expense for U.S. shipments to dollars, the Department should use the exchange rate in effect on the date of payment of these expenses.

Department Position

We agree with the respondent that, on occasion, when calculating margins for hyperinflationary economies, charges and adjustments have been converted to dollars based on the exchange rate in effect on the date the charge becomes payable. However, because of the administrative burden associated with using this methodology, the Department's preference is to convert charges on the date of shipment, the closest approximation to the date the charges become payable. In this instance, the issue is moot because information concerning the dates that the charges became payable is not on the record.

Comment 5: Comparison Periods

CTM states that if the Department were to use the 90/60 rule to define comparison periods, there would be no need to use the MEP as a surrogate for establishing FMV because there would be actual sales which could be used for comparison purposes.

The petitioners state that using the 90/60 rule is inconsistent with the logic of using shorter periods in the first place—namely, to avoid distortions in margin calculation due to fluctuations in commodity prices.

Department Position

We agree with the petitioners that using the 90/60 rule would ignore the reason for using shorter periods in the first place. Furthermore, we have confirmed that there is a strict correlation between the MEP, a long-standing program established by the Brazilian FCOJ producers, and the prices to the U.S. and third-country sales of both respondents. Accordingly, we have continued to rely on the methodology used in the preliminary determination to avoid distortion in the dumping margin calculations.

Final Results of Review

As a result of our analysis of the comments received, we determine that the following weighted-average margins exist for the period of May 1, 1992 through April 30, 1993:

Manufacturer/exporter	Margin (percent)
Branco	2.52
CTM	0.98
All Others	1.96

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. Individual differences between USP and FMV may vary from the percentage stated above. The Department will issue appraisement instructions directly to the Customs Service.

Furthermore, the following deposit requirement will be effective for all shipments of FCOJ from Brazil entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a)(1) of the Tariff Act: (1) the cash deposit rate for the reviewed companies will be as outlined above; (2) for merchandise exported by manufacturers or exporters not covered in this review but covered in previous reviews or the original less-than-fair-value (LTFV) investigation, the cash deposit rate will continue to be the rate published in the most recent final results or determination for which the manufacturer or exporter received a company-specific rate; (3) if the exporter is not a firm covered in this review, an earlier review, or the LTFV investigation, but the manufacturer is, the cash deposit rate will be that established for the manufacturer of the merchandise in the final results of this review, earlier reviews, or the LTFV investigation, whichever is the most recent; (4) the cash deposit rate for all other manufacturers or exporters will be 1.96 percent, the ''all other'' rate established in the original LTFV investigation by the Department (52 FR 8324, March 17, 1987), in accordance with the decisions of the Court of International Trade in *Floral Trade Council* v. *United States*, Slip Op. 993–79, and *Federal-Mogul Corporation* v. *United States*, Slip Op. 93–83.

These cash deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 353.26 to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred in the subsequent assessment of double antidumping duties.

This notice also serves as the only reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 353.34(d). Timely written notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of the APO is a sanctionable violation.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and 19 CFR 353.22.

Dated: January 31, 1997.

Robert S. LaRussa,

Acting Assistant Secretary for Import Administration.

[FR Doc. 97–3101 Filed 2–6–97; 8:45 am]

BILLING CODE 3510–DS–P

[A–201–802]

Gray Portland Cement and Clinker From Mexico; Amended Final Results of Antidumping Duty Administrative Review in Accordance With Court Decision

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of amended final results of antidumping duty administrative review in accordance with court decision.

SUMMARY: On August 1, 1996, the Court of Appeals for the Federal Circuit (the Federal Circuit) affirmed the July 12, 1995 decision of the Court of International Trade (CIT) in *The Ad Hoc Committee of AZ–NM–TX–FL Producers of Gray Portland Cement* v. *United States,* Slip Op. 95–125 (CIT 1995) (*Ad Hoc*). In its July 12, 1995 opinion, the CIT affirmed the Department of Commerce's (the Department's) results of redetermination pursuant to remand, and prior remand determinations of the Department, of the final results of the first administrative review of the antidumping duty order on gray portland cement and clinker from Mexico. The Federal Circuit's ruling represents a ''final and conclusive'' court decision ''not in harmony'' with the Department's original determination. As a result of these remand redeterminations, the Department found a dumping margin for respondent Cemex, S.A. de C.V. (Cemex) for the period April 12, 1990 through July 31, 1991 of 61.42 percent.

EFFECTIVE DATE: February 7, 1997.

FOR FURTHER INFORMATION CONTACT: Robert James or John Kugelman, Office Eight, Antidumping and Countervailing Duty Enforcement Group III, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue N.W., Washington, DC 20230; telephone: (202) 482–5222.

SUPPLEMENTARY INFORMATION:

Background

On April 28, 1993, the Department published in the Federal Register the final results of its first administrative review of the antidumping duty order on gray portland cement and clinker from Mexico (58 FR 25803 (April 28, 1993)). In those final results the Department set forth its determination of the weighted-average margins for the two respondent companies for the period April 12, 1990 through July 31, 1991. Petitioners and Cemex subsequently filed separate complaints with the CIT challenging the final results; these complaints were later consolidated. Thereafter, the CIT published an Order and Opinion dated September 26, 1994 in *Ad Hoc Committee* v. *United States,* Ct. No. 93–05–00273, Slip Op. 94–151, remanding the Department's final results with instructions to (1) consider CEMEX's claimed deductions for pre-sale home market transportation costs under the circumstances-of-sale (COS) provision of the Department's regulations, (2) apply a value-added-tax (VAT) adjustment consistent with the methodology established in *Torrington Co.* v. *United States,* 853 F. Supp. 446 (CIT 1994), (3) reclassify certain transactions designated as exporter's sales price transactions and reconsider the selection of best information available (BIA) for certain other sales, and (4) reconsider the selection of BIA data for missing added material costs. On January 5, 1995, the Department filed its remand results with the CIT. Cemex challenged certain aspects of the Department's remand results, including our treatment of VAT.

On May 15, 1995, the CIT ordered a second remand which affirmed the Department's treatment of Cemex's pre-sale transportation expenses and its application of the so-called *Torrington* methodology for calculating VAT. The CIT, however, directed the Department to consider different VAT rates. *Ad Hoc Committee* v. *United States,* Slip Op. 95–91 (CIT May 15, 1995). The Department filed its redetermination with the Court on June 13, 1995. The CIT, on July 12, 1995, affirmed the Department's remand results and issued a judgment that Cemex's January 25, 1995 challenge on the issue of VAT methodology was untimely filed and, therefore, moot.

Cemex appealed from the CIT's July 12, 1995 decision in *Ad Hoc* affirming the Department's redetermination. This appeal challenged the CIT's ruling that Cemex had waived its right in this case to challenge Commerce's application of the *Torrington* methodology for calculating VAT, and that Cemex's pre-sale transportation expenses were not deductible in the calculation of foreign market value. Consistent with the Federal Circuit's decision in *Timken Company* v. *United States,* 893 F.2d 337 (Fed. Cir. 1990), on October 12, 1995, the Department published a ''Notice of Court Decision'' in the Federal Register which suspended liquidation of the subject merchandise entered, or withdrawn from warehouse, for consumption until there was a ''final and conclusive'' decision in this case (60 FR 53163).

On August 1, 1996, the Federal Circuit issued its decision affirming the earlier rulings of the CIT (Appeal No. 95–1485, Fed. Cir. August 1, 1996). On October 17, 1996, the Federal Circuit issued its mandate. The Federal Circuit's ruling constitutes a ''final and conclusive'' decision in this case which is ''not in harmony'' with the Department's original determination. Accordingly, we have prepared these amended final results and will proceed to issue liquidation instructions to the Customs Service.

Amended Final Results of Review

In its April 29, 1993 *Final Results of Administrative Review,* the Department calculated a weighted-average margin for Cemex for the period April 12, 1990 through July 31, 1991 of 30.74 percent. As a result of the Department's redeterminations on court remand, we have determined the weighted-average dumping margin for Cemex for the period April 12, 1990 through July 31, 1991 to be 61.42 percent. The Department will instruct the Customs Service to assess antidumping duties on all appropriate entries, and will issue appraisement instructions accordingly. This notice is published in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and 19 CFR 353.22(c)(8).

Dated: January 31, 1997.

Robert S. LaRussa,

Acting Assistant Secretary for Import Administration.

[FR Doc. 97–3102 Filed 2–6–97; 8:45 am]

BILLING CODE 3510–DS–P

[A–401–040]

Stainless Steel Plate From Sweden Antidumping Duty Administrative Review; Time Limits

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of extension of time limits.

SUMMARY: The Department of Commerce (the Department) is extending the time limit for the preliminary results of the review of the antidumping finding on stainless steel plate from Sweden. The review covers two manufacturers/

exporters of the subject merchandise the United States and the period June 1, 1995 through May 31, 1996.

EFFECTIVE DATE: February 7, 1997.

FOR FURTHER INFORMATION CONTACT: Michael J. Heaney or Linda Ludwig, Office of AD/CVD Enforcement, Group III, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230, telephone: (202) 482–4475 or 482–0649, respectively.

SUPPLEMENTARY INFORMATION:

Background

Because it is not practicable to complete this review within the time limits mandated by the Uruguay Round Agreements Act (245 days from the last day of the anniversary month for preliminary determinations, 120 additional days for final determinations), pursuant to section 751(a)(3)(A) of the Tariff Act of 1930, as amended, the Department is extending the time limit for completion of the preliminary results until June 30, 1997. See Decision Memorandum to Robert S. LaRussa dated February 3, 1997.

This extension is in accordance with section 751(a)(3)(A) of the Tariff Act of 1930, as amended (19 U.S.C. 1675(a)(3)(A)).

Dated: February 3, 1997.

Joseph A. Spetrini,

Deputy Assistant Secretary, Enforcement Group III.

[FR Doc. 97–3100 Filed 2–6–97; 8:45 am]

BILLING CODE 3510–DS–M

National Institute of Standards and Technology

[Docket No. 970122011–7011–01]

RIN 0693–XX29

Standards for Blood Banking and Transfusion Services: Request for Public Comment

AGENCY: National Institute of Standards and Technology (NIST). Commerce.

ACTION: Request for public comment.

SUMMARY: The American Association of Blood Banks (AABB) proposes to revise some of its blood banking and transfusion services standards for blood collection, processing, storage and transfusion and requests public comment on these changes. The purpose of this request is to increase public participation in the system used by the AABB to develop these standards.

NIST undertakes publication of this notice as a public service on behalf of the AABB. NIST does not necessarily endorse, approve, or recommend any of the standards referenced in the notice.

The AABB is the professional society of more than 2,400 community, regional and Red Cross blood centers, hospital-based blood banks and transfusion services. It also represents over 9,000 individual members engaged in blood banking and transfusion medicine. The AABB sets standards, inspects and accredits blood collection and transfusion facilities, and provides continuing education and information. Its member facilities are responsible for collecting virtually all of the nation's blood supply and for transfusing more than 80 percent of the blood used for patient care in the United States. Throughout its 50-year history, the AABB's highest priorities have been transfusion safety and maintaining and promoting a safe and adequate blood supply for the American people.

DATES: Interested persons may obtain the documents after February 1, 1997 and should submit comments by 5:00 pm local time on March 15, 1997.

ADDRESSES: The proposed changes to AABB standards may be obtained through the AABB Internet Home Page at ''http://www.aabb.org'' under ''What's New.'' Those without Internet access may purchase the documents from the AABB National Office, 8101 Glenbrook Road, Bethesda, MD 20814, (301) 215–6499, fax (301) 907–6895, e-mail sales@aabb.org. Ask for publication #ST97IN. Cost is $25 per copy sent to addresses in the United States and $35 per copy sent to other locations. Orders must be prepaid.

FOR FURTHER INFORMATION CONTACT: Eileen Church, Director of Communications, American Association of Blood Banks, (301) 215–6557, e-mail eileen@aabb.org.

Dated: January 30, 1997.

Elaine Bunten-Mines,

Director, Program Office.

[FR Doc. 97–3105 Filed 2–6–97; 8:45 am]

BILLING CODE 3510–13–M

National Oceanic and Atmospheric Administration

[I.D. 020397E]

Endangered Species; Permits

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

ACTION: Issuance of permit 1,025 (P622) and permit 1,027 (P45W).

SUMMARY: Notice is hereby given that NMFS has issued two permits that authorize takes of an Endangered Species Act-listed species for the purpose of scientific research/enhancement, subject to certain conditions set forth therein, to the California Department of Fish and Game (CDFG) and the U.S. Fish and Wildlife Service (FWS) at Sacramento, CA.

ADDRESSES: The applications and related documents are available for review in the following offices, by appointment:

Office of Protected Resources, F/PR3, NMFS, 1315 East-West Highway, Silver Spring, MD 20910–3226 (301-713-1401); and

Administrator, Southwest Region, NMFS, NOAA, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802–4213 (562–980–4016).

SUPPLEMENTARY INFORMATION: The permits were issued under the authority of section 10 of the Endangered Species Act of 1973 (ESA) (16 U.S.C. 1531–1543) and the NMFS regulations governing ESA-listed fish and wildlife permits (50 CFR parts 217–222).

Notice was published on October 16, 1996 (61 FR 53899) that an application had been filed by CDFG (P622) for a scientific research permit. Permit 1,025 was issued to CDFG on January 10, 1997. Permit 1,025 authorizes CDFG takes of adult and juvenile, endangered, Sacramento River winter-run chinook salmon (*Oncorhynchus tshawytscha*) associated with two scientific research studies. For Study 1, CDFG will establish a pilot program at Knights Landing on the Sacramento River for monitoring juvenile anadromous fish migration. The purpose of the monitoring program is to evaluate the utility of the site and various sampling protocols in determining the timing and abundance of juvenile anadromous salmonids emigrating to the Sacramento-San Joaquin Delta. For Study 2, CDFG will determine the relationship between manageable physical habitat attributes (flow, temperature, channel aspects) and anadromous salmonids within the upper reaches of the Sacramento River and throughout the river system up to ocean entry. Information relating spawning distribution (temporal and spatial), spawning success, juvenile survival, and emigration will be determined relative to habitat conditions. Permit 1,025 expires on June 30, 2001.

Notice was published on October 16, 1996 (61 FR 53899) that an application had been filed by FWS (P45W) for an enhancement permit. Permit 1,027 was

issued to FWS on January 31, 1997. Permit 1,027 authorizes FWS takes of adult and juvenile, endangered, Sacramento River winter-run chinook salmon (*Oncorhynchus tshawytscha*) associated with artificial propagation and captive broodstock programs. Permit 1,027 replaces Permit 747, which was amended to expire on January 31, 1997 (61 FR 68721, December 30, 1996). FWS has proposed to develop a genetic testing protocol to identify the origin of returning adults so as to prevent hybridization problems. FWS has also proposed to acquire a hatchery facility on the mainstem Sacramento River to avoid imprinting problems. Until the proposed genetic testing protocol has been reviewed and approved by NMFS, and the mainstem river hatchery facility has been acquired, tested with non-winter-run chinook salmon, and approved by NMFS, the collection of ESA-listed adult fish for broodstock is not authorized. Any captured hatchery progeny suspected of being spring-run/winter-run hybrids will be destroyed. To monitor the propagation program, carcasses of the adult, ESA-listed fish that return to spawn in the wild will be collected from the mainstem Sacramento River and Battle Creek and sampled for tissues and tags. Permit 1,027 expires on July 31, 2001.

Issuance of the permits, as required by the ESA, was based on a finding that such permits: (1) Were requested in good faith, (2) will not operate to the disadvantage of the ESA-listed species that is the subject of the permits, and (3) are consistent with the purposes and policies set forth in section 2 of the ESA and the NMFS regulations governing ESA-listed species permits.

Dated: February 3, 1997.

Robert C. Ziobro,

Acting Chief, Endangered Species Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 97–3090 Filed 2–6–97; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF DEFENSE

Department of Army

Corps of Engineers

Intent to Prepare a Draft Environmental Impact Statement (DEIS) for the Deep Run and Tiber-Hudson Water Resources Feasibility Study in Howard County, Maryland

AGENCY: U.S. Army Corps of Engineers, DOD.

ACTION: Notice of intent.

SUMMARY: In accordance with the National Environmental Policy Act (NEPA), the Baltimore District, U.S. Army Corps of Engineers is initiating the Deep Run and Tiber-Hudson Water Resources Feasibility Study for the watersheds of the Patapsco River basin. The riparian and aquatic environmental integrity of the Deep Run and Tiber-Hudson watersheds have been severely degraded by urbanization, inadequate infrastructure and industrial encroachment. Potential environmental restoration of streambanks, wetlands and forest buffers could restore riparian and aquatic habitat, improve water quality, restore stream channel stability, and reduce erosion and sedimentation. A DEIS will be integrated into the feasibility study to document existing conditions, project actions, and project effects and products. Howard County is the non-Federal sponsor for the project. The Maryland Department of the Environment has also contributed matching grant funds to the county for this study.

FOR FURTHER INFORMATION CONTACT: Questions about the proposed action and DEIS can be addressed to Ms. Kathryn Conant, Study Manager, Baltimore District, U.S. Army Corps of Engineers, ATTN: CENAB–PL–P, P.O. Box 1715, Baltimore, Maryland 21203–1715, telephone (410) 962–5175. E-mail address: kathryn.j.conant@ccmail.nab.usace.army.mil.

SUPPLEMENTARY INFORMATION: 1. The U.S. House of Representatives, Committee on Public Works and Transportation, authorized the Baltimore Metropolitan Deep Run and Tiber-Hudson Water Resources Study, in a resolution adopted April 30, 1992.

2. The areas proposed for environmental restoration are known as the Deep Run and Tiber-Hudson watersheds and are located in highly developed eastern portions of Howard County, Maryland. The most significant problems in the Deep Run and Tiber-Hudson watersheds are the loss of aquatic and riparian habitat and the instability of the stream channels. This excessive degradation includes: flashy stormwater flows which cause streambank erosion and sedimentation, encroachment of development which limits riparian habitat and wetlands, and polluted runoff which contributes to poor water quality. These factors negatively impact the aquatic and riparian environment in the present and the future.

3. In September 1996, the Corps and Howard County executed a feasibility cost-sharing agreement to prepare a study on both the Deep Run and Tiber-Hudson watersheds. This watershed study is being conducted to investigate the feasibility of restoring habitat and the environmental integrity of both of these watersheds. The purpose of this study is to develop an ecosystem restoration plan that will address improvements to aquatic and terrestrial habitat, water quality, and recreation. The goal of this study is to implement the watershed restoration plan that will improve the aquatic and riparian ecosystem within the Deep Run and Tiber-Hudson watersheds. To achieve this goal, the Corps will further define the problems, needs, and opportunities in these watersheds; analyze and forecast environmental resource conditions; formulate, evaluate, and compare alternative plans for multiple sites; develop detailed designs and costs at selected sites; and recommend a cost effective plan for these watersheds.

4. Throughout the feasibility study, potential restoration projects will be identified, evaluated, and selected on a watershed basis. To achieve the proposed watershed restoration plan, the alternatives to be evaluated will include stabilization of eroding stream channels, creation of wetlands, restoration of floodplains, and construction of stormwater detention ponds and retrofits. Habitat structures would also be installed, if necessary, to restore aquatic habitat and provide added cover for spawning. Stream restoration alternatives may include stabilization techniques, such as rootwads, plantings, and geotubes. Where feasible, fish blockages may be removed to allow for resident and migratory passage.

5. The decision to implement these actions will be based on an evaluation of the probable impact of the proposed activities on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefit that reasonably may be expected to accrue from the proposal will be balanced against its reasonably foreseeable costs. The Baltimore District is preparing a DEIS that will describe the impacts of the proposed projects on environmental and cultural resources in the study area and the overall public interest. The DEIS will be in accordance with NEPA and will document all factors that may be relevant to the proposal, including the cumulative effects thereof. Among these factors are conservation, economics, aesthetics, general environmental concerns, wetlands, cultural values, fish and wildlife values, flood hazards, floodplain values, land use, recreation, water supply and conservation, water

quality, energy needs, safety, and the general needs and welfare of the people. If applicable the DEIA will also apply guidelines issued by the Environmental Protection Agency, under the authority of Section 404(b)(1) of the Clean Water Act of 1977 (Pub. L. 95–217).

6. The public involvement program will include workshops, meetings, and other coordination with interested private individuals and organizations, as will as with concerned Federal, state and local agencies. Coordination letters and newsletters have been sent to appropriate agencies, organizations, and individuals on an extensive mailing list. Additional public information will be provided through print media, mailings, and radio and television announcements.

7. In addition to the Corps, Howard County and the Maryland Department of the Environment, other participants that will be involved in the study and DEIS process include the following: U.S. Environmental Protection Agency; U.S. Fish and Wildlife Service; U.S. Forest Service; U.S. Geological Survey; Natural Resource Conservation Service; and Maryland Department of Natural Resources. The Baltimore District invites potentially affected Federal, state, and local agencies, and other organizations and entities to participate in this study.

8. The DEIS is scheduled to be available for public review in the spring of 1998.

Dr. James E. Johnson,

Chief, Planning Division.

[FR Doc. 97–3046 Filed 2–6–97; 8:45 am]

BILLING CODE 3710–41–M

Corps of Engineers

Intent to Prepare a Draft Environmental Impact Statement (DEIS) for the Upper North Branch Potomac River Environmental Restoration Feasibility Study, Maryland and West Virginia

AGENCY: U.S. Army Corps of Engineers, DOD.

ACTION: Notice of intent.

SUMMARY: In accordance with the National Environmental Policy Act (NEPA), the Baltimore District, U.S. Army Corps of Engineers is initiating the Upper North Branch Potomac River Environmental Restoration Feasibility Study. The riparian and aquatic environmental integrity of this has been severely degraded by urbanization, acid mine drainage and industrial encroachment. Potential environmental restoration of streambanks and remediation of wetlands and forest buffers could restore several acres of riparian and aquatic habitat, in addition to improving water quality, low base flows, and sedimentation. A DEIS will be integrated into the feasibility study to document existing conditions, project actions, and project effects and products. the non-Federal sponsors for the project are the Maryland Department of Natural Resources, the West Virginia Division of Natural Resources and the West Virginia Division of Environmental Protection.

FOR FURTHER INFORMATION CONTACT: Questions about the proposed action and DEIS can be addressed to Ms. Erika Hieber, Study Manager, Baltimore District, U.S. Army Corps of Engineers, ATTN: CENAB–PL–P, P.O. Box 1715, Baltimore, Maryland 21203–1715, telephone (410) 962–4633. E-mail address: erika.j.hieber@ccmail.nab.usace.army.mil

SUPPLEMENTARY INFORMATION: 1. The U.S. House of Representatives, Committee on Public Works and Transportation, authorized the North Branch Potomac River Water Resources Feasibility Study in a resolution adopted May 13, 1993.

2. The Upper North Branch watershed of the Potomac River extends from the Potomac River headwaters down to the Jennings Randolph Lake. The study area includes portions of Garret and Allegeny counties in Maryland, and portions of Grant and Mineral Counties in West Virginia. A particular focus of this study is the Corps of Engineers' multi-purpose Jennings Randolph Lake. The most significant problems in the Upper North Branch watershed are acid mine drainage, the loss of biodiversity, and water quality degradation. As a result, environmental resources and aquatic habitats have become degraded.

3. A watershed study is being conducted to investigate the feasibility of restoring the habitat and environmental integrity of the Upper North Branch watershed. The purpose of this study is to develop an ecosystem restoration plan that will address improvement of aquatic and terrestrial habitat, water quality, and recreation. The goal of this study is to improve the aquatic and riparian ecosystem within the Upper North Branch watershed. To achieve this goal, the Corps will further define the problems and opportunities in the Upper North Branch watershed; analyze and forecast environmental resource conditions; formulate, evaluate, and compare alternative plans for multiple sites; develop detailed designs and costs at selected sites; and recommend a cost effective plan for the Upper North Branch watershed. The proposed environmental restoration plan would potentially include a evaluation of acid mine drainage sites that individually contribute to a significant amount of the acid loading in the watershed. To accomplish the proposed environmental restoration plan, an alternative analysis will be conducted. The analysis would include an evaluation of passive and active acid mine drainage treatment and control technologies that would improve degraded aquatic habitat and water quality by neutralizing acidity, decreasing metal concentrations, and raising pH levels.

4. The decision to implement these actions will be based on an evaluation of the probable impact of the proposed activities on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefit which reasonably may be expected to accrue from the proposal will be balanced against its reasonably foreseeable costs. The Baltimore District is preparing a DEIS which will describe the impacts of the proposed projects on environmental and cultural resources in the study area and the overall public interest. The DEIS will be in accordance with NEPA and will document all factors which may be relevant to the proposal, including the cumulative effects thereof. Among these factors are conservation, economics, aesthetics, general environmental concerns, wetlands, cultural values, fish and wildlife values, flood hazards, floodplain values, land use, recreation, water supply and conservation, water quality, energy needs, safety, and the general needs and welfare of the people. If applicable, the DEIS will also apply guidelines issued by the Environmental Protection Agency, under the authority of Section 404(b)(1) of the Clean Water Act of 1977 (Public Law 95–217).

5. The public involvement program will include workshops, meetings, and other coordination with interested private individuals and organizations, as well as with concerned Federal, state and local agencies. Coordination letters and newsletters have been sent to appropriate agencies, organizations, and individuals on an extensive mailing list. Additional public information will be provided through print media, mailings, and radio and television announcements.

6. In addition to the Corps, the Maryland Department of Natural Resources, West Virginia Division of Natural Resources, West Virginia Division of Environmental Protection, and other participants that will be involved in the study and DEIS process

include the following: U.S. Environmental Protection Agency; U.S. Fish and Wildlife Service; U.S. Forest Service; U.S. Geological Survey; Natural Resource Conservation Service; and the U.S. National Park Service. The Baltimore District invites potentially affected Federal, state, and local agencies, and other organizations and entities to participate in this study.

7. The DEIS is tentatively scheduled to be available for public review in the winter of 1998.

Dr. James F. Johnson,

Chief, Planning Division.

[FR Doc. 97–3047 Filed 2–6–97; 8:45 am]

BILLING CODE 3710–41–M

DEPARTMENT OF ENERGY

Policy and Planning Guidance for Community Transition Activities

AGENCY: Office of Worker and Community Transition, Department of Energy.

ACTION: Notice of interim guidance and opportunity for public comment.

SUMMARY: The Department of Energy today publishes for public comment Interim Guidance for Community Transition Activities that has been issued primarily for the benefit of field organizations and community reuse organizations responsible for implementing and administering a financial assistance program to alleviate the adverse impact of downsizing defense nuclear facilities on affected local economies.

DATES: Written comments (7 copies) are due on or before April 8, 1997. The interim guidance is effective March 10, 1997.

ADDRESSES: Comments must be submitted to: U.S. Department of Energy, Office of Worker and Community Transition, WT–1, 1000 Independence Avenue, SW, Washington, DC 20585.

FOR FURTHER INFORMATION CONTACT: Ms. Deborah Swichkow, U.S. Department of Energy, 1000 Independence Avenue, SW, Washington, DC 20585, (202) 586–0876.

SUPPLEMENTARY INFORMATION:

I. Background

Pursuant to the Atomic Energy Act of 1954 (AEA), the Department of Energy (DOE) owns defense nuclear facilities in various locations in the United States that are operated by management and operating contractors. As a result of the end of the Cold War, many of these facilities are undergoing work force restructuring that often has a significant impact on local economies. The Atomic Energy Act of 1954 contains broad authority to adopt and carry out policies, subject to the availability of appropriations, for downsizing these facilities and for alleviating the adverse impacts on affected local communities. 42 U.S.C. 2201.

Section 3161 of the National Defense Authorization Act for Fiscal Year 1993, 42 U.S.C. 7274h, provides additional and specific authority for DOE to provide impact assistance to communities that are adversely affected by work force restructuring. Section 3161 further requires DOE to coordinate the provision of such assistance with programs carried out by the Departments of Labor, Commerce, and Defense. In devising a local impact assistance program under section 3161, DOE has chosen to follow the example of the Department of Defense under the Defense Economic Adjustment, Diversification, Conversion, and Stabilization Act of 1990 (Pub. L. 101–510) which is referenced in section 3161. Like the Department of Defense, DOE has developed a financial assistance program that, for the most part, consists of awards to broadly representative, community reuse organizations (CROs) who either expend or sub-award the funds for projects to stimulate the local economy under an approved Community Transition Plan developed with public input. CROs may be governmental or non-governmental organizations. If a CRO is non-governmental and applies for financial assistance, it would have to be organized under local law and be able to enter into, and assume the obligations of a DOE financial assistance agreement. Although section 3161 does not require CROs, DOE use of such organizations is consistent with the Congressional requirement to coordinate the provision of local impact assistance, as appropriate, with the Department of Defense programs under the Defense Economic Adjustment, Diversification, Conversion, and Stabilization Act.

The award and administration of DOE financial assistance agreements is subject to generally applicable regulations set forth at 10 CFR part 600. The interim guidance in this notice supplements those regulations and provides a general decision making framework to guide the exercise of discretion by DOE field organizations. Issuing policy in the form of guidance allows for greater flexibility to modify policy if the facts and circumstances warrant modification.

Various aspects of the interim guidance appeared previously in DOE's August 24, 1994, Report on the Department of Energy's Worker and Community Transition Program. Today's notice will clarify the roles and responsibilities of DOE Headquarters, DOE field organizations, and CROs. The interim guidance is subject to revision in light of public comments received in response to this notice.

II. Description of Key Provisions

Although this notice contains policies applicable to funding decisions in DOE Headquarters, for the most part, it contains interim guidance to DOE field organizations on economic development activities of CROs, approval of CRO plans to expend funds, evaluation criteria for funding decisions, CRO performance measures and reporting.

Much of the interim guidance is self-explanatory. This document highlights policy decisions embodied in various provisions of the interim guidance that may be of interest to members of the public. First, the financial assistance is targeted on communities substantially impacted by work force restructuring plans under section 3161 for ''defense nuclear facilities'' which are listed in Appendix B to the interim guidance.

Second, the CROs are intended to be broadly and fairly representative of local community interests. To that end, the interim guidance contains minimum evaluation criteria at paragraph II.C.3 for approving CROs that all DOE field organizations should follow. The interim guidance also provides for application of the conflict of interest avoidance policy in 10 CFR 600.142 to all subagreements under a financial assistance agreement including, but not limited to, subcontracts, subgrants, loans, etc.

Third, the interim guidance provides for start-up, planning, administrative, and project financial assistance, and indicates the range of amounts of assistance for each type of activity. These ranges are based on experience with pilot activities financed by local impact assistance grants already awarded under section 3161. The evaluation criteria provide for consideration of cost-sharing offered by an applicant. However, cost-sharing is not a requirement because DOE does not believe Congress intended that assistance be denied for proposals from sources who are unable to offer cost sharing.

Fourth, consistent with DOE's experience in this program, the interim guidance provides for program and project assistance for sources other than CROs. These provisions are useful because some CROs prefer to serve in an advisory role in the selection of projects

rather than being a direct financial assistance recipient.

Fifth, the interim guidance refers to a broad array of programs that have been funded by past awards and thereby indicates the range of possibilities for future awards and sub-awards. Among the types of programs a CRO could finance are small business incubators, venture and risk capital investments, training seminars, and revolving loans funds. With respect to such loans, the interim guidance provides a termination date of five years from the first award. A terminal date is desirable to facilitate closeout under 10 CFR part 600 and to limit the period for an assistance agreement to the amount of time necessary to mitigate the effects of downsizing on the local economy.

Sixth, the interim guidance provides for development of performance measures and periodic reporting under 10 CFR part 600 to assess the effectiveness of the program (see Appendix C). While there is some burden in complying, the burden is justified by the need to determine that taxpayer dollars are being expended effectively to achieve the Congressional objective of alleviating the impact of work force restructuring on affected local communities. DOE anticipates that the information will be useful in supporting budget requests, reporting to Congress, and responding to inquiries, if any, from Congress' General Accounting Organization and DOE's Inspector General.

III. Review Under Executive Order 12866

This action has been determined not to be a ''significant regulatory action'' under Executive Order 12866, ''Regulatory Planning and Review'' (58 FR 51735, October 4, 1993). Accordingly, it was not subject to review by the Office of Information and Regulatory Affairs of the Office of Management and Budget.

IV. Review Under the National Environmental Policy Act

Pursuant to the Council on Environmental Quality Regulations (40 CFR parts 1500–1508), DOE has established guidelines in 10 CFR part 1021 for its compliance with the provisions of the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321, *et seq.*). Pursuant to Categorical Exclusion A6 in Appendix A of Subpart D to 10 CFR part 1021, DOE has determined that this action is categorically excluded from the need to prepare an environmental impact statement or environmental assessment.

V. Congressional Notification

Pursuant to the Small Business Regulatory Enforcement Fairness Act of 1996, DOE will send a report regarding promulgation of this notice to Congress prior to its effective date. 5 U.S.C. 801.

VI. Opportunity for Public Comment

Interested persons are invited to submit data, views, or arguments with respect to the policies set forth in this notice. Seven (7) copies of written comments should be submitted to the address indicated in the **ADDRESSES** section of this notice. A copy of the comments received in response to this notice will be available for public inspection in the Department of Energy Freedom of Information Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue SW., Washington, D.C., 20585, between the hours of 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays. Late-filed comments will be considered to the extent that time allows. Any person submitting information which that person believes to be confidential and which may be exempt from public disclosure should submit one complete copy, as well as an additional copy from which the information claimed to be confidential has been deleted. The Department of Energy reserves the right to determine the confidential status of the information or data and to treat it accordingly. The Department of Energy's generally applicable procedures for handling information which has been submitted in a document and may be exempt from public disclosure are set forth in 10 CFR 1004.11.

Issued in Washington, D.C., on January 17, 1997.

Robert W. DeGrasse, Jr.,

Director, Office of Worker and Community Transition.

For the reasons stated in the preamble, the Department of Energy hereby promulgates the following interim policy, as set forth below.

Interim Guidance for Community Transition Activities

Table of Contents

INTERIM GUIDANCE FOR COMMUNITY TRANSITION ACTIVITIES

I. Introduction

The end of the Cold War has reduced the country's need for national security activities. As a result, the Department of Energy's (the Department) nuclear weapons production capacity is decreasing. The Department is accomplishing this by reconfiguring, downsizing, and closing many of its facilities. Since the Department realizes that these actions may adversely affect the communities nearby containing a substantial number of displaced workers, it will cooperate with the recognized representative of each community and execute economic development initiatives to help offset those impacts.

Initial program guidance for the community transition program was first developed in the spring and summer of 1993, shortly after the formation of the Department's Task Force on Worker and Community Transition. In the intervening period, the community transition program has evolved. This guidance reflects the changes necessary

for the continued progress of the program. It reflects the work and input of stakeholders as well as the staff of the Department's Office of Worker and Community Transition (the Office). It replaces previous guidance on community transition activities and should be used while comments are being collected. The Office appreciates the assistance and effort of Department field organizations, site contractors, and representatives of the affected communities for their assistance in developing this guidance.

II. Program Scope

A. General

Pursuant to section 3161 of the National Defense Authorization Act for Fiscal Year 1993, the Department's community transition program is designed to minimize the social and economic impacts of work force restructuring at defense nuclear facilities by providing local impact assistance to affected communities, 42 U.S.C. 7274h(c)(6). Specific assistance programs are designed by the communities and the local Department facilities affected by the downsizing. Over the past 3 years, the Department has employed an extensive process of stakeholder and public involvement to shape policies concerning worker and community transition. This process included national stakeholder meetings on July 12–13, 1993, on November 16–17, 1993, on February 3–4, 1994, on May 25–26, 1994, on November 15–16, 1994, on April 20–21, 1995, on September 13–15, 1995, and on March 13–15, 1996, as well as specific input provided by nine community transition focus groups. It also responds to the recommendations made by the General Accounting Office in its December 1995 report to the Secretary of Energy, ''Energy Downsizing: Criteria for Community Assistance Needed.'' Impact assistance is provided by funding Department field organization-approved proposals for activities of Community Reuse Organizations (CRO), Management and Operating contractors, and others.

B. Allowable Uses of Funding

1. Funds for community transition activities may be allocated for approved programs and projects described in community transition plans or in field project requests prepared by Department facilities for activities funded outside the community transition plans.

2. In reviewing proposals or applications, the broadest range of allowable uses of funds will be considered. However, because funding is limited, and because other appropriations may be seen as the proper or primary source to fund certain activities, various activities may only be approved where exceptional circumstances would justify the decision. These include:

a. Activities that could be funded from work force restructuring funds, such as employee retraining;

b. Landlord responsibilities normally funded by the program office with landlord responsibilities at the site, including preparing personal property for disposal; decontamination and decommissioning of land and facilities; maintenance (to the extent it is not passed on to the tenant); environmental baseline-facility condition reports; administrative activities such as appraisals, title searches and environmental assessments; and

c. Off-site construction, infrastructure, or other capital improvement projects.

3. If funding for the type of projects described in Section II.B.2, above, is being considered, the Department field organization should make early contact with the Office to determine whether the project can be funded by appropriations and, if so, what justification will be necessary.

C. Eligibility and Funding Recipients

1. General

Community transition funds will generally flow through a Department field organization to the CRO or CRO-designee. For activities funded outside the community transition plan, funds may be made available by direct contract between the Department and another party, such as the on-site contractor. Financial assistance to CROs will be provided in accordance with the requirements applicable to grants or cooperative agreements that are in 10 CFR Part 600.

2. Definition of ''Defense Nuclear Facilities''

Pursuant to section 3161 of the National Defense Authorization Act for Fiscal Year 1993, ''defense nuclear facilities'' for the purposes of community transition assistance include the following types of facilities under the control or jurisdiction of the Secretary of Energy: Atomic energy defense facilities involving production or utilization of special nuclear material; nuclear waste storage or disposal facilities; testing and assembly facilities; and atomic weapons research facilities. Department facilities that have been determined to be defense nuclear facilities for the purposes of section 3161 are listed in Appendix B.

3. CRO Selection Criteria

The communities surrounding each site may be represented by a single CRO. The selection criteria applied by the Department field organizations in order to designate a CRO include, but are not limited to, the following:

a. The organization should be formed for the purpose of addressing the economic impacts in the affected communities as a result of the changes in the work force at a defense nuclear facility.

b. The organization should solicit and accept participation by a reasonably representative cross section of public and private sector interests.

c. The organization should have a reasonable process for soliciting public input into formulation of a Community Transition Plan and any major amendments to such a Plan.

D. Types of Assistance

1. Start-up Assistance for CROs

a. The Department field organizations should solicit applications for financial start-up assistance for CROs in a manner which provides for the maximum amount of competition feasible as set forth in 10 CFR Part 600.

b. This is one-time assistance to support the initial functions of a CRO including: Development of a public participation plan; development of scopes of work for impact analyses and a community transition plan; and development of a proposal for planning assistance.

c. Funding for start-up assistance usually does not exceed $100,000 and may be spent over two fiscal years. It may be applied for at any time in the Department budget cycle, based on knowledge by the Department field organization that work force reductions are likely to occur within 18 months.

d. Application for the assistance should include information about how area local governments, economic development organizations, labor, and other key stakeholders will be involved with creating the CRO. Award of start-up assistance does not commit the Department to funding future CRO activities and projects.

2. Planning Assistance for CROs

a. Planning assistance for the CROs is intended to pay for administrative costs and planning studies associated with the development of a Community Transition Plan.

b. Planning assistance is expected generally to be in the range of $250,000 to $500,000.

c. A planning assistance application should include the following elements:

(1) The purpose and need for community transition.

(2) A description of the CRO, including its membership, functions, scope, and decisionmaking procedures.

(3) How the community transition plan will be developed. Where appropriate, an analysis of socio-economic strengths, weaknesses, opportunities and threats to the community should be included in the scope of work for the planning effort.

(4) A program plan for utilization of the planning assistance funds, including proposed scope of work and milestones.

(5) Required Federal grant application forms and financial information, as specified by the Department field organization.

(6) A summary of the CRO-approved public participation plan which includes discussion of access to meetings and records, community involvement, fairness of opportunity for receipt of program benefits, and avoidance of conflicts of interest.

(7) A discussion of CRO coordination with the applicable site, the Site Specific Advisory Board, and regional planning and economic development organizations and activities.

(8) Identification of any non-Department resources that will be utilized in the planning phase of the program.

(9) Any proposed program or project activities that are requested and proposed to be conducted prior to approval of the community transition plan together with the justification required for program and project assistance (see Sections II.D.4 and VI.C.3).

(10) Written designation of the CRO by the responsible Department field organization.

3. Operational Assistance

a. This is assistance to fund administrative expenses of the CRO beyond start-up and planning assistance.

b. Funding for this activity may vary based upon the CRO organization and the degree to which the CRO is supported by other funding sources. It is suggested that requests normally be part of the Community Transition Plan and provide the appropriate information requested for program and project assistance in Section II.D.4 as well as a discussion of the steps the CRO is taking to become self-supporting and a timetable for when the CRO will be self-supporting.

4. Community Transition Program and Project Assistance

a. The purpose of this assistance is to fund the activities deemed most likely to reduce the community's dependence on the Department and to mitigate the negative impacts on communities resulting from the downsizing of defense nuclear facilities. Project assistance typically will provide financial assistance for a comprehensive, multi-year community transition program—generally a 3 to 5-year program. The program may be based upon community needs and may incorporate an analysis of the socio-economic strengths, weaknesses, opportunities, and threats in the community transition plan. Components may include programs conducted directly by the CRO, contract services, and competitively-based financial assistance for economic development activities. Types of programs that may be funded include small business incubators, revolving loan funds, equity position, venture and risk capital funding, marketing of excess Department property, entrepreneurial development, technology transfer assistance, and applicable training seminars. Inclusion of these types of programs in a financial assistance award will generally require special provisions in the financial assistance instrument. For example, if a CRO institutes a revolving loan fund, the loan program should not exceed an appropriate length of time (i.e., 5 years) and all interest and principal payments must be returned to the Government. The financial assistance award should contain appropriate guidance on repayments of loans and if desired, allow for reauthorization of principal repayments to be used for payment of other costs under the financial assistance award.

b. In the past, program and project assistance has generally been in the range of $400,000 to $5 million per year at each site.

c. The specific format for requests for program and project assistance will depend on the applicant. For CRO requested projects or programs, the request should be included in the Community Transition Plan as described in Section VI. For funds to be managed by the site independent of the CRO, the site shall submit a letter request to Headquarters signed by the Field Manager which contains information similar to that requested for prioritized projects submitted by the CRO, together with a letter from the CRO with the CRO's comments.

d. The Lobbying Disclosure Act of 1995, Public Law 104–65, Dec. 19, 1995, as amended by Public Law 104–99, Jan. 26, 1996, prohibits the Government from awarding financial assistance to non-profit organizations described in section 501 (c) (4) of the Internal Revenue Code of 1986 which engage in lobbying activities as defined by the Act. Therefore, such organizations are not eligible to receive awards of financial assistance.

III. Roles and Responsibilities

A. The Secretary of Energy is responsible for the overall program direction and has final approval of all community transition funding decisions.

B. The Director, Office of Worker and Community Transition is responsible for the overall management of the community transition program, including the following:

1. Authorizes actions, within approved funding levels, to mitigate impacts of reconfiguration, downsizing, and closing of Department facilities.

2. Establishes principles, policies, and procedures to implement the Department's community transition mission.

3. Develops the Department-wide community transition budget, recommends the Department field organization budget levels for community transition, and establishes the criteria to be used for community transition program funding levels at qualifying sites.

4. Determines allowable uses of Worker and Community Transition program funds within legislatively-mandated parameters.

5. Recommends, to the Secretary, approval or denial of requests for community transition assistance, after consultation with other Department elements as necessary.

6. Ensures coordination of the Community Transition Plan with the work force restructuring plans at the site.

7. Provides liaison among other program and staff offices in Headquarters for community transition issues.

8. Conducts program reviews of field implementation of the community transition program.

C. Department Field Organizations are responsible for the day-to-day administration of the community transition program. This includes responsibility for the following:

1. Working within their communities to designate the local CRO in order to perform the roles and responsibilties as described in Section III.D.

2. Assuring that CROs are entities formed for the purpose of addressing the

economic impacts in the affected communities as a result of the changes in the work force at a defense nuclear facility. CROs may be local governments, corporations or affiliations of communities and interested stakeholders.

3. Soliciting applications for financial assistance and approving the CRO for sites under their jurisdiction; assuring that all interested groups are afforded the opportunity to participate in the CRO.

4. Assuring that the provision in Appendix D concerning the standard of conduct requirements be included in each financial assistance award for economic development activities.

5. Assuring that the Department's community transition policies and guidance are carried out in a spirit of cooperation and openness.

6. Integrating the requirements of the community transition program with the requirements of other programs and activities at their sites and assuring that necessary support activities are identified and budgeted for.

7. Providing planning guidance to the CROs for program plans and reviewing and approving CRO-developed community transition plans.

8. Resolving conflicting proposed uses of the Department's assets under its jurisdiction.

9. Integrating community transition locally so that it incorporates the work and plans of the CRO with other community transition activities, if any, proposed by the site.

10. Consulting with American Indian Tribal Governments to assure that tribal rights and concerns are considered prior to the Department taking actions, making decisions or implementing programs that may affect tribes.

11. Publishing financial assistance award announcements publicly to allow maximum participation.

12. Assuring that there is no financial assistance or loan awarded to any non-profit organizations described in section 501(c)(4) of the Internal Revenue Code of 1986 which engages in lobbying activities as defined in the Lobbying Disclosure Act of 1995, as amended.

D. Community Reuse Organizations serve to implement community transition activities. In this capacity the CRO will:

1. Coordinate local community transition planning efforts that address Department-related impacts.

2. Include a broad representation of the affected communities, with opportunity for involvement given to people and groups such as individual residents; representatives of community-based organizations; representatives of business, educational, and financial institutions; site workers and their labor organizations; local government officials; established economic and community development organizations; public interest groups; environmental groups; diversity groups; and federally-recognized American Indian Tribes.

3. Develop and submit Community Transition Plans to the appropriate Department field organization.

4. Receive Department funding and participate in the management of community transition projects.

5. Coordinate CRO activities with Site Specific Advisory Boards (SSAB) at Department facilities, particularly with regard to future site planning.

IV. Program Planning

A. General

Future funding for all activities other than start-up and planning assistance is expected to be requested through a Community Transition Plan (or a letter request for Department field organization activities). Table 1 describes the activities expected to occur at each step. The intent of this process is to provide objectivity in the selection of project and program activities to be supported. The following paragraphs will describe the major activities in some detail.

B. Development of the Community Transition Plan

Department field organizations should provide guidance to the CROs to assist them in developing a Community Transition Plan. Based upon this guidance, the CROs should prepare a Community Transition Plan for funding.

C. Department Field Organization and Office Reviews

Upon completion of the CRO Community Transition Plan and any Department field organization projects, a field review of the Community Transition Plan and an Office review of both the Community Transition Plan and any site-sponsored projects should take place. The intent is for the Department field organization and the Office to jointly identify any needed revisions as soon as possible, thereby minimizing multiple requests for changes. At the end of the review period, there should be a plan ready for recommendation with a very high probability of approval by the Office.

D. Economic Development Administration in the Department of Commerce and the Peer Review Board

Reviews by the Economic Development Administration in the Department of Commerce and the Peer Review Board should use the criteria in Section V to compare and assess projects and programs. The recommendations may be provided to the Office of Worker and Community Transition for their consideration in the final determinations of program funding.

E. Office of Worker and Community Transition Review and Decisions

The Office will review the submitted plans, the peer review comments, and the independent review from the Economic Development Administration of the Department of Commerce. Based upon these inputs, and the Office staff review, final funding levels for the fiscal year will be recommended. After Secretarial approval and appropriate notifications, funds will be transferred to the appropriate Department field organizations for implementation of the approved program.

TABLE 1.—COMMUNITY TRANSITION FUNDING ACTIVITIES

Step	Activity
(1)	CRO develops Community Transition Plan based upon planning guidance from the Department. If appropriate, local Department field organization develops project descriptions for any Department facility/activities to be requested from the Office.
(2)	CRO submits Community Transition Plan to the Department field organization.
(3a)	Department field organization conducts review of Community Transition Plan and assists CRO in refining proposal.
(3b)	Office concurrently assists development of the Community Transition Plan and any projects from the Department field organization.
(4)	Department field organizations submit community transition plan and field project requests to the Office for review and approval.
(5)	Economic Development Administration and the Peer Review Board evaluate CRO Community Transition Plans and field projects.

TABLE 1.—COMMUNITY TRANSITION FUNDING ACTIVITIES—Continued

Step	Activity
(6)	Peer Review Board Report and Economic Development Administration Reports are submitted to the Office.
(7)	The Office conducts internal review.
(8)	The Office makes funding award decision.
(9)	The Office authorizes release of funds into Department field organization financial plan.
(10)	Community transition funds are available to recipients.

V. Evaluation Criteria for Review of Projects and Programs

The following factors will be used to evaluate all project and program funding requests in Community Transition Plans:

A. Projected job creation (communities should seek to create at least one job for each $10,000 to $25,000 in Federal funding received, leveraging those funds to attract other private and public funds).

B. Projected job creation for workers affected by downsizing.

C. Viability of project to induce investment/growth in production of goods and services for which the community may have or be able to develop a comparative economic advantage.

D. Ability to reduce the region's dependence on the Department.

E. Consistency with the identified strengths of the region.

F. Past performance of the applicant, if any.

G. Amount of local participation in the project, either financially or in terms of coordinated services.

H. Demonstrated cooperation with regional or state economic development efforts.

I. Ability of project to become self-sufficient.

J. Linkage of project to site cost reductions through transfer of site equipment, facilities or technologies.

K. Other unique factors such as innovative features of the proposed project, such as matching funds.

VI. Community Transition Plans

A. Purpose

1. The Community Transition Plan describes the overall strategies and, within each strategy, the actions proposed by the communities to respond to the changing missions at a Department facility. Where appropriate, it also describes the proposed programs, projects and estimated funding requested from the Department. It is the overall framework and the rationale for the local response to the downsizing at the Department facility.

2. The Plan serves an integrating function, building upon other existing community and facility planning efforts in the region. It should describe those efforts, the lessons learned from them, and should focus on the additional, supplemental efforts the community believes are necessary and useful to respond to the changes at the Department facility. It should not duplicate other planning efforts, but would afford the community an opportunity to highlight innovations to address the impacts of downsizing.

B. General

1. Initial planning grants from the Department should be used by CROs to prepare and submit to the Office a Plan for anticipated community transition activities. This Plan should be submitted through and be approved by the appropriate Department field organization.

2. While each community faces unique transition challenges and will develop a plan specific to its situation, there are common topical areas that should be addressed in all Plans. The following paragraphs offer guidance on what the Office considers critical components of a Community Transition Plan. These are elements to be addressed in the Plan, not necessarily an outline of the developed Plans. The continued allocation of the Department's limited financial and other available resources will be contingent upon the completion of the Plan and its contents. Both short-term and long-term objectives may be included.

C. Community Transition Plan Components

1. Planning Analysis

a. An analysis should be performed to establish the primary and secondary community impacts likely as a result of planned site restructuring. From a baseline established from local information sources, project the likely impacts on such primary factors as net job loss, changes in unemployment, loss of wages and disposable income, and business closings. Secondary impacts could include such factors as decreases in taxes and other user fees, loss of business and sales volumes, decreases in property values and other factors. Impacts on education, cultural activities, recreation, the environment and other socio-economic factors should also be considered. From an analysis of these impacts, develop a set of issues.

b. A critical part of the Community Transition Plan is the analysis of strengths, weaknesses, opportunities and threats (SWOT analysis) to the community. This can be performed with planning assistance funds, or existing studies can be used. With the SWOT analysis as a framework, set out an overall vision for the community and identify the programs and projects to be established, including the degree to which the programs and projects address the issues.

2. Stakeholder Involvement

Stakeholders should have the opportunity to participate in the planning process. Identify stakeholders providing input to the Plan, describe method of input, and common areas of interest. A communication strategy should also be a component of insuring proper representation and community input into the planning and implementation process. This should also include CRO coordination with the applicable site and other groups, such as: any Site Specific Advisory Boards; regional planning and economic development organizations and activities; labor; the business community; academic communities; and American Indian Tribal Governments.

3. Prioritized Projects

Develop a list of prioritized projects or programs based on the above considerations with an overall project budget and schedule for completion of each. The following items are suggested topics for discussion for each project:

a. The primary goal of transition initiatives is the creation of jobs through the retention, expansion, and creation of businesses, and through other measures, to offset the economic impacts of the Department's work force restructuring actions. The Plan should identify likely benefits to workers displaced by the Department and the area's work force in general.

b. Amount, type, timing, and continuity of funding available from non-Department sources such as the U.S. Department of Labor's Job Training Partnership Act and the U.S. Department of Commerce's Economic Development Administration. Also include any state and local funding, and any private development sources, such as venture capital, financial institutions, revenue bonds, seed capital, revolving loans and other private funds. The use of these funds should be set out relative to any Department funding provided.

c. Coordination with other community programs.

d. Performance measures for each project.

e. A proposed scope of work, timeline, and reporting schedule (generally, quarterly) of proposed activities, accomplishments, and expenditures.

f. Required Federal grant application forms and financial information, as specified by the Department field organization.

g. Any anticipated preferences or non-traditional competition elements of the program, and their relationship to program objectives.

h. A discussion of CRO coordination with units of Federal, state, local, or tribal governments. Demonstration that proposed projects will augment and not duplicate current community efforts.

I. Plans, if any, to support CRO operating and program costs following completion of the project grant (e.g., self-sustaining mechanisms, local or non-Department support, revenue/income generation, future Department funding, or transfer of programs to other organizations).

j. Identification of any time-sensitive opportunities, or other pertinent background information.

k. If multi-year funding is anticipated, show how this year's increment related to prior-year activities and what will happen if future year funding is reduced or eliminated.

VII. Performance Measures

A. Purpose

1. Performance measures represent a mechanism that the CROs and the Department can use to monitor performance. They do this by providing a means for: (1) determining how well a project is being executed; (2) indicating when corrective actions are required; and (3) documenting success.

2. Performance measures establish a mechanism for program assessment. It is suggested that the CROs use the results of their performance measures for self assessment purposes. The Department field organization and Headquarters staff should use the same results for purposes of external oversight.

3. Performance measures should be used to allow the Department to provide objective and defensible indications to the Congress and to the American people that the Department's economic development program is effective.

4. Finally, since the intent of performance measures is to evaluate program execution, performance measures need not be developed for start-up or planning assistance.

B. Guidance

1. The CROs are responsible for developing performance measures based on this guidance and on their unique circumstances, goals, and objectives. The final measures should be negotiated with the appropriate Department field organization and, ultimately, approved by the Office.

2. Many CROs may have similar objectives. The Office encourages, but does not require, developing consistent performance measures in such cases and also encourages sharing best-practices and lessons-learned to the maximum extent possible.

3. Performance measures should not focus on minor aspects of performance, rather, they should comprehensively measure critical aspects of performance for any enterprise.

4. Performance measures and objectives should not be so difficult that they cannot be achieved through a reasonable amount of effort, nor shall they be excessively easy to achieve.

5. Performance measures shall be periodically assessed by the CROs and the results reported to the Department field organization and the Office.

6. When a performance measure is no longer providing useful information, it should be eliminated or replaced.

7. Performance measures shall be measurable in a numerical fashion to the maximum extent possible. Where numeric measurement is not possible, performance measures shall be evaluated against a clearly defined set of criteria.

8. In cases where grant requests are small (i.e., less than $300,000), a less stringent requirement for performance measures may apply.

9. On a quarterly basis, the CROs should submit a progress report to Department Headquarters via the appropriate Department field organization. The quarterly progress reports should contain, among other things, updated information on the CRO's performance measures. The progress report format may be found in Appendix C.

C. Model

Per the above guidance, the individual CROs should be tasked with developing performance measures for their particular enterprise. The Office recognizes that:

1. The various CROs will have different missions, objectives, and priorities; the CROs are best equipped to determine what constitutes a good measure of performance for their particular situation.

2. The CRO missions are dynamic, and, therefore, their objectives may change from time-to-time. As a consequence, what constitutes a good performance measure today may not be appropriate tomorrow; therefore, the CROs should be allowed the flexibility to alter their performance measures, with the Office's concurrence, to more closely align with changing missions and objectives.

3. The CROs should have latitude in regard to the substance and nature of their performance measures. However, it is suggested that they follow generally recognized principles for developing and measuring performance. By employing a performance measurement system, the Department will be able to assess and describe the effectiveness of the program. This will assist in determining appropriate levels for the program in future years and will help each site and each CRO assess the effectiveness of its program.

D. Areas to Address

The following paragraphs delineate the types of issues that should be considered when developing a performance measurement program.

1. *Job creation:* The act of creating jobs that did not previously exist in a defined marketplace, especially jobs that will assist displaced workers from the affected site. Communities should seek to create at least one job for each $10,000 to $25,000 in Federal funding received, leveraging those funds to attract other private and public funds.

2. *Job retention:* Holding in place the existing work force and providing substitute employment for at-risk or displaced workers within a defined geographic area.

3. *Regional development:* Enhancement of the attributes of a geographic area to promote the commonly-held and understood assets of that region.

4. *Business start-ups:* New commercial or industrial enterprises, legal entities, partnerships, etc.

5. *Expansion of existing businesses:* The ability to hire more workers and to increase the demand for goods and services ultimately stimulating the economy (e.g., increase revenues, broaden the tax base).

6. *Economic diversification:* Any activity within a defined geographical area that makes the area less dependent upon Department business.

7. *Training:* Providing skills and classes necessary to prepare workers to maintain the skills required to continue in one's current position or alternative job.

8. *Commercialization:* The act of making assets (e.g., technologies, use of facilities or equipment) under Department control available for third party use or for use by the M&O contractor for non-Department business activities.

9. *Facility reuse:* The reuse of Department facility real estate and fixtures including buildings, land, and facilities that are not needed for the Department's traditional missions.

10. *Leveraging:* The ability of the CRO to commit non-Department resources as a match for Department funds requested. Leveraging should be indicated as a ratio of non-Department to Department resources, e.g., if a CRO requests a $100,000 grant and commits $50,000 in non-Department matching funds, the leveraging factor would be 1:2.

11. *Matching funds:* Defined as non-Department resources committed to CRO programs. Matching funds may include the following:

a. Cash—funds committed to projects to pay for various program activities, including personnel, equipment, materials, supplies, facilities, etc.

b. In-kind—contributions other than cash committed to program activities. In-kind contributions may include personal time, donated facility space, equipment loans or value of discounted services.

12. *Personal property transfer:* The transfer of Department-controlled equipment, supplies, and intellectual property to another entity—can involve transfer of title, licensing or leasing of the property.

13. *Community relations:* Broad-based solicitation and encouragement of public awareness and participation in decision-making processes.

14. *Administration, Outreach and Finance:* Business systems and processes incorporated to manage the development and implementation of the community transition program, including community involvement and fiscal responsibilities (e.g., contractual compliance, auditing, the raising and expending of monies, granting credit, and making investments).

VIII. Reviews

A. Financial Management Reviews

1. Generally, the Department field organizations should apply the requirements of Departmental financial assistance policies and procedures which are set forth in 10 CFR Part 600. Those sections of the CFR provide guidance in the various aspects of financial assistance management including general administrative requirements, reports and records, making changes in the grant scope, and auditing requirements.

2. Purpose

Careful monitoring of program implementation is necessary due to the level of public involvement in community transition activities. The Office is responsible for establishing appropriate standards to assure proper accounting for the use of community transition assistance funds.

3. Procedures

a. Conduct financial management reviews of Department field organization community transition programs on an as-needed basis. Specific areas of review are: Financial reporting; accounting records; internal control; budget control; allowable cost; source documentation; cash management; and project accounting.

b. The Office should track completed grants and close-out reports that address audit findings.

B. Program Reviews

The Office plans to conduct programmatic reviews of Department field organizations to assess accomplishments, determine progress and identify issues needing study. These reviews should be performed on a frequency and at locations as determined by the Office Director, and should be coordinated with the management of the Department field organization being reviewed. The Office should not review the CROs, except when accompanying a Department field organization during its review. It is the general goal of the Office to review each Department field organization that is implementing a community transition program at least once every year.

Appendix A

Office of Worker and Community Transition Contacts

Director:	
Bob DeGrasse	202–586–7550, FAX 586–8403.
Deputy Director:	
Terry Freese	202–586–5907, FAX 586–8403.
Program Communications:	
Pat Parizzi	202–586–7550, FAX 586–8403.
Work Force Planning:	
Lyle Brown	202–586–0431, FAX 586–1540.
Laurel Smith	202–586–4091, FAX 586–1540.
Debby Swichkow	202–586–0876, FAX 586–8403.
Work Force Restructuring:	
Terry Freese	202–586–5907, FAX 586–8403.
Labor Relations:	
Lyle Brown	202–586–0431, FAX 586–1540.
Deborah Sullivan	202–586–0452, FAX 586–1540.
Community Transition:	
Bob Baney	202–586–3751, FAX 586–1540.
Mike Mescher	202–586–3924, FAX 586–1540.
Laurel Smith	202–586–4091, FAX 586–1540.
Debby Swichkow	202–586–0876, FAX 586–8403.
Public Participation:	
Laurel Smith	202–586–4091, FAX 586–1540.
Natasha Wieschenberg	202–586–5830, FAX 586–1540.

Community Transportation Field Contacts	
Paul Dickman, Albuquerque Operations Office	505–845–4313, FAX 845–5508.
Gary Stegner, Fernald Environmental Management Site	513–648–3153, FAX 648–3073.
Ken Osborne, Idaho National Engineering Laboratory	208–526–0805, FAX 526–8789.
Dave Porco, Miamisburg Area Office	513–865–3649, FAX 865–4489.
Darwin Morgan, Nevada Operations Office	702–295–3521, FAX 295–0154.
Bob Hamilton, Oak Ridge Operations Office	423–576–7723, FAX 576–6363.
Gene Pressoir, Pinellas Area Office	813–541–8062, FAX 541–8370.
Mike Dabbert, Portsmouth Gaseous Diffusion Plant	614–897–5525, FAX 897–2982.
Mark Coronado, Richland Operations Office	509–376–3502, FAX 376–8142.
Mike Bolles, Rocky Flats Office	303–966–2473, FAX 966–6633.
Sam Glenn, Savannah River Operations Office	803–725–2425, FAX 725–1910.

Appendix B.—Listing of Defense Nuclear Facilities

The list below reflects facilities receiving funding for Atomic Energy Defense activities of the Department of Energy, with the exception of activities under Naval Reactor Propulsion. It is recognized that these facilities have varying degrees of defense activities, ranging from a total defense dedication to a very small portion of their overall activity. This may cause certain difficulties in implementing the intent of the section 3161 legislation. Regardless, this listing will be used by the Office for possible application of funding received for defense worker assistance and community transition purposes.

Kansas City Plant
Pinellas Plant
Mound Facility
Fernald Environmental Management Project Site
Pantex Plant
Rocky Flats Environmental Technology Site, including the Oxnard Facility
Savannah River Site
Los Alamos National Laboratory
Sandia National Laboratory
Argonne National Laboratory
Brookhaven National Laboratory
Lawrence Livermore National Laboratory
Oak Ridge National Laboratory
Nevada Test Site
Y–12 Plant
K–25 Plant
Hanford Site
Idaho National Engineering Laboratory
Waste Isolation Pilot Project
Portsmouth Gaseous Diffusion Plant
Paducah Gaseous Diffusion Plant

Appendix C.—Quarterly Progress Report: (Date)

Project Title: (a name selected by the site for the specific activity or activities—e.g.; incubator loan fund; entrepreneurial training. The site and the CRO will determine the best method for project definition, consistent with the way funds were requested and approved.
DOE Site Contact: (name of DOE Field or Area Office point of contact)
CRO Contact: (name of CRO point of contact [if different from the project manager])
Project Manager: (name, address, and phone number of the primary applicant of the project under review)
Project start date: (date funding recipient is authorized to proceed by the field office)
Expected completion date: (Date funding recipient is expected to complete the project)
Description of project: (a short narrative description of the project.)
Funding History: (a record of the project funding. *Committed* means funds released to a field organization by the Office of Worker and Community Transition [the Office]; *obligated* means monies released to the CRO or other recipient by the field organization; and *costed* means expended by the CRO or other recipient.)

Status of the office funds	Cumulative amount
Committed by the Office.	
Obligated by the field organization.	
Costed by the recipient.	
Unobligated by the field organization.	

For the Office funding, identify the cumulative amount committed by the Office; the cumulative amount obligated by the field office; the amount unobligated; and the amount costed by the recipient. For leveraged funds, identify each source and the cumulative amount from that source.

Funding source	Cash	In-kind

Accomplishments: (project outcomes to-date: report on performance measures identified and jointly agreed to by DOE field and the CRO)

PERFORMANCE MEASURES

Category	Scheduled date	Projected outcome	Actual date	Progress to-date (or to the end of the project)
(e.g., create new businesses)	9/94	Start-up 2 businesses	12/94	3 new businesses.
(e.g., create new jobs)	9/94	20 jobs	10/94	30 jobs.

Date (Joint signature) DOE Field Office
Date (Joint signature) CRO

Appendix D.—Requirement for Financial Assistance—10 CFR Part 600

Section 600.142 of 10 CFR Part 600 contains a requirement for recipients of financial assistance to maintain written standards of conduct governing the performance of employees engaged in the award and administration of contracts. Since organizations involved in economic development activities may engage in activities other than contracting, in which potential conflicts of interest may arise (e.g., providing loans to local businesses), the following provision should be included in all financial assistance awards to such entities:

The requirements of 10 CFR 600.142 should be applied to the activities of employees, agents and consultants of financial assistance recipients whenever these activities involve decisions about the award of DOE funds, regardless of the type of agreement or arrangement to be supported by DOE funds (e.g., lease, loan, contract, etc.).

[FR Doc. 97–2933 Filed 2–6–97; 8:45 am]
BILLING CODE 6450–01–P

Federal Energy Regulatory Commission

[Project No. 11499–000 Tennessee]

Armstrong Energy Resources; Notice of Public Scoping Meetings

February 3, 1997.

The Federal Energy Regulatory Commission (FERC) and the Tennessee Valley Authority (TVA) are reviewing a proposal from Armstrong Energy Resources to construct and operate the 1,500-megawatt Laurel Branch Pumped

Storage Project No. 11499. The Laurel Branch Project would be located in Bledsoe County, Tennessee, seven miles northeast of Dunlap, Tennessee.

Since the July 1996 Scoping Document I was issued for Armstrong Energy Resources' (AER) proposed Laurel Branch Project No. 11499 and Reynolds Creek Project No. 11500, AER has decided not to pursue the Reynolds Creek Project. AER, by letter filed January 9, 1997 with the FERC, has withdrawn its proposal, and surrendered its preliminary permit for the Reynolds Creek Pumped Storage Project No. 11500. AER, in deciding to pursue only the Laurel Branch Project, has also defined the preferred transmission line corridor and alternative corridors for the project and reduced the initial project boundary.

FERC and TVA staff will not prepare an environmental impact statement (EIS) only for the Laurel Branch Project in accordance with the National Environmental Policy Act (NEPA). FERC will be a cooperating agency, with the TVA and the U.S. Army Corps of Engineers, in the preparation of the EIS.

Under the joint cooperative EIS process, scoping and draft EIS preparation will occur prior to the filing of a final license application with FERC. Participation by interested agencies and members of the public in the early initiation of the NEPA process is essential because this process will not be repeated upon the filing of a final license application.

The EIS will objectively consider both site-specific and cumulative environmental impacts of the project and reasonable alternatives. It will also address economic, financial and engineering analysis. A draft EIS will be circulated to all interested parties for review. Comments will also be requested. FERC and TVA will also hold a joint public meeting to elicit comments on the draft EIS. All comments filed on the draft EIS will be analyzed by staff and will be considered in a final EIS. The staffs' conclusions and recommendations will be presented to the Tennessee Valley Authority, the Corps of Engineers, and the Federal Energy Regulatory Commission for consideration in reaching final permit and licensing decisions, respectively.

Scoping Process

The first scoping meeting was held at the Bledsoe High School in Pikeville, Tennessee, on August 6, 1996. FERC and TVA will jointly conduct a second public scoping meeting for Armstrong Energy Resources' revised proposal on March 4, 1997. The second public scoping meeting will be held at Sequatchie County High School on the west side of Highway #28 in Dunlap, Tennessee. The March 4 meeting will focus on the proposed changes to Laurel Branch Project and the proposed transmission corridor and alternative corridors. Prior to the formal public meeting, an Information Open House will be held from 5:00 pm to 6:30 pm. The formal public meeting will be held from 6:30 pm to 9:30 pm, CDT, with registration beginning at 5:00 pm. It will not be necessary for participants to stay for the whole meeting in order to have their comments recorded. During both the Information Open House or the Public Meeting, oral comments can be recorded in a private setting. Anyone needing sign language interpretation or other special arrangements, please contact Ruth Horton at (423) 632–8521 no later than February 29, 1997.

The Information Open House is an informal opportunity for questions and information about the overall project scope and environmental review process. the public meeting is a formal meeting where a panel of representatives from the cooperating agencies will receive public comments concerning the proposed project and transmission corridors. The meeting will be recorded by a stenographer and will become a part of the formal record of the FERC and TVA proceeding. Individuals presenting statements at the meetings will be asked to sign in before the meeting starts and to clearly identify themselves for the record.

To help focus discussions at the meetings, we have prepared a Revised Scoping Document I to reflect changes in AER's proposal and to provide information on (1) the proposed transmission corridor and alternative corridors; (2) the proposed Laurel Branch Project; (3) the environmental review process to be followed; and (4) preliminary issues to be addressed. The Revised Scoping Document I will be mailed to agencies and interested individuals. Revised Scoping Document I will also be available at the scoping meeting.

At the scoping meeting, FERC and TVA staff will: (1) identify preliminary environmental issues related to the proposed project and the proposed transmission facilities; (2) identify preliminary resource issues that are not important and do not require detailed analysis; (3) identify reasonable alternatives to be addressed in the EIS; (4) solicit from the meeting participants all available information, especially quantified data, on the resource issues; and (5) encourage statements from experts and the public on issues that should be analyzed in the EIS, including points of view in opposition to, or in support of, the staffs' preliminary views.

We are interested in your thoughts on the issues to be addressed, especially the proposed transmission line corridor and alternative corridors. Your comments previously expressed on Scoping Document I relative to the Laurel Branch Project will be considered and need not be repeated for the Revised Scoping Document I.

Persons choosing not to speak at the meetings, but who have views on the issues or information relevant to the issues, may submit written statement for inclusion in the public record at the meetings. In addition, written scoping comments may be filed with the Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, D.C. 20425, and with Linda Oxendine, Senior Specialist, Tennessee Valley Authority, 400 West Summit Hill Drive, WT8C–K, Knoxville, TN 37902. All written correspondence should be filed no later than *March 31, 1997,* in order to be included in the final scoping document, and clearly show the following captions on the first page: Laurel Branch Pumped Storage Project, FERC Project No. 11499–000.

For Further Information on This Process, please contact Eddie R. Crouse, FERC, (202) 219–2794, or Linda Oxendine, TVA, (423) 632–3440.

Lois D. Cashell,

Secretary.

[FR Doc. 97–3037 Filed 2–6–97; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP97–55–002]

Great Lakes Gas Transmission LImited Partnership; Notice of Proposed Changes in FERC Gas Tariff

February 3, 1997.

Take notice that on January 29, 1997, Great Lakes Gas Transmission Limited Partnership (Great Lakes) tendered for filing, as part of its FERC Gas Tariff, the following tariff sheets proposed to become effective June 1, 1997:

Second Revised Volume No. 1

Substitute Third Revised Sheet No. 4
Substitute Second Revised Sheet No. 4A
Substitute Second Revised Sheet No. 5
Substitute Seventh Revised Sheet No. 7
Substitute First Revised Sheet No. 8
Sub 1st Rev First Revised Sheet No. 9
Substitute First Revised Sheet No. 11
Substitute Second Revised Sheet No. 13
Substitute First Revised Sheet No. 17
Substitute First Revised Sheet No. 20
Substitute First Revised Sheet No. 23
Substitute First Revised Sheet No. 25
Substitute First Revised Sheet No. 26
Substitute Second Revised Sheet No. 41
Substitute First Revised Sheet No. 49

Sub 1st Rev First Revised Sheet No. 53
Sub 1st Rev Original Sheet No. 54
Substitute Second Revised Sheet No. 55
Sub 1st Rev First Revised Sheet No. 59
Sub 1st Rev First Revised Sheet No. 60
Substitute Second Revised Sheet No. 63
Substitute Third Revised Sheet No. 65
Substitute First Revised Sheet No. 84
Substitute First Revised Sheet No. 86
Substitute First Revised Sheet No. 87
Substitute First Revised Sheet No. 89

Original Volume No. 2

Substitute Fourth Revised Sheet No. 68
Substitute Fourth Revised Sheet No. 68–A
Substitute Third Revised Sheet No. 68–B
Substitute Second Revised Sheet No. 68–D
Substitute Second Revised Sheet No. 68–G
Substitute Second Revised Sheet No. 68–M
Substitute Third Revised Sheet No. 100
Substitute Third Revised Sheet No. 101
Substitute Second Revised Sheet No. 102
Substitute Second Revised Sheet No. 106
Substitute Second Revised Sheet No. 107
Substitute Second Revised Sheet No. 145–A
Substitute Second Revised Sheet No. 145–B
Substitute Second Revised Sheet No. 146
Substitute Fourth Revised Sheet No. 147
Substitute Fourth Revised Sheet No. 148
Substitute Eighteenth Revised Sheet No. 151
Substitute Ninth Revised Sheet No. 152
Substitute Third Revised Sheet No. 153
Substitute Second Revised Sheet No. 155
Substitute Third Revised Sheet No. 161
Substitute Second Revised Sheet No. 167
Substitute Second Revised Sheet No. 168
Substitute Second Revised Sheet No. 169
Substitute Second Revised Sheet No. 170
Substitute Second Revised Sheet No. 172
Substitute Second Revised Sheet No. 216
Substitute Second Revised Sheet No. 217
Substitute Second Revised Sheet No. 218
Substitute Second Revised Sheet No. 219
Substitute Second Revised Sheet No. 220
Substitute Second Revised Sheet No. 222
Substitute Fifteenth Revised Sheet No. 223
Substitute Second Revised Sheet No. 225
Substitute Second Revised Sheet No. 227
Substitute Second Revised Sheet No. 233
Substitute Second Revised Sheet No. 234
Substitute Second Revised Sheet No. 239
Substitute Second Revised Sheet No. 240
Substitute Second Revised Sheet No. 241
Substitute Second Revised Sheet No. 242
Substitute Second Revised Sheet No. 243
Substitute Fifteenth Revised Sheet No. 245
Substitute Sixth Revised Sheet No. 246
Substitute Second Revised Sheet No. 247
Substitute Second Revised Sheet No. 249
Substitute Second Revised Sheet No. 255
Substitute Second Revised Sheet No. 256
Substitute Second Revised Sheet No. 262
Substitute Second Revised Sheet No. 263
Substitute Second Revised Sheet No. 264
Substitute Second Revised Sheet No. 265
Substitute Second Revised Sheet No. 266
Substitute Second Revised Sheet No. 268
Substitute Ninth Revised Sheet No. 269
Substitute Seventh Revised Sheet No. 270
Substitute Second Revised Sheet No. 272
Substitute Second Revised Sheet No. 274
Substitute Second Revised Sheet No. 281
Substitute Second Revised Sheet No. 282
Substitute Second Revised Sheet No. 289
Substitute Fifth Revised Sheet No. 290
Substitute Fifth Revised Sheet No. 291
Substitute Second Revised Sheet No. 292
Substitute Fifteenth Revised Sheet No. 294
Substitute Seventh Revised Sheet No. 295
Substitute Second Revised Sheet No. 297
Substitute Second Revised Sheet No. 299
Substitute Second Revised Sheet No. 306
Substitute Second Revised Sheet No. 307
Substitute Second Revised Sheet No. 599
Substitute Second Revised Sheet No. 600
Substitute Third Revised Sheet No. 601
Substitute Second Revised Sheet No. 602
Substitute Ten Revised Sheet No. 603
Substitute Seventh Revised Sheet No. 604
Substitute Fourth Revised Sheet No. 615
Substitute Second Revised Sheet No. 616
Substitute Second Revised Sheet No. 617
Substitute Second Revised Sheet No. 618
Substitute Second Revised Sheet No. 620
Substitute Second Revised Sheet No. 627
Substitute Second Revised Sheet No. 628
Substitute Twenty-Ninth Revised Sheet No. 1000

Great Lakes states that the above named tariff sheets are being filed to replace those filed on November 1, 1996 in this docket, and are intended to provide a comprehensive and current version of Great Lakes' proposal to convert its rates and tariff from a volumetric (Mcf) to a thermal (Dth) basis. The revised tariff sheets reflect portions of Great Lakes' original November 1, 1996 proposal and incorporate certain revisions filed with the Commission on December 31, 1996 and additional revisions first being proposed in the instant filing.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding.

Copies of this filing are on file with the Commission and are available for public inspection in the Commission's Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 97–3038 Filed 2–6–97; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP96–671–001]

National Fuel Gas Supply Corporation; Notice of Application

February 3, 1997.

Take notice that on January 30, 1996, National Fuel Gas Supply Corporation (National Fuel), 10 Lafayette Square, Buffalo, New York 14203, filed an amendment to its application in Docket No. CP96–671–000 pursuant to Sections 7(b) and (c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of facilities in order to create additional firm transportation capacity of 48,000 Dth per day from the Niagara import point to the interconnection between National Fuel and Transcontinental Gas Pipe Line Corporation (Transco) at Leidy and Wharton, Pennsylvania, (1997 Niagara Expansion Project), and permission and approval to abandon certain facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

National Fuel States that the purpose of the amendment is to: (1) revise the horsepower and other specifications of the proposed new compressor unit at the Ellisburg Compressor Station; (2) submit the Precedent Agreement between National Fuel and Union Pacific Fuels, Inc. for the remaining 3,656 Dth/d of unsubscribed firm winter capacity; and (3) request authorization to replace the meter facilities at the Strickler Road Station.

National Fuel proposes to install a high speed compressor with 3,200 hp at its Ellisburg Compressor Station instead of the originally proposed 2,250 Cooper GMVH–10 compressor, because the latter is no longer available. National Fuel also states that the change in the proposed Ellisburg compressor unit is not anticipated to have any significant impact on the cost of the project.

Any person desiring to be heard or to make any protest with reference to said amendment should on or before February 13, 1997, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to 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

with further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, or if the Commission on its own review of the matter finds that permission and approval for the proposed certificate and 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 National Fuel to appear to be represented at the hearing.

Lois D. Cashell,

Secretary.

[FR Doc. 97–3035 Filed 2–6–97; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP97–242–000]

Overthrust Pipeline Company; Notice of Tariff Filing

February 3, 1997.

Take notice that on January 30, 1997, Overthrust Pipeline Company (Overthrust) tendered for filing as part of its FERC Gas Tariff, the following tariff sheets to be effective March 1, 1997:

Original Volume No. 1

Fourth Revised Sheet No. 3

First Revised Volume No. 1–A

First Revised Sheet No. 2

Overthrust states that the proposed tariff sheets revise the Preliminary Statement in Volume Nos. 1 and 1–A of its tariff by removing references to Columbia Gulf Transmission Company.

Overthrust states further that a copy of this filing has been served upon its customers and the Wyoming Public Service Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 385.211 and 385.214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 97–3040 Filed 2–6–97; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP97–241–000]

Viking Gas Transmission Company; Notice of Proposed Changes in FERC Gas Tariff

February 3, 1997.

Take notice that on January 30, 1997, Viking Gas Transmission Company (Viking) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the following tariff sheet proposed to be effective October 1, 1996:

Second Revised Sheet No. 36

Viking states that the purpose of this filing is to modify Section 6(d) of Viking's Rate Schedule LMS to provide that Viking's Rate Schedule FT–B service receives the treatment already accorded to Viking's Rate Schedules FT–A, FT–GS, IT and AOT service with regard to the disposition of monthly imbalance penalties. Viking inadvertently omitted to modify Sheet No. 36 of Rate Schedule LMS to make FT–B shippers eligible for Section 6(d) penalty revenue credits when it filed to implement the new Rate Schedule FT–B on September 13, 1996.

Viking proposes an effective date of October 1, 1996 to coincide with the effective date of the original FT–B filing in Docket No. RP96–384.

Viking states that copies of the filing have been mailed to all of its jurisdictional customers and to affected state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, DC 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding.

Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 97–3039 Filed 2–6–97; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. EG97–29–000, et al.]

CMS Generation Pinamucan Operating Limited Duration Company, et al.; Electric Rate and Corporate Regulation Filings

January 31, 1997.

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

1. CMS Generation Pinamucan Operating Limited Duration Company

[Docket No. EG97–29–000]

On January 27, 1997, CMS Generation Pinamucan Operating Limited Duration Company, Fairlane Plaza South, 330 Town Center Drive, Suite 1100, Dearborn, Michigan 48126, filed with the Federal Energy Regulatory Commission an application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's Regulations.

CMS Generation Pinamucan Operating Limited Duration Company is a wholly-owned indirect subsidiary of CMS Generation Co., a Michigan corporation, which is a wholly-owned indirect subsidiary of CMS Energy Corporation, also a Michigan corporation. CMS Generation Pinamucan Operating Limited Duration Company will operate, as an agent of the owner, an approximately 63 megawatt diesel fuel-fired electric cogeneration facility (the ''Facility'') located in the Cavite Export Processing Zone in Rosario, Cavite, Philippines.

Comment date: February 14, 1997, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

2. Ashton Energy Corporation, J. Anthony & Associates Ltd., J.D. Loock & Associates, VTEC Energy Inc., Pacific Power Solutions, ICC Energy Corporation, and Strategic Energy Ltd.

Docket No. ER94–1246–010; Docket No. ER95–784–006; Docket No. ER95–1826–004; Docket No. ER95–1855–005; Docket No. ER96–1599–001; Docket No. ER96–1819–001, and Docket No. ER96–3107–001 (not consolidated)

Take notice that the following informational filings have been made with the Commission and are on file and available for inspection and

copying in the Commission's Public Reference Room:

On January 17, 1997, Ashton Energy Corporation filed certain information as required by the Commission's August 10, 1994, order in Docket No. ER94–1246–000.

On January 15, 1997, J. Anthony & Associates Ltd. filed certain information as required by the Commission's May 31, 1995, order in Docket No. ER95–784–000.

On January 13, 1997, J.D. Loock & Associates filed certain information as required by the Commission's October 27, 1995, order in Docket No. ER95–1826–000.

On January 14, 1997, VTEC Energy Inc. filed certain information as required by the Commission's November 6, 1995, order in Docket No. ER95–1855–000.

On January 7, 1997, Pacific Power Solutions filed certain information as required by the Commission's June 10, 1996, order in Docket No. ER96–1599–000.

On January 15, 1997, ICC Energy Corporation filed certain information as required by the Commission's June 27, 1996, order in Docket No. ER96–1819–000.

On January 15, 1997, Strategic Energy Ltd. filed certain information as required by the Commission's November 13, 1996, order in Docket No. ER96–3107–000.

3. Texpar Energy, Inc., Utility Management and Consulting, Inc., Boyd Rosene and Associates

[Docket No. ER95–62–008; Docket No. ER96–525–002, and Docket No. ER95–1572–004 (not consolidated)]

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

On January 9, 1997, Texpar Energy, Inc. filed certain information as required by the Commission's December 27, 1994, order in Docket No. ER95–62–000.

On January 3, 1997, Utility Management and Consulting, Inc. filed certain information as required by the Commission's January 19, 1996, order in Docket No. ER96–525–000.

On January 7, 1997, Boyd Rosene and Associates, Inc. filed certain information as required by the Commission's October 23, 1995, order in Docket No. ER95–1572–000.

4. Enova Energy, Inc.

[Docket No. ER96–2372–003]

Take notice that on January 9, 1997, Enova Energy, Inc. tendered for filing information in compliance with the September 9, 1996, order issued in Docket No. ER96–2372–000.

Comment date: February 14, 1997, in accordance with Standard Paragraph E at the end of this notice.

5. Washington Water Power Company

[Docket No. ER96–2608–000]

Take notice that on January 13, 1997, Washington Water Power Company tendered for filing an amendment in the above-referenced docket.

Comment date: February 14, 1997, in accordance with Standard Paragraph E at the end of this notice.

6. Dayton Power & Light Company

[Docket No. ER96–2674–000]

Take notice that on December 31, 1996, Dayton Power & Light Company tendered for filing an amendment in the above-referenced docket.

Comment date: February 14, 1997, in accordance with Standard Paragraph E at the end of this notice.

7. Dayton Power & Light Company

[Docket No. ER96–2675–000]

Take notice that on December 31, 1996, Dayton Power & Light Company tendered for filing an amendment in the above-referenced docket.

Comment date: February 14, 1997, in accordance with Standard Paragraph E at the end of this notice.

8. Louisville Gas & Electric Company

[Docket No. ER96–2794–001]

Take notice that on January 10, 1997, Louisville Gas & Electric Company tendered for filing its refund report in the above-referenced docket.

Comment date: February 14, 1997, in accordance with Standard Paragraph E at the end of this notice.

9. Boston Edison Company

[Docket No. ER96–2831–000]

Take notice that on January 6, 1997, Boston Edison Company tendered for filing an amendment in the above-referenced docket.

Comment date: February 14, 1997, in accordance with Standard Paragraph E at the end of this notice.

10. Dayton Power & Light Company

[Docket No. ER96–2854–000]

Take notice that on December 31, 1996, Dayton Power & Light Company tendered for filing an amendment in the above-referenced docket.

Comment date: February 14, 1997, in accordance with Standard Paragraph E at the end of this notice.

11. Boston Edison Company

[Docket No. ER96–2890–000]

Take notice that on January 6, 1997, Boston Edison Company tendered for filing an amendment in the above-referenced docket.

Comment date: February 14, 1997, in accordance with Standard Paragraph E at the end of this notice.

12. Boston Edison Company

[Docket No. ER96–3060–000]

Take notice that on January 6, 1997, Boston Edison Company tendered for filing an amendment in the above-referenced docket.

Comment date: February 14, 1997, in accordance with Standard Paragraph E at the end of this notice.

13. Commonwealth Edison Company

[Docket No. ER96–3113–001]

Take notice that on January 24, 1997, Commonwealth Edison Company (ComEd) tendered for filing a revised service schedule for Emergency Service under ComEd's umbrella sales tariff, PSRT–1. ComEd served a copy of the compliance filing on the Illinois Commerce Commission, all parties to this proceeding and all customers under its PSRT–1 Tariff.

Comment date: February 14, 1997, in accordance with Standard Paragraph E at the end of this notice.

14. Unocal Corporation

[Docket No. ER97–262–000]

Take notice that on January 15, 1997 and January 27, 1997, Unocal Corporation tendered for filing amendments in the above-referenced docket.

Comment date: February 14, 1997, in accordance with Standard Paragraph E at the end of this notice.

15. Dayton Power & Light Company

[Docket No. ER97–422–000]

Take notice that on December 31, 1996, Dayton Power & Light Company tendered for filing an amendment in the above-referenced docket.

Comment date: February 14, 1997, in accordance with Standard Paragraph E at the end of this notice.

16. Sunoco Power Marketing, L.L.C.

[Docket No. ER97–870–000]

Take notice that on January 22, 1997, Sunoco Power Marketing, L.L.C. tendered for filing an amendment in the above-referenced docket.

Comment date: February 14, 1997, in accordance with Standard Paragraph E at the end of this notice.

17. Southwestern Public Service Company

[Docket No. ER97–971–000]

Take notice that on January 10, 1997, Southwestern Public Service Company tendered for filing an amendment in the above-referenced docket.

Comment date: February 14, 1997, in accordance with Standard Paragraph E at the end of this notice.

18. Commonwealth Edison Company

[Docket No. ER97–1108–000]

Take notice that on January 14, 1997, Commonwealth Edison Company tendered for filing a Notice to withdraw its January 3, 1997, filing in the above-referenced docket.

Comment date: February 14, 1997, in accordance with Standard Paragraph E at the end of this notice.

19. Northeast Utilities Service Company

[Docket No. ER97–1226–000]

Take notice that on January 14, 1997, Northeast Utilities Service Company (NUSCO), on behalf of The Connecticut Light and Power Company, Western Massachusetts Electric Company, Holyoke Water Power Company (including Holyoke Power and Electric Company) and Public Service Company of New Hampshire, tendered for filing pursuant to Section 205 of the Federal Power Act and Section 35.13 of the Commission's Regulations, a rate schedule change for sales of electric energy to Citizens Lehman Power Sales.

NUSCO states that a copy of this filing has been mailed to Citizens Lehman Power Sales.

NUSCO requests that the rate schedule change become effective on January 15, 1997.

Comment date: February 14, 1997, in accordance with Standard Paragraph E at the end of this notice.

20. Kansas City Power & Light Company

[Docket No. ER97–1266–000]

Take notice that on January 16, 1997, Kansas City Power & Light Company (KCPL) tendered for filing a Service Agreement dated December 19, 1996, between KCPL and CNG Power Service Corporation (CNG). KCPL proposes an effective date of December 19, 1996, and requests waiver of the Commission's notice requirement. This Agreement provides for the rate and charges for Non-firm Transmission Service between KCPL and CNG.

In its filing, KCPL states that the rates included in the above-mentioned Service Agreement are KCPL's rates and charges in compliance filing to FERC Order 888 in Docket No. OA96–4–000.

Comment date: February 14, 1997, in accordance with Standard Paragraph E at the end of this notice.

21. New England Power Pool

[Docket No. ER97–1297–000]

Take notice that on January 17, 1997, the New England Power Pool Executive Committee filed a signature page to the NEPOOL agreement dated September 1, 1971, as amended, signed by Madison Electric Works (Madison). The New England Power Pool Agreement, as amended, has been designated NEPOOL FPC No. 2.

The Executive Committee states that acceptance of the signature page would permit Madison to join the over 100 Participants that already participate in the Pool. NEPOOL further states that the filed signature page does not change the NEPOOL Agreement in any manner, other than to make Madison a participant in the Pool. NEPOOL requests an effective date on or before March 1, 1997, or as soon as possible thereafter for commencement of participation in the Pool by Madison.

Comment date: February 14, 1997, in accordance with Standard Paragraph E at the end of this notice.

22. New England Power Pool

[Docket No. ER97–1298–000]

Take notice that on January 17, 1997, the New England Power Pool Executive committee filed a signature page to the NEPOOL Agreement dated September 1, 1971, as amended, signed by XENERGY Inc. (XENERGY). The New England Power Pool Agreement, as amended, has been designated NEPOOL FPC No. 2.

The Executive Committee states that acceptance of the signature page would permit XENERGY to join the over 100 Participants that already participate in the Pool. NEPOOL further states that the filed signature page does not change the NEPOOL Agreement in any manner, other than to make XENERGY a participant in the Pool. NEPOOL requests an effective date on or before March 1, 1997, or as soon as possible thereafter for commencement of participation in the Pool by XENERGY.

Comment date: February 14, 1997, in accordance with Standard Paragraph E at the end of this notice.

23. Delmarva Power & Light Company

[Docket No. ER97–1299–000]

Take notice that on January 17, 1997, Delmarva Power & Light Company (Delmarva), tendered for filing a service agreement providing for non-firm point-to-point transmission service from time to time to Equitable Power Services Co. pursuant to Delmarva's open access transmission tariff. Delmarva asks that the Commission set an effective date for the service agreement of December 20, 1996, the date on which it was executed.

Comment date: February 14, 1997, in accordance with Standard Paragraph E at the end of this notice.

24. PECO Energy Company

[Docket No. ER97–1300–000]

Take notice that on January 17, 1997, PECO Energy Company (PECO) tendered for filing notices of cancellation of the modified Tri-Partite Agreement among Conowingo Power Company, PECO and Susquehanna Electric Company (SECO) and the relevant PECO and SECO rate schedules.

Comment date: February 14, 1997, in accordance with Standard Paragraph E at the end of this notice.

25. Niagara Mohawk Power Corporation

[Docket No. ER97–1301–000]

Take notice that on January 17, 1997, Niagara Mohawk Power Corporation (NMPC), tendered for filing with the Federal Energy Regulatory Commission an executed Transmission Service Agreement between NMPC and Green Mountain Power Corporation. This Transmission Service Agreement specifies that Green Mountain Power Corporation has signed on to and has agreed to the terms and conditions of NMPC's Open Access Transmission Tariff as filed in Docket No. OA96–194–000. This Tariff, filed with FERC on July 9, 1996, will allow NMPC and Green Mountain Power Corporation to enter into separately scheduled transactions under which NMPC will provide transmission service for Green Mountain Power corporation as the parties may mutually agree.

NMPC requests an effective date of January 13, 1997. NMPC has requested waiver of the notice requirements for good cause shown.

NMPC has served copies of the filing upon the New York State Public Service Commission and Green Mountain Power Corporation.

Comment date: February 14, 1997, in accordance with Standard Paragraph E at the end of this notice.

26. New York State Electric & Gas Corporation

[Docket No. ER97–1302–000]

Take notice that on January 17, 1997, New York State Electric & Gas Corporation (NYSEG), filed a Service Agreement between NYSEG and Federal Energy Sales, Inc., (Customer). This

Service Agreement specifies that the Customer has agreed to the rates, terms and conditions of the NYSEG open access transmission tariff filed on July 9, 1996 in Docket No. OA96–195–000.

NYSEG requests waiver of the Commission's sixty-day notice requirements and an effective date of December 18, 1996 for the Federal Energy Sales, Inc., Service Agreement. NYSEG has served copies of the filing on The New York State Public Service Commission and on the Customer.

Comment date: February 14, 1997, in accordance with Standard Paragraph E at the end of this notice.

27. Kentucky Utilities Company

[Docket No. ER97–1303–000]

Take notice that on January 17, 1997, Kentucky Utilities Company (KU), tendered for filing a service agreement between KU and Central Illinois Public Service Company under its Transmission Services (TS) Tariff.

Comment date: February 14, 1997, in accordance with Standard Paragraph E at the end of this notice.

28. Southern Company Services, Inc.

[Docket No. ER97–1304–000]

Take notice that on January 17, 1997, Southern Company Services, Inc. (''SCSI''), acting on behalf of Alabama Power Company, Georgia Power Company, Gulf Power Company, Mississippi Power Company and Savannah Electric and Power Company (collectively referred to as ''Southern Companies'') filed a service agreement under Southern Companies' Market-Based Rate Power Sales Tariff (FERC Electric Tariff, Original Volume No. 4) with Alabama Electric Cooperative, Inc. SCSI states that the service agreement will enable Southern Companies to engage in short-term market-based rate transactions with this entity.

Comment date: February 14, 1997, in accordance with Standard Paragraph E at the end of this notice.

29. Virginia Electric and Power Company

[Docket No. ER97–1305–000]

Take notice that on January 17, 1997, Virginia Electric and Power Company (Virginia Power), tendered for filing a Service Agreement for Non-Firm Point-to-Point Transmission Service between Coral Power, L.L.C. and Virginia Power under the Open Access Transmission Tariff to Eligible Purchasers dated July 9, 1996. Under the tendered Service Agreement Virginia Power will provide non-firm point-to-point service to Coral Power, L.L.C. as agreed to by the parties under the rates, terms and conditions of the Open Access Transmission Tariff.

Copies of the filing were served upon the Virginia State Corporation Commission and the North Carolina Utilities Commission.

Comment date: February 14, 1997, in accordance with Standard Paragraph E at the end of this notice.

30. Maine Public Service Company

[Docket No. ER97–1306–000]

Take notice that on January 17, 1997, Maine Public Service Company, submitted a Quarterly Report of Transactions for the period October 1 through December 31, 1996. This filing was made in compliance with Commission orders dated May 31, 1995 (Docket No. ER95–851) and April 30, 1996 (Docket No. ER96–780).

Comment date: February 14, 1997, in accordance with Standard Paragraph E at the end of this notice.

31. Louisville Gas and Electric Company

[Docket No. ER97–1307–000]

Take notice that on January 17, 1997, Louisville Gas and Electric Company (LG&E), tendered for filing executed copies of Non-Firm Point-to-Point Transmission Service Agreements which had been previously filed in unexecuted form in the above-cited docket.

Comment date: February 14, 1997, in accordance with Standard Paragraph E at the end of this notice.

32. Portland General Electric Company

[Docket No. ER97–1308–000]

Take notice that on January 17, 1997, Portland General Electric Company (PGE), tendered for filing its Average System Cost (ASC) as determined by the Bonneville Power Administration under the revised ASC Methodology for participation in the Residential Exchange Program of the Pacific Northwest Electric Power Planning and Conservation Act. The ASC filing is for the time period November 28, 1995 through March 10, 1996 and was determined by BPA to be 35.85 mills/Kwh.

Copies of the filing have been served on the persons named in the transmittal letter as included in the filing.

Comment date: February 14, 1997, in accordance with Standard Paragraph E at the end of this notice.

33. MidCon Power Services Corp.

[Docket No. ER97–1309–000]

Take notice that on January 17, 1997, MidCon Power Services Corp. (MPS), a Delaware corporation, petition the Commission for acceptance of a revision to its Rate Schedule FERC No. 1, which provides for the sale of electricity at market-based rates to affiliates that are not public utilities with a franchised electric service territory. MPS is a wholly-owned subsidiary of MidCon Corp., whose other subsidiaries include natural gas pipelines and gas marketing companies. MidCon Corp. is a subsidiary of Occidental Petroleum Corporation. MPS has no affiliates that are public utilities with a franchised electric service territory.

Comment date: February 14, 1997, in accordance with Standard Paragraph E at the end of this notice.

34. Southern Indiana Gas and Electric Company

[Docket No. ER97–1310–000]

Take notice that on January 21, 1997, Southern Indiana Gas and Electric Company (SIGECO), tendered for filing one (1) service agreement for market based rate power sales under its Market Based Rate Tariff with the following entity:

1. Vitol Gas & Electric LLC

Copies of the filing were served upon each of the parties to the service agreements.

Comment date: February 14, 1997, in accordance with Standard Paragraph E at the end of this notice.

35. Central Illinois Light Company

[Docket No. ER97–1312–000]

Take notice that on January 21, 1997, Central Illinois Light Company (CILCO), 300 Liberty Street, Peoria, Illinois 61602, tendered for filing with the Commission a substitute Index of Point-to-Point Transmission Service Customers under its Open Access Transmission Tariff and service agreements for six new customers.

CILCO requested an effective date of January 7, 1997.

Copies of the filing were served on all affected customers and the Illinois Commerce Commission.

Comment date: February 14, 1997, in accordance with Standard Paragraph E at the end of this notice.

36. Northern Indiana Public Service Company

[Docket No. ER97–1313–000]

Take notice that on January 21, 1997, Northern Indiana Public Service Company, tendered for filing an executed Standard Transmission Service Agreement between Northern Indiana Public Service Company and Wisconsin Electric Power Company.

Under the Transmission Service Agreement, Northern Indiana Public Service Company will provide Point-to-

Point Transmission Service to Wisconsin Electric Power Company pursuant to the Transmission Service Tariff filed by Northern Indiana Public Service Company in Docket No. ER96–1426–000 and allowed to become effective by the Commission. *Northern Indiana Public Service Company*, 75 FERC ¶ 61,213 (1996). Northern Indiana Public Service Company has requested that the Service Agreement be allowed to become effective as of January 31, 1997.

Copies of this filing have been sent to the Indiana Utility Regulatory Commission and the Indiana Office of Utility Consumer Counselor.

Comment date: February 14, 1997, in accordance with Standard Paragraph E at the end of this notice.

37. Arizona Public Service Company

[Docket No. ER97–1314–000]

Take notice that on January 21, 1997, Arizona Public Service Company (APS), tendered for filing a Service Agreement to provide Non-Firm Point-to-Point Transmission Service under APS' Open Access Transmission Tariff filed in Compliance with FERC Order No. 888 with PacifiCorp, Salt River Project, Enron Power Marketing, Inc., Engelhard Power Marketing, Inc., and Sierra Pacific Power.

A copy of this filing has been served on the above parties, the Arizona Corporation Commission, Public Service Commission of Utah, Oregon Public Utility Commission, Washington Utilities and Transportation Commission, and the Nevada Public Service Commission.

Comment date: February 14, 1997, in accordance with Standard Paragraph E at the end of this notice.

38. Horizon Energy Corporation

[Docket No. ER97–1315–000]

Take notice that on January 21, 1997, Horizon Energy Corporation tendered for filing an Application for Approving Rate Schedule and Granting Blanket Approval and Waivers.

Comment date: February 14, 1997, in accordance with Standard Paragraph E at the end of this notice.

39. Florida Power & Light Company

[Docket No. ER97–1316–000]

Take notice that on January 21, 1997, Florida Power & Light Company (FPL), tendered for filing a proposed notice of cancellation of an umbrella service agreement with Koch Energy Trading, Inc. (formerly Koch Power Services, Inc.) for Firm Short-Term transmission service under FPL's Open Access Transmission Tariff.

FPL requests that the proposed cancellation be permitted to become effective on December 31, 1996.

FPL states that this filing is in accordance with Part 35 of the Commission's Regulations.

Comment date: February 14, 1997, in accordance with Standard Paragraph E at the end of this notice.

40. Portland General Electric Company

[Docket No. ER97–1317–000]

Take notice that on January 21, 1997, Portland General Electric Company (PGE), tendered for filing under PGE's Final Rule pro forma tariff (FERC Electric Tariff Original Volume No. 8, Docket No. OA96–137–000), executed Service Agreements for Non-firm Point-to-Point Transmission Service and Firm Point-to-Point Transmission Service with Southern Energy Trading & Marketing Inc.

Pursuant to 18 CFR 35.11, and the Commission's Order in Docket No. PL93–2–002 issued July 30, 1993, PGE respectfully requests that the Commission grant a waiver of the notice requirements of 18 CFR 35.3 to allow the Service Agreement to become effective January 16, 1997.

A copy of this filing was caused to be served upon Southern Energy Trading & Marketing Inc. as noted in the filing letter.

Comment date: February 14, 1997, in accordance with Standard Paragraph E at the end of this notice.

41. South Carolina Electric & Gas Company

[Docket No. ER97–1318–000]

Take notice that on January 21, 1997, South Carolina Electric & Gas Company (SCE&G), submitted service agreements establishing Enron Power Marketing, Inc. (Enron), Koch Energy Trading, Inc. (Koch), Duke/Louis Dreyfus, L.L.C. (DLD), Electric Clearinghouse, Inc. (ECI), and South Carolina Public Service Authority (SCPSA) as customers under the terms of SCE&G's Negotiated Market Sales Tariff.

SCE&G requests an effective date of one day subsequent to the filing of the service agreement. Accordingly, SCE&G requests waiver of the Commission's notice requirements. Copies of this filing were served upon Enron, Koch, DLD, ECI, and SCPSA and the South Carolina Public Service Commission.

Comment date: February 14, 1997, in accordance with Standard Paragraph E at the end of this notice.

42. Delmarva Power & Light Company

[Docket No. ER97–1319–000]

Take notice that on January 21, 1997, Delmarva Power & Light Company (Delmarva), tendered for filing service agreements providing for firm point-to-point transmission service to the City of Dover pursuant to Delmarva's open access transmission tariff.

Delmarva states that copies of the filing were provided to the City of Dover and its agent, Duke/Louis Dreyfus.

Comment date: February 14, 1997, in accordance with Standard Paragraph E at the end of this notice.

43. Delmarva Power & Light Company

[Docket No. ER97–1320–000]

Take notice that on January 21, 1997, Delmarva Power & Light Company (Delmarva), tendered for filing service agreements providing for firm point-to-point transmission service to Duke/Louis Dreyfus pursuant to Delmarva's open access transmission tariff.

Delmarva states that a copy of the filing was provided to Duke/Louis Dreyfus.

Comment date: February 14, 1997, in accordance with Standard Paragraph E at the end of this notice.

44. Delmarva Power & Light Company

[Docket No. ER97–1321–000]

Take notice that on January 21, 1997, Delmarva Power & Light Company (Delmarva), tendered for filing a service agreement providing for non-firm point-to-point transmission service from time to time to Pan Energy pursuant to Delmarva's open access transmission tariff. Delmarva asks that the Commission set an effective date for the service agreement of January 17, 1997, the date on which it was executed.

Comment date: February 14, 1997, in accordance with Standard Paragraph E at the end of this notice.

45. Delmarva Power & Light Company

[Docket No. ER97–1322–000]

Take notice that on January 21, 1997, Delmarva Power & Light Company (Delmarva), tendered for filing a service agreement providing for non-firm point-to-point transmission service from time to time to Heartland Energy Services, Inc. pursuant to Delmarva's open access transmission tariff. Delmarva asks that the Commission set an effective date of the service agreement of January 8, 1997, the date on which it was executed.

Comment date: February 14, 1997, in accordance with Standard Paragraph E at the end of this notice.

46. Delmarva Power & Light Company

[Docket No. ER97–1323–000]

Take notice that on January 21, 1997, Delmarva Power & Light Company (Delmarva), tendered for filing a service

agreement providing for non-firm point-to-point transmission service from time to time to Delmarva Power—Energy Trading pursuant to Delmarva's open access transmission tariff. Delmarva asks that the Commission set an effective date for the service agreement of January 21, 1997, the date on which it was filed.

Comment date: February 14, 1997, in accordance with Standard Paragraph E at the end of this notice.

47. Delmarva Power & Light Company

[Docket No. ER97–1324–000]

Take notice that on January 21, 1997, Delmarva Power & Light Company (Delmarva), tendered for filing a service agreement providing for non-firm point-to-point transmission service from time to time to Public Service Electric and Gas Company pursuant to Delmarva's open access transmission tariff. Delmarva asks that the Commission set an effective date for the service agreement of January 17, 1997, the date on which it was executed.

Comment date: February 14, 1997, in accordance with Standard Paragraph E at the end of this notice.

48. New England Power Company, Massachusetts Electric Company, The Narragansett Electric Co., Granite State Electric Company

[Docket No. ER97–1327–000]

Take notice that on January 21, 1997, New England Power Company, on behalf of itself and its affiliates Massachusetts Electric Company, The Narragansett Electric Company and Granite State Electric Company (together, the NEES companies) filed amendments to its Open Access Tariff No. 9. According to NEP, the purpose of the amendments is to conform NEP's tariff to the regional transmission tariff filed by the New England Power Pool on December 31, 1996. Copies have been served on all intervenors in this docket as well as all customers taking service under NEP's FERC Electric Tariff, Original Volume No. 9.

Comment date: February 14, 1997, in accordance with Standard Paragraph E at the end of this notice.

49. Pennsylvania Power & Light Company

[Docket No. ER97–1330–000]

Take notice that on January 21, 1997, Pennsylvania Power & Light Company (PP&L), filed a Service Agreement dated January 17, 1997 with Niagara Mohawk Power Corporation (NMPC) under PP&L's FERC Electric Tariff, Original Volume No. 1. The Service Agreement adds NMPC as an eligible customer under the Tariff.

PP&L requests an effective date of January 21, 1997, for the Service Agreement.

PP&L states that copies of this filing have been supplied to NMPC and to the Pennsylvania Public Utility Commission.

Comment date: February 14, 1997, in accordance with Standard Paragraph E at the end of this notice.

50. New York State Electric & Gas Coorporation

[Docket No. ER97–1331–000]

Take notice that on January 21, 1997, New York State Electric & Gas Corporation (NYSEG), filed a Service Agreement between NYSEG and Centerior Energy Corporation (Customer). This Service Agreement specifies that the Customer has agreed to the rates, terms and conditions of the NYSEG open access transmission tariff filed on July 9, 1996 in Docket No. OA96–195–000.

NYSEG requests waiver of the Commission's sixty-day notice requirements and an effective date of January 21, 1997 for the Centerior Energy Corporation Service Agreement. NYSEG has served copies of the filing on The New York State Public Service Commission and on the Customer.

Comment date: February 14, 1997, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

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

Lois D. Cashell,

Secretary.

[FR Doc. 97–3062 Filed 2–6–97; 8:45 am]

BILLING CODE 6717–01–P

[Docket No. ER97–1271–000, et al.]

Wisconsin Public Service Corporation, et al.; Electric Rate and Corporate Regulation Filings

January 30, 1996.

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

1. Wisconsin Public Service Corporation

[Docket No. ER97–1271–000]

Take notice that on January 17, 1997, Wisconsin Public Service Corporation (''WPSC'') tendered for filing an executed Transmission Service Agreement between WPSC and Enron Power Marketing, Inc. The Agreement provides for transmission service under the Open Access Transmission Service Tariff, FERC Original Volume No. 11.

Comment date: February 13, 1997, in accordance with Standard Paragraph E at the end of this notice.

2. Wisconsin Power and Light Company

[Docket No. ER97–1272–000]

Take notice that on January 17, 1997, Wisconsin Power and Light Company (WP&L), tendered for filing a Form of Service Agreement for Non-Firm Point-to-Point Transmission Service establishing PanEnergy Trading and Market Services, L.L.C. as a point-to-point transmission customer under the terms of WP&L's Transmission Tariff.

WP&L requests an effective date of January 10, 1997, and accordingly seeks waiver of the Commission's notice requirements. A copy of this filing has been served upon the Public Service Commission of Wisconsin.

Comment date: February 13, 1997, in accordance with Standard Paragraph E at the end of this notice.

3. Entergy Services, Inc.

[Docket No. ER97–1273–000]

Take notice that on January 17, 1997, Entergy Services, Inc. (Entergy Services), on behalf of Entergy Mississippi, Inc. (Entergy Mississippi), tendered for filing a revised Service Schedule LF by and between Alabama Electric Cooperative, Inc. and Entergy Mississippi. Service Schedule LF provides for the sale and purchase of limited firm capacity and associated energy between the parties.

Comment date: February 13, 1997, in accordance with Standard Paragraph E at the end of this notice.

4. Cinergy Services, Inc.

[Docket No. ER97–1274–000]

Take notice that on January 17, 1997, Cinergy Services, Inc. (Cinergy), tendered for filing on behalf of its

operating companies, The Cincinnati Gas & Electric Company (CG&E) and PSI Energy, Inc. (PSI), an Interchange Agreement, dated December 1, 1996 between Cinergy, CG&E, PSI and JPower Inc. (JPower).

The InterChange Agreement provides for the following service between Cinergy and JPower:

1. Exhibit A—Power Sales by JPower
2. Exhibit B—Power Sales by cinergy

Cinergy and JPower have requested an effective date of January 20, 1997.

Copies of the filing were served on JPower Inc., the Minnesota Public Utilities Commission, the Kentucky Public Service Commission, the Public Utilities Commission of Ohio and the Indiana Utility Regulatory Commission.

Comment date: February 13, 1997, in accordance with Standard Paragraph E at the end of this notice.

5. Louisville Gas and Electric Company

[Docket No. ER97–1275–000]

Take notice that on January 17, 1997, Louisville Gas and Electric Company, tendered for filing copies of a Non-Firm Point-to-Point Transmission Service Agreement between Louisville Gas and Electric Company and Southern Indiana Gas and Electric Company under LG&E's Open Access Transmission Tariff.

Comment date: February 13, 1997, in accordance with Standard Paragraph E at the end of this notice.

6. Louisville Gas and Electric Company

[Docket No. ER97–1276–000]

Take notice that on January 17, 1997, Louisville Gas and Electric Company, tendered for filing copies of a service agreement between Louisville Gas and Electric Company and Midcon Power Services Corp. under Rate GSS.

Comment date: February 13, 1997, in accordance with Standard Paragraph E at the end of this notice.

7. Louisville Gas and Electric Company

[Docket No. ER97–1277–000]

Take notice that on January 17, 1997, Louisville Gas and Electric Company, tendered for filing copies of a service agreement between Louisville Gas and Electric Company and Koch Power Services, Inc., under Rate GSS.

Comment date: February 13, 1997, in accordance with Standard Paragraph E at the end of this notice.

8. Louisville Gas and Electric Company

[Docket No. ER97–1278–000]

Take notice that on January 17, 1997, Louisville Gas and Electric Company, tendered for filing copies of a Non-Firm Point-to-Point Transmission Service Agreement between Louisville Gas and Electric Company and Ohio Edison Company under LG&E's Open Access Transmission Tariff.

Comment date: February 13, 1997, in accordance with Standard Paragraph E at the end of this notice.

9. Louisville Gas and Electric Company

[Docket No. ER97–1279–000]

Take notice that on January 17, 1997, Louisville Gas and Electric Company, tendered for filing copies of service agreements between Louisville Gas and Electric Company and Electric Clearinghouse, Inc. under Rate GSS.

Comment date: February 13, 1997, in accordance with Standard Paragraph E at the end of this notice.

10. Louisville Gas and Electric Company

[Docket No. ER97–1280–000]

Take notice that on January 17, 1997, Louisville Gas and Electric Company, tendered for filing copies of a service agreement between Louisville Gas and Electric Company and Federal Energy Sales, Inc. under Rate GSS.

Comment date: February 13, 1997, in accordance with Standard Paragraph E at the end of this notice.

11. Louisville Gas and Electric Company

[Docket No. ER97–1281–000]

Take notice that on January 17, 1997, Louisville Gas and Electric Company, tendered for filing copies of a service agreement between Louisville Gas and Electric Company and PanEnergy Power Services under Rate GSS.

Comment date: February 13, 1997, in accordance with Standard Paragraph E at the end of this notice.

12. Louisville Gas and Electric Company

[Docket No. ER97–1282–000]

Take notice that on January 17, 1997, Louisville Gas and Electric Company, tendered for filing copies of a Service Agreement between Louisville Gas and Electric Company and Oglethorpe Power Corporation under LG&E's Rate Schedule GSS.

Comment date: February 13, 1997, in accordance with Standard Paragraph E at the end of this notice.

13. Louisville Gas and Electric Company

[Docket No. ER97–1283–000]

Take notice that on January 17, 1997, Louisville Gas and Electric Company, tendered for filing copies of a Non-Firm Point-to-Point Transmission Service Agreement between Louisville Gas and Electric Company and Oglethorpe Power Corporation under LG&E's Open Access Transmission Tariff.

Comment date: February 13, 1997, in accordance with Standard Paragraph E at the end of this notice.

14. Louisville Gas and Electric Company

[Docket No. ER97–1284–000]

Take notice that on January 17, 1997, Louisville Gas and Electric Company, tendered for filing copies of a Service Agreement between Louisville Gas and Electric Company and Ohio Edison under LG&E's Rate Schedule GSS.

Comment date: February 13, 1997, in accordance with Standard Paragraph E at the end of this notice.

15. The Dayton Power and Light Company

[Docket No. ER97–1285–000]

Take notice that on January 17, 1997, The Dayton Power and Light Company (Dayton), submitted service agreements establishing Koch Energy Trading, Inc; Wisconsin Electric Power Company; Pan Energy Trading and Market Services, L.L.C.; The Power Company of America; Federal Energy Sales, Inc. as customers under the terms of Dayton's Open Access Transmission Tariff.

Dayton requests an effective date of one day subsequent to this filing for the service agreements. Accordingly, Dayton requests waiver of the Commission's notice requirements. Copies of the filing were served upon Koch Energy Trading, Inc.; Wisconsin Electric Power Company, Pan Energy Trading and Market Services, L.L.C.; The Power Company of America; Federal Energy Sales, Inc.; and the Public Utilities Commission of Ohio.

Comment date: February 13, 1997, in accordance with Standard Paragraph E at the end of this notice.

16. The Dayton Power and Light Company

[Docket No. ER97–1286–000]

Take notice that on January 17, 1997, The Dayton Power and Light Company (Dayton), submitted service agreements establishing Ohio Edison Company, American Energy Solutions, Inc. as a customer under the terms of Dayton's Market-Based Sales Tariff.

Dayton requests an effective date of one day subsequent to this filing for the service agreements. Accordingly, Dayton requests waiver of the Commission's notice requirements. Copies of the filing were served upon Ohio Edison Company, American Energy Solutions, Inc. and the Public Utilities Commission of Ohio.

Comment date: February 13, 1997, in accordance with Standard Paragraph E at the end of this notice.

17. Southwestern Public Service Company

[Docket No. ER97–1287–000]

Take notice that on January 17, 1997, Southwestern Public Service Company (Southwestern), tendered for filing proposed amendments to its rate schedule with Lea County Electric Cooperative, Inc., a full requirements wholesale customer.

The amendment increases the level of the interruptible load available to this customer.

Comment date: February 13, 1997, in accordance with Standard Paragraph E at the end of this notice.

18. Southwestern Public Service Company

[Docket No. ER97–1288–000]

Take notice that on January 17, 1997, Southwestern Public Service Company (Southwestern), tendered for filing a proposed amendment to its rate schedule with New Corp Resources, Inc., a full requirements wholesale customer.

The amendments increase the level of the interruptible load available to these customers.

Comment date: February 13, 1997, in accordance with Standard Paragraph E at the end of this notice.

19. Central Hudson Gas & Electric Corporation

[Docket No. ER97–1289–000]

Take notice that on January 17, 1997, Central Hudson Gas & Electric Corporation (CHG&E), tendered for filing pursuant to Section 35.12 of the Federal Energy Regulatory Commission's (Commission) Regulations in 18 CFR a Service Agreement between CHG&E and Coral Power, L.L.C. The terms and conditions of service under this Agreement are made pursuant to CHG&E's FERC Open Access Schedule, Original Volume 1 (Transmission Tariff) filed in compliance with the Commission's Order No. 888 in Docket No. RM95–8–000 and RM94–7–001. CHG&E also has requested waiver of the 60-day notice provision pursuant to 18 CFR 35.11.

A copy of this filing has been served on the Public Service Commission of the State of New York.

Comment date: February 13, 1997, in accordance with Standard Paragraph E at the end of this notice.

20. Central Hudson Gas & Electric Corporation

[Docket No. ER97–1290–000]

Take notice that on January 17, 1997, Central Hudson Gas & Electric Corporation (CHG&E), tendered for filing pursuant to Section 35.12 of the Federal Energy Regulatory Commission's (Commission) Regulations in 18 CFR a Service Agreement between CHG&E and Enron Power Marketing, Inc. The terms and conditions of service under this Agreement are made pursuant to CHG&E's FERC Open Access Schedule, Original volume 1 (Transmission Tariff) filed in compliance also has requested waiver of the 60-day notice provision pursuant to 18 CFR 35.11.

A copy of this filing has been served on the Public Service Commission of the State of New York.

Comment date: February 13, 1997, in accordance with Standard Paragraph E at the end of this notice.

21. Central Hudson Gas & Electric Corporation

[Docket No. ER97–1291–000]

Take notice that on January 17, 1997, Central Hudson Gas & Electric Corporation (CHG&E), tendered for filing pursuant to Section 35.12 of the Federal Energy Regulatory Commission's (Commission) Regulations in 18 CFR a Service Agreement between CHG&E and Northeast Utilities Service Company. The terms and conditions of service under this Agreement are made pursuant to CHG&E's FERC Open Access Schedule, Original Volume 1 (Transmission Tariff) filed in compliance with the Commission's Order 888 in Docket No. RM95–8–000 and RM94–7–001. CHG&E also has requested waiver of the 60-day notice provision pursuant to 18 CFR 35.11.

A copy of this filing has been served on the Public Service Commission of the State of New York.

Comment date: February 13, 1997, in accordance with Standard Paragraph E at the end of this notice.

22. Central Hudson Gas & Electric Corporation

[Docket No. ER97–1292–000]

Take notice that on January 17, 1997, Central Hudson Gas & Electric Corporation (CHG&E), tendered for filing pursuant to 35.12 of the Federal Energy Regulatory Commission's (Commission) Regulations in 18 CFR a Service Agreement between CHG&E and NorAm Energy Services, Inc. The terms and conditions of service under this Agreement are made pursuant to CHG&E's FERC Open Access Schedule, Original Volume 1 (Transmission Tariff) filed in compliance with the Commission's Order 888 in Docket No. RM95–8–000 and RM94–7–001. CHG&E also has requested waiver of the 60-day notice provision pursuant to 18 CFR 35.11.

A copy of this filing has been served on the Public Service Commission of the State of New York.

Comment date: February 13, 1997, in accordance with Standard Paragraph E at the end of this notice.

23. Central Hudson Gas & Electric Corporation

[Docket No. ER97–1293–000]

Take notice that on January 17, 1997, Central Hudson Gas & Electric Corporation (CHG&E), tendered for filing pursuant to Section 35.12 of the Federal Energy Regulatory Commission's (Commission) Regulations in 18 CFR a Service Agreement between CHG&E and CNG Power Services Corporation. The terms and conditions of service under this Agreement are made pursuant to CHG&E's FERC Open Access Schedule, Original Volume 1 (Transmission Tariff) filed in compliance with the Commission's Order 888 in Docket No. RM95–8–000 and RM94–7–001. CHG&E also has requested waiver of the 60-day notice provision pursuant to 18 CFR 35.11.

A copy of this filing has been served on the Public Service Commission of the State of New York.

Comment date: February 13, 1997, in accordance with Standard Paragraph E at the end of this notice.

24. Arizona Public Service Company

[Docket No. ER97–1296–000]

Take notice that on January 17, 1997, Arizona Public Service Company (APS), tendered for filing revised estimated load Exhibits applicable under the following rate schedules:

APS–FERC rate Schedule No.	Customer name	Exhibit
140	Electrical District No. 8.	Exhibit II.
142	McMullen Valley Water Conservation & Drainage District.	Exhibit II.
155	Buckeye Water Conservation & Drainage District.	Exhibit II.
158	Roosevelt Irrigation District.	Exhibit II.

APS–FERC rate Schedule No.	Customer name	Exhibit
153	Harquahala Valley Power District.	Exhibit II.
168	Maricopa Water District.	Exhibit II.
126	Electrical District No. 6 of Pinal county.	Exhibit II.
141	Aquila Irrigation District.	Exhibit II.
143	Tonopah Irrigation District.	Exhibit II.
65	Colorado River Indian Irrigation Project.	Exhibit A.
128	Electrical District No. 7.	Exhibit II.

Current rate levels are unaffected, revenue levels are unchanged from those currently on file with the Commission, and no other significant change in service to these or any other customer results from the revisions proposed herein. No new or modifications to existing facilities are required as a result of these revisions.

Copies of this filing have been served on the above customers and the Arizona Corporation Commission.

Comment date: February 13, 1997, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

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

Lois D. Cashell,

Secretary.

[FR Doc. 97–3060 Filed 2–6–97; 8:45 am]

BILLING CODE 6717–01–P

[Project No. 2232–321]

Duke Power Company; Notice of Availability of Environmental Assessment

February 3, 1997.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission's) regulations, 18 CFR Part 380 (Order No. 486, 52 FR 47897), the Office of Hydropower Licensing (OHL) has reviewed Duke Power Company's application for granting an increase in water withdrawal from the Catawba-Wateree Project to the Lugoff-Elgin Water Authority (Lugoff-Elgin) of Kershaw County, South Carolina, located on Lake Wateree in the Santee River Basin. The proposal would grant permission to Lugoff-Elgin to: (1) increase its water withdrawal from Lake Wateree from an existing 3 million gallons per day (mgd) to up to 10 mgd; (2) replace one existing water intake pump with two 60 horsepower pumps; and (3) construct a new 12-inch water line within the project boundary to replace the existing 10-inch water intake line. The proposed expansion of the pumping facility would increase the existing plant capacity from 3.0 mgd to 4.0 mgd initially. However, Lugoff-Elgin requests authority to increase water withdrawals up to 10 mgd over the next 20 years based on estimates of the demand in the service area.

The staff of OHL's Division of Licensing and Compliance has prepared an Environmental Assessment (EA) for the proposed action. In the EA, the Commission's staff has analyzed the environmental impacts of the proposed project and has concluded that approval of the licensee's proposal would not constitute a major federal action significantly affecting the quality of the human environment.

Copies of the EA are available for review in the Public Reference Branch, Room 2A of the Commission's offices at 888 First Street, NE., Washington, D.C. 20426 or by calling the Commission's Public Reference Room at (202) 208–1371.

Lois D. Cashell,

Secretary.

[FR Doc. 97–3061 Filed 2–6–97; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP96–610–000]

Granite State Gas Transmission, Inc.; Notice of Availability of the Alternative Sites Supplement to the Draft Environmental Impact Statement for the Granite State LNG Project

February 3, 1997.

The staff of the Federal Energy Regulatory Commission (FERC or Commission) ha prepared an Alternative Sites Supplement to the Draft Environmental Impact Statement (Supplement). This Supplement focuses solely on an expanded alternative siting analysis for the liquefied natural gas (LNG) facilities proposed in Wells, Maine by Granite State Gas Transmission, Inc. (Granite State) in the above-referenced docket.

The Draft Environmental Impact Statement (DEIS) that was issued by the Commission on January 29, 1996 for the Granite State LNG Project evaluated potential alternative sites between Eliot and Saco, Maine, based on the LNG facility providing a winter baseload service to Northern Utilities, Inc. After publication of the DEIS, an application was filed for the Portland Natural Gas Transmission System which included essentially the same winter baseload service for Northern Utilities, Inc. Subsequently, Granite State refiled its application to reflect a change in service from winter baseload to peak shaving. As a result of these applications, the range of potential alternative sites has expanded south to Haverhill, Massachusetts and north to Portland, Maine.

The Supplement incorporates comments received on the September 11, 1996, Notice of Intent to Prepare a Supplement to the DEIS for the Granite State LNG Project and Request for Comments on Alternative Siting Issues, and an independent alternative siting analysis. Included in the Supplement are:

- portions of revised DEIS section 2.0, Proposed Action;
- revised DEIS section 3.3, Site Alternatives; and
- revised DEIS section 6.1, Comparison of Site Alternatives.

Comment Procedure

Any person wishing to comment on the Supplement may do so. Comments on other environmental issues associated with the DEIS will not be accepted. The comment period for those issues has already closed.

Written comments should be filed on or before March 31, 1997, must reference Docket No. CP96–610–000, and be addressed to: Office of the

Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

Public meetings to receive comments on the Supplement will be held in early March of 1997. We will provide the locations and times for these meetings in a future notice.

After these comments are reviewed, any significant issues are investigated, and modifications are made to the DEIS, a Final Environmental Impact Statement (FEIS) will be published and distributed. The FEIS will contain the staff's responses to timely comments received on the DEIS and the Supplement.

Comments will be considered by the Commission but will not serve to make the commentor a party to the proceeding. Any person seeking to become a party to the proceeding must file a motion to intervene pursuant to Rule 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.214).

The date for filing timely motions to intervene in this proceeding has passed. Therefore, parties now seeking to file late interventions must show good cause, as required by section 385.214(b)(3), why this time limitation should be waived. Environmental issues have been viewed as good cause for late intervention. You do not need intervenor status to have your comments considered

The Supplement has been placed in the public files of the FERC and is available for public inspection at:

Federal Energy Regulatory Commission, Public Reference and Files Maintenance Branch, 888 First Street, NE., Washington, DC 20426, (202) 208–1371.

and

Town Manager's Office, Town Hall, Wells, ME 04090, (207) 646,5113.

Copies of the Supplement have been mailed to Federal, state, and local agencies; public interest groups; public libraries; newspapers; interested individuals; and parties to this proceeding. For a limited number of copies of the Supplement, contact the Public Reference and Files Maintenance Branch identified above.

Lois D. Cashell,

Secretary.

[FR Doc. 97–3034 Filed 2–6–97; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP97–176–000]

Columbia Gas Transmission Corporation; Notice of Intent To Prepare an Environmental Assessment for the Proposed Terra Alta Storage Field Project and Request for Comments on Environmental Issues

February 3, 1997.

The staff of the Federal Energy Regulatory Commission (FERC or Commission) will prepare an environmental assessment (EA) that will discuss the environmental impacts of the construction and operation of about 2.6 miles of various diameter pipeline to replace about 2.9 miles of pipeline which would be abandoned as proposed in the Terra Alta Storage Field Project.[1] This EA will be used by the Commission in its decision-making process to determine whether the project is in the public convenience and necessity.

Summary of the Proposed Project

Columbia Gas Transmission Corporation (Columbia) wants to upgrade and modernize facilities at its Terra Alta Storage Field in Preston County, West Virginia. Columbia seeks authority to construct and operate approximately:

(1) 1.4 miles of 8-inch-diameter storage pipeline and appurtenances (replacing and abandoning about 1.4 miles of 8-, 10-, 12-, 16-, and 20-inch-diameter pipeline and appurtenances on Line X–76–F–1);

(2) 105 feet of 4-inch-diameter storage pipeline and appurtenances (replacing and abandoning about 1,143 feet of 4-inch-diameter pipeline on Storage Well Line X–76–W–7375);

(3) 0.4 mile of 16-inch-diameter storage pipeline and appurtenances (replacing and abandoning about 0.4 mile of 8-, 10-, and 12-inch-diameter storage pipeline on Line X–76–F–2);

(4) 0.4 mile of 8-inch-diameter storage pipeline and appurtenances (replacing by abandonment about 0.4 mile of 6-, and 12-inch-diameter storage pipeline on Line-X–76–F–4);

(5) 0.2 mile of 10-inch-diameter storage pipeline and appurtenances (replacing by abandonment about 0.2 mile of 8-, 10- and 12-inch-diameter storage pipeline on Line X–76–F–6);

(6) 26 feet of 10-inch-diameter storage pipeline and appurtenances (replacing by abandonment about 26 feet of 8-inch-diameter storage pipeline on Storage Well Line X–76–W–7394); and

(7) 0.1 mile of 6-inch-diameter storage pipeline and appurtenances (replacing by abandonment about 0.1 mile of 4-inch-diameter storage pipeline on Line X–76–W–7380).

Columbia would also abandon about 0.2 mile of 6-inch-diameter pipeline referred to as Storage Well Line X–76–W–7379.

In addition, under Section 2.55 of the Commission's regulations, Columbia plans to remove drips; replace mainline tees and methanol lines; and install launching and receiving valves. These actions would provide more efficient operation and maintenance of the storage field as well as restore deteriorated facilities and will also be examined in the EA.

The location of the project facilities is shown in appendix 1.[2] If you are interested in obtaining procedural information please write to the Secretary of the Commission.

Land Requirements for Construction

Construction of the proposed facilities would require about 40.5 acres of land. No new right-of-way would be required. Temporary work areas and abandoned right-of-way would be restored and allowed to revert to their former use.

The EA Process

The National Environmental Policy Act (NEPA) requires the Commission to take into account the environmental impacts that could result from an action whenever it considers the issuance of a Certificate of Public Convenience and Necessity. NEPA also requires us to discover and address concerns the public may have about proposals. We call this ''scoping''. The main goal of the scoping process is to focus the analysis in the EA on the important environmental issues. By this Notice of Intent, the Commission requests public comments on the scope of the issues it will address in the EA. State and local government representatives are encouraged to notify their constituents of this proposed action and encourage them to comment on their areas of concern.

The EA will discuss impacts that could occur as a result of the construction and operation of the proposed project under these general headings:

- geology and soils

[1] Columbia Gas Transmission Corporation's application was filed with the Commission under Section 7 of the Natural Gas Act and Part 157 of the Commission's regulations.

[2] The appendices referenced in this notice are not being printed in the Federal Register. Copies are available from the Commission's Public Reference and Files Maintenance Branch, 888 First Street, N.E., Washington, D.C. 20426, or call (202) 208–1371. Copies of the appendixes were sent to all those receiving this notice in the mail.

- water resources, fisheries, and wetlands
- vegetation and wildlife
- endangered and threatened species
- public safety
- land use
- cultural resources
- air quality and noise
- hazardous waste

We will also evaluate possible alternatives to the proposed project or portions of the project, and make recommendations on how to lessen or avoid impacts on the various resource areas.

Our independent analysis of the issues will be in the EA. Depending on the comments received during the scoping process, agencies, public interest groups, interested individuals, affected landowners, newspapers, libraries, and the Commission's official service list for this proceeding. A comment period will be allotted for review if the EA is published. We will consider all comments on the EA before we make our recommendations to the Commission.

Currently Identified Environmental Issues

We have already identified several issues that we think deserve attention based on a preliminary review of the proposed facilities and the environmental information provided by Columbia. This preliminary list of issues may be changed based on your comments and our analysis.

- The project follows the course of Saltlick Creek, a high quality warmwater fishery, and crosses it numerous times.
- A total of 13 wetlands (.92 acre) would be affected by the project.
- A number of residences are in the vicinity and two residences are within 50 feet of the proposed construction area.
- Construction of related pig launching and receiving facilities may have visual impacts.

Public Participation

You can make a difference by sending a letter addressing your specific comments or concerns about the project. You should focus on the potential environmental effects of the proposal, alternatives to the proposal, and measures to avoid or lessen environmental impact. The more specific your comments, the more useful they will be. Please follow the instructions below to ensure that your comments are received and properly recorded:

- Address your letter to: Lois Cashell, Secretary, Federal Energy Regulatory Commission, 888 First St., N.E., Washington, DC 204265:
- Reference Docket No. CP97–176–000;
- Mail your comments so that they will be received in Washington, DC on or before March 6, 1997.

Becoming an Intervenor

In addition to involvement in the EA scoping process, you may want to become an official party to the proceeding or become an ''intervenor''. Among other things, intervenors have the right to receive copies of case-related Commission documents and filings by other intervenors. Likewise, each intervenor must provide copies of its filings to all other parties. If you want to become an intervenor you must file a motion to intervene according to Rule 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.214) (see appendix 2).

You do not need intervenor status to have your comments considered.

Lois D. Cashell,

Secretary.

[FR Doc. 97–3036 Filed 2–6–97; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–5477–2]

Environmental Impact Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information (202) 564–7167 OR (202) 564–7153.

Weekly receipt of Environmental Impact Statements Filed January 27, 1997 Through January 31, 1997 Pursuant to 40 CFR 1506.9.

EIS No. 970035, Draft EIS, USN, GU, AK, AS, HI, Marianas Islands Military Training, Implementation, Marianas Training Plan, Guam, Commonwealth of the Northern Mariana Islands, Asia, Hawaii and Alaska, *Due:* March 24, 1997, *Contact:* Fred Minato (808) 471–9338.

EIS No. 970036, Draft EIS, FHW, CA, Carquinez Bridge Project, Replace/Retrofit the westbound I–80 between Cummings Skyway and CA–29, US Coast Guard and COE Section 10 and 404 Permits, Contra Costa and Solano Counties, CA, *Due:* March 28, 1997, *Contact:* John R. Schultz (916) 498–5041.

EIS No. 970037, Final EIS, USN, CA, Las Pulgas and San Mateo Basin, Cease and Desist Order, Sewage Effluent Compliance Project, NPDES Permit, Marine Corps Base, Camp Pendleton, San Diego County, CA, *Due:* March 10, 1997, *Contact:* David Walls (703) 696–2138.

EIS No. 970038, Final EIS, AFS, WA, Crown Jewel Mine and Mill Project, Construction and Operation, Gold and Silver Mining and Milling Project, Plan of Operations Approval, Special-Use-Permits and COE Section 404 Permit, Chesaw, Okanogan County, WA, *Due:* March 10, 1997, *Contact:* Phil Christy (509) 486–5137.

EIS No. 970039, Final EIS, FHW, PA, US 222 Relocation/Reconstruction Project, Construction of the Warren Street Extension, Funding, Berks County, PA, *Due:* March 10, 1997, *Contact:* Manuel A. Marks (717) 782–3461.

EIS No. 970040, Draft EIS, FHW, PA, Tunkhannock Transportation Improvement Project, Improvement along US–6 (S.R.0006 Section E12) through the Borough of Tunkhannock and Tunkhannock Township, Possible COE Section 404 Permit, Wyoming County, PA, *Due:* March 24, 1997, *Contact:* Manuel Marks (717) 782–3461.

EIS No. 970041, Draft EIS, AFS, FL, Florida National Forests, Revised Land and Resource Management Plan, Implementation, Apalachicola, Choctowhatchee, Ocala and Osceola National Forests, Several Counties, FL, *Due:* May 10, 1997, *Contact:* Karl P. Siderits (904) 942–9300.

EIS No. 970042, Draft EIS, UAF, TX, Programmatic EIS—Kelly Air Force Base (AFB), Disposal and Reuse, Implementation, San Antonio County, TX, *Due:* March 26, 1997, *Contact:* Ted Shieck (210) 536–3807.

EIS No. 970043, Draft EIS, COE, IL, Savanna Army Depot Activity (SVADA), Disposal and Reuse for BRAC–95, Implementation, Jo Daviess and Carroll County, IL, *Due:* March 24, 1997, *Contact:* Rob Dow (703) 693–9217.

EIS No. 970044, Final EIS, AFS, CA, Dinkey Allotment Livestock Grazing Strategies, Implementation, Sierra National Forest, Fresno County, CA, *Due:* March 10, 1997, *Contact:* Terry Elliott (202) 297–0706.

Amended Notices

EIS No. 960576, Final EIS, AFS, WA, Huckleberry Land Exchange Consolidate Ownership and Enhance Future Conservation and Management, Federal Land and Non Federal Land, Mt. Baker-Snoqualmie National Forest, Skagit, Snohomish, King, Pierce, Kittitas and Lewis Counties, WA, *Due:* March 21, 1997, *Contact:* Doug Schrenk (206) 888–

1421. Published FR 12–13–96—Review Period extended.

EIS No. 960596, Draft EIS, NPS, AS, National Park of American Samoa, Implementation, General Management Plan, Islands of Tutulla, Ta'u and Ofu, Territory of American Samoa, *Due:* February 18, 1997, *Contact:* Alan Schmierer (415) 744–3968. Published FR 01–03–97 Correction to Telephone Number.

EIS No. 970015, Final EIS, COE, VA, Lower Virginia Peninsula Regional Raw Water Supply Plan, Permit Approval, Cohoke Mill Creek, King William County, VA, *Due:* March 26, 1997, *Contact:* Pamela K. Painter (757) 441–7654. Published FR 12–13–96—Review Period Extended.

Dated: February 4, 1997.

William D. Dickerson,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 97–3092 Filed 2–6–97; 8:45 am]

BILLING CODE: 6560–50–U

[ER–FRL–5477–3]

Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared January 20, 1997 through January 24, 1997 pursuant to the Environmental Review Process (ERP), under Section 309 of the Clean Air Act and Section 102(2)(c) of the National Environmental Policy Act as amended. Requests for copies of EPA comments can be directed to the OFFICE OF FEDERAL ACTIVITIES at (202) 564–7167. An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in FR dated April 05, 1996 (61 FR 15251).

Draft EISs

ERP No. D–AFS–K65190–AZ Rating EC2, Eastern Roosevelt Lake Watershed Analysis Area Grazing Strategy and Associated Range Improvements Management Plan, Development and Implementation, Tonto National Forest, Tonto Basin Ranger District, Gila County, AZ.

Summary: EPA expressed environmental concern regarding potential air and water quality impacts and cumulative impacts. EPA requested that these issues be clarified in the FEIS.

ERP No. D–AFS–L65276–ID Rating EC2, Prince John Timber Sale Project, Implementation, Boise National Forest, Cascade Ranger District, Valley County, ID.

Summary: EPA expressed environmental concerns about water quality impacts and requested that the FEIS discuss alternatives that do not enter roadless areas.

ERP No. D–AFS–L82015–ID Rating EC2, St. Joe Noxious Weed Control Project, Implementation, St. Maries River, St. Joe River and Little North Fork Clearwater River, Benewah, Shoshone and Latah Counties, ID.

Summary: EPA expressed environmental concern regarding potential misuse and over-application of herbicides. EPA requested that the alternative analysis be expanded.

ERP No. D–BLM–J01075–WY Rating EC2, North Rochelle Mine, Application for Federal Coal Lease (WYW127221), Special-Use-Permits and NPDES Permit, Campbell County, WY.

Summary: EPA expressed environmental concerns related to the need for additional information, data and discussion of air quality impacts. Additional information is requested in the FEIS to address theses concerns.

ERP No. D–BLM–J60018–UT Rating EO2, Price Coalbed Methane Gas Resources Project, Construction, Federal and Non-Federal Lands, Permit-to-Drill Application, Right-of-Way Grants and COE Section 404 Permits, Carbon and Emery Counties, UT.

Summary: EPA expressed environmental objection to the proposed action due to potential air quality, water quality (including groundwater and wetlands) impacts and the lack of adequate habitat preservation and protection measures. EPA requested that the above issues be clarified in the FEIS.

ERP No. D–DOE–K08052–00 Rating EC2, Navajo Transmission Project (NTP), Construction, Operation and Maintenance, Right-of-Way Grants, EPA NPDES, COE, FAA, FWS and FHW Permits Issuance, NV, NM and AZ.

Summary: EPA expressed environmental concerns regarding potential wetland impacts, pollution prevention issues and Native American sacred sites. EPA requested that the FEIS clarify these issues.

ERP No. D–DOE–L09812–WA Rating EO2, Hanford Remedial Action, Implementation, Comprehensive Land-Use Plan, Hanford Site lies in the Pasco Basin of the Columbia Plateau, WA.

Summary: EPA expressed environmental objections particularly with regard to contaminated soil issues, inconsistent risk assessments, inaccurate cost information and the failure to properly describe the relationship between agreements reached under CERCLA and RCRA and those described in the NEPA process. EPA requested that these and other issues be fully clarified in the FEIS.

ERP No. D–FAA–K51037–CA Rating EO2, Metropolitan Oakland International Airport (MOIA), Airport Development Program (ADP), Airport Layout Plan Approval, Funding and COE Section 404 and 10 Permits Issuance, Port of Oakland, Alameda County, CA.

Summary: EPA expressed environmental objection due to potential inconsistency with the general conformity (air quality), section 404 requirements (wetlands) and the lack of a hazardous waste minimization program. EPA requested clarification and or mitigation of these issues.

ERP No. D–NOA–L39054–WA Rating LO, Programmatic EIS—Commencement Bay Restoration Plan, Implementation, COE Section 10 and 404 Permits, CZMA and NPDES Applications, Puget Sound, Pierce County, WA.

Summary: EPA has no objection to the action as proposed.

ERP No. D–NOA–L91001–AK Rating EC2, Juneau Consolidated Facility, Implementation, Fisheries Management Operation, ''Vision for 2005'', Juneau, AK.

Summary: EPA expressed environmental concern regarding potential impacts to hydrology, wetlands, air quality and fish/wildlife services. EPA requested that additional clarification information be included in the FEIS and that appropriate mitigation be provided.

ERP No. D–NPS–L61213–00 Rating LO, Nez Perce National Historical Park and Big Hole National Battefield General Management Plan, Implementation, Asotin and Okanogan Counties, WA; Wallowa County, OR; Idaho, Lewis, Nez Perce, Clearwater and Clank Counties, ID; and Blaine, Yellowstone and Beaverhead Counties, MT.

Summary: EPA has no objection to the action as proposed.

ERP No. D–USN–K11075–CA Rating EC2, Naval Medical Center Oakland, Disposal and Reuse, Implementation, in the City of Oakland, Alameda County, CA.

Summary: EPA expressed environmental concerns regarding impacts to biological resources particularly riparian and wetland resources and other water quality issues.

ERP No. D–USN–L11031–WA Rating LO, Puget Sound Naval Station, Sand Point, Disposal and Reuse, Implementation, King County, WA.

Summary: Following EPA's preliminary review, EPA found no significant statutory or jurisdictional issues from its perspective.

ERP No. DS–FTA–K40208–CA Rating LO, South Sacramento Corridor

Transportation Improvements, Union Pacific Railroad Corridor from the 16th Street Station to Meadaview Road, New Information concerning Alternatives Evaluation and the Impacts Assessment Process, Funding and US COE Permit, City and County of Sacramento, CA.

Summary: EPA has no objection to the action as proposed.

ERP No. DS–NOA–E64007–00 Rating LO, Fishery Management Plan (FMP) for the Shrimp Fishery of the Gulf of Mexico, US Waters, Amendment 9 concerning Reduction of Unwanted Bycatch of Juvenile Red Snapper with Ancillary Benefits to Other Finfish Species, Implementation, MXG.

Summary: EPA had no objection to the action as proposed.

Final EISs

ERP No. F–AFS–L40192–ID Packsaddle Timber Sale and Road Construction Project, Implementation, Idaho Panhandle National Forests, Sandpoint Ranger District, Bonner County, ID.

Summary: Review of the Final EIS was not deemed necessary. No formal comment letter was sent to the preparing agency.

ERP No. F–AFS–L65193–OR Paw Timber Sale, Timber Harvest and Road Construction, Implementation, Umpqua National Forest, Diamond Lake Ranger District, Douglas County, OR.

Summary: Review of the FEIS was not deemed necessary. No formal comment letter was sent to the preparing agency.

ERP No. F–AFS–L65201–OR Eagle Creek Timber Sale and Road Construction, Implementation, Mt. Hood National Forest, Zigzag and Estacada Ranger Districts, Clackamas County, OR.

Summary: Review of the Final EIS was not deemed necessary. No formal comment letter was sent to the preparing agency.

ERP No. F–AFS–L65241–ID Fish Bate Timber Sale, Implementation, North Fork Clearwater River, Clearwater National Forest, North Fork Ranger District, Clearwater County, ID.

Summary: Review of the FEIS was not deemed necessary. No formal comment letter was sent to the preparing agency.

ERP No. F–AFS–L65253–OR Trail System and Off-Highway Vehicle Management and Development, Implementation, Ochoco National Forest and Crooked River National Grassland, Crook, Grant, Jefferson, Harney and Wheeler Counties, OR.

Summary: Review of the FEIS was not deemed necessary. No formal comment letter was sent to the preparing agency.

ERP No. F–AFS–L65269–OR Augusta Timber Sale, Implementation, Willamette National Forest, Blue River Ranger District, Willamette Meridian, Blue River, Lane County, OR.

Summary: EPA previous concerns have been resolved. Therefore EPA had no objection to the action as proposed.

ERP No. F–FHW–L40194–WA WA–3/WA–304 Bremerton Ferry Terminal to the vicinity of Gorst Highway Improvement Project, Implementation, Funding, Right-of-Way Grant, NPDES Permit and COE Section 404 Permit, City of Bremerton, Kitsap County, WA.

Summary: Review of the final EIS was not deemed necessary. No formal comment letter was sent to the preparing agency.

ERP No. F–FRC–K05054–NV Blue Diamond South Pumped Storage Hydroelectric (FERC. No. 10756) Project, Issuance of License for Construction, Operation and Maintain, Right-of-Way Grant and Possible COE Section 404 Permit, Clark County, NV.

Summary: Review of the FEIS was not deemed necessary. No formal letter was sent to the preparing agency.

ERP No. F–NPS–L65229–AK Brooks River Area Development, Use and Management Plan, Implementation, Katmai National Park, AK.

Summary: Review of the FEIS was not deemed necessary. No formal comment letter was sent to the preparing agency.

ERP No. F–SFW–L99006–WA Washington State Department of Natural Resources (WDNR) Habitat Conservation Plan (HCP), Issuance of a Permit for Incidental Take of Federally-Listed Species and Implementation of the Multi-Species Plan for Lands Managed by WDNR, WA.

Summary: Review of the FEIS has been completed and the project found to be satisfactory. No formal comment letter was sent to the preparing agency.

ERP No. FS–BIA–L35003–WA Swinomish Marina and Support Facilities Development, New Information concerning Design Changes, Approval, COE Section 10/404 Permits and EPA NPDES Permit Issuance, Swinomish Indian Reservation, Skagit County, WA.

Summary: EPA commends the cooperative efforts of the Swinomish Tribal Community to develop an improved environmentally acceptable project in response to previous issues raised. EPA has no objections to the action as proposed.

Dated: February 4, 1997.

William D. Dickerson,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 97–3093 Filed 2–6–97; 8:45 am]

BILLING CODE 6560–50–U

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collections Being Reviewed by the Federal Communications Commission

February 3, 1997.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarify of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Persons wishing to comment on this information collection should submit comments April 8, 1997.

ADDRESSES: Direct all comments to Dorothy Conway, Federal Communications Commission, Room 234, 1919 M St., N.W., Washington, DC 20554 or via internet to dconway@fcc.gov.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collections contact Dorothy Conway at 202–418–0217 or via internet at dconway@fcc.gov.

SUPPLEMENTARY INFORMATION:

OMB Approval Number: 3060–0407.

Title: Application for Extension of Broadcast Construction Permit or to Replace Expired.

Type of Review: Revision of currently approved collection Construction Permit.

Form Number: FCC 307.

Respondents: Businesses or other for-profit.

Number of Respondents: 700.

Estimated time per response: 2.5 hours (0.5 to 2.5 applicant; 0.5 to 2.5 hours contract time).

Total annual burden: 1,085 hours.

Needs and Uses: FCC 307 is used by licensees/permittees of broadcast stations to request an extension of time to construct a broadcast facility, or when applying for a construction permit to replace an expired permit. The application shall be filed at least 30 days prior to the expiration date of the construction permit if the facts supporting such application for extension are known to the applicant in time to permit such filing. In other cases, an application will be accepted upon a showing satisfactory to the FCC of sufficient reasons for filing within less than 30 days prior to the expiration date. The form and instructions to the form will be revised to clarify the information needed to obtain an extension or replacement of a construction permit. The data is used by FCC staff to ensure that permittees are making a conscientious effort to construct an authorized station in order to bring service to the public.

OMB Approval No.: 3060-XXXX.

Title: Price Cap Performance Review for Local Exchange Carriers, CC Docket No. 94–1.

Type of Review: New Collection.

Respondents: Businesses or other for profit, including small businesses.

Number of Respondents: 13.

Estimate Hour Per Response: 10 hours.

Total Annual Burden: 130 hours.

Needs and Uses: In the Third Report and Order issued in CC Docket 94–1, the Commission modified its filing requirement for incumbent price cap Local Exchange Carriers (LECs) who propose to offer new switched access services. We no longer require an incumbent LEC to introduce a new service by filing a waiver under Part 69 of the Commission's rules. Instead, incumbent LECs will be able to file a petition for the new service based on a public interest standard. The Commission also eliminated the lower service band indices in the proceeding. By doing so, an incumbent price cap LEC no longer has to file a waiver to set its rates below the lower service band indices, but may instead simply adjust its rates downward.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 97–3068 Filed 2–6–97; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Sunshine Act Agency Meeting

Pursuant to the provisions of the ''Government in the Sunshine Act'' (5 U.S.C. 552b), notice is hereby given that at 11:00 a.m. on Tuesday, February 4, 1997, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session to consider matters relating to the Corporation's supervisory activities.

In calling the meeting, the Board determined, on motion of Vice Chairman Andrew C. Hove, Jr., seconded by Director Joseph H. Neely (Appointive), concurred in by Director Eugene A. Ludwig (Comptroller of the Currency), Director Nicolas P. Retsinas (Director, Office of Thrift Supervision), and Chairman Ricki Helfer, that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting by authority of subsections (c)(4), (c)(6), (c)(8), and (c)(9)(A)(ii) of the ''Government in the Sunshine Act'' (5 U.S.C. 552b(c)(4), (c)(6), (c)(8), and (c)(9)(A)(ii)).

The meeting was held in the Board Room of the FDIC Building located at 550–17th Street, NW., Washington, DC.

Dated: February 5, 1997.

Federal Deposit Insurance Corporation.

Valerie J. Best,

Assistant Executive Secretary.

[FR Doc. 97–3244 Filed 2–5–97; 2:30 pm]

BILLING CODE 6714–01–M

FEDERAL HOUSING FINANCE BOARD

Hearings on Pilot Programs Recently Authorized To Be Established at the Federal Home Loan Banks (FHL Banks) of New York, Atlanta, and Chicago, and the Provisions in the Financial Management Policy (FMP) Governing Investments Supporting Housing and Community Development

AGENCY: Federal Housing Finance Board.

ACTION: Notice of public hearings.

SUMMARY: The Federal Housing Finance Board (Finance Board) is hereby announcing a public hearing on pilot programs recently authorized to be established at the Federal Home Loan Banks of New York, Atlanta, and Chicago and the provisions of the FMP governing such activities.

DATES: The public hearing will be held on Monday, March 10, 1997, beginning at 9:00 a.m. Written requests to participate in the hearing must be received no later than Wednesday, February 19, 1997.

ADDRESSES: The hearing will be held at the Office of Thrift Supervision Amphitheater, 1700 G Street, N.W., Washington, D.C. 20552. Send requests to participate in the hearing, written statements of hearing participants, or other written comments to Elaine L. Baker, Executive Secretariat, Federal Housing Finance Board, 1777 F Street, N.W., Washington, D.C. 20006. The submission may be mailed, hand delivered, or sent by facsimile transmission to (202) 408–2895. Submissions must be received by 5:00 p.m. on the day they are due in order to be considered by the Finance Board. Late filed, misaddressed, or misidentified submissions may affect eligibility to participate in the hearing.

FOR FURTHER INFORMATION CONTACT: Kerrie Ann Sullivan, External Affairs Specialist at (202) 408–2515 or John K. Hardage, Deputy Director of Congressional Affairs at (202) 408–2980, Federal Housing Finance Board, 1777 F Street, N.W., Washington, D.C. 20006.

SUPPLEMENTARY INFORMATION: The Finance Board is interested in the views of System members, community groups, trade associations, federal or state agencies and departments, elected officials and others on the pilot programs recently authorized to be established at the Federal Home Loan Banks of New York, Atlanta, and Chicago, and the provisions of the FMP governing such activities. A summary follows:.

In General

As provided by the Financial Management Policy (FMP) of the Finance Board, the FHLBanks may invest in housing and community development assets, provided that prior to entering into such investments, the FHLBank:

(a) Ensures the appropriate levels of expertise, establishes policies, procedures, and controls, and provides for any reserves required to effectively limit and manage risk exposure and preserve the FHLBank's and the System's triple-A rating;

(b) Ensures that its involvement in such investment activity assists in providing housing and community development financing that is not generally available, or that is available

at lower levels or under less attractive terms;

(c) Ensures that such investment activity promotes (or at the very least, does not detract from) the cooperative nature of the System;

(d) Provides a complete description of the contemplated investment activity (including a comprehensive analysis of how the above three requirements are fulfilled) to the Finance Board; and

(e) Receives written confirmation from the Finance Board, prior to entering into such investments, that the above investment eligibility standards and requirements have been satisfied.

New York

The Federal Home Loan Bank (FHLBank) of New York has been authorized to establish a $250 million Community Mortgage Asset Activities pilot program. Under the program, the FHLBank will purchase from members participation interests in one-to-four family residential, multifamily, construction, and community development mortgage loans that would benefit families and neighborhoods meeting the income targets established for the Community Investment Program (CIP)—that is, housing for families whose incomes do not exceed 115 percent of median income for the area, and loans to finance community and economic development projects in neighborhoods where 50 percent of the residents earn at or below 80 percent of the area median income.

The FHLBank's objective is to enhance the capacity of its members to meet underserved community financing needs, and to strengthen the commitment of the FHLBank to its housing finance mission. The FHLBank has indicated that the loans-to-one-borrower regulatory limit often caps the ability of highly capitalized members, who are skilled in such lending, to bid 0n affordable housing and community and economic development projects. By committing to participate in the funding of such projects with members, the FHLBank would reduce a member's loans-to-one-borrower level by the amount of its participation, thereby facilitating the flow of funds to housing and community development projects that might not otherwise be funded. The FHLBank also contemplates offering shares of its participation interests in such loans to other FHLBank of New York members who would not otherwise be able, due to their size and the size of the project, to engage in such lending.

The Finance Board's Office of General Counsel (OGC) has reviewed the FHLBank of New York proposal and has determined that the FHLBank may purchase such loans and participation interests pursuant to its authority, under subsections 11(h) and 16(a) of the Federal Home Loan Bank Act (FHL Bank Act), to invest ''in such securities as fiduciary and trust funds may be invested in under the laws of the state in which the (FHLBank) is located.'' The FHLBank of New York has provided a legal opinion from outside counsel stating that fiduciary and trust funds may invest prudently in such loans and participation interests under the laws of the State of New York.

The Finance Board has determined that the pilot program satisfies the three criteria established by the Finance Board for considering and approving new mission-related investment activities: (1) the program's targeting, and the positive impact the program would have on the loans-to-one-borrower limits of members specializing in such targeted lending, would facilitate the provision of credit in areas of the community where funding might not, without FHLBank involvement, otherwise be available; (2) in facilitating such targeted originations by certain members, and in facilitating the participation of other members who might not otherwise be able to engage in such lending, the program acts to promote the cooperative nature of the Federal Home Loan Bank System (FHLBank System); and (3) the FHLBank's in-house expertise, the involvement of its board and senior management in the development of the program's business plan, policies, underwriting guidelines, and monitoring and reporting requirements, the intended establishment of reserves appropriate to risk, and the level of program oversight contemplated, should ensure preservation of the triple-A rating of the FHLBank and the System. Program implementation will be contingent upon conformation by the Finance Board's Office of Supervision that appropriate program policies, procedures, controls and reserves have been established.

The following conditions apply to the New York pilot program:

(a) The subject loans shall meet the income targets established for CIP advances.

(b) The purchase of such loans shall not count toward satisfaction of the FHLBank's CIP requirements.

(c) The FHLBank shall ensure that the originator of the loan maintains at least a 20 percent interest in the loan participated, with higher minimum retention levels required where appropriate.

(d) The FHLBank shall limit participations in construction loans to an amount no greater than 10 percent of the pilot program authorization.

(e) The FHLBank shall make an effort to share its participation interests in such loans with FHLBank members, ensuring that such members understand their responsibility to undertake due diligence separate and apart from that performed by the FHLBank.

(f) The board of the FHLBank shall ensure, and certify to, the existence of appropriate expertise, policies, procedures, and controls prior to program implementation.

(g) The board of the FHLBank shall establish adequate reserves prior to program implementation and on an on-going basis.

(h) The board of the FHLBank shall take appropriate precautions, in structuring program oversight, to avoid the appearance of a conflict of interest for board directors with direct responsibility for approving transactions under the program.

(i) The board of the FHLBank shall require monthly program progress reports from management during the first year of the program (and at least quarterly reports thereafter), shall file written evaluations of such reports, and shall provide copies of its evaluations and the management reports to the Finance Board.

Atlanta

The FHLBank of Atlanta (FHLBank) has been authorized to establish a $50 million Affordable Multi-family Participation Program (AMPP) on a pilot basis. The pilot would involve the acquisition by the FHLBank of financial interests in low- and moderate-income multi-family loans originated by the Community Investment Corporation of North Carolina (CICNC). The FHLBank proposes to purchase existing participation interests from FHLBank members, as well as participation interests in newly-originated multi-family loans. The idea for the program emanated from CICNC's membership who indicated that their ability to continue participating in new CICNC projects can only occur if they are able to participate out some of their current holdings.

The CICNC, created by the Community Bankers Association of North Carolina in 1990, is an affordable housing loan consortium whose sole purpose is to facilitate the availability of long-term permanent financing for the development of low- and moderate-income housing across the state. CICNC membership consists of 90 financial institutions (thrifts and commercial

banks) with $310 billion in assets, 78 of which are currently members of the FHLBank of Atlanta. Membership consists primarily of smaller financial institutions; a majority (77 percent) of consortium members have assets of under $250 million. Most of the banks and thrifts located in North Carolina are members of CICNC.

The consortium provides construction/rehabilitation bridge financing and long-term funding for low- and moderate-income multi-family projects. Over the past six years CICNC has funded or committed to fund approximately $45 million for 53 housing developments, producing 2,645 units of affordable housing. To be considered for a CICNC loan, at least 51 percent of the units in a project must provide housing for individuals earning no more than 60 percent of the median income in urban areas and 80 percent of median income in rural areas. (In practice, all of CICNC's developments have a majority of occupants earning no more than 60 percent of area median income, regardless of whether the project is located in an urban or rural area.) CICNC has reported no delinquent loans and only two late payments in its six-year history.

The FHLBank has opined that it has the legal authority to invest in financial interests through the AMPP pilot. The Finance Board's Office of General Counsel has reviewed the AMPP pilot proposal and has concluded that the Finance Board has authority under the Federal Home Loan Bank Act to approve the FHLBank's proposal.

The Finance Board has determined that Atlanta's proposed AMPP pilot program satisfies the three criteria established by the Finance Board for considering and approving of new mission-related activities: (1) the FHLBank will ensure the appropriate levels of expertise, establish policies, procedures, and controls, and provide for any reserves required to effectively limit and manage risk exposure and preserve the FHLBank's and the FHLBank System's triple-A rating; (2) the FHLBank's participation will provide long-term affordable multi-family housing finance that might not otherwise be available, particularly in rural areas, due to limitations on members' financial capacity to participate in CICNC projects; and (3) the program will promote the cooperative nature of the System by enhancing the liquidity and marketabilty of member CICNC participation interests, which will enable these institutions to participate in additional multi-family lending projects. Program implementation is contingent upon confirmation by the Finance Board's Office of Supervision that appropriate program policies, procedures, controls and reserves have been established by the FHLBank.

The following conditions apply to the Atlanta pilot program:

(a) The FHLBank shall ensure that CICNC members retain at least a 20 percent interest in the loan participated, with higher minimum retention levels required where appropriate.

(b) The majority of interest purchased shall be from FHLBank members.

(c) To the extent FHLBank members are interested in purchasing interests in CICNC participations, the FHLBank shall make an effort to share its participation interest with such members, ensuring that such members understand their responsibility to undertake due diligence separate and apart from that performed by the FHLBank.

(d) The FHLBank shall attempt to ensure that members selling participation interests to the FHLBank use the proceeds to finance new instruments in CICNC projects.

(e) The board of the FHLBank shall ensure, and certify to, the existence of appropriate expertise, policies, procedures, and controls prior to program implementation.

(f) The board of the FHLBank shall establish, prior to program implementation and on an on-going basis, adequate reserves.

(g) The board of the FHLBank shall take appropriate precautions, in structuring its program oversight, to avoid the appearance of a conflict of interest for board directors with direct responsibility for approving transactions under the program.

(h) The board of the FHLBank shall require monthly program progress reports from management during the first year of the program (and at least quarterly reports thereafter), shall file written evaluations of such reports, and shall provide copies of its evaluations and the management reports to the Board.

Chicago

The FHLBank of Chicago (FHLBank) has been authorized to establish a $750 million Mortgage Partnership Finance (MPF) pilot program. The objective of the pilot program is to unbundle the risks associated with home mortgage lending and allocate the individual risk components between the FHLBank of Chicago and its members in a manner that uses the cooperative structure of the FHLBank System to maximize their respective core competencies.

When financial depositories currently engaged in home mortgage lending pool loans they originate for sale into the secondary market, pay a guarantee fee, and portfolio the MBS created, the risk components associated with home mortgage lending are misaligned. The depository institution retains responsibility for marketing and servicing, but relinquishes control over what it does best—underwriting and managing credit risk—to the securitizer while it retains risks it is less well-equipped to manage—liquidity, interest rate, and options risk associated with funding the MBS. To the extent that the loans are sold outright, the member divests itself of the interest rate and options risk, but also of any compensation for managing the credit risk.

MPF envisions providing members with a strategic alternative to holding loans in portfolio or selling/securitizing them in the secondary market. The member would continue to be responsible for functions involving the customer relationship, including all aspects of mortgage marketing and origination. The novel feature of the MPF is that the FHLBank would fund and retain in portfolio home mortgage loans originated, serviced and credit-enhanced by its members. The member would receive compensation for managing the customer relationship and the credit risk while the FHLBank would retain the risks it has the most expertise in managing—liquidity, interest rate and portions risk. The FHLBank would hold mission-related mortgage assets on its books.

The FHLBank is proposing to fund the home mortgages originated through its members rather than purchase the loans from member institutions so that participating institutions may receive a more favorable risk-based capital treatment than if the member funded and sold the loans to the FHLBank with recourse.

The FHLBank of Chicago will not fund home mortgages with principal balances above the conforming loan limits applicable to the secondary market housing GSEs. Loan originations would result from member credit decisions within the context of MPF underwriting guidelines and credit enhancement requirements. It is anticipated that a substantial proportion of MPF originations will meet the CIP single-family eligibility standards (115 percent of area median income or below).

The Finance Board's Office of General Counsel (OGC) has reviewed the Chicago proposal. OGC has determined that MPF is a method of channeling

funds into residential housing finance—the statutory mission of the FHLBank System—in a manner that is similar to, but functionally more sophisticated than, that which occurs when a FHLBank makes an advance to a member. OGC has concluded, therefore, that it is reasonable for the Finance Board to authorize the undertaking of the MPF program by the FHLBank of Chicago as an activity incidental to a FHLBank's express statutory authority.

The MPF is designed to insulate the FHLBank from virtually all the credit risk associated with investing in home mortgages. First loss credit protection for the MPF loan program would be provided by a reserve fund established by the FHLBank, to be funded by a share of the mortgage loan cash flows. The excess spread account would be established in an amount at least equal to the historical loss experience on the types of MPF loans originated by the members (based on historical data over the past five years, this first loss coverage is likely to range from two to five basis points of mortgage loan principal).

In return for a fee, MPF participating members would provide second loss credit enhancement at least equal to the level of subordination afforded double-A rated mortgage-backed securities. The FHLBank will determine the amount of the required credit enhancement based on the characteristics of the mortgages and rating agency modeling methodology. A recent analysis has shown that over an eight-year period, investments in mortgage pools rated double-A had zero losses.

Participating members will benefit from their ability to provide home mortgage loans to more customers on more flexible terms while realizing fees for mortgage origination, credit enhancement, and servicing. The FHLBank and its shareholders will be compensated for managing the interest rate and options risk associated with funding MPF loans. This cooperative venture could result in increased competition in the home mortgage loan market.

The Finance Board has determined that the proposed pilot program satisfies the three criteria established by the Finance Board for considering and approving new mission-related activities: (1) the FHLBank's in-house expertise, the involvement of its board and senior management in the development of the program's business plan, policies, underwriting guidelines, and monitoring and reporting requirements, the intended establishment of reserves and member secondary credit enhancements appropriate to risk, the FHLBank's experience in managing the interest rate and options risk associated with home mortgages, and the level of program oversight contemplated, should ensure preservation of the triple-A rating of the FHLBanks and the FHLBank System; (2) the financial advantages of the program relative to other funding alternatives available to members, the capital treatment which will allow the members to more effectively leverage their equity, and the program's underwriting standards, which are expected to be more flexible than those used to originate home mortgage loans on more flexible and attractive terms; and (3) in providing members with a strategic alternative that will allow them to compete more effectively in the housing finance market, the program acts to promote the cooperative nature of the FHLBank System. Program implementation is contingent upon confirmation by the Finance Board's Office of Supervision that appropriate program policies, procedures, controls and reserves have been established by the FHLBank.

The following conditions apply to the Chicago Pilot Program:

(a) The original principal balances of the subject loans shall fall within the conforming loan limits applicable to the secondary market housing GSEs.

(b) The FHLBank shall employ pricing methodology in an attempt to direct a portion of the program's funding to low- and moderate-income households.

(c) The board of the FHLBank shall ensure, and certify to, the existence of appropriate expertise, policies, procedures, and controls prior to program implementation.

(d) The board of the FHLBank shall evaluate the need for and establish, prior to program implementation, and on an on-going basis, any appropriate reserves.

(e) The board of the FHLBank shall take appropriate precautions, in structuring its program, to avoid conflicts of interest, or any appearance thereof, for board directors.

(f) The board of the FHLBank shall require at each regular board meeting program progress reports from management during the first year of the program (and at least quarterly reports thereafter), and shall provide quarterly evaluations of the progress of the pilot program to the Finance Board.

Persons wishing to participate in the hearings should send a written request to the address listed in the **ADDRESSES** portion of this notice, to be received no later than Wednesday, February 19, 1997. A request to participate in the hearing must include the following information:

(A) The name, title, address, business telephone and fax number of the participant; and

(B) The entity or entities that the participant will be representing.

Depending on the number of requests received, participants may be limited in the length of their oral presentations. All submissions will be included as part of the record, including written testimony not presented orally, although extraneous material may be deleted from the printed record to reduce printing costs. The Finance Board will notify those selected to make oral presentations and provide an approximate time. The Finance Board reserves the right to limit the number of participants and to select, at its discretion, those persons who may make oral presentations if more requests are received for participation than may be accommodated in the time available.

Participants will be required to submit written statements in advance of the hearing date. These written statements should incorporate the major points to be presented at the hearings and should be accompanied by an executive summary of no more than two pages. Written statements must be received no later than March 3, 1997, and should be sent to the address listed in the **ADDRESSES** portion of this notice. Anyone selected for an oral presentation whose testimony has not been received by March 3, 1997, may not testify except by special permission of the Finance Board.

By the Federal Housing Finance Board.

Bruce A. Morrison,

Chairman.

[FR Doc. 97–3191 Filed 2–6–97; 8:45 am]

BILLING CODE 6725–01–M

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. Once the notices have been accepted for processing, they will also be available for inspection at the offices of the Board of Governors. Interested persons may

express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than February 21, 1997.

A. Federal Reserve Bank of Atlanta (Lois Berthaume, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303-2713:

1. Eduardo Antonio Masferrer, Miami, Florida; to acquire an additional 8.51 percent, for a total of 15.2 percent, of the voting shares of Hamilton Bancorp, Inc., Miami, Florida, and thereby indirectly acquire Hamilton Bank, N.A., Miami, Florida.

Board of Governors of the Federal Reserve System, February 3, 1997.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 97–3044 Filed 2-6-97; 8:45 am]

BILLING CODE 6210-01-F

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act, including whether the acquisition of the nonbanking company can ''reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices'' (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than March 3, 1997.

A. Federal Reserve Bank of New York (Christopher J. McCurdy, Senior Vice President) 33 Liberty Street, New York, New York 10045-0001:

1. U.S. Trust Corporation, New York, New York; to acquire 100 percent of the voting shares of U.S. Trust Bank of Connecticut, Stamford, Connecticut.

B. Federal Reserve Bank of Philadelphia (Michael E. Collins, Senior Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105-1521:

1. Keystone Financial Inc., Harrisburg, Pennsylvania; to merge with Financial Trust Corp., Carlisle, Pennsylvania, and thereby acquire Financial Trust Co., Carlise, Pennsylvania; Chambersburg Trust Co., Chambersburg, Pennsylvania; First National Bank and Trust Co., Waynesboro, Pennsylvania; and Washington County National Bank, Williamsport, Maryland.

C. Federal Reserve Bank of Chicago (James A. Bluemle, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690-1413:

1. Blackhawk Bancorp, Inc., Beloit, Wisconsin; to acquire 100 percent of the voting shares of Rochelle Bancorp, Rochelle, Illinois, and thereby indirectly acquire Rochelle Savings Bank, S.B., Rochelle, Illinois.

In connection with this application, Applicant also has applied to acquire Midland Acceptance Corporation, Rochelle, Illinois, and thereby enage in making and servicing loans, pursuant to § 225.25(b)(1) of the Board's Regulation Y.

D. Federal Reserve Bank of San Francisco (Kenneth R. Binning, Director, Bank Holding Company) 101 Market Street, San Francisco, California 94105-1579:

1. U.S. Bancorp, Portland, Oregon; to acquire 100 percent of the voting shares of Business & Professional Bank, Woodland, California.

Board of Governors of the Federal Reserve System, February 3, 1997.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 97–3045 Filed 2-6-97; 8:45 am]

BILLING CODE 6210-01-F

Notice of Proposals To Engage in Permissible Nonbanking Activities or To Acquire Companies That are Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y, (12 CFR Part 225) to engage *de novo*, or to acquire or control voting securities or assets of a company that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.25 of Regulation Y (12 CFR 225.25) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

Each notice is available for inspection at the Federal Reserve Bank indicated. Once the notice has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act, including whether consummation of the proposal can ''reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices'' (12 U.S.C. 1843). Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than February 21, 1997.

A. Federal Reserve Bank of Minneapolis (Karen L. Grandstrand, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480-2171:

1. Farmers State Financial Corp., Victor, Montana; to engage *de novo* through its subsidiary, Farmers State Bank, FSB, Stevensville, Montana, in operating a savings association, pursuant to § 225.25(b)(9) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, February 3, 1997.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 97–3043 Filed 2-6-97; 8:45 am]

BILLING CODE 6210-01-F

FOREIGN RESERVE SYSTEM

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Board of Governors of the Federal Reserve System.

TIME AND DATE: 10:00 a.m., Wednesday, February 12, 1997.

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: February 5, 1997.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 97–3167 Filed 2–5–97; 10:12 am]

BILLING CODE 6210–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Office of Minority Health; Notice of a Cooperative Agreement With Central State University

The Office of Minority Health (OMH) announces that it will enter into a cooperative agreement with Central State University to support a Family and Community Violence Prevention Program.

The purpose of the Family and Community Violence Prevention Program is to positively impact the increasing incidence of violence and abusive behavior in low income, at-risk communities through the mobilization of community partners to address these issues. In order to have an effect on this trend, interventions conducted through partnerships must be directed to the individual, the family and the community as a whole, and must be designed to impact the academic and personal development of those who are at risk.

This cooperative agreement is intended to demonstrate the merit of programs that involve partnerships between community institutions and Family Life Centers to spearhead a community effort to improve the quality of life for all community residents.

Authority

This cooperative agreement is authorized under section 1707(d)(1) of the Public Health Service Act, 42 U.S.C. 300u–6(d)(1).

Background

Assistance will be provided only to Central State University of Wilberforce, Ohio. No other applications are solicited. Central State University is uniquely qualified to administer this cooperative agreement because it has:

1. developed an infrastructure to manage a multi-faceted demonstration program coordinated among widely dispersed institutions of higher education addressing the issues of family and community violence;
2. in place a management staff with the background and experience to guide, develop and evaluate a multimillion dollar demonstration program;
3. established a relationship with a network of institutions of higher education actively involved in programs to prevent family and community violence;
4. demonstrated an ability to bring together individual schools to function as a cohesive unit in addressing common issues and goals;
5. experience in carrying out a program designed to reduce the incidence of violence and crime; and
6. demonstrated through past activities its ability to pull together experts in the field of violence prevention to serve in an advisory capacity to a multi-year project.

Approximately $4,800,000 (indirect and direct costs) is available in FY 1997 to fund this cooperative agreement. The project is expected to begin on September 30, 1997, for a 12-month budget period within a project period not to exceed 3 years. Continuation awards within the project period will be made on the basis of satisfactory performance and availability of funds.

Violent and abusive behavior exacts a large toll on the physical and mental health of Americans. According to the Healthy People 2000 Midcourse Review and 1995 Revisions, the United States ranks first among industrialized nations in violent death rates, with homicide and suicide claiming more than 50,000 lives each year. An additional 2.2 million people are injured by violent assaults annually. According to this report, morbidity and mortality due to violence show some disturbing trends. Youth are increasingly involved as both perpetrators and victims of violence. In 1992, the homicide rate for young black men exceeded that of young white men by as much as 8 times. Women are frequent targets of both physical and sexual assault, often perpetrated by spouses, ex-spouses, intimate partners, or others known to them. Women with family incomes under $9,999 had the highest rates of violence attributable to an intimate while those with family incomes over $30,000 had the lowest rates.

Blacks are disproportionately represented among both violent crime offenders and victims. While blacks constituted 12 percent of the U.S. population in 1993, in that same year they represented 58 percent of persons arrested for murder, 41 percent arrested for rape, 62 percent arrested for robbery, and 40 percent arrested for aggravated assault (Bureau of Justice Statistics, 1994). Arrest data also indicate that violent crime, especially murder, involve intraracial victims-offender relationship patterns. In 1993, 94 percent of black murder victims were killed by black offenders and 84 percent of white murder victims were killed by white offenders (Department of Justice, 1993).

According to the National Center on Child Abuse and Neglect, an estimated 2.9 million children were reported as alleged victims of maltreatment in 1994. Of the investigation dispositions, 1.0 million were determined to have been victims of either substantiated or indicated maltreatment. Of these, 53 percent suffered from neglect, 26 percent were physically abused, 14 percent were sexually abused, 3 percent suffered from medical neglect, 5 percent from emotional maltreatment, 15 percent from other types of maltreatment, and 4 percent unknown. About 27 percent were 3 years old or younger, 20 percent were age 4 to 6, 17 percent were 7 to 9, 15 percent were between 10 and 12, and 21 percent were teenagers (13 to 18). Of those cases where states reported race/ethnicity, 56 percent of the victims were white, 26 percent were African American, 9 percent Hispanic, 2 percent Native American, and less than 1 percent Asian/Pacific Islander.

According to the National Committee for Prevention of Child Abuse, abused children have been found to have lower cognitive maturity and more severe behavior problems than children who have not been abused. Abused children are also at increased risk for the extremes of risk-seeking or risk-avoiding behaviors. Maltreated children experience significant problems including poor social skills, aggressiveness and emotional unresponsiveness.

Troublesome and delinquent children are more likely to come from troubled families and neighborhoods. Delinquency is not a problem that appears alone. Delinquent youths are also at higher-than-average risk for drug use, problems in school, dropping out of school, and teenage pregnancy (Elliott, Huizinga, and Menard, 1989; Greenwood, 1993). The recognition that problems in school or early dropout are primary risk factors for juvenile delinquency and drug use have led to the development of a wide range of interventions. Unfortunately, many of these efforts have not been evaluated, and most of those evaluated have produced negligible impacts (Tolan and Guerra, 1994), particularly on later delinquency. When asked, students who have been victims of violence and those at greater risk of being victims are more likely to express concern about relations with their parents. One-fourth of students (25%) say they sometimes wonder if their parents really love them. Minority students are more concerned than white students. One-third of African-American (32%), and Hispanic (34%) students say this statement is true for them as compared with one in five white students (22%).

The 1985 Report of the Secretary's Task Force on Black and Minority Health provided a national focus on violence as a leading public health problem in the United States. Since that time, public health strategies to prevent death and disability due to violent and abusive behavior have emerged across the country. The Health People 2000 Midcourse Review and 1995 Revision identified the following strategies for addressing violence in communities at high risk: promoting awareness of violence as a public health problem, taking more agreesive steps to counter the high rates of physical abuse and violence against women, offering alternative school and community-based activities for youth, and increasing collaboration and partnerships between State and local public health agencies with mental health and substance abuse programs.

Project Requirements

The cooperative agreement will include substantive involvement of both the recipient and the Federal Government. At a minimum,, the following expectations are anticipated:

Recipient Responsibilities

(1) Central State University will solicit proposals from four year undergraduate institutions historically identified as providing education primarily to minority students, or having a majority enrollment of minority students for the purposes of carrying out a program to positively impact the increasing incidence of violence and abusive behavior in low income, at-risk communities. Up to 19 institutions will be selected, based on criteria development in conjunction with OMH staff, to received awards of approximately $200,000 per year. Special consideration will be given to those institutions which currently have Family Life Centers with support form Central State University. (2) Central State University will participate with OMH in the selection of the institutions, and provide funding to conduct comprehensive programs of support and education for a defined community. The selected institutions must:

- Establish a Family Life Center (FLC) within a 10 mile radius of the target community to facilitate access to the program's services/activities on a regular basis. The FLC can be located at a site of the undergraduate school, or at a facility of a community institution with which it has established a partnership. The FLC is to be open year round, with activities/services offered at various times (e.g. weekdays, evenings, weekends) to accommodate the target group(s).
- Offer project activities in the areas of Academic Development Personal Development, Cultural/Recreational Enrichment, and Career Development.
- Offer opportunities for community youth to participate in activities on campus or other appropriate sites, including a summer academic enrichment program of at least 3 week in length for middle and high school students.
- Formalized arrangements/ partnerships with appropriate community groups, involving tangible, inkind contributions from each of the collaborating partners.

(3) Central State University will utilize a Management Team to oversee the Family and Community Violence Prevention Program.

(4) Central State University will select up to 10 individuals to serve on an Advisory Board to provide guidance and technical advice to the Management Team. A meeting limited to this Board will be held once per year.

(5) Central State University will convene a yearly meeting of the Family Life Centers to discuss common goals and direction, and exchange information on various approaches and evaluation strategies.

(6) In addition to the yearly Advisory Board meeting, Central State University will convene an annual meeting of Family Life Center Directors and Evaluators, and the Advisory board to facilitate a discussion surrounding program activities, evaluation, and future direction.

(7) Central State University will monitor the activities of the funded institutions to ensure compliance with the intent of the program.

(8) Central State University will conduct a yearly evaluation of the actitivties of each of the funded institutions, as well as the overall project.

OMH Responsibilities

Substantial programmatic involvement is as follows:

(1) OMH will provide technical assistance and oversight as necessary for the overall design of the Family and Community Violence Prevention Program.

(2) OMH will develop the evaluation criterion for the selection and funding of applications.

(3) OMH will participate with Central State University in the review and selection of applications and ensure the absence of conflict of interest in the review process.

(4) OMH will have final approval of the Advisory Board membership.

(5) OMH will provide assistance to the Management Team on program strategies, direction, evaluation activities, and decisions related to adjustments in funding levels of participating institutions.

(6) OMH will participate in the planning of and attend the annual Advisory Board Meeting, the annual meeting of the Family Life Centers, and the annual meeting of the Family Life Center Directors/Evaluators and the Advisory Board.

(7) OMH will participate in site visits to the participating institutions as deemed appropriate by OMH staff.

Where to Obtain Additional Information

If you are interested in obtaining additional information regarding this project, contact Ms. Cynthia H. Amis, Director, Division of Program

Operations, Office of Minority Health, 5515 Security Lane, Suite 1000, Rockville, Maryland 20852, telephone number (301) 594–0769.

The Catalog of Federal Domestic Assistance number is 93.910.

Dated: January 13, 1997.

Clay E. Simpson, Jr.,

Deputy Assistant Secretary for Minority Health.

[FR Doc. 97–3017 Filed 2–6–97; 8:45 am]

BILLING CODE 4160–17–M

Meeting of Commission on Dietary Supplement Labels

AGENCY: Office of Disease Prevention and Health Promotion.

ACTION: Commission on Dietary Supplement Labels: Notice of meeting #8.

SUMMARY: The Department of Health and Human Services (HHS) is providing notice of the eighth meeting of the Commission on Dietary Supplement Labels.

DATES: The Commission intends to hold its meetings on March 4, 1997 from 1:00 p.m. to approximately 5:00 p.m., E.S.T., at the Omni Hotel, 101 West Fayette Street, Baltimore, Maryland 21201. The meeting is open to the public; seating is limited.

FOR FURTHER INFORMATION CONTACT: Kenneth D. Fisher, Ph.D., Executive Director, Commission on Dietary Supplement Labels, Office of Disease Prevention and Health Promotion, Room 738G, Hubert H. Humphrey Building, 200 Independence Ave., SW., Washington, DC 20201, (202) 690–7102.

SUPPLEMENTARY INFORMATION: Public Law 103–417, Section 12, authorized the establishment of a Commission on Dietary Supplement Labels whose seven members have been appointed by the President. The appointments to the Commission by the President and the establishment of the Commission by the Secretary of Health and Human Services reflect the commitment of the President and the Secretary to the development of a sound and consistent regulatory policy on labeling of dietary supplements.

The Commission is charged with conducting a study and providing recommendations for regulation of label claims and statements for dietary supplements, including the use of supplemental literature in connection with their sale and, in addition, procedures for evaluation of label claims. The Commission is expected to evaluate how best to provide truthful, scientifically valid, and non-misleading information to consumers in order that they may make informed health care choices for themselves and their families. The Commission's study report may include recommendations on legislation, if appropriate and necessary.

The Commission meeting agenda will include approval of minutes of the previous meeting, determination of the appropriateness and possible date for release of the Commission's final draft report for public review, review of certain materials drafted for possible inclusion in the Commission's report, and discussion of the process for review of Commission's final draft report. In addition, the Commission has requested further comments from several organizations that previously provided testimony and statements concerning (1) regulatory management of herbal remedies, and (2) possible use of third parties for evaluation of dietary supplement label claims. Oral statements and the required written statements of invited parties are to be restricted to additional views, data, and comments on these two topics. If time permits after the statements of the invited organizations, the Chair may allow brief oral statements from other interested parties and persons concerning these two topics.

The meeting is open to the public; however seating is limited. If you will require a sign language interpreter, please call Sandra Saunders (202) 690–7102 by 4:30 p.m. E.S.T. on February 24, 1997.

Dated: January 30, 1997.

Linda D. Meyers,

Acting Deputy Director, Office of Disease Prevention and Health Promotion, Department of Health and Human Services.

[FR Doc. 97–3018 Filed 2–6–97; 8:45 am]

BILLING CODE 4160–17–M

National Institutes of Health

National Institute of General Medical Sciences; Notice of Closed Meeting

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following National Institute of General Medical Sciences Special Emphasis Panel meeting:

Name of Committee: Structural Biology of AIDS Related Proteins.

Date: February 18, 1997.

Time: 1:00 p.m.—until conclusion (approximately 3 hours).

Place: Natcher Building—Room 1 AS–13, 45 Center Drive, Bethesda, Maryland 20892–6200 (Telephone Conference).

Contact Person: Arthur L. Zachary, Ph.D., Scientific Review Administrator, NIGMS, Office of Scientific Review, 45 Center Drive, Room 1AS–13, Bethesda, MD 20892–6200, 301–594–2886.

Purpose: To evaluate program project proposals.

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.

This meeting will be closed in accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5 U.S.C. The discussions of these proposals 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.

(Catalog of Federal Domestic Assistance Program Nos. 93.821, Biophysics and Physiological Sciences; 93.859, Pharmacological Sciences; 93.862, Genetics Research; 93.863, Cellular and Molecular Basis of Disease Research; 93.880, Minority Access Research Careers [MARC]; and 93.375, Minority Biomedical Research Support [MBRS])

Dated: January 31, 1997.

Paula N. Hayes,

Acting Committee Management Officer, NIH.

[FR Doc. 97–3077 Filed 2–6–97; 8:45 am]

BILLING CODE 4140–01–M

National Institute of General Medical Sciences; Notice of Closed Meeting

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following National Institute of General Medical Science meeting:

Committee Name: Minority Program Review Committee MARC, Minority Access to Research Careers Sub-Committee.

Date: February 20–21, 1997.

Time: 8:30 a.m.—adjournment.

Place: Natcher Conference Center, 45 Center Drive—Conference Room C1/C2, Bethesda, MD 20892–6200.

Contact Person: Richard I. Martinez, Ph.D., Scientific Review Administrator, NIGMS, 45 Center Drive, Room 1AS–19G, Bethesda, MD 20892–6200, 301–594–2849.

Purpose: To review institutional research training grant applications.

This meeting will be closed in accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. The discussions of these applications could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Program Nos. 93.821, Biophysics and Physiological Sciences; 93.859, Pharmacological Sciences; 93.862, Genetics Research; 93.863, Cellular and Molecular Basis of Disease Research; 93.880, Minority

Access Research Careers [MARC]; and 93.375, Minority Biomedical Research Support [MBRS])

Dated: January 31, 1997.

Paula N. Hayes,

Acting Committee Management Officer, NIH.

[FR Doc. 97–3078 Filed 2–6–97; 8:45 am]

BILLING CODE 4140–01–M

Office of Extramural Research; Notice of 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 a meeting of the Peer Review Oversight Group (PROG) on February 13–14, 1997, in the Rockledge II Centre, 6701 Rockledge Drive, Bethesda, Maryland 20817. The meeting will be held from 8:30 a.m. to 5 p.m. on February 13 and from 8:30 a.m. to 12 p.m. on February 14. The meeting is open to the public, with attendance limited to space available.

Topics for discussion include: NIH extramural electronic reinvention activities, the rating of grant applications, the integration of Neuroscience Reviews, and the review of multiple mechanisms within one review group.

The meeting agenda and roster of committee members are available on the World Wide Web via the NIH Home Page (http://www.nih.gov.grants/) or from Dr. Peggy McCardle, Executive Secretary, PROG, and Special Assistant to the Deputy Director for Extramural Research, OD, NIH, Building 1, Room 150, Bethesda, Maryland 20892, (301) 402–2246. Individuals who plan to attend the meeting and need special assistance, such as sign language interpretation or other special accommodations, should contact Dr. McCardle by February 7, 1997.

This meeting is being published less than 15 days prior to the meeting due to the urgent need to proceed with the meeting as scheduled in order to address these issues in a timely manner.

Dated: January 31, 1997.

Paula N. Hayes,

Acting Committee Management Officer, NIH.

[FR Doc. 97–3079 Filed 2–6–97; 8:45 am]

BILLING CODE 4140–01–M

Prospective Grant of Exclusive License: Particle-Medicated Gene Delivery DNA Vaccines Against Dengue and Other Flavivirus Infections

AGENCY: National Institutes of Health, Public Health Service, DHHS.

ACTION: Notice.

SUMMARY: This is notice in accordance with 15 U.S.C. 209(c)(1) and 37 CFR 404.7(a)(1)(i) that the National Institutes of Health (NIH), Department of Health and Human Services, is contemplating the grant of a limited field of use exclusive world-wide license to practice the invention embodied in U.S. Patent No. 5,494,671, issued February 27, 1996 (U.S. Patent Application Serial No. 07/747,785, filed August 20, 1991), entitled ''C-Terminally Truncated Dengue and Japanese Encephalitis Virus Envelope Proteins''; U.S. Patent Application Serial No. 08/250,802, filed May 27, 1994, entitled ''Chimeric and/or Growth Restricted Flaviviruses'' and related foreign patent applications to Auragen, Inc./Geniva, Inc. of Middleton, WI. The patent rights in these inventions have been assigned to the United States of America.

SUPPLEMENTARY INFORMATION: The prospective exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7. It is anticipated that this license may be limited to particle-mediated gene delivery DNA vaccines against Dengue and other flavivirus infections. This license will not include live virus, killed virus, or protein-based vaccines. This prospective exclusive license may be granted unless within 60 days from the date of this published notice, NIH receives written evidence and argument that establishes that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR 404.7.

The patent describes the use of C-terminally truncated flavivirus envelope proteins in vaccines against flavivirus infections and also relates to recombinant viruses which encode the truncated protein. The patent applications are directed to recombinant, modified or viable chimeric flaviviruses for use in vaccine preparations against flavivirus infections. This technology further provides for a baculovirus having a recombinant dengue cDNA sequence which encodes dengue proteins and for a baculovirus having a recombinant Japanese B encephalitis virus cDNA sequence which encodes Japanese B encephalitis proteins. The applications also relate to vaccines produced from recombinant DNA.

ADDRESSES: Requests for a copy of the issued patent, patent application, inquiries, comments, and other materials relating to the contemplated license should be directed to: Gloria H. Richmond, Patent Advisor, Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, MD 20852–3804; Telephone: (301) 496–7057 ext 268; Facsimile: (301) 402–0220; E-mail: Gloria Richmond@NIH.GOV. A signed Confidential Disclosure Agreement will be required to receive a copy of the patent application. Applications for a non-exclusive or exclusive license filed in response to this notice will be treated as objections to the grant of the contemplated license. Only written comments and/or applications for a license which are received by NIH on or before April 8, 1997 will be considered. Comments and objections submitted in response to this notice will not be made available for public inspection, and, to the extent permitted by law, will not be released under the Freedom of Information Act, 5 U.S.C. 552.

Dated: January 28, 1997.

Barbara M. McGarey,

Deputy Director, Office of Technology Transfer.

[FR Doc. 97–3080 Filed 2–6–97; 8:45 am]

BILLING CODE 4140–01–M

Prospective Grant of Exclusive License: Vaccines for Dengue and Other Flaviviruses

AGENCY: National Institutes of Health, Public Health Service, DHHS.

ACTION: Notice.

SUMMARY: This is notice in accordance with 15 U.S.C. 209(c)(1) and 37 CFR 404.7(a)(1)(i) that the National Institutes of Health (NIH), Department of Health and Human Services, is contemplating the grant of a limited field of use exclusive world-wide license to practice the invention embodied in U.S. Patent No. 5,494,671, issued February 27, 1996 (U.S. Patent Application Serial No. 07/747,785, filed August 20, 1991), entitled ''C-Terminally Truncated Dengue and Japanese Encephalitis Virus Envelope Proteins'' to Hawaii Biotechnology Group, Inc. of Aiea, Hawaii. The patent rights in this invention have been assigned to the United States of America.

SUPPLEMENTARY INFORMATION: The prospective exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7. It is anticipated that this license may be limited to the field of subunit vaccines against Dengue and Japanese Encephalitis produced in animal cells. This license will not include live virus, killed virus or DNA-based vaccines or the use of vaccinia virus as a vector, or immunogen. This prospective exclusive license may be granted unless within 60 days from the

date of this published notice, NIH receives written evidence and argument that establishes that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR 404.7.

The patent describes the use of C-terminally truncated flavivirus envelope proteins in vaccines against flavivirus infections. The invention also relates to recombinant viruses which encode the truncated protein and to host cells infected therewith.

ADDRESSES: Requests for a copy of this issued patent, inquiries, comments, and other materials relating to the contemplated license should be directed to: Gloria H. Richmond, Patent Advisor, Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, MD 20852–3804; Telephone: (301) 496–7057 ext 268; Facsimile: (301) 402–0220; E-mail: Gloria Richmond@NIH.GOV. Applications for a non-exclusive or exclusive license filed in a response to this notice will be treated as objections to the grant of the contemplated license. Only written comments and/or applications for a license which are received by NIH on or before April 8, 1997 will be considered. Comments and objections submitted in response to this notice will not be made available for public inspection, and, to the extent permitted by law, will not be released under the Freedom of Information Act, 5 U.S.C. 552.

Dated: January 28, 1997.

Barbara M. McGarey,

Deputy Director, Office of Technology Transfer.

[FR Doc. 97–3081 Filed 2–6–97; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF THE INTERIOR

Proposed Agency Information Collection Activities; Comment Request

AGENCY: Bureau of Indian Affairs.

ACTION: Notice.

SUMMARY: This notice announces that the Information Collection Request for Documented Petitions for Federal Acknowledgment as an Indian Tribe requires renewal. Before submitting a request for reinstatement, without change, of a previously approved collection for which approval has expired to the Office of Management and Budget (OMB), the Department of the Interior is soliciting comments on this information collection, as required by the Paperwork Reduction Act of 1995, Public Law 104–13, 44 U.S.C. 3506(c)(2)(A).

DATES: Written comments must be submitted on or before April 8, 1997.

ADDRESSES: Direct all written comments to Holly Reckord, Bureau of Indian Affairs, Department of the Interior, 1849 C Street, NW, MS–4603, Washington, D.C. 20240.

All written comments will be available for public inspection in Room 4603 of the Main Interior Building, 1849 C Street, NW, Washington, D.C. from 9:00 a.m. until 3:00 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instructions should be directed to Holly Reckord, Bureau of Indian Affairs, Department of the Interior, 1849 C Street, NW, MS–4603, Washington, D.C. 20240, and 202/208–3592.

SUPPLEMENTARY INFORMATION:

1. Abstract

The information collection is needed to establish whether a petitioning group has the characteristics necessary to be acknowledged as having a government-to-government relationship with the United States.

2. Method of Collection

The acknowledgment regulations at 25 CFR Part 83 contain seven criteria (§ 83.7) which unrecognized groups seeking Federal acknowledgment as Indian tribes must demonstrate that they meet. Information collected from petitioning groups under these regulations provides anthropological, genealogical and historical data used by the Assistant Secretary—Indian Affairs to establish whether a petitioning group has the characteristics necessary to be acknowledged as having a government-to-government relationship with the United States.

3. Data

Title: Collection of Information for Federal Acknowledgment Under 25 CFR Part 83.

OMB Number: 1076–0104.

Expiration Date: January 31, 1997.

Type of Review: Reinstatement of approved collection.

Affected Entities: Groups petitioning for Federal acknowledgment as Indian tribes.

Estimated Number of Petitioners: 10.

Estimated Time per Petition: 2,175 hours.

Estimated Total Annual Burden Hours: 21,750.

Estimated Annual Costs: $870,000 (2,175 hours × $40.00 per hour).

4. Request for Comments

The Department of the Interior invites comment on:

(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 the burden (including hours and cost) of the proposed collection of information, including the validity of the methodology and assumptions used;

(c) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(d) Ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other collection techniques or other forms of information technology.

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; to develop, acquire, install and utilize technology and systems for the purpose of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; to train personnel and to be able to respond to a collection of information, to search data sources, to complete and review the collection of information; and to transmit or otherwise disclose the information.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

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 Office of Management and Budget control number.

Dated: January 16, 1997.

Ada E. Deer,

Assistant Secretary—Indian Affairs.

[FR Doc. 97–3103 Filed 2–6–97; 8:45 am]

BILLING CODE 4310–02–P

Bureau of Land Management

[OR–130–1990–01; GP7–0085]

Notice of Availability of the Crown Jewel Mine Record of Decision (ROD) for the Final Environmental Impact Statement (EIS)

AGENCY: Bureau of Land Management, Spokane District.

ACTION: Notice of availability of the Crown Jewel Mine Record of Decision (ROD).

SUMMARY: On January 14, 1997, Spokane District Manager, Joseph Buesing, made a decision to select Alternative B as presented in the Final Environmental Impact Statement (FEIS) for the Crown Jewel Mine, including the reclamation, mitigation, monitoring and performance security measures described in the Final EIS. Alternative B will allow Battle Mountain Gold Company and Crown Resources Corporation to develop, construct, operate, close and reclaim a surface mining and milling operation for gold and silver recovery and production on Buckhorn Mountain. Portions of the project are located on lands managed by the Bureau of Land Management (BLM), Wenatchee Resource Area Office. Seven alternatives were considered in detail. Six of these were action alternatives which evaluated a wide range of component options.

Copies of the Crown Jewel Mine Final EIS and accompanying Record of Decision (ROD) will be available for review at each Public Library in the following cities in the State of Washington: Brewster, Chelan, Colville, Grand Coulee, Omak, Oroville, Republic, Seattle (Government Publications Dept.), Spokane, Tonasket, Twisp, Wenatchee and Winthrop. U.S. Forest Service (USFS) Office locations in Washington State where copies of the final EIS are available for review include the USFS Okanogan National Forest Supervisors Office in Okanogan and Tonasket Ranger District in Tonasket. The following State of Washington Department of Ecology Offices also have copies of the final EIS and ROD; they include, Headquarters Office in Lacey, Central Regional Office in Yakima, and Eastern Regional Office in Spokane. Public reading copies will also be available for review at the following BLM locations:

Oregon State Office, Public Room, 1515 S.W. Avenue, Portland, Oregon 97201
Spokane District Office, 1103 N. Fancher, Spokane, Washington 99212–1275
Wenatchee Resource Area Office, 915 Walla Walla Avenue, Wenatchee, Washington, 98801–1521.

DATES: The Decision may be appealed to the Interior Board of Appeals within 30 days from the publication of this notice of availability of the Crown Jewel Mine Record of Decision (ROD) for the Final EIS in the Federal Register. The appeal procedures is set forth in the Record of Decision.

FOR FURTHER INFORMATION CONTACT: Brent Cunderla, Bureau of Land Management Wenatchee Resource Area Office, 915 Walla Walla Avenue, Wenatchee, Washington 98801; (509) 665–2100.

SUPPLEMENTARY INFORMATION: Only those actions pertaining to the public lands administered by the BLM and subject to BLM jurisdiction may be appealed under BLM administrative appeal rights.

The decision affecting BLM administered lands will be in full force and effect as of the signature date of the Record of Decision and will remain in effect during any appeal unless a written request for a stay is granted pursuant to 43 CFR 4.21. The full force and effect provisions only apply to the approval of the Selected Alternative and do not pertain to initiating actions under a Plan of Operations.

The Proponent is required to prepare a revised Plan of Operations and financial guarantee estimate that fully incorporates all of the requirements of the Record of Decision, obtain BLM approval of those documents, and post acceptable financial guarantees prior to commencing operations. BLM approval of the Plan of Operations and financial guarantee will be addressed in a separate appealable decision.

Dated January 31, 1997.

Joseph K. Buesing,

District Manager.

[FR Doc. 97–2928 Filed 2–6–97; 8:45 am]

BILLING CODE 4310–33–M

[UT–056–1430–01–24–1A]

Notice of Intent to Amend Plan

SUMMARY: This Notice of Intent is to advise the public that the Bureau of Land Management (BLM) intends to consider proposals which would require amending an existing planning document.

DATES: The comment period for this proposed plan amendment will commence with publication of this notice. Comments must be submitted on or before March 10, 1997.

FOR FURTHER INFORMATION CONTACT: Dave Henderson, Sevier River Resource Area Manager, 150 East 900 North, Richfield, Utah 84701. Existing planning documents and information are available at the above address or telephone (801)896–1500. Comments on the proposed plan amendment should be sent to the above address.

SUPPLEMENTARY INFORMATION: The BLM is proposing to amend the Mountain Valley Management Framework Plan which includes public lands in Piute County and Sevier County, Utah. The purpose of the amendment would be to identify certain lands as suitable for direct sale pursuant to Section 203 of the Federal Land Policy and Management Act of 1976. The lands identified for direct sale comprise 15.0 acres described as follows: T. 26 S., R. 1 W., Sec. 11, S1/2NE1/4NE1/4SE1/4 and T. 30 S., R. 4 W., Section 23, SE1/4SW1/4SW1/4, Salt Lake Meridian, Utah. The existing plan does not identify these lands for disposal. However, because of the resource values and public values and objectives involved, the public interest may well be served by sale of these lands. An environmental assessment will be prepared by an interdisciplinary team to analyze the impacts of this proposal and alternatives.

Joseph L. Jewkes,

Acting State Director, Utah.

[FR Doc. 97–3059 Filed 2–6–97; 8:45 am]

BILLING CODE 4310–DQ–P

[AK–050–1620–00]

Brushkana Campground Fees, AK

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of campground fee.

SUMMARY: Notice is hereby given that campground fees will be charged at Brushkana Campground at Mile 104 Denali Highway in the Glennallen District, Alaska. This is in accordance with 36 CFR 71.3.

DATES: This action is effective as of May 1, 1997.

ADDRESSES: Inquires about this action should be sent to the Bureau of Land Management (BLM), Glennallen District Office, Mile 186.5 Glenn Highway, Post Office Box 147, Glennallen, Alaska 99588; Telephone (907) 822–3217.

FOR FURTHER INFORMATION CONTACT: Kathy Liska (907) 822–3217.

SUPPLEMENTARY INFORMATION: Brushkana Campground meets the fee requirement established under 36 CFR 71.3. A daily fee will be charged for each campsite occupied. The fee amount will vary depending on the services provided and will be posted at the fee collection station.

Dated: January 29, 1997.
Michael P. Coffeen,
Team Leader.
[FR Doc. 97–3024 Filed 2–6–97; 8:45 am]
BILLING CODE 4310–JA–P

[AK–050–1620–00]

Sourdough Creek Campground Fees, Alaska

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of campground fee.

SUMMARY: Notice is hereby given that campground fees will be charged at Sourdough Creek Campground at Mile 147 Richardson Highway in the Glennallen District, Alaska. This is in accordance with 36 CFR 71.3 (as modified by Pub. L. 103–66).

DATES: This action is effective as of May 1, 1997.

ADDRESSES: Inquires about this action should be sent to the Bureau of Land Management (BLM), Glennallen District Office, Mile 186.5 Glenn Highway, Post Office Box 147, Glennallen, Alaska 99588; Telephone (907) 822–3217.

FOR FURTHER INFORMATION CONTACT: Kathy Liska (907) 822–3217.

SUPPLEMENTARY INFORMATION: Sourdough Creek Campground meets the fee requirement established under 36 CFR 71.3 as modified by PL. 103–66. A daily fee will be charged for each campsite occupied. The fee amount will vary depending on the services provided and will be posted at the fee collection station.

Dated: January 30, 1997.
Michael P. Coffeen,
Team Leader.
[FR Doc. 97–3025 Filed 2–6–97; 8:45 am]
BILLING CODE 4310–JA–P

[UT–020–07–5440–00–J255]

Notice

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Intent to Amend the Pony Express Resource Management Plan.

SUMMARY: The Bureau of Land Management (BLM) is preparing an Environmental Assessment (EA), to consider a proposed amendment to the Pony Express Resource Management Plan (RMP). The proposed amendment would allow a direct sale under Section 203 of the Federal Land Policy and Management Act. The proposed sale of 1.25 acres is needed to resolve an occupancy trespass.

DATES: The comment period for identification of issues for the proposed plan amendment will commence with the date of publication of this notice. Comments must be submitted on or before March 10, 1997.

FOR FURTHER INFORMATION CONTACT: Sharon Knowlton, Realty Specialist, Bureau of Land Management, Salt Lake District, 2370 South 2300 West, Salt Lake City, UT 84119, telephone (801) 977–4373. Existing planning documents and information are available at the above address or telephone number. Comments on the proposed plan amendment should be sent to the above address.

SUPPLEMENTAL INFORMATION: The Salt Lake District, BLM, is proposing to amend the Pony Express RMP, to analyze and identify land tenure adjustments for T. 4 S., R. 2 W., Section 6, E½E½E½SE¼NE¼SE¼. An environmental assessment (EA) will be prepared to analyze the impacts of this proposal and alternatives. Public participation is being sought at this initial stage in the planning process to ensure the RMP amendment addresses all issues, problems and concerns from those interested in the management of lands within the Salt Lake District.

Dated: January 30, 1997.
Joseph L. Jewkes,
Acting State Director, Utah.
[FR Doc. 97–3058 Filed 2–6–97; 8:45 am]
BILLING CODE 4310–DQ–P

[NV–930–1430–00; Nev–043278]

Proposed Continuation of Withdrawal; Nevada

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Department of the Army, Corps of Engineers, proposes that 113,260 acres of the Hawthorne Army Depot (HWAD) withdrawal at Hawthorne, Nevada, be continued for 75 years. The Bureau of Land Management proposes that 69,037 acres of the HWAD withdrawal be continued for 20 years.

DATE: Comments should be received by May 8, 1997.

ADDRESSES: Comments and meeting requests should be sent to the Nevada State Director, BLM, 850 Harvard Way, P.O. Box 12000, Reno, Nevada 89520.

FOR FURTHER INFORMATION CONTACT: Dennis J. Samuelson, BLM Nevada State Office, 702–785–6532.

SUPPLEMENTARY INFORMATION: The Department of the Army, Corps of Engineers, proposes that a portion (113,260 acres) of the existing withdrawal made by Executive Order No(s). 4531 of October 27, 1926; 5664 of July 2, 1931; 5828 of March 30, 1932, and 6958 of February 4, 1935, be continued for a period of 75 years. The Bureau of Land Management proposes that 69,037 acres of the same withdrawal be continued for a period of 20 years. The continuation will be made pursuant to the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714 (1988).

The area the Department of the Army, Corps of Engineers proposes for continuation is described as follows (excluding any non-Federal land):

Mount Diablo Meridian

T. 7 N., R. 28 E.,
  Sec. 1.
T. 8 N., R. 28 E.,
  Secs. 1 to 3;
  Sec. 10, E½;
  Secs. 11 to 14;
  Sec. 15, NE¼NE¼;
  Secs. 23 to 25;
  Sec. 36.
T. 9 N., R. 28 E.,
  Sec. 10, S½;
  Secs. 11 to 15;
  Secs. 22 to 27;
  Secs. 34 to 36, inclusive.
T. 7 N., R. 29 E.,
  Secs. 5 and 6.
T. 8 N., R. 29 E.,
  Secs. 1 to 33.
T. 9 N., R. 29 E.,
  Secs. 1 to 4;
  Secs. 7 to 36, inclusive.
T. 7 N., R. 30 E.,
  Secs. 1 to 3;
  Sec. 4, lot 1, SE¼NE¼, SE¼, N½SW¼ east of Hwy 359 right-of-way;
  Sec. 9, E½, SW¼ east of Hwy 359 right-of-way;
  Secs. 10 to 15;
  Sec. 16, east of Hwy 359 right-of-way;
  Sec. 21, E½ east of Hwy 359 right-of-way;
  Secs. 22 to 26;
  Sec. 27, east of Hwy 359 right-of-way;
  Sec. 34, NE¼ east of Hwy 359 right-of-way;
  Sec. 35, east of Hwy 359 right-of-way;
  Sec. 36.
T. 8 N., R. 30 E.,
  Sec. 1;
  Sec. 2;
  Sec. 3, lots 4 to 18, NE¼SW¼, SW¼SW¼;
  Secs. 4 to 7;
  Sec. 8, lots 1, 2, 5, N½SE¼, SW¼SE¼;
  Sec. 9, lots 4 to 10, NE¼NE¼, SE¼NW¼;
  Sec. 10, lots 6 to 12;
  Secs. 11 to 14;
  Sec. 15, lots 1 to 3, 5, 6, 9, 10, subdivisions undescribed;
  Sec. 16, lots 4 to 6, subdivisions undescribed;
  Sec. 17, lots 6 to 14, NW¼, SE¼SE¼;
  Sec. 18;
  Sec. 19, lots 5 to 7, NE¼E¼, W½E½, W½;
  Sec. 20, lots 3 to 11, E½NE¼, NE¼SE¼;

Sec. 21, lots 4–8, NW¼NW¼, S½NW¼, N½SW¼, NW¼SE¼, subdivisions undescribed;
Sec. 22, N½NE¼, SE¼NE¼, subdivision undescribed;
Secs. 23 to 25;
Sec. 26, lot 2, E½E½, NW¼NE¼, E½SW¼, S½NW¼SW¼, SW¼SW¼, SW¼SE¼;
Sec. 33, NE¼SE¼, SW¼SE¼, SE¼SE¼ west of Hwy 359 right-of-way;
Sec. 34, SW¼NW¼ and W½SW¼ west of Hwy 359 right-of-way;
Sec. 35;
Sec. 36.
T. 9 N., R. 30 E.,
Secs. 25 to 36.
T. 7 N., R. 31 E.,
Secs. 2 to 11;
Secs. 14 to 23;
Secs. 26 to 35.
T. 8 N., R. 31 E.,
Secs. 1 to 23;
Secs. 26 to 35.
T. 9 N., R. 31 E.,
Sec. 31.

The area described contains approximately 113,260 acres in Mineral County. The area the Bureau of Land Management proposes for continuation is described as follows (excluding any non-Federal land):

Mount Diablo Meridian

T. 8 N., R. 29 E.,
Sec. 1;
Sec. 12;
Sec. 13, N½.
T. 9 N., R. 29 E.,
Sec. 25;
Sec. 36.
T. 7 N., R. 30 E.,
Secs. 1 to 3;
Sec. 4, lot 1, SE¼NE¼, SE¼, N½SW¼ east of Hwy 359 right-of-way;
Sec. 9, E½, SW¼ east of Hwy 359 right-of-way;
Secs. 10 to 15;
Sec. 16, east of Hwy 359 right-of-way;
Sec. 21, E½ east of Hwy 359 right-of-way;
Secs. 22 to 26;
Sec. 27, east of Hwy 359 right-of-way;
Sec. 34, NE¼ east of Hwy 359 right-of-way;
Sec. 35, east of Hwy 359 right-of-way;
Sec. 36.
T. 8 N., R. 30 E.,
Sec. 1;
Sec. 2;
Sec. 3, lots 4 to 18, NE¼SW¼, SW¼SW¼;
Secs. 4 to 7, inclusive;
Sec. 8, lots 1, 2, 5, N½SE¼, SW¼SE¼;
Sec. 9, lots 4 to 10, NE¼NE¼, SE¼NW¼;
Sec. 10, lots 6 to 12;
Secs. 11 to 14;
Sec. 15, lots 1 to 3, 5, 6, 9, 10, subdivisions undescribed;
Sec. 16, lots 4 to 6, subdivisions undescribed;
Sec. 17, lots 6 to 14, NW¼, SE¼SE¼;
Sec. 18;
Sec. 19, lots 5 to 7, NE¼E¼, W½E½, W½;
Sec. 20, lots 3 to 11, E½NE¼, NE¼SE¼;
Sec. 21, lots 4 to 8, NW¼NW¼, S½NW¼, N½SW¼, NW¼SE¼, subdivisions undescribed;
Sec. 22, N½NE¼, SE¼NE¼, subdivision undescribed;
Secs. 23 to 25, inclusive;
Sec. 26, lot 2, E½E½, NW¼NE¼, E½SW¼, S½NW¼SW¼, SW¼SW¼, SW¼SE¼;
Sec. 33, SE¼SE¼ east of Hwy 359 right-of-way;
Sec. 34, E½NE¼, SW¼NE¼, SW¼NW¼, SE¼, SW¼ east of Hwy 359;
Sec. 35;
Sec. 36.
T. 9 N., R. 30 E.,
Secs. 25 to 36.
7 N., R. 31 E.,
Secs. 2 to 11;
Secs. 14 to 23;
Secs. 26 to 35.
T. 8 N., R. 31 E.,
Secs. 1 to 23;
Secs. 26 to 35.
T. 9 N., R. 31 E.,
Sec. 31.

The area described contains approximately 60,037 acres in Mineral County.

The HWAD was originally established as a naval ammunition depot. The facility was subsequently transferred from the Department of the Navy to the Department of the Army. The HWAD serves as the primary ammunition depot and plant on the west coast, with service provided to the Army, Navy, Air Force, and Marine Corps.

The difference between the portion of the withdrawal proposed for continuation by the Army and the portion proposed for continuation by the Bureau of Land Management is the Mt. Grant area.

The Army states that the Mt. Grant watershed is the source of water required to support the missions at the HWAD. The Mt. Grant area is undeveloped except for a water delivery system maintained by the Army. The Army states that full control of the area is needed to monitor and control access by the public. The Army is concerned that uncontrolled access could lead to degradation of the watershed. The Army has acquired non-Federal land in the Mt. Grant area in order to protect the watershed. Degradation of the watershed would require the Army to install an expensive water filtration system. The Army contends that Mt. Grant is being used for the purpose for which it was withdrawn, which is to provide water in support of the depot. At one time, a small portion of the Mt. Grant area was used as a live fire area and is contaminated by munitions. The Army has been making periodic sweeps of this area for clean up purposes.

The Bureau of Land Management's finding is that the Mt. Grant area is not being used for the purpose for which it was withdrawn, which is ''development and use as an ammunition depot.'' Although there is a water delivery system that supports the depot, that system can be authorized by a right-of-way reservation to the Army. The BLM has mechanisms, such land use planning decisions, to protect the watershed. Mt. Grant is generally undeveloped and pristine and the area has outstanding scenic, natural, and recreation values. Currently, access by the public is allowed, but controlled by the Army. The Bureau of Land Management can manage the Mt. Grant area for recreation while protecting the watershed values for the Army.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments in connection with the proposed continuation of the withdrawals may present their views in writing to the Lands Team Lead in the Nevada State Office. The authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the land and its resources. A report will also be prepared for consideration by the Secretary of the Interior, the President, and Congress, who will determine whether or not the withdrawals will be continued and if so, for how long. The final determination on the continuation of the withdrawals will be published in the Federal Register. The existing withdrawals will continue until such final determination is made. The withdrawals segregate the land from operation of the public land laws generally, including the mining laws, but not the mineral leasing laws.

Dated: January 28, 1997.

William K. Stowers,

Lands Team Lead.

[FR Doc. 97–3020 Filed 2–6–97; 8:45 am]

BILLING CODE 4310–HC–P

National Park Service

Niobrara National Scenic River; Notice of Record of Decision, General Management Plan and Final Environmental Impact Statement

Introduction: Pursuant to regulations promulgated by the Council on Environmental Quality (40 CFR Section 1505.2) and the implementing procedures of the National Park Service (NPS) for the National Environmental Policy Act of 1969 (40 USC 1501 *et seq.*), the NPS has prepared a Record of Decision with respect to the general management plan and final environmental impact statement, Niobrara National Scenic River, Nebraska.

The Record of Decision describes the scenic river management and boundary

alternatives considered, mitigating measures adopted to avoid or minimize environmental impacts, and the reasoning behind the decisions reached.

The Record of Decision is available either through the Superintendent, Niobrara/Missouri National Scenic Riverways, P.O. Box 591, O'Neill, Nebraska 68763–0591, (telephone 402–336–3970); or the National Park Service, Midwest Field Area (PL), 1709 Jackson Street, Omaha, Nebraska 68102, (telephone 402–221–3082).

Dated: January 23, 1997.

David N. Given,

Acting Field Director, Midwest Field Area.

[FR Doc. 97–3021 Filed 2–6–97; 8:45 am]

BILLING CODE 4310–70–P

Office of Surface Mining Reclamation and Enforcement

Water Protection

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Notice of availability.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (OSM) of the United States Department of the Interior is making available on the Internet a draft resource document that describes OSM's role in water protection. The document provides an overview of two permitting requirements from the Surface Mining Control and Reclamation Act of 1977 (SMCRA): the applicant's determination of probable hydrologic consequences (PHC), and the regulatory authority's cumulative hydrologic impact assessment (CHIA). The web page contains electronic links to sources of hydrologic data that may be useful in making PHC and CHIA determinations.

DATES: OSM is requesting comments on the document until May 15, 1997.

ADDRESS: Electronic or written comments: The resource document can be viewed at the following URL address: http://www.osmre.gov. The document contains prompts at several locations for reader response. Readers may also submit electronic comments to: dgrowitz@osmre.gov or mail written comments to the Administrative Record (MS 210), Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Avenue, N.W., Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Douglas Growitz, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Avenue, NW, Washington, DC 20240; Telephone: (202) 208–2634; E-mail address: dgrowitz@osmre.gov. Additional information concerning OSM, this resource document, and related documents may be found on OSM's home page at http://www.osmre.gov.

SUPPLEMENTARY INFORMATION: OSM is making available on its Internet home page a resource document to aid in protecting water and the hydrologic balance under SMCRA's permitting process. The Internet offers an opportunity for electronic presentation of information and dialog to a wide audience.

The OSM resource document is titled ''Managing Hydrologic Information, A Resource for Development of Probable Hydrologic Consequences (PHC) and Cumulative Hydrologic Impact Assessments (CHIA).'' A PHC is prepared by the coal operator seeking a permit to mine. The CHIA is prepared by the regulatory authority as part of the analysis is to approve or deny a permit application.

The document does not establish a regulatory standard and would not be binding on OSM or State regulatory authorities. The purpose of the document is to: (1) outline the hydrologic and related geologic requirements of SMCRA, (2) describe approaches for responding to these requirements, and (3) identify resources that may be helpful to industry and regulatory authorities in the permitting process. Some of the available resources described in the document, such as selected hydrologic data bases maintained by the U.S. Geological Survey, are directly accessible electronically through the document.

OSM would like to receive feedback from a wide audience and welcomes constructive comments aimed at making the document a more understandable, useful, and complete resource.

Dated: February 4, 1997.

Arthur W. Abbs,

Acting Assistant Director, Program Support.

[FR Doc. 97–3104 Filed 2–6–97; 8:45 am]

BILLING CODE 4310–05–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Charles Addo-Yobo, M.D. Revocation of Registration

On May 24, 1995, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to Charles Addo-Yobo, M.D., of Farmingdale, New York, proposing the revocation of his DEA Certificate of Registration AA2601981 pursuant to 21 U.S.C. 824(a)(3) and (a)(5), and denial of any pending applications for renewal of such registration as a practitioner pursuant to 21 U.S.C. 823(f), for reason that he is not currently authorized to handle controlled substances in the State of New York and he was mandatorily excluded for five years from participation in Medicare/Medicaid programs pursuant to 42 U.S.C. 1320a–7(a). The order also advised that should no request for a hearing be filed within 30 days, his hearing right would be deemed waived.

The Order to Show Cause was sent to Dr. Addo-Yobo by registered mail to his DEA registered address. Three attempts were made by the U.S. Post Office to deliver the Order to Show Cause with no success and the order was eventually returned to DEA unclaimed. DEA investigators went to Dr. Addo-Yobo's registered address and were told that he no longer lived there and his whereabouts were unknown. A check with the U.S. Post Office and the State Board for Professional Medical Conduct for the State of New York revealed that Dr. Addo-Yobo left no forwarding address.

The Acting Deputy Administrator finds that DEA has made numerous attempts to locate Dr. Addo-Yobo and has determined that his whereabouts are unknown. It is quite evident that Dr. Addo-Yobo is no longer practicing medicine at the address listed on his DEA Certificate of Registration. The Acting Deputy Administrator concludes that considerable effort has been made to serve Dr. Addo-Yobo with the Order to Show Cause without success. Dr. Addo-Yobo is therefore deemed to have waived his opportunity for a hearing. The Acting Deputy Administrator now enters his final order in this matter without a hearing and based on the investigative file. 21 C.F.R. 1301.54 and 1301.57.

The Acting Deputy Administrator finds that by Order dated December 22, 1994, the State Board for Professional Medical Conduct for the State of New York (Board) revoked Dr. Addo-Yobo's license to practice medicine in the State of New York. The Board found that Dr. Addo-Yobo and others ''participated in a scheme to operate medical clinics for the purpose of obtaining payments directly and indirectly from the Medicaid system by submitting bills, and causing others to submit bills, to the New York Department of Social Service for medical services, drugs, prescriptions, and laboratory tests which he knew to be, and were in fact, medically unnecessary.'' As a result, Dr.

Addo-Yobo was convicted in the United States District Court for the Southern District of New York on one count of mail fraud in violation of 18 U.S.C. 1341 and one count of conspiracy to commit Medicaid and mail fraud in violation of 18 U.S.C. 371.

By letter dated June 27, 1994, the United States Department of Health and Human Services notified Dr. Addo-Yobo that he was being excluded, pursuant to 42 U.S.C. 1320a–7(a), from participation in Medicare, Medicaid, Maternal and Child Health Services Block Grant and Block Grants to States for Social Services programs for a period of five years.

The Acting Deputy Administrator concludes that in light of the revocation of Dr. Addo-Yobo's state medical license, he is not currently authorized to handle controlled substances in the State of New York. The DEA does not have statutory authority under the Controlled Substances Act to issue or maintain a registration if the applicant or registrant is without state authority to handle controlled substances in the state in which he conducts his business, 21 U.S.C. 802(21), 823(f), and 824(a)(3). This prerequisite has been consistently upheld. See Dominick A. Ricci, M.D., 58 Fed. Reg. 51,104 (1993); James H. Nickens, M.D., 57 Fed. Reg. 59,847 (1992); Roy E. Hardman, M.D., 57 Fed. Reg. 49,195 (1992). Here, it is clear that Dr. Addo-Yobo is not currently authorized to handle controlled substances in the State of New York. Therefore, Dr. Addo-Yobo is not currently entitled to a DEA registration. Because Dr. Addo-Yobo is not entitled to a DEA registration due to his lack of state authorization to handle controlled substances, the Acting Deputy Administrator concludes that it is unnecessary to address whether Dr. Addo-Yobo's DEA registration should be revoked based upon his exclusion from participating in Medicare/Medicaid programs.

Accordingly, the Acting Deputy Administrator of the Drug Enforcement Administration pursuant to the authority vested in him by 21 U.S.C. 823 and 824 and 28 C.F.R. 0.100(b) and 0.104, hereby orders that DEA Certificate of Registration, AA2601981, previously issued to Charles Addo-Yobo, M.D., be, and it hereby is, revoked. The Acting Deputy Administrator further orders that any pending applications for renewal of such registration be, and they hereby are, denied. This order is effective March 10, 1997.

Dated: January 31, 1997.

James S. Milford,

Acting Deputy Administrator.

[FR Doc. 97–3049 Filed 2–6–97; 8:45 am]

BILLING CODE 4410–09–M

[Docket No. 95–16]

Mark J. Berger, D.P.M.; Continuation of Registration With Restrictions

On December 23, 1994, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to Mark J. Berger, D.P.M. (Respondent) of Riverwoods, Illinois, notifying him of an opportunity to show cause as to why DEA should not revoke his DEA Certificate of Registration, BB2461604, and deny any pending applications for renewal of such registration as a practitioner under 21 U.S.C. 823(f), for reason that his continued registration would be inconsistent with the public interest pursuant to 21 U.S.C. 824(a)(4).

By letter dated January 17, 1995, the Respondent, acting *pro se,* filed a timely request for a hearing, and following prehearing procedures, a hearing was held in Chicago, Illinois on April 12, 1995, before Administrative Law Judge Mary Ellen Bittner. At the hearing, the Government called witnesses and introduced documentary evidence and Respondent testified in his own behalf. After the hearing, the Government submitted proposed findings of fact, conclusions of law and argument, and Respondent submitted a post hearing brief. On April 11, 1996, Judge Bittner issued her Opinion and Recommended Ruling, Findings of Fact, Conclusions of Law and Decision, recommending that Respondent's DEA registration not be revoked, but be restricted in that Respondent shall not prescribe, administer or otherwise dispense any controlled substances for any member of his family or himself, and shall handle controlled substances only in treating podiatric patients and not for any purpose outside the usual practice of podiatry. Neither party filed exceptions to Judge Bittner's Opinion and Recommended Ruling, and on May 14, 1996, the record of these proceedings was transmitted to the Deputy Administrator.

The Acting Deputy Administrator has considered the record in its entirety, and pursuant to 21 C.F.R. 1316.67, hereby issues his final order based upon findings of fact and conclusions of law as hereinafter set forth. The Acting Deputy Administrator adopts, in its entirety, the Opinion and Recommended Ruling, Findings of Fact, Conclusions of Law and Decision of the Administrative Law Judge. His adoption is in no manner diminished by any recitation of facts, issues and conclusions herein, or of any failure to mention a matter of fact or law.

The Acting Deputy Administrator finds that Respondent is a podiatrist initially licensed to practice in the State of Illinois in the early 1980's. However, as of at least March 1984, Respondent had never been licensed to handle controlled substances in the State of Illinois.

In March 1984, the Illinois Department of Registration and Education (now known as the Department of Professional Regulation and hereinafter referred to as DPR) received information from DEA that Respondent had recently ordered 500 Quaalude tablets (the brand name for methaqualone) after methaqualone had been rescheduled in Illinois from Schedule II to Schedule I. As a result of this information, a DPR investigator and a local police officer went to Respondent's office on March 8, 1984, intending to conduct an administrative search and take possession of the Quaalude tablets. Respondent acknowledged ordering the Quaalude, but stated that he kept the tablets at his home due to recent break-ins or attempted break-ins. Respondent was told that his possession of Quaalude was illegal and he agreed to relinquish the drugs after seeing his last patient of the day. Subsequently, Respondent admitted that he had self-administered 1,000 to 1,500 Quaalude tablets over a period of approximately a year and a half to relieve pain caused by an injury.

Respondent then consented to a search of his office, which revealed an empty bottle labeled 100 Quaalude, an open bottle of Empirin with codeine (a Schedule III controlled substance) with 79 tablets missing, and an open bottle of diazepam (a Schedule IV controlled substance) with 22 tablets missing. Respondent advised the officers that he had no records for the dispensation of these controlled substance.

After being taken into investigative custody, Respondent consented to the search of his home. This search revealed two empty 100-tablet bottles and one empty 500-tablet bottle of Quaalude, two full 100-tablet bottles of Quaalude, seven Empirin with codeine tablets, plant material suspected to be cannabis, and drug paraphernalia.

A review of DEA order forms revealed that during the period November 11, 1982 through January 23, 1984, Respondent ordered the following controlled substances: 2,500 dosage

units of Quaalude, 100 dosage units of Empirin with codeine #3, 100 dosage units of Valium 5 mg., 100 dosage units of Valium 10 mg., 500 Dexedrine 5 mg., and 100 dosage units of Tenuate Dospan 75 mg. Respondent did not maintain any records regarding these drugs in violation of both state and Federal laws.

Respondent was subsequently charged in the Circuit Court of Cook County, Illinois with one count of possession of cannabis with intent to deliver, one count of possession of methaqualone with intent to deliver, and one count of unlawful dispensing of methaqualone. Following a bench trial, Respondent was convicted on June 18, 1984, of possession of a controlled substance and sentenced to three years' probation.

Respondent testified during the hearing before Judge Bittner that in 1981 he had ruptured and then re-ruptured his Achilles tendon, and that he took methaqualone to enable him to sleep. He further testified that he never sold methaqualone or prescribed, administered or dispensed it to anyone else and that he realizes in retrospect that he should not have taken it.

On March 23, 1984, DPR filed a complaint against Respondent alleging that Respondent obtained and self-administered controlled substances when not properly registered to handle controlled substances in the State of Illinois. On May 11, 1984, Respondent and DPR entered into a Stipulation and Recommendation for Settlement pursuant to which Respondent agreed that his license to practice podiatry would be indefinitely suspended; he would not petition for restoration of his license for at least nine months from the effective date of the Podiatry Examining Committee's (Committee) order approving the settlement; he would obtain counseling and rehabilitation; and he would not apply for an Illinois controlled substance license for at least two years after the effective date of the order. On June 20, 1984, the Committee approved the Stipulation and Recommendation for Settlement, and on July 11, 1984, the Director of DPR issued an order adopting the terms of the settlement. Subsequently, on September 19, 1984, Respondent surrendered his previous DEA Certificate of Registration.

Following the reinstatement of his state podiatry license and the issuance of his license to handle controlled substances in the State of Illinois, Respondent executed a new application dated February 27, 1990, for DEA registration as a practitioner in Schedules II through V. On that application, Respondent answered ''yes'' to the question which asked:

> Have you ever been convicted of a crime in connection with controlled substances under State or Federal law, or ever surrendered or had a DEA registration revoked, suspended or denied, or ever had a State professional license or controlled substance registration revoked, suspended, denied, restricted or placed on probation?

Applicants who respond affirmatively to this question are required to explain their answers on the back of the application form. Respondent's explanation referred to his lack of a separate state license to handle controlled substance, and his arrest for ordering controlled substances without the proper licensure. Respondent claimed in his explanation that he ''did not knowingly violate the state licensing requirement, since I did not know about it.'' Respondent's explanation however, did not mention his conviction for possession of methaqualone, the state's suspension of his license to practice podiatry, or the surrender of his previous DEA Certificate of Registration.

Following receipt of Respondent's application, the DEA Chicago office issued a Notice of Hearing advising Respondent that there would be an informal hearing regarding his application. This informal hearing resulted in a memorandum of understanding being executed on August 30, 1990, by Respondent and representatives of the United States Attorney's Office and DEA. The memorandum of understanding stated that the Notice of Hearing had alleged that (1) Respondent had been the defendant in an information charging him with three felony violations of the Illinois Controlled Substances Act: possession of more than 30 grams of methaqualone with intent to deliver, possession of cannabis with intent to deliver, and unlawful dispensing of methaqualone; and (2) Respondent had been found guilty of possession of a controlled substance and sentenced to three years' probation. The memorandum of understanding further stated that Respondent had been ''fully advised of the prohibited acts which have occurred'' and had agreed to comply with the provisions of the Controlled Substances Act (CSA) and its implementing regulations and, more specifically, that he agreed that (1) he would ''prescribe and dispense controlled substances in strict accordance with the [CSA] and the regulations issued thereunder''; (2) ''any prescriptions written for controlled substances by the Respondent will be for medical purposes and will be issued within the usual course of professional practice for which the Respondent is registered with the [DEA] and professionally licensed by the State''; (3) ''Respondent's handling of controlled substances * * * shall be limited to controlled drugs in Schedules III through V and that the Respondent not be allowed to handle any controlled substance found in Schedule II for a period of not less than one (1) year * * *''; and (4) when renewing his DEA registration Respondent would ''answer fully and truthfully any question regarding if the Respondent has ever been convicted of a crime in connection with controlled substances under State or Federal law, or ever surrendered or had a DEA registration revoked, suspended or denied, or ever had a State professional license or controlled substance registration revoke[d], denied, restricted or placed on probation.''

Other than the memorandum of understanding, there is no other evidence in the record as to what was discussed during the course of the informal hearing. Shortly after execution of the memorandum of understanding, Respondent was issued DEA Certificate of Registration BB2461604, however there is nothing in the record to indicate what schedules of controlled substances were listed on the Certificate of Registration.

On June 28, 1993, Respondent executed a renewal application for DEA registration BB2461604 in Schedules II through V. On this application, Respondent had answered ''yes'' to the same question that he had answered affirmatively on his 1990 application for registration. Respondent testified that he had photocopied his 1990 explanation and pasted it onto the back of the 1993 application, stating,

> I was giving what I thought was more new information and I wasn't omitting anything purposely. I thought conviction, surrender of license, etc., was known to the DEA and there was no reason to give a long, detailed explanation of that. I believe this was common knowledge.
>
> Certainly, I didn't falsify anything. I did omit things, but not in a purposeful way. I would've gladly listed the things that I thought the DEA would've wanted me [sic] on the application, had I known that this is what they wanted. I didn't know that.

Respondent also testified that ''[t]he things that have happened, 11 years ago, I can't change that. And I'm not trying to exonerate my involvement in that.'' However, Respondent further testified that, ''[f]or the past 11 years, I've been totally in accordance with the law. And for the past five years, since receiving my DEA license, I've been totally in accordance with the law.''

During the course of his testimony, Respondent stated that he had never falsified any state application. On cross-

examination, Respondent conceded that he had been convicted of attempted petty theft, a misdemeanor, 1970, yet he answered ''no'' on a 1982 DPR application to the question, ''Have you ever been convicted of a criminal offense in Illinois or in another state or in federal court, other than a minor traffic violation?'' Respondent explained that he answered in the negative because he thought the question referred to felony convictions only. As to the conviction, Respondent testified that he was 18 years old, and that ''I shouldn't have been [convicted], it wasn't even me,'' but upon his attorney's advice, he pled to a misdemeanor.

Respondent contends in his brief that he was prejudiced because the Government failed to provide him notice in advance of the hearing that the 1982 DPR application would be at issue in these proceedings. At the hearing, the Government offered into evidence the 1982 application and a police report of the incident that led to his 1970 conviction. Judge Bittner properly rejected the admission of these documents into evidence since they were not supplied to Respondent in advance of the hearing as required by the Administrative Law Judge's prehearing ruling on March 29, 1995, and therefore did not consider the application as affirmative evidence against Respondent. Judge Bittner did however, allow Respondent to be cross-examined about the contents of the documents. The Acting Deputy Administrator concurs with Judge Bittner's conclusion that, ''a major issue in this proceeding was Respondent's alleged misstatements on his application for DEA registration, and in these circumstances * * * examination as to his truthfulness in other applications was a proper subject of cross-examination, and that the Government was entitled to use the prior application and police report for impeachment purposes.''

The Government in its posthearing filing argues that Respondent materially falsified two applications for registration and that such falsification provides an independent statutory basis for revocation of Respondent's DEA Certificate of Registration pursuant to 21 U.S.C. 824(a)(1). However, the Government did not assert that 21 U.S.C. 824(a)(1) was a basis for the proposed revocation in either the Order to Show Cause or in any of its prehearing filings, and the issue in this proceeding, agreed upon by the parties, makes no reference to 824(a)(1) as a basis for revocation. Therefore, the Acting Deputy Administrator does not consider whether Respondent's registration should be revoked pursuant to 21 U.S.C. 824(a)(1).

Pursuant to 21 U.S.C. 823(f) and 824(a)(4), the Deputy Administrator may revoke a DEA Certificate of Registration and deny any pending applications, if he determines that he continued reigstration would be inconsistent with the public interest. Section 823(f) requires that he following factors be considered:

(1) The recommendation of the appropriate State licensing board or professional disciplinary authority.

(2) The applicant's experience in dispensing, or conducting research with respect to controlled substances.

(3) The applicant's conviction record under Federal or State laws relating to the manufacture, distribution, or dispensing of controlled substances.

(4) Compliance with applicable State, Federal, or local laws relating to controlled substances.

(5) Such other conduct which may threaten the public health and safety.

These factors are to be considered in the disjunctive; the Deputy Administrator may rely on any one or a combination of factors and may give each factor the weight he deems appropriate in determining whether a registration should be revoked or an application for registration be denied. See *Henry J. Schwartz, Jr., M.D.*, Docket No. 88–42, 54 FR 16,422 (1989).

Regarding factor one, it is undisputed that Respondent's license to practice podiatry was suspended in 1984. However, it is also undisputed that such license was restored sometime prior to his 1990 application for DEA registration and that he was issued a state controlled substance registration. From the evidence in the record, it appears that Respondent has practiced without incident since being issued his state licenses. Therefore, the Acting Deputy Administrator concurs with Judge Bittner's conclusion that this factor weighs in favor of Respondent's continued registration.

As to factor two, Respondent's experience in dispensing controlled substances, it is uncontested that sometime in 1982 until his arrest in March 1984, Respondent ordered and self-administered controlled substances while not properly registered to handle controlled substances in the State of Illinois. The Acting Deputy Administrator concludes that the fact that Respondent dispensed controlled substances without proper state licensure is properly considered under factor four regarding Respondent's compliance with applicable state law. The Acting Deputy Administrator concurs with Judge Bittner's conclusion that under this factor, the question is whether Respondent's actions would have been medically appropriate had he been properly registered with the State.

Respondent claims that he had a legitimate medical reason for using the drugs he ordered. The Acting Deputy Administrator concludes that Respondent's use of methaqualone after January 1, 1984, when it was rescheduled into Schedule I in the State of Illinois, was clearly improper. However, the Acting Deputy Administrator agrees with Judge Bittner that the record is insufficient to warrant a finding that Respondent's self-administration of controlled substances prior to January 1, 1984 was for no legitimate medical purpose. There is nothing in the record concerning whether the substances are not appropriate to treat the conditions for which Respondent used them, whether Respondent's treatment of such conditions was outside the scope of his practice of podiatry, or whether the self-administration of controlled substances was impermissible in the State of Illinois.

Also relevant to this factor is the Respondent's uncontroverted testimony that he never prescribed, administered, or otherwise dispensed controlled substances to anyone else, and that he has properly handled controlled substances since his DEA registration was restored in 1990.

The Acting Deputy Administrator concurs with Judge Bittner's conclusion regarding factor three. While Respondent was charged with possession of controlled substances with intent to deliver and with unlawful distribution of a controlled substance, he was ultimately convicted of possession of methaqualone. Thus, Respondent has no conviction record relating to the manufacture, distribution or dispensing of controlled substances.

Regarding factor four, it is undisputed that during the events in question in the early 1980's, Respondent failed to maintain records regarding his handling of controlled substances in violation of both Federal and state law. See 21 U.S.C. §§ 827 and 842(a)(5) and I.R.S. Chap. 56½ § 1306. In addition, Respondent violated state law from 1982 to March 1984, by handling controlled substances when not properly registered by the State of Illinois and by possessing methaqualone after January 1, 1984, when it was placed into Schedule I in Illinois.

As to factor five, on his 1990 application for registration, Respondent did not give a complete explanation for his affirmative response to the questions about whether he had ever been

convicted of a controlled substance related crime, had ever surrendered a DEA registration or had one revoked, suspended, denied, or had a state professional license or controlled substance registration revoked, suspended, denied, restricted or placed on probation. Thereafter, Respondent was issued a Notice of Hearing which alleged that Respondent had been charged with three felony violations of state law and that he had been found guilty of one count of possession of a controlled substance. As Judge Bittner correctly notes, ''[a]s far as this record shows, the Notice of Hearing did not make any reference to Respondent's explanation on his application of his answer to the liability question.''

Respondent then participated in an informal hearing with DEA personnel and a representative from the United States Attorney's Office. Again as Judge Bittner correctly notes, ''there is no evidence about the discussion at that meeting and, more specifically, about whether any of the government personnel advised Respondent that his statements on his [1990] application for DEA registration were inadequate.''

Respondent ultimately entered into a memorandum of understanding in August 1990 wherein he agreed to ''answer fully and truthfully'' the questions on renewal applications. However, there is nothing in the memorandum of understanding that documents that Respondent was told that his previous explanation on the 1990 application was inadequate, nor was there any testimony at the hearing as to whether the parties discussed the meaning of this provision of the memorandum of understanding.

Respondent was then issued a DEA registration. Given the lack of evidence in the record that Respondent was advised that his answer in 1990 was inadequate, it is reasonable to accept Respondent's explanation for giving the same answer on his 1993 renewal application. Respondent testified, ''I figured if this was good enough the first time, it's good enough the second time.'' Therefore, the Acting Deputy Administrator concludes that while Respondent may have technically violated the memorandum of understanding by failing to provide full and truthful answers on future applications, such a violation is understandable given that he was apparently not told his earlier explanation was inadequate.

The Acting Deputy Administrator concurs with Judge Bittner's conclusion that the Government has not established by a preponderance of the credible evidence that Respondent's continued registration would be inconsistent with the public interest. While Respondent handled controlled substances from 1982 to March 1984 without proper state authorization and failed to maintain the required records, these events occurred over 12 years ago, and there is no evidence in the record that Respondent has improperly handled controlled substances since being issued a DEA registration in 1990. In addition, there is no evidence in the record that Respondent was ever advised that the explanation on his 1990 application was not sufficient, and therefore his use of the same explanation on his 1993 application is understandable.

Judge Bittner recommended that Respondent's registration not be revoked, but that it be subject to the following restrictions:

(1) Respondent shall not prescribe, administer or otherwise dispense any controlled substances for any member of his family or himself.

(2) Respondent shall handle controlled substances only in treating podiatric patients, and not for any purpose outside the usual practice of podiatry.

Under the circumstances of this case, the Acting Deputy Administrator finds Judge Bittner's recommended restrictions to be reasonable. Therefore, the Acting Deputy Administrator concludes that Respondent's DEA registration should be continued in Schedules II through V subject to Judge Bittner's recommended restrictions. It should be noted that it is unclear from the record, which schedules Respondent is currently registered to handle. He applied for Schedule II through V in 1990, however, the memorandum of understanding executed in August 1990 states, ''[t]hat Respondent's handling of controlled substances pursuant to his Federal controlled substances registration upon issuance of such registration by the DEA, shall be limited to controlled drugs in Schedules III through V and that Respondent not be allowed to handle any controlled substance found in Schedule II for a period of not less than one (1) year from the date of the execution of the agreement.'' His 1993 renewal application, which is the subject of this proceeding, indicates that Respondent wishes his registration to be renewed in Schedules II through V. Regardless of Respondent's current authorization, the Acting Deputy Administrator concludes that in light of all of the evidence, Respondent should be registered in Schedules II through V subject to the above-referenced restrictions.

Accordingly, the Acting Deputy Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 824, and 28 C.F.R. 0.100(b) and 0.104, hereby orders that DEA Certificate of Registration BB2461604, issued to Mark J. Beger, D.P.M., be continued, and any pending applications be granted in Schedules II through V, subject to the above restrictions. This order is effective March 10, 1997.

Dated: January 30, 1997.

James S. Milford,

Acting Deputy Administrator.

[FR Doc. 97–3082 Filed 2–6–97; 8:45 am]

BILLING CODE 4410–09–M

Manufacturer of Controlled Substances; Notice of Registration

By Notice dated July 25, 1996, and published in the Federal Register on July 31, 1996, (61 FR 39986), Guilford Pharmaceuticals, Inc., Attn: Ross S. Laderman, 6611 Tributary Street, Baltimore, Maryland 21224, made application to the Drug Enforcement Administration (DEA) to be registered as a bulk manufacturer of cocaine (9041), a basic class of controlled substance listed in Schedule II.

No comments or objections have been received. DEA has considered the factors in 21 U.S.C. § 823(a) and determined that the registration of Guilford Pharmaceuticals, Inc. to manufacture cocaine is consistent with the public interest at this time. Therefore, pursuant to 21 U.S.C. § 823 and 28 CFR §§ 0.100 and 0.104, the Deputy Assistant Administrator, Office of Diversion Control, hereby orders that the application submitted by the above firm for registration as a bulk manufacturer of the basic class of controlled substance listed above is granted.

Dated: January 9, 1997.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 97–3083 Filed 2–6–97; 8:45 am]

BILLING CODE 4410–09–M

[Docket No. 95–20]

Jospeh S. Hayes, M.D.; Grant of Restricted Registration

On January 25, 1995, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA) issued an Order to Show Cause to Joseph S. Hayes, M.D. (Respondent) of Bristol, Tennessee, notifying him of an opportunity to show

cause as to why DEA should not deny his application for registration as a practitioner under 21 U.S.C. 823(f), for reason that such registration would be inconsistent with the public interest.

By letter dated February 10, 1995, the Respondent, acting pro se, timely filed a request for a hearing, and following prehearing procedures, a hearing was held in Nashville, Tennessee on July 12, 1995, before Administrative Law Judge Mary Ellen Bittner. At the hearing, both parties called witnesses to testify and introduced documentary evidence. After the hearing, both sides submitted proposed findings of fact, conclusions of law and argument. After the filing of the posthearing findings of fact and conclusions of law, Respondent submitted three letters requesting favorable consideration of his application for DEA registration, two from himself dated January 8 and March 15, 1996, and one from another doctor dated March 18, 1996. Judge Bittner did not consider these letters in rendering her decisions since they were submitted after the hearing record was closed and after the period for filing proposed findings of fact and conclusions of law had expired. On May 1, 1996, Judge Bittner issued her Opinion and Recommended Ruling, Finding of Fact, Conclusions of Law and Decision, recommending that the Respondent's application for a DEA Certificate of Registration should be granted subject to various restrictions. On May 15, 1996, Government counsel filed exceptions to the Recommended Ruling of the Administrative Law Judge, and on June 14, 1996, Judge Bittner transmitted the record of these proceedings, including the three letters not considered by her, to the Deputy Administrator.

The Acting Deputy Administrator concurs with Judge Bittner's decision not to consider the three letters submitted after the time for filing proposed findings of fact and conclusions of law. The Acting Deputy Administrator has considered the remainder of the record in its entirety, and pursuant to 21 C.F.R. 1316.67, hereby issues his final order based upon findings of fact and conclusions of law as hereinafter set forth. The Acting Deputy Administrator adopts, in full, the Opinion and Recommended Ruling, Findings of fact, Conclusions of Law and Decision of the Administrative Law Judge, and his adoption is in no manner diminished by any recitation of facts, issues and conclusions herein, or of any failure to mention a matter of fact or law.

The Acting Deputy Administrator finds that Respondent graduated from the University of South Carolina medical school and is board certified in family practice. Since 1977, he practiced emergency medicine in various states, including Tennessee, without incident until 1988, when he began using drugs. Respondents testified that he began using controlled substance samples of Xanax and Halcion, Schedule IV controlled substances, to help him sleep after his then-wife was charged with Medicare and Medicaid fraud for forging his signature to claims without his knowledge. According to Respondent, he gradually increased his dosage to up to eight tablets a night, without realizing how addictive the drugs were or how they changed his personality and behavior.

In May 1988, the Tennessee Health Related Boards Division (Division) received an anonymous complaint that Respondent was prescribing and dispensing controlled substances not in the course of professional practice. As a result of this information, the Division surveyed area pharmacies and found that of 826 prescriptions issued by Respondent, 602 were for Percocet, a Schedule II controlled substance. Subsequently, in December 1988, a Division Investigator met with Respondent to discuss his prescribing of controlled substances to four individuals. Respondent indicated that three of the individuals had medical problems that required the use of controlled substances. Respondent however, could not justify prescribing and administering a number of different drugs to one individual over an approximately three year period, indicating that he thought that the individual was abusing drugs, but that he did not know what to do with the individual.

As a result of this investigation, on September 7, 1989, the Division issued a Notice of Charges against Respondent alleging, in substance, that Respondent maintained numerous patients on highly addictive and abusable narcotics over extended periods of time, that he prescribed Schedule II narcotics to himself and his wife, that he prescribed various controlled substances to a patient he knew was abusing drugs, and that he had not kept adequate records of the dispensing of drugs at his office.

In January 1991, the Fourth Judicial Drug Task Force (Task Force) initiated an investigation of Respondent after receiving information from several sources that Respondent was overprescribing controlled substances to his patients and would provide them with whatever drugs they wanted. On two occasions in early 1991, a cooperating individual who was a patient of Respondent received 100 Xanax tablets, after a very cursory physical examination, however Respondent did talk to the individual about the individual's anxiety attacks. The Task Force did not pursue the investigation of Respondent at that time.

On April 10, 1991, as a result of continued investigation, the Division issued an Order of Summary Suspension of Respondent's license to practice medicine in the State of Tennessee. The Order asserted that Respondent was found guilty of assaulting a patient who had done to his office seeking medical treatment, slapped a waitress in a restaurant across the face during a dispute over the bill, held a gun to his wife's head during an argument at his medical office, was found in contempt of court for not complying with a court order in his divorce proceeding, was arrested for resisting arrest and unlawful possession of a deadly weapon, prescribed phentermine, a Schedule IV controlled substance, for non-legitimate purposes, and prescribed hydrocodone, a Schedule III controlled substance, to an individual complaining of headaches after only a cursory examination causing the individual to become chemically dependent. The Order further found that in January 1991, Respondent issued prescriptions for various controlled substances to an individual. After consuming some of these drugs the individual returned to Respondent's office and was injected with Demerol, a Schedule II controlled substance, and Phenergan, a non-controlled prescription substance, even though Respondent was aware that the individual had consumed alcohol and some of the prescribed controlled substance prior to the injections. After leaving Respondent's office, the individual collapsed, causing an automobile accident. Subsequently, the individual required emergency medical assistance for drug overdose and respiratory arrest.

On April 12, 1991, Respondent was personally served with a copy of the Order of Summary Suspension by a Division Investigator who told Respondent on two occasion that in light of the Order, he was to cease practicing medicine in the State of Tennessee. Also on April 12, 1991, Respondent surrendered his DEA Certificate of Registration and was told by a DEA Investigator that as a result of this surrender he could no longer handle controlled substance in Tennessee.

It was subsequently discovered that Respondent issued at least 10 controlled substance prescriptions and continued

to practice medicine after April 12, 1991, when he was no longer authorized to do either. Thereafter, on May 10, 1991, an undercover Task Force Agent visited Respondent's office complaining of elbow pain. Respondent performed a very cursory physical examination and squeezed the agent's elbow asking if it hurt, but did not perform any other sort of examination or take any x-rays. The agent asked for Valium, to which Respondent replied that he was waiting for a shipment. Respondent then gave the agent some non-controlled prescription drug tablets, and charged him $30.00 for the visit. The undercover agent returned to Respondent's office on May 13, 1991, telling Respondent that his elbow still hurt. Respondent did not examine the agent on this occasion, but gave him 22 tablets of propoxyphene, a Schedule IV controlled substance. The agent paid Respondent $10.00 for the visit and received a receipt marked ''immunization''.

On July 23, 1991, DEA received a telephone call from a pharmacist advising that on July 20, 1991, he had filled prescriptions for a Mr. Steven Hayes, issued by a Dr. George Mills. The pharmacist indicated that he later compared the signature on the prescriptions with prescriptions that had been issued by Respondent and realized that the signatures matched. The pharmacist then called Dr. Mills, who stated that he had not written any prescriptions for a Steven Hayes.

Further investigation revealed that Respondent had been placing orders for controlled substances with a Connecticut drug distributor using his surrendered DEA registration number. Respondent placed an order for controlled substances on July 16, 1991, and on July 20, 1991, a DEA agent, posing as a United Parcel Service employee, delivered the order to Respondent's residence. After Respondent signed for the package, search warrants were executed at Respondent's residence and office. The search of Respondent's residence revealed approximately 17,400 dosage units of various controlled substances, as well as syringes and other drug paraphernalia.

Consequently, on May 10, 1991, the Division issued a Supplemental Notice of Charges to Respondent regarding his license to practice medicine, and on July 23, 1991, the Board of Medical Examiners (Board) issued a Final Order revoking Respondent's license to practice medicine, retroactive to April 10, 1991, the date of the summary suspension of his license. The Board also prohibited Respondent from applying for reinstatement of his medical license for a year from April 10, 1991, and directed him to participate in the Tennessee Medical Association's Overprescribing and Substance Abuse Program, cooperate in further aftercare, take and pass the Special Purpose Examination, and obtain the advocacy of the Tennessee Medical Association's Impaired Physicians Program.

On June 18, 1991, as a result of Respondent's dispensing of drugs to the undercover agent, Respondent was arrested and charged with the sale and delivery of a Schedule IV controlled substance and the sale and delivery of a legend drug. Thereafter, following the search of his residence in July 1991, Respondent was arrested, and eventually indicted in the State of Tennessee on several counts of unlawful possession with intent to deliver or sell controlled substances. On January 16, 1992, Respondent pled guilty to one misdemeanor count of delivery of a legend drug, one misdemeanor count of delivery of a Schedule IV controlled substance, and one felony count of unlawful possession of a Schedule IV controlled substance with intent to deliver. Respondent was sentenced to four years imprisonment, which was stayed in favor of 90 days imprisonment, four years supervised probation, and a fine.

According to Respondent, the conduct which led to his convictions and revocation of his medical license was caused by his abuse of controlled substances on a daily basis from 1988 until he entered treatment in 1991. Respondent further testified that during that period he was ''totally in a panic and [his] mind was completely blurred due to the effects of benzodiazepines,'' and that he had ''lost all sense of feeling, and [his]sense of honesty and ethics were gone, because of the effects of drugs.'' In addition, Respondent testified that after he recognized that he needed treatment for his drug abuse, he attempted to stop the order for controlled substances that was ultimately delivered on July 29, 1991, but was informed that the order had already been processed.

Beginning in late July 1991, under the direction of the Tennessee Medical Foundation's Impaired Physicians Program, Respondent spent four months at an inpatient treatment facility. He then moved to a halfway house to continue his recovery. In January 1992, he began serving his 90 day criminal sentence during which he continued his recovery efforts. After his release from jail, he voluntarily re-entered a halfway house. Respondent testified that he has continued attending group therapy and meetings of Alcoholics Anonymous and Caduceus, a recovery program for medical professionals. In addition, in compliance with the conditions for reinstatement of his medical license, he passed the competency examination and participated in the Tennessee Medical Association's Overprescribing and Substance Abuse Program.

On February 23, 1993, Respondent appeared before the Board seeking reinstatement of his medical license. The Board found that Respondent had complied with the requirements of its July 1991 Order and restored Respondent's medical license without restrictions, finding that he was no longer a threat to the health and safety of the citizens of Tennessee. On November 17, 1993, Respondent was granted permission by the Board to reapply for a DEA Certificate of Registration.

Respondent had been subject to random drug screens for the two and one-half years preceding the hearing. A representative sampling of the results were introduced into evidence, all of which were negative. Respondent also introduced into evidence at the hearing a letter dated July 10, 1995, from the Medical Director of the Tennessee Medical Foundation's Impaired Physicians Program which documented Respondent's rehabilitative efforts, and stated that ''we are pleased to present Dr. Hayes to you as a repaired physician.''

Respondent testified that he has learned mechanisms to avoid and manage stress, such as discussions with Caduceus group members and his friends, attending Alcoholics Anonymous meetings, and writing in a journal. He also testified that he has seen the consequences of drug abuse and knows that he will lose everything he has worked to regain should he relapse.

Pursuant to 21 U.S.C. 823(f), the Deputy Administrator may deny an application for a DEA Certificate of Registration if he determines that such registration would be inconsistent with the public interest. In determining the public interest, the following factors are considered:

(1) The recommendation of the appropriate State licensing board or professional disciplinary authority.

(2) The applicant's experience in dispensing, or conducting research with respect to controlled substances.

(3) The applicant's conviction record under Federal or State laws relating to the manufacture, distribution, or dispensing of controlled substances.

(4) Compliance with applicable State, Federal, or local laws relating to controlled substances.

(5) Such other conduct which may threaten the public health and safety.

These factors are to be considered in the disjunctive; the Deputy Administrator may rely on any one or a combination of factors and may give each factor the weight he deems appropriate in determining whether a registration should be revoked or an application for registration be denied. See Henry J. Schwarz, Jr., M.D., Docket No. 88–42, FR 16,422 (1989).

As to factor one, the recommendation of the appropriate state licensing board, it is undisputed that in April 1991, Respondent's license to practice medicine in the State of Tennessee was summarily suspended and was revoked effective April 10, 1991. It is also undisputed that on February 23, 1993, the Board of Medical Examiners for the State of Tennessee reinstated Respondent's medical license without restrictions and on November 17, 1993, granted Respondent permission to apply for a DEA Certificate of Registration. The Acting Deputy Administrator agrees with Judge Bittner's conclusion that the finding of the Board that Respondent is no longer a threat to the health and safety of the citizens of Tennessee and that there is no reason to believe that he would again abuse his DEA registration privileges, weighs in favor of finding that Respondent's registration would not be inconsistent with the public interest.

As to factor two, the evidence presented clearly indicates that Respondent's experience in dispensing controlled substances from 1988 to mid-1991 was abysmal. Respondent dispensed controlled substances to himself, causing him to become addicted to the drugs. He exhibited extremely poor judgment in dispensing controlled substances to his patients as evidenced by his continued prescribing of drugs to an individual he knew to be addicted, and his injecting a patient with Demerol knowing that she had already taken some other controlled substances and had consumed alcohol. In addition, he continued to dispense and prescribe controlled substances after his license to practice medicine was suspended and he had surrendered his DEA registration. However, as Judge Bittner noted, Respondent testified that his behavior was caused by his drug addiction. Since 1991, Respondent has taken numerous steps towards recovery and has remained drug-free. Accordingly, the Acting Deputy Administrator concurs with Judge Bittner that ''Respondent's past practices were reprehensible,'' however, ''his efforts at recovery weigh in his favor.''

Regarding factor three, it is undisputed that Respondent pled guilty and was convicted of one felony count of possession of a Schedule IV controlled substance with intent to deliver and one misdemeanor count of delivery of a Schedule IV controlled substance. However, as discussed above, Respondent's actions, which resulted in these convictions, were caused by his abuse of controlled substances. There is no evidence that Respondent has engaged in such behavior since 1991, and as Judge Bittner states, ''Respondent appears to have made substantial progress in his efforts at recovery.''

As to factor four, the record is replete with instances of Respondent's violation of Federal and state laws and regulations relating to controlled substances. On numerous occasions, he prescribed controlled substances for non-legitimate medical purposes in violation of 21 U.S.C. 841(a)(1) 21 C.F.R. 1306.04(a), a Tenn. Code Ann. 63–6–214(b)(12). He continued to practice medicine after his license was summarily suspended, and continued to use his surrendered DEA registration to prescribe, dispense and order controlled substances in violation of 21 U.S.C. 841(a)(1) and 21 C.F.R. 1306.03. Finally, he forged another doctor's signature on a prescription in violation of 21 U.S.C. 843(a)(3). The Acting Deputy Administrator finds that violations such as these, clearly raise questions as to Respondent's fitness to possess a DEA Certificate of Registration. Again, however, the record supports a finding that Respondent committed these violations of the law because of his addiction to drugs, and he has been in extensive successful treatment for this addiction since 1991.

Finally, regarding factor five, Respondent's acts of physical violence, including assaulting a waitress at a restaurant, a patient in his office, and his wife at the medical office, as well as, his arrest for unlawful possession of a weapon and resisting arrest, are of tremendous concern to the Acting Deputy Administrator. However, there is no evidence in the record that Respondent has engaged in similar behavior since beginning treatment for his drug addiction in 1991.

Judge Bittner recognized that Respondent has exhibited in the past a disregard for the laws and regulations regarding the proper handling of controlled substances. However, he has not abused controlled substances since July 1991, and has undertaken considerable steps towards rehabilitation. Judge Bittner found that ''Respondent appears to accept responsibility for his drug addiction and actions resulting from it, and has testified that he knows the consequences of relapse.'' Consequently, Judge Bittner found that it would not be inconsistent with the public interest to issue Respondent a DEA registration subject to the following conditions for a period of three years after issuance of the Certificate of Registration: (1) Respondent is not to order or dispense controlled substances except in a medical clinic or hospital environment; (2) Respondent is to continue his association with the Tennessee Medical Foundation's Impaired Physicians Program, continue attending Caduceus group meetings, and continue attending Alcoholics Anonymous or a similar program; (3) Respondent is to continue random drug screening at this own expense; and (4) Respondent shall maintain a log of all prescriptions for controlled substances he issues, and is to submit that log for review to the Nashville DEA office at the end of each calendar quarter.

Government counsel filed exceptions to Judge Bittner's recommendations arguing that ''Respondent's egregious conduct evidenced a lack of regard for the responsibilities inherent in a DEA registration; therefore, such conduct constitutes the basis for the denial of his application for DEA registration.'' In support of its position, the Government cited two previous cases where an application for DEA registration was denied. The Government argued that in the case of James W. Shore, M.D., 61 FR 6262 (1996), an application for DEA registration was denied even though ''it was found that the applicant's misconduct occurred nearly ten years prior; that the applicant was found to have taken responsibility for past unlawful actions; successfully completed criminal probation; and, taken a course on prescribing practices * * *.'' The Government argued that this denial was based, in part, ''upon the applicant's demonstrated 'cavalier attitude' toward controlled substances.''

The Acting Deputy Administrator finds that the Shore case is distinguishable from this case since in Shore, it was found that the applicant was manipulated by patients and there was no explanation as to how he would avoid being manipulated in the future. In addition, in that case, it was found that the applicant exhibited a ''cavalier attitude'' at the hearing. In this case, Respondent's actions were caused by his self-abuse of controlled substances over more than five years ago. He has taken numerous steps towards continued recover and he provided

assurances at the hearing as to how he would avoid a relapse. It is without question that Respondent exhibited a cavalier attitude towards controlled substances from 1988 to mid-1991, but the evidence in the record supports a finding that Respondent has been diligent in his efforts to correct and control his problem and understands the severity of the consequences should he begin abusing controlled substances again.

In its exceptions, the Government also cites to David W. Bradway, M.D., 59 FR 6297 (1994), arguing that in that case the application was denied even though the applicant presented evidence regarding his rehabilitation from drug abuse, his ability to responsibly handle controlled substances, and the unlikelihood of his relapse into drug abuse. However, the Acting Deputy Administrator concludes that in that case, the underlying circumstances of the applicant's self-abuse were far more serious than the circumstances surrounding Respondent's abuse of controlled substances. In addition, in Bradway, it was determined that the applicant had ''not demonstrated either ethical conduct nor trustworthy behavior to warrant the granting of a DEA Certificate of Registration.'' The Acting Deputy Administrator concludes that Respondent has shown, through this continued rehabilitative efforts even though no longer required by the State of Tennessee, that he can be trusted to responsibly handle controlled substances subject to the restrictions recommended by Judge Bittner.

The Government further argues in its exceptions that the Acting Deputy Administrator should not credit Respondent's explanation that his use of controlled substances caused him to exercise poor judgment. The Government contends that ''[t]he granting of a DEA registration under such circumstances would open the door for future litigants to misuse the substance abuse defense in rationalizing flagrant violations of controlled substances laws and regulations.'' If the Acting Deputy Administrator accepted the Government's argument, no applicant who had abuse controlled substances in the past would ever be granted a DEA registration regardless of any rehabilitative efforts. Instead, the Acting Deputy Administrator is charged with evaluating the facts and circumstances surrounding each application to determine whether registration would be inconsistent with the public interest. In this case, the Acting Deputy Administrator concludes that the record supports a finding that Respondent's behavior was caused by his abuse of controlled substances, and there is no evidence of any wrongdoing by Respondent since he entered treatment in 1991.

The Government alternatively argues in its exceptions that should a registration be issued to Respondent it should be restricted to schedules IV and V for a three year period, thereby allowing Respondent to demonstrate that he can ''properly handle controlled substances in schedules with the least potential for addiction * * *.'' Given Respondent's past behavior, the Acting Deputy Administrator appreciates the Government's argument. However, the Acting Deputy Administrator does not believe that restricting Respondent's registration to Schedules IV and V would better protect the public interest, since the drugs that Respondents abused himself were in Schedule IV. The Acting Deputy Administrator concludes that the restrictions recommended by Judge Bittner are sufficient at this time to monitor Respondent's handling of controlled substances and to protect the public interest. Therefore, the Acting Deputy Administrator finds that it would not be inconsistent with the public interest at this time to grant Respondent's application for registration, provided that for three years after Respondent is granted a DEA registration: (1) Respondent is not to order or dispense controlled substances except in a medical clinic or hospital environment; (2) Respondent is to continue his association with the Tennessee Medical Foundation's Impaired Physicians Program, continue attending Caduceus group meetings, and continue attending Alcoholics Anonymous or a similar program; (3) Respondent is to continue random drug screening at his own expense; and (4) Respondent shall maintain a log of all prescriptions for controlled substances he issues, and is to submit that log for review to the Nashville DEA office at the end of each calendar quarter. The log shall include at a minimum, the name of the patient, the date the prescription is issued, and the name, dosage and quantity of the drug prescribed.

Accordingly, the Acting Deputy Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 28 CFR 0.100(b) and 0.104, hereby orders that the application, submitted by Joseph S. Hayes, M.D., for a DEA Certificate of Registration in Schedules II through V, be and it hereby is granted subject to the above described restrictions. This order is effective March 10, 1997.

Dated: January 31, 1997.

James S. Milford,

Acting Deputy Administrator.

[FR Doc. 97–3084 Filed 2–6–97; 8:45 am]

BILLING CODE 4410–09–M

Kenneth Kleiner, M.D.; Revocation of Registration

On October 20, 1995, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA) issued an Order to Show Cause to Kenneth Kleiner, M.D., of Woodside, New York, notifying him of an opportunity to show cause as to why DEA should not revoke his DEA Certificate of Registration,AK1048203, pursuant to 21 U.S.C. 824(a)(3), and deny any pending applications for registration pursuant to 21 U.S.C. 823(f). Specifically, the Order to Show Cause alleged that the State Board for Professional Medical Conduct, State of New York, revoked his license to practice medicine in New York by Order dated December 15, 1994, and consequently, Dr. Kleiner is without state authorization to handle controlled substances in the State of New York.

The Order to Show Cause was ultimately served upon Dr. Kleiner, and by letter dated May 14, 1996, Dr. Kleiner requested ''an adjournment of the hearing'' pending the outcome of civil litigation concerning his state medical license. On May 21, 1996, the Office of Administrative Law Judges sent Dr. Kleiner a letter stating that it is unclear whether or not he is requesting a hearing and advising him to respond by June 5, 1996 to request a hearing, otherwise his right to a hearing will be deemed waived. Dr. Kleiner responded by letter dated June 4, 1996, stating, ''I respectfully request neither a hearing nor a waiver of such hearing, but rather an adjournment until such time as the instant matter may be fairly and justly adjudicated,'' apparently referring to his pending civil action. Thereafter, on June 14, 1996, Administrative Law Judge Mary Ellen Bittner advised Dr. Kleiner that pursuant to 21 C.F.R. 1301.54(d) and (e), he is deemed to have waived his opportunity for a hearing, inasmuch as he has not requested a hearing. Judge Bittner further advised Dr. Kleiner that his letters dated May 14 and June 4, 1996, would be forwarded to the Deputy Administrator for consideration in rendering his decision in this matter.

The Acting Deputy Administrator concurs with Judge Bittner's conclusion that Dr. Kleiner has waived his opportunity for a hearing. Therefore, after considering relevant material from the investigative file in this matter, as

well as Dr. Kleiner's letters, the Acting Deputy Administrator now enters his final order without a hearing pursuant to 21 C.F.R. 1301.54(e) and 1301.57.

The Acting Deputy Administrator finds that by order dated December 15, 1994, the State Board for Professional Medical Conduct, State of New York (Board) revoked Dr. Kleiner's license to practice medicine and assessed an $80,000 fine against him. This action was based upon findings that Dr. Kleiner prescribed drugs for which there was no medical indication; that he indiscriminately prescribed habit-forming drugs; that he failed to produce medical records for his patients despite being issued a subpoena for the records; that he willfully harassed a patient; and, that he exercised undue influence on a patient.

While Dr. Kleiner has indicated in letters dated May 14 and June 4, 1996, that there is pending civil litigation regarding the Board's action, there is no indication in the record that the Board's revocation has been stayed pending the outcome of the civil proceeding. Consequently, the Acting Deputy Administrator finds that in light of the Board's revocation of Dr. Kleiner's medical license, he is not currently authorized to handle controlled substances in the State of New York.

The DEA does not have statutory authority under the Controlled Substances Act to issue or maintain a registration if the applicant or registrant is without state authority to handle controlled substances in the state in which he conducts his business. 21 U.S.C. 802(21), 823(f), and 824(a)(3). This prerequisite has been consistently upheld. See Earl G. Rozeboom M.D., 61 Fed. Reg. 60,730 (1996); Charles L. Novosad, Jr., M.D., 60 Fed. Reg. 47,182 (1995); Dominick A. Ricci, M.D., 58 Fed. Reg. 51,104 (1993). Here, Dr. Kleiner is not entitled to a DEA registration.

Accordingly, the Acting Deputy Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 824 and 28 C.F.R. 0.100(b) and 0.104, hereby orders that DEA certificate of Registration, AK1048203, previously issued to Kenneth Kleiner, M.D., be, and it hereby is, revoked. The Acting Deputy Administrator further orders that any pending applications for registration be, and they hereby are, denied. This order is effective March 10, 1997.

Dated: January 28,1 997

James S. Milford,

Acting Deputy Administrator.

[FR Doc. 97–3051 Filed 2–6–97; 8:45 am]

BILLING CODE 4410–09–M

Keith A. Lasko, M.D.; Revocation of Registration

On March 13, 1996, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to Keith A. Lasko, MD., of Meridian, Mississippi, proposing the revocation of his DEA Certificate of Registration BL3109940 and denial of any pending applications for renewal of such registration as a practitioner pursuant to 21 U.S.C. 824(a)(3), for the reason that he is not currently authorized to handle controlled substances in the State of Mississippi. The order also advised that should no request for a hearing be filed within 30 days, his hearing right would be deemed waived.

The Order to Show Cause was sent to Dr. Lasko by registered mail to his DEA registered address, but was returned to DEA with the notation ''attempted, unkown''. DEA made numerous other attempts to locate Dr. Lasko. Investigators determined through the American Medical Association that he was not currently practicing in any of the other states where he was licensed to practice medicine. A check of drivers' license records in a number of states revealed that Dr. Lasko did not have a current driver's license in any of those states. Earlier attempts to deliver correspondence to Dr. Lasko at various locations via registered mail were unsuccessful, and Dr. Lasko did not leave any forwarding address.

The Acting Deputy Administrator finds that DEA has made numerous attempts to locate Dr. Lasko and has determined that his whereabouts are unknown. It is quite evident that Dr. Lasko is no longer practicing medicine at the address listed on his DEA Certificate of Registration. The Acting Deputy Administrator concludes that considerable effort has been made to serve Dr. Lasko with the Order to Show Cause without success. Dr. Lasko is therefore deemed to have waived his opportunity for a hearing. The Acting Deputy Administrator now enters his final order in this matter without a hearing and based on the investigative file. 21 CFR 1301.54 and 1301.57.

The Acting Deputy Administrator finds that in June 1992, the Medical Board of California filed an accusation against Dr. Lasko alleging, among other things, that he excessively used diagnostic procedures; that he committed acts of dishonesty in that he falsely billed for diagnostic procedures; and that he created false medical records. The Medical Board of California then entered a default decision revoking Dr. Lasko's license to practice medicine in the State of California effective January 22, 1992.

Subsequently, on July 24, 1992, the Mississippi State Board of Medical Licensure (Board) issued a summons to Dr. Lasko ordering him to appear before the Board and alleging that grounds exist to take action against his license to practice medicine in the State of Mississippi based upon the revocation of his California medical license. By letter dated October 20, 1992, Dr. Lasko informed the Board that he no longer wishes to practice medicine in the State of Mississippi and ''am hereby revoking my Mississippi medical license.'' Thereafter, on November 23, 1992, the Board issued an Order Accepting Surrender of License finding that Dr. Lasko's letter ''expresses a clear intent to surrender his license to practice medicine in the State of Mississippi.'' A letter in the investigative file dated February 16, 1996, from the Board states that its records indicate that Dr. Lasko's license expired as of June 30, 1992. Consequently, the Acting Deputy Administrator finds that in light of the foregoing, Dr. Lasko is not currently licensed to practice medicine, nor authorized to handle controlled substances, in the State of Mississippi.

The DEA does not have statutory authority under the Controlled Substances Act to issue or maintain a registration if the applicant or registrant is without state authority to handle controlled substances in the state in which he conducts his business. 21 U.S.C. 802(21), 823(f), and 824(a)(3). This prerequisite has been consistently upheld. See Earl G. Rozeboom, M.D., 61 FR 60,730 (1996); Charles L. Novosad, Jr., M.D., 60 FR 47,182 (1995); Dominick A. Ricci, M.D., 58 FR 51,104 (1993). Here, Dr. Lasko is not currently licensed to practice medicine, and therefore not authorized to handle controlled substances, in the State of Mississippi. Hence, Dr. Lasko is not entitled to a DEA registration.

Accordingly, the Acting Deputy Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 824 and 28 CFR 0.100(b) and 0.104, hereby orders that DEA Certificate of Registration BL3109940, previously issued to Keith A. Lasko, M.D., be, and it hereby is, revoked. The Acting Deputy Administrator further orders that any pending applications for renewal of such registration be, and they hereby are, denied. This order is effective March 10, 1997.

Dated: January 28, 1997.
James S. Milford,
Acting Deputy Administrator.
[FR Doc. 97–3050 Filed 2–6–97; 8:45 am]
BILLING CODE 4410–09–M

Durg Enforcement Administration

David William Nyman, D.O.; Denial of Application

On April 16, 1996, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to David William Nyman, D.O., Colorado Springs, Colorado, notifying him of an opportunity to show cause as to why DEA should not deny his application, dated January 20, 1995, for a DEA Certificate of Registration pursuant to 21 U.S.C. 823(f), as being inconsistent with the public interest. The order also notified Dr. Nyman that, should no request for a hearing be filed within 30 days, his hearing right would be deemed waived.

The DEA mailed the show cause order to Dr. Nyman be certified mail, and a signed return receipt dated April 27, 1996, was received by the DEA. However, no request for a hearing or any other reply was received the DEA from Dr. Nyman or anyone purporting to represent him in this matter. Therefore, the Acting Deputy Administrator, finding that (1) thirty days have passed since receipt of the Order to Show Cause, and (2) no request for a hearing having been received, concludes that Dr. Nyman is deemed to have waived his hearing right. After considering relevant material from the investigative file in this matter, the Acting Deputy Administrator now enters his final order without a hearing pursuant to 21 CFR 1301.54(e) and 1301.57.

The Acting Deputy Administrator finds that on March 23, 1994, the Colorado State Board of Medical Examiners (Board) issued an order summarily suspending Dr. Nyman's license to practice medicine. This action was based upon the Board's findings that Dr. Nyman first came to the attention of the Colorado Physician Health Program (CPHP) in July 1986 after he collapsed and an emergency toxicology report revealed Darvon and codeine. He subsequently received treatment with CPHP for opiate abuse. Dr. Nyman relapsed into substance abuse and was hospitalized for treatment from January 5 to 23, 1994. After his discharge, he participated in an intensive outpatient treatment program. However, on February 22, 1994, CPHP was advised that Dr. Nyman had relapsed into substance abuse again. It was discovered that he was abusing the synthetic narcotic Buprenex. Dr. Nyman underwent a five-day inpatient detoxification program and then resumed intensive outpatient treatment. On March 16, 1994, CPHP learned that Dr. Nyman had repeatedly called a pharmacy during the week of March 7, 1994, in an attempt to obtain a personal order for Valium and Buprenex.

The Acting Deputy Administrator finds that as a result of the summary suspension of his license to practice medicine, Dr. Nyman surrendered his previous DEA Certificate of Registration, AN3166635.

Subsequently, on November 9, 1995, the Board approved a Stipulation and Final Agency Order (Order) wherein, the suspension of Dr. Nyman's medical license was lifted. However, pursuant to the Order, his license shall remain suspended indefinitely until he provides evidence indicating that he has been accepted into a residency program and that his participation in the residency program would be subject to terms set forth in the Order.

The Acting Deputy Administrator finds that there is no evidence in the record that Dr. Nyman has provided the Board with evidence of his acceptance into such a residency program, and therefore concludes that Dr. Nyman's medical license remains suspended. Dr. Nyman has not presented any evidence to the contrary. Thus, the Acting Deputy Administrator concludes that Dr. Nyman is not currently licensed to practice medicine in the State of Colorado and consequently he is not currently authorized to handle controlled substances in the state.

The DEA does not have statutory authority under the Controlled Substances Act to issue or maintain a registration if the applicant or registrant is without state authority to handle controlled substances in the state in which he conducts his business. 21 U.S.C. 802(21) and 823(f). This prerequisite has been consistently upheld. See Earl G. Rozeboom, M.D., 61 FR 60,730 (1996); Charles L. Novosad, Jr., M.D., 60 FR 47,182 (1995); Dominick A. Ricci, M.D., 58 FR 51,104 (1993). Here, Dr. Nyman is not currently licensed to practice medicine, and therefore not authorized to handle controlled substances, in the State of Colorado. Hence, Dr. Nyman is not entitled to a DEA registration. Because, Dr. Nyman is not entitled to a DEA registration due to his lack of state authorization to handle controlled substances, the Acting Deputy Administrator concludes that it is unnecessary to address whether Dr. Nyman's registration would be inconsistent with the public interest.

Accordingly, the Acting Deputy Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 28 CFR 0.100(b) and 0.104, hereby orders that the application for a DEA Certificate of Registration submitted by David William Nyman, D.O., be, and it hereby is, denied. This order is effective March 10, 1997.

Dated: January 30, 1997.
James S. Milford,
Acting Deputy Administrator.
[FR Doc. 97–3052 Filed 2–6–97; 8:45 am]
BILLING CODE 4410–09–M

Drug Enforcement Administration

[DEA Number 155N]

Reports of Certain Distributions by Postal Service or Private or Commercial Carriers to Nonregulated Persons

AGENCY: Drug Enforcement Administration (DEA), Justice.
ACTION: Notice; guidance.

SUMMARY: This notice provides temporary guidance to persons who distribute ephedrine, pseudoephedrine, and phenylpropanolamine, including drug products containing those chemicals, to nonregulated persons by either the Postal Service or private or commercial carriers. The comprehensive Methamphetamine Control Act of 1996 requires that, as of October 3, 1996, any person who engages in the above distributions must make a monthly report of each such transaction to the Attorney General in such a manner as the Attorney General shall establish by regulation. This notice provides temporary guidance that will allow affected persons to comply with the new reporting requirements pending promulgation of the appropriate regulations.

FOR FURTHER INFORMATION CONTACT: William Wolf, Jr., Chief, Chemical Operations Section, Office of Diversion Control, Drug Enforcement Administration, Washington, D.C. 20537, Telephone (202) 307–7204.

SUPPLEMENTARY INFORMATION: On October 3, 1996, the Comprehensive Methamphetamine Control Act of 1996 (MCA) was signed into law. Section 402 of the MCA requires that ''(A) Each regulated person who engages in a transaction with a nonregulated person which—(i) involves ephedrine, pseudoephedrine, or

phenylpropanolamine (including drug products containing these chemicals); and (ii) uses or attempts to use the Postal Service or any private or commercial carrier shall, on a monthly basis, submit a report of each such transaction conducted during the previous month to the Attorney General in such form, containing such data, and at such times as the Attorney General shall establish by regulation.'' Section 402 further requires that such reports shall include the name of the purchaser, the quantity and form of the chemical purchased, and the address to which the chemical was sent. The reporting requirement became effective on October 3, 1996, and applies to all transactions after that date.

While the term nonregulated person is not specifically defined, the term regulated person is defined as ''* * * a person who manufactures, distributes, imports, or exports a listed chemical, a tableting machine, or an encapsulating machine or who acts as a broker or trader for an international transaction involving a listed chemical, a tableting machine, or an encapsulating machine.'' See 21 U.S.C. 802(38). Any reference to a listed chemical in the statute includes a drug product containing any listed chemical, whether or not that drug product is exempt from any requirement under the law. A nonregulated person, therefore, is a person *who does not* manufacture, distribute, import, or export a product containing a listed chemical, or a tableting or encapsulating machine or who does not act as a broker or trader for an international transaction involving a product that contains a listed chemical or for a tableting or encapsulating machine.

Pending proposal and promulgation of final regulations establishing the specific procedures to be followed in making the reports, persons engaged in the distribution of ephedrine, pseudoephedrine, and phenylpropanolamine (including drug products containing those chemicals) to nonregulated persons by mail or private or commercial carrier are requested to satisfy the reporting requirement by submitting the reports by no later than the 15th day of the succeeding month to the Chemical Operations Section, Office of Diversion Control, Drug Enforcement Administration, Washington, D.C. 20537, Attn: Section 402 Reports.

As established by the MCA, each report must contain the name of the purchaser, the quantity and form of the ephedrine, pseudoephedrine, or phenylpropanolamine purchased, and the address to which the chemical was sent. While not required at this time, the date of each transaction, the trade name and the lot number of the product distributed (where applicable) are requested.

As noted earlier, the reporting requirement applies only to distributions of ephedrine, pseudoephedrine, and phenylpropanolamine via the postal service or private or commercial carrier to *nonregulated* persons. A distributor does not have to report distributions to regulated persons. In this regard, it is critical that distributors take the appropriate steps to ascertain whether their customers are regulated or nonregulated persons. The failure of a distributor to report a transaction based on a customer's mere representation that they are a regulated person, without further inquiry to confirm that status, may be grounds for administrative, civil, or criminal action. Therefore, the distributor should take appropriate steps to confirm the customer's status as a regulated person. Steps may include verification of the customer's DEA registration status or, if they are not a registrant, inquiry as to whether they are in the business of redistributing the products ordered.

The above guidelines are intended to provide affected persons with a temporary means to ensure compliance with the reporting requirement set out in section 402 of the MCA, pending promulgation of final regulations, through notice and comment, regarding the reporting requirement. DEA will publish a notice of proposed rulemaking in the near future detailing the proposed amendments to the regulations in Title 21, Code of Federal Regulations, part 1310, to establish the specific reporting requirements to be followed.

Any questions regarding the reporting requirement set out in section 402 of the MCA should be directed to the Chemical Operations Section, Office of Diversion Control, Drug Enforcement Administration, Washington, D.C. 20537, telephone (202) 307–7204.

DEA is preparing the appropriate documentation regarding the new reporting requirement established by the MCA for submission to the Office of Management and Budget for review, pursuant to the provisions of the Paperwork Reduction Act of 1980, 44 U.S.C., Chapter 35.

Dated: January 30, 1997.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control.

[FR Doc. 97–3085 Filed 2–6–97; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF LABOR

Office of the Secretary; Submission for OMB Review; Comment Request

February 4, 1997.

The Department of Labor (DOL) has submitted the following public information collection requests (ICRs) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). A copy of each individual ICR, with applicable supporting documentation, may be obtained by calling the Department of Labor, Departmental Clearance Officer, Theresa M. O'Malley ((202) 219–5096 ext. 143). Individuals who use a telecommunications device for the deaf (TTY/TDD) may call (202) 219–4720 between 1:00 p.m. and 4:00 p.m. Eastern time, Monday through Friday.

Comments should be sent to Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for BLS, DM, ESA, ETA, MSHA, OSHA, PWBA, or VETS, Office of Management and Budget, Room 10235, Washington, DC 20503 ((202) 395–7316), within 30 days from the date of this publication in the Federal Register.

The OMB is particularly interested in comments which:

* Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

* Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

* Enhance the quality, utility, and clarity of the information to be collected; and

* Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Agency: Mine Safety and Health Administration.

Title: Qualification and Certification Program.

OMB Number: 1219–0069, MSHA Form 50004– and 5000–7.

Frequency: On occasion.

Affected Public: Business or other for-profit.

Form No.	Number of respondents	Average time per respondence (minutes)	Burden hours
5000–4 ..	633	21	221
5000–7 ..	37	19	12
Total	.....	.....	233

Total Annualized capital/startup costs: 0.

Total annual costs (operating/maintaining systems or purchasing services): 0.

Description: This information collection contains provisions whereby persons may be temporarily qualified or certified to perform certain duties at coal mines which are related to miner safety and health and which require specialized expertise.

Agency: Occupational Safety and Health Administration.

Title: Inorganic Arsenic (1910.1018).

OMB Number: 1218–0104.

Frequency: On occasion.

Affected Public: Business or other for-profit; Federal Government; State, Local or Tribal Government.

Number of Respondents: 42.

Estimated Time Per Respondent: Ranges from 5 minutes to maintain records to 12 hours to update compliance programs.

Total Burden Hours: 9,060.

Total Annualized capital/startup costs: 0.

Total annual costs (operating/maintaining systems or purchasing services): $1,316,218.

Description: The purpose of the inorganic arsenic standard and its information collection is to provide protection for employees against the health effects associated with occupational exposure to inorganic arsenic. This standard requires employers to monitor employee exposure, to provide medical surveillance and to maintain employee exposure monitoring and medical records. If exposure levels are above the Permissible Exposure Limits (PELs), then employers must establish and implement a written control plan to reduce exposures below the PELs. Employers are also required to notify OSHA area offices of regulated areas and changes to regulated areas.

Agency: Occupational Safety and Health Administration.

Title: Coke Oven Emissions (1910.1029).

OMB Number: 1218–0128.

Frequency: On occasion.

Affected Public: Business or other for-profit; Federal Government; State, Local or Tribal Government.

Number of Respondents: 22.

Estimated Time Per Respondent: Ranges from 5 minutes to maintain records to 3 hours to update compliance programs.

Total Burden Hours: 96,379.

Total Annualized capital/startup costs: 0.

Total annual costs (operating/maintaining systems or purchasing services): $2,012,684.

Description: The purpose of the coke oven emissions standards and its information collection to provide protection for employees against the health effects associated with occupational exposure to coke oven emission. This standard requires employers to monitor employee exposure, to provide medical surveillance and to maintain employee exposure monitoring and medical records. If exposure levels are above the Permissible Exposure Limits (PELs), the employers must establish and implement a written control plan to reduce exposures below the PELs. Employers are also required to notify OSHA area offices of regulated areas and changes to regulated areas.

Agency: Occupational Safety and Health Administration.

Title: 1,3 Butadiene (1910.1051), Final Rule.

OMB Number: 1218–0170.

Frequency: On occasion.

Affected Public: Business or other for-profit; Federal Government; State, Local or Tribal Government.

Number of Respondents: 255.

Estimated Time Per Respondent: Ranges from 15 seconds to label a respirator filter element to 6 hours to develop a compliance program.

Total Burden Hours: 9,254.

Total Annualized capital/startup costs: 0.

Total annual costs (operating/maintaining systems or purchasing services): $9,254.

Description: The purpose of the 1,3 butadiene standard and its information collection is designed to provide protection for employees from the adverse health effects associated with the occupational exposure to 1,3 butadiene. The standard requires employers to monitor employee exposure, to provide medical surveillance and to maintain employee exposure monitoring the medical records. If exposure levels are above the action level, employers must establish and implement a written Exposure Goal Program. If exposure levels are above the Permissible Exposure Limits (PELs), employers must establish and implement a written compliance program.

Theresa M. O'Malley,

Departmental Clearance Officer.

[FR Doc. 97–3098 Filed 2–6–97; 8:45 am]

BILING CODE 4510–26–M

Employment and Training Administration

Labor Certification Process for the Temporary Employment of Aliens in Agriculture and Logging in the United States: 1997 Adverse Effect Wage Rates and Allowable Charges for Agricultural and Logging Workers' Meals

AGENCY: U.S. Employment Service, Employment and Training Administration, Labor.

ACTION: Notice of adverse effect wage rates (AEWRs), allowable charges for meals, and maximum travel subsistence reimbursement for 1997.

SUMMARY: The Director, U.S. Employment Service, announces 1997 adverse effect wage rates (AEWRs) for employers seeking nonimmigrant alien (H–2A) workers for temporary or seasonal agricultural labor or services, the allowable charges employers seeking nonimmigrant alien workers for temporary or seasonal agricultural labor or services or logging work may levy upon their workers when they provide three meals per day, and the maximum travel subsistence reimbursement which a worker with receipts may claim in 1997.

AEWRs are the minimum wage rates which the Department of Labor has determined must be offered and paid to U.S. and alien workers by employers of nonimmigrant alien agricultural workers (H–2A visaholders). AEWRs are established to prevent the employment of these aliens from adversely affecting wages of similarly employed U.S. workers.

The Director also announces the new rates which covered agricultural and logging employers may charge their workers for three daily meals.

Under specified conditions, workers are entitled to reimbursement for travel subsistence expense. The minimum reimbursement is the charge for three daily meals as discussed above. The Director here announces the current maximum reimbursement for workers with receipts.

EFFECTIVE DATE: February 7, 1997.

FOR FURTHER INFORMATION CONTACT: Mr. John R. Beverly, III, Director, U.S. Employment Service, U.S. Department of Labor, Room N–4700, 200

Constitution Avenue, N.W., Washington, D.C. 20210. Telephone: 202–219–5257 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: The Attorney General may not approve an employer's petition for admission of temporary alien agricultural (H–2A) workers to perform agricultural labor or services of a temporary or seasonal nature in the United States unless the petitioner has applied to the Department of Labor (DOL) for an H–2A labor certification. The labor certification must show that: (1) there are not sufficient U.S. workers who are able, willing, and qualified and who will be available at the time and place needed to perform the labor or services involved in the petition; and (2) the employment of the alien in such labor or services will not adversely affect the wages and working conditions of workers in the United States similarly employed. 8 U.S.C. 1101(a)(15)(H)(ii)(a), 1184(c), and 1188.

DOL's regulations for the H–2A program require that covered employers offer and pay their U.S. and H–2A workers no less than the applicable hourly adverse effect wage rate (AEWR). 20 CFR 655.102(b)(9); see also 20 CFR 655.107. Reference should be made to the preamble to the July 5, 1989, final rule (54 FR 28037), which explains in great depth the purpose and history of AEWRs, DOL's discretion in setting AEWRs, and the AEWR computation methodology at 20 CFR 655.107(a). See also 52 FR 20496, 20502–20505 (June 1, 1987).

A. Adverse Effect Wage Rates (AEWRs) for 1997

Adverse effect wage rates (AEWRs) are the minimum wage rates which DOL has determined must be offered and paid to U.S. and alien workers by employers of nonimmigrant (H–2A) agricultural workers. DOL emphasizes, however, that such employers must pay the highest of the AEWR, the applicable prevailing wage or the statutory minimum wage, as specified in the regulations. 20 CFR 655.102(b)(9). Except as otherwise provided in 20 CFR Part 655, Subpart B, the regionwide AEWR for all agricultural employment (except those occupations deemed inappropriate under the special circumstances provisions of 20 CFR 655.93) for which temporary alien agricultural labor (H–2A) certification is being sought, is equal to the annual weighted average hourly wage rate for field and livestock workers (combined) for the region as published annually by the U.S. Department of Agriculture (USDA does not provide data on Alaska). 20 CFR 655.107(a).

The regulation at 20 CFR 655.107(a) requires the Director, U.S. Employment Service, to publish USDA field and livestock worker (combined) wage data as AEWRs in a Federal Register notice. Accordingly, the 1997 AEWRs for work performed on or after the effective date of this notice, are set forth in the table below:

TABLE.—1997 ADVERSE EFFECT WAGE RATES (AEWRS)

State	1997 AEWR
Alabama	$5.92
Arizona	5.82
Arkansas	5.70
California	6.53
Colorado	6.09
Connecticut	6.71
Delaware	6.26
Florida	6.36
Georgia	5.92
Hawaii	8.62
Idaho	6.01
Illinois	6.66
Indiana	6.66
Iowa	6.22
Kansas	6.55
Kentucky	5.68
Louisiana	5.70
Maine	6.71
Maryland	6.26
Massachusetts	6.71
Michigan	6.56
Minnesota	6.56
Mississippi	5.70
Missouri	6.22
Montana	6.01
Nebraska	6.55
Nevada	6.09
New Hampshire	6.71
New Jersey	6.26
New Mexico	5.82
New York	6.71
North Carolina	5.79
North Dakota	6.55
Ohio	6.66
Oklahoma	5.48
Oregon	6.87
Pennsylvania	6.26
Rhode Island	6.71
South Carolina	5.92
South Dakota	6.55
Tennessee	5.68
Texas	5.48
Utah	6.09
Vermont	6.71
Virginia	5.79
Washington	6.87
West Virginia	5.68
Wisconsin	6.56
Wyoming	6.01

B. Allowable Meal Charges

Among the minimum benefits and working conditions which DOL requires employers to offer their alien and U.S. workers in their applications for temporary logging and H–2A agricultural labor certification is the provision of three meals per day or free and convenient cooking and kitchen facilities. 20 CFR 655.102(b)(4) and 655.202(b)(4). Where the employer provides meals, the job offer must state the charge, if any, to the worker for meals.

DOL has published at 20 CFR 655.102(b)(4) and 655.111(a) the methodology for determining the maximum amounts covered H–2A agricultural employers may charge their U.S. and foreign workers for meals. The same methodology is applied at 20 CFR 655.202(b)(4) and 655.211(a) to covered H–2B logging employers. These rules provide for annual adjustments of the previous year's allowable charges based upon Consumer Price Index (CPI) data.

Each year the maximum charges allowed by 20 CFR 655.102(b)(4) and 655.202(b)(4) are changed by the same percentage as the twelve-month percent change in the CPI for all Urban Consumers for Food (CPI–U for Food) between December of the year just past and December of the year prior to that. Those regulations and 20 CFR 655.111(a) and 655.211(a) provide that the appropriate Regional Administrator (RA), Employment and Training Administration, may permit an employer to charge workers no more than a higher maximum amount for providing them with three meals a day, if justified and sufficiently documented. Each year, the higher maximum amounts permitted by 20 CFR 655.111(a) and 655.211(a) are changed by the same percentage as the twelve-month percent change in the CPI–U for Food between December of the year just past and December of the year prior to that. The regulations require the Director, U.S. Employment Service, to make the annual adjustments and to cause a notice to be published in the Federal Register each calendar year, announcing annual adjustments in allowable charges that may be made by covered agricultural and logging employers for providing three meals daily to their U.S. and alien workers. The 1996 rates were published in a notice on February 8, 1996 at 61 FR 4800.

DOL has determined the percentage change between December of 1995 and December of 1996 for the CPI–U for Food was 3.3 percent.

Accordingly, the maximum allowable charges under 20 CFR 655.102(b)(4), 655.202(b)(4), 655.111, and 655.211 were adjusted using this percentage change, and the new permissible charges for 1997 are as follows: (1) for 20 CFR 655.102(b)(4) and 655.202(b)(4),

the charge, if any, shall be no more than $7.41 per day, unless the RA has approved a higher charge pursuant to 20 CFR 655.111 or 655.211(b); for 20 CFR 655.111 and 655.211, the RA may permit an employer to charge workers up to $9.25 per day for providing them with three meals per day, if the employer justifies the charge and submits to the RA the documentation required to support the higher charge.

C. Maximum Travel Subsistence Expense

The regulations at 20 CFR 655.102(b)(5) establish that the minimum daily subsistence expense related to travel expenses, for which a worker is entitled to reimbursement, is the employer's daily charge for three meals or, if the employer makes no charge, the amount permitted under 20 CFR 655.104(b)(4). The regulation is silent about the maximum amount to which a qualifying worker is entitled.

The Department, in Field Memorandum 42–94, established that the maximum is the meals component of the standard CONUS (continental United States) per diem rate established by the General Services Administration (GSA) and published at 41 CFR Ch. 301. The CONUS meal component is now $28.00 per day.

Workers who qualify for travel reimbursement are entitled to reimbursement up to the CONUS meal rate for related subsistence when they provide receipts. In determining the appropriate amount of subsistence reimbursement, the employer may use the GSA system under which a traveler qualifies for meal expense reimbursement per quarter of a day. Thus, a worker whose travel occurred during two quarters of a day is entitled, with receipts, to a maximum reimbursement of $14.00. If a worker has no receipts, the employer is not obligated to reimburse above the minimum stated at 20 CFR 655.102(b)(4) as specified above.

Signed at Washington, D.C., this 31st day of January 1997.

John R. Beverly

Director, U.S. Employment Service.

[FR Doc. 97–3095 Filed 2–6–97; 8:45 am]

BILLING CODE 4510–30–M

Pension and Welfare Benefits Administration

[Prohibited Transaction Exemption 97–11; Application D–09707]

Class Exemption for the Receipt of Certain Investment Services by Individuals for Whose Benefit Individual Retirement Accounts or Retirement Plans for Self-Employed Individuals Have Been Established or Maintained

AGENCY: Pension and Welfare Benefits Administration, U.S. Department of Labor.

ACTION: Grant of class exemption.

SUMMARY: This document contains a final class exemption from the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (ERISA) and the Internal Revenue Code of 1986 (the Code). The class exemption permits the receipt of services at reduced or no cost by an individual for whose benefit an individual retirement account (IRA) or, it self-employed, a Keogh Plan is established or maintained, or by members of his or her family, from a broker-dealer, provided that the conditions of the exemption are met. The exemption affects individuals with beneficial interests in such plans who receive such services as well as the broker-dealers who provide such services.

EFFECTIVE DATE: February 7, 1997.

FOR FURTHER INFORMATION CONTACT: Allison Padams, Office of Exemption Determinations, Pension and Welfare Benefits Administration, U.S. Department of Labor, (202) 219–8971, (This is not a toll-free number); or Paul D. Mannina, Plan Benefits Security Division, Office of Solicitor, U.S. Department of Labor (202) 219–9141, (This is not a toll-free number).

SUPPLEMENTARY INFORMATION: On July 31, 1996, the Department of Labor (the Department) published a notice in the Federal Register (61 FR 39996) of the pendency of a proposed class exemption from the restrictions of sections 406(a)(1)(D) and 406(b) of ERISA and the sanctions resulting from the application of sections 4975 (a) and (b), 4975(c)(3) and 408(e)(2) of the Code by reason of section 4975(c)(1) (D), (E) and (F) of the Code. This exemption was requested in an exemption application filed on behalf of the Securities Industry Association (the SIA or the Applicant). The application was filed pursuant to section 408(a) of ERISA and section 4975(c)(2) of the Code and in accordance with the procedures set forth in 29 CFR part 2570, subpart B, (55 FR 32836, August 10, 1990.) [1]

The notice of pendency gave interested persons an opportunity to comment or request a public hearing on the proposal. No requests for a public hearing were received by the Department. Two public comments were received by the Department. Upon consideration of the record as a whole, the Department has determined to grant the proposed exemption subject to certain modifications. These modifications and the comments are discussed below.

Discussion of the Comments Received

One commenter sought clarification of the language in the preamble to the notice of proposed exemption which addressed the Investment Company Institute's inquiry as to whether the exemption would provide relief for a relationship brokerage program whereby a broker-dealer offers reduced sales charges with respect to the purchase of investment company shares as the size of the purchase increases. In this regard, a broker-dealer would aggregate total purchases of all of a customer's accounts, including IRAs and Keogh Plans. Thus, a broker-dealer would set a schedule of commissions or rates that vary according to the size of the transaction. Specifically, the commenter requests that the Department clarify that the exemption covers ''rights of accumulation'' programs as described in the National Association of Securities Dealers' Rules of Fair Practice in which a broker dealer takes into account both a customer's present purchases of shares and the aggregate quantity of securities previously purchased by the customer. The Department notes that such programs would be covered by the exemption provided that all the conditions of the exemption are satisfied.

In addition, the commenter requests that the Department reconsider its views stated in footnote 8 of the Preamble relating to ''letter of intent programs'' in which broker-dealers reduce sales commissions based on the aggregate of a customer's actual purchases and anticipated purchases over a specified period of time, as agreed to by the customer (the Target Amount). The commenter states that the letter of intent is not a binding obligation on the customer to purchase the Target Amount. Rather, if the customer holds

[1] Section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) generally transferred the authority of the Secretary of the Treasury to issue administrative exemptions under section 4975(c)(2) of the Code to the Secretary of Labor.

less than the Target Amount in his accounts at the end of the specified period, the sales charge is adjusted upward for the shares purchased during such period, and the customer is required to pay the same sales charge he would have paid if he had not participated in the letter of intent program. For example, an individual purchases shares of a mutual fund under a letter of intent program which requires the individual to purchase a total of $100,000 of mutual fund shares within 13 months of the initial purchase. The individual makes an initial purchase of $2,000 for his or her IRA account. In addition, the individual makes a $3,000 purchase for a non-IRA/Keogh account and pays a reduced sales charge associated with both purchases. An escrow arrangement is established with regard to the $5,000 in purchases to secure payment of the higher sales charge in the event the investor fails to purchase the intended number of shares during the specified period. During the 13-month period, the individual only purchases another $5,000 amount for his non-IRA/Keogh account. In accordance with the program, an unreduced sales charge must be reinstated. the broker-dealer would assess each account its prorata share of the reinstated sales charge. Thus, the IRA would only pay 20% of the total amount of money owed for the reinstated sales charge (the IRA purchased $2,000 of the total $10,000 purchased or 20%). The commenter represents that under letter of intent programs, IRA and Keogh Plans would be treated as favorably as any other type of account that a broker-dealer includes in the letter of intent program. Based upon the commenter's assertion that the IRA and Keogh Plans only will be assessed that portion of the reinstated sales charges related to the IRA and Keogh Plan purchases, the Department is of the view that letter of intent programs would be covered by the class exemption.

Another commenter urged the Department to modify the definition of an individual retirement account to include simple retirement accounts as described in section 408(p) of the Code. The Small Business Job Protection Act of 1996 (Pub. L. 104–188), effective for taxable years beginning after December 31, 1996, amended section 408 of the Code to permit simple retirement accounts. In this regard, the commenter states that section 408(p)(7) provides that participants of simple employee pensions have the unrestricted authority to transfer their account balances without cost or penalty to simple retirement accounts sponsored by different financial institutions. The Department finds merit in this comment and has modified section III(b) of the exemption to include simple retirement accounts. The same commenter urges the Department to clarify the definition of account value to include insured investment accounts or insured savings accounts. According to the commenter, such accounts are established in a separate bank and are insured by a federal deposit agency. Broker-dealers establish insured savings accounts whereby the uninvested cash in a clients account is swept into a separate bank account for a client rather than into a money market fund. Clients may select such an account as a sweep vehicle because the assets in the bank account are insured by federal deposit insurance up to the maximum permitted by law. In this regard, the commenter represents that a separate program may be maintained for the broker-dealer's retirement account clients. In response to the comment, the Department has clarified section III(d) to include accounts that are insured by a federal deposit insurance agency and that constitute deposits as that term is defined in section 29 CFR 2550.408(b)–4(c)(3).

General Information

The attention of interested persons is directed to the following:

(1) In accordance with section 408(a) of ERISA and section 4975(c)(2) of the Code, and based upon the entire record, the Department finds that the exemption is administratively feasible, in the interests of the IRAs and Keogh Plans and their participants and beneficiaries and protective of the rights of participants and beneficiaries of such plans.

(2) The exemption is supplemental to, and not in derogation of, any other provisions of ERISA and the Code including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

(3) The exemption is applicable to a transaction only if the conditions specified in the class exemption are met.

Exemption

Accordingly, the following exemption is granted under the authority of section 408(a) of ERISA and section 4975(c)(2) of the Code and in accordance with the procedures set forth in 29 CFR part 2570, subpart B. [55 FR 32836, August 10, 1990].

Section I: Covered Transactions

Effective February 7, 1997, the restrictions of sections 406(a)(1)(D) and 406(b) of ERISA and the sanctions resulting from the application of section 4975 of the Code, including the loss of exemption of an IRA pursuant to section 408(e)(2)(A) of the Code, by reason of section 4975(c)(1)(D), (E) and (F) of the Code, shall not apply to the receipt of services at reduced or no cost by an individual for whose benefit an IRA or, if self-employed, a Keogh Plan, is established or maintained, or by members of his or her family, from a broker-dealer registered under the Securities Exchange Act of 1934 pursuant to an arrangement in which the account value of, or the fees incurred for services provided to, the IRA or Keogh Plan is taken into account for purposes of determining eligibility to receive such services, provided that each condition of Section II of this exemption is satisfied.

Section II: Conditions

(a) The IRA or Keogh Plan whose account value or whose fees are taken into account for purposes of determining eligibility to receive services under the arrangement is established and maintained for the exclusive benefit of the participant covered under the IRA or Keogh Plan, his or her spouse or their beneficiaries.

(b) The services offered under the relationship brokerage arrangement must be of the type that the broker-dealer itself could offer consistent with all applicable federal and state laws regulating broker-dealers.

(c) The services offered under the arrangement are provided by the broker-dealer (or an affiliate of the broker-dealer in the ordinary course of the broker-dealer's business to customers who qualify for reduced or no cost services, but do not maintain IRAs or Keogh Plans with the broker-dealer.

(d) For purposes of determining eligibility to receive services, the arrangement satisfies one of the following:

(i) Eligibility requirements based on the account value of the IRA or Keogh Plan are as favorable as any such requirements based on the value of any other type of account which the broker-dealer includes to determine eligibility; and

(ii) Eligibility requirements based on the amount of fees incurred by the IRA or Keogh Plan are as favorable as any requirements based on the amount of fees incurred by any other type of

account which the broker-dealer includes to determine eligibility.

(e) The combined total of all fees for the provision of services to the IRA or Keogh Plan is not in excess of reasonable compensation within the meaning of section 4975(d)(2) of the Code.

(f) The investment performance of the IRA or Keogh Plan investment is no less favorable than the investment performance of an identical investment(s) that could have been made at the same time by a customer of the broker-dealer who is not eligible for (or who does not receive) reduced or no cost services.

(g) The services offered under the arrangement to the IRA or Keogh Plan customer must be the same as are offered to non-IRA or non-Keogh Plan customers with account values of the same amount or the same amount of fees generated.

Section III: Definitions

The following definitions apply to this exemption:

(a) The term ''broker-dealer'' means a broker-dealer registered under the Securities Exchange Act of 1934.

(b) The term ''IRA'' means an individual retirement account described in Code section 408(a). For purposes of this exemption, the term IRA shall not include an IRA which is an employee benefit plan covered by Title I of ERISA, except for a Simplified Employee Pension (SEP) described in section 408(k) of the Code or a Simple Retirement Account described in section 408(p) of the Code which provides participants with the unrestricted authority to transfer their balances to IRAs or Simple Retirement Accounts sponsored by different financial institutions.

(c) The term ''Keogh Plan'' means a pension, profit-sharing, or stock bonus plan qualified under Code section 401(a) and exempt from taxation under Code section 501(a) under which some or all of the participants are employees described in section 401(c) of the Code. For purposes of this exemption, the term Keogh Plan shall not include a Keogh Plan which is an employee benefit plan covered by Title I of ERISA.

(d) The term ''account value'' means investments in cash or securities held in the account for which market quotations are readily available. For purposes of this exemption, the term cash shall include savings accounts that are insured by a federal deposit insurance agency that constitute deposits as that term is defined in section 29 CFR 2550.408b–4(c)(3). The term account value shall not include investments in securities that are offered by the broker-dealer [or its affiliate] exclusively to IRAs and Keogh Plans.

(e) An affiliate of a broker-dealer includes any person directly or indirectly controlling, controlled by, or under common control with the broker-dealer. The term control means the power to exercise a controlling influence over the management or policies of a person other than an individual.

(f) The term ''members of his or her family'' refers to beneficiaries of the individual for whose benefit the IRA or Keogh Plan is established or maintained, who would be members of the family as that term is defined in Code section 4975(e)(6), or a brother, a sister, or spouse of a brother or sister.

(g) The term ''service'' includes incidental products of a de minimis value which are directly related to the provision of services covered by the exemption.

(h) The term ''fees'' means commissions and other fees received by the broker-dealer from the IRA or Keogh Plan for the provision of services, including, but not limited to, brokerage commissions, investment management fees, custodial fees, and administrative fees.

Signed at Washington, DC, this 31st day of January 1997.

Alan D. Lebowitz,

Deputy Assistant Secretary for Program Operations, Pension and Welfare Benefits Administration, U.S. Department of Labor.

[FR Doc. 97–3030 Filed 2–6–97; 8:45 am]

BILLING CODE 4510–29–M

Advisory Council on Employee Welfare and Pension Benefit Plans; Notice of Meeting

Pursuant to the authority contained in Section 512 of the Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C. 1142, a public meeting of the Advisory Council on Employee Welfare and Pension Benefit Plans will be held March 6, 1997, in Room S2508, U.S. Department of Labor Building, Third and Constitution Avenue, N.W., Washington, DC 20210.

The purpose of the meeting, which will begin at 1:00 p.m. and end at approximately 3:30 p.m., is to consider the items listed below and to invite public comment on any aspect of the administration of ERISA.

I. Welcome and Introduction of New Council Members
II. Assistant Secretary's Report
  A. PWBA Priorities for 1997
  B. Announcement of Council Chair and Vice Chair
III. Introduction of PWBA Senior Staff and Swearing In of New Members
IV. Report of Advisory Council Working Groups (1996 Term)
V. Determination of Council Working Groups for 1997
VI. Statements from the General Public
VII. Adjourn

Members of the public are encouraged to file a written statement pertaining to any topic concerning ERISA by submitting 20 copies on or before February 27, 1997 to Sharon Morrissey, Acting Executive Secretary, ERISA Advisory Council, U.S. Department of Labor, Suite N–5677, 200 Constitution Avenue, N.W., Washington, DC 20210. Individuals or representatives of organizations wishing to address the Advisory Council should forward their request to the Acting Executive Secretary or telephone (202) 219–8753. Oral presentations will be limited to ten minutes, but extended statements may be submitted for the record. Individuals with disabilities, who need special accommodations, should contact Sharon Morrissey by February 27, at the address indicated.

Organizations or individuals may also submit statements for the record without testifying. Twenty (20) copies of such statements should be sent to the Acting Executive Secretary of the Advisory Council at the above address. Papers will be accepted and included in the record of the meeting if received on or before February 27, 1997.

Signed at Washington, DC, this 3rd day of February, 1997.

Olena Berg,

Assistant Secretary, Pension and Welfare Benefits Administration.

[FR Doc. 97–3094 Filed 2–6–97; 8:45 am]

BILLING CODE 4510–29–M

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–282 and 50–306]

Northern States Power Company; Notice of Consideration of Issuance of Amendments to Facility Operating Licenses, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of amendments to Facility Operating License Nos. DPR–42 and DPR–60 issued to Northern States Power Company (the licensee), for operation of the Prairie Island Nuclear Generating Plant, Units 1 and 2, located in Goodhue County, Minnesota.

The proposed amendments would change the Bases for the technical specifications and the licensing basis for the operating licenses relating to the cooling water system emergency intake line flow capacity. The licensee determined through testing that the emergency intake line flow capacity was less than the design value stated in the Updated Final Safety Analysis Report (USAR). The proposed changes reflect the use of operator actions to control cooling water system flow following a seismic event. The proposed changes also reclassify the intake canal for use during a seismic event, which would be an additional source of cooling water during a seismic event.

In its letter dated January 29, 1997, the licensee requested that this amendment be reviewed under exigent circumstances. Prairie Island Unit 2 shut down for refueling on January 25, 1997, and is scheduled to restart on March 5, 1997. Without review and approval of this license amendment request by the end of the Unit 2 outage, Prairie Island would be prevented from resumption of plant operation.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

Pursuant to 10 CFR 50.91(a)(6) for amendments to be granted under exigent circumstances, the NRC staff must determine that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed amendment will not involve a significant increase in the probability or consequences of an accident previously evaluated.

Probability

The accident of concern for this issue is a seismic event. None of the proposed changes can have any effect on the probability of a seismic event.

Consequences

(1) The intake canal has been evaluated for stability during a postulated seismic event. The results of the evaluation demonstrates that the banks of the canal will not liquefy or lose strength during the event. Therefore, taking credit for the intake canal stability does not increase the consequences of an accident previously evaluated.

(2) The use of operator action for systems important to safety to perform properly has been evaluated. There are adequate indications to allow the operator to recognize the occurrence of the event. A procedure provides guidance to the operator for reducing cooling water system demand. This procedure is available in the control room and all actions are accomplished in the control room. Adequate time is available for the operator to perform the tasks and to get feedback on the actions' success or failure. The operators have been trained on the use of the procedure and continuing training is planned. Therefore, the use of operator action does not significantly increase the consequences of an accident previously evaluated.

(3) The potential for operator acts of omission or commission while reducing cooling water system demand has been evaluated.

An operator act of omission while initially performing the procedure to reduce cooling water flow could result in cooling water system demand exceeding the emergency intake line capacity. However, due to the long time period within which the procedure must be implemented, control room management oversight and control room indications and alarms, it is unlikely that this condition would not be corrected.

Three types of operator acts of commission while performing the procedure to reduce cooling water flow were considered. (1) Acts which could increase flow and damage the cooling water pumps are not credible since the cooling water system flow is assumed to be near its maximum due to loss of the instrument air and non-safeguards power when the earthquake occurs. (2) Acts which would reduce flow to systems required for safe shutdown of the plant were evaluated. These acts would be indicated by control room alarms and corrected or out-plant actions would be required which involves more than a simple act of commission, thus, loss of function of supported systems due to loss of cooling water flow is not considered credible. (3) Acts which isolate a cooling water pump incorrectly were considered. This is a long term wear issue, but not a pump failure issue.

Operator acts of omission or commission have also been evaluated probabilistically. This evaluation demonstrated that the probability of an act of omission or commission is comparable to or less than other operator evolutions which have previously been licensed for effective performance of systems important to safety. This compliments the conclusions from the deterministic evaluation that these changes do not involve a significant increase in the probability of a previously evaluated accident.

Therefore, the potential of an operator act of omission or commission does not significantly increase the consequences of an accident previously evaluated.

2. The proposed amendment will not create the possibility of a new or different kind of accident from any accident previously analyzed.

The Cooling Water System is provided in the plant to mitigate accidents and it is not a design basis accident initiator, thus these proposed changes do not increase the possibility of a new or different kind of accident.

The consideration of operator acts of omission or commission is limited to those acts arising from performance of the cooling water load management procedure. The evaluation of these actions showed that a new or different type of accident is not created.

In total, the possibility of a new or different kind of accident from any accident previously evaluated would not be created by these changes to the plant licensing basis or amendments to the Cooling Water Technical Specifications.

3. The proposed amendment will not involve a significant reduction in the margin of safety.

The proposed changes do not involve a significant reduction in a margin of safety because the current Technical Specifications requirements for safe operation of the Prairie Island plant are maintained or increased. Plant margin of safety may be reduced by the reduced flow capacity of the emergency intake line. However, plant margin is restored by the remedial operator actions which preserve safe plant operation. Analysis shows that the intake canal will not fail during a seismic event and thus sufficient time for reducing cooling water system demand is provided. The procedure for reducing cooling water demand has been demonstrated on the plant simulator and operators have been trained. This procedure can be performed entirely from the control room. Thus, the changes proposed in this license amendment request do not involve a significant reduction in the margin of safety. Additionally, probabilistic evaluation complements the conclusion that the likelihood for successful reduction of the cooling water system flow is very high.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 15 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of the 15-day notice period. However, should circumstances change during the notice period, such that failure to act in a timely way would result, for example, in derating or

shutdown of the facility, the Commission may issue the license amendment before the expiration of the 15-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish in the Federal Register a notice of issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Chief, Rules Review and Directives Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and should cite the publication date and page number of this Federal Register notice. Written comments may also be delivered to Room 6D22, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland, from 7:30 a.m. to 4:15 p.m. Federal workdays. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC.

The filing of requests for hearing and petitions for leave to intervene is discussed below.

By March 10, 1997, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's ''Rules of Practice for Domestic Licensing Proceedings'' in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Minneapolis Public Library, Technology and Science Department, 300 Nicollet Mall, Minneapolis, Minnesota. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing.

The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If the amendment is issued before the expiration of the 30-day hearing period, the Commission will make a final determination on the issue of no significant hazards consideration. If a hearing is requested, the final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Docketing and Services Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, by the above date. Where petitions are filed during the last 10 days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1–(800) 248–5100 (in Missouri 1–(800) 342–6700). The Western Union operator should be given Datagram Identification Number N1023 and the following message addressed to John N. Hannon, Director, Project Directorate III–1: petitioner's name and telephone number, date petition was mailed, plant name, and publication date and page number of this Federal Register notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and to Jay Silberg, Esq., Shaw, Pittman, Potts, and Trowbridge, 2300 N Street, NW, Washington, DC 20037, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request

should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated January 29, 1997, which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room, located at the Minneapolis Public Library, Technology and Science Department, 300 Nicollet Mall, Minneapolis, Minnesota 55401.

Dated at Rockville, Maryland, this 3rd day of February 1997.

For the Nuclear Regulatory Commission

Beth A. Wetzel,

Project Manager, Project Directorate III–1, Division of Reactor Projects–III/IV, Office of Nuclear Reactor Regulation.

[FR Doc. 97–3055 Filed 2–6–97; 8:45 am]

BILLING CODE 7590–01–P

[Docket No. 50–344]

Portland General Electric 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. NPF–1, issued to Portland General Electric Company (the licensee), for operation of the Trojan Nuclear Plant located in Rainier, Oregon.

The proposed amendment would allow the licensee to process and handle spent fuel pool debris in the Trojan Fuel Building. 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 March 10, 1997, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's ''Rules of Practice for Domestic Licensing Proceedings'' in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Portland State University Science Library, 951 SW Hall St., Portland OR. 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 20555–0001, Attention: Docketing and Services Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, by the above date. Where petitions are filed during the last 10 days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1–(800) 248–5100 (in Missouri 1–(800) 342–6700). The Western Union operator should be given Datagram Identification Number N1023 and the following message addressed to Non-Power Reactors and Decommissioning Project Directorate: petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this Federal Register notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and to Douglas Nichols, 1 WTC 1301, 121 S.W. Salmon Street, Portland OR, 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 October 23, 1996 and the licensee's supplemental information dated December 12, 1996, which are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Portland State University Science Library, 951 SW Hall Street, Portland Oregon.

Dated at Rockville, Maryland, this 31st day of January 1997.

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. 97–3054 Filed 2–6–97; 8:45 am]

BILLING CODE 7590–01–P

[Docket Nos. 50–272 and 50–311]

Public Service Electric and Gas Company; Salem Nuclear Generating Station, Units 1 and 2; Notice of Consideration of Issuance of Amendments to Facility Operating Licenses, Proposed no Significant Hazards Consideration Determination, and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of amendments to Facility Operating License Nos. DPR–70 and DPR–75 issued to Public Service Electric and Gas Company (the licensee) for operation of the Salem Nuclear Generating Station, Units 1 and 2, located in Salem County, New Jersey.

The proposed amendment would revise Technical Specification (TS) 3.4.3, ''Relief Valves,'' for Salem Unit 1, and TS 3.4.5, ''Relief Valves,'' for Salem Unit 2, to ensure that the automatic capability of the power operated relief valves (PORV) to relieve pressure is maintained when these valves are isolated by closure of the block valves.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously—2 -evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposal does not involve any physical changes to plant systems or components. No new protection system logic is proposed, and therefore, there is no additional signal that can spuriously actuate the Safety Injection (SI) system. Consequently, there would be no change in the probability of occurrence of the accident, as previously evaluated in the [Updated Final Safety Analysis Report] UFSAR. The proposal is based upon a reanalysis of the Inadvertent SI event to include a case that demonstrates that the postulated event would not be likely to lead to a more serious event.

Sustained water relief through a PORV can result in a release of reactor coolant into containment from the Pressurizer Relief Tank. The release is limited, however, since (1) it is the result of the SI System addition and consequently cannot exceed the SI flow rate at the PORV setpoint pressure, and (2) the SI flow will eventually be terminated by the operators. The dose consequences for an Inadvertent SI is bounded by that which is calculated for the spurious opening of a pressurizer safety valve, Accidental RCS Depressurization event, which is also a Condition II event.

2. The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The Inadvertent Operation of the SI System at Power analysis cases, reported in the UFSAR, are analyzed to challenge fuel integrity. Accordingly, the UFSAR analysis cases produce transients that lead to a reduction in pressurizer pressure, in order to reduce the thermal margin. The results indicate that no fuel damage is predicted. The UFSAR analysis is revised in order to evaluate the effects of an increase in pressurizer pressure and other conditions that could lead to water relief through the pressurizer safety valves. Allowing water relief from the pressurizer would not affect the likelihood of fuel damage occurring during this event. The results of the accident reanalysis indicate that the pressurizer safety valves would not discharge water, (a condition for which they are not designed), and consequently this event will not result in the failure of a pressurizer safety valve due to the discharge of water through the pressurizer safety valves.

An evaluation of the effects of water relief through the PORVs and downstream piping have also been conducted. The results of the accident reanalysis and the associated evaluation indicate that a different type of malfunction (e.g., a stuck open pressurizer safety valve or failure of downstream piping or components) would not be expected to result from the analyzed event. Therefore, a different type of accident would not be expected to occur as a result of implementation of this proposal.

3. The proposed change does not involve a significant reduction in a margin of safety.

For this proposed change, the safety analysis criterion, which the analysis of Inadvertent SI Actuation at Power event is required to satisfy, is to show that the pressurizer safety valves would not open and discharge water at any time during the event. Satisfaction of this criterion indicates that the safety margin is preserved by preventing the Inadvertent Operation of the SI System at Power event (a Condition II event) from escalating into a more serious event, (a Condition III event).

The proposal does not reduce the margin of safety, since the results of the reanalysis indicate that the applicable safety analysis acceptance criterion, which is established to protect the margin of safety, is satisfied.

The conclusions of the reanalyzed Inadvertent Operation of the SI System at Power event are based upon the assumption that the operators, working according to Emergency Operating Procedures, act within ten minutes after the event occurs to make at least one pressurizer PORV available by opening its associated block valve. This is a justifiable assumption, since simulator test results indicate that operators have been successful in accomplishing this procedure within seven to nine minutes and this requirement has been incorporated into the procedures as a time critical step. Therefore, relief capability is assured prior to the pressurizer achieving a solid water condition.

The PORV surveillance requirements that are currently contained in the Salem TSs ensure that the automatic operation of the PORVs is periodically tested.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license

amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish in the Federal Register a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Chief, Rules Review and Directives Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and should cite the publication date and page number of this Federal Register notice. Written comments may also be delivered to Room 6D22, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland, from 7:30 a.m. to 4:15 p.m. Federal workdays. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC.

The filing of requests for hearing and petitions for leave to intervene is discussed below.

By March 10, 1997, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's ''Rules of Practice for Domestic Licensing Proceedings'' in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Salem Free Public Library, 112 West Broadway, Salem, New Jersey. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) the nature of the petitioner's right under the Act to be made party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Docketing and Services Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, by the above date. Where petitions are filed during the last 10 days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1–(800) 248–5100 (in Missouri 1–(800) 342–6700). The Western Union operator should be given Datagram Identification Number N1023 and the following message addressed to John F. Stolz, Director, Project Directorate I–2: petitioner's name and telephone number, date petition was mailed, plant name, and publication date and page number of this Federal Register notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and to Mark J. Wetterhahn, Esquire, Winston and Strawn, 1400 L Street, NW., Washington, DC 20005–3502, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1) (i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated January 31, 1997,

which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Salem Free Public Library, 112 West Broadway, Salem, New Jersey.

Dated at Rockville, Maryland, this 3rd day of February 1997.

For the Nuclear Regulatory Commission

Leonard N. Olshan,

Senior Project Manager, Project Directorate I–2, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 97–3053 Filed 2–6–97; 8:45 am]

BILLING CODE 7590–01–P

[Docket Nos. 50–338 and 50–339]

Virginia Electric and Power Company; Notice of Partial Withdrawal of Application for Amendments to Facility Operating Licenses

The United States Nuclear Regulatory Commission (the Commission) has granted the request of Virginia Electric and Power Company (the licensee) to withdraw a portion of its January 31, 1996, application for proposed amendments to Facility Operating License Nos. NPF–4 and NPF–7 for the North Anna Power Station, Unit Nos. 1 and 2, located in Louisa County, Virginia.

The portion of the proposed amendments withdrawn would have revised the surveillance tests being performed at power.

The Commission had previously issued a Notice of Consideration of Issuance of Amendments published in the Federal Register on February 28, 1996 (61 FR 7559). However, by letter dated November 26, 1996, the licensee withdrew the proposed change.

For further details with respect to this action, see the application for amendments dated January 31, 1996, and the licensee's letter dated November 26, 1996, which partially withdrew the application for license amendments. The above documents are available for public inspection at the Commission's Public Document Room, 2120 L Street, NW., Washington, DC, and the Alderman Library, Special Collections Department, University of Virginia, Charlottesville, Virginia 22903–2498.

Dated at Rockville, Maryland this 3rd day of February 1997.

For the Nuclear Regulatory Commission.

Gordon E. Edison,

Senior Project Manager, Project Directorate II–1, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 97–3056 Filed 2–6–97; 8:45 am]

BILLING CODE 7590–01–P

OFFICE OF PERSONNEL MANAGEMENT

Submission for OMB Review; Comment Request; (OFI–10)

AGENCY: Office of Personnel Management.

ACTION: Comment Request Review of a Revised Information Collection (Form OFI–10).

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13) and 5 CFR 1320.5(a)(i)(iv), this notice announces that OPM has submitted to the Office of Management and Budget (OMB) a request for clearance of a revised information collection. The Mail Reinterview, OFI Form 10, is completed by individuals who have been interviewed by a contract investigator during the course of a personnel investigation. This form asks questions regarding the performance of the investigator.

It is estimated that 5700 individuals will respond annually, each response requiring approximately 6 minutes to complete, for a total burden of 570 hours.

For copies of this proposal contact Jim Farron on (202) 418–3208, or E-mail to jmfarron@opm.gov.

DATES: Comments on this proposal should be received on or before march 10, 1997.

ADDRESSES: Send or deliver comments to—

Richard A. Ferris, Office of Personnel Management, Investigations Service, 1900 E. Street NW., Room 5416, Washington, D.C. 20415

and

Joseph Lackey, OPM Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, NW., Room 10235, Washington, DC 20503.

James B. King,

Director.

[FR Doc. 97–2983 Filed 2–6–97; 8:45 am]

BILLING CODE 6325–01–M

Excepted Service

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: This gives notice of positions placed or revoked under Schedules A and B, and placed under Schedule C in the excepted service, as required by Civil Service Rule VI, Exceptions from the Competitive Service.

FOR FURTHER INFORMATION CONTACT: Patricia H. Paige, Staffing Reinvention Office, Employment Service (202) 606–0830.

SUPPLEMENTARY INFORMATION: The Office of Personnel Management published its last monthly notice updating appointing authorities established or revoked under the Excepted Service provisions of 5 CFR 213 on January 16, 1997 (62 FR 2403). Individual authorities established or revoked under Schedules A and B and established under Schedule C between December 1, 1996, and December 31, 1996, appear in the listing below. Future notices will be published on the fourth Tuesday of each month, or as soon as possible thereafter. A consolidated listing of all authorities as of June 30 will also be published.

Schedule A

The following Schedule A authority was established:

Department of Defense

Asia-Pacific Center for Security Studies, Honolulu, Hawaii. The Director and Deputy Director. Effective December 23, 1996.

The following Schedule A authority was revoked:

Department of State

Bureau of Oceans and International Environmental and Scientific Affairs. Two Physical Science Administrative Officer positions at GS–16. Effective December 6, 1996.

Schedule B

No Schedule B authorities were established or revoked during December 1996.

Schedule C

The following Schedule C authorities were established during December 1996.

Commodity Futures Trading Commission

Special Assistant to the Commissioner. Effective December 19, 1996.

Department of the Army (DOD)

Staff Assistant for Policy to the Executive Staff Assistant. Effective December 2, 1996.

Department of Education

Director, Legislation Staff to the Assistant Secretary, for Legislation and Congressional Affairs. Effective December 3, 1996.

Special Assistant to the Inspector General. Effective December 6, 1996.

Special Assistant to the Director, Community Services Team, Office of

Intergovernmental and Interagency Affairs. Effective December 13, 1996.

Department of Health and Human Services

Special Assistant to the Deputy Assistant Secretary for Planning and Evaluation (Human Services Policy). Effective December 5, 1996.

Department of Housing and Urban Development

Special Assistant to the Assistant Secretary for Community Planning and Development. Effective December 6, 1996.

Department of the Interior

Special Assistant to the Director, National Park Service. Effective December 5, 1996.

Special Assistant to the Deputy Director, Bureau of Land Management. Effective December 13, 1996.

Department of Justice

Special Assistant to the Assistant Attorney General, Criminal Division. Effective December 9, 1996.

Department of Labor

Special Assistant to the Assistant Secretary for Public Affairs. Effective December 18, 1996.

Department of State

Legislative Management Officer to the Deputy Assistant Secretary, Bureau of Legislative Affairs. Effective December 2, 1996.

Legislative Management Officer to the Deputy Assistant Secretary, Bureau of Legislative Affairs. Effective December 2, 1996.

Department of the Treasury

Director, Scheduling and Advance to the Chief of Staff. Effective December 11, 1996.

Federal Labor Relations Authority

Director of External Affairs/Special Projects to the Chair, Federal Labor Relations Board. Effective December 20, 1996.

General Services Administration

Special Assistant to the Regional Administrator, Region 10, Auburn, Washington. Effective December 16, 1996.

Special Assistant to the Associate Administrator for Congressional and Intergovernmental Affairs. Effective December 20, 1996.

Office of National Drug Control Policy

Writer-Editor to the Director, Office of National Drug Control Policy. Effective December 11, 1996.

Executive Assistant to the Chief of Staff. Effective December 13, 1996.

Office of the United States Trade Representative

Congressional Affairs Specialist to the Assistant U.S. Trade Representative for Congressional Affairs. Effective December 11, 1996.

Securities and Exchange Commission

Special Assistant to the Chairman. Effective December 20, 1996.

Small Business Administration

Special Assistant to the Administrator, Office of Human Resources. Effective December 2, 1996.

U.S. International Trade Commission

Attorney-Advisor (General) to the Chairman. Effective December 20, 1996.

United States Information Agency

Special Assistant to the Chief of Staff, Office of the Director. Effective December 5, 1996.

Authority: 5 U.S.C. 3301 and 3302; E.O. 10577, 3 CFR 1954–1958 Comp., P. 218.

Office of Personnel Management.

James B. King,

Director.

[FR Doc. 97–2982 Filed 2–6–97; 8:45 am]

BILLING CODE 6325–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 35–26658]

Filings Under the Public Utility Holding Company Act of 1935, as Amended (''Act'')

January 31, 1997.

Notice is hereby given that the following filing(s) has/have been made with the Commission pursuant to provisions of the Act and rules promulgated thereunder. All interested persons are referred to the application(s) and/or declaration(s) for complete statements of the proposed transaction(s) summarized below. The application(s) and/or declaration(s) and any amendments thereto is/are available for public inspection through the Commission's Office of Public Reference.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by February 24, 1997, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the relevant applicant(s) and/or declarant)s) at the address(es) specified below. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After said date, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

Entergy Corporation, et al. (70–8105)

Entergy Corporation, 639 Loyola Avenue, New Orleans, Louisiana 70113 (''Entergy''), a registered holding company, and its nonutility subsidiary company, Entergy Enterprises, Inc. (''Enterprises''), Three Financial Center, 900 S. Shackleford Road, Suite 210, Little Rock, Arkansas 72211 (''Enterprises'') (together, ''Applicants''), have filed a post-effective amendment to their application-declaration under sections 6(a), 7, 9(a), 10, 12(b) and 13(b) of the Act and rules 45, 52, 54, 87, 90, and 91 thereunder.

By prior Commission order, dated July 8, 1993 (HCAR No. 25848) (''1993 Order''), Enterprises was authorized by the Commission to: (1) Conduct preliminary development activities with respect to potential investments by Entergy in various energy, energy related and other nonutility businesses; (2) provide consulting services (''Consulting Services'') to nonassociate companies, using the expertise and resources of the Entergy system companies; and (3) provide management and administrative support services (''Administrative Services'') to associate companies engaged in certain energy, energy related and other nonutility businesses, exclusive of associate companies which are ''exempt wholesale generators'' (''EWGs'') or foreign utility companies (''FUCOs'') under sections 32 and 33, respectively, of the Act. In addition, the 1993 Order authorized Enterprises to receive certain administrative and other support services for the system utility operating companies (''Operating Companies'') and Entergy's service company subsidiary, Entergy Services, Inc., in support of its ongoing business activities.

Pursuant to a subsequent Commission order, dated June 30, 1995 (HCAR No. 26322) (''1995 Order''), Enterprises' business authorization was expanded to include the following additional activities: (1) The provision of Consulting Services to associate companies, including EWGs, FUCOs, and qualifying facilities (''QFs'') under

the Public Utility Regulatory Policies Act of 1978, as amended, excluding the Operating Companies, ESI and such other existing or new subsidiaries as Entergy may create, whose activities and operations are primarily related to the domestic sale of electric energy at retail or at wholesale to affiliates or who provide goods and services to such companies (collectively, ''Excepted Companies''); (2) the provision of operations and management services (''O&M Services''), directly or indirectly through newly established subsidiaries (''O&M Subs'') of Entergy or Enterprises, to developers, owners and operators of domestic and foreign power projects, including power projects that Enterprises may develop on its own or in collaboration with third parties, and to other associate companies, exclusive of the Excepted Companies [1]; (3) the licensing or other marketing to nonassociatate companies of intellectual property, including software and other products, acquired or developed by Entergy system companies; and (4) the provision of Administrative Services to all of Enterprises' associate companies, exclusive of the Excepted Companies, including associate EWGs and FUCOs.

Enterprises is also authorized under the 1995 Order to provide Consulting Services and O&M Services to its associated companies, excluding the Excepted Companies, at fair market prices, under an exemption pursuant to section 13(b) of the Act from the requirements of rules 90 and 91, subject to certain limitations with respect to the provision of services to associate power projects. The 1995 Order further approves certain financing transactions involving Entergy and Enterprises. Specifically, Entergy is authorized to provide additional financing for the activities of Enterprises, including the issuance of guarantees on behalf of Enterprises, and Entergy and Enterprises are authorized to organize and fund O&M Subs and to issue guarantees on behalf of an O&M Sub or other associate companies, other than the Excepted Companies, from time-to-time through December 31, 1997, provided that the aggregate amount of such investments and guarantees does not exceed $350 million at any one time outstanding.

Enterprises seeks authorization to engage in the previously authorized business activities and related associate and financing transactions, either directly or indirectly, through one or more new direct or indirect subsidiaries (collectively, ''Enterprises Subs''). The Applicants further seek authorization to make investments in such Enterprises Subs from time-to-time through December 31, 1997 in the form of common stock purchases, capital contributions, open account advances, loans, conversions of loans to capital contributions and guarantees of indebtedness or other obligations. To the extent that such transactions are not exempt under the Act, the aggregate amount of such investments, including guarantees, in or on behalf of such Enterprises Subs, when added to: (1) Any investments made by Enterprises Subs in O&M Subs or any guarantees issued by such Enterprises Subs on behalf of O&M Subs or other associate companies, other than the Excepted Companies; and (2) any investments, including guarantees, authorized to be made or issued by Entergy or Enterprises under the 1995 Order, will not exceed the $350 million investment limitation set forth in the 1995 Order.

Eastern Utilities Associates, et al. (70–8955)

Eastern Utilities Associates (''EUA''), P.O. Box 2333, Boston, Massachusetts 02107, a registered holding company, and its subsidiaries, Blackstone Valley Electric Company (''Blackstone''), Washington Highway, Lincoln, Rhode Island 02865, Eastern Edison Company (''Eastern''), 110 Mulberry Street, Brockton, Massachusetts 02403, Montaup Electric Company (''Montaup''), P.O. Box 2333, Boston, Massachusetts 02107, and Newport Electric Corporation (''Newport''), 12 Turner Road, Middleton, Rhode Island 02840 (collectively, ''Declarants'') have filed a declaration (''Declaration'') under sections 6(a), 7 and 12(b) of the Act and rule 54 thereunder.

Declarants propose to enter into a revolving credit facility (''Facility'') from which they and certain other EUA subsidiaries will be permitted to borrow from time to time, from one or more commercial banks or other lending institutions (''Lenders'') up to $150 million in the aggregate through a period ending five years after the closing date of the agreement.[2]

Borrowings may take the form of: (i) Borrowings from all Lenders under the Facility on a pro rata basis (''Pro Rata Borrowings''); (ii) borrowings of at least $100,000 each and up to $20 million in the aggregate (''Swing Line Borrowings'') from a particular Lender (''Swing Line Lender''); and (iii) short-term borrowings for a period from seven days to 180 days from Lenders on a competitive bid basis (''Competitive Bid Borrowings''). All borrowings under the Facility will be unsecured and will be evidenced by promissory notes.

The following Declarants and Affiliates will have the following respective maximum borrowing limits under the Facility: Blackstone, $20 million; Newport, $25 million; Eastern, $75 million; Montaup, $20 million; Cogenex, $75 million; Ocean State, $10 million; ESC, $10 million; and EUA, $75 million. Access to the Facility will be limited for a Declarant or an Affiliate other than Cogenex if such Declarant or Affiliate reduces its operating income by more than 20% as a result of selling an income-generating asset, and will be eliminated for a Declarant or an Affiliate other than Cogenex if such Declarant or Affiliate reduces its operating income by more than 50% as a result of selling an income-generating asset.

Declarants state it has become necessary for EUA to guaranty the short term borrowings of Cogenex until such time as Cogenex satisfies certain performance criteria; upon Cogenex's satisfaction of such performance criteria, such guaranty by EUA shall be released. Consequently, EUA proposes to guaranty up to $75 million of Cogenex's borrowings under the Facility.

EUA states that, for the funding of short-term loans to Cogenex, EUA shall limit its borrowings under the Facility up to $25 million in the aggregate, the amount currently authorized in an order dated April 5, 1995 (HCAR No. 26266) (''Cogenex Order''). The terms and conditions of any loans made to Cogenex would be the same as the terms and conditions under the Facility. EUA further agrees that with the exception of the borrowings described in the first sentence of this paragraph (i.e., up to $25 million in the aggregate), EUA would not use any of its proposed borrowings under the facility to invest in Cogenex.

Declarants will pay interest on any Pro Rata Borrowings, at the borrower's election, at a rate which is: (i) The greater of the Bank of New York's prime

[1] Enterprises is authorized to render such O&M Services using its own work force and the personnel and resources of the Excepted Companies obtained pursuant to service agreements. Subject to receipt of requisite Commission approval, the Excepted Companies would be reimbursed for the fully allocated cost of any services, including administrative and other services, as well as O&M Services, provided to Enterprises or any O&M Sub, plus 5%.

[2] The other subsidiaries, EUA Cogenex Corporation (''Cogenex''), EUA Ocean State Corporation (''Ocean State''), EUA Service Corporation (''ESC''), EUA Energy Investment Corporation (''EEIC'') and EUA Energy Services, Inc. (''EUA Energy'') (collectively, ''Affiliates''), intend to finance authorized activities through the Facility. The Affiliates have not joined the Declaration as parties, however, because such financing is exempt from prior approval pursuant to rules 45 and 52.

commercial lending rate or the federal funds rate plus ½% (''Alternative Base Rate''); or (ii) the London Interbank Offering Rate (''LIBOR'') for the applicable interest period, plus a margin of at least 0.15% and up to 0.45%, which margin rate shall be based upon the then current bond ratings of Eastern's first mortgage bonds (''LIBOR Rate'').

Declarants will pay interest on any Swing Line Borrowings at a rate or rates to be determined by the borrower and the Swing Line Lender. Swing Line Borrowings in excess of $2.5 million in the aggregate could be converted, at the borrower's option, to Competitive Bid Borrowings or Pro Rata Borrowings. Swing Line Borrowings in excess of $20 million in the aggregate will be converted to Pro Rata Borrowings which would initially bear interest at the Alternate Base Rate. Upon the occurrence of an event of default by the borrower, or at the request of the Swing Line Lender, all outstanding Swing Line Borrowings could be replaced by and refinanced using the proceeds from Pro Rata Borrowings.

Declarants will pay interest on any Competitive Bid Borrowings at a rate or rates determined by competitive bid auction or auctions among the Lenders. If a Declarant so elects, the competitive bid auction agency will notify all of the Lenders of the requested loan amount, the date the loan will begin and the interest period for such loan, and will request that each Lender provide a quote for such loan. The Declarant may then choose to accept or reject any quotes it receives.

Interest calculations would be made on the basis of a 360-day year for the actual number of days elapsed except with respect to interest accruing at the Bank of New York's prime commercial lending rate, in which case interest would be calculated on the basis of a 365 or 366 day year for the actual number of days elapsed.

Any payment of principal and/or interest which is not paid when due would bear interest, to the extent permitted under applicable law, at a rate per annum equal to the interest rate otherwise applicable plus two percent.

Declarants will pay to the administrative agent for the Facility, for the pro rate account of the Lenders, an annual facility fee to be based upon the average daily amount of the Facility regardless of usage. The fee to be paid by the Declarants will be at least 0.10% and up to 0.30% of the average daily amount of the Facility, such percentage to be determined in accordance with the then current bond ratings of Eastern's first mortgage bonds. The administrative agent under the facility will be a commercial bank, initially the Bank of New York, which will be paid a one-time agency fee of $50,000. An administrative fee of $7,500 will be paid to the administrative agent at closing and on each subsequent anniversary of the closing during the term of the Facility. additionally, with respect to Competitive Bid Borrowings only, in the event that one or more Declarants request(s) a competitive bid, such Declarant(s) collectively will pay a $200 fee to the administrative agent kin connection with such request.

Borrowings under the Facility will replace borrowings authorized by the Commission pursuant to order dated December 19, 1995 (HCAR Nos. 26433) (which authorized short-term financing for Eastern, Montaup, Blackstone, Newport, ESC, and Ocean State). Upon issuance of an order authorizing the transactions proposed in the instant Declaration, the authorization granted pursuant to HCAR No. 26433 (Dec. 19, 1995) will be replaced in its entirety and will cease to have effect. In addition, as a result of replacing EUA's ''regular bank lines of credit,'' the Facility will become the source of borrowings by EUA: (I) For the financing of EEIC and borrowings authorized pursuant to HCAR Nos. 24515, 24515A and 26028 (Dec. 4, 1987, as amended Jan. 11, 1988, Apr. 15, 1994, respectively); (ii) authorized in connection with investments by EUA in EUA Energy, authorized HCAR No. 26493 (Mar. 14, 1996), as subsequently amended; and (iii) for the financing of Cogenex authorized pursuant to the Cogenex Order. The Commission orders issued in connection with the financing of EEIC (HCAR Nos. 24515A and 26028) and investment in EUA Energy (HCAR No. 26493) will remain in full force and effect, as presently written.

The authorization granted by the Cogenex Order will be replaced in its entirety and will cease to have effect upon the issuance of the Commission's order authorizing the transactions proposed in this Declaration; provided, that the Commission's order authorizing the transactions proposed in this Declaration shall include authorization, through December 31, 1997, for the following transactions, as previously authorized by the Cogenex Order:

(a) EUA proposes to invest in Cogenex up to an aggregate principal amount of $50 million in one or any combination of short-term loans, capital contributions, or purchases of Cogenex common stock.

(b) Cogenex proposes to obtain financing in an aggregate principal amount not to exceed $200 million from any of the following sources: (i) Up to $50 million from EUA, as described in (a) above, and (ii) $150 million from one or any combination of (A) the issuance and sale of unsecured notes (''New Notes'') through a private or a public offering, (B) the borrowing of proceeds from the issuance or sale of bonds by a state or political subdivision agency (''Bonds''), and (C) the borrowing of up to $75 million under the Facility. Should it become necessary to secure more favorable terms for the New Notes or Bonds, EUA proposes to guarantee, or provide an equity maintenance agreement for all or a portion of the obligations of Cogenex on the New Notes and Bonds. EUA and Cogenex request that the Commission reserve jurisdiction over the issuance and sale of the New Notes and Bonds and EUA's guarantee of or provision of an equity maintenance agreement for the New Notes and Bonds pending completion of the record.

(c) Cogenex proposes to extend its authority to invest in Northeast Energy Management, Inc. (''NEM'') and EUA Cogenex-Canada, Inc. (''Cogenex-Canada''), two wholly-owned non-utility subsidiaries of Cogenex, and their authority to borrow funds, with no increase in the amount of authorized funding. By Commission order date January 28, 1994 (HCAR No. 25982), the Commission authorized Cogenex to invest in NEM, and NEM to borrow from Cogenex, up to an aggregate $9.1 million. By Commission order dated September 30, 1994 (HCAR No. 26135), the Commission authorized Cogenex to provide equity and debt funding for Cogenex-Canada and for Cogenex-Canada to borrow from third parties in amounts not to aggregate more than $20 million outstanding. These authorizations were extended from December 31, 1995 through December 31, 1997 by the Cogenex Order.

The Facility will be used: (i) To pay, reduce or renew outstanding notes payable to banks as they become due; (ii) to finance the Declarants' respective cash construction expenditures for fiscal years 1996 through 2000; (iii) to provide funds to meet certain sinking fund requirements and retirements or redemptions of outstanding securities; (iv) in the case of EUA, to make short-term loans, capital contributions and open account advances in accordance with rule 45(b)(4) or rule 52 or as previously authorized by the Commission to Cogenex, EEIC and EUA Energy; (v) to pay for the cost of issuance of New Notes and Bonds of Cogenex; (vi) to provide for debt servicing reserves or expenses in connection with the issuance of New

Notes and Bonds; (vii) for the declarants' respective working capital requirements; and (viii) for other general corporate purposes.

GPU, Inc. (70–8983)

GPU, Inc., (''GPU'') 100 Interspace Parkway, Parsippany, New Jersey 07054, a registered holding company, has filed a declaration under sections 6(a), 7, and 12(e) of the Act, and rules 54 and 62 thereunder.

GPU proposes to issue up to an additional 200,000 shares of its common stock (''Common Stock''), under a new deferred unit stock plan (''New Plan'') for payment of a portion of outside directors' compensation.

GPU currently has in effect a retirement plan for outside directors which provides that each outside director who completes 54 months of service prior to retirement is entitled to receive one-twelfth of the sum of the director's annual retainer and the cash value of the last award under GPU's restricted stock plan for outside directors (''1989 Plan'').[3] Benefits are payable commencing at the later of age 60 or retirement over a period equal to the number of months of service.

GPU desires to align the interests of its directors more closely with those of its stock holders by paying a greater portion of the outside directors' compensation in the form of Common Stock. Accordingly, GPU proposes to cease further accrual of service under the 1989 Plan and provide for the issuance of Common Stock to outside directors under the New Plan.

GPU requests authorization to issue up to an additional 200,000 shares of Common Stock under the New Plan from time to time through December 31, 2007.[4] Under the New Plan, each outside director would receive an annual grant of units (one unit represents a share of Common Stock) based on a multiple (initially anticipated to be 1.5, but which may be changed from time to time) of the amount of annual cash retainer paid to each outside director. This amount will be set by the board of directors, and may be increased or decreased by board resolution. The number of units granted each year will thus vary based on (i) the price of the Common Stock, (ii) the amount of the annual cash retainer and (iii) the multiplier used. Units would vest upon the outside director's retirement from the board, provided the outside director has completed at least 54 months of service as an outside director, or death. Units which have not vested at the time of an outside director's retirement would be forfeited.

GPU intends to request that its stockholders approve the New Plan at the 1997 annual meeting, and accordingly requests authorization to solicit proxies from its shareholders at this meeting. The related proxy materials are expected to be mailed before March 31, 1997. Subject to shareholder approval, the New Plan would be effective as of July 1, 1997.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–3031 Filed 2–6–97; 8:45 am]

BILLING CODE 8010–01–M

[3] By order dated March 30, 1989 (HCAR No. 24851), the Commission authorized GPU to issue up to 20,000 shares of Common Stock under this plan. Under the 1989 Plan, which was approved by GPU's shareholders, each outside director receives a portion of his or her annual compensation in the form of 300 shares of Common Stock.

[4] This authorization would be in addition to the current authorization to issue up to 20,000 shares, and the New Plan would not alter the automatic award of 300 shares annually to outside directors under the 1989 Plan.

[Investment Company Act Rel. No. 22488; 812–10504]

Nationwide Financial Services, Inc., et al.; Notice of Application

February 3, 1997.

AGENCY: Securities and Exchange Commission (''SEC'').

ACTION: Notice of application for exemption under the Investment Company Act of 1940 (''Act'').

APPLICANTS: Nationwide Financial Services, Inc. (the ''Company''), Nationwide Life Insurance Company (''NLIC''), and Nationwide Life and Annuity Insurance Company (collectively with NLIC, ''Nationwide Life'').

RELEVANT ACT SECTIONS: Exemption requested under sections 6(c) and 17(b) of the Act from section 17(a).

SUMMARY OF APPLICATION: Applicants seek an order that would permit the Company to sell securities of which it is the issuer to registered investment companies that are affiliated persons of certain registered investment companies funded by the separate accounts of Nationwide Life.

FILING DATES: The application was filed on January 17, 1997, and amended on January 31, 1997.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on February 24, 1997, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request such notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, N.W., Washington, D.C. 20549. Applicants, One Nationwide Plaza, Columbus, Ohio 43215.

FOR FURTHER INFORMATION CONTACT: Courtney S. Thornton, Senior Counsel, at (202) 942–0583, or Mercer E. Bullard, Branch Chief, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee from the SEC's Public Reference Branch.

Applicants' Representations

1. The Company is an entity that recently has been formed to hold all the outstanding shares of Nationwide Life, an Ohio domiciled life insurance company, and other companies within the Nationwide Insurance Enterprise, a group of insurance and financial services organizations that includes Nationwide Corporation (''Nationwide Corp.''). Nationwide Corp. will own all the Class B shares of the Company and, as a result, will have voting control of the Company.

2. Nationwide Life, a provider of long-term savings and retirement products to domestic retail and institutional customers, offers several variable annuity and variable life insurance products. Certain of these products permit a customer to choose among multiple investment options, including shares of registered open-end management investment companies (the ''Variable Product Funds'').[1] At present, the Variable Product Funds include funds managed by investment advisers such as Mellon Equity Associates, Strong Capital Management, Inc., Fidelity Management & Research Company, Neuberger & Berman

[1] Other investment options include series of registered investment companies managed, advised, or sponsored by applicants. These investment companies are not included in the definition of Variable Product Fund and are not covered by this application.

Management Incorporated, Oppenheimer Management Corporation, Van Eck Associates Corporation, Van Kampen American Capital Asset Management, Inc., and Warburg Pincus Counsellors, Inc., each of whom is independent of applicants (the ''Independent Advisers''). The Independent Advisers also serve as advisers or subadvisers to many other registered investment companies, most of which are offered to the general public (the ''Retail Funds'').

3. The variable annuity and variable life insurance products are funded by the separate accounts of Nationwide Life (the ''Separate Accounts''), each of which has been established as a unit investment trust registered under the Act. Under Ohio law, Nationwide Life is the owner of all assets held in the Separate Accounts, although the income, gains, and losses on assets in the Separate Accounts are allocated to the Accounts for the benefits of the related variable contracts. Each Separate Account is divided into multiple subaccounts, and the assets of each subaccount are invested in shares of a specific Variable Product Fund. Although the Variable Product Funds initially are selected by Nationwide Life (which may add or remove Funds from time to time), investments in those Funds are determined by Nationwide Life policyholders, who select the subaccounts and thereby the Variable Product Funds in which to invest.

4. In order to allow Nationwide Life's variable policies to be treated as insurance products for tax purposes, the Variable Product Funds are held solely by the Separate Accounts or by the separate accounts of other insurance companies.[2] Although the Variable Product Funds are available to other insurance companies, the number of potential participating companies is limited. Thus, in many cases, the Separate Accounts own, in the aggregate, more than 25% of the voting securities of a Variable Product Fund (a ''Controlled Variable Product Fund''). In other cases, the Separate Accounts hold less than 5% of the voting securities of a Variable Product Fund (a ''Remote Variable Product Fund''). Neither the Retail Funds nor the Remote Variable Product Funds are affiliated persons or affiliated persons of affiliated persons of the Company except to the extent they share a common investment adviser with the Controlled Variable Product Funds.

5. The Company proposes to make a number of securities offerings within the next year and from time to time thereafter (the ''Offerings''). The Offerings will include Class A shares of the Company's common stock, 30 year senior notes, and capital securities of a trust established by the Company (collectively, the ''Securities''). All Offerings will have certain characteristics in common: (a) The Securities will be sold to registered investment companies as part of the offering to the public; (b) the Securities will be registered under the Securities Act of 1933 (the ''Securities Act''); (c) all sales will be underwritten on a firm commitment basis by members of the National Association of Securities Dealers (''NASD''); (d) there will be no special arrangement to induce fund managers to deviate from normal fund investment policies, as stated in its prospectus; and (e) registered investment companies will invest in the Offerings on the same terms as all other public investors.

Applicants' Legal Analysis

1. Applicants request an order to permit the sale by the Company of Securities to the Retail Funds and the Remote Variable Product Funds in one or more Offerings at various times in the future. Section 17(a)(1) of the Act prohibits an affiliated person of an investment company, or an affiliated person of an affiliated person, acting as principal, from selling any security or property to such company. Applicants believe that the Company may be deemed to be an affiliated person of affiliated persons of the Retail Funds and the Controlled Variable Product Funds.

2. Section 2(a)(3) of the Act defines an affiliated person of another person to include the investment adviser or depositor of an investment company and any person directly or indirectly controlling, controlled by, or under common control with such other person. Section 2(a)(9) defines control as the power to exercise a controlling influence over the management or policies of a company. Thus, an investment company may be considered to be controlled by its investment adviser. Section 2(a)(9) further provides that a person owning beneficially, directly or indirectly through controlled subsidiaries, more than 25% of the voting securities of a company is presumed to control such company.

3. The Company controls Nationwide Life, a wholly-owned subsidiary of the Company. Because a life insurance company owns the assets of its separate accounts under Ohio insurance law, both the Company and Nationwide Life are presumed to control (and thus be affiliated persons of) any Variable Product Fund of which Nationwide Life owns more than 25% of the voting securities (*i.e.*, the Controlled Variable Product Funds). The Retail Funds and the Remote Variable Product Funds may be deemed to be affiliated persons of the Controlled Variable Product Funds because they are under the common control of common investment advisers. As an affiliated person of the Controlled Variable Product Funds, and therefore an affiliated person of affiliated persons of the Retail Funds and the Remote Variable Product Funds, the Company would be prohibited by section 17(a)(1) from selling Securities to the Retail Funds and the Remote Variable Product Funds absent an exemption.

4. Section 17(b) of the Act provides that the SEC may exempt a transaction from the prohibitions of section 17(a) if the terms of the proposed transaction (including the consideration to be paid or received) are reasonable and fair and do not involve overreaching on the part of any person concerned, and the proposed transaction is consistent with both the policy of each registered investment company concerned and the general purpose of the Act. Applicants submit that the proposed sales of Securities to the Retail Funds and the Remote Variable Product Funds meet the requirements for an exemption under section 17(b). Applicants state that the Retail Funds and the Remote Variable Product Funds will purchase the Securities on the same basis as all other public investors and at the public offering price stated in the prospectus. This price will be determined by negotiations between the Company and the underwriters of the Offerings, who will be subject to the NASD Rules of Fair Practice. Applicants therefore do not believe that the proposed transactions will involve any overreaching on the part of the Company or any of its affiliated persons. In addition, the Independent Advisers will decide whether to purchase the Securities for the Retail Funds and the Remote Variable Product Funds, and applicants will have no influence or control over such decisions. Accordingly, applicants assert that the proposed transactions are consistent with the general purposes of the Act.

5. Section 6(c) of the Act provides that the SEC may conditionally or unconditionally exempt any person,

[2] To be treated as insurance products for tax purposes, the Separate Accounts must be adequately diversified in accordance with section 817(h) of the Internal Revenue Code of 1986. An investment in a registered investment company will satisfy this requirement only if shares of the fund are not available to the general public, but may be acquired only through the ownership of an insurance policy or an interest in a pension plan contract.

security, or transaction, or any class or classes of persons, securities, or transactions, from any provisions of the act, if and to the extent such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.[3] Applicants believe that the proposed transactions are necessary or appropriate in the public interest because they allow the Retail Funds and the Remote Variable Product Funds and their shareholders the opportunity to participate in investment opportunities that meet the Funds' investment objectives and avoid a reduction in or possible loss of investment opportunities. Applicants also assert that the types of abuses the Act was intended to prevent are unlikely to occur in the proposed transactions for the reasons discussed above. Accordingly, applicants submit that the proposed transactions meet the requirements for an exemption under section 6(c).

Applicants' Conditions

Applicants agree that any order granting the requested relief will be subject to the following conditions:

1. The Retail Funds and the Remote Variable Product Funds will purchase Securities of the Company in an Offering only if such Securities are part of an issue registered under the Securities Act that is being offered to the public. All such purchases will be effected at the public offering price stated in the prospectus and in the same manner as sales to the general public.

2. All Offerings will be underwritten on a firm commitment basis by members of the NASD.

3. No registered investment company that is an affiliated person or an affiliated person of an affiliated person of the Company, other than by reason of sharing a common investment adviser with a Controlled Variable Product Fund, will be permitted to purchase Securities in an Offering, including Securities issued pursuant to the underwriters' over-allotment option.

4. Applicants will not offer any incentives to the investment advisers of the Retail Funds or the Remote Variable Product Funds to purchase Securities of the Company, and will take no action to induce fund managers to deviate from the Funds' stated investment policies.

5. No investment adviser to a Retail Fund or a Remote Variable Product Fund will be an affiliated person of applicants other than by reason of being an investment adviser to a Variable Product Fund.

For the SEC, by the Division of Investment Management, under delegated authority

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–3064 Filed 2–6–97; 8:45 am]

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[3] Applicants seek relief under section 6(c) as well as section 17(b) because section 17(b) could be interpreted as giving the SEC power to exempt only a single transaction from section 17(a), as opposed to a class of transactions. *See* Keystone Custodian Funds, Inc., 21 S.E.C. 295 (1945).

[Release 34–38224; File No. 600–24]

Self-Regulatory Organizations; Delta Clearing Corp.; Notice of Filing and Order Approving Application for Extension of Temporary Registration as a Clearing Agency

January 31, 1997.

On January 17, 1997, Delta Clearing Corp. (''DCC'')[1] filed with the Securities and Exchange Commission (''Commission'') a request pursuant to Section 19(a) of the Securities Exchange Act of 1934 (''Act'')[2] for extension of its registration as a clearing agency under Section 17A of the Act[3] for a period of six months or for such longer period as the Commission deems appropriate.[4] The Commission is publishing the notice and order to solicit comments from interested persons and to grant DCC's request for an extension of its temporary registration as a clearing agency through July 31, 1997.

On January 12, 1990, the Commission granted DCC's application for registration as a clearing agency pursuant to Sections 17A(b)(2) and 19(a) of the Act[5] on a temporary basis for a period of thirty-six months.[6] Since that time, the Commission has extended DCC's temporary registration as a clearing agency through January 31, 1997.[7] DCC now requests that the Commission grant an extension of its original order granting DCC temporary registration as a clearing agency subject to the same terms and conditions for a period of six months or for such longer period as the Commission deems appropriate.

As discussed in detail in the order granting DCC's initial temporary registration as a clearing agency,[8] one of the primary reasons for DCC's registration is to enable it to provide for the safe and efficient clearance and settlement of transactions involving the over-the-counter trading of options on U.S. Treasury securities. Since the time, the Commission has approved DCC's request to begin clearance and settlement of repurchase agreement transactions involving U.S. Treasury securities as the underlying instrument.[9] Currently, repurchase agreement transactions constitute the majority of the transactions cleared by DCC.

In light of DCC's past performance, the Commission believes that DCC has the capacity to comply with the statutory obligations set forth under Section 17A(b)(3) of the Act,[10] which sets forth the prerequisites for registration as a clearing agency. However, the Commission believes that DCC should continue to be registered on a temporary basis. Currently, DCC has an exemption from the fair representation requirements of Section 17A(b)(3)(C) of the Act.[11] The Commission believes that this should be resolved prior to DCC's registration becoming permanent. Further, DCC has only recently begun providing clearance services for repurchase agreement transactions, which constitutes the vast majority of its operations.[12] The Commission would like the opportunity of observing DCC's performance in this area prior to a grant of permanent registration as a clearing agency. Comments received during DCC's temporary registration will be considered in determining whether DCC should receive permanent registration as a clearing agency under Section 17A(b) of the Act.[13]

Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submission should file six copies thereof with the

[1] Formerly Delta Government Options Corp.

[2] 15 U.S.C. 78s(a).

[3] 15 U.S.C. 78q–1.

[4] Letter from Robert C. Mendelson, Esq., Morgan, Lewis and Bockius, to Jerry W. Carpenter, Assistant Director, Division of Market Regulations, Commission (January 16, 1997).

[5] 15 U.S.C. 78q–1(b)(2) and 78s(a).

[6] Securities Exchange Act Release No. 27611 (January 12, 1990), 55 FR 1890.

[7] Securities Exchange Act Release Nos. 31856 (February 11, 1993), 58 FR 9005 (extension until January 12, 1995) and 35198 (January 6, 1995), 60 FR 3286 (extension until January 31, 1997).

[8] Supra note 6.

[9] Securities Exchange Act Release No. 36367 (October 13, 1995), 60 FR 54095.

[10] 15 U.S.C. 78q–1(b)(3).

[11] 15 U.S.C. 78q–1(b)(3)(C).

[12] DCC also has recently or is in the process of making several major changes to its operational structure. For example, DCC was recently sold by its original owner, Cawsl Corp., to three purchasers led by Intercapital Group Ltd. In addition, DCC is in the process of selecting a new facilities manager and in automating several of its processes.

[13] 15 U.S.C. 78q–1(b).

Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington D.C. 20549. Copies of the submissions, all subsequent amendments, all written statements with respect to the request for extension of temporary registration as a clearing agency that are filed with the Commission, and all written communications relating to the requested extension between the Commission and any person, other than those that may be withheld form the public in accordance with the provisions of 5 U.S.C. § 552, will be available for inspection and copying in the Commission's Public Reference Room, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of such filing will also be available for inspection and copying at the principal office of DCC. All submissions should refer to the File No. 600–24 and should be submitted by February 28, 1997.

Conclusion

On the basis of the foregoing, the Commission finds that DCC's request for extension of temporary registration as a clearing agency is consistent with the Act and in particular with Section 17A of the Act.

It is therefore ordered, that DCC's temporary registration as a clearing agency (File No. 600–24) be, and hereby is extended through July 31, 1997.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[14]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–3065 Filed 2–6–97; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–38226; File No. SR–NASD–97–03]

Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change by National Association of Securities Dealers, Inc. and the Nasdaq Stock Market, Inc. Relating to the Filing of Changes to Total Shares Outstanding and Corporate Name of Nasdaq Issuers

January 31, 1997.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on January 22, 1997, the National Association of Securities Dealers, Inc. (''NASD'') and the Nasdaq Stock Market, Inc. (''Nasdaq'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by Nasdaq. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons and to grant accelerated approval to the proposed rule change.

I. Self-regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

NASD and Nasdaq are proposing to amend Nasdaq's listing requirements to restore a filing requirement that requires a Nasdaq-listed company to notify NASD and Nasdaq when it changes the amount of shares outstanding by more than 5% or changes its corporate name. Below is the text of the proposed rule change. Proposed new language is in italics; there are no deletions.

Qualification Requirements for Domestic and Canadian Securities

* * * * *

Rule 4310(c)(20)

The issuer shall notify the Association promptly in writing of any change in the general character or nature of its business and any change in the address of its principal executive offices. *The issuer also shall file on a form designated by the Association notification of any corporate name change no later than 10 days after the change.*

Rule 4310(c)(24)

The issuer shall file, on a form designated by the Association no later than 10 days after the occurrence, any aggregate increase of any class of securities included in Nasdaq that exceeds 5% of the amount of securities of the class outstanding.

Qualification Requirements for Non-Canadian Foreign Securities and American Depositary Receipts

* * * * *

Rule 4320(e)(19)

The issuer shall notify the Association promptly in writing of any change in the general character or nature of its business and any change in the address of its principal executive offices. *The issuer also shall file on a form designated by the Association notification of any corporate name change no later than 10 days after the change.*

Rule 4320(e)(21)

The issuer shall file, on a form designated by the Association no later than 10 days after the occurrence, any aggregate increase or decrease of any class of securities included in Nasdaq that exceeds 5% of the amount of securities of the class outstanding.

II. Self-regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In their filing with the Commission, the NASD and Nasdaq included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Items III below. Nasdaq has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Effective July 15, 1996, the SEC eliminated Rules 13a–17 and 15d–17, and Form 10–C under the Exchange Act. These rules required Nasdaq-listed companies to report to the SEC and the NASD: (1) Aggregate increases or decreases of a class of securities that exceed 5% of the amount of securities of the class outstanding; and (2) corporate name changes. The SEC eliminated these requirements as part of a general streamlining of their disclosure requirements, stating that the information could be found in a company's financial statements.[3]

Because NASD Rules 4310(c)(14) and 4320(e)(13) require Nasdaq issuers to file with the NASD and Nasdaq any filings submitted to the SEC, the elimination of the SEC requirements has, in effect, eliminated timely notification of this information to the NASD and Nasdaq.

It is important, however, for the NASD and Nasdaq to continue to receive this information from issuers as it becomes available. Information concerning total shares outstanding is necessary to calculate market capitalization and adjust the various market indices that contain Nasdaq securities. In addition, the information is relevant to Nasdaq listing

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[14] 17 CFR 200.30–3(a)(50)(i).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Exchange Act Release No. 37262 (May 31, 1996), 61 FR 30397 (''Phase One Recommendations of Task Force on Disclosure Simplification'').

requirements regarding minimum public float, and a ''market capitalization'' test that Nasdaq is in the process of proposing. Corporate name charge information also must be kept up to date.

2. Statutory Basis

The NASD and Nasdaq believe the proposed rule change is consistent with Sections 15A(b)(6)[4] and 11A(a)(1)(C)[5] of the Act. Section 15A(b)(6) requires that the rules of a national securities association be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, and to remove impediments to and perfect the mechanism of a free and open market. Section 11A(a)(1)(C) provides that it is in the public interest and appropriate for the protection of investors to, among other things, assure the availability to brokers, dealers, and investors of information with respect to quotations for and transactions in securities. The restoration of the notification requirement is necessary to ensure that the NASD and Nasdaq have current information on the total shares outstanding for Nasdaq issuers. This information is important to accurately calculate market capitalization and adjust indices containing Nasdaq securities. These indices are relied upon by market participants and the public to indicate the value and movement, in the aggregate, of the securities of which they are comprised. In addition, the information is relevant to Nasdaq listing standards. Records regarding corporate name changes also must be kept current.

B. Self-Regulatory Organization's Statement on Burden on Competition

The NASD and Nasdaq do not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to File No. SR–NASD–97–03 and should be submitted by February 28, 1997.

IV. Commission's Findings and Order Granting Accelerated Approval of Proposed Rule Change

The Commission finds that the NASD's and Nasdaq's proposal is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities association. Specifically, the Commission finds that the proposed rule change is consistent with Sections 15A(b)(6)[6] and 11A(a)(1)(C)[7] of the Act, which require that a national securities association have rules that are designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and, in general, to protect investors and the public interest.

The Commission believes that this proposal is consistent with Section 15A(b)(6) and 11A(a)(1)(C) of the Act because it will reinstate filing requirements imposed on Nasdaq-listed companies prior to the elimination of Form 10–C by the Commission. The reinstatement of the notification requirement will ensure that the NASD and Nasdaq continue to receive pertinent information relating to Nasdaq-listed companies on a timely basis. The Commission believes that the continued receipt of timely information relating to changes in the amount of shares outstanding of more than 5% or changes in corporate name of Nasdaq-listed companies may prevent fraudulent or manipulative acts and practices and will serve the public interest as such information is relied upon by market participants. The Commission therefore finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice thereof in the Federal Register.

It is therefore ordered, pursuant to Section 19(b)(2)[8] of the Act, that the proposed rule change (File No. SR–NASD–97–03) is hereby approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[9]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–3067 Filed 2–6–97; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–38221; File No. SR–NYSE–96–38, SR–Amex–96–49, SR–CBOE–96–78, SR–CHX–96–33, SR–BSE–96–12, and SR–Phlx–97–03]

Self-Regulatory Organizations; Order Granting Approval To Proposed Rule Changes by the New York Stock Exchange, Inc., American Stock Exchange, Inc., and Chicago Board Options Exchange, Incorporated; and Order Granting Accelerated Approval To Proposed Rule Change by the Chicago Stock Exchange, Incorporated, and Boston Stock Exchange, Inc., and Notice of Filing and Order Granting Accelerated Approval To Proposed Rule Change by the Philadelphia Stock Exchange Inc., and Amendment No. 1 to the Proposed Rule Change by the Chicago Board Options Exchange, Incorporated, Relating to Amendments to Their Respective Market-Wide Circuit Breaker Provisions

January 31, 1997.

I. Introduction

On December 11, 1996, the New York Stock Exchange, Inc. (''NYSE''); on December 16, 1996, the American Stock Exchange, Inc., (''Amex''), on December 18, 1996, the Chicago Board Options Exchange, Incorporated (''CBOE''), and the Chicago Stock Exchange, Incorporated (''CHX''); on December 31, 1996, the Boston Stock Exchange, Inc. (''BSE''); and on January 6, 1997, the Philadelphia Stock Exchange, Inc. (''Phlx'') respectively (each individually referred to herein as an ''Exchange'' and

[4] 15 U.S.C. 78o–3(b)(6).

[5] 15 U.S.C. 78k–1(a)(1)(C).

[6] 15 U.S.C. 78o–3(b)(6).

[7] 15 U.S.C. 78k–1(a)(1)(C).

[8] 15 U.S.C. 78s(b)(2).

[9] 17 CFR 200.30–3(a)(12).

two or more collectively referred to as ''Exchanges''), submitted to the Securities and Exchange Commission (''SEC'' or ''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] proposed rule changes relating to certain market-wide circuit breaker provisions.

The proposed rule changes were published for comment in Securities Exchange Act Release Nos. 38047 (December 13, 1996), 61 FR 67087 (December 19, 1996) (NYSE); 38071 (December 20, 1996), 61 FR 68805 (December 30, 1996) (Amex); 38080 (December 23, 1996), 61 FR 69126 (December 31, 1996) (CBOE); 38130 (January 6, 1997), 62 FR 1938 (January 14, 1997) (CHX); and 38138 (January 8, 1997), 62 FR 2202 (January 15, 1997) (BSE). The BSE submitted to the Commission Amendment No. 1 on January 7, 1997,[3] and Amendment No. 2 on January 15, 1997.[4] The CBOE submitted to Commission Amendment No. 1 on January 17, 1997.[5] The Commission received one comment letter on the proposals.[6]

This order approves the proposed rule changes. The proposals by CHX, BSE, Phlx, and CBOE's Amendment No. 1 are being approved on an accelerated basis.

II. Description of the Proposal

The Exchanges propose to amend their rules relating to ''Trading Halts Due to Extraordinary Market Volatility—circuit breakers'' to increase the trigger levels for circuit breakers that impose temporary market-wide trading halts. The current circuit breakers are triggered if the Dow Jones Industrial Average (''DJIA'') declines by 250 and 400 points, respectively, from its previous day's close. A decline by 250 or more points would result in a one-half hour trading halt, while a decline of 400 or more points would cause trading to halt for an additional hour. Now, the Exchanges propose establishing new thresholds of 350 and 550 points in the DJIA before the respective one-half hour and one hour circuit breakers are triggered.[7] The Exchanges seek to effect these changes on a one-year pilot basis. The futures exchanges trading stock index futures have proposed analogous circuit breaker proposals with the Commodity Futures Trading Commission (''CFTC'') to halt trading in such contracts.[8]

III. Summary of Comments

The Commission received one comment letter—the Markey Letter—on the Exchanges' proposals.[9] The Markey Letter, while acknowledging ''the need for the Commission and its staff to continually reexamine the circuit breakers to determine their efficacy in light of changing market conditions,'' also expressed concern that ''the sheer size of the market movement which would occur before (the proposed) trading halt(s) (were) activated could be extremely disturbing to investors and could possibly disrupt the fair and orderly functioning of the markets.''[10]

The Markey Letter continued by stating ''that any changes to the circuit breakers could contribute to a much higher level of market volatility that might impair investor confidence or result in other unforeseen consequences.'' Finally, the Markey Letter recommended that, if the proposals are adopted, the Commission should consider establishing ''speed bumps'' at the intervening levels in order to reduce volatility before the actual trading halts are triggered.[11]

IV. Discussion

After careful review of the Exchanges' proposed amendments to their circuit breaker rules and the comment thereto, and for the reasons discussed below, the Commission believes that the proposed rule changes are consistent with the requirements of the Act and the rules and regulations thereunder applicable to national securities exchanges, and, in particular, with the requirements of Section 6(b).[12] Specifically, the Commission believes the proposals are consistent with the Section 6(b)(5) requirements that the rules of an exchange be designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, to prevent fraudulent and manipulative acts, and, in general, to protect investors and the public interest.[13]

In 1988, the Commission approved circuit breaker rule proposals by the

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[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Letter from Karen A. Aluise, Assistant Vice President, BSE, to Holly Smith, Associate Director, Office of Market Supervision (''OMS''), Division of Market Regulation (''Market Regulation''), Commission, dated January 7, 1997 (''BSE Amendment No. 1''), correcting a typographical error regarding the adjustment of its second circuit breaker trigger level. *See* Securities Exchange Act Release No. 38138 (January 8, 1997), 62 FR 2202.

[4] *See* Letter from Thomas J. Frain, Staff Attorney, BSE, to Chester A. McPherson, Staff Attorney, OMS, Market Regulation, Commission, dated January 15, 1997 (''BSE Amendment No. 2''), making clear that approval of its proposal superseded its existing circuit breaker provisions.

[5] *See* Letter from Arthur B. Reinstein, Senior Attorney, CBOE, to Chester A. McPherson, Staff Attorney, OMS, Market Regulation, Commission, dated January 17 1997 (''CBOE Amendment No. 1''), revising its Rule 6.3B to delete references to specific moves in the DJIA, and adopting a more general rule stating that circuit breakers will be triggered on the CBOE whenever circuit breakers are triggered on the NYSE.

[6] *See* Letter from the Honorable Edward J. Markey, Member of Congress, the United States House of Representatives, to Arthur Levitt, Chairman, SEC, dated December 16, 1996 (''Markey Letter''). For a description of the Markey Letter, *see infra* part III.

[7] The National Association of Securities Dealers, Inc. (''NASD''), Cincinnati Stock Exchange (''CSE''), and the Pacific Stock Exchange, Incorporated (''PSE'') have general rules that require them to halt trading during the intermarket circuit breakers. *See infra* note 15. Consequently, they do not need to file conforming rule changes because their circuit breaker halts will automatically conform to the halt periods adopted by the other exchanges. *See* Letters to Howard L. Kramer, Associate Director, OMS, Market Regulation, Commission, from Adam W. Gurwitz, Director of Legal Affairs, CSE, dated January 3, 1997; from David P. Semak, Vice President, Regulation, PSE, dated January 14, 1997; and from Richard Ketchum, Chief Operating Officer and Executive Vice President, NASD, dated January 15, 1997.

[8] *See* Letter to Howard L. Kramer, Associate Director, OMS, Market Regulation, Commission, from Stephen A. Sherrod, Chief, Financial Instruments Unit, CFTC, dated December 20, 1996. *See also* Letters to Jean A. Webb, Secretary, CFTC, from Norman E. Mains, Senior Vice President, Chief Economist and Director of Research, Chicago Mercantile Exchange (''CME''), dated December 17, 1996; from Richard T. Pombonyo, Managing Director, New York Futures Exchange, Inc. (''NYFE''), dated December 16, 1996; and from Jeff C. Borchardt, Senior Vice President, Kansas City Board of Trade (''KCBT''), dated December 18, 1996. For example, the most actively traded stock index futures contract is the Standard & Poor's 500 (''S&P 500'') stock index futures contract traded on the CME. Currently, if the S&P 500 futures are limit offered at the 30-point price limit and the securities markets have instituted the half-hour trading halt, the S&P 500 futures also will halt trading. The same procedure applies at the 50-point price limit for the S&P 500 futures for the one-hour trading halt. The CME is raising the applicable price limits in the S&P 500 futures to 45 and 70 points to correspond to the new 350/550 DJIA point triggers in the securities markets. *See infra* note 27 for an additional explanation of how the futures price limits relates to circuit breaker trading halts.

[9] *See supra* note 6.

[10] *Id.*

[11] *Id.* The Commission notes that the NYSE has indicated that it does not intend to propose any changes at this time to its market volatility procedures that would become effective before a 350 point circuit breaker trigger could be reached. One of these sets of procedures, provided in NYSE Rule 80A (known as the ''Collar Rule''), places limits on index arbitrage program trading if the DJIA rises or falls 50 points from the previous day's closing value. The other set of procedures, known as NYSE's ''sidecar'' system, routes program orders into separate electronic files for a brief period if the futures contract on the S&P 500 stock index declines to 12 points below its previous settlement value, a move that is roughly equivalent to 100 points on the DJIA. With these ''speed bump'' procedures in place on the NYSE, as well as other circuit breakers at the derivative exchanges, the Commission does not believe it is necessary at this time to develop additional procedures to restrict trading prior to triggering of a circuit breaker trading halt.

[12] 15 U.S.C. 78f(b).

[13] In approving these rules, the Commission has considered the proposed rules' impact on efficiency, competition, and capital formation. 15 U.S.C. § 78c(f).

Exchanges.[14] The original circuit breaker rules provided that trading would halt in all securities markets for one hour if the DJIA declined by 250 points from its previous day's closing level and, thereafter, trading would halt for an additional two hours if on that same day the DJIA declined 400 points from its previous day's close. In July, 1996, these periods were reduced to one-half hour for a 250 point move and one hour for a 400 point move.[15] The original circuit breaker proposals were approved on a pilot basis, and have been extended on that basis since then.[16]

These market-wide circuit breakers were intended to provide market participants with an opportunity to reestablish an equilibrium between buying and selling interest by offering a temporary ''time-out'' period to become aware of and respond to a sudden, potentially destabilizing market decline. In approving the initial proposals, the Commission noted that an Interim Report of the Working Group on Financial Markets (''Working Group'') had recommended that in periods of rapid market decline that threaten to create panic conditions, trading halts and reopening procedures should be coordinated within the financial marketplace.[17]

Specifically, the Working Group recommended that all U.S. markets for equity and equity-related products—stocks, individual stock options, stock index options, and stock index futures—halt trading during such periods of market volatility.[18] These recommendations, in part, were in response to the events of October 19, 1987, when the DJIA declined over 22.6%. The futures exchanges also adopted analogous trading halts to provide coordinated means to address potentially destabilizing market volatility.[19]

As noted above, in July of 1996, the Commission approved proposals by the Exchanges to amend their circuit breaker rules to shorten the amount of time that trading is halted on the Exchanges when the DJIA has declined by 250 or 400 points.[20] Also, at that time, the Commission approved the elimination of references in the Exchanges' rules to the use of abbreviated reopening procedures following the implementation of circuit breakers.[21] In granting its approval of the shortened period for trading halts pursuant to circuit breakers, the Commission noted that advances in technology and increases in the operational capacity of the markets and heightened participants' ability to become aware of and respond to significant price movements within a much shortened period of time.

The Commission's approval of the July 1996 proposals constituted the first significant modification to the circuit breaker provisions since their adoption. In response to the July 1996 proposals, the Commission received four comment letters expressing general concern about the circuit breakers trigger levels, and raising a number of associated issues, including the belief that the trigger levels should be raised to reflect the growth in the market values since circuit breakers were initially adopted.[22] In approving the July 1996 proposals, the Commission recognized the commentators' issue regarding the appropriateness of the 250/400 trigger levels in a rising market and encouraged the Exchanges and members of the industry to continue evaluating the trigger levels for trading halts in light of the changing circumstances of the market since 1988.

Likewise, when the circuit breakers pilot programs were extended in October 1996, the Commission again, while reaffirming the utility of circuit breakers and the purposes they serve during periods of large, rapid market declines, expressed concern about whether the existing circuit breakers levels of 250 and 400 points in the DJIA (then reflecting a decline of approximately 4.1% and 6.6%) warranted market-wide halts.[23] Accordingly, the Commission recommended that the industry study these levels with a view of reaching a consensus on the size of increases in current trigger levels required to ensure that cross-market trading halts are imposed only during market declines of historic proportions. Further, the Commission indicated that the markets should submit their proposals for new trigger levels by February 3, 1997.

The current proposals by the Exchanges to expand the circuit breaker trigger levels to 350 and 550 points in the DJIA reflect the Exchanges' response to the Commission's recommendations. In their respective filings, the Exchanges noted that the proposed new levels of 350 and 550 points would represent approximately a 5.4% and 8.5% decline in the DJIA, respectively, reflecting significant market declines that they believe serve as appropriate levels to trigger a brief trading halt.[24]

The Exchanges' proposals are contingent on other markets adopting similar proposals.[25] In this regard, the Commission notes that all of the existing U.S. stock and options exchanges, as well as the NASD, have either submitted revised circuit breaker pilot programs or have agreed to comply with the provisions of such programs.[26]

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[14] *See* Securities Exchange Act Release Nos. 26198 (October 19, 1988), 53 FR 41637 (Amex, CBOE, NASD, and NYSE); 26218 (October 26, 1988), 53 FR 44137 (CHX); 26357 (December 14, 1988), 53 FR 51182 (BSE); 26368 (December 16, 1988), 53 FR 51942 (PSE); 26386 (December 22, 1988), 53 FR 52904 (Phlx); and 26440 (January 10, 1989), 54 FR 1830 (CSE).

[15] *See* Securities Exchange Act Release Nos. 37457 (July 19, 1996) 61 FR 39176 (NYSE); 37458 (July 19, 1996), 61 FR 39167 (Amex); and 37459 (July 19, 1996), 61 FR 39172 (BSE, CBOE, CHX, and Phlx).

[16] *See supra* note 14. The most recent extensions expire on April 30, 1997 for the Amex, NYSE and Phlx, *see* Securities Exchange Act Release No. 37890 (October 29, 1996) 61 FR 56983; and on October 31, 1997 for the BSE and CHX. *See* Securities Exchange Act Release No. 36414 (October 25, 1995) 60 FR 55630. The NASD's policy statement expires on December 31, 1997. *See* Securities Exchange Act Release No. 36563 (December 7, 1995), 60 FR 64084. The Commission approved on a permanent basis the proposals by the CBOE, PSE, and CSE. *See* Securities Exchange Act Release Nos. 26198 (October 19, 1988), 53 FR 41637 (CBOE); 26368 (December 16, 1988), 53 FR 51942 (PSE); and 26440 (January 10, 1989) 54 FR 1830 (CSE).

[17] The Working Group on Financial Markets was established by the President in March 1988 in response to the 1987 market break. It consisted of the Under Secretary for Finance of the Department of the Treasury and the Chairmen of the Commission, the Commodity Futures Trading Commission, and the Board of Governors of the Federal Reserve System. Its mandate was to determine the extent to which coordinated regulatory action was necessary to strengthen the nation's financial markets.

[18] *Id.*

[19] *See* Letter from Todd E. Petzel, Vice President, Financial Research, CME, to Jean A. Webb, Secretary, CFTC, dated September 1, 1988. *See also* Letters to Jean A. Webb, Secretary, CFTC, from Paul J. Draths, Vice President and Secretary, Chicago Board of Trade (''CBT''), dated July 29, 1988; Michael Braude, President, KCBT, dated August 10, 1988; and Milton M. Stein, Vice President, Regulation and Surveillance, NYFE, dated September 2, 1988.

[20] *See supra* note 15.

[21] *Id.*

[22] *See* Letter from William R. Rothe, Chairman, and John L. Watson III, President, Security Traders Association, to Jonathan G. Katz, Secretary, SEC, dated May 10, 1996 (''STA Letter''); Letter from Peter W. Jenkins, Chairman, and Holly A. Stark, Vice Chairman, Securities Traders Association's Institutional Committee, to Jonathan G. Katz, Secretary, SEC, dated May 7, 1996 (''STA Institutional Committee Letter''); Letter from Joseph R. Hardiman, President, NASD, to Jonathan G. Katz, Secretary, SEC, dated May 23, 1996 (''NASD Letter''); Letter from Paul Schott Stevens, Senior Vice President and General Counsel, Investment Company Institute, to Jonathan G. Katz, Secretary, SEC, dated May 23, 1996 (''ICI Letter'').

[23] These percentages are based on the DJIA close of 6094.23 on October 18, 1996.

[24] In arriving at these percentages (5.4% and 8.5%), the Exchanges estimated the DJIA to be approximately 6500.

[25] The Commission notes that the BSE and Phlx did not explicitly include this contingency in their filings.

[26] *See supra* part II. The NASD, CSE, and PSE have reaffirmed their policy statements to halt trading whenever circuit breakers are triggered.

The futures exchanges are also adopting analogous trading halts to maintain the existing coordinated means to address potentially destabilizing market volatility.[27] Thus, the Commission believes the contingency is satisfied.

In evaluating the new levels proposed by the Exchanges, the Commission notes that, when the circuit breaker rules were adopted in 1988, the 250-point and 400-point triggers represented one-day declines of 12% and 19%, respectively, in the DJIA. At current market levels, these triggers represent declines of approximately 3.7% and 6.0%, respectively.[28] The Commission believes that the maintenance of the trigger levels at 250 and 400 points for eight years, while the market has risen substantially, has acted to effectuate a significant *de facto* diminution of the price movement that would cause a market-wide trading halt.[29] Accordingly, the Commission has substantial doubt as to whether a 3.7% decline in the DJIA warrants a marketwide halt.

In support of this conclusion, the Commission notes the market decline of March 8, 1996, when the DJIA fell as much as 217 points (3.85%) on an intra-day basis. This decline represented the largest intra-day point decline since the adoption of circuit breakers. The Commission's consultations with market officials indicated that, even though volume was extremely heavy during the price decline on March 8, trading appears to have been orderly. There was no evidence of the types of systemic stress, as were present in the 1987 market break, warranting the one-hour market-wide trading halt that would have been imposed if the DJIA had reached the 250–point circuit breaker trigger.

In considering the Exchanges' current proposals to modify the circuit breaker trigger levels, the Commission also has taken into account the guidelines expressed by the Working Group when originally proposing the circuit breaker procedures in 1988. At that time, the Working Group indicated that pre-determined, coordinated, cross-market trading halts should be implemented so as to address market declines that threaten to result in *ad hoc* and potentially destabilizing market closings. The Working Group's report stressed that the circuit breaker trigger levels should be ''broad enough to be tripped only on rare occasions, but * * * sufficient to support the ability of the payment and credit systems to keep pace with extraordinary large market declines.'' Consequently, the Working Group recommended that the first market-wide trading halt be imposed only when the DJIA had declined by 250 points and that the second halt be imposed when the decline had reached a total of 400 points, levels that represented extraordinary declines of approximately 12% and 19%, respectively, in 1988.

The Working Group's report also cautioned that the circuit breaker trigger levels should be reviewed by market regulators periodically to adjust the point-decline triggers to ensure that market-wide halts would be imposed only after extraordinary market declines. The Working Group envisioned in 1988 that the circuit breaker levels would be reevaluated periodically and adjusted to reflect market levels.[30] In recent consultations, the Working Group has supported the Commission's determination that it is time to raise the current circuit breaker triggers.

Consequently, the Commission is approving the adoption of the new 350/550 trigger levels. The DJIA has tripled in value since circuit breaker trading halts were adopted in 1988. This rise in the market necessitates increases in the circuit breaker trigger levels so as to prevent their unnecessary application. The existing levels of 250/400 (approximately 3.7% and 6.0%) are far below the percentage originally adopted (approximately 12% and 19%). While the 350/550 levels on a percentage basis are below the percentages represented by 250/400 points in 1988, the Commission believes that increasing the trigger levels better reflects the state of the market than current levels. The trigger levels should reflect an extraordinary decline under current market conditions. The 350/550 trigger levels more accurately meet this standard than the 250/400 point triggers.

The Commission recognizes that the Exchanges have been cautious in their efforts to raise the circuit breaker triggers and that the proposed new triggers of 350/550 points represent approximately a 40% increase in trigger levels. Nevertheless, the Commission believes that the Exchanges' determinations regarding the new trigger levels represent a substantial improvement over the current trigger levels and reduce the Commission's concerns that the market-wide circuit breaker trading halts should not be triggered except during extraordinary market declines.

As has been done in the past, the Commission is approving these changes on a pilot basis. In addition, the Commission finds good cause for approving the proposals by the CHX, BSE, Phlx, and CBOE's Amendment No. 1 prior to the thirtieth day after the date of publication of notice of filing thereof in the Federal Register. These proposals are analogous to the circuit breaker proposals published in the Federal Register, for the full statutory period, by the NYSE, Amex, and CBOE.[31] The Commission believes that it is important that the Exchanges' circuit breaker procedures be approved simultaneously to preserve the existence of uniform market-wide circuit breaker provisions. Accordingly, the Commission believes that granting accelerated approval of the proposals and the amendments thereto is appropriate and consistent with Sections 6(b)(5) and 19(b)(2) of the Act.

The proposals being approved today effectively supersede and replace the existing circuit breaker pilot provisions of the respective Exchanges.[32] The Commission is approving each of the Exchanges' revised circuit breaker rules for a one-year period becoming effective on February 1, 1997, and remaining in force until January 31, 1988.[33] The

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[27] If the ratio of 8–to–1 is used (8 DJIA points to 1 S&P 500 index point), then the CME's proposed price limits of 45 and 70 points correspond approximately to the 350 and 550 points circuit breaker trigger levels proposed by the equity Exchanges. The Commission notes that on a percentage basis, however, the 45-point limit on the CME would reflect a slightly greater percentage decline in the S&P 500 index than would the 350-point decline in the DJIA. The same is true for the 70-point limit in the S&P 500 futures and the 550-point circuit breaker trigger in the DJIA. While this poses a slight possibility that trading on the futures exchanges may not halt at the same time as trading on the stock exchanges, experience indicates that futures generally fall faster than stocks during periods of severe market declines and thus the futures price limits are more likely to be triggered ahead of the circuit breakers. Consequently, the CME's proposed limits appear to be in line with the trigger levels in the securities markets.

[28] These figures are based on the DJIA close of 6696.48 on January 24, 1997.

[29] The Commission also notes the concern raised in the Markey Letter that the 550 points circuit breaker would be greater than the 508 points decline experienced during the October 1987 crash. However, relative to the DJIA of October 1987, a 508 points decline is approximately a 22.63% decline, whereas, relative to the DJIA of January 1992, a 550 points decline is the equivalent of a 8.2% decline.

[30] *See supra* note 17.

[31] *See supra* part I.

[32] The AMEX, CHX, and Phlx have submitted letters clarifying certain potential ambiguity contained in the originally filed proposals, by making clear that the proposals approved today supersede each Exchanges' existing circuit breaker provisions. *See* Letters to Michael A. Walinskas, Senior Special Counsel, Market Regulation Commission, from Michael Cavalier, Associate General Counsel, Legal and Regulatory Policy, Amex, dated January 16, 1997; from David T. Rusoff, Esq., Foley & Lardner, CHX, dated January 16, 1997; and from Philip H. Becker, Senior Vice President, Chief Regulatory Officer, Phlx, dated January 17, 1997.

[33] The CBOE, in its Amendment No. 1, revised the language to its circuit breaker rule, deleting

Commission expects the markets to continually reevaluate the circuit breaker trigger levels in order to prevent imposing cross-market trading halts that are not justified by the overall magnitude of a market decline. Accordingly, the Commission will work with the markets to develop procedures for reevaluating the circuit breaker triggers on at least an annual basis. In this connection, the Commission requests that within ten months of the date of this order the markets submit their respective recommendations for the trigger levels that will be used upon expiration of the 350/550 levels one year from this order.

V. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning BSE Amendment No. 2, SR–Phlx–97–03, and CBOE Amendment No. 1. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule changes that are filed with the Commission, and all written communications relating to the proposed rule changes between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference section, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of such filing will also be available for inspection and copying at the principal office of the Exchanges. All submissions should refer to BSE Amendment No. 2, SR–Phlx–97–03, and CBOE Amendment No. 1 and should be submitted by February 28, 1997.

VI. Conclusion

For the reasons discussed above, the Commission believes the proposals by the Exchanges to amend their circuit breaker trigger levels are consistent with Section 6(b)(5) of the Act.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, [34] that the proposed rule changes (SR–NYSE–96–38, SR–Amex–96–49, SR–BSE–96–12, SR–CBOE–96–78, SR–CHX–96–33, and SR–Phlx–97–03) are hereby approved to become effective on February 1, 1997 and will remain in force until January 31, 1998.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[35]

Margaret H. McFarland,
Deputy Secretary.

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language that referred to the applicable DJIA trigger levels. Instead, the CBOE proposes the adoption of new language that would impose circuit breaker trading halts on the CBOE whenever such halts are in effect on the NYSE. *See supra* note 5. The Commission notes that because the CBOE has determined to adopt this piggyback approach, and their circuit breaker rule is currently approved on a permanent basis, it should generally not be necessary for the CBOE to file conforming rule changes to revise specific circuit breaker trigger levels after the adoption of its current proposal.

[34] 15 U.S.C. 78s(b)(2).

[35] 17 CFR 200.30–3(a)(12).

[Release No. 34–38225; File No. SR–NYSE–96–32]

Self-Regulatory Organizations; New York Stock Exchange, Incorporated; Approval of Proposed Rule Change Relating to the Exchange's Policy on Tape Indications

January 31, 1997.

I. Introduction

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on November 26, 1996, the New York Stock Exchange, Inc. (''NYSE'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') a proposed rule change relating to the Exchange's policy on tape indications. The proposal was published for comment in the Federal Register on December 10, 1996.[2] No comments were received on the proposed rule change. The Commission is approving the proposed rule change.

II. Description of the Proposal

The NYSE proposed to amend the Exchange Policy on Indications, Openings and Reopenings, which will be issued as an Information Memorandum. Indications are price ranges published on the tape before or during a trading halt to display the probable price range in which a stock will open or reopen.

The Exchange's policy on dissemination of tape indications currently requires a minimum of 15 minutes elapse between the first indication and the opening or reopening of a stock. In addition, when multiple indications are used, a minimum of 10 minutes must elapse after the last indication when it does not overlap the prior indication; a minimum of 5 minutes must elapse after the last indication when it overlaps the prior indication. In all cases, a minimum of 15 minutes must elapse between the first indication and the opening or reopening of a stock.

The Exchange proposed that these minimum time periods before opening or reopening a stock be compressed from 15 to 10 minutes after the first indication; and to 5 minutes after the last indication, regardless of whether it overlaps the prior indication, provided that a minimum of 10 minutes elapse between the first indication and the opening or reopening of a stock. The Exchange indicated that it believes that a minimum time period of 10 minutes for dissemination has proven sufficient in other contexts, such as the publication of imbalances of 50,000 shares or more of market-on-close orders on trading days other than expiration days.

The Exchange stated that over the years, in developing procedures for openings, it has focused on providing a balance between timeless and appropriateness of price, *i.e.*, achieving a price that reflects an appropriate equilibrium of buying and selling interest at the time. The Exchange noted that since current procedures were formulated, the speed of communications has increased, meaning that relevant market information can be disseminated and responded to very quickly. The Exchange believes that the proposed rule change would shorten the time period for indications, thereby allowing the opening or reopening of a stock in a more expeditious fashion, while still providing sufficient time for appropriate pricing of orders.

The Exchange believes that the revised procedures for tape indications strike an appropriate balance between preserving the price discovery process while providing timely opportunities for investors to participate in the market.

III. Discussion

After careful review, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange and, in particular, the requirements of Section 6(b)(5) of the Act.[3] The proposed rule change is designed to promote just an equitable principles of trade, to remove impediments to, and perfect the mechanism of a free and open market,

[1] 15 U.S.C. 78s(b)(1).

[2] Securities Exchange Act Release No. 38015 (December 3, 1996), 61 FR 65099 (December 10, 1996).

[3] 15 U.S.C. 78f(b)(5).

and, in general, to protect investors and the public interest.

Specifically, the Exchange proposed that minimum time periods before opening or reopening a stock be compressed from 15 to 10 minutes after the first indication; and to 5 minutes after the last indication, regardless of whether it overlaps the prior indication, provided that a minimum of 10 minutes elapse between the first indication and the opening or reopening of a stock. For example, if only 3 minutes had elapsed from the time of the first indication to the second indication, the minimum waiting period after the second indication would be 7 minutes.

The Commission agrees with the Exchange that due to increases in the speed of communications, relevant market information can be disseminated and responded to very quickly. The Commission finds reasonable the Exchange's determination that the proposed rule change will allow the opening or reopening of a stock in more expeditious fashion while still providing sufficient time for appropriate pricing of orders. The Commission finds that in the rule change, the Exchange has made a reasonable determination that balances the preservation of the price discovery process while providing timely opportunities for investors to participate in the market. Exchange staff has represented that the change in the timing of tape indications is consistent with Intermarket Trading System re-opening procedures.[4]

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[5] that the proposed rule change (File No. SR–NYSE–96–32) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[6]

Margaret H. McFarland,

Deputy Secretary.

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[4] Telephone Conversation between Don Siemer, Director of Rule Development, Market Surveillance Division, NYSE, and Janet W. Russell-Hunter, Special Counsel, Office of Market Supervision, Division of Market Regulation, SEC, on January 23, 1997. *See Plan for the Purpose of Creating and Operating an Intermarket Communications Linkage Pursuant to Section 11A(a)(3)(B) of the Securities Exchange Act of 1934* [Composite: Amendments Through May 21, 1991].

[5] 15 U.S.C. 78s(b)(2).

[6] 17 CFR 200.30–3(a)(12).

DEPARTMENT OF STATE

International Telecommunications Advisory Committee (ITAC) Ad Hoc on Preparations for the 1997 World Radiocommunications Conference (WRC–97) and Conference Preparatory Meetings; Meeting Notice

The Department of State announces the recovening, under the U.S. International Telecommunications Advisory Committee (ITAC), of an Ad Hoc Group to carry out preparations for the next World Radiocommunications Conference (WRC), and related Conference Preparatory Meeting (CPM), of the International Telecommunication Union (ITU). The WRC will be held October 27 to November 21, 1997, and the CPM May 6–16, 1997, in Geneva. The primary purpose of the AD Hoc Group will be to advise the Department on preparations for these and related meetings.

The Ad Hoc Group is chaired by Warren Richards, Department of State, who will also serve as Chairman of the U.S. Delegation to the CPM. The initial task of the Ad Hoc will be to complete U.S. national preparations for the CPM, which will develop a draft report to WRC–97 at the May meeting. To facilitate work, the Ad Hoc will consist of two Working Groups with the following areas of responsibility:

Working Group 1—Regulatory and Associated Issues (regulatory and procedural matters, HF broadcasting, maritime and aeronautical services, appendices S7, S30 and S30A, adaptive MF/HF systems, review of Resolutions and Recommendations), under the chairmanship of Frank Williams, Federal Communications Commission (FCC);

Working Group 2—Allocations and Associated Issues (aeronautical, mobile-satellite, fixed-satellite, and space sciences services, spurious emissions, wind profilers, and fixed service above 30 GHz), chaired by Mr. Richards.

Meeting schedules are as follows: Working Group 1 will meet February 27, 9:30√Noon, at the FCC, 2000 M Street, N.W., in Room 847 (meetings are also planned for March 13 and 27, and April 24); Working Group 2 will meet February 25, 1:30–5 p.m., at State Department, 2201 C Street, N.W., in Room 1912 (meetings are also planned for March 4 and 18, April 1, 15 and 22). The agenda for both Working Groups includes a review of recent ITU–R reports and identification of U.S. input documents, position papers and authors. Questions regarding Ad Hoc activities in general or Working Group 2 may be directed to Warren Richards, Department of State (202–647–0049; Fx: 647–7407). Questions about Working Group 1 should be directed to Frank Williams, FCC (202–418–0731; Fx: 418–0233).

Members of the general public may attend the meetings and join in the discussions, subject to the instructions of the chair. In this regard, entry to the Department of State is controlled. If you wish to attend meetings at State, please send a fax to Christine Plunkett (202–647–7407) at least 24 hours before the scheduled meeting, with your name, company, date of birth, SSN, and the meeting name/date. One of the following valid photo ID's will be required for admittance: driver's license with picture, U.S. passport, government ID (company ID's are no longer accepted by Diplomatic Security). Enter from the ''C'' Street Main Lobby.

Dated: January 22, 1997.

Richard E. Shrum,

ITAC Executive Director.

[FR Doc. 97–3075 Filed 2–6–97; 8:45 am]

BILLING CODE 4710–45–M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Reports, Forms and Recordkeeping Requirements; Agency Information Collection Activity Under OMB Review

AGENCY: Department of Transportation (DOT).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act 1995 (44 USC Chapter 35), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and its expected burden. The Federal Register Notice with a 60-day comment period soliciting comments on the following collection of information was published on August 28, 1996 [FR 61, page 44385]

DATES: Comments must be submitted on or before March 10, 1997.

FOR FURTHER INFORMATION CONTACT: Mr. Peter Chandler, Office of Motor Carriers, (202) 366–5763, Federal Highway Administration, Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590.

SUPPLEMENTARY INFORMATION:

Federal Highway Administration (FHWA)

Title: Endorsement for Motor Carrier Policies of Insurance.

Type of Request: Reinstatement. Without change, of a previously

approved collection for which approval has expired.

OMB Control Number: 2125–0074.

Form Number: MCS–90, MCS–82.

Affected Public: Insurance and surety companies of motor carriers of property.

Abstract: Sections 29 and 30 of the Motor Carrier Act of 1980 (codified at 49 U.S.C. 31139) require the Secretary of Transportation to promulgate regulations which establish minimal levels of financial responsibility for motor carriers of property to cover public liability, property damage, and environmental restoration. The Endorsement for Motor Carrier Policies of Insurance for Public Liability (Form MCS–90) and the Motor Carrier Public Liability Surety Bond (Form MCS–82) contain the minimum amount of information necessary to document that a motor carrier of property has obtained and has in effect the minimum levels of financial responsibility as set forth in 49 CFR 387.9. The information within these documents is used by the FHWA and the public to verify that a motor carrier of property has obtained and has in effect the required minimum levels of financial responsibility.

Estimated Annual Burden: The total annual burden is 3,555 hours.

ADDRESSES: Send comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725–17th Street, NW, Washington, DC 20503, Attention FHWA Desk Officer.

Comments are Invited on: whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimate of the burden of the proposed information collection; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Issued in Washington, DC, on February 3, 1997.

Phillip A. Leach,

Clearance Officer, United States Department of Transportation.

[FR Doc. 97–3042 Filed 2–6–97; 8:45 am]

BILLING CODE 4910–62–P

Federal Aviation Administration

[Summary Notice No. PE–97–6]

Petitions for Exemption; Summary of Petitions Received; Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemption received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR Part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR Chapter I), dispositions of certain petitions previously received, and corrections. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATES: Comments on petitions received must identify the petition docket number involved and must be received on or before February 14, 1997.

ADDRESSES: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rule Docket (AGC–200), Petition Docket No. 2, 800 Independence Avenue, SW., Washington, D.C. 20591.

Comments may also be sent electronically to the following internet address: nprmcmts@faa.dot.gov.

The petition, any comments received, and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC–200), Room 915G, FAA Headquarters Building (FOB 10A), 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 267–3132.

FOR FURTHER INFORMATION CONTACT:

Fred Haynes (202) 267–3939 or Angela Anderson (202) 267–9681 Office of Rulemaking (ARM–1), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, D.C., on February 4, 1997.

Donald P. Byrne,

Assistant Chief Counsel for Regulations.

Petitions for Exemption

Docket No.: 28782.

Petitioner: Flying Boat, Inc. doing business as (d/b/a) Chalk's International Airline, and d/b/a Pan Am Air Bridges (CHALK's).

Sections of the FAR Affected: CFR 121.2(a)(1)(ii); 121.191; 121.289(a)(2) and (b); 121.310(c); 121.310(h)(1)(i) and 121.313(f)

Description of Relief Sought: To permit the petitioner to use its 17 seat transport category airplanes, to comply with the deadlines set forth, in the compliance schedule for 20–30 seat transport category airplanes. The petitioner is also requesting to operate its aircraft in part 121 operations without installing the following equipment in its aircraft: (1) A landing gear aural warning device; (2) lighting for interior emergency exit marking; (3) exterior emergency lighting; and (4) a door between the passenger and pilot compartments. Through September 22, 1997, the petitioner is requesting a temporary exemption to conduct operations without including approved one engine inoperative en route net flight data in its Airplane Flight Manual.

[FR Doc. 97–3099 Filed 2–6–97; 8:45 am]

BILLING CODE 4910–13–M

Notice of Intent To Rule on Application To Impose and Use a Passenger Facility Charge (PFC) at Metropolitan Oakland International Airport, Oakland, CA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Intent to Rule on Application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Metropolitan Oakland International Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

DATES: Comments must be received on or before March 10, 1997.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Federal Aviation Administration, Airports Division, 15000 Aviation Blvd., Lawndale, CA

90261, or San Francisco Airports District Office, 831 Mitten Road, Room 210, Burlingame, CA 94010–1303. In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Charles W. Foster, Executive Director, Port of Oakland, at the following address: 530 Water Street, Oakland, CA 94607. Air carriers and foreign air carriers may submit copies of written comments previously provided to the Port of Oakland under § 158.23 of part 158.

FOR FURTHER INFORMATION CONTACT: Marlys Vandervelde, Airports Program Analyst, San Francisco Airports District Office, 831 Mitten Road, Room 210, Burlingame, CA 94010–1303, Telephone: (415) 876–2806. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Metropolitan International Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

On January 27, 1997, the FAA determined that the application to impose and use a PFC submitted by the Port of Oakland was substantially complete within the requirements of § 158.25 of part 158. The FAA will approve or disapprove the application, in whole or in part, no later than April 30, 1997.

The following is a brief overview of the application.

Level of proposed PFC: $3.00.

Proposed charge effective date: April 1, 1997.

Proposed charge expiration date: April 1, 1999.

Total estimated PFC revenue: $33,011,496.

Brief description of the proposed impose and use projects: Upgrade of Airport Public Address and Paging System, Airfield Lighting and Marking Improvements, Pilot Noise Insulation Program, Baggage Claim Improvements in Terminals One and Two. Brief description of the proposed impose only project: Construct Remote Overnight Aircraft Parking Apron.

Class or classes of air carriers which the public agency has requested not be required to collect PFCs: Air Taxi/Commercial Operators (ATCO) filing FAA form 1800–31 and Commuters or Small Certified Air Carriers filing DOT form 298–C T1 and E1.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT** and at the FAA Regional Airports Division located at: Federal Aviation Administration, Airports Division, 15000 Aviation Blvd., Lawndale, CA 90261. In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Port of Oakland.

Issued in Hawthorne, California, on January 28, 1997.

Herman C. Bliss,

Manager, Airports Division, Western-Pacific Region.

[FR Doc. 97–3069 Filed 2–6–97; 8:45 am]

BILLING CODE 4910–13–M

Notice of Intent To Rule on Application To Impose a Passenger Facility Charge (PFC) at San Luis Obispo County Airport McChesney Field, San Luis Obispo, CA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Intent to Rule on Application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose a PFC at San Luis Obispo County Airport McChesney Field under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

DATES: Comments must be received on or before March 10, 1997.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Federal Aviation Administration, Airports Division, 15000 Aviation Blvd., Lawndale, CA 90261, or San Francisco Airports District Office, 831 Mitten Road, Room 210, Burlingame, CA. 94010–1303. In addition, one copy of any comment submitted to the FAA must be mailed or delivered to Ms. Klaasje Nairne, Airport Administrative Officer of the San Luis Obispo Airport-McChesney Field, at the following address: County of San Luis Obispo, County Government Center, Room 460, San Luis Obispo, California 93408. Air carriers and foreign air carriers may submit copies of written comments previously provided to the County of San Luis Obispo under § 158.23 of part 158.

FOR FURTHER INFORMATION CONTACT: Marlys Vandervelde, Airports Program Analyst, San Francisco Airports District Office, 831 Mitten Road, Room 210, Burlingame, CA 94010–1303, Telephone: (415) 876–2806. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposed to rule and invites public comment on the application to impose a PFC from San Luis Obispo County Airport McChesney Field under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

On January 15, 1997, the FAA determined that the application to impose a PFC submitted by the County of San Luis Obispo was substantially complete within the requirements of § 158.25 of part 158. The FAA will approve or disapprove the application, in whole or in part, no later than April 18, 1997.

The following is a brief overview of the application.

Level of proposed PFC: $3.00.

Proposed charge effective date: May 1, 1997.

Proposed charge expiration date: April 30, 2012.

Total estimated PFC revenue: $6,820,830.

Brief description of the proposed projects: Terminal Development and Construction including construction of passenger terminal building, addressing elements of capacity including, but not limited to lobby space, queuing, secure waiting, baggage claim and baggage handling system upgrades, additional boarding gates (2), definitive arrival and departure areas, terminal building entry/exit circulation and access improvement.

Class or classes of air carriers which the public agency has requested not be required to collect PFCs: Unscheduled Part 135 Air Taxi Operators.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT** and at the FAA Regional Airports Division located at: Federal Aviation Administration, Airports Division, 15000 Aviation Blvd., Lawndale, CA 90261. In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the County of San Luis Obispo.

Issued in Hawthorne, California, on January 28, 1997.

Robert C. Bloom,

Acting Manager, Airports Division, Western-Pacific Region.

[FR Doc. 97–3070 Filed 2–6–97; 8:45 am]

BILLING CODE 4910–13–M

National Highway Traffic Safety Administration

[Docket No. 96–124; Notice 2]

Philips Lighting Company, USA; Grant of Application for Decision of Inconsequential Noncompliance

This notice grants the application by Philips Lighting Company (PLC), to be exempted from the notification and remedy requirements of 49 U.S.C. 30118(d) and 30120(h) for noncompliances with 49 CFR 571.108, Federal Motor Vehicle Safety Standard (FMVSS) No. 108, ''Lamps, Reflective Devices and Associated Equipment.'' The basis of the application is that the noncompliances are inconsequential to motor vehicle safety.

Notice of receipt of the application was published on December 18, 1996, and an opportunity afforded for comment (61 FR 66745).

Paragraph S5.1.1 of FMVSS No. 108 states in part that lamps, reflective devices, and associated equipment specified in Tables I and III and S7, as applicable, shall be designed to conform to the SAE Standards or Recommended Practices referenced in those tables. Table I applies to multipurpose passenger vehicles, trucks, trailers, and buses, 80 or more inches in overall width. Table III applies to passenger cars and motorcycles, and to multipurpose passenger vehicles trucks, trailers, and buses, less than 80 inches in overall width.

PLC's description of the noncompliances follows:

Some lamps [replaceable light sources for use in headlamps] have dimensions that do not comply with Figures 3–1, 3–3 and 3–8 of FMVSS No. 108. In addition, some lamps do not comply with Paragraph S9 of FMVSS 108 ''Deflection test for replaceable light sources.'' The noncompliance is caused by process variations at the supplier's manufacturing site. The dimensional noncompliance and the bulb deflection noncompliance are described in Exhibits ''A'' and ''B'' of the application. These exhibits reflect the results of test data identifying several deviations from the FMVSS No. 108 specification.

PLC supported its application for inconsequential noncompliance with the following:

''Dimension K Low, Figure 3–1: The ''K'' low dimension defines the location of the low[er] beam filament within the lamp. In a random test sample, two lamps were found whose measurements on this point were outside of the requirement by .002'' and .005'' respectively. This small deviation from the minimum limit is not material to any safety issue based upon PLC's experience with measurement of completed headlamp assemblies, which demonstrates that a deviation of this type and magnitude, will not affect safety. In fact, the condition is detectable only under precise testing conditions and is not even detectable by visual examination. The most likely consequence of the discrepancy—a problem with headlamp aim/beam quality—is more likely to be affected by other conditions, such as foreign debris (which can accumulate on seating plane surfaces during installation), automobile loading (a full trunk can significantly affect automobile alignment and alter headlamp aim), dirty headlamp lenses or weathering of headlamp lenses than by the failure to comply precisely with the standard. This may explain why PLC has not received any complaints from end users or state inspection agencies concerning conditions related to this deviation from the standard.

''Dimension V, Figure 3–1: This dimension defines the length of the 9004 [HB1] replacement lamp electrical terminals (pins). The terminals on some test lamps were found to be slightly below the minimum length requirement. However, all test lamps functioned properly and made good electrical contact with the automobile lighting system connectors. The electrical connectors locked in place as designed and no difficulty was encountered with installation or electrical operation. This noncompliance does not affect lamp operation or performance (i.e., aim or beam quality) and is thus inconsequential and not safety-related. Again, PLC has not received any complaints from any party concerning conditions related to this deviation from the standard.

''Dimension F, Figure 3–3: The ''F'' dimension defines the location of the terminal cavity in relation to the centerline of the lamp. Some test lamps had terminal cavities that were from .002'' to .012'' below the minimum specification for location. The cavity size (opening) is within specification limits in all respects. The automobile lighting system electrical connector fits into the cavity freely and locks in place as designed. This noncompliance does not affect headlamp system performance in any way (i.e., aim or beam quality), and PLC has not received any complaints from any party concerning conditions related to this deviation from the standard. Thus this deviation also has no adverse effect on safety and is inconsequential.

''Dimension J, Figure 3–3: This dimension defines the location of the lower electrical terminals (pins) in relation to the lamp centerline. One of the test lamps measured slightly above the upper specification limit for this characteristic. Since the ''R'' dimension and ''S'' dimension on the same lamp are within limits, the noncompliance could be related to measurement error or handling damage. However, all test lamps functioned properly and made good electrical contact with the automobile lighting system connectors. The electrical connectors locked in place as designed and no difficulty was encountered with installation or electrical operation. This noncompliance also does not affect lamp operation or performance (i.e., aim or beam quality), and PLC has not received any complaints from any party concerning conditions related to this deviation from the standard. This deviation also has no adverse effect on safety and is inconsequential.

''Bulb Deflection, Figure 3–8: PLC understands that the bulb deflection criteria for the 9004 [HB1] replacement headlamp bulb are included in the FMVSS No. 108 to ensure that bulbs which are handled by automated or robotic insertion equipment are strong enough to withstand the stresses that such equipment may put on the bulb. PLC agrees that deflection criteria for bulbs inserted by automated/robotic equipment are necessary and the criteria defined by FMVSS No. 108 are reasonable for bulbs that are inserted by automated/robotic equipment. However, because PLC currently furnishes 9004 replacement headlamp bulbs for aftermarket use only, all 9004 replacement bulbs that PLC furnishes are installed by human beings. Manual insertion of the 9004 replacement bulb does not pose a risk that permanent deflection will result because of the much lower forces that are exerted on the bulb when robotic insertion is not involved.

''When inserting a replacement bulb into the headlamp housing the glass bulb is placed through an opening in the back of the reflector which is approximately two times larger than the bulb diameter. During manual insertion, little to no force is placed on the glass bulb. Force during manual insertion is placed on the plastic base and not the glass bulb. Nor are there other sources of stress that can cause deflection of the

bulb. Common road hazards such as large potholes cannot cause sufficient force to equal that required to permanently deflect the bulb (which is also called a ''burner'') * * *. While the bulb is in the headlamp housing, unacceptable permanent deflection can be caused only by force equal to that which would be experienced in a high speed collision. No bulbs exhibited deflection or distortion prior to the test or after manual insertion, confirming that this noncompliance is inconsequential and does not constitute a potential safety hazard for bulbs furnished to the aftermarket. PLC has not received any complaints from any party concerning conditions related to this deviation from the standard.

SAE Tolerances: PLC notes that the 1996 edition of the Society of Automotive Engineers (SAE) Ground Vehicle Lighting Standards Manual, specifically HS–34, provides for greater dimensional tolerances than those contained in FMVSS No. 108. At least two of those tolerances are relevant to PLC's Petition for Exemption, as they involve two of the dimensions for which PLC's 9004 replacement bulbs do not comply with FMVSS No. 108:

Dimension	FMVSS No. 108 Tol.	SAE Tol.
V (Fig. 3–1)	+/−0.10 mm	+/−0.50 mm
F (Fig. 3–3)	+/−0.10 mm	+/−0.15 mm''

No comments were received on the application.

NHTSA has reviewed and accepts for the most part PLC's analyses of the reported noncompliances. The basis for the agency's decision that the noncompliances will not affect motor vehicle safety in a consequential manner is as follows:

Dimension K, lower beam filament location noncompliance: The noncompliance is that the lower beam filament is slightly rearward of its allowed location, 0.5 mm. in one case and 0.13 mm. in another. Only two of five samples have this error. The effect on the lower beam pattern is a slight defocussing of the pattern resulting in a slightly more diffuse pattern than intended. It is unlikely that the slight decrease in concentration of light at any particular spot in the pattern would make a typical headlamp noncomplying, and if so the safety effect would be nil.

Dimensions F, J and V, light source electrical contacts and socket dimensions: The noncompliance is for the depth of the electric contact in the socket, the relative position of the contacts to the centerline of the socket, and the length of the electrical contact surface. The dimensional errors are slightly out of allowed tolerance, varying up to −0.3 mm., +0.38 mm. and −1.16 mm., respectively. For dimensions F and V covering the length and depth of the contact, such errors are unlikely to have any measurable effect on the performance of the light source or the headlamp in which it may be installed. The direct effect is to lessen the electrical current carrying capacity of the contact, however the diminution of that capacity is unlikely to cause a measurable effect on the necessary current capacity or an increase in voltage drop across the contact. The error for dimension J affects the location of the centroid of the three electrical contacts within the socket. The error is relatively small compared to the diameter of the opening and should cause no consequence in mating between the connector and socket. The body of the plug is a loose fit into the socket to assure proper contact mating and to assure that the very flexible waterproofing gasket on the connector seals the contact compartment. None of these minor contact and socket dimensional errors should create any safety problem.

Bulb Deflection Test failures: The bulb deflection test exists to assure a strong and stable mounting of the glass filament capsule to the base. The reason that the requirement exists is to prevent the misalignment of the enclosed filament during replacement of the light source into a vehicle headlamp after a bulb failure. Access to the rear of the headlamp is typically cramped at best with the space for the light sources socket and wire harness plug competing for space needed for sharp metal structures, batteries, relays, tubing and other paraphernalia. Thus, replacement of a light source is often a difficult task. The glass capsule must be carefully guided through this maze of hardware into the opening at the rear of the headlamp. Thus, the glass capsule must withstand any bending forces that may be imposed upon it during that process in order to assure proper alignment of the enclosed filament with the headlamps optical axis. For the subject HB1 light source, the weakest orientation of the glass capsule mount is also the most predominant orientation of external forces during a field replacement. These forces would typically cause the capsule to move upward. During the deflection test, the capsule is permitted to permanently deflect by 0.13 mm. For the Philips' light sources, the five capsules deflected a distance of 0.08, 0.25, 0.22, 0.22, and 0.12 mm. when subject to a force of 17.8 Newtons.

This movement of the enclosed filament has a direct effect on the seeing distance illumination achieved by the headlamp. As the filament moves upward, the effect on the beam pattern is to move it downward. Consequently, the roadway illumination moves proportionately closer to the front of the vehicle. By design, the vertical placement of the lower beam filament relative to its design location in the headlamp housing is roughly ±0.60 mm. For a typical vehicle's headlamp mounted at 700 mm. above the ground, this could produce movement of a down-the-road point in the beam pattern of roughly ±51 m. from the design location of the ''seeing distance'' test point at 80 m. Such extreme deviations are very rare, taking into account the build up of tolerances to achieve the maximum effect. For the group of light sources tested by Philips, the mean vertical error in location of the lower beam filament was upward 0.03 mm. This means that the seeing distance test point for the average light source tested would be at about 87 m. down the road.

Assuming that a nominally manufactured light source is subject to rough treatment during its placement in a vehicle's headlamp and has at least 17.8 Newtons applied to it to cause the allowed maximum deflection of the capsule in an upward direction, the filament would move upward 0.13 mm. This would translate to an inward movement of the ''seeing distance'' test point to 60 m. For the worst performing Philips light source (#2) achieving a deflection of 0.25 mm. upward and having its filament originally about 0.28 mm. low relative to the design location in the headlamp, the ''seeing distance'' test point location would only move to about 87 m. if it were deflected as much during a replacement. For this light source, the downward original location of the filament and the upward deflection cancel each other's effect. While this would appear to be an increase of ''seeing distance,'' the fact is that beam patterns of headlamps using the HB1 light source rarely have significant gradients in intensity over small angular increments. The gradient just above the ''seeing distance'' test point must be sufficient to transition between that point's intensity (8000 to 20000 candela) and the nearest test point directly above it by one degree (500 to 2700 candela). Thus moving the beam up or down by a third of one degree (as might occur with a damaged Philips light source with a 0.25 mm.

deflection) will not necessarily eliminate light from down the road as shown by the example. Additionally, the likelihood of the light source being damaged by installation is probably very small. Furthermore, the other headlamp on the vehicle (presumably in compliance) would not be affected and would continue to help illuminate the roadway, even if there were an adverse change in illumination from the headlamp with the damaged light source. Also as Philips stated regarding filament location, many other factors are involved in roadway illumination for a particular vehicle, e.g. trunk loads move the aim upward and would move the seeing point farther away. Additionally, most state laws on headlamp aim allow headlamp aim range to be ±0.75 degree. This is over twice the angular error that might result from the worst Philips light source tested. Thus, viewing the totality of the task of properly illuminating the roadway, the probability is very small that any one of the Philips' light sources would result in a materially higher risk of crash involvement.

The agency does not consider PLC's comparison of the FMVSS and SAE tolerances as relevant to this decision. The SAE tolerances are recommended industry practices, but the FMVSS tolerances are mandatory Federal standards.

Overall, for the reasons expressed above, the petitioner has met its burden of persuasion that the noncompliance herein described is inconsequential to motor vehicle safety, and the agency grants PLC's application for exemption from notification of the noncompliance as required by 49 U.S.C. 30118 and from remedy as required by 49 U.S.C. 30120. Although PLC also requested that it be permitted to distribute and sell the noncomplying light sources, the agency's authority under the inconsequentiality provisions is limited to providing relief from the obligation to notify and remedy noncompliances for items already sold to customers. Accordingly, the further sale or distribution of such light sources as PLC has determined do not conform to FMVSS No. 108, whether by PLC or its distributors, would violate 49 U.S.C. 30112(a), and render the violaters liable for civil penalties.

(49 U.S.C. 30118, 30120; delegations of authority at 49 CFR 1.50 and 501.8).

Issued on: January 31, 1997.

L. Robert Shelton,

Associate Administrator for Safety Performance Standards.

[FR Doc. 97–3041 Filed 2–6–97; 8:45 am]

BILLING CODE 4910–59–P

Surface Transportation Board

Agency Form Submitted for OMB Review

AGENCY: Surface Transportation Board, Office of Economic and Environmental Analysis and Administration.

SUMMARY: The Surface Transportation Board has submitted to the Office of Management and Budget for review and approval the following proposal for collection of information under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35).

Type of Request: Reinstatement of an expired form without any change in the substance or in the method of collection.

Title of Form: Annual Report.

OMB Form Number: 2140–0029.

Agency Form Number: R–1.

No. of Respondents: 10.

Total Burden Hours: 8,000.

FOR FURTHER INFORMATION CONTACT: Requests for copies of the form and supporting documents may be obtained from the Agency Clearance Officer, Ellen R. Keys, (202) 927–5673. Comments regarding this information collection should be addressed to Ward L. Ginn, Jr., Office of Economic and Environmental Analysis and Administration Surface Transportation Board, Washington, DC. 20423–0001 and to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attn: Desk Officer for the Surface Transportation Board, Washington, DC 20503. When submitting comments, refer to the OMB number and the title of the Form.

SUPPLEMENTARY INFORMATION: The Surface Transportation Board is, by statute, responsible for the economic regulation of surface transportation carriers operating in interstate and foreign commerce. Annual reports are required to be filed by all Class I railroads pursuant to authority in 49 U.S.C. 11145, 11144 and 11901 of the ICC Termination Act (ICCTA). This information collection was approved June 13, 1985 and extended to March 31, 1996.

Decided: January 31, 1997.

Vernon A. Williams,

Secretary.

[FR Doc. 97–3107 Filed 2–6–97; 8:45 am]

BILLING CODE 4915–00–P

[STB Docket No. AB–290 (Sub–No. 183X)]

Norfolk Southern Railway Company—Abandonment Exemption—in Greenwood and Newberry Counties, SC

AGENCY: Surface Transportation Board, Transportation.

ACTION: Notice of exemption.

SUMMARY: The Board, pursuant to 49 U.S.C. 10502, exempts Norfolk Southern Railway Company (NS) from the prior approval requirements of 49 U.S.C. 10903 to permit NS to abandon a 13-mile line of railroad between milepost V–58.0, at Conrad, and milepost V–71.0, at Brickdale, in Greenwood and Newberry Counties, SC, subject to an environmental condition and standard employee protective conditions.

DATES: Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on March 9, 1997. Formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2)[1] and requests for issuance of a notice of interim trail use/rail banking under 49 CFR 1152.29 must be filed by February 18, 1997, petitions to stay must be filed by February 24, 1997, requests for a public use condition conforming to 49 CFR 1152.28(a)(2) must be filed by February 27, 1997, and petitions to reopen must be filed by March 4, 1997.

ADDRESSES: Send pleadings, referring to STB Docket No. AB–290 (Sub-No. 183X) to: (1) Surface Transportation Board, Office of the Secretary, Case Control Branch, 1201 Constitution Avenue, NW., Washington, DC 20423; and (2) James R. Paschall, Three Commercial Place, Norfolk, VA 23510–2191.

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

SUPPLEMENTARY INFORMATION: Additional information is contained in the Board's decision. To purchase a copy of the full decision, write to, call, or pick up in person from: DC Data & News, Inc., Room 2229, 1201 Constitution Avenue, NW., Washington, DC 20423. Telephone: (202) 289–4357/4359. [Assistance for the hearing impaired is available through TDD services (202) 927–5721.]

Decided: January 30, 1997.

[1] *See Exempt. of Rail Abandonment—Offers of Finan. Assist.*, 4 I.C.C.2d 164 (1987).

By the Board, Chairman Morgan and Vice Chairman Owen.

Vernon A. Williams,

Secretary.

[FR Doc. 97–3106 Filed 2–6–97; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[FI–54–93]

Proposed Collection; Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Pub. L. 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning an existing final regulation, FI–54–93 (TD 8554), Clear Reflection of Income in the Case of Hedging Transactions (§ 1.146–4(d)).

DATES: Written comments should be received on or before April 8, 1997 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection should be directed to Carol Savage, (202) 622–3945, Internal Revenue Service, room 5569, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Clear Reflection of Income in the Case of Hedging Transactions.

OMB Number: 1545–1412.

Regulation Project Number: FI–54–93.

Abstract: This regulation provides guidance to taxpayers regarding when gain or loss from common business hedging transactions is recognized for tax purposes and requires that the books and records maintained by a taxpayer disclose the method or methods used to account for different types of hedging transactions.

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 110,000.

Estimated Time Per Respondent: 12 minutes.

Estimated Total Annual Burden Hours: 22,000.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

REQUEST FOR COMMENTS: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: February 3, 1997.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 97–3126 Filed 2–6–97; 8:45 am]

BILLING CODE 4830–01–U

Corrections

Federal Register
Vol. 62, No. 26
Friday, February 7, 1997

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF ENERGY

10 CFR Part 835

[Docket No. EH–RM–96–835]

RIN 1901–AA59

Occupational Radiation Protection

Correction

In proposed rule document 96–32107, beginning on page 67600, in the issue of Monday, December 23, 1996, make the following correction:

Appendix D to Part 835 [Corrected]

On page 67619, in the third column, in Appendix D to part 835, in the table, the Surface Radioactivity Values, the first entry ''U–nat, U–235, U–238, and associated decay products'' should read ''1,000 (alpha)'' and ''5,000 (alpha)'' respectively.

BILLING CODE 1505-01-D

Federal Register

Friday
February 7, 1997

Part II

Department of Housing and Urban Development

Federal Property Suitable as Facilities To Assist the Homeless; Notice

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4124–N–24]

Federal Property Suitable as Facilities To Assist the Homeless

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This Notice identifies unutilized, underutilized, excess, and surplus Federal property reviewed by HUD for suitability for possible use to assist the homeless.

FOR FURTHER INFORMATION CONTACT: Mark Johnston, room 7256, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410; telephone (202) 708–1226; TDD number for the hearing- and speech-impaired (202) 708–2565 (these telephone numbers are not toll-free), or call the toll-free Title V information line at 1–800–927–7588.

SUPPLEMENTARY INFORMATION: In accordance with 24 CFR Part 581 and section 501 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411), as amended, HUD is publishing this Notice to identify Federal buildings and other real property that HUD has reviewed for suitability for use to assist the homeless. The properties were reviewed using information provided to HUD by Federal landholding agencies regarding unutilized and underutilized buildings and real property controlled by such agencies or by GSA regarding its inventory of excess or surplus Federal property. This Notice is also published in order to comply with the December 12, 1988 Court Order in *National Coalition for the Homeless* v. *Veterans Administration,* No. 88–2503–OG (D.D.C.).

Properties reviewed are listed in this Notice according to the following categories: Suitable/available, suitable/unavailable, suitable/to be excess, and unsuitable. The properties listed in the three suitable categories have been reviewed by the landholding agencies, and each agency has transmitted to HUD: (1) Its intention to make the property available for use to assist the homeless, (2) its intention to declare the property excess to the agency's needs, or (3) a statement of the reasons that the property cannot be declared excess or made available for use as facilities to assist the homeless.

Properties listed as suitable/available will be available exclusively for homeless use for a period of 60 days from the date of this Notice. Homeless assistance providers interested in any such property should send a written expression of interest to HHS, addressed to Brian Rooney, Division of Property Management, Program Support Center, HHS, room 5B–41, 5600 Fishers Lane, Rockville, MD 20857; (301) 443–2265. (This is not a toll-free number.) HHS will mail to the interested provider an application packet, which will include instructions for completing the application. In order to maximize the opportunity to utilize a suitable property, providers should submit their written expressions of interest as soon as possible. For complete details concerning the processing of applications, the reader is encouraged to refer to the interim rule governing this program, 24 CFR Part 581.

For properties listed as suitable/to be excess, that property may, if subsequently accepted as excess by GSA, be made available for use by the homeless in accordance with applicable law, subject to screening for other Federal use. At the appropriate time, HUD will publish the property in a Notice showing it as either suitable/available or suitable/unavailable.

For properties listed as suitable/unavailable, the landholding agency has decided that the property cannot be declared excess or made available for use to assist the homeless, and the property will not be available.

Properties listed as unsuitable will not be made available for any other purpose for 20 days from the date of this Notice. Homeless assistance providers interested in a review by HUD of the determination of unsuitability should call the toll-free information line at 1–800–927–7588 for detailed instructions or write a letter to Mark Johnston at the address listed at the beginning of this Notice. Included in the request for review should be the property address (including zip code), the date of publication in the Federal Register, the landholding agency, and the property number.

For more information regarding particular properties identified in this Notice (*i.e.,* acreage, floor plan, existing sanitary facilities, exact street address), providers should contact the appropriate landholding agencies at the following addresses: ARMY: Mr. Derrick Mitchell, CECPW–FP, U.S. Army Center for Public Works, 7701 Telegraph Road, Alexandria, VA 22310–3862; (703) 428–6083; COE: Mr. Robert Swieconek, Army Corps of Engineers, Management & Disposal Division, Pulaski Building, Room 4224, 20 Massachusetts Avenue NW., Washington, DC 20314–1000; (202) 761–1749 (these are not toll-free numbers).

Dated: January 30, 1997.

Jacquie M. Lawing,

Deputy Assistant Secretary for Economic Development.

TITLE V, FEDERAL SURPLUS PROPERTY PROGRAM FEDERAL REGISTER REPORT FOR 02/07/97

Suitable/Available Properties

Buildings (by State)

Arizona

Bldg. 41410
Fort Huachuca
Sierra Vista Co: Cochise AZ 85635–
Landholding Agency: Army
Property Number: 219640508
Status: Unutilized
Comment: 582 sq. ft., presence of lead base paint, most recent use—admin., off-site use only.

Bldg. 71916
Fort Huachuca
Sierra Vista Co: Cochise AZ 85635–
Landholding Agency: Army
Property Number: 219640509
Status: Unutilized
Comment: 1225 sq. ft., presence of asbestos/lead base paint, most recent use—storage, off-site use only.

11 Bldgs., Fort Huachuca
#31209, 31210, 31211, 81104, 82001, 82010, 84025, 84026, 84027, 84028, 84105
Sierra Vista Co: Cochise AZ 85635–
Landholding Agency: Army
Property Number: 219640510
Status: Unutilized
Comment: various sq. ft., presence of asbestos/lead base paint, off-site use only.

California

Stevens Hall
U.S. Army Reserve Center
Modesto Co: Stanislaus CA 95351–0408
Landholding Agency: Army
Property Number: 219640511
Status: Unutilized
Comment: 12836 sq. ft., most recent use—office/training.

District of Columbia

Dalecarlia Reservoir
Bldgs. 5900, 5902, 5904, 5906, 5908, 5910
Washington Aqueduct
Washington DC 20016–
Landholding Agency: COE
Property Number: 319610004
Status: Excess
Comment: brick/frame residences in poor condition w/2 floors and basement, presence of asbestos, on National Historic Register, off-site use only.

Georgia

Bldg. T–336
Hunter Army Airfield
Savannah Co: Chatham GA 31409–
Landholding Agency: Army
Property Number: 219640512
Status: Unutilized
Comment: 2284 sq. ft., needs major repair, most recent use—admin., off-site use only.

Idaho

Bldg. 177
Albeni Falls Dam

Vista Area Co: Bonner ID
Landholding Agency: COE
Property Number: 319630004
Status: Excess
Comment: 1400 sq. ft., wood frame, concrete slab, presence of lead based paint, off-site use only.

Iowa

Bldg.—Bridgeview
Rathbun Lake Project, R.R. #3
Centerville Co: Appanoose IA 52544–
Landholding Agency: COE
Property Number: 319340003
Status: Unutilized
Comment: 416 sq. ft., 1-story, most recent use—storage, needs major rehab, off-site use only.

Bldg.—Island View
Rathbun Lake Project, R.R. #3
Centerville Co: Appanoose IA 52544–
Landholding Agency: COE
Property Number: 319340004
Status: Unutilized
Comment: 416 sq. ft., 1-story, most recent use—storage, needs major rehab, off-site use only.

Bldg.—Rolling Cove
Rathbun Lake Project, R.R. #3
Centerville Co: Appanoose IA 52544–
Landholding Agency: COE
Property Number: 319340005
Status: Unutilized
Comment: 416 sq. ft., 1-story, most recent use—storage, needs major rehab, off-site use only.

Tract 141
Melos, Stanley, Camp Dodge
Johnston Co: Polk IA 50131–
Landholding Agency: COE
Property Number: 319610005
Status: Excess
Comment: 1104 sq. ft., most recent use—storage, needs rehab, possible asbestos, off-site use only.

2 Residence/1 Garage
Rathbun Lake Project
Centerville Co: Appanoose IA 52544–
Landholding Agency: COE
Property Number: 319710001
Status: Excess
Comment: 1315 sq. ft. each house, 576 sq. ft. garage, off-site use only.

Kansas

Trailer—Clinton Lake
Rt. 5, Box 109B
Lawrence Co: Douglas KS 66046–
Landholding Agency: COE
Property Number: 319410003
Status: Excess
Comment: double-wide trailer (24x50), most recent use—residence, needs repair, off-site use only.

Washhouse/shower
Pomona Lake
Vassar Co: Osage KS 66543–
Landholding Agency: COE
Property Number: 319620002
Status: Excess
Comment: 1274 sq. ft. metal bldg., most recent use—storage, needs repair, off-site use only.

Water Treatment Bldg.
Pomona Lake
Vassar Co: Osage KS 66543–
Landholding Agency: COE
Property Number: 319620003
Status: Excess
Comment: 720 sq. ft. bldg., needs repair, off-site use only.

Dwelling
Kanopolis Project Co: Ellsworth KS 67464–
Landholding Agency: COE
Property Number: 319710002
Status: Excess
Comment: 670 sq. ft., residence.

Residence, Perry Lake
Perry Co: Jefferson KS 66073–
Landholding Agency: COE
Property Number: 319710003
Status: Excess
Comment: 1440 sq. ft. residence, presence of asbestos, off-site use only.

Mobile Home
Hillsdale Lake
Paola Co: Miami KS 66071–
Landholding Agency: COE
Property Number: 319710004
Status: Unutilized
Comment: 23′x62′ modular, most recent use—storage, major repairs required, off-site use only.

Kentucky

Green River Lock & Dam #3
Rochester Co: Butler KY 42273–
Location: SR 70 west from Morgantown, KY., approximately 7 miles to site.
Landholding Agency: COE
Property Number: 319010022
Status: Unutilized
Comment: 980 sq. ft.; 2 story wood frame; two story residence; potential utilities; needs major rehab.

Kentucky River Lock and Dam 3
Pleasureville Co: Henry KY 40057–
Location: SR 421 North from Frankfort, KY. to Highway 561, right on 561 approximately 3 miles to site.
Landholding Agency: COE
Property Number: 319010060
Status: Unutilized
Comment: 897 sq. ft.; 2 story wood frame; structural deficiencies.

Bldg. 1
Kentucky River Lock and Dam
Carrolton Co: Carroll KY 41008–
Location: Take I–71 to Carrolton, KY exit, go east on SR #227 to Highway 320, then left for about 1.5 miles to site.
Landholding Agency: COE
Property Number: 319011628
Status: Unutilized
Comment: 1530 sq. ft.; 2 story wood frame house; subject to periodic flooding; needs rehab.

Bldg. 2
Kentucky River Lock and Dam
Carrolton Co: Carroll KY 41008–
Location: Take I–71 to Carrolton, KY exit, go east on SR #227 to Highway 320, then left for about 1.5 miles to site.
Landholding Agency: COE
Property Number: 319011629
Status: Unutilized
Comment: 1530 sq. ft.; 2 story wood frame house; subject to periodic flooding; needs rehab.

Utility Bldg, Nolin River Lake
Moutardier Recreation Site Co: Edmonson KY
Landholding Agency: COE
Property Number: 319320002
Status: Unutilized
Comment: 541 sq. ft., concrete block, off-site use only.

Louisiana

Bldg. 7805, Fort Polk
Ft. Polk Co: Vernon Parish LA 71459–
Landholding Agency: Army
Property Number: 219640513
Status: Unutilized
Comment: 4172 sq. ft., 2-story, most recent use—barracks.

Bldg. 7806, Fort Polk
Ft. Polk Co: Vernon Parish LA 71459–
Landholding Agency: Army
Property Number: 219640514
Status: Unutilized
Comment: 4172 sq. ft., 2-story, most recent use—barracks.

Bldg. 7807, Fort Polk
Ft. Polk Co: Vernon Parish LA 71459–
Landholding Agency: Army
Property Number: 219640515
Status: Unutilized
Comment: 4172 sq. ft., 2-story, most recent use—barracks.

Bldg. 7808, Fort Polk
Ft. Polk Co: Vernon Parish LA 71459–
Landholding Agency: Army
Property Number: 219640516
Status: Underutilized
Comment: 4172 sq. ft., 2-story, most recent use—barracks.

Bldg. 7809, Fort Polk
Ft. Polk Co: Vernon Parish LA 71459–
Landholding Agency: Army
Property Number: 219640517
Status: Underutilized
Comment: 4172 sq. ft., 2-story, most recent use—barracks.

Bldg. 7810, Fort Polk
Ft. Polk Co: Vernon Parish LA 71459–
Landholding Agency: Army
Property Number: 219640518
Status: Underutilized
Comment: 4172 sq. ft., 2-story, most recent use—barracks.

Bldg 7811, Fort Polk
Ft. Polk Co: Vernon Parish LA 71459–
Landholding Agency: Army
Property Number: 219640519
Status: Underutilized
Comment: 4172 sq. ft., 2-story, most recent use—barracks.

Bldg. 7813, Fort Polk
Ft. Polk Co: Vernon Parish LA 71459–
Landholding Agency: Army
Property Number: 219640520
Status: Underutilized
Comment: 4172 sq. ft., 2-story, most recent use—barracks.

Bldg. 7814, Fort Polk
Ft. Polk Co: Vernon Parish LA 71459–
Landholding Agency: Army
Property Number: 219640521
Status: Underutilized
Comment: 4172 sq. ft., 2-story, most recent use—barracks.

Bldg. 7815, Fort Polk
Ft. Polk Co: Vernon Parish LA 71459–
Landholding Agency: Army
Property Number: 219640522
Status: Underutilized

Comment: 4172 sq. ft., 2-story, most recent use—barracks.

Bldg. 7816, Fort Polk
Ft. Polk Co: Vernon Parish LA 71459–
Landholding Agency: Army
Property Number: 219640523
Status: Underutilized
Comment: 4172 sq. ft., 2-story, most recent use—barracks.

Bldg. 8405, Fort Polk
Ft. Polk Co: Vernon Parish LA 71459–
Landholding Agency: Army
Property Number: 219640524
Status: Underutilized
Comment: 1029 sq. ft., most recent use—office.

Bldg. 8407, Fort Polk
Ft. Polk Co: Vernon Parish LA 71459–
Landholding Agency: Army
Property Number: 219640525
Status: Underutilized
Comment: 2055 sq. ft., most recent use—admin.

Bldg. 8408, Fort Polk
Ft. Polk Co: Vernon Parish LA 71459–
Landholding Agency: Army
Property Number: 219640526
Status: Underutilized
Comment: 2055 sq. ft., most recent use—admin.

Bldg. 8414, Fort Polk
Ft. Polk Co: Vernon Parish LA 71459–
Landholding Agency: Army
Property Number: 219640527
Status: Underutilized
Comment: 4172 sq. ft., most recent use—barracks.

Bldg. 8423, Fort Polk
Ft. Polk Co: Vernon Parish LA 71459–
Landholding Agency: Army
Property Number: 219640528
Status: Underutilized
Comment: 4172 sq. ft., most recent use—barracks.

Bldg. 8424, Fort Polk
Ft. Polk Co: Vernon Parish LA 71459–
Landholding Agency: Army
Property Number: 219640529
Status: Underutilized
Comment: 4172 sq. ft., most recent use—barracks.

Bldg. 8426, Fort Polk
Ft. Polk Co: Vernon Parish LA 71459–
Landholding Agency: Army
Property Number: 219640530
Status: Underutilized
Comment: 4172 sq. ft., most recent use—barracks.

Bldg. 8427, Fort Polk
Ft. Polk Co: Vernon Parish LA 71459–
Landholding Agency: Army
Property Number: 219640531
Status: Underutilized
Comment: 4172 sq. ft., most recent use—barracks.

Bldg. 8428, Fort Polk
Ft. Polk Co: Vernon Parish LA 71459–
Landholding Agency: Army
Property Number: 219640532
Status: Underutilized
Comment: 4172 sq. ft., most recent use—barracks.

Bldg. 8429, Fort Polk
Ft. Polk Co: Vernon Parish LA 71459–
Landholding Agency: Army
Property Number: 219640533
Status: Underutilized
Comment: 4172 sq. ft., most recent use—barracks.

Bldg. 8430, Fort Polk
Ft. Polk Co: Vernon Parish LA 71459–
Landholding Agency: Army
Property Number: 219640534
Status: Underutilized
Comment: 4172 sq. ft., most recent use—barracks.

Bldg. 8431, Fort Polk
Ft. Polk Co: Vernon Parish LA 71459–
Landholding Agency: Army
Property Number: 219640535
Status: Underutilized
Comment: 4172 sq. ft., most recent use—barracks.

Bldg. 8432, Fort Polk
Ft. Polk Co: Vernon Parish LA 71459–
Landholding Agency: Army
Property Number: 219640536
Status: Underutilized
Comment: 4172 sq. ft., most recent use—barracks.

Bldg. 8433, Fort Polk
Ft. Polk Co: Vernon Parish LA 71459–
Landholding Agency: Army
Property Number: 219640537
Status: Underutilized
Comment: 4172 sq. ft., most recent use—barracks.

Bldg. 8446, Fort Polk
Ft. Polk Co: Vernon Parish LA 71459–
Landholding Agency: Army
Property Number: 219640538
Status: Underutilized
Comment: 2093 sq. ft., most recent use—admin.

Bldg. 8449, Fort Polk
Ft. Polk Co: Vernon Parish LA 71459–
Landholding Agency: Army
Property Number: 219640539
Status: Underutilized
Comment: 2093 sq. ft., most recent use—office.

Bldg. 8450, Fort Polk
Ft. Polk Co: Vernon Parish LA 71459–
Landholding Agency: Army
Property Number: 219640540
Status: Underutilized
Comment: 2093 sq. ft., most recent use—admin.

Bldg. 8457, Fort Polk
Ft. Polk Co: Vernon Parish LA 71459–
Landholding Agency: Army
Property Number: 219640541
Status: Underutilized
Comment: 4172 sq. ft., most recent use—barracks.

Bldg. 8458, Fort Polk
Ft. Polk Co: Vernon Parish LA 71459–
Landholding Agency: Army
Property Number: 219640542
Status: Underutilized
Comment: 4172 sq. ft., most recent use—barracks.

Bldg. 8459, Fort Polk
Ft. Polk Co: Vernon Parish LA 71459–
Landholding Agency: Army
Property Number: 219640543
Status: Underutilized
Comment: 4172 sq. ft., most recent use—barracks.

Bldg. 8460, Fort Polk
Ft. Polk Co: Vernon Parish LA 71459–
Landholding Agency: Army
Property Number: 219640544
Status: Underutilized
Comment: 4172 sq. ft., most recent use—barracks.

Bldg. 8461, Fort Polk
Ft. Polk Co: Vernon Parish LA 71459–
Landholding Agency: Army
Property Number: 219640545
Status: Underutilized
Comment: 4172 sq. ft., most recent use—barracks.

Bldg. 8462, Fort Polk
Ft. Polk Co: Vernon Parish LA 71459–
Landholding Agency: Army
Property Number: 219640546
Status: Underutilized
Comment: 4172 sq. ft., most recent use—barracks.

Bldg. 8463, Fort Polk
Ft. Polk Co: Vernon Parish LA 71459–
Landholding Agency: Army
Property Number: 219640547
Status: Underutilized
Comment: 4172 sq. ft., most recent use—barracks.

Bldg. 8501, Fort Polk
Ft. Polk Co: Vernon Parish LA 71459–
Landholding Agency: Army
Property Number: 219640548
Status: Underutilized
Comment: 1687 sq. ft., most recent use—office.

Bldg. 8502, Fort Polk
Ft. Polk Co: Vernon Parish LA 71459–
Landholding Agency: Army
Property Number: 219640549
Status: Underutilized
Comment: 1029 sq. ft., most recent use—office.

Bldg. 8540, Fort Polk
Ft. Polk Co: Vernon Parish LA 71459–
Landholding Agency: Army
Property Number: 219640550
Status: Underutilized
Comment: 4172 sq. ft., most recent use—barracks.

Bldg. 8541, Fort Polk
Ft. Polk Co: Vernon Parish LA 71459–
Landholding Agency: Army
Property Number: 219640551
Status: Underutilized
Comment: 4172 sq. ft., most recent use—barracks.

Bldg. 8542, Fort Polk
Ft. Polk Co: Vernon Parish LA 71459–
Landholding Agency: Army
Property Number: 219640552
Status: Underutilized
Comment: 4172 sq. ft., most recent use—barracks.

Bldg. 8543, Fort Polk
Ft. Polk Co: Vernon Parish LA 71459–
Landholding Agency: Army
Property Number: 219640553
Status: Underutilized
Comment: 4172 sq. ft., most recent use—barracks.

Bldg. 8544, Fort Polk
Ft. Polk Co: Vernon Parish LA 71459–
Landholding Agency: Army
Property Number: 219640554

Status: Underutilized
Comment: 4172 sq. ft., most recent use—barracks.

Bldg. 8545, Fort Polk
Ft. Polk Co: Vernon Parish LA 71459–
Landholding Agency: Army
Property Number: 219640555
Status: Underutilized
Comment: 4172 sq. ft., most recent use—barracks.

Bldg. 8546, Fort Polk
Ft. Polk Co: Vernon Parish LA 71459–
Landholding Agency: Army
Property Number: 219640556
Status: Underutilized
Comment: 4172 sq. ft., most recent use—barracks.

Bldg. 8547, Fort Polk
Ft. Polk Co: Vernon Parish LA 71459–
Landholding Agency: Army
Property Number: 219640557
Status: Underutilized
Comment: 4172 sq. ft., most recent use—barracks.

Bldg. 8548, Fort Polk
Ft. Polk Co: Vernon Parish LA 71459–
Landholding Agency: Army
Property Number: 219640558
Status: Underutilized
Comment: 4172 sq. ft., most recent use—barracks.

Bldg. 8549, Fort Polk
Ft. Polk Co: Vernon Parish LA 71459–
Landholding Agency: Army
Property Number: 219640559
Status: Underutilized
Comment: 4172 sq. ft., most recent use—barracks.

Missouri

Tract 113—House
Smithville Lake
Smithville Co: Clay MO 64089–
Landholding Agency: COE
Property Number: 319540002
Status: Excess
Comment: 1200 sq. ft. residence, presence of lead base paint, off-site use only.

Bldg. A
Harry S. Truman Project
Warsaw Co: Renton MO 65355–
Landholding Agency: COE
Property Number: 319620004
Status: Excess
Comment: 1440 sq. ft. residence, off-site use only.

Bldg. B
Harry S. Truman Project
Warsaw Co: Benton MO 65355–
Landholding Agency: COE
Property Number: 31920005
Status: Excess
Comment: 1440 sq. ft. residence, off-site use only.

Residence Pomme de Terre Project
Hermitage Co: Hickory MO 65668–
Landholding Agency: COE
Property Number: 319710005
Status: Excess
Comment: 1255 sq. ft. residence, presence of asbestos/lead paint, off-site use only.

Nebraska

Bldg. A
Harlan County Lake Project
Republican City Co: Harlan NE 68971–
Landholding Agency: COE
Property Number: 3191710006
Status: Excess
Comment: 1760 sq. ft. residence, needs repair, off-site use only.

Bldg. B
Harlan County Lake Project
Republican City Co: Harlan NE 68971–
Landholding Agency: COE
Property Number: 3191710007
Status: Excess
Comment: 720 sq. ft. residence, needs repair, off-site use only.

Bldg. C
Harlan County Lake Project
Republican City Co: Harlan NE 68971–
Landholding Agency: COE
Property Number: 3191710008
Status: Excess
Comment: 720 sq. ft. residence, needs repair, off-site use only.

Ohio

Barker Historic House
Will Island Locks and Dam
Newport Co: Washington, OH 45768–9801
Location: Located at lock site, downstream of lock and dam structure
Landholding Agency: COE
Property Number: 319120018
Status: Unutilized
Comment: 1600 sq. ft. bldg. with ½ acre of land, 2 story brick frame, needs rehab, on Natl Register of Historic Places, no utilities, off-site use only.

Oklahoma

Water Treatment Plant
Bell Starr, Eufaula Lake
Eufaula Co: McIntosh OK 74432–
Landholding Agency: COE
Property Number: 319630001
Status: Excess
Comment: 16′×16′, metal, off-site use only.

Water Treatment Plant
Gentry Creek, Eufaula Lake
Eufaula Co: McIntosh OK 74432–
Landholding Agency: COE
Property Number: 319630002
Status: Excess
Comment: 12′×16′, metal, off-site use only.

Pennsylvania

Mahoning Creek Reservoir
New Bethlehem Co: Armstrong PA 16242–
Landholding Agency: COE
Property Number: 319210008
Status: Unutilized
Comment: 1015 sq. ft., 2 story brick residence, off-site use only.

One unit/Residence
Conemaugh River Lake, RD #1, Box 702
Saltburg Co: Indiana PA 15681–
Landholding Agency: COE
Property Number: 319430011
Status: Unutilized
Comment: 2642 sq. ft., 1-story 1-unit of duplex, fair condition, access restrictions.

Dwelling
Lock & Dam 6, Allegheny River, 1260 River Rd.
Freeport Co: Armstrong PA 16229–2023
Landholding Agency: COE
Property Number: 319620008
Status: Unutilized
Comment: 2652 sq. ft., 3-story brick house, in close proximity to Lock and Dam, available for interim use for nonresidential purposes.

Dwelling
Lock & Dam 4, Allegheny River
Natrona Co: Allegheny PA 15065–2609
Landholding Agency: COE
Property Number: 319710009
Status: Unutilized
Comment: 1664 sq. ft., 2-story brick residence, needs repair, off-site use only.

South Carolina

Bldg. 5
J.S. Thurmond Dam and Reservoir
Clarks Hill Co: McCormick SC
Location: ½ mile east of Resource Managers Office.
Landholding Agency: COE
Property Number: 319011548
Status: Excess
Comment: 1900 sq. ft.; 1 story masonry frame; possible asbestos; most recent use—storage, off-site removal only.

Tennessee

Cheatham Lock & Dam
Tract D, Lock Road
Nashville Co: Davidson TN 37207–
Landholding Agency: COE
Property Number: 319520003
Status: Unutilized
Comment: 1100 sq. ft. dwelling w/storage bldgs on 7 acres, needs major rehab, contamination issues, approx. 1 acre in fldwy, modif. to struct. subj. to approval of St. Hist. Presv. Ofc.

Texas

Bldg. 2906, Fort Bliss
El Paso Co: El Paso TX 79916–
Landholding Agency: Army
Property Number: 219640561
Status: Unutilized
Comment: 35,737 sq. ft., 3-story, most recent use—housing, off-site use only.

Bldg. 2907, Fort Bliss
El Paso Co: El Paso TX 79916–
Landholding Agency: Army
Property Number: 219640562
Status: Unutilized
Comment: 35,737, 3-story, most recent use—housing, off-site use only.

Bldg. 2908, Fort Bliss
El Paso Co: El Paso TX 79916–
Landholding Agency: Army
Property Number: 219640563
Status: Unutilized
Comment: 41,979 sq. ft., 3-story, most recent use—housing, off-site use only.

Bldg. 7137, Fort Bliss
El Paso Co: El Paso TX 79916–
Landholding Agency: Army
Property Number: 219640564
Status: Unutilized
Comment: 35,736 sq. ft., 3-story, most recent use—housing, off-site use only.

Bldg. 2305, Fort Hood
Ft. Hood Co: Coryell TX 76544–
Landholding Agency: Army
Property Number: 219640565
Status: Unutilized
Comment: 8043 sq. ft., 2-story, needs repair, most recent use—guest house, off-site use only.

Bldg. 2306, Fort Hood

Ft. Hood Co: Coryell TX 76544–
Landholding Agency: Army
Property Number: 219640566
Status: Unutilized
Comment: 8043 sq. ft., 2-story, needs repair, most recent use—guest house, off-site use only.

Bldg. 2307, Fort Hood
Ft. Hood Co: Coryell TX 76544–
Landholding Agency: Army
Property Number: 219640567
Status: Unutilized
Comment: 8043 sq. ft., 2-story, needs repair, most recent use—guest house, off-site use only.

Virginia

Bldg. T–171, Fort Monroe
Ft. Monroe VA 23651–
Landholding Agency: Army
Property Number: 219640568
Status: Underutilized
Comment: 1740 sq. ft., most recent use—storage, off-site use only.

Bldg. 642, Fort Eustis
Ft. Eustis VA 23604–
Landholding Agency: Army
Property Number: 219640569
Status: Unutilized
Comment: 800 sq. ft., metal, most recent use—bath house, off-site use only.

Peters Ridge Site
Gathright Dam
Covington VA
Landholding Agency: COE
Property Number: 319430013
Status: Excess
Comment: 64 sq. ft., metal bldg.

Coles Mountain Site
Gathright Dam, Rt. 607 Co: Bath VA
Landholding Agency: COE
Property Number: 319430015
Status: Excess
Comment: 64 sq. ft., 1-story metal bldg.

Metal Bldg.
John H. Kerr Dam & Reservoir Co: Boydton VA
Landholding Agency: COE
Property Number: 319620009
Status: Excess
Comment: 800 sq. ft., most recent use—storage, off-site use only.

Washington

Bldg. A1404, Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 219640570
Status: Unutilized
Comment: 557 sq. ft., needs rehab, most recent use—storage, off-site use only.

Bldg. A1419, Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 219640571
Status: Unutilized
Comment: 1307 sq. ft., needs rehab, most recent use—storage, off-site use only.

Bldg. A1420, Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 219640572
Status: Unutilized
Comment: 5234 sq. ft., needs rehab, most recent use—vehicle maintenance shop, off-site use only.

West Virginia

German Ridge Radio Transmitter
Huntington Co: Wayne WV 25701–
Landholding Agency: COE
Property Number: 319610002
Status: Unutilized
Comment: 187 sq. ft. cinder block bldg. on .55 acre in remote area, most recent use—radio equipment room.

Wisconsin

Former Lockmaster's Dwelling
Cedar Locks
4527 East Wisconsin Road
Appleton Co: Outagamie WI 54911–
Landholding Agency: COE
Property Number: 319011524
Status: Unutilized
Comment: 1224 sq. ft.; 2 story brick/wood frame residence; needs rehab; secured area with alternate access.

Former Lockmaster's Dwelling
Appleton 4th Lock
905 South Lowe Street
Appleton Co: Outagamie WI 54911–
Landholding Agency: COE
Property Number: 319011525
Status: Unutilized
Comment: 908 sq. ft.; 2 story wood frame residence; needs rehab.

Former Lockmaster's Dwelling
Kaukauna 1st Lock
301 Canal Street
Kaukauna Co: Outagamie WI 54131–
Landholding Agency: COE
Property Number: 319011527
Status: Unutilized
Comment: 1290 sq. ft.; 2 story wood frame residence; needs rehab; secured area with alternate access.

Former Lockmaster's Dwelling
Appleton 1st Lock
905 South Oneida Street
Appleton Co: Outagamie WI 54911–
Landholding Agency: COE
Property Number: 319011531
Status: Unutilized
Comment: 1300 sq. ft.; potential utilities; 2 story wood frame residence; needs rehab; secured area with alternate access.

Former Lockmaster's Dwelling
Rapid Croche Lock
Lock Road
Wrightstown Co: Outagamie WI 54180–
Location: 3 miles southwest of intersection State Highway 96 and Canal Road
Landholding Agency: COE
Property Number: 319011533
Status: Unutilized
Comment: 1952 sq. ft.; 2 story wood frame residence; potential utilities; needs rehab.

Former Lockmaster's Dwelling
Little KauKauna Lock
Little KauKauna
Lawrence Co: Brown WI 54130–
Location: 2 miles southeasterly from intersection of Lost Dauphin Road (County Trunk Highway ''D'') and River Street.
Landholding Agency: COE
Property Number: 319011535
Status: Unutilized
Comment: 1224 sq. ft.; 2 story brick/wood frame residence; needs rehab.

Former Lockmaster's Dwelling
Little Chute, 2nd Lock
214 Mill Street
Little Chute Co: Outagamie WI 54140–
Landholding Agency: COE
Property Number: 319011536
Status: Unutilized
Comment: 1224 sq. ft.; 2 story brick/wood frame residence; potential utilities; needs rehab; secured area with alternate access.

Land (by State)

Arkansas

Parcel 01
DeGray Lake
Section 12
Arkadelphia Co: Clark AR 71923–9361
Landholding Agency: COE
Property Number: 319010071
Status: Unutilized
Comment: 77.6 acres.

Parcel 02
DeGray Lake
Section 13
Arkadelphia Co: Clark AR 71923–9361
Landholding Agency: COE
Property Number: 319010072
Status: Unutilized
Comment: 198.5 acres.

Parcel 03
DeGray Lake
Section 18
Arkadelphia Co: Clark AR 71923–9361
Landholding Agency: COE
Property Number: 319010073
Status: Unutilized
Comment: 50.46 acres.

Parcel 04
DeGray Lake
Section 24, 25, 30 and 31
Arkadelphia Co: Clark AR 71923–9361
Landholding Agency: COE
Property Number: 319010074
Status: Unutilized
Comment: 236.37 acres.

Parcel 05
DeGray Lake
Section 16
Arkadelphia Co: Clark AR 71923–9361
Landholding Agency: COE
Property Number: 319010075
Status: Unutilized
Comment: 187.30 acres.

Parcel 06
DeGray Lake
Section 13
Arkadelphia Co: Clark AR 71923–9361
Landholding Agency: COE
Property Number: 319010076
Status: Unutilized
Comment: 13.0 acres.

Parcel 07
DeGray Lake
Section 34
Arkadelphia Co: Hot Spring AR 71923–9361
Landholding Agency: COE
Property Number: 319010077
Status: Unutilized
Comment: 0.27 acres.

Parcel 08
DeGray Lake
Section 13
Arkadelphia Co: Clark AR 71923–9361
Landholding Agency: COE
Property Number: 319010078
Status: Unutilized

Comment: 14.6 acres.

Parcel 09
DeGray Lake
Section 12
Arkadelphia Co: Hot Spring AR 71923–9361
Landholding Agency: COE
Property Number: 319010079
Status: Unutilized
Comment: 6.60 acres.

Parcel 10
DeGray Lake
Section 12
Arkadelphia Co: Hot Spring AR 71923–9361
Landholding Agency: COE
Property Number: 319010080
Status: Unutilized
Comment: 4.5 acres.

Parcel 11
DeGray Lake
Section 19
Arkadelphia Co: Hot Spring AR 71923–9361
Landholding Agency: COE
Property Number: 319010081
Status: Unutilized
Comment: 19.50 acres.

Lake Greeson
Section 7, 8 and 18
Murfreesboro Co: Pike AR 71958–9720
Landholding Agency: COE
Property Number: 319010083
Status: Unutilized
Comment: 46 acres.

California

Lake Mendocino
1160 Lake Mendocino Drive
Ukiah Co: Mendocino CA 95482–9404
Landholding Agency: COE
Property Number: 319011015
Status: Unutilized
Comment: 20 acres; steep, dense brush; potential utilities.

Colorado

Otis Lane
Chatfield Lake Project
Littleton Co: Jefferson Co 80123–
Landholding Agency: COE
Property Number: 319540001
Status: Excess
Comment: 25 ft. wide (5000 sq. ft.) subject to easements.

Kansas

Parcel 1
El Dorado Lake
Section 13, 24, and 18
(See County) Co: Butler KS
Landholding Agency: COE
Property Number: 319010064
Status: Unutilized
Comment: 61 acres; most recent use—recreation.

Kentucky

Tract 2625
Barkley Lake, Kentucky, and Tennessee
Cadiz Co: Trigg KY 42211–
Location: Adjoining the village of Rockcastle.
Landholding Agency: COE
Property Number: 319010025
Status: Excess
Comment: 2.57 acres; rolling and wooded.

Tract 2709–10 and 2710–2
Barkley Lake, Kentucky, and Tennessee
Cadiz Co: Trigg KY 42211–
Location: 2½ miles in a southerly direction from the village of Rockcastle.
Landholding Agency: COE
Property Number: 319010026
Status: Excess
Comment: 2.00 acres; steep and wooded.

Tract 2708–1 and 2709–1
Barkley Lake, Kentucky, and Tennessee
Cadiz Co: Trigg KY 42211–
Location: 2½ miles in a southerly direction from the village of Rockcastle.
Landholding Agency: COE
Property Number: 319010027
Status: Excess
Comment: 3.59 acres; rolling and wooded; no utilities.

Tract 2800
Barkley Lake, Kentucky, and Tennessee
Cadiz Co: Trigg KY 42211–
Location: 4¼ miles in a southeasterly direction from the village of Rockcastle.
Landholding Agency: COE
Property Number: 319010028
Status: Excess
Comment: 5.44 acres; steep and wooded.

Tract 2915
Barkley Lake, Kentucky, and Tennessee
Cadiz Co: Trigg KY 42211–
Location: 6½ miles west of Cadiz.
Landholding Agency: COE
Property Number: 319010029
Status: Excess
Comment: 5.76 acres; steep and wooded; no utilities.

Tract 2702
Barkley Lake, Kentucky, and Tennessee
Cadiz Co: Trigg KY 42211–
Location: 1 mile in a southerly direction from the village of Rockcastle.
Landholding Agency: COE
Property Number: 319010031
Status: Excess
Comment: 4.90 acres; wooded; no utilities.

Tract 4318
Barkley Lake, Kentucky, and Tennessee
Canton Co: Trigg KY 42212–
Location: Trigg Co. adjoining the city of Canton, KY. on the waters of Hopson Creek.
Landholding Agency: COE
Property Number: 319010032
Status: Excess
Comment: 8.24 acres; steep and wooded.

Tract 4502
Barkley Lake, Kentucky, and Tennessee
Canton Co: Trigg KY 42212–
Location: 3½ miles in a southerly direction from Canton, KY.
Landholding Agency: COE
Property Number: 319010033
Status: Excess
Comment: 4.26 acres; steep and wooded.

Tract 4611
Barkley Lake, Kentucky, and Tennessee
Canton Co: Trigg KY 42212–
Location: 5 miles south of Canton, KY.
Landholding Agency: COE
Property Number: 319010034
Status: Excess
Comment: 10.51 acres; steep and wooded; no utilities.

Tract 4619
Barkley Lake, Kentucky, and Tennessee
Canton Co: Trigg KY 42212–
Location: 4½ miles south from Canton, KY.
Landholding Agency: COE
Property Number: 319010035
Status: Excess
Comment: 2.02 acres; steep and wooded; no utilities.

Tract 4817
Barkley Lake, Kentucky and Tennessee
Canton Co: Trigg KY 42212–
Location: 6½ miles south of Canton, KY.
Landholding Agency: COE
Property Number: 319010036
Status: Excess
Comment: 1.75 acres; wooded.

Tract 1217
Barkley Lake, Kentucky, and Tennessee
Eddyville Co: Lyon KY 42030–
Location: On the north side of the Illinois Central Railroad.
Landholding Agency: COE
Property Number: 319010042
Status: Excess
Comment: 5.80 acres; steep and wooded.

Tract 1906
Barkley Lake, Kentucky and Tennessee
Eddyville Co: Lyon KY 42030–
Location: Approximately 4 miles east of Eddyville, KY.
Landholding Agency: COE
Property Number: 319010044
Status: Excess
Comment: 25.86 acres; rolling steep and partially wooded; no utilities.

Tract 1907
Barkley Lake, Kentucky and Tennessee
Eddyville Co: Lyon KY 42038–
Location: On the waters of Pilfen Creek, 4 miles east of Eddyville, KY.
Landholding Agency: COE
Property Number: 319010045
Status: Excess
Comment: 8.71 acres; rolling steep and wooded; no utilities.

Tract 2001 #1
Barkley Lake, Kentucky and Tennessee
Eddyville Co: Lyon KY 42030–
Location: Approximately 4½ miles east of Eddyville, KY.
Landholding Agency: COE
Property Number: 319010046
Status: Excess
Comment: 47.42 acres; steep and wooded; no utilities.

Tract 2001 #2
Barkley Lake, Kentucky and Tennessee
Eddyville Co: Lyon KY 42030–
Location: Approximately 4½ miles east of Eddyville, KY.
Landholding Agency: COE
Property Number: 319010047
Status: Excess
Comment: 8.64 acres; steep and wooded; no utilities.

Tract 2005
Barkley Lake, Kentucky and Tennessee
Eddyville Co: Lyon KY 42030–
Location: Approximately 5½ miles east of Eddyville, KY.
Landholding Agency: COE
Property Number: 319010048
Status: Excess
Comment: 4.62 acres; steep and wooded; no utilities.

Tract 2307

Barkley Lake, Kentucky and Tennessee
Eddyville Co: Lyon KY 42030–
Location: Approximately 7½ miles southeasterly of Eddyville, KY.
Landholding Agency: COE
Property Number: 319010049
Status: Excess
Comment: 11.43 acres; steep; rolling and wooded; no utilities.

Tract 2403
Barkley Lake, Kentucky and Tennessee
Eddyville Co: Lyon KY 42030–
Location: 7 miles southeasterly of Eddyville, KY.
Landholding Agency: COE
Property Number: 319010050
Status: Excess
Comment: 1.56 acres; steep and wooded; no utilities.

Tract 2504
Barkley Lake, Kentucky and Tennessee
Eddyville Co: Lyon KY 42030–
Location: 9 miles southeasterly of Eddyville, KY.
Landholding Agency: COE
Property Number: 319010051
Status: Excess
Comment: 24.46 acres; steep and wooded; no utilities.

Tract 214
Barkley Lake, Kentucky and Tennessee
Grand Rivers Co: Lyon KY 42045–
Location: South of the Illinois Central Railroad, 1 mile east of the Cumberland River.
Landholding Agency: COE
Property Number: 319010052
Status: Excess
Comment: 5.5 acres; wooded; no utilities.

Tract 215
Barkley Lake, Kentucky and Tennessee
Grand Rivers Co: Lyon KY 42045–
Location: 5 miles southwest of Kuttawa
Landholding Agency: COE
Property Number: 319010053
Status: Excess
Comment: 1.40 acres; wooded; no utilities.

Tract 241
Barkley Lake, Kentucky and Tennessee
Grand Rivers Co: Lyon KY 42045–
Location: Old Henson Ferry Road, 6 miles west of Kuttawa, KY.
Landholding Agency: COE
Property Number: 319010054
Status: Excess
Comment: 1.26 acres; steep and wooded; no utilities.

Tracts 306, 311, 315 and 325
Barkley Lake, Kentucky and Tennessee
Grand Rivers Co: Lyon KY 42045–
Location: 2.5 miles southwest of Kuttawa, KY. on the waters of Cypress Creek.
Landholding Agency: COE
Property Number: 319010055
Status: Excess
Comment: 38.77 acres; steep and wooded; no utilities.

Tracts 2305, 2306, and 2400–1
Barkley Lake, Kentucky and Tennessee
Eddyville Co: Lyon KY 42030–
Location: 6½ miles southeasterly of Eddyville, KY.
Landholding Agency: COE
Property Number: 319010056
Status: Excess
Comment: 97.66 acres; steep rolling and wooded; no utilities.

Tract 500–2
Barkley Lake, Kentucky and Tennessee
Kuttawa Co: Lyon KY 42055–
Location: Situated on the waters of Poplar Creek, approximately 1 mile southwest of Kuttawa, KY.
Landholding Agency: COE
Property Number: 319010057
Status: Excess
Comment: 3.58 acres; hillside ridgeland and wooded; no utilities.

Tracts 5203 and 5204
Barkley Lake, Kentucky and Tennessee
Linton Co: Trigg KY 42212
Location: Village of Linton, KY state highway 1254.
Landholding Agency: COE
Property Number: 319010058
Status: Excess
Comment: 0.93 acres; rolling, partially wooded; no utilities.

Tract 5240
Barkley Lake, Kentucky and Tennessee
Linton Co: Trigg KY 42212–
Location: 1 mile northwest of Linton, KY.
Landholding Agency: COE
Property Number: 319010059
Status: Excess
Comment: 2.26 acres; steep and wooded; no utilities.

Tract 4628
Barkley Lake, Kentucky and Tennessee
Canton Co: Trigg KY 42212–
Location: 4½ miles south from Canton, KY.
Landholding Agency: COE
Property Number: 319011621
Status: Excess
Comment: 3.71 acres; steep and wooded; subject to utility easements.

Tract 4619–B
Barkley Lake, Kentucky and Tennessee
Canton Co: Trigg KY 42212–
Location: 4½ miles south from Canton, KY.
Landholding Agency: COE
Property Number: 319011622
Status: Excess
Comment: 1.73 acres; steep and wooded; subject to utility easements.

Tract 2403–B
Barkley Lake, Kentucky and Tennessee
Eddyville Co: Lyon KY 42038–
Location: 7 miles southeasterly from Eddyville, KY.
Landholding Agency: COE
Property Number: 319011623
Status: Unutilized
Comment: 0.70. acres, wooded; subject to utility easements.

Tract 241–B
Barkley Lake, Kentucky and Tennessee
Grand Rivers Co: Lyon KY 42045–
Location: South of Old Henson Ferry Road, 6 miles west of Kuttawa, KY.
Landholding Agency: COE
Property Number: 319011624
Status: Excess
Comment: 11.16 acres; steep and wooded; subject to utility easements.

Tracts 212 and 237
Barkley Lake, Kentucky and Tennessee
Grand Rivers Co: Lyon KY 42045–
Location: Old Henson Ferry Road, 6 miles west of Kuttawa, KY.
Landholding Agency: COE
Property Number: 319011625
Status: Excess
Comment: 2.44 acres; steep and wooded; subject to utility easements.

Tract 215–B
Barkley Lake, Kentucky and Tennessee
Grand Rivers Co: Lyon KY 42045–
Location: 5 miles southwest of Kuttawa
Landholding Agency: COE
Property Number: 319011626
Status: Excess
Comment: 1.00 acres; wooded; subject to utility easements.

Tract 233
Barkley Lake, Kentucky and Tennessee
Grand Rivers Co: Lyon KY 42045–
Location: 5 miles southwest of Kuttawa
Landholding Agency: COE
Property Number: 319011627
Status: Excess
Comment: 1.00 acres; wooded; subject to utility easements.

Tract B—Markland Locks & Dam
Hwy 42, 3.5 miles downstream of Warsaw
Warsaw Co: Gallatin KY 41095–
Landholding Agency: COE
Property Number: 319130002
Status: Unutilized
Comment: 10 acres, most recent use—recreational, possible periodic flooding.

Tract A—Markland Locks & Dam
Hwy 42, 3.5 miles downstream of Warsaw
Warsaw Co: Gallatin KY 41095–
Landholding Agency: COE
Property Number: 319130003
Status: Unutilized
Comment: 8 acres, most recent use—recreational, possible periodic flooding.

Tract C—Markland Locks & Dam
Hwy 42, 3.5 miles downstream of Warsaw
Warsaw Co: Gallatin KY 41095–
Landholding Agency: COE
Property Number: 319130005
Status: Unutilized
Comment: 4 acres, most recent use—recreational, possible periodic flooding.

Tract N–819
Dale Hollow Lake & Dam Project
Illwill Creek, Hwy 90
Hobart Co: Clinton KY 42601–
Landholding Agency: COE
Property Number: 319140009
Status: Underutilized
Comment: 91 acres, most recent use—hunting, subject to existing easements.

Portion of Lock & Dam No. 1
Kentucky River
Carrolton Co: Carroll KY 41008–0305
Landholding Agency: COE
Property Number: 319320003
Status: Unutilized
Comment: approx. 3.5 acres (sloping), access monitored.

Portion of Lock & Dam No. 2
Kentucky River
Lockport Co: Henry KY 40036–9999
Landholding Agency: COE
Property Number: 319320004
Status: Underutilized
Comment: approx. 13.14 acres (sloping), access monitored.

Louisiana

Wallace Lake Dam and Reservoir

Shreveport Co: Caddo LA 71103–
Landholding Agency: COE
Property Number: 319011009
Status: Unutilized
Comment: 11 acres; wildlife/forestry; no utilities.

Bayou Bodcau Dam and Reservoir
Haughton Co: Caddo LA 71037–9707
Location: 35 miles Northeast of Shreveport, La.
Landholding Agency: COE
Property Number: 319011010
Status: Unutilized
Comment: 203 acres; wildlife/forestry; no utilities.

Minnesota

Parcel D
Pine River
Cross Lake Co: Crow Wing MN 56442–
Location: 3 miles from city of Cross Lake, between highways 6 and 371.
Landholding Agency: COE
Property Number: 319011038
Status: Excess
Comment: 17 acres; no utilities.

Tract 92
Sandy Lake
McGregor Co: Aitkins MN 55760–
Location: 4 miles west of highway 65, 15 miles from city of McGregor.
Landholding Agency: COE
Property Number: 319011040
Status: Excess
Comment: 4 acres; no utilities.

Tract 98
Leech Lake
Benedict Co: Hubbard MN 56641–
Location: 1 mile From city of Federal Dam, Mn.
Landholding Agency: COE
Property Number: 319011041
Status: Excess
Comment: 7.3 acres; no utilities.

Mississippi

Parcel 7
Grenada Lake
Sections 22, 23, T24N
Grenada Co: Yalobusha MS 38901–0903
Landholding Agency: COE
Property Number: 319011019
Status: Underutilized
Comment: 100 acres; no utilities; intermittently used under lease—expries 1994.

Parcel 8
Grenada Lake
Section 20, T24N
Grenada Co: Yalobusha MS 38901–0903
Landholding Agency: COE
Property Number: 319011020
Status: Underutilized
Comment: 30 acres; no utilities; intermittently used under lease—expries 1994.

Parcel 9
Grenada Lake
Section 20, T24N, R7E
Grenada Co: Yalobusha MS 38901–0903
Landholding Agency: COE
Property Number: 319011021
Status: Underutilized
Comment: 23 acres; no utilities; intermittently used under lease—expries 1994.

Parcel 10
Grenada Lake
Section 16, 17, 18, T24N, R8E
Grenada Co: Calhoun MS 38901–0903
Landholding Agency: COE
Property Number: 319011022
Status: Underutilized
Comment: 490 acres; no utilities; intermittently used under lease—expries 1994.

Parcel 2
Grenada Lake
Section 20 and T23N, R5E
Grenada Co: Grenada MS 38901–0903
Landholding Agency: COE
Property Number: 319011023
Status: Underutilized
Comment: 60 acres; no utilities; most recent use—wildlife and forestry management.

Parcel 3
Grenada Lake
Section 4, T23N, R5E
Grenada Co: Yalobusha MS 38901–0903
Landholding Agency: COE
Property Number: 319011024
Status: Underutilized
Comment: 120 acres; no utilities; most recent use—wildlife and forestry management; (13.5 acres/agriculture lease).

Parcel 4
Grenada Lake
Section 2 and 3, T23N, R5E
Grenada Co: Yalobusha MS 38901–0903
Landholding Agency: COE
Property Number: 319011025
Status: Underutilized
Comment: 60 acres; no utilities; most recent use—wildlife and forestry management.

Parcel 5
Grenada Lake
Section 7, T24N, R6E
Grenada Co: Yalobusha MS 38901–0903
Landholding Agency: COE
Property Number: 319011026
Status: Underutilized
Comment: 20 acres; no utilities; most recent use—wildlife and forestry management; (14 acres/agriculture lease).

Parcel 6
Grenada Lake
Section 9, T24N, R6E
Grenada Co: Yalobusha MS 38901–0903
Landholding Agency: COE
Property Number: 319011027
Status: Underutilized
Comment: 80 acres; no utilities; most recent use—wildlife and forestry management.

Parcel 11
Grenada Lake
Section 20, T24N, R8E
Grenada Co: Calhoun MS 38901–0903
Landholding Agency: COE
Property Number: 319011028
Status: Underutilized
Comment: 30 acres; no utilities; most recent use—wildlife and forestry management.

Parcel 12
Grenada Lake
Section 25, T24N, R7E
Grenada Co: Yalobusha MS 38901–0903
Landholding Agency: COE
Property Number: 319011029
Status: Underutilized
Comment: 30 acres; no utilities; most recent use—wildlife and forestry management.

Parcel 13
Grenada Lake
Section 34, T24N, R7E
Grenada Co: Yalobusha MS 38901–0903
Landholding Agency: COE
Property Number: 319011030
Status: Underutilized
Comment: 35 acres; no utilities; most recent use—wildlife and forestry management; (11 acres/agriculture lease).

Parcel 14
Grenada Lake
Section 3, T23N, R6E
Grenada Co: Yalobusha MS 38901–0903
Landholding Agency: COE
Property Number: 319011031
Status: Underutilized
Comment: 15 acres; no utilities; most recent use—wildlife and forestry management.

Parcel 15
Grenada Lake
Section 4, T24N, R6E
Grenada Co: Yalobusha MS 38901–0903
Landholding Agency: COE
Property Number: 319011032
Status: Underutilized
Comment: 40 acres; no utilities; most recent use—wildlife and forestry management.

Parcel 16
Grenada Lake
Section 9, T23N, R6E
Grenada Co: Yalobusha MS 38901–0903
Landholding Agency: COE
Property Number: 319011033
Status: Underutilized
Comment: 70 acres; no utilities; most recent use—wildlife and forestry management.

Parcel 17
Grenada Lake
Section 17, T23N, R7E
Grenada Co: Grenada MS 28901–0903
Landholding Agency: COE
Property Number: 319011034
Status: Underutilized
Comment: 35 acres; no utilities; most recent use—wildlife and forestry management.

Parcel 18
Grenada Lake
Section 22, T23N, R7E
Grenada Co: Grenada MS 28902–0903
Landholding Agency: COE
Property Number: 319011035
Status: Underutilized
Comment: 10 acres; no utilities; most recent use—wildlife and forestry management.

Parcel 19
Grenada Lake
Section 9, T22N, R7E
Grenada Co: Grenada MS 38901–0903
Landholding Agency: COE
Property Number: 319011036
Status: Underutilized
Comment: 20 acres; no utilities; most recent use—wildlife and forestry management

Missouri

Harry S. Truman Dam & Reservoir
Warsaw Co: Benton MO 65355–
Location: Triangular shaped parcel southwest of access road ''B'', part of Bledsoe Ferry Park Trace 150.
Landholding Agency: COE
Property Number: 319030014
Status: Underutilized
Comment: 1.7 acres; potential utilities.

North Carolina

0.80 Acre Tract of Land
Military Ocean Terminal, Sunny Point
Southport Co: Brunswick NC 28461–5000
Landholding Agency: Army
Property Number: 219640560
Status: Underutilized
Comment: 0.80 acres, listed on the National Register of Historic Places.

Ohio

Hannibal Locks and Dam
Ohio River
P.O. Box 8
Hannibal Co: Monroe OH 43931–0008
Location: Adjacent to the new Martinsville Bridge.
Landholding Agency: COE
Property Number: 319010015
Status: Underutilized
Comment: 22 acres; river bank.

Oklahoma

Pine Creek Lake
Section 27
(See County) Co: McCurtain OK
Landholding Agency: COE
Property Number: 319010923
Status: Underutilized
Comment: 3 acres; no utilities; subject to right of way for Oklahoma State Highway 3.

Pennsylvania

Mahoning Creek Lake
New Bethlehem Co: Armstrong PA 16242–9603
Location: Route 28 north to Belknap, Road #4
Landholding Agency: COE
Property Number: 319010018
Status: Excess
Comment: 2.58 acres; steep and densely wooded.

Tracts 610, 611, 612
Shenango River Lake
Sharpsville Co: Mercer PA 16150–
Location: I–79 North, I–80 West, Exit Sharon. R18 North 4 miles, left on R518, right on Mercer Avenue.
Landholding Agency: COE
Property Number: 319011001
Status: Excess
Comment: 24.09 acres; subject to flowage easement.

Tracts L24, L26
Crooked Creek Lake Co: Armstrong PA 03051–
Location: Left Bank—55 miles downstream of dam.
Landholding Agency: COE
Property Number: 319011011
Status: Underutilized
Comment: 7.59 acres; potential for utilities.

Portion of Tract L–21A
Crooked Creek Lake, LR 03051
Ford City Co: Armstrong PA 16226–
Landholding Agency: COE
Property Number: 319430012
Status: Underutilized
Comment: Approximately 1.72 acres of undeveloped land, subject to gas rights.

Tennessee

Tract 6827
Barkley Lake
Dover Co: Stewart TN 37058–
Location: 2½ miles west of Dover, TN.
Landholding Agency: COE
Property Number: 319010927
Status: Excess
Comment: .57 acres; subject to existing easements.

Tracts 6002–2 and 6010
Barkley Lake
Dover Co: Stewart TN 37058–
Location: 3½ miles south of village of Tabaccoport.
Landholding Agency: COE
Property Number: 319010928
Status: Excess
Comment: 100.86 acres; subject to existing easements.

Tract 11516
Barkley Lake
Ashland City Co: Dickson TN 37015–
Location: ½ miles downstream from Cheatham Dam.
Landholding Agency: COE
Property Number: 319010929
Status: Excess
Comment: 26.25 acres; subject to existing easements.

Tract 2319
J. Percy Priest Dam and Reservoir
Murfreesboro Co: Rutherford TN 37130—
Location: West of Buckeye Bottom Road.
Landholding Agency: COE
Property Number: 319010930
Status: Excess
Comment: 14.48 acres; subject to existing easements.

Tract 2227
J. Percy Priest Dam and Reservoir
Murfreesboro Co: Rutherford TN 37130—
Location: Old Jefferson Pike.
Landholding Agency: COE
Property Number: 319010931
Status: Excess
Comment: 2.27 acres; subject to existing easements.

Tract 2107
J. Percy Priest Dam and Reservoir
Murfreesboro Co: Rutherford TN 37130–
Location: Across Fall Creek near Fall Creek camping area.
Landholding Agency: COE
Property Number: 319010932
Status: Excess
Comment: 14.85 acres; subject to existing easements.

Tracts 2601, 2602,2603,2604
Cordell Hull Lake and Dam Project
Doe Row Creek
Gainesboro Co: Jackson TN 38562–
Location: TN Highway 56
Landholding Agency: COE
Property Number: 319010933
Status: Unutilized
Comment: 11 acres; subject to existing easements.

Tract 1911
J. Percy Priest Dam and Reservoir
Murfreesboro Co: Rutherford TN 37130–
Location: East of Lamar Road
Landholding Agency: COE
Property Number: 319010934
Status: Excess
Comment: 15.31 acres; subject to existing easements.

Tract 2321
J. Percy Priest Dam and Reservoir
Murfreesboro Co: Rutherford TN 37130–
Location: South of Old Jefferson Pike
Landholding Agency: COE
Property Number: 319010935
Status: Excess
Comment: 12 acres; subject to existing easements.

Tract 7206
Barkley Lake
Dover Co: Stewart TN 37058–
Location: 2½ miles SE of Dover, TN.
Landholding Agency: COE
Property Number: 319010936
Status: Excess
Comment: 10.15 acres; subject to existing easements.

Tracts 8813, 8814
Barkley Lake
Cumberland Co: Stewart TN 37050–
Location: 1½ miles East of Cumberland City.
Landholding Agency: COE
Property Number: 319010937
Status: Excess
Comment: 96 acres; subject to existing easements.

Tract 8911
Barkley Lake
Cumberland City Co: Montgomery TN 37050–
Location: 4 miles east of Cumberland City.
Landholding Agency: COE
Property Number: 319010938
Status: Excess
Comment: 7.7 acres; subject to existing easements.

Tract 11503
Barkley Lake
Ashland City Co: Cheatham TN 37015–
Location: 2 miles downstream from Cheatham Dam.
Landholding Agency: COE
Property Number: 319010939
Status: Excess
Comment: 1.1 acres; subject to existing easements.

Tracts 11523, 11524
Barkley Lake
Ashland City Co: Cheatham TN 37015–
Location: 2½ miles downstream from Cheatham Dam.
Landholding Agency: COE
Property Number: 319010940
Status: Excess
Comment: 19.5 acres; subject to existing easements.

Tract 6410
Barkley Lake
Bumpus Mills Co: Stewart TN 37028–
Location: 4½ miles SW. of Bumpus Mills.
Landholding Agency: COE
Property Number: 319010941
Status: Excess
Comment: 17 acres; subject to existing easements.

Tract 9707
Barkley Lake
Palmyer Co: Montgomery TN 37142–
Location: 3 miles NE of Palmyer, TN. Highway 149
Landholding Agency: COE
Property Number: 319010943
Status: Excess
Comment: 6.6 acres; subject to existing easements.

Tract 6949

Barkley Lake
Dover Co: Stewart TN 37058–
Location: 1½ miles SE of Dover, TN.
Landholding Agency: COE
Property Number: 319010944
Status: Excess
Comment: 29.67 acres; subject to existing easements.

Tracts 6005 and 6017
Barkley Lake
Dover Co: Stewart TN 37058–
Location: 3 miles south of Village of Tobaccoport.
Landholding Agency: COE
Property Number: 319011173
Status: Excess
Comment: 5 acres; subject to existing easements.

Tracts K–1191, K–1135
Old Hickory Lock and Dam
Hartsville Co: Trousdale TN 37074–
Landholding Agency: COE
Property Number: 319130007
Status: Underutilized
Comment: 92 acres (38 acres in floodway), most recent use—recreation.

Tract A–102
Dale Hollow Lake & Dam Project
Canoe Ridge, State Hwy 52
Celina Co: Clay TN 38551–
Landholding Agency: COE
Property Number: 319140006
Status: Underutilized
Comment: 351 acres, most recent use—hunting, subject to existing easements.

Tract A–120
Dale Hollow Lake & Dam Project
Swann Ridge, State Hwy No. 53
Celina Co: Clay TN 38551–
Landholding Agency: COE
Property Number: 319140007
Status: Underutilized
Comment: 883 acres, most recent use—hunting, subject to existing easements.

Tracts A–20, A–21
Dale Hollow Lake & Dam Project
Red Oak Ridge, State Hwy No. 53
Celina Co: Clay TN 38551–
Landholding Agency: COE
Property Number: 319140008
Status: Underutilized
Comment: 821 acres, most recent use—recreation, subject to existing easements.

Tracts D–185
Dale Hollow Lake & Dam Project
Ashburn Creek, Hwy No. 53
Livingston Co: Clay TN 38570–
Landholding Agency: COE
Property Number: 319140010
Status: Underutilized
Comment: 883 acres, most recent use—hunting, subject to existing easements.

Texas

Parcel #222
Lake Texoma Co: Grayson TX
Location: C. Meyerheim survey A–829 J. Hamilton survey A–529
Landholding Agency: COE
Property Number: 319010421
Status: Excess
Comment: 52.80 acres; most recent use—recreation.

Suitable/Unavailable Properties

Buildings (by State)

Alaska

Nome Marineway & Warehouse
Belmont Point
Nome AK 99762–
Landholding Agency: COE
Property Number: 319630005
Status: Unutilized
Comment: 2400 sq. ft., needs major rehab, floodplain, most recent use—office w/ living space.

California

Santa Fe Flood Control Basin
Irwindale Co: Los Angeles CA 91706–
Landholding Agency: COE
Property Number: 319011298
Status: Unutilized
Comment: 1400 sq. ft.; 1 story stucco; needs rehab; termite damage; secured area with alternate access.

Florida

Bldg. CN7
Ortona Lock Reservation, Okeechobee Waterway
Ortona Co: Glades FL 33471–
Location: Located off Highway 78 approximately 7 miles west of intersection with Highway 27.
Landholding Agency: COE
Property Number: 319010012
Status: Unutilized
Comment: 1468 sq. ft.; one floor wood frame; most recent use—residence; secured with alternate access.

Bldg. CN8
Ortona Lock Reservation, Okeechobee Waterway
Ortona Co: Glades FL 33471–
Location: Located off Highway 78 approximately 7 miles west of intersection with Highway 27.
Landholding Agency: COE
Property Number: 319010013
Status: Unutilized
Comment: 1468 sq. ft.; one floor wood frame; most recent use—residence; secured with alternate access.

Illinois

Bldg. 7
Ohio River Locks & Dam No. 53
Grand Chain Co: Pulaski IL 62941–9801
Location: Ohio River Locks and Dam No. 53 at Grand Chain
Landholding Agency: COE
Property Number: 319010001
Status: Unutilized
Comment: 900 sq. ft.; 1 floor wood frame; most resent use—residence.

Bldg. 6
Ohio River Locks & Dam No. 53
Grand Chain Co: Pulaski IL 62941–9801
Location: Ohio River Locks and Dam No. 53 at Grand Chain
Landholding Agency: COE
Property Number: 319010002
Status: Unutilized
Comment: 900 sq. ft.; one floor wood frame; most resent use—residence.

Bldg. 5
Ohio River Locks & Dam No. 53
Grand Chain Co: Pulaski IL 62941–9801
Location: Ohio River Locks and Dam No. 53 at Grand Chain
Landholding Agency: COE
Property Number: 319010003
Status: Unutilized
Comment: 900 sq. ft.; one floor wood frame; most resent use—residence.

Bldg. 4
Ohio River Locks & Dam No. 53
Grand Chain Co: Pulaski IL 62941–9801
Location: Ohio River Locks and Dam No. 53 at Grand Chain
Landholding Agency: COE
Property Number: 319010004
Status: Unutilized
Comment: 900 sq. ft.; one floor wood frame; most resent use—residence.

Bldg. 3
Ohio River Locks & Dam No. 53
Grand Chain Co: Pulaski IL 62941–9801
Location: Ohio River Locks and Dam No. 53 at Grand Chain
Landholding Agency: COE
Property Number: 319010005
Status: Unutilized
Comment: 900 sq. ft.; one floor wood frame.

Bldg. 2
Ohio River Locks & Dam No. 53
Grand Chain Co: Pulaski IL 62941–9801
Location: Ohio River Locks and Dam No. 53 at Grand Chain
Landholding Agency: COE
Property Number: 319010006
Status: Unutilized
Comment: 900 sq. ft.; one floor wood frame; most resent use—residence.

Bldg. 1
Ohio River Locks & Dam No. 53
Grand Chain Co: Pulaski IL 62941–9801
Location: Ohio River Locks and Dam No. 53 at Grand Chain
Landholding Agency: COE
Property Number: 319010007
Status: Unutilized
Comment: 900 sq. ft.; one floor wood frame; most resent use—residence.

Ohio

Bldg.—Berlin Lake
7400 Bedell Road
Berlin Center Co: Mahoning OH 44401–9797
Landholding Agency: COE
Property Number: 319640001
Status: Unutilized
Comment: 1420 sq. ft., 2-story brick w/garage and basement, most recent use—residential, secured w/alternate access.

Pennsylvania

Tract 302B
Grays Landing Lock & Dam Project
Old Glassworks Co: Greene PA 15338–
Landholding Agency: COE
Property Number: 319430017
Status: Unutilized
Comment: 502 sq. ft., 2-story needs repair, most recent use—beauty shop/residence, if used for habitation must be flood proofed or removed off-site.

Tract 353
Grays Landing Lock & Dam Project
Greensboro Co: Greene PA 15338–
Landholding Agency: COE
Property Number: 319430019
Status: Unutilized

Comment: 812 sq. ft., 2-story, log structure, needs repair, most recent use—residential, if used for habitation must be flood proofed or removed off-site.

Tract 402
Grays Landing Lock & Dam Project
Greensboro Co: Greene PA 15338–
Landholding Agency: COE
Property Number: 319430020
Status: Unutilized
Comment: 728 sq. ft., 2-story, needs repairs, most recent use—residential/parsonage, if used for habitation must be flood proofed or removed off-site.

Tract 403A
Grays Landing Lock & Dam Project
Greensboro Co: Greene PA 15338–
Landholding Agency: COE
Property Number: 319430021
Status: Unutilized
Comment: 620 sq. ft., 2-story, needs repair, most recent use—residential, if used for habitation must be flood proofed or removed off-site.

Tract 403B
Grays Landing Lock & Dam Project
Greensboro Co: Greene PA 15338–
Landholding Agency: COE
Property Number: 319430022
Status: Unutilized
Comment: 1600 sq. ft., 2-story, brick structure, needs repair, most recent use—residential, if used for habitation must be flood proofed or removed off-site.

Tract 403C
Grays Landing Lock & Dam Project
Greensboro Co: Greene PA 15338–
Landholding Agency: COE
Property Number: 319430023
Status: Unutilized
Comment: 672 sq. ft., 2-story carriage house/stable barn type structure, needs repair, most recent use—storage/garage, if used for habitation must be flood proofed or removed.

Tract 434
Grays Landing Lock & Dam Project
Greensboro Co: Greene PA 15338–
Landholding Agency: COE
Property Number: 319430024
Status: Unutilized
Comment: 1059 sq. ft., 2-story, wood frame, 2 apt. units, historic property, if used for habitation must be flood proofed or removed off-site.

Tract No. 224
Grays Landing Lock & Dam Project
Greensboro Co: Greene PA 15338–
Landholding Agency: COE
Property Number: 319440001
Status: Unutilized
Comment: 1040 sq. ft., 2-story bldg., needs repair, historic struct., flowage easement, if habitation is desired property will be required to be flood proofed or removed off-site.

Govt. Dwelling
Youghiogheny River Lake
Confluence Co: Fayette PA 15424–9103
Landholding Agency: COE
Property Number: 319640002
Status: Unutilized
Comment: 1421 sq. ft., 2-story brick w/basement, most recent use—residential.

Wisconsin

Former Lockmaster's Dwelling
DePere Lock
100 James Street
De Pere Co: Brown WI 54115–
Landholding Agency: COE
Property Number: 319011526
Status: Unutilized
Comment: 1224 sq. ft.; 2-story brick/wood frame residence; needs rehab; secured area with alternate access.

Land (by State)

Illinois

Lake Shelbyville
Shelbyville Co: Shelby & Moultr IL 62565–9804
Landholding Agency: COE
Property Number: 319240004
Status: Unutilized
Comment: 5 parcels of land equalling 0.70 acres, improved w/4 small equipment storage bldgs. and a small access road, easement restrictions.

Kentucky

Carr Fork Lake
5 miles SE of Hindman, Ky., Hwy. 60
Hindmand Co: Knott KY
Landholding Agency: COE
Property Number: 319240003
Status: Unutilized
Comment: 2.81 acres, most recent use—drainage area for bank stabilization for adjacent cemetery.

North Dakota

Tracts V–1971B, V–1971
Garrison Dam/Lake Sakakawea Co: McKenzie ND
Landholding Agency: COE
Property Number: 319620006
Status: Unutilized
Comment: approx. 4.49 acres, most recent use—cattle ranching operation, rough broken ground—Badlands.

Lot 18, 0.08 acre
Garrison Creek
Garrison Dam/Lake Sakakawea Co: McLean ND
Landholding Agency: COE
Property Number: 319630003
Status: Unutilized
Comment: 0.08 acre of land, floodplain, most recent use—cottage site.

Pennsylvania

East Branch Clarion River Lake
Wilcox Co: Elk PA
Location: Free camping area on the right bank off entrance roadway.
Landholding Agency: COE
Property Number: 319011012
Status: Underutilized
Comment: 1 acre; most recent use—free campground.

Dashields Locks and Dam
(Glenwillard, PA)
Crescent Twp. Co: Allegheny PA 15046–0475
Landholding Agency: COE
Property Number: 319210009
Status: Unutilized
Comment: 0.58 acres, most recent use—baseball field.

Washington

Portion of Tract 905
Lower Monumental Lock & Dam
½ mi SE of Lyons Ferry Marina Co: Whitman WA
Landholding Agency: COE
Property Number: 319320005
Status: Excess
Comment: 3.788 acres with encroaching private well.

Suitable/To Be Excessed

Land (by State)

Georgia

Lake Sidney Lanier
Co: Forsyth GA 30130–
Location: Located on Two Mile Creek adj. to State Route 369
Landholding Agency: COE
Property Number: 319440010
Status: Unutilized
Comment: 0.25 acres, endangered plant species.

Lake Sidney Lanier—3 parcels
Gainesville Co: Hall GA 30503–
Location: Between Gainesville H.S. and State Route 53 By-Pass
Landholding Agency: COE
Property Number: 319440011
Status: Unutilized
Comment: 3 parcels totalling 5.17 acres, most recent use—buffer zone, endangered plant species.

Indiana

Brookville Lake—Land
Liberty Co: Union IN 47353–
Landholding Agency: COE
Property Number: 391440009
Status: Unutilized
Comment: 6.91 acres, limited utilities.

Kansas

Parcel #1
Fall River Lake
Section 26 Co: Greenwood KS
Landholding Agency: COE
Property Number: 319010065
Status: Unutilized
Comment: 126.69 acres; most recent use—recreation and leased cottage sites.

Parcel No. 2, El Dorado Lake
Approx. 1 mi east of the town of El Dorado
Co: Butler KS
Landholding Agency: COE
Property Number: 319210005
Status: Unutilized
Comment: 11 acres, part of a relocated railroad bed, rural area.

Massachusetts

Buffumville Dam
Flood Control Project
Gale Road
Carlton Co: Worcester MA 01540–0155
Location: Portion of tracts B–200, B–248, B–251, B–204, B–247, B–200 and B–256
Landholding Agency: COE
Property Number: 319010016
Status: Excess
Comment: 1.45 acres.

Minnesota

Tract #3
Lac Qui Parle Flood Control Project
County Rd. 13
Watson Co: Lac Qui Parle MN 56295–
Landholding Agency: COE

Property Number: 319340006
Status: Unutilized
Comment: approximately 2.9 acres, fallow land.

Tract #34
Lac Qui Parle Flood Control Project
Marsh Lake
Watson Co: Lac Qui Parle MN 56295–
Landholding Agency: COE
Property Number: 319340007
Status: Unutilized
Comment: approx. 8 acres, fallow land.

Tennessee

Tract D–456
Cheatham Lock and Dam
Ashland Co: Cheatham TN 37015–
Location: Right downstream bank of Sycamore Creek.
Landholding Agency: COE
Property Number: 319010942
Status: Excess
Comment: 8.93 acres; subject to existing easements.

Texas

Corpus Christi Ship Channel
Corpus Christi Co: Neuces TX
Location: East side of Carbon Plant Road, approx. 14 miles NW of downtown Corpus Christi
Landholding Agency: COE
Property Number: 319240001
Status: Unutilized
Comment: 4.4 acres, most recent use—farm land.

Unsuitable Properties

Alabama

Bldgs. 200–236
U.S. Army Missile Command
Redstone Arsenal Co: Madison AL 35898–5000
Landholding Agency: Army
Property Number: 219710161
Status: Unutilized
Reason: Extensive deterioration.

Bldgs. 250–257
U.S. Army Missile Command
Redstone Arsenal Co: Madison AL 35898–5000
Landholding Agency: Army
Property Number: 219710162
Status: Unutilized
Reason: Extensive deterioration.

13 Bldgs.
U.S. Army Missile Command
#259, 261, 263–265, 267, 269–274, 276
Redstone Arsenal Co: Madison AL 35898–5000
Landholding Agency: Army
Property Number: 219710163
Status: Unutilized
Reason: Extensive deterioration.

Bldgs. 346, 348, 350
U.S. Army Missile Command
Redstone Arsenal Co: Madison AL 35898–5000
Landholding Agency: Army
Property Number: 219710164
Status: Unutilized
Reason: Extensive deterioration.

Bldgs. 8325, 8388, 8389
U.S. Army Missile Command
Redstone Arsenal Co: Madison AL 35898–5000
Landholding Agency: Army
Property Number: 219710165
Status: Unutilized
Reason: Secured Area.

Bldgs. 8613–8620
U.S. Army Missile Command
Redstone Arsenal Co: Madison AL 35898–5000
Landholding Agency: Army
Property Number: 219710166
Status: Unutilized
Reason: Secured Area.

Bldgs. 8701–8708, 8711–8713
U.S. Army Missile Command
Redstone Arsenal Co: Madison AL 35898–5000
Landholding Agency: Army
Property Number: 219710167
Status: Unutilized
Reason: Secured Area.

9 Bldgs.
U.S. Army Missile Command
#8717–8720, 8724–8727, 8729
Redstone Arsenal Co: Madison AL 35898–5000
Landholding Agency: Army
Property Number: 219710168
Status: Unutilized
Reason: Secured Area.

26 Bldgs.
U.S. Army Missile Command
#8731–8735, 8737–8745, 8749–8753, 8755–8761
Redstone Arsenal Co: Madison AL 35898–5000
Landholding Agency: Army
Property Number: 219710169
Status: Unutilized
Reason: Secured Area.

Bldgs. 8856–8857, 8860–8867
U.S. Army Missile Command
Redstone Arsenal Co: Madison AL 35898–5000
Landholding Agency: Army
Property Number: 219710170
Status: Unutilized
Reason: Secured Area.

Bldgs. 8933–8934, 8944, 8949
U.S. Army Missile Command
Redstone Arsenal Co: Madison AL 35898–5000
Landholding Agency: Army
Property Number: 219710171
Status: Unutilized
Reason: Secured Area.

Colorado

TRG017
Fort Carson
Ft. Carson Co: El Paso CO 80913–5023
Landholding Agency: Army
Property Number: 219710172
Status: Unutilized
Reason: Extensive deterioration.

Bldgs. T–204
Fort Carson
Ft. Carson Co: El Paso CO 80913–5023
Landholding Agency: Army
Property Number: 219710173
Status: Unutilized
Reason: Extensive deterioration.

Bldgs. T–401
Fort Carson
Ft. Carson Co: El Paso CO 80913–5023
Landholding Agency: Army
Property Number: 219710174
Status: Unutilized
Reason: Extensive deterioration.

Bldgs. P–637
Fort Carson
Ft. Carson Co: El Paso CO 80913–5023
Landholding Agency: Army
Property Number: 219710175
Status: Unutilized
Reason: Extensive deterioration.

Bldg. P–638
Fort Carson
Ft. Carson Co: El Paso CO 80913–5023
Landholding Agency: Army
Property Number: 219710176
Status: Unutilized
Reason: Extensive deterioration.

Bldg. S–6228
Fort Carson
Ft. Carson Co: El Paso CO 80913–5023
Landholding Agency: Army
Property Number: 219710177
Status: Unutilized
Reason: Extensive deterioration.

Bldg. S–6273
Fort Carson
Ft. Carson Co: El Paso CO 80913–5023
Landholding Agency: Army
Property Number: 219710178
Status: Unutilized
Reason: Extensive deterioration.

Bldg. P–9642
Fort Carson
Ft. Carson Co: El Paso CO 80913–5023
Landholding Agency: Army
Property Number: 219710179
Status: Unutilized
Reason: Extensive deterioration.

Indiana

Brookville Lake—Bldg.
Brownsville Rd. in Union
Liberty Co: Union IN 47353–
Landholding Agency: COE
Property Number: 319440004
Status: Excess
Reason: Extensive deterioration.

Iowa

House, Tract 100
Camp Dodge
Johnston Co: Polk IA 50131–
Landholding Agency: COE
Property Number: 319530002
Status: Excess
Reason: Extensive deterioration.

Play House, Tract 100
Camp Dodge
Johnston Co: Polk IA 50131–
Landholding Agency: COE
Property Number: 319530003
Status: Excess
Reason: Extensive deterioration.

House, Tract 122
Camp Dodge
Johnston Co: Polk IA 50131–
Landholding Agency: COE
Property Number: 319530004
Status: Excess
Reason: Extensive deterioration.

Shed, Tract 122
Camp Dodge
Johnston Co: Polk IA 50131–
Landholding Agency: COE
Property Number: 319530005

Status: Excess
Reason: Extensive deterioration.

Garage, Tract 122
Camp Dodge
Johnston Co: Polk IA 50131–
Landholding Agency: COE
Property Number: 319530006
Status: Excess
Reason: Extensive deterioration.

Machine Shed, Tract 122
Camp Dodge
Johnston Co: Polk IA 50131–
Landholding Agency: COE
Property Number: 319530007
Status: Excess
Reason: Extensive deterioration.

Barn, Tract 122
Camp Dodge
Johnston Co: Polk IA 50131–
Landholding Agency: COE
Property Number: 319530008
Status: Excess
Reason: Extensive deterioration.

2-Car Garage, Tract 122
Camp Dodge
Johnston Co: Polk IA 50131–
Landholding Agency: COE
Property Number: 319530009
Status: Excess
Reason: Extensive deterioration.

Barn, Tract 128
Camp Dodge
Johnston Co: Polk IA 50131–
Landholding Agency: COE
Property Number: 319530010
Status: Excess
Reason: Extensive deterioration.

Shed, Tract 128
Camp Dodge
Johnston Co: Polk IA 50131–
Landholding Agency: COE
Property Number: 319530011
Status: Excess
Reason: Extensive deterioration.

House, Tract 129
Camp Dodge
Johnston Co: Polk IA 50131–
Landholding Agency: COE
Property Number: 319530012
Status: Excess
Reason: Extensive deterioration.

Play House, Tract 129
Camp Dodge
Johnston Co: Polk IA 50131–
Landholding Agency: COE
Property Number: 319530013
Status: Excess
Reason: Extensive deterioration.

Kennel, Tract 129
Camp Dodge
Johnston Co: Polk IA 50131–
Landholding Agency: COE
Property Number: 319530014
Status: Excess
Reason: Extensive deterioration.

Corn Crib, Tract 129
Camp Dodge
Johnston Co: Polk IA 50131–
Landholding Agency: COE
Property Number: 319530015
Status: Excess
Reason: Extensive deterioration.

Barn W, Tract 129
Camp Dodge
Johnston Co: Polk IA 50131–
Landholding Agency: COE
Property Number: 319530016
Status: Excess
Reason: Extensive deterioration.

Barn E, Tract 129
Camp Dodge
Johnston Co: Polk IA 50131–
Landholding Agency: COE
Property Number: 319530017
Status: Excess
Reason: Extensive deterioration.

Shed, Tract 129
Camp Dodge
Johnston Co: Polk IA 50131–
Landholding Agency: COE
Property Number: 319530018
Status: Excess
Reason: Extensive deterioration.

House, Tract 130
Camp Dodge
Johnston Co: Polk IA 50131–
Landholding Agency: COE
Property Number: 319530019
Status: Excess
Reason: Extensive deterioration.

Out House, Tract 130
Camp Dodge
Johnston Co: Polk IA 50131–
Landholding Agency: COE
Property Number: 319530020
Status: Excess
Reason: Extensive deterioration.

Chicken House, Tract 130
Camp Dodge
Johnston Co: Polk IA 50131–
Landholding Agency: COE
Property Number: 319530021
Status: Excess
Reason: Extensive deterioration.

Shed, Tract 130
Camp Dodge
Johnston Co: Polk IA 50131–
Landholding Agency: COE
Property Number: 319530022
Status: Excess
Reason: Extensive deterioration.

Barn, Tract 135
Camp Dodge
Johnston Co: Polk IA 50131–
Landholding Agency: COE
Property Number: 319530023
Status: Excess
Reason: Extensive deterioration.

Smokehouse, Tract 135
Camp Dodge
Johnston Co: Polk IA 50131–
Landholding Agency: COE
Property Number: 319530024
Status: Excess
Reason: Extensive deterioration.

Shed, Tract 137
Camp Dodge
Johnston Co: Polk IA 50131–
Landholding Agency: COE
Property Number: 319530025
Status: Excess
Reason: Extensive deterioration.

Shed—White, Tract 137
Camp Dodge
Johnston Co: Polk IA 50131–
Landholding Agency: COE
Property Number: 319530026
Status: Excess
Reason: Extensive deterioration.

Leanto, Tract 137
Camp Dodge
Johnston Co: Polk IA 50131–
Landholding Agency: COE
Property Number: 319530027
Status: Excess
Reason: Extensive deterioration.

Grain Bins (8), Tract 138
Camp Dodge
Johnston Co: Polk IA 50131–
Landholding Agency: COE
Property Number: 319530028
Status: Excess
Reason: Extensive deterioration.

Tract 116, Camp Dodge
Johnston Co: Polk IA 50131–
Landholding Agency: COE
Property Number: 319630006
Status: Unutilized
Reason: Extensive deterioration.

Kansas

Bldg. T–2106, Fort Riley
Ft. Riley KS 66442–
Landholding Agency: COE
Property Number: 319011034
Status: Unutilized
Reason: Extensive deterioration.

Bldg. T–2107, Fort Riley
Ft. Riley KS 66442–
Landholding Agency: COE
Property Number: 319710181
Status: Unutilized
Reason: Extensive deterioration.

Bldg. T–2110, Fort Riley
Ft. Riley KS 66442–
Landholding Agency: COE
Property Number: 319710182
Status: Unutilized
Reason: Extensive deterioration.

Kentucky

Spring House
Kentucky River Lock and Dam No. 1
Highway 320
Carrollton Co: Carroll KY 41008–
Landholding Agency: COE
Property Number: 319040416
Status: Unutilized
Reason: Other
Comment: Spring House.

Building
Kentucky River Lock and Dam No. 4
1021 Kentucky Avenue
Frankfort Co: Franklin KY 40601–999
Landholding Agency: COE
Property Number: 319040417
Status: Unutilized
Reason: Other
Comment: Coal Storage.

Building
Kentucky River Lock and Dam No. 4
1021 Kentucky Avenue
Frankfort Co: Franklin KY 40601–999
Landholding Agency: COE
Property Number: 319040418
Status: Unutilized
Reason: Other
Comment: Coal Storage.

Barn
Kentucky River Lock and Dam No. 3
Highway 561
Pleasureville Co: Henry Ky 40057–
Landholding Agency: COE

Property Number: 219040419
Status: Underutilized
Reason: Other
Comment: 110 year old barn with crumbled foundation.

Latrine
Kentucky River Lock and Dam Number 3
Highway 561
Pleasureville Co: Henry KY 40057–
Landholding Agency: COE
Property Number: 319040009
Status: Unutilized
Reason: Other
Comment; Detached Latrine.

6-Room Dwelling
Green River Lock and Dam No. 3
Rochester Co: Butler KY 42273–
Location: Off State Hwy 369, which runs off of Western Ky. Parkway
Landholding Agency: COE
Property Number: 319120010
Status: Unutilized
Reason: Floodway.

2-Car Garage
Green River Lock and Dam No. 3
Rochester Co: Butler Ky 42273–
Location: Off State Hwy 369, which runs off of Western Ky. Parkway
Landholding Agency: COE
Property Number: 319120011
Status: Unutilized
Reason: Floodway.

Office and Warehouse
Green River Lock and Dam No. 3
Rochester Co: Butler KY 42273–
Location: Off State Hwy 369, which runs off of Western Ky. Parkway
Landholding Agency: COE
Property Number: 319120012
Status: Unutilized
Reason: Floodway.

2 Pit Toilets
Green River Lock and Dam No. 3
Rochester Co: Butler KY 42273–
Landholding Agency: COE
Property Number: 319120013
Status: Unutilized
Reason: Floodway.

Maryland

Bldg. 504
Fort Meade
Ft. Meade Co: Anne Arundel MD 20755–5115
Landholding Agency: Army
Property Number: 219710183
Status: Unutilized
Reason: Extensive deterioration.

Bldg. 505
Fort Meade
Ft. Meade Co: Anne Arundel MD 20755–5115
Landholding Agency: Army
Property Number: 219710184
Status: Unutilized
Reason: Extensive deterioration.

Bldg. 606
Fort Meade
Ft. Meade Co: Anne Arundel MD 20755–5115
Landholding Agency: Army
Property Number: 219710185
Status: Unutilized
Reason: Extensive deterioration.

Bldg. 2124
Fort Meade
Ft. Meade Co: Anne Arundel MD 20755–5115
Landholding Agency: Army
Property Number: 219710186
Status: Unutilized
Reason: Extensive deterioration.

Bldg. 2212A
Fort Meade
Ft. Meade Co: Anne Arundel MD 20755–5115
Landholding Agency: Army
Property Number: 219710187
Status: Unutilized
Reason: Extensive deterioration.

Bldg. 2509
Fort Meade
Ft. Meade Co: Anne Arundel MD 20755–5115
Landholding Agency: Army
Property Number: 219710188
Status: Unutilized
Reason: Extensive deterioration.

Bldg. 2511
Fort Meade
Ft. Meade Co: Anne Arundel MD 20755–5115
Landholding Agency: Army
Property Number: 219710189
Status: Unutilized
Reason: Extensive deterioration.

Bldg. 2812
Fort Meade
Ft. Meade Co: Anne Arundel MD 20755–5115
Landholding Agency: Army
Property Number: 219710190
Status: Unutilized
Reason: Extensive deterioration.

Bldg. 4463
Fort Meade
Ft. Meade Co: Anne Arundel MD 20755–5115
Landholding Agency: Army
Property Number: 219710191
Status: Unutilized
Reason: Extensive deterioration.

Bldg. 4464
Fort Meade
Ft. Meade Co: Anne Arundel MD 20755–5115
Landholding Agency: Army
Property Number: 219710192
Status: Unutilized
Reason: Extensive deterioration.

Missouri

Tract 2222
Stockton Project
Aldrich Co: Polk MO 65601–
Landholding Agency: COE
Property Number: 319510001
Status: Excess
Reason: Extensive deterioration.

Barn, Longview Lake
Kansas City Co: Jackson MO 64134–
Landholding Agency: COE
Property Number: 319620001
Status: Excess
Reason: Extensive deterioration.

New York

Warehouse
Whitney Lake Project
Whitney Point Co: Broome NY 13862–0706
Landholding Agency: COE
Property Number: 319630007
Status: Unutilized
Reason: Extensive deterioration.

Ohio

Lab
Ohio River Division Laboratories
Mariemont Co: Hamilton OH 15227–4217
Landholding Agency: COE
Property Number: 319510002
Status: Unutilized
Reason: Secured Area.

Storage Facility
Ohio River Division Laboratories
Mariemont Co: Hamilton OH 15227–4217
Landholding Agency: COE
Property Number: 319510003
Status: Unutilized
Reason: Secured Area.

Office Building
Ohio River Division Laboratories
Mariemont Co: Hamilton OH 15227–4217
Landholding Agency: COE
Property Number: 319510004
Status: Unutilized
Reason: Secured Area.

Tennessee

Bldg. 204
Cordell Hull Lake and Dam Project.
Defeated Creek Recreation Area
Carthage Co: Smith TN 37030—
Location: US Highway 85
Landholding Agency: COE
Property Number: 319011499
Status: Unutilized
Reason: Floodway.

Tract 2618 (Portion)
Cordell Hull Lake and Dam Project.
Roaring River Recreation Area
Gainesboro Co: Jackson TN 38562—
Location: TN Highway 135
Landholding Agency: COE
Property Number: 319011503
Status: Underutilized
Reason: Floodway.

Water Treatment Plant
Dale Hollow Lake & Dam Project
Obey River Park, State Hwy 42
Livingston Co: Clay TN 38351—
Landholding Agency: COE
Property Number: 319140011
Status: Excess
Reason: Other
Comment: Water treatment plant.

Water Treatment Plant
Dale Hollow Lake & Dam Project
Lillydale Recreation Area, State Hwy 53
Livingston Co: Clay TN 38351—
Landholding Agency: COE
Property Number: 319140012
Status: Excess
Reason: Other
Comment: Water treatment plant.

Water Treatment Plant
Dale Hollow Lake & Dam Project
Willow Grove Recreation Area, State Hwy 53
Livingston Co: Clay TN 38351—
Landholding Agency: COE
Property Number: 319140013
Status: Excess
Reason: Other
Comment: Water treatment plant.

Texas

Building 2534
Fort Bliss
El Paso Co: El Paso TX 79916—
Landholding Agency: Army
Property Number: 219710089
Status: Unutilized
Reason: Extensive deterioration.

Virginia

Building 552, Fort Story
Ft. Story Co: Princess Ann VA 23459—

Landholding Agency: Army
Property Number: 219710193
Status: Unutilized
Reason: Extensive deterioration.

Washington

Bldgs. 1411, 1412
Fort Lewis
Ft. Lewis Co: Pierce WA 98433—
Landholding Agency: Army
Property Number: 219710194
Status: Unutilized
Reason: Extensive deterioration.

Land (by State)

Kentucky

Track 4626
Barkley, Lake, Kentucky and Tennessee
Donaldson Creek Launching Area
Cadiz Co: Trigg KY 42211—
Location: 14 miles from US Highway 68.
Landholding Agency: COE
Property Number: 319010030
Status: Underutilized
Reason: Floodway.

Track AA–2747
Wolf Creek Dam and Lake Cumberland
US HWY. 27 to Blue John Road
Burnside Co: Pulaski KY 42519—
Landholding Agency: COE
Property Number: 319010038
Status: Underutilized
Reason: Floodway.

Track AA–2726
Wolf Creek Dam and Lake Cumberland
KY HWY. 80 to Route 769
Burnside Co: Pulaski KY 42519—
Landholding Agency: COE
Property Number: 319010039
Status: Underutilized
Reason: Floodway.

Track 1358
Barkley Lake, Kentucky and Tennessee
Eddyville Recreation Area
Eddyville Co: Lyon KY 42038—
Location: US Highway 62 to state highway 93.
Landholding Agency: COE
Property Number: 319010043
Status: Excess
Reason: Floodway.

Red River Lake Project
Stanton Co: Powell KY 40380—
Location: Exit Mr. Parkway at the Stanton and Slade Interchange, then take SR Hand 15 north to SR 613.
Landholding Agency: COE
Property Number: 319011684
Status: Unutilized
Reason: Floodway.

Barren River Lock & Dam No. 1
Richardsville Co: Warren KY 42270—
Landholding Agency: COE
Property Number: 319120008
Status: Unutilized
Reason: Floodway.

Green River Lock & Dam No. 3
Rochester Co: Butler KY 42273–
Location: Off State Hwy. 369, which runs off of Western Ky. Parkway
Landholding Agency: COE
Property Number: 319120009
Status: Unutilized
Reason: Floodway.

Green River Lock & Dam No. 4
Woodbury Co: Butler KY 42288–
Location: Off State Hwy. 403, which is off State Hwy 231
Landholding Agency: COE
Property Number: 319120014
Status: Underutilized
Reason: Floodway.

Green River Lock & Dam No. 5
Readville Co: Butler KY 42275–
Location: Off State Highway 185
Landholding Agency: COE
Property Number: 319120015
Status: Unutilized
Reason: Floodway.

Green River Lock & Dam No. 6
Brownsville Co: Edmonson KY 42210–
Location: Off State Highway 259
Landholding Agency: COE
Property Number: 319120016
Status: Underutilized
Reason: Floodway.

Vacant land west of locksite
Greenup Locks and Dam
5121 New Dam Road
Rural Co: Greenup KY 41144–
Landholding Agency: COE
Property Number: 319120017
Status: Unutilized
Reason: Floodway.

Tract 6404, Cave Run Lake
U.S. Hwy 460
Index Co: Morgan KY
Landholding Agency: COE
Property Number: 319240005
Status: Underutilized
Reason: Floodway.

Tract 6803, Cave Run Lake
State Road 1161
Pomp Co: Morgan KY
Landholding Agency: COE
Property Number: 319240006
Status: Underutilized
Reason: Floodway.

Maryland

Tract 131R
Youghiogheny River Lake, Rt. 2, Box 100
Friendsville Co: Garrett MD
Landholding Agency: COE
Property Number: 319240007
Status: Underutilized
Reason: Floodway.

Minnesota

Parcel G
Pine River
Cross Lake Co: Crow Wing MN 56442–
Location: 3 miles from city of Cross Lake between highways 6 and 371.
Landholding Agency: COE
Property Number: 319011037
Status: Excess
Reason: Other
Comment: highway right of way.

Mississippi

Parcel 1
Grenada Lake
Section 20
Grenada Co: Grenada MS 38901–0903
Landholding Agency: COE
Property Number: 319011018
Status: Underutilized
Reason: Within airport runway clear zone.

Missouri

Ditch 19, Item 2, Tract No. 230
St. Francis Basin Project
2½ miles west of Malden Co: Dunklin MO
Landholding Agency: COE
Property Number: 319130001
Status: Unutilized
Reason: Floodway.

North Dakota

Tracts 1 & 2
Garrison Dam
Lake Sakakawea
Williston Co: Williams ND 58801–
Landholding Agency: COE
Property Number: 319410015
Status: Excess
Reason: Within 2000 ft. of flammable or explosive material Floodway.

Ohio

Mosquito Creek Lake
Everett Hull Road Boat Launch
Cortland Co: Trumbull OH 44410–9321
Landholding Agency: COE
Property Number: 319440007
Status: Underutilized
Reason: Floodway.

Mosquito Creek Lake
Housel—Craft Rd., Boat Launch
Cortland Co: Trumbull OH 44410–9321
Landholding Agency: COE
Property Number: 319440008
Status: Underutilized
Reason: Floodway.

Pennsylvania

Lock and Dam #7
Monongahela River
Greensboro Co: Greene PA
Location: Left hand side of entrance roadway to project.
Landholding Agency: COE
Property Number: 319011564
Status: Unutilized
Reason: Floodway.

Tennessee

Brooks Bend
Cordell Hull Dam and Reservoir
Highway 85 to Brooks Bend Road
Gainesboro Co: Jackson TN 38562–
Location: Tracts 800, 802–806, 835–837, 900–902, 1000–1003, 1025
Landholding Agency: COE
Property Number: 219040413
Status: Underutilized
Reason: Floodway.

Cheatham Lock and Dam
Highway 12
Ashland City Co: Cheatham TN 37015–
Location: Tracts E–513, E–512–1 and E–512–2
Landholding Agency: COE
Property Number: 219040415
Status: Underutilized
Reason: Floodway.

Tract 6737
Blue Creek Recreation Area
Barkley Lake, Kentucky and Tennessee
Dover Co: Stewart TN 37058–
Location: U.S. Highway 79/TN Highway 761
Landholding Agency: COE
Property Number: 319011478
Status: Underutilized
Reason: Floodway.

Tracts 3102, 3105, and 3106
Brimstone Launching Area
Cordell Hull Lake, and Dam Project

Gainesboro Co: Jackson TN 38562–
Location: Big Bottom Road
Landholding Agency: COE
Property Number: 319011479
Status: Excess
Reason: Floodway.

Tract 3507
Proctor Site
Cordell Hull Lake, and Dam Project
Celina Co: Clay TN 38551–
Location: TN Highway 52
Landholding Agency: COE
Property Number: 319011480
Status: Unutilized
Reason: Floodway.

Tract 3721
Obey
Cordell Hull Lake, and Dam Project
Celina Co: Clay TN 38551–
Location: TN Highway 53
Landholding Agency: COE
Property Number: 319011481
Status: Unutilized
Reason: Floodway.

Tracts 608, 609, 611 and 612
Sullivan Bend Launching Area
Cordell Hull Lake, and Dam Project
Carthage Co: Smith TN 37030–
Location: Sullivan Bend Road
Landholding Agency: COE
Property Number: 319011482
Status: Underutilized
Reason: Floodway.

Tract 920
Indian Creek Camping Area
Cordell Hull Lake, and Dam Project
Granville Co: Smith TN 38564–
Location: TN Highway 53
Landholding Agency: COE
Property Number: 319011483
Status: Underutilized
Reason: Floodway.

Tracts 1710, 1716 and 1703
Flynns Lick Launching Ramp
Cordell Hull Lake, and Dam Project
Grainesboro Co: Jackson TN 38562–
Location: Whites Bend Road
Landholding Agency: COE
Property Number: 319011484
Status: Underutilized
Reason: Floodway.

Tract 1810
Wartrace Creek Launching Ramp
Cordell Hull Lake, and Dam Project
Grainesboro Co: Jackson TN 38551–
Location: TN Highway 85
Landholding Agency: COE
Property Number: 319011485
Status: Underutilized
Reason: Floodway.

Tract 2524
Jennings Creek
Cordell Hull Lake, and Dam Project
Grainesboro Co: Jackson TN 38562–
Location: TN Highway 85
Landholding Agency: COE
Property Number: 319011486
Status: Unutilized
Reason: Floodway.

Tracts 2905 and 2907
Webster
Cordell Hull Lake, and Dam Project
Grainesboro Co: Jackson TN 38551–
Location: Big Bottom Road
Landholding Agency: COE
Property Number: 319011487
Status: Unutilized
Reason: Floodway.

Tracts 2200 and 2201
Gainesboro Airport
Cordell Hull Lake and Dam Project
Grainesboro Co: Jackson TN 38562–
Location: Big Bottom Road
Landholding Agency: COE
Property Number: 319011488
Status: Underutilized
Reason: Within airport runway clear zone Floodway.

Tracts 710C and 712C
Sullivan Island
Cordell Hull Lake and Dam Project
Carthage Co: Smith TN 37030–
Location: Sullivan Bend Road
Landholding Agency: COE
Property Number: 319011489
Status: Unutilized
Reason: Floodway.

Tract 2403, Hensley Creek
Cordell Hull Lake and Dam Project
Grainesboro Co: Jackson TN 38562–
Location: TN Highway 85
Landholding Agency: COE
Property Number: 319011490
Status: Unutilized
Reason: Floodway.

Tracts 2117C, 2118 and 2120
Cordell Hull Lake and Dam Project
Trace Creek
Gainesboro Co: Jackson TN 38562–
Location: Brooks Ferry Road
Landholding Agency: COE
Property Number: 319011491
Status: Unutilized
Reason: Floodway.

Tracts 424, 425 and 426
Cordell Hull Lake and Dam Project
Stone Bridge
Carthage Co: Smith TN 37030–
Location: Sullivan Bend Road
Landholding Agency: COE
Property Number: 319011492
Status: Unutilized
Reason: Floodway.

Tract 517
J. Percy Priest Dam and Reservoir
Suggs Creek Embayment
Nashville Co: Davidson TN 37214–
Location: Interstate 40 to S. Mount Juliet Road.
Landholding Agency: COE
Property Number: 319011493
Status: Underutilized
Reason: Floodway.

Tract 1811
West Fork Launching Area
Smyrna Co: Rutherford TN 37167–
Location: Florence road near Enon Springs Road
Landholding Agency: COE
Property Number: 319011494
Status: Underutilized
Reason: Floodway.

Tract 1504
J. Perry Priest Dam and Reservoir
Lamon Hill Recreation Area
Smyrna Co: Rutherford TN 37167–
Location: Lamon Road
Landholding Agency: COE
Property Number: 319011495
Status: Underutilized
Reason: Floodway.

Tract 1500
J. Perry Priest Dam and Reservoir
Pools Knob Recreation
Smyrna Co: Rutherford TN 37167–
Location: Jones Mill Road
Landholding Agency: COE
Property Number: 319011496
Status: Underutilized
Reason: Floodway.

Tracts 245, 257, and 256
J. Perry Priest Dam and Reservoir
Cook Recreation Area
Nasville Co: Davidson TN 37214–
Location: 2.2 miles south of Interestate 40 near Saunders Ferry Pike.
Landholding Agency: COE
Property Number: 319011497
Status: Underutilized
Reason: Floodway.

Tracts 107, 109 and 110
Cordell Hull Lake and Dam Project
Two Prong
Carthage Co: Smith TN 37030–
Location: U.S. Highway 85
Landholding Agency: COE
Property Number: 319011498
Status: Underutilized
Reason: Floodway.

Tracts 2919 and 2929
Cordell Hull Lake and Dam Project
Sugar Creek
Gainesboro Co: Jackson TN 38562–
Location: Sugar Creek Road
Landholding Agency: COE
Property Number: 3190111500
Status: Underutilized
Reason: Floodway.

Tracts 1218 and 1204
Cordell Hull Lake and Dam Project
Granville—Alvin Yourk Road
Granville Co: Jackson TN 38564–
Landholding Agency: COE
Property Number: 3190111501
Status: Underutilized
Reason: Floodway.

Tract 2100
Cordell Hull Lake and Dam Project
Galbreaths Branch
Gainesboro Co: Jackson, TN 38562–
Location: TN Highway 53
Landholding Agency: COE
Property Number: 3190111502
Status: Underutilized
Reason: Floodway.

Tract 104 et. al.
Cordell Hull Lake and Dam Project
Horshoe Bend Launching Area
Carthage Co: Smith TN 37030–
Location: Highway 70 N
Landholding Agency: COE
Property Number: 319011504
Status: Underutilized
Reason: Floodway.

Tracts 510, 511, 513 and 514
J. Percy Priest Dam and Reservoir Project
Lebanon Co: Wilson TN 37087–
Location: Vivrett Creek Launching Area, Alvin Sperry Road
Landholding Agency: COE
Property Number: 319120007
Status: Underutilized

Reason: Floodway.

Tract A–142, Old Hickory Beach
Old Hickory Blvd.
Old Hickory Co: Davidson TN 37138–
Landholding Agency: COE
Property Number: 319130008
Status: Underutilized
Reason: Floodway.

Texas

Tracts 104, 105–1, 105–2 & 118
Joe Pool Lake Co: Dallas TX
Landholding Agency: COE
Property Number: 319010397
Status: Underutilized
Reason: Floodway.

Part of Tract 201–3
Joe Pool Lake Co: Dallas TX
Landholding Agency: COE
Property Number: 319010398
Status: Underutilized
Reason: Floodway.

Part of Tract 323
Joe Pool Lake Co: Dallas TX
Landholding Agency: COE
Property Number: 319010399
Status: Underutilized
Reason: Floodway.

Tract 702–3
Granger Lake
Route 1, Box 172
Granger Co: Williamson TX 76530–9801
Landholding Agency: COE
Property Number: 319010401
Status: Unutilized
Reason: Floodway.

Tract 706
Granger Lake
Route 1, Box 172
Granger Co: Williamson TX 76530–9801
Landholding Agency: COE
Property Number: 319010402
Status: Unutilized
Reason: Floodway.

West Virginia

Morgantown Lock and Dam
Box 3 RD # 2
Morgantown Co: Monogahelia WV 26505–
Landholding Agency: COE
Property Number: 319011530
Status: Underutilized
Reason: Floodway.

London Lock and Dam
Route 60 East
Rural Co Co: Kanawha WV 25126–
Location: 20 miles east of Charleston, W. Virginia.
Landholding Agency: COE
Property Number: 319011690
Status: Underutilized
Reason: Other
Comment: .03 acres; very narrow strip of land located too close to busy highway.

[FR Doc. 97–3074 Filed 2–6–97; 8:45 am]

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FEDERAL REGISTER PAGES AND DATES, FEBRUARY

CFR PARTS AFFECTED DURING FEBRUARY

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

REMINDERS

The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

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Berry Amendment application in interpretation of term ''synthetic fabric and coated synthetic fabric'' and in contracts and subcontracts for procurement of commercial items; published 2-7-97

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Air quality implementation plans; approval and promulgation; various States:

California; published 1-8-97

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Radio stations; table of assignments:

Georgia; published 2-7-97

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Federal Aviation Administration

Air traffic operating and flight rules:

Rocky Mountain National Park, CO; special flight rules in vicinity (SFAR No. 78); published 1-8-97

Airworthiness directives:

Hamilton Standard; published 1-8-97

New Piper Aircraft, Inc.; published 1-2-97

Class E airspace; published 2-7-97

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AGRICULTURE DEPARTMENT

Federal Crop Insurance Corporation

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Forage seeding; comments due by 2-14-97; published 1-15-97

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Timber sale contracts; cancellation; comments due by 2-13-97; published 12-30-96

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Farm Service Agency

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Tobacco; comments due by 2-12-97; published 1-27-97

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Food Safety and Inspection Service

Nutrition labeling and reference daily intakes for vitamin K, selenium, manganese, chromium, molybdenum and chloride; comments due by 2-11-97; published 12-13-96

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