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Friday
April 18, 1997

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DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

7 CFR Part 1427

RIN 0560–AF12

Amendments to the Regulations for the Nonrecourse Cotton Loan and Loan Deficiency Payment Programs

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Final rule.

SUMMARY: The Commodity Credit Corporation (CCC) amended regulations for the nonrecourse cotton loan and loan deficiency payment (LDP) programs by transferring existing requirements regarding open yard storage endorsements and fire insurance coverage from the warehouse receipt section to the general eligibility section of the regulations.

EFFECTIVE DATE: April 18, 1997.

FOR FURTHER INFORMATION CONTACT: George A. Stickels, Agricultural Program Specialist—Cotton, USDA, Farm Service Agency, Price Support Division, STOP 0512, 1400 Independence Avenue, SW, Washington, D.C., 20250–0512; telephone (202) 720–7935.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

This final rule has been determined to be not significant and was not reviewed by the Office of Management and Budget (OMB) under Executive Order 12866.

Executive Order 12372

This program/activity is not subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with State and local officials. See the Notice related to 7 CFR part 3015, subpart V, published at 48 FR 29115 (June 24, 1983).

Executive Order 12988

This final rule has been reviewed in accordance with Executive Order 12988. The provisions of this final rule do not preempt State laws, are not retroactive, and do not involve administrative appeals.

Paperwork Reduction Act

The amendments set forth in this final rule do not generate any new or revised information collection or record keeping requirements on the public. The existing information collections were previously cleared by OMB and assigned OMB control number 0560–0120.

Regulatory Flexibility Act

It has been determined that the Regulatory Flexibility Act is not applicable to this final rule because it has been determined that this rule will not have a significant effect on a substantial number of small businesses. Obtaining a cotton loan or LDP is strictly voluntary.

Environmental Evaluation

It has been determined by an environmental evaluation that this action will not have significant impact on the quality of the human environment. Therefore, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

Background

Pursuant to the provisions of 7 CFR part 1427, the Secretary has the authority to require that specific information be provided on paper warehouse receipts or on an electronic warehouse receipt (EWR) record, as a condition for obtaining nonrecourse cotton loans or LDP's. For cotton to be eligible for a nonrecourse loan or LDP, 7 CFR part 1427 presently requires that each paper warehouse receipt or EWR must be issued by a warehouse with an existing Cotton Storage Agreement (CSA) under terms of the United States Warehouse Act; and must indicate that any open yard storage endorsement has been rescinded and that the bale is covered by fire insurance.

Warehouses with an existing CSA must: (1) Keep CCC-interest cotton stored within a facility approved by CCC; and (2) at all times keep all CCC-loan cotton insured against loss or damage by fire. Because of these CSA requirements, and because only receipts issued by a warehouse with an existing CSA are eligible for CCC loan or LDP, CCC has determined it unnecessary that each paper receipt or EWR also indicate compliance with open yard endorsement and fire insurance requirements. Therefore, CCC has amended 7 CFR part 1427 by transferring open yard endorsement and fire insurance requirements from the warehouse receipt and insurance section to the general eligibility requirements section.

List of Subjects in 7 CFR Part 1427

Cotton, Loan programs—agriculture, Packaging and containers, Price support programs, Reporting and recordkeeping requirements, Surety bonds, Warehouses.

For the reasons set out in the preamble, 7 CFR part 1427 is amended as set forth below.

PART 1427—COTTON

1. The authority citation for part 1427 continues to read as follows:

Authority: 7 U.S.C. 7231–7237; and 15 U.S.C. 714b and 714c.

2. Section 1427.5 is amended by revising paragraph (b)(2) to read as follows:

§ 1427.5 General eligibility requirements.

* * * * *

(b) * * *

(2) Be in existence and good condition, be covered by fire insurance, be stored in a warehouse with an existing cotton storage agreement in accordance with §§ 1427.1081 through 1427.1089 at the time of disbursement of the loan or loan deficiency payment proceeds, except as provided in § 1427.23(f), and be stored in approved storage as determined in accordance with § 1427.10;

* * * * *

3. Section 1427.11 is amended by revising the section heading, and by revising paragraph (a) to read as follows:

§ 1427.11 Warehouse receipts.

(a) Producers may obtain loans on eligible cotton represented by warehouse receipts only if the warehouse receipts meet the definition of a warehouse receipt and provide for delivery of the cotton to bearer or are properly assigned by endorsement in blank, so as to vest title in the holder of

the receipt or are otherwise acceptable to CCC. The warehouse receipt must:

(1) Contain the gin bale number;

(2) Contain the warehouse receipt number;

(3) Be dated on or prior to the date the producer signs the note and security agreement.

* * * * *

Signed at Washington, DC, on April 7, 1997.

Bruce R. Weber,

Acting Executive Vice President, Commodity Credit Corporation.

[FR Doc. 97–9683 Filed 4–17–97; 8:45 am]

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DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Parts 287 and 299

[INS No. 1830–97]

RIN 1115–AE80

Establishment of Pre-enrolled Access Lane (PAL) Program at Immigration and Naturalization Service Checkpoints

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Interim rule with request for comments.

SUMMARY: This rule amends the Immigration and Naturalization Service (Service) regulations by establishing a Pre-enrolled Access Lane (PAL) program for the use of eligible persons and vehicles at Service checkpoints within the United States. This rule is necessary to permit the Service to facilitate passage through Service checkpoints while safeguarding the integrity of law enforcement at the checkpoints.

DATES: This interim rule is effective April 18, 1997. Written comments must be received on or before June 17, 1997.

ADDRESSES: Please submit written comments, in triplicate, to the Director, Policy Directives and Instructions Branch, Immigration and Naturalization Service, 425 I Street, NW., Room 5307, Washington, DC 20536, Attn: Public Comment Clerk. To ensure proper handling, please reference 1830–97 on your correspondence. Comments are available for public inspection at this location by calling (202) 514–3048 to arrange for an appointment.

FOR FURTHER INFORMATION CONTACT: William Carter, U.S. Border Patrol, Immigration and Naturalization Service, 415 I Street, NW., Room 4226, Washington, DC 20536, telephone (202) 514–3072.

SUPPLEMENTARY INFORMATION: In the Fiscal Year 1996 Appropriations Act for the Department of Justice, Congress required the Service to establish a computer lane facilitation pilot program at the San Clemente, California, checkpoint. See section 101 of Public Law 104–134 (April 26, 1996). The Service has determined that the Pre-enrolled Access Lane (PAL) program implemented by this interim rule is the best means of complying with this congressional mandate.

Under the PAL program, the Service may establish lanes at checkpoints for pre-enrolled travelers, the use of which is restricted to enrolled participants who the Service has determined present a low risk of using the lane for unlawful purposes (and to passengers of such enrolled participants). A person who wishes to become an enrolled participant in the PAL program or to register a vehicle for use in the lane will be required to apply to the Service by using Form I–866—Application Checkpoint Pre-enrolled Access Lane. This program is wholly voluntary, and failure to apply or denial of an application for the PAL program in no way prevents a person from passing through any checkpoint in the regular traffic lanes.

Prior to approval of any vehicle for use in the lane, the Service may inspect such vehicle to ensure that it does not present evidence of having been used or prepared to be used to smuggle aliens or drugs. An electronic transmitter or other identifier may be affixed to vehicles authorized for use in the lane. Prior to enrolling applicants to participate in the PAL program, the Service will conduct appropriate checks of immigration, law enforcement, and criminal history information records and databases for information related to the applicant and any vehicle he or she wishes to register. This check may include submitting the applicant's fingerprints to appropriate law enforcement agencies.

An authorized vehicle may not have access to a Pre-enrolled Access Lane unless at least one person in the vehicle is an enrolled participant in the PAL program and has specific authorization to use that vehicle in the PAL. When using the PAL, an enrolled participant may carry passengers who are not enrolled in the PAL, so long as all passengers are United States citizens, lawful permanent residents of the United States or rightful holders of valid nonimmigrant United States visas. If an authorized vehicle is sold, stolen, or otherwise disposed of, authorization to use that vehicle in the lane is automatically revoked. Within 24 hours of when an authorized vehicle is stolen, or within 7 days of when such vehicle is sold, or otherwise disposed of or the license plates are changed, enrolled participants must give, in person or by fax, written notice of such occurrence to the PAL enrollment center at which their application was filed. If a vehicle is sold or otherwise disposed of, it is the responsibility of the enrolled participant to remove or obliterate any identifying decal or other authorization for participation in the PAL program before or at the time of sale or disposal unless otherwise notified by the Service. If the Service installs an electronic transmitter or similar device on the vehicle, the enrolled participant must have that device removed by the Service at the PAL enrollment center.

Failure to comply with the terms and conditions established for use of the lane may result in revocation of the privilege to participate in the program. Unless revocation is automatic, the Service will give written notice of revocation to the enrolled PAL participant or mail it to his or her last known address. However, written notification is not necessary prior to revocation of the privilege to participate in the PAL program. All vehicles approved for use in the lane remain subject to being stopped and occupants questioned during use of the lane in order to ensure compliance with immigration and other applicable laws and the conditions for use of the PAL.

Factors which the Service will consider in determining the eligibility of an applicant to enroll in the Pre-enrolled Access Lane program include, but are not limited to, lawful presence in the United States, criminal history and/or evidence of criminality, employment, residency, prior immigration history, possession of a valid driver's license, vehicle type, registration, and inspection.

Good Cause Exception

The Service's implementation of this rule as an interim rule with provisions for post-promulgation public comment is based upon the ''good cause'' exceptions to the normal notice and comment requirement found at 5 U.S.C. 553 (b)(3)(B) and (d)(3). Immediate implementation of this interim rule without prior notice and comment is necessary because of a statutory requirement. In the Fiscal Year 1996 Appropriations Act, Congress mandated that the Service establish a commuter lane facilitation program at the San Clemente checkpoint within 90 days of the passage of that Act. See section 101 of Public Law 104–134 (April 26, 1996). While the INS did initiate a commuter facilitation pilot program by the

statutory deadline, the implementation of a fully operational commuter lane facilitation program has required the construction of an additional lane at the checkpoint as well as the development of a new system for enrolling and monitoring individuals and vehicles who will use the lane. Both construction and system development have required considerable time. In communications between members of Congress and the Attorney General, it was agreed that the newly constructed dedicated commuter lane (referred to in this rule as the PAL) would be in operation by June of 1997. In order to have a lane operational by that date, the Service has determined that it needs to begin enrolling participants in April of 1997, and the Service cannot begin the enrollment process until this rule becomes effective. Compliance with the normal notice and comment period would, therefore, make it impossible for the Service to properly implement the PAL within the time agreed upon with Congress and could put the Service in violation of an express congressional mandate.

Regulatory Flexibility Act

The Commissioner of the Immigration and Naturalization Service, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this regulation and, by approving it, certifies that the rule will not have a significant economic impact on a substantial number of small entities because of the following factors. The rule applies to individuals, not small entities, and provides a clear benefit to participants by allowing expenditious passage through a checkpoint. Participation in the PAL program is voluntary.

Executive Order 12866

This rule is considered by the Department of Justice, Immigration and Naturalization Service, to be a ''significant regulatory action'' under Executive Order 12866, section 3(f), Regulatory Planning and Review. Accordingly, this rule has been submitted to the Office of Management and Budget for review.

Executive Order 12612

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

Executive Order 12988

This interim rule meets the applicable standards set forth in sections 3(a) and 3(b)(2) of Executive Order 12988.

Unfunded Mandates Reform Act of 1995

This rule will not result in the expenditure by State local and tribal governments, in the aggregate, or by the private sector, of $100,000,000 or more in any one year, and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

Small Business Regulatory Enforcement Fairness Act of 1996

This rule is not a major rule as defined by § 804 of the Small Business Regulatory Enforcement Fairness Act of 1996. This rule will not result in an annual effect on the economy of $100,000,000 or more, a major increase in costs or prices, or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based companies to compete with foreign-based companies in domestic and export markets.

The information collection requirement contained in this rule has been cleared by the Office of Management and Budget under the provisions of the Paperwork Reduction Act. The clearance number for this collection is contained in 8 CFR 299.5, Display of control numbers.

List of Subjects

8 CFR Part 287

Immigration, Law enforcement officers.

8 CFR Part 299

Immigration, Reporting and recordkeeping requirements.

Accordingly, chapter I of title 8 of the Code of Federal Regulations is amended as follows:

PART 287—FIELD OFFICERS; POWERS AND DUTIES

1. The authority citation for part 287 continues to read as follows:

Authority: 8 U.S.C. 1103, 1182, 1225, 1226, 1251, 1252, 1357; 8 CFR part 2.

§ 287.11 [Redesignated as § 287.12]

2. Section 287.11 is redesignated as § 287.12.

3. A new § 287.11 is added to read as follows:

§ 287.11 Pre-enrolled Access Lane.

(a) *Pre-enrolled Access Lane* (PAL). A PAL is a designated traffic lane located at a Service checkpoint, which, when in operation, may be used exclusively by enrolled participants and their passengers in vehicles authorized by the Service to pass through the checkpoint.

(b) *General requirements for Pre-enrolled Access Lane Program*. (1) Participation in the Pre-enrolled Access Lane program is wholly voluntary and failure to apply or denial of an application does not prevent any person from passing through the checkpoint in the regular traffic lanes.

(2) Only United States citizens and members of the classes of aliens which the Commissioner of the Service or her delegates determine to be eligible may enroll in the PAL program. To participate in the PAL program, an applicant must have a permanent or temporary residence in the United States, and must agree to furnish all information requested on the application.

(3) The applicant must agree to all terms and conditions required for use of a Pre-enrolled Access Lane. Immigration, criminal justice information, and law enforcement records and databases will be checked to assist in determining the applicant's eligibility. The Service may require applicants to submit fingerprints, and the Service may provide those fingerprints to Federal, State, and local government agencies for the purpose of determining eligibility to participate in the PAL program.

(4) Any vehicle used in a Pre-enrolled Access Lane must have current approval from the Service for use in the PAL program.

(5) Enrolled participants may be issued an identification document showing authorization to participate in the PAL program, and, if such a document is issued, participants must have it in their possession whenever using the PAL. In addition, alien participants must be in possession of a valid form constituting evidence of alien registration pursuant to § 264.1(b) of this chapter at all times while using the PAL.

(6) The Service will install any and all equipment, decals, devices, technology, or methodology it deems necessary on registered vehicles to ensure that only authorized persons and vehicles use the PAL.

(7) All devices, decals, or other equipment, methodology, or technology used to identify persons or vehicles using a Pre-enrolled Access Lane remain the property of the United States Government at all times and must be

surrendered upon request of the Service. Enrolled participants must abide by the terms set forth by the Service for use of any device, decal, or other equipment, methodology, or technology. If a vehicle is sold or otherwise disposed of, it is the responsibility of the enrolled participant to remove or obliterate any identifying decal or other authorization for participation in the PAL program before or at the time of sale or disposal unless otherwise notified by the Service. If the Service installs an electronic transmitter or similar device on the vehicle, the enrolled participant must have that device removed by the Service at the PAL enrollment center prior to sale or disposal of an authorized vehicle.

(8) Enrolled participants in the PAL program may carry passengers who are not enrolled in the program in their authorized vehicles in the PAL as long as all passengers are United States citizens, lawful permanent residents of the United States, or rightful holders of valid nonimmigrant United States visas.

(c) *Application.* (1) Application for Pre-enrolled Access Lane participation shall be made on Form I–866, Application—Checkpoint Pre-enrolled Access Lane.

(2) Each person wishing to enroll in the Pre-enrolled Access Lane program must submit a separate application.

(3) Applications must be supported by documents establishing identity, United States citizenship or lawful immigration status in the United States, a valid driver's license, and vehicle registration for all vehicles being registered. The Service may require additional documentation where appropriate to substantiate information provided on the application, as well as written permission from the vehicle owner to use any vehicle not owned by the applicant in the PAL.

(4) Each person filing an application may be required to present himself or herself for an interview at a time and place designated by the Service prior to approval of the application.

(5) The Service may inspect any vehicle that a PAL applicant desires to register for use in the PAL to ensure that it does not present evidence of having been used or prepared to be used to smuggle aliens or controlled substances, and the Service must approve all vehicles prior to use in the PAL. The Service may prohibit the use of certain types of vehicles in the PAL for reasons of safety and law enforcement.

(6) An application may be denied by the Chief Patrol Agent having jurisdiction over the PAL enrollment center where the application is filed. Written notice of the decision on the application shall be given to the applicant or mailed by ordinary mail to the applicant's last known address. There is no appeal from a denial, but denial is without prejudice to reapplying for this program. Re-applications following denial or revocation of the privilege to participate in the PAL program will not be considered by the Service until 90 days after the date of denial or revocation.

(7) Registration in the PAL program is limited to individuals who the Service has determined present a low risk of using the PAL for unlawful purposes. Criteria that will be considered in the decision to approve or deny the application include the following: lawful presence in the United States, criminal history and/or evidence of criminality, employment, residency, prior immigration history, possession of a valid driver's license, vehicle type, registration, and inspection.

(8) Applications approved by the Service will entitle the authorized person and the authorized vehicle to use the PAL for 2 years from the date of approval of the application or until authorization is revoked, whichever occurs first.

(d) *Acknowledgments and agreements.* By signing and submitting the Form I–866 each applicant acknowledges and agrees to all of the conditions for participation in the PAL program and the statements on the Form I–866.

(e) *Violation of conditions of a Pre-enrolled Access Lane and Revocation.* An enrolled participant who violates any condition of the PAL program, or any applicable law or regulation, or who is otherwise determined by an immigration officer to be ineligible to participate in the PAL program, may have his or her authorization and the authorization of his or her vehicle(s) revoked by the Chief Patrol Agent with jurisdiction over the PAL enrollment center where the application is filed and may be subject to other applicable sanctions, such as criminal and/or civil penalties, removal, and/or possible seizure of goods and/or vehicles. If an authorized vehicle is sold, stolen, or otherwise disposed of, authorization to use that vehicle in the PAL is automatically revoked. Within 24 hours of when an authorized vehicle is stolen, or within 7 days of when such vehicle is sold, or otherwise disposed of or the license plates are changed, enrolled participants must give, in person or by facsimile transmission, written notice of such occurrence to the PAL enrollment center at which their application was filed. Failure to do so will result in the automatic revocation of the authorization to use the PAL of the person who registered such vehicle in the PAL program. Unless revocation is automatic, the Service will give notice of revocation to the enrolled PAL participant or mail it by ordinary mail to his or her last known address. However, written notification is not necessary prior to revocation of the privilege to participate in the PAL program. There is no appeal from the revocation of an authorization to participate in the PAL program.

(f) *No benefits or rights conferred.* This section does not, is not intended to, shall not be construed to, and may not be relied upon to confer any immigration benefit or status to any alien or create any rights, substantive or procedural, enforceable in law or equity by any party in any matter.

PART 299—IMMIGRATION FORMS

4. The authority citation for part 299 continues to read as follows:

Authority: 8 U.S.C. 1101, 1103; 8 CFR part 2.

5. Section 299.1 is amended by adding the entry for Form ''I–866'' to the listing of forms, in proper numerical sequence, to read as follows:

§ 299.1 Prescribed forms.

* * * * *

Form No.	Edition date	Title
*	*	*
I–866	4–15–97	Application—Checkpoint Pre-enrolled Access Lane.
*	*	*

6. Section 299.5 is amended by adding the entry for the Form ''I–866'' to the listing of forms, in proper numerical sequence, to read as follows:

§ 299.5 Display of control numbers.

* * * * *

INS form No.	INS form title	Currently assigned OMB control No.
*	*	*
I–866	Application—Checkpoint Pre-enrolled Access Lane.	1115–0210
*	*	*

Dated: March 17, 1997.

Doris Meissner,

Commissioner, Immigration and Naturalization Service.

Note: This appendix will not appear in the Code of Federal Regulations. Appendix to the preamble—Form I–866, Application—Checkpoint Pre-enrolled Access Lane.

BILLING CODE 4410–10–M

U. S. Department of Justice
Immigration and Naturalization Service

OMB NO. 1115-0210
Application -Checkpoint Pre-enrolled Access Lane

INSTRUCTIONS

Read carefully --Failure to follow instructions may require return of your application and delay final action.

1. Purpose of Form. The purpose of this form is to permit individuals to apply to participate in the Pre-enrolled Access Lane (PAL) program for the Immigration and Naturalization Service (Service) checkpoints.

2. Preparation of Application. Fill in application in single copy only, by typewriter, or print in block letters using only dark ink. Do not use pencil or red ink. Do not leave any question unanswered. Mark any question which does not apply to you "N/A".

3. Who Can Apply. United States citizens and other persons which the Commissioner of the (Service) determines to be eligible to participate in the PAL. Information on which other persons are eligible to enroll in the PAL program may be obtained at the PAL enrollment center. All applicants must reside permanently or temporarily in the United States.

4. Where to Submit this Application. In person, by fax or by mail to the PAL enrollment center.

5. Application. Each person wishing to enroll in the PAL must submit a separate application. You should include all vehicles which you wish to register or use in the lane on your application. A separate application may be filed to register additional vehicles any time after the initial application has been approved. Your application must be supported by documents establishing identity, citizenship or lawful immigration status in the United States, a valid driver's license, and vehicle registration for all vehicles being registered. PAL enrollment center staff may require you to submit written permission from the vehicle owner to use any vehicle not owned by you in the lane. You should provide copies of all supporting documents when you file your application. If you file your application in person, you should present original documents for inspection at that time, and you may be requested to bring them to your interview as well. If you file your application by mail, do not send original documents. If you apply by fax, then you must re-sign the application in person at the PAL enrollment center at the time of your interview or at a time indicated by the Pre-enrolled Access Lane enrollment center staff. Present original documents for inspection at the time of your interview or at such time as the enrollment center staff indicates. You may apply to use more than one vehicle, and you may apply to use a vehicle authorized for use in the lane by another person.

6. Final Approval. Your application will be reviewed and an interview may be scheduled prior to acceptance. Authorization of a person and vehicle to use the lane is valid until 2 years from the date of approval of the application or until revoked, whichever occurs first. If a vehicle is sold, stolen, or otherwise disposed of, authorization for that vehicle is revoked automatically. To renew your authorization, you should submit a new application on this Form I-866, 90 days prior to the expiration of your authorization. If your authorization to use the PAL is revoked, you may reapply 90 days after the date of revocation.

7. Use of the Lane. If your application is approved, you will become an enrolled user of the PAL, and this registration will permit you to use the lane only in the authorized vehicle(s) identified on this form. If your application includes a request to register vehicle(s), and the application is approved, those vehicle(s) will be authorized for use in the lane. Other persons may also apply for authorization to use your vehicle(s) in the lane. At least one person authorized to use a specific vehicle in the lane must be in that vehicle when it is used in the lane.

8. Denial. An application to use the PAL may be denied by the Chief Patrol Agent with jurisdiction over the enrollment center. All applicants denied use of the lane shall be notified in writing. There is no appeal from such denial. All applicants who have been denied permission to use the lane must wait 90 days from the date of denial to reapply. Applications submitted without the required documentation or which are incomplete shall be returned to the applicant.

9. Privacy Act Statement. The authority to collect this information is contained in section 101 of Public Law Number 104-134. Furnishing the information on this form is voluntary; however, failure to provide all of the requested information may result in the delay of a final decision or denial of your application. All applicants are subject to a check of immigration, law enforcement and criminal justice information databases and records in order to determine eligibility. The principal use of information collected will be to make a determination on your application. Information will be disclosed during the course of the investigation of your eligibility to the extent necessary to obtain information necessary to the Service's determination. Fingerprints will be disclosed to the Federal Bureau of Investigation and other State and local government agencies for the purpose of determining eligibility for participating in this program. If the Service discovers a violation or potential violation of law, your information will be disclosed to the appropriate law enforcement authority charged with investigating, enforcing, or prosecuting the violation, including international organizations engaged in the collection and dissemination of intelligence concerning criminal activity. Information may also be disclosed to Members of Congress or their staffs who inquire about this application at the request of the person submitting it.

10. Penalties for False Statements in Applications. Severe penalties are provided by law for knowingly and willfully falsifying or concealing a material fact or using any false document in the submission of this application. Also, a false representation may result in the denial of this application and any other application you may make for any benefit under the immigration laws of the United States.

11. Compliance Checks. Checks may be conducted at the PAL to ensure compliance with applicable laws and the conditions of the program.

12. Reporting Burden. You do not have to complete this form unless it displays a currently approved OMB control number. We try to create forms and instructions that are accurate, can be easily understood, and which impose the least possible burden on you to provide us with information. Often this is difficult because some immigration laws are very complex. Accordingly, the reporting burden for this collection of information is computed as follows: 1) learning about the form, 20 minutes; 2) completing the form, 8 minutes; and 3) assembling and mailing the application, 4 minutes, for an estimated average of 32 minutes per response. If you have **comments** regarding the accuracy of this estimate, or suggestions for making this form simpler, you can **write** to the Immigration and Naturalization Service, 425 I Street, N.W.; Room 5307, Washington, D.C. 20536.

Application Acknowledgements and Questions

1. Applicant acknowledges and agrees that the applicant's participation in the Pre-enrolled Access Lane program is voluntary and that by applying, he or she gives all the information collected pursuant to Immigration and Naturalization Service regulations and this form voluntarily. Applicant further acknowledges that he or she is a United States citizen or a member of a class of other persons which the Commissioner of the Immigration and Naturalization Service (Service) has determined to be eligible to participate in the Pre-enrolled Access Lane. Applicant further acknowledges and agrees that he or she will inform the Pre-enrolled Access Lane enrollment center at which he or she filed the application in writing of any change in his or her immigration status.

2. Applicant acknowledges and agrees that he or she authorizes the Service to check immigration, law enforcement, and criminal justice information records and databases for information on the applicant and any vehicle he or she applies to register, and authorizes any agency having such information to release it to the Service. Applicant further acknowledges and agrees that by submitting this application he or she freely consents to having the Service collect his or her fingerprints and submit them to other agencies for this purpose.

4. Applicant acknowledges and agrees to a full inspection by the Service of any vehicle he or she applies to register. Applicant acknowledges and agrees that the vehicle(s) identified on this form is/are lawfully owned and registered to him/her, or that he or she has permission from the vehicle owner to use the vehicle(s) in the lane. Applicant further acknowledges and agrees that it is the responsibility of the applicant to give written notice to the Pre-enrolled Access Lane enrollment center, in person or by facsimile transmission, within 24 hours of when the vehicle(s) identified on this form are stolen or within 7 days of when such vehicle(s) are sold or otherwise disposed or license plates are changed. Applicant acknowledges and agrees that valid vehicle registration and, if required upon written notice from the Service, permission from the registered owner to use the vehicle shall be in the vehicle at all times during use of a Pre-enrolled Access Lane.

5. Applicant acknowledges and agrees that when using the Pre-enrolled Access Lane, he or she may carry passengers who are not enrolled in the Pre-enrolled Access Lane program in an authorized vehicle, but only if the passengers are either United States citizens, lawful permanent residents of the United States, or rightful holders of valid nonimmigrant United States visas.

6. Applicant acknowledges and agrees that prior to each arrival at the Pre-enrolled Access Lane, the applicant will make him or herself aware of the contents of the vehicle in which he or she is an occupant and ascertain that transporting all occupants and contents of the vehicle is permissible by law. Applicant further acknowledges and agrees that he or she is subject to all federal, state and local laws regarding the transport of the occupants and contents of any vehicle in which he or she is an occupant in a Pre-enrolled Access Lane and may be liable for any violation(s) of these laws when using a Pre-enrolled Access Lane.

7. Applicant acknowledges and agrees that vehicles approved for use in the Pre-enrolled Access Lane, and all occupants, will be subject to compliance checks at the Service checkpoint by the Service, and that all authorized vehicles remain subject to being stopped and occupants questioned during the use of the lane in order to ensure compliance with applicable laws and the conditions for use of the lane.

8. Applicant acknowledges and agrees that if he or she violates any condition of this program, or any applicable law or regulation, his/her authorization to participate in this program may be revoked, and he or she may be subject to other applicable sanctions. Applicant acknowledges and agrees that he or she must comply with all procedures established for use of the lane, including any signs in the lane.

9. Applicant acknowledges and agrees that this program confers no immigration benefit or status and no substantive or procedural right enforceable in law or equity by any party in any matter.

U. S. Department of Justice
Immigration and Naturalization Service

OMB NO. 1115-0210
Application -Checkpoint Pre-enrolled Access Lane

Check here if you are approved to participate in any of the following:
☐ DCL ☐ APP ☐ INSPASS Airport ☐ INSPASS Land Border

1. Full Name: *(Family Name in CAPS)* *(First)* *(Middle)*

2. Other Names Used *(Include Maiden Name)*:

3. Date of Birth*(mm/dd/yy)*: Gender ☐ Male ☐ Female

4. Place of Birth:	*(City)*	*(State)*	*(Country)*
5. Address: *(Street Number, Apartment)*	*(City)*	*(State)*	*(Zip Code)*

6. Permanent Address *(Street number and name)*:		*(Apartment Number)*
(City)	*(State/Province/Country)*	*(Zip/Postal Code)*

7. Country of Citizenship:

8. Drivers License Information: *(Issuing State)*	*(Number)*	*(Expiration Date)*
9. Employer:	*(Address)*	*(Telephone Number)*

10. Citizenship and Immigration Status
Are you a United States Citizen? ☐ Yes ☐ No
If not a Citizen, state your Immigration Status: _____
Alien Registration Number: _____
Name on Alien Registration Receipt Card:
(Family Name) *(First)* *(Middle)*
_____
Date (mm/dd/yy) and place of most recent entry into the United States _____
Date (mm/dd/yy) upon which authorized period of stay expires _____
Visa Type: _____
Visa Number: _____
Date of Visa issuance: _____
Place of Visa issuance: _____
Expiration Date of Visa: _____

11. Criminal History: *(Please circle yes or no for each question)*
Have you ever been:

a.	Convicted of a criminal offense?	Yes	No
b.	Arrested for any reason?	Yes	No
c.	Found to be in violation of any immigration law?	Yes	No
d.	Refused admission to the United States?	Yes	No
e.	Denied any other immigration benefit, whether you applied for the benefit directly, or the benefit was sought on your behalf?	Yes	No

If yes to any of the above, please explain (*use additional paper if necessary*).
_____
_____
_____
_____

YOU ARE RESPONSIBLE FOR ENSURING THAT ONLY UNITED STATES CITIZENS, LAWFUL PERMANENT RESIDENTS OF THE UNITED STATES, AND/OR RIGHTFUL HOLDERS OF VALID NON-IMMIGRANT UNITED STATES VISAS ARE OCCUPANTS OF ANY VEHICLE YOU USE, AS A DRIVER OR PASSENGER, IN THE PAL.

12. Vehicle information Vehicle Number 1: License Plate Number, State:	Vehicle Identification Number:		Vehicle Year:
Vehicle Make/Model:	Vehicle Color:	Vehicle Owner:	Owner's Relation to Applicant:
Vehicle Number 2: License Plate Number, State:	Vehicle Identification Number:		Vehicle Year:
Vehicle Make/Model:	Vehicle Color:	Vehicle Owner:	Owner's Relation to Applicant:
Vehicle Number 3: License Plate Number, State:	Vehicle Identification Number:		Vehicle Year:
Vehicle Make/Model:	Vehicle Color:	Vehicle Owner:	Owner's Relation to Applicant:

13. **CERTIFICATION.** I certify that I have read and understand all statements contained in this application. I certify that I have read and understand all acknowledgements in this application and agree to be bound by their content. I certify, under penalty of perjury under the laws of the United States of America, that this application, and the evidence submitted with it, is all true and correct. I authorize any agency having information relevant to determining my eligibility for the PAL Program to release that information to the Immigration and Naturalization Service. I understand that all information provided on this application may be shared with other government agencies as described in the Privacy Act Statement contained in this form.

(Signature of Applicant)	*(Telephone Number)*	*(Date)*

14. **SIGNATURE OF PERSON PREPARING FORM IF OTHER THAN APPLICANT.**

I declare that I prepared this document at the request of the above person and that it is based on all information of which I have knowledge.

Signature:	Print Name:	Date:

Address:

[FR Doc. 97–10119 Filed 4–17–97; 8:45 am]
BILLING CODE 4410–10–C

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 94

[Docket No. 97–021–1]

Change in Disease Status of Northern Ireland and Norway 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 Northern Ireland and Norway 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 the Governments of Northern Ireland and Norway, which confirm that outbreaks of exotic Newcastle disease have occurred in Northern Ireland and Norway. This action restricts the importation of live birds, poultry, and poultry products into the United States from Northern Ireland and Norway.

DATES: Interim rule effective April 15, 1997. Consideration will be given only to comments received on or before June 17, 1997.

ADDRESSES: Please send an original and three copies of your comments to Docket No. 97–021–1, 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. 97–021–1. 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.

The Office International des Epizooties (OIE) and the Governments of Northern Ireland and Norway have sent the Animal and Plant Health Inspection Service (APHIS) reports that outbreaks of exotic Newcastle disease have occurred in Northern Ireland and Norway. After reviewing the reports submitted by OIE and the Governments of Northern Ireland and Norway, APHIS has determined to remove Northern Ireland and Norway from the list of countries free of END.

Therefore, we are amending § 94.6(a)(2) by removing Northern Ireland and Norway 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 Northern Ireland and Norway. However, under the regulations in § 92.209(a)(2), hatching eggs from poultry are allowed to be imported into the United States from countries with END under certain conditions, including being quarantined from the time of arrival at the United States port of entry until not less than 30 days after they hatch.

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 it 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 interim rule restricts the importation of live birds, game birds, poultry, and their products into the United States from Northern Ireland and Norway. We are taking this action in response to reports that END outbreaks have occurred in those two countries. If END were introduced into the United States, the disease could have severe economic consequences for poultry consumers and producers, and the government.

The United Kingdom, which includes Northern Ireland,[1] is not a significant source of U.S. poultry imports. During the first 11 months of 1996, the United Kingdom accounted for less than 2 percent of the total U.S. imports of poultry. The United Kingdom's principal poultry export to the United States is hatching eggs; however, importations of hatching eggs from Great Britain (England, Scotland, Wales, and the Isle of Man), will not be affected by the rule change. Importations of poultry hatching eggs from Northern Ireland will have to meet the quarantine and other requirements of § 92.209. Given the relatively small contribution to the U.S. poultry supply by the United Kingdom as a whole, even the complete loss of Northern Ireland's imports should have no significant effect on small entities in the United States.

The United States imports virtually no poultry or poultry products from Norway. During the first 11 months of 1996, the only poultry product imported from Norway was 0.1 metric ton of chicken liver. Also during the first 11 months of 1996, there were no live poultry imports at all from Norway. Because Norway is not a significant source of poultry or poultry products for the United States, the loss of Norway's imports should have no significant effect on small entities in the United States.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

[1] Trade data for Northern Ireland as a separate entity from the United Kingdom is not available. Northern Ireland is included in trade data for the United Kingdom.

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 IMPORTATION

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 words ''Northern Ireland, Norway,''.

Done in Washington, DC, this 15th day of April 1997.

Donald W. Luchsinger,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 97–10101 Filed 4–17–97; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Parts 101 and 113

[Docket No. 94–051–3]

RIN 0579–AA66

Viruses, Serums, Toxins, and Analogous Products; In Vitro Tests for Serial Release

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are amending the regulations to provide for the use of in vitro potency tests when conducting immunoassays to determine the relative antigen content (potency) of a serial of inactivated veterinary biological product once immunogenicity is established using host animal tests. Such tests would be conducted using unexpired immunogenic reference preparations and parallel line assays, or other methods which demonstrate linearity, specificity, and reproducibility at least equivalent to the parallel line assay. Firms currently using immunoassays which do not meet the standard in this amendment will have 2 years from the effective date of this final rule to update their filed Outlines of Production. This amendment also changes the title of the section and adds definitions of ''Master reference,'' ''Working reference,'' ''Qualifying serial,'' and ''Immunogenicity'' to the regulations.

The effect of this action is to standardize requirements for in vitro immunoassay potency tests for inactivated products which cannot be evaluated on the basis of virus titer or bacterial counts.

EFFECTIVE DATE: May 19, 1997.

FOR FURTHER INFORMATION CONTACT: Dr. David A. Espeseth, Director, Center for Veterinary Biologics, Licensing and Policy Development, VS, APHIS, 4700 River Road, Unit 148, Riverdale, MD 20737–1237, (301) 734–8245.

SUPPLEMENTARY INFORMATION:

Background

The regulations pertaining to the testing of biologics provide that no biological product shall be released (for sale) prior to the completion of tests prescribed to establish the product to be pure, safe, potent, and efficacious (9 CFR 113.5). Efficacy refers to the specific ability of the product to effect the result for which it is offered when used as recommended by the manufacturer. Tests to establish efficacy include immunogenicity tests in host animals using product which is manufactured according to specified requirements which include specifications for antigen content and/or animal potency. If a product has been tested for immunogenicity in animals and shown to elicit the desired immune response, it should follow that subsequent serials (batches) of the product manufactured to the same specifications should also have the same effect. Based on this premise, once immunogenicity is established in relation to a specific minimum antigen content, it should no longer be necessary to test every subsequent product serial for potency in animals if an evaluation of the relative antigen content can be made by testing the serial or subserial in an acceptable in vitro test system. Therefore, when properly qualified and validated, in vitro immunoassays that determine relative antigen content of a product can serve as acceptable substitutes for potency tests that otherwise would need to be performed in animals.

The regulations in 9 CFR 113.8 pertain to the use of in vitro tests for determining the potency of serials and/or subserials of veterinary biological products after required animal tests are completed. Prior to this amendment, the in vitro test procedures prescribed in § 113.8 were only applicable to products containing live microorganisms. With these amendments § 113.8 will be applicable to both live and inactivated products.

On May 17, 1995, we published in the **Federal Register** (60 FR 26381–26384, Docket No. 94–051–1) a proposal to amend the regulations regarding the use of in vitro potency tests in place of animal tests for immunogenicity. The proposed rule provided for the use of a parallel line assay, or other valid method, and an unexpired reference preparation in an in vitro immunoassay for relative antigen content to determine the potency of a serial of inactivated product. In proposing the parallel line assay or equivalent valid method and the use of an unexpired reference as a standard for in vitro immunoassay potency tests for serial release, APHIS did not intend to preclude the validation of existing in vitro immunoassays or the adoption of technological advances in antigen quantitation.

We solicited comments concerning our proposal for 90 days ending August 15, 1995. We extended the comment period an additional 30 days ending September 14, 1995 (60 FR 36743–36744, Docket No. 94–051–2, July 18,

1995). We also announced that we would be having a public hearing on August 1, 1995, in Ames, IA, to have further discussion related to in vitro testing by interested persons. We received comments from four licensed manufacturers, and a national trade association representing U.S. manufacturers of animal health products. Three comments from biologics producers were received at the public hearing on August 1, 1995, in Ames, IA. While generally supportive of in vitro immunoassay tests for determining the relative antigen content and thereby the potency of products, most commenters suggested changes in one or more sections as proposed. Others suggested that the comment period be extended and the proposal be submitted to negotiated rulemaking. We carefully considered all of the comments we received. They are discussed below.

Analysis of Comments and APHIS' Response

Four commenters requested that the comment period be further extended for 10 months beyond September 14, 1995, and that negotiated rulemaking be initiated. In response to this comment, APHIS notes that the history of this rulemaking began with a proposed rule published on May 17, 1995 (60 FR 26381–26384, Docket No. 94–051–1). The comment period of 90 days was extended to 120 days until September 14, 1995, in response to a request for an extension from a national trade association (See 60 FR 36743, July 18, 1995, Docket No. 94–051–2). In addition, a public hearing was held on In Vitro Potency Testing on August 1, 1995, in Ames, IA to obtain further comment on this topic. Contrary to the commenters' request, the comment period cannot be further extended for negotiated rulemaking because the initiation of negotiated rulemaking necessitates the withdrawal of the current proposal and the proposal of another rule after the conclusion of the negotiated rulemaking. APHIS believes that the publication of a final rule with appropriate consideration of responses and comments would be a more efficient way of handling this matter and would allay concerns and clarify issues raised by the commenters. Therefore, the request for further extension of the comment period and initiation of negotiated rulemaking is not granted.

Two commenters expressed concern that by specifying that in vitro immunoassays used to determine relative antigen content be parallel line assays, APHIS would be imposing a requirement which would not allow the industry to take advantage of technological advances that are occurring in the area of antigen quantitation. APHIS proposed the parallel line assay as a standard for immunoassay tests for relative antigen content. Assay formats which are equivalent to or exceed the parallel line assay standard could have been used as provided for in 9 CFR 113.4. In response to these comments, however, APHIS has amended §§ 101.5(q) and 113.8(a) in the final rule to provide specifically for the use of other valid methods for determining relative antigen content which demonstrate linearity, specificity, and reproducibility at least equivalent to the parallel line assay.

Five commenters recommended amending the rule to allow laboratory animal tests and antibody titers that have been correlated to host animal protection to be used to requalify or extend the dating of reference preparations. One of the commenters pointed out that the proposed standard requirement for Escherichia coli (E. coli) bacterins (59 FR 51390–51392, October 11, 1994) which also uses a parallel line immunoassay to test for potency, includes such a provision. In addition, the commenter interpreted the E. coli standard requirement to imply that in vitro assays may be used in place of reference requalification in host animals. In response to the commenter, APHIS agrees that the proposed E. coli standard requirement allows antibody titers and laboratory animal studies, previously correlated to protection, to be used to requalify reference preparations. These same provisions were available under the proposal to amend §§ 101.5 and 113.8 (See proposed terminology in § 101.5(o) which provides for direct or indirect correlation of potency to host animal immunogenicity). However, by specifying in proposed § 101.5(q)(1) that Qualifying Serials used to requalify or extend the dating of a Master Reference shall be ''tested for immunogenicity in host animals,'' APHIS may have inadvertently implied that laboratory animal tests could not be used for reference requalification. This was not the intent of the proposed regulation. In response to the commenter, the final rule has been amended in § 101.5(q)(1) to clarify the definition of Qualifying Serial to provide for the use of procedures acceptable to APHIS which will include antibody titers and laboratory animal testing along with host animal immunogenicity for reference requalification.

In response to the comment regarding the use of in vitro assays to requalify or extend the dating of a reference in place of performing studies in animals, in vitro tests may not be substituted for animal tests for reference requalification. The proposed E. coli standard requirement stated that an in vitro procedure may be used to monitor the potency of the Master Reference for indication of decline, but specified that the reference must be requalified when a decline in potency is detected. As proposed in the proposed E. coli standard requirement, the immunogenicity of Qualifying Serials used in reference requalification studies may be based on host animal studies (challenge or antibody titer) or laboratory animal studies as provided in protocols acceptable to APHIS. Therefore, to clarify these points and to eliminate the apparent inconsistency between the two proposed rules, APHIS is amending § 113.8(d)(2) pertaining to in vitro testing to include a monitoring provision and to clarify that: (1) The monitoring procedure can only be used to monitor the unexpired reference to detect when a decline in potency has occurred between requalification intervals, and (2) to specify that, if such monitoring procedures indicate the potency of the reference is declining, the reference must be requalified either by testing a Qualifying Serial in host animals or by providing other evidence of reference immunogenicity, e.g., antibody titers or laboratory animal test data previously correlated to host animal protection, or a new reference must be prepared and qualified. In vitro monitoring, however, would not be a substitute for reference requalification at the end of product dating.

One commenter suggested amending § 113.8(c)(5) to include a provision to allow a firm to declare a potency test with valid lines a ''no test'' if the firm does not have confidence in the test result. APHIS does not agree that it would be appropriate to declare such a test a ''no test''. The regulation, as proposed, allows a firm to retest a serial two times when the initial test shows that potency is less than the required minimum potency. The commenter's suggestion, however, would make potency testing subjective and allow a firm to disregard valid results that are not consistent with a desired outcome. Conceivably, a serial with unsatisfactory test results could be retested indefinitely. In response to this comment, APHIS has clarified provisions for the retesting of such serials and permitted up to three retests to be performed. Provisions have also been added to permit the potency test to be repeated under certain specified conditions.

Two commenters requested that firms be allowed more than two years to

convert currently approved in vitro immunoassays that are described in filed Outlines of Production that are not parallel line assays, to parallel line assays or to another method which demonstrates linearity, specificity, and reproducibility at least equivalent to the parallel line assay. They believed that the two-year timetable will have a negative impact on new product development, and therefore result in fewer new products on the market. In response, APHIS realizes that some firms may require more than two years to convert to parallel line assays or other valid methods. However, two years from the effective date of the final rule should be adequate time for most firms to validate their immunoassays and requalify references for existing products, considering that a single reference requalification procedure may be applicable to several different products. Also, those firms experiencing difficulty in meeting the time period may be granted additional time, if justified, by requesting an extension as provided in the regulations. Therefore, no change to the regulations is made in response to these comments.

One commenter requested that the definition of ''Master Reference'' in § 101.5(o) be amended to include options and directions for stabilizing and storing reference preparations. The commenter believed that this will result in more options for treating the references. APHIS does not agree that the rule needs to be amended. The definition of a ''Master Reference'' does not limit the options available to firms when it comes to stabilizing, storing, lyophilizing, or freezing Master References provided that such procedures are described in the filed Outline of Production. Specifying such procedures in the definition, however, would limit the industry to the procedures defined. Since the proposed definition does not limit the available options, no change to the regulations is made in response to this comment.

Another commenter requested clarification of proposed § 101.5(p) of the regulations. The commenter inquired if a purified antigen preparation could serve as the Working Reference. As proposed in § 101.5(p) of the regulations, the Working Reference may be the Master Reference, and since the Master Reference may be a purified preparation of the protective immunogen (antigen), it follows that a purified antigen can serve as the Working Reference. Therefore, no change to the regulations is made in response to this comment.

One commenter recommended amending proposed § 101.5(q)(1) of the rule to require Qualifying Serials for reference requalification to be produced at the minimum antigen level specified in the Outline of Production instead of specifying that the geometric mean relative potency not exceed 1.0 when compared to the Master Reference. The commenter reasoned that, by specifying that the amount of antigen in the Qualifying Serial not exceed the amount of antigen contained in the Master Reference, the antigen level contained in the Master Reference is a more appropriate benchmark (measure of protection) than is the antigen content specified in the Outline of Production. The commenter believed that the amount of antigen specified in the Outline of Production should establish the antigen requirement for the Qualifying Serial. APHIS does not agree with the commenter's recommendation. In measuring relative potency, the antigen level used to demonstrate host animal protection becomes the benchmark by which other serials are measured and is the level of antigen to be contained in a Qualifying Serial that is used to determine if the Master Reference is still protective and therefore eligible for continued use in the potency assay. The commenter's recommendation of using a regular production serial and devising a calculation procedure to show antigen equivalency is an indirect method that was considered by APHIS and determined to be inappropriate and less meaningful than the provision in the APHIS proposal. Therefore, no change to the regulations is made in response to this comment.

Two commenters expressed confusion regarding proposed §§ 113.8(a)(4) (i) and (ii) of the rule. The commenters noted that although § 113.8(a)(4) refers to in vitro methods for determining the potency of inactivated products, the cited examples, i.e., determining $\log_{10}$ virus titer and determining the live bacterial count only apply to live products. APHIS agrees that the wording of proposed § 113.8(a)(4) is contradictory and has amended the final rule, eliminating the contradictory sections, by incorporating the provisions of § 113.8(a)(4) into § 113.8(a)(3) as follows:

(3) Establishing a satisfactory potency test for the product in accordance with the following provisions:

(i) Potency of live products may be determined by $\log_{10}$ virus titer or determining the live bacterial count based on the protective dose used in the Master Seed immunogenicity test plus an adequate overage for adverse conditions and test error; and

(ii) Potency for inactivated products may be determined using tests for relative antigen content by comparing the antigen content of the test serial to a reference preparation using a parallel line immunoassay or equivalent method which measures linearity, specificity, and reproducibility in a manner acceptable to APHIS.

One commenter requested that the phrase ''an appropriate difference'' referred to in proposed § 113.8(b)(5) be further defined. Proposed § 113.8(b)(5) pertains to in vitro potency tests for live vaccines in which potency is measured in terms other than $\log_{10}$ virus titer or live bacterial counts, e.g., Marek's Disease vaccines in which potency is measured in terms of plaque forming units (PFU). Generally, an appropriate difference pertains to how a serial is determined to have satisfactory potency when the initial potency test determines that the serial contains less than the number of PFU's specified in the Outline of Production (OP) or standard requirement and the manufacturer elects to retest the serial to rule out test system error as the cause of the unsatisfactory test result. In accordance with § 113.8(b)(5), the manufacturer must specify in the OP the difference between the average PFU count obtained in the retest and the PFU count obtained in the initial test so that the initial test may be considered a result of test system error. The commenter did not suggest what this appropriate difference in PFU or organism count should be. APHIS has noted that the appropriate difference between test results may be different for each product and this is the reason the proposed rule specified that this value should be placed in the product Standard Requirement or filed OP. From data submitted to APHIS, however, it is also noted that an acceptable guideline for determining such appropriate difference would be if the difference between the average PFU count obtained in the retest and the count obtained in the initial test exceeds 20 per cent. However, because no specific value was proposed by the commenter, and there is a need to address specific product differences, no change to the regulation is made in response to this comment.

One commenter proposed that tests for relative antigen content which cannot be termed satisfactory or unsatisfactory should be called ''no tests'' and be eligible for unlimited retesting without prejudice. In response, APHIS points out that § 113.8(c)(1) of the regulation classifies a test that results in no valid lines as a ''no test''. Typically, this designation is used when a deficiency in the test system renders an invalid test result which is

unsuitable for reaching a conclusion regarding the potency of a serial; such serials may be retested. An equivocal test as that test is used in § 113.8(c)(2), is a test that results in valid lines which are not parallel. Therefore, the test is considered inconclusive and the serial cannot be termed satisfactory or unsatisfactory. In order to clarify the proper handling and disposition of serials of product with equivocal test results, APHIS has amended §§ 113.8 (c)(4) and (5) regarding the retest of serials with equivocal test results due to a lack of parallelism by specifying (1) the number of times such serials may be retested and, (2) the disposition of the serial based on the results of the retest.

Four comments were received related to proposed § 113.8(d)(2). The commenters requested that: (1) Stabilized Master References be allowed to serve as Working References; (2) Master References be allowed an initial dating period at least twice as long as that allowed for a regular serial of product; and (3) Frozen references be allowed an initial expiration dating of 5 years, provided that they are monitored by in vitro methods. In response to these comments regarding item (1), APHIS notes that proposed § 101.5(o) of the regulation specifies that the Master Reference may be used as the Working Reference. Regarding item (2), proposed § 113.8(d)(2) specifies that the dating of the reference shall be equal to the dating of the product or as supported by data acceptable to APHIS. Stability can be demonstrated by repeat testing of the reference over time or by demonstrating that the reference has maintained immunogenicity after being stored for a period of time equal to or greater than the dating period requested. Regarding item (3), allowing longer dating for references based on special treatments or storage conditions may be justified if such treatments or storage conditions are better able to maintain the stability of the reference. Section 113.8(d)(2) provides for determining the stability of the reference on the basis of confirming the immunogenicity in a manner acceptable to APHIS. This would include data from a stabilized monitored reference demonstrating stability in a manner acceptable to APHIS. Therefore, a reference may be allowed to have an initial dating longer than that for a regular production serial, provided that the request for the longer initial dating is supported by appropriate preliminary data and provides for monitoring stability to determine when the potency of the reference starts to decline and for taking appropriate steps to requalify or replace such a reference.

In response to the commenters, APHIS has amended the regulations to allow frozen references an initial dating period of 5 years, provided that the request for such initial dating is supported by preliminary data and a frozen storage protocol, including monitoring procedures, acceptable to APHIS. As amended, § 113.8(d)(2) reads as follows:

(d)(2) * * * The lot of reference used to determine antigenic content shall have an initial dating period equal to the dating of the product or as supported by data acceptable to APHIS, except that frozen references may have an initial dating of up to 5 years, *Provided,* That the request for dating of frozen references beyond the dating of the product is supported by preliminary data acceptable to APHIS and includes provisions for monitoring the stability of the reference to determine when the potency starts to decline and for taking the appropriate steps to requalify a reference with declining potency either by testing a Qualifying Serial in host animals or by providing other evidence of immunogenicity, e.g., antibody titers or laboratory animal test data previously correlated to host animal protection in a manner acceptable to APHIS. Prior to the expiration date, such reference may be granted an extension of dating, *Provided,* That its immunogenicity has been confirmed using a Qualifying Serial of product in a manner acceptable to APHIS. * * *

APHIS received two comments on proposed § 101.5(q)(2) inquiring into the rationale for requiring the qualifying serial used to extend the dating of a Master Reference to be prepared within 6 months of initiating a requalification test. The commenters believed that the 6 month restriction limited their options relating to production schedules and antigen manufacture. APHIS proposed the 6 month restriction as a means of assuring that qualifying serials used to extend the dating of a reference would be representative of the firm's current production method. APHIS agrees with the commenters regarding the potential restrictive aspects of the 6 month requirement and has amended § 101.5(q)(2) in response to the comment to be more consistent with our intent as follows:

(2) Qualifying serials used to requalify or extend the dating period of a Master Reference shall be determined to be immunogenic in accordance with methods deemed appropriate by APHIS as provided in paragraph (a)(1) of this section, and, in addition, shall be within their permitted dating period and have been prepared in accordance with the production method described in the currently filed Outline of Production.

APHIS received one comment requesting clarification of proposed § 113.8(d)(1) concerning confirmation of the protective dose established for live products in the Master Seed immunogenicity test after three years. In response to this comment, confirming the accuracy of the protective dose for live products three years after completion of a satisfactory immunogenicity test is specified in the Standard Requirements for live viral vaccines, and in the filed Outline of Production for products where standards have not been codified. Including a reference to this requirement for live viral vaccines in § 113.8(d)(1) corrects an omission and provides notification of the requirement to those unfamiliar with this provision of the regulations. As specified in the codified requirements for individual live viral vaccines, only one retest is required. No change to the regulations is made in response to this comment.

We received two comments regarding the definition of a ''Qualifying Serial'' in § 101.5(q)(1). The commenter expressed concern that limiting a qualifying serial to a relative potency, when compared to the Master Reference, of not greater than 1.0 is too restrictive. The commenters suggested that the normal tolerance limits of ±15 per cent for parallel line immunoassays could cause a Qualifying Serial set at 1.0 to be as low as 0.85, which means that it may not pass a requalification test in animals. APHIS does not agree that requiring the Qualifying Serial to have a mean relative potency of not greater than 1.0 is too restrictive. As the commenter is probably aware, test assay variation is to be expected. Usually, a manufacturer will optimize the test system to determine how much variation is normal, and adjust the antigen levels so that the risk of failing a requalification test in animals is minimized. The alternative would require APHIS to include tolerance limits in the regulations. APHIS does not agree that such tolerance limits are necessary. The individual manufacturers can optimize antigen levels based on their individual experiences with test assay variation to assure that a Qualifying Serial with a mean relative potency of not greater than 1.0 will pass the requalification test in animals. No change to the regulations is made in response to this comment.

Therefore based on the rationale set forth in the proposed rule and in this document, we are adopting the provisions of the proposal as a final rule, with the changes discussed in this document.

Executive Order 12866 and Regulatory Flexibility Act

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

This amendment allows any valid in vitro immunoassay to be used in determining the relative antigen content of an inactivated veterinary biological product, provided that it satisfies the parallel line criteria or demonstrates linearity, specificity, and reproducibility equivalent to the parallel line assay using an unexpired reference preparation. This amendment affects all licensed manufacturers of veterinary biologicals utilizing in vitro relative potency immunoassays for determining the potency of animal biological products. There are currently approximately 118 veterinary biologics establishments that may be affected by this rule. According to the Small Business Administration regulations, most of them would be classified as small entities. The majority of these establishments currently utilize in vitro relative potency tests to release serials of veterinary biological products. Since potency testing is already required under § 113.5 of the regulations and since this rule does not require the use of in vitro relative potency tests, any additional cost imposed by the validity requirements specified in this rule should be minimal. In the absence of a standard requirement prescribing a specific potency test for inactivated products, the firms develop a potency test suitable for their product, and designate such tests in the outline of production that is filed with APHIS. Currently, firms are using host animal tests, laboratory animal tests, and a variety of in vitro immunoassays as potency tests for products. This rule does not restrict the firm's discretion to choose the most appropriate test for its product. The rule only prescribes validity requirements for in vitro immunoassays for relative potency. The overall effect of this amendment will be to standardize in vitro immunoassays that are used to determine the potency of inactivated veterinary biological products.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR part 3015, subpart V.)

Executive Order 12988

This final rule has been reviewed under Executive Order 12988, Civil Justice Reform. It is not intended to have retroactive effect. This rule would not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule. There are no administrative procedures which must be exhausted prior to a judicial challenge to the provisions of this rule.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the information collection or recordkeeping requirements included in this rule have been approved by the Office of Management and Budget (OMB), and there are no new requirements. The assigned OMB control number is 0579–0013.

Regulatory Reform

This action is part of the President's Regulatory Reform Initiative, which, among other things, directs agencies to remove obsolete and unnecessary regulations and to find less burdensome ways to achieve regulatory goals.

List of Subjects

9 CFR Part 101

Animal biologics.

9 CFR Part 113

Animal biologics, Exports, Imports, Reporting and recordkeeping requirements.

Accordingly, 9 CFR parts 101 and 113 are amended as follows:

PART 101—DEFINITIONS

1. The authority citation for part 101 continues to read as follows:

Authority: 21 U.S.C. 151–159; 7 CFR 2.22, 2.80, and 371.2(d).

2. Section 101.5 is amended by adding new paragraphs (o), (p), (q), and (r) to read as follows:

§ 101.5 Testing terminology.

* * * * *

(o) *Master reference.* A Master Reference is a reference whose potency is correlated, directly or indirectly, to host animal immunogenicity. The Master Reference may be used as the working reference in in vitro tests for relative potency. The Master Reference may also be used to establish the relative potency of a serial of product used in requalification studies and to establish the relative potency of working references. The preparation of a Master Reference as described in a filed Outline of Production may be:

(1) A completed serial of vaccine or bacterin prepared in accordance with a filed Outline of Production;

(2) A purified preparation of a protective immunogen or antigen; or

(3) A nonadjuvanted harvested culture of microorganisms.

(p) *Working reference.* A Working Reference is the reference preparation that is used in the in vitro test for the release of serials of product. Working References may be:

(1) Master References; or

(2) Serials of product that have been prepared and qualified, in a manner acceptable to Animal and Plant Health Inspection Service for use as reference preparations.

(q) *Qualifying serial.* (1) A serial of biological product used to test for immunogenicity when the Master or Working Reference is a purified antigen or nonadjuvanted harvest material. Qualifying serials shall be produced in accordance with the filed Outline of Production, tested for immunogenicity in accordance with methods deemed appropriate by the Animal and Plant Health Inspection Service, and have a geometric mean relative potency, when compared to the Master Reference, of not greater than 1.0 as established by: independent parallel line assays with five or more replicates; or other valid assay methods for determining relative antigen content which demonstrate linearity, specificity, and reproducibility at least equivalent to the parallel line assay and are acceptable to the Animal and Plant Health Inspection Service.

(2) Qualifying serials used to requalify or extend the dating period of a Master Reference shall be determined to be immunogenic in accordance with methods deemed appropriate by the Animal and Plant Health Inspection Service as provided in paragraph (a)(1) of this section, and, in addition, shall be within their permitted dating period and have been prepared in accordance with the production method described in the currently filed Outline of Production.

(r) *Immunogenicity.* The ability of a biological product to elicit an immune response in animals as determined by test methods or procedures acceptable

to the Animal and Plant Health Inspection Service.

PART 113—STANDARD REQUIREMENTS

3. The authority citation for part 113 continues to read as follows:

Authority: 21 U.S.C. 151–159; 7 CFR 2.22, 2.80, and 371.2(d).

4. Section 113.8 is amended as follows:

a. The section heading is revised to read as set forth below.

b. Paragraph (a) is revised to read as set forth below.

c. Paragraph (b) introductory text is revised to read as set forth below.

d. Paragraph (b)(5) is revised to read as set forth below.

e. Paragraph (c) is redesignated as paragraph (e) and new paragraphs (c) and (d) are added to read as set forth below.

f. In redesignated paragraph (e), in the introductory text, the reference to ''paragraph (b)'' is removed and ''paragraphs (b) and (c)'' are added in its place. In redesignated paragraph (e)(4), the reference to ''paragraphs (c)(1),'' is removed and ''paragraphs (e)(1),'' is added in its place.

§ 113.8 In vitro tests for serial release.

(a) Master Seed which has been established as pure, safe, and immunogenic shall be used for preparing seed for production as specified in the Standard Requirements or in the filed Outline of Production. The Administrator may exempt a product from a required animal potency test for release when an evaluation can, with reasonable certainty, be made by:

(1) Subjecting the master seed to the applicable requirements prescribed in §§ 113.64, 113.100, 113.200, and 113.300;

(2) Testing the Master Seed for immunogenicity in a manner acceptable to the Animal and Plant Health Inspection Service (APHIS);

(3) Establishing satisfactory potency for the product in accordance with the following provisions:

(i) Potency for live products may be determined by $\log_{10}$ virus titer or determining the live bacterial count based on the protective dose used in the Master Seed immunogenicity test plus an adequate overage for adverse conditions and test error; and

(ii) Potency for inactivated products may be determined using tests for relative antigen content by comparing the antigen content of the test serial to a reference preparation using a parallel line immunoassay or equivalent method which measures linearity, specificity, and reproducibility in a manner acceptable to APHIS.

(b) In the case of live products, each serial and subserial of desiccated product derived from an approved Master Seed and bulk or final container samples of each serial of completed liquid product derived from an approved Master Seed shall be evaluated by a test procedure acceptable to APHIS. On the basis of the results of the test, as compared with the required minimum potency, each serial and subserial shall either be released to the firm for marketing or withheld from the market. The evaluation of such products shall be made in accordance with the following criteria:

* * * * *

(5) *Exceptions.* When a product is evaluated in terms other than $\log_{10}$ virus titer or organism count, an appropriate difference between the average potency value obtained in the retests and the potency value obtained in the initial test shall be established for use in paragraphs (b)(3) and (b)(4) of this section to evaluate such products and shall be specified in the product Standard Requirement or filed Outline of Production.

(c) In the case of inactivated products, bulk or final container samples of completed product from each serial derived from an approved Master Seed, shall be evaluated for relative antigen content (potency) as compared with an unexpired reference by a parallel line immunoassay or other procedure acceptable to APHIS.[1] Firms currently using immunoassays which do not satisfy this requirement shall have 2 years from the effective date of the final rule to update their filed Outlines of Production to be in compliance with this requirement unless granted an extension by the Administrator based on a showing by the firm seeking the extension that they have made a good faith effort with due diligence to achieve compliance. On the basis of the results of such test procedures, each serial that meets the required minimum potency shall be released to the firm for marketing; each serial not meeting the required minimum potency shall be withheld from the market. The evaluation of such products shall be made in accordance with the following criteria:

(1) A test that results in no valid lines is considered a ''no test'' and may be repeated.

(2) An initial test (test 1) that results in valid lines that are not parallel is considered a valid equivocal test. Release of the serial may not be based on such test since the result cannot be termed ''satisfactory'' or ''unsatisfactory.''

(3) If the initial test (test 1) shows that potency equals or exceeds the required minimum potency, the serial is satisfactory without additional testing.

(4) If the initial test (test 1) is an equivocal test due to lack of parallelism, the serial may be retested up to three times (tests 2, 3, and 4) with disposition to be as specified in paragraphs (c)(4)(i) and (ii) of this section; *Provided,* That, if the serial is not retested or the other provisions of this section are not satisfied, the serial shall be deemed unsatisfactory.

(i) If: The first retest (test 2) following an initial equivocal test; the second retest (test 3) following two consecutive equivocal tests (tests 1 and 2); or the third retest (test 4) following three consecutive equivocal tests (tests 1, 2, and 3) shows that the potency equals or exceeds the required minimum potency, the serial is satisfactory.

(ii) If the first retest (test 2) following an initial equivocal test shows that potency is less than the required minimum potency, disposition of the serial will be based on the outcome of retests 2 and 3 (tests 3 and 4) as follows: if either retest (test 3 or 4) shows that potency is less than the required minimum potency, the serial is unsatisfactory. If either retest 2 or retest 3 (tests 3 or 4) is an equivocal test, or in the event that each retest (tests 2, 3, and 4) following an initial equivocal test is also an equivocal test, the accumulated test results shall be considered indicative of a lack of potency and release of the serial withheld. In which case, the licensee may submit data confirming the continued validity of the test system to APHIS for review and approval. If the data are acceptable to APHIS, the potency test may be repeated by the firm, subject to the provisions specified in paragraphs (i) and (ii) and confirmatory testing by APHIS.

(5) If the initial test (test 1) shows that potency is less than the required minimum potency, the serial may be retested a minimum of two times (tests 2 and 3) but not more than three times (tests 2, 3, and 4) with disposition as specified in paragraphs (c)(5) (i) and (ii) of this section; *Provided,* That, if the

[1] A method for evaluating relative antigen content, Supplemental Assay Method 318, and relative potency calculation software are available from the United States Department of Agriculture, Animal and Plant Health Inspection Service, Veterinary Services, National Veterinary Services Laboratories, Center for Veterinary Biologics—Laboratory, 1800 Dayton Road, P. O. Box 844, Ames, Iowa 50010.

serial is not retested or the other provisions of this section are not satisfied, the serial shall be deemed unsatisfactory.

(i) If two consecutive retests (tests 2 and 3) show that potency of the serial equals or exceeds the required minimum potency, the serial is satisfactory. If one of the two retests (test 2 or 3) shows that the potency is less than the required minimum potency, the serial is unsatisfactory.

(ii) If one of the retests (tests 2 or 3) shows that the potency equals or exceeds the required minimum potency and the other retest (test 2 or 3) is an equivocal test, a third retest (test 4) may be performed. If the third retest (test 4) shows that the potency of the serial equals or exceeds the required minimum potency, the serial is deemed satisfactory. If both retests (tests 2 and 3) or if the third retest (test 4) is an equivocal test, the accumulated test results shall be considered indicative of a lack of potency and release of the serial withheld, in which case the licensee may submit data confirming the continued validity of the test system to APHIS for review and approval. If the data are acceptable to APHIS, the potency test may be repeated by the firm, subject to the provisions specified in paragraphs (c)(4) (i) and (ii) and (c)(5) (i) and (ii) of this section, and confirmatory testing by APHIS.

(d) *Repeat immunogenicity tests.* (1) The accuracy of the protective dose established for live products in the Master Seed immunogenicity test and defined as live virus titer or live bacterial count shall be confirmed in 3 years in a manner acceptable to APHIS, unless use of the lot of Master Seed previously tested is discontinued.

(2) All determinations of relative antigen content using parallel line immunoassays or equivalent methods shall be conducted with an unexpired reference. The lot of reference used to determine antigenic content shall have an initial dating period equal to the dating of the product or as supported by data acceptable to APHIS, except that frozen references may have an initial dating of up to 5 years, *Provided,* That the request for dating of the frozen references beyond the dating of the product is supported by preliminary data acceptable to APHIS and includes provisions for monitoring the stability of the reference to determine when the potency starts to decline and for taking the appropriate steps to requalify a reference with declining potency either by testing a Qualifying Serial in host animals or by providing other evidence of immunogenicity, e.g., antibody titers or laboratory animal test data previously correlated to host animal protection in a manner acceptable to APHIS. Prior to the expiration date, such reference may be granted an extension of dating, *Provided,* That its immunogenicity has been confirmed using a Qualifying Serial of product in a manner acceptable to APHIS. The dating period of the Master Reference and Working Reference may be extended by data acceptable to APHIS if the minimum potency of the Master Reference is determined to be adequately above the minimum level needed to provide protection in the host animal. If a new Master Reference is established, it shall be allowed an initial dating period equal to the dating of the product or as supported by data acceptable to APHIS, except that frozen references may have an initial dating period of 5 years, or as supported by data acceptable to APHIS. Prior to the expiration date, such reference may be granted an extension of dating by confirming its immunogenicity using a Qualifying Serial of product.

* * * * *

Done in Washington, DC, this 15th day of April 1997.

Donald W. Luchsinger,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 97–10100 Filed 4–17–97; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 156

[Docket No. 93–168–2]

Export Certification of Animal Products

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are amending the regulations concerning inspection and certification of animal byproducts by removing references to ''inedible animal byproducts'' and replacing them with references to ''animal products,'' and by providing for the issuance of export certificates for animal products which do not require inspection. These amendments will facilitate trade in U.S. animal products.

EFFECTIVE DATE: May 19, 1997.

FOR FURTHER INFORMATION CONTACT: Dr. Marolo Garcia, Senior Staff Veterinarian, Products Staff, National Center for Import and Export, VS, APHIS, Suite 3B05, 4700 River Road, Unit 40, Riverdale, MD 20737–1231. Telephone: (301) 734–4401; or E-mail: mgarcia@aphis.usda.gov.

SUPPLEMENTARY INFORMATION:

Background

The regulations in 9 CFR part 156 (referred to as the regulations) govern the inspection and certification of animal byproducts. These regulations were promulgated under authority contained in sections 203 and 205 of The Agricultural Marketing Act of 1946, as amended (7 U.S.C. 1622 and 1624) (the Act). The Act authorizes the Secretary of Agriculture, among other things, to ''inspect, certify, and identify the class, quality, quantity, and condition of agricultural products when shipped or received in interstate commerce, under such rules and regulations as the Secretary of Agriculture may prescribe* * *.'' The Act further states that the intended effect of this authority is that agricultural products may be ''marketed to the best advantage'' and ''that trading may be facilitated.'' The Act also authorizes the Secretary ''to perform such other activities as will facilitate the marketing [and] distribution of agricultural products through commercial channels.'' In addition, the Act states that no person shall be required to use the service.

Animal Byproducts/Animal Products

Until recently, the Animal and Plant Health Inspection Service (APHIS) under the Act was granted authority with respect to voluntary inspection and certification of only inedible animal byproducts. Our regulations have therefore only provided for APHIS to issue export certificates for inedible animal byproducts.

However, effective November 8, 1995, APHIS was granted broader authority under revised delegations of authority from the Secretary of Agriculture and general officers of the Department (see 60 FR 56392, *et seq.*). Among other changes, the Administrator, APHIS, was granted authority to administer the Act ''with respect to voluntary inspection and certification of animal products'' (see 60 FR 56457, 7 CFR 2.80(a)(28)). The effect of this amendment was to give APHIS authority to issue export certificates for all animal products, edible and inedible.

To reflect this change, we published a proposed rule in the **Federal Register** on September 19, 1996, (61 FR 49278–49279, Docket 93–168–2), to amend the regulations to remove the term ''animal byproduct'' wherever it appears, and replace it with the term ''animal

product.'' We also proposed to remove the definition of ''animal byproduct'' and add a definition of ''animal product.''

Export Certificates Without Inspection

Most countries require imported animal products to be accompanied by an official export certificate issued by the country of origin. Without such a certificate, the products cannot be brought into the country. Depending upon the product involved, many importing countries require the export certificate to state only that the exporting country is free of certain diseases. Often there is no requirement that the product itself have been inspected. As part of our proposal of September 19, 1996, we proposed to amend the regulations to provide that APHIS may issue export certificates for animal products or byproducts without conducting an inspection.

We solicited comments concerning our proposal for 60 days ending November 18, 1996. We received 1 comment by that date.

The commenter questioned whether APHIS should issue export certificates for milk, stating that State and other Federal authorities should certify milk for export.

We have carefully considered this comment and determined that no changes in our proposed rule are necessary.

We are not proposing to establish APHIS as the sole certifying authority for milk, or for any other animal products intended for export. Under our proposal, APHIS export certificates for all animal products, including milk, would be available to exporters who request them. APHIS export certificates would be available in addition to, not instead of, acceptable export certificates issued by other Federal and State agencies. We anticipate that exporters are most likely to request export certificates for milk and other dairy products from APHIS when the importing country requires that we provide certified information about the status of certain diseases in this country that could affect dairy cattle. Because APHIS has the authority and the expertise necessary to issue such certificates, we believe exporters should be able to obtain them from APHIS.

We want to make it clear that APHIS does not require export certificates; export certificates are required by the country importing the product. Additionally, APHIS does not specify what information or certifications must appear on an export certificate; that is specified by the country importing the product. APHIS's role is simply to make export certificates available. In fact, an importing country may accept any documentation it chooses, including export certificates issued by other Federal and State agencies.

Therefore, based on the rationale set forth in the proposed rule and in this document, we are adopting the provisions of the proposal as a final rule without change.

Executive Order 12866 and Regulatory Flexibility Act

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

This change in the regulations will enable APHIS to issue export certificates for certain animal products without inspecting the products. This is a service many prospective exporters have asked the Agency to provide. Under the amended regulations, exporters will not be required to use this service. However, exporters who choose to obtain export certificates from APHIS will be required to pay a user fee of $21.50 for each certificate.

According to Foreign Agriculture Trade of the United States, FY 1995 Supplement, which contains the most recent data available, approximately $3.5 billion worth of animal products of all types were exported from the United States during FY 94. During FY 1996, APHIS issued approximately 70,000 export certificates for animal products of all types.

In our proposal of September 19, 1996, we invited comments on the impact of this rule. We specifically requested data indicating the number of entities that export animal products, how many entities might export edible animal products under our proposed rule, and how many of these entities might be small entities. Although we received no response to our request, we have no reason to believe that making export certificates available under this voluntary service would have a significant economic impact on small entities.

Executive Order 12988

This rule has been reviewed under Executive Order 12998, 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 new information collection or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Regulatory Reform

This action is part of the President's Regulatory Reform Initiative, which, among other things, directs agencies to remove obsolete and unnecessary regulations and to find less burdensome ways to achieve regulatory goals.

List of Subjects in 9 CFR Part 156

Exports, Livestock, Poultry and poultry products, Reporting and recordkeeping requirements.

Accordingly, 9 CFR part 156, is amended as follows:

PART 156—VOLUNTARY INSPECTION AND CERTIFICATION SERVICE

1. The authority citation for part 156 continues to read as follows:

Authority: 7 U.S.C. 1622 and 1624; 21 U.S.C. 136a; 7 CFR 2.22, 2.80, and 371.2(d).

2. The heading of part 156 is revised as set forth above.

3. Section 156.2 is amended as follows:

a. Paragraph (g) is removed;

b. All paragraph designations are removed;

c. All definitions are placed in alphabetical order; and

d. A definition of *Animal product* is added, in alphabetical order, to read as follows:

§ 156.2 Definitions.

* * * * *

Animal product. Anything made of, derived from, or containing any material of animal origin.

* * * * *

§§ 156.3, 156.5, and 156.8 [Amended]

4. In the following sections, the word ''byproducts'' is removed and the word ''products'' added in its place:

a. § 156.3, each time it appears;

b. § 156.5; and

c. § 156.8(b), each time it appears.

5. In § 156.6, the first sentence is revised to read as follows:

§ 156.6 Certificates.

The inspector shall sign and issue certificates in forms approved by the Administrator for animal products, if the inspector finds that the requirements as stated in the certification have been met. * * *

Done in Washington, DC, this 15th day of April 1997.

Donald W. Luchsinger,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 97–10099 Filed 4–17–97; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

15 CFR Part 280

[Doc. No. 960726209–7088–02]

RIN 0693–AA90

Implementation of the Fastener Quality Act

AGENCY: National Institute of Standards and Technology (NIST), Commerce.

ACTION: Extension of implementation date.

SUMMARY: The Director of NIST, under authority delegated by the Secretary of Commerce, and pursuant to Section 15 of the Fastener Quality Act (Act), (Pub. L. 101–592 as amended by Pub. L. 104–113), has determined that by May 27, 1997, the current implementation date of the Act, there will not be a sufficient number of laboratories accredited to conduct the level of required testing. Accordingly, the Director is extending the implementation date of the Act by one year, to May 26, 1998. NIST will amend 15 CFR 280.12 to reflect this new implementation date in a future document. By May 26, 1998, NIST believes it will have completed the approval/accreditation of a sufficient number of accreditation bodies/laboratories to implement the Act. The total number of laboratories to accredit by the new date of implementation is estimated to be four hundred twenty-five. To accomplish the task of getting these laboratories accredited prior to May 26, 1998, NIST requests all accreditation bodies seeking approval under the NIST Accreditation Body Evaluation Program (ABEP), all laboratories seeking accreditation under the NIST National Voluntary Laboratory Accreditation Program (NVLAP), and all laboratories seeking accreditation from accreditation bodies approved or pending approval by ABEP submit their completed applications to the respective programs by August 1, 1997, in order to be given full and fair consideration for approval/accreditation by the new implementation date.

DATES: The date of implementation of the Act is May 26, 1998.

FOR FURTHER INFORMATION CONTACT: Subhas G. Malghan, NIST, Building 820, Room 306, Gaithersburg, MD 20899; Tel. No. 301–975–6101; Telefax 301–975–2183; E-mail malghan@nist.gov.

SUPPLEMENTARY INFORMATION: The Fastener Quality Act (Act), (Pub. L. 101–592 as amended by Pub. L. 104–113), requires that certain fasteners sold in commerce conform to the standards and specifications to which they are represented to be manufactured and have been inspected, tested, and certified. Inspection and testing mean that the manufacturer of a lot of fasteners shall cause to be inspected and tested a representative sample of the fasteners in such a lot to determine whether the lot of fasteners conform to the standards and specifications to which the manufacturer represents it has been manufactured. Such inspection and testing shall be performed by a laboratory accredited in accordance with the procedures and conditions specified by the Secretary under Section 6 of the Act.

In accordance with Section 15, the requirements of the Act shall be applicable only to fasteners fabricated one hundred eighty days or more after the effective date of final regulations implementing the Act (November 25, 1996). The Secretary may delay the implementation date upon a determination that an insufficient number of laboratories have been accredited to perform the volume of inspection and testing required.

In 1991 NIST requested the Fastener Advisory Committee to address the issue of determining how many laboratories are needed to be accredited to implement the Act without adversely affecting commerce. A task force of members studied the issue and prepared a report to the full Committee which was accepted by the Committee and by NIST. The report concluded that between three hundred twenty-eight and four hundred fifty-seven accredited laboratories would be required to implement the Act.

Both NVLAP and ABEP began their review of applications for accreditation on November 25, 1996, the effective date of the regulations. There has not been a great volume of applications to date. NIST believes there are several reasons for the initial slow response:

(1) Laboratories wanted to wait and see which laboratory accreditation bodies would receive approval under ABEP before determining whether to apply to NYLAP for accreditation or to another accreditation body. The cost of becoming accredited and the fact that some laboratories already have been accredited by a body applying to ABEP for approval were factors in their decision process.

(2) With the amendment to the Act that allows raw material suppliers to certify the chemistry of the metal used to manufacture fasteners, fastener manufacturers are now urging their metal suppliers to become accredited even though the Act and regulations do not require the raw material suppliers to do so. The reason is that a large number of fastener manufacturers rely on a ladle analysis of the metal and this can only be obtained while the metal is being manufactured at the mill. The metal suppliers have been slow in applying for accreditation because their customers, the fastener manufacturers, did not initially request them to do so.

At present forty-two laboratories have applied to NVLAP to be accredited and four laboratory accreditation bodies have applied to ABEP to be approved. NVLAP expects to complete accreditation of the forty-two by September 1997. Approximately another fifteen laboratories have indicated they will apply to NVLAP, and these applications will be processed by January 1998. ABEP intends to complete approval of the four laboratory accreditation bodies by September 1997. Once approved these bodies will be working on accreditation of their populations of laboratories. These four bodies, plus NVLAP, already have approximately three hundred twenty-five laboratories that have either been accredited for fastener testing or indicated that they will seek accreditation. NIST estimates that the accreditation bodies will finish their work on this population of three hundred twenty-five laboratories by April 1998. Based upon expressed interest to ABEP, three additional accreditation bodies are expected to apply for approval soon and will bring an additional seventy-five laboratories whose recognition and accreditation will proceed simultaneously and be completed by May 26, 1998. In addition, the four accreditation bodies undergoing approval process now are expected to add at least twenty-five more laboratories. If these estimates are correct, the total number of accredited laboratories by May 26, 1998, would be four hundred twenty-five. This number is sufficient to implement the Act, based upon estimates provided by the Fastener Advisory Committee and accepted by NIST.

The Act requires that NIST indicate steps being taken to ensure the accreditation of a sufficient number of laboratories. Accordingly, the following

steps have been taken or are in the process of being taken:

(1) NIST will continue to work with relevant industry associations (foreign and domestic) to make them aware of the requirements of the Act and the need for accreditation of laboratories; and

(2) NIST, by this announcement, is requesting a cutoff date of August 1, 1997, for accreditation bodies and laboratories to send their applications so that they can be given full and fair consideration for approval/accreditation prior to May 26, 1998. Applications received after August 1, 1997, will be considered only after completing work on the pre-August 1, 1997, submitted applications.

Dated: April 15, 1997.

Elaine Bunten-Mines,

Director, Program Office, NIST.

[FR Doc. 97–10208 Filed 4–17–97; 8:45 am]

BILLING CODE 4910–59–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

15 CFR Part 902

50 CFR Parts 660 and 662

[Docket No. 960614176–7081–02; I.D. 030797A]

RIN 0648–AI19

Fisheries off West Coast States and in the Western Pacific; Northern Anchovy Fishery

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

ACTION: Final rule.

SUMMARY: NMFS is consolidating 50 CFR part 662, the regulations implementing the management measures for the northern anchovy fishery, into 50 CFR part 660, the regulations governing federally managed fisheries in the exclusive economic zone (EEZ) off the West Coast States and in the Western Pacific. This final rule makes no substantive changes to the existing regulations for northern anchovy, and is intended to make Federal regulations better organized and easier for the public to use. This action is part of the President's Regulatory Reinvention Initiative.

EFFECTIVE DATE: These regulations are effective on April 18, 1997.

FOR FURTHER INFORMATION CONTACT: Mr. Rod McInnis, NMFS, 562–980–4030.

SUPPLEMENTARY INFORMATION: In March 1995, President Clinton issued a directive to Federal agencies regarding their responsibilities under his Regulatory Reinvention Initiative. This initiative is part of the National Performance Review and calls for comprehensive regulatory reform. The President directed all agencies to review their regulations, with an emphasis on eliminating or modifying those that are obsolete, duplicative, or otherwise in need of reform.

Consistent with that directive, NMFS published a final rule to consolidate the regulations governing the fisheries off the West Coast States and in the Western Pacific (61 FR 34570, July 2, 1996). The final rule at 50 CFR part 660 combined the regulations formerly found at 50 CFR parts 661 (Ocean Salmon Fisheries off the Coasts of Washington, Oregon, and California); 663 (Pacific Coast Groundfish Fisheries); 680 (Western Pacific Precious Corals); 681 (Western Pacific Crustacean Fisheries); 683 (Western Pacific Bottomfish and Seamount Groundfish Fisheries); and 685 (Pelagic Fisheries of the Western Pacific Region).

Also consistent with the President's directive, NMFS published a proposed rule (61 FR 13148, March 26, 1996), to remove the regulations at 50 CFR part 662 that implement the Northern Anchovy Fishery Management Plan (FMP), which was prepared by the Pacific Fishery Management Council (Council). The proposed rule stated that the FMP was unnecessary, given the ability of the State of California to regulate the fishery. Since the regulations were proposed to be removed, they were not incorporated in 50 CFR part 660.

The Council and other commenters advocated retention of the FMP as a means to support California's management measures and coordination with Mexico. Also, the President, on October 11, 1996, signed into law S.39, the Sustainable Fisheries Act (SFA), which amended the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) (16 U.S.C. 1801 *et seq.*). Section 109(i) of the SFA added a provision to the Magnuson-Stevens Act that states that the Secretary may repeal or revoke an FMP for a fishery under the authority of a fishery management council only if the appropriate council approves the repeal or revocation by a three-quarters majority of its voting members (NOAA considers this language advisory, not mandatory). After considering public comments and the amended language of the Magnuson-Stevens Act, NMFS withdrew the rule that proposed to remove the Federal regulations governing the northern anchovy fishery. Since Federal management of the fishery still exists, the regulations governing the fishery at 50 CFR part 662 need to be consolidated with the other West Coast and Western Pacific regulations at 50 CFR part 600. This final rule so consolidates those regulations. Some minor changes to the regulations for northern anchovy have been made to make them consistent in style and format with 50 CFR part 660.

Under NOAA Administrative Order 205–11, 7.01, dated December 17, 1990, the Under Secretary for Oceans and Atmosphere has delegated, to the Assistant Administrator for Fisheries, NOAA, the authority to sign material for publication in the **Federal Register**.

Classification

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

Notwithstanding any other provision of law, no person is required to respond to nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act (PRA) unless that collection of information displays a currently valid Office of Management and Budget (OMB) control number. This rule repeats an information collection under PRA that was previously approved by OMB under OMB control number 0648–0306. The estimated response time is 45 minutes per vessel (30 hours in the fishery).

Because this rule makes only nonsubstantive changes to existing regulations, no useful purpose would be served by providing advance notice and opportunity for public comment. Accordingly, the Assistant Administrator for Fisheries, NOAA under 5 U.S.C. 553(b)(B), for good cause finds that providing notice and opportunity for public comment is unnecessary. Because this rule is not substantive, it is not subject to a 30-day delay in effective date under 5 U.S.C. 553(d).

List of Subjects

15 CFR Part 902

Reporting and recordkeeping requirements.

50 CFR Part 660

Fisheries, Fishing, Reporting and recordkeeping requirements.

50 CFR Part 662

Fisheries.

Dated: April 14, 1997.

Rolland A. Schmitten,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 15 CFR Chapter IX and 50 CFR Chapter VI are amended as follows:

15 CFR CHAPTER IX

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

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

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

2. In § 902.1, in paragraph (b) the table is amended by removing in the left column under 50 CFR, the entry ''662.5'', and in the right column, in corresponding position, the control number ''–0306'', and by adding in numerical order, the following entries to read as follows:

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

* * * * *

(b) * * *

CFR part or section where the information collection requirement is located	Current OMB control number (all numbers begin with 0648–)
* * * * *	
50 CFR	
* * * * *	
§ 660.505	–0306
* * * * *	

50 CFR CHAPTER VI

PART 660—FISHERIES OFF WEST COAST STATES AND WESTERN PACIFIC STATES

3. The authority citation for part 660 continues to read as follows:

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

4. Subpart I is added to read as follows:

Subpart I—Northern Anchovy Fishery

660.501 Purpose and scope.
660.502 Definitions.
660.503 Relation to other laws.
660.504 Recordkeeping and reporting.
660.505 Vessel identification.
660.506 Prohibitions.
660.507 Facilitation of enforcement.
660.508 Penalties.
660.509 Harvest quota.
660.510 Closures.
660.511 Fishing seasons.
660.512 Closed areas.
660.513 Gear limitations.

Subpart I—Northern Anchovy Fishery

§ 660.501 Purpose and scope.

This subpart governs fishing for northern anchovy by vessels of the United States in the Pacific anchovy fishery area (PAFA). This subpart implements the Northern Anchovy Fishery Management Plan (FMP) developed by the Pacific Fishery Management Council under the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) as amended.

§ 660.502 Definitions.

In addition to the definitions in the Magnuson-Stevens Act and in § 600.10 of this chapter, the terms used in this subpart have the following meanings:

Anchovy means fish of the species *Engraulis mordax*, or parts or products thereof.

Council means the Pacific Fishery Management Council.

Fishing year means a 12-month period beginning August 1 and extending through July 31 of the following year.

Live bait fishery means fishing for northern anchovies for use as live bait in other fisheries.

Nonreduction fishery means fishing for northern anchovies for use as dead bait or providing fish for human consumption.

Northern anchovy means fish of the species *Engraulis mordax*, or parts or products thereof.

PAFA means the Pacific anchovy fishery area, which is the EEZ seaward of California, and between 38° N. lat. (Point Reyes) and the United States-Mexico International Boundary, which is a line connecting the following coordinates:

32°35′22″ N. lat., 117°27′49″ W. long.
32°37′37″ N. lat., 117°49′31″ W. long.
31°07′58″ N. lat., 118°36′18″ W. long.
30°32′31″ N. lat., 121°51′58″ W. long.

Reduction fishery means fishing for northern anchovies for the purposes of conversion into fish flour, fish meal, fish scrap, fertilizer, fish oil, or other fishery products or byproducts for purposes other than direct human consumption.

Reduction harvest quota means the amount of anchovies, by weight, which may be harvested during a fishing year for reduction purposes.

Regional Administrator means the Administrator, Southwest Region, NMFS (see Table 1 of § 600.502 for address).

Spawning biomass means the estimated amount, by weight, of all sexually mature northern anchovies in the central subpopulation (defined as) from 38° N. lat. (Point Reyes) south to approximately 30° N. lat. at Punta Baja, Baja California.

Special allocations means that part of the total harvest quota reserved for non-reduction fishing, reduction fishing in subarea A, and any conservation purpose.

Subarea A means the northern portion of the PAFA between 38° N. lat. (Point Reyes), and a southern limit at 35°14′ N. lat. (Point Buchon).

Subarea B means the southern portion of the PAFA between 35°14′ N. lat. (Point Buchon), and the United States-Mexico International Boundary described in this section.

Subarea B harvest quota means the amount of anchovies, by weight, which may be harvested during a fishing year for reduction purposes in Subarea B.

Total harvest quota means the total amount of anchovies, by weight, which may be harvested during a fishing year by the reduction and non-reduction fisheries.

§ 660.503 Relation to other laws.

(a) Any state law that pertains to vessels registered under the laws of that state while fishing in the EEZ, and which is consistent with the Federal regulations, will continue to have force and effect on fishing activities addressed in this subpart.

(b) If a vessel has filed with the State of California a declaration of intent to take anchovies for reduction purposes, any fishing for anchovies by that vessel will be conclusively presumed to be for reduction purposes unless an exemption to the declaration has been filed with the State of California.

§ 660.504 Recordkeeping and reporting.

Data regarding fishing vessels, fishing activities, landings and processing activities required by the FMP for the reduction and non-reduction fisheries are collected by the State of California under existing data collection provisions. No additional reports will be required of fishermen or processors as long as the data collection and reporting systems operated by the State of California continue to provide the Secretary of Commerce (Secretary) with statistical information adequate for management. Reporting requirements may be implemented by emergency regulations if this reporting system becomes inadequate for management purposes.

§ 660.505 Vessel identification.

(a) *Official number.* Each fishing vessel in the reduction fishery must display its official number on the port and starboard sides of the deckhouse or hull, and on an appropriate weather deck so as to be visible from enforcement vessels and aircraft. The official number is the anchovy reduction registration number issued by the State of California.

(b) *Numerals.* The official number must be affixed to each vessel subject to this subpart in block Arabic numerals at least 14 inches (35.56 cm) in height. Markings must be legible and of a color that contrasts with the background.

§ 660.506 Prohibitions.

In addition to the general prohibitions specified in § 600.725, it is unlawful for any person to do any of the following:

(a) Fish for anchovies in the PAFA:

(1) During any applicable closed season or in any applicable closed area specified in this subpart;

(2) During any applicable closure specified in this subpart; or

(3) Aboard a fishing vessel that has not filed an applicable declaration of intent with the State of California.

(b) Take or retain anchovies for reduction purposes in the PAFA unless they are taken with authorized fishing gear as specified in § 660.513.

§ 660.507 Facilitation of enforcement.

See § 600.730 of this chapter.

§ 660.508 Penalties.

See § 600.735 of this chapter.

§ 660.509 Harvest quota.

(a) *Announcement of harvest quotas.* The total harvest quota, reduction harvest quota, subarea B harvest quota, and special allocations will be determined by the Regional Administrator from the estimated spawning biomass according to the formulas in paragraph (b) of this section, and will be announced on or about August 1 as interim final quotas. The quotas will be announced according to the following procedure:

(1) No less than 14 calendar days before the meeting of the Council's Anchovy Planning team and Advisory Subpanel, a document will be published in the **Federal Register** notifying the public when the estimate of the annual spawning biomass will be available. The document also will announce the date and location of a meeting of the Council's Anchovy Planning team and Advisory Subpanel, where the estimated spawning biomass and the annual quotas will be reviewed and public comments received. This meeting is expected to convene during the second week of June.

(2) All materials relating to the annual quotas will be forwarded to the Council and its Scientific and Statistical Committee and will be available for public inspection at the Office of the Regional Administrator.

(3) On or about August 1, the interim final quotas will be published in the **Federal Register** with an opportunity for public comment.

(4) At a regular meeting of the Council, the Council will review the estimated spawning biomass and harvest quotas and offer time for public comment. The Council will either accept the harvest quotas as published or recommend to the Regional Administrator that the numbers be revised. If a revision is requested, a justification for the revision must be provided. An annual quota may be adjusted only if inaccurate data were used or if errors were made in the calculations.

(5) If the Regional Administrator determines that a change in a harvest quota is justified, NMFS will publish a document in the **Federal Register** notifying the public of the change and the reasons for the change. If no changes are necessary, the interim final quotas will become final quotas, and no notice will be published.

(b) *Determination of harvest quotas.* The total harvest quota in the PAFA will be determined by adding the non-reduction fishery allocation in the PAFA and the reduction harvest quota in the PAFA, and they will be separately determined by the following formulas.

(1) When the estimated spawning biomass is less than 300,000 mt, there will be no reduction harvest quota, and the non-reduction allocation in the PAFA will be 4,900 mt.

(2) When the estimated spawning biomass is equal to or greater than 300,000 mt, the reduction harvest quota in the PAFA will be 70 percent of the estimated spawning biomass in excess of 300,000 mt or 140,000 mt, whichever is less, and the non-reduction fishery allocation in the PAFA will be 4,900 mt except as specified in § 660.510(b).

(3) When the estimated spawning biomass is less than 50,000 mt for 2 consecutive fishing years, there will be no reduction quota and no non-reduction allocation until the spawning biomass reaches or exceeds 50,000 mt.

(4) There is no limit on the harvest of anchovy for live bait, except that when the spawning biomass is less than 50,000 mt for 2 consecutive fishing years, there will be no live bait harvest until the spawning biomass reaches or exceeds 50,000 mt.

(c) *Subarea B harvest quota.* The reduction harvest quota for subarea B will be equal to the reduction harvest quota in the PAFA minus a reserve of 10 percent of the reduction harvest quota or 9,072 mt, whichever is less. This reserve is allocated to the reduction fishery in subarea A except as provided in paragraph (d) of this section.

(d) *Reallocation of subarea A reserve.* The Secretary may reallocate on June 1 from subarea A to subarea B that portion of the reserve allocated to subarea A under paragraph (c) of this section that will not be harvested in subarea A by the end of the fishing year. This amount will be estimated based on catch to date in the current year and the expected intentions of processors and fishermen in the reduction fishery north of Point Buchon to harvest anchovies in the remaining fishing year. Reallocation under this paragraph will be based first, on a need to increase the subarea B harvest quota and secondly, on the projected reduction harvest in subarea A to the end of the fishing year.

(e) *Procedure for reallocation of subarea A reserve.* (1) The Secretary may, by May 1 each year, determine the need to increase the subarea B harvest quota as provided in paragraph (d) of this section if the expected reduction fishery harvest in subarea B is an amount equal to or greater than the subarea B harvest quota. After making a determination that the subarea B harvest quota needs to be increased as provided in paragraph (d) of this section, the Secretary will make the estimate under paragraph (d) of this section on or about May 15 and, as soon as practicable after June 1, announce to all reduction fishing vessel owners and operators and licensed anchovy reduction plant operators by notification in the **Federal Register** and other appropriate notice—

(i) The change in the subarea B quota.

(ii) The reasons for the change.

(iii) A summary of, and responses to, any comments submitted under paragraph (e)(3) of this section.

(2) The Regional Administrator will compile in aggregate form all data used to make the estimates under paragraph (d) of this section and make them available for public inspection during normal business hours at the Southwest Regional Office at the address in Table 1 § 600.502.

(3) Comments from the public on the estimates made under paragraph (d) of this section may be submitted to the Regional Administrator until May 31.

(f) Anchovies harvested for reduction and non-reduction purposes in the PAFA and adjacent territorial sea will

be counted toward the total harvest quota.

§ 660.510 Closures.

(a) *Closure of the reduction fishery.* The Secretary will close the reduction fishery during the open season provided in § 660.511 when the total harvest quota in the PAFA is taken. The Secretary will close only the reduction fishery in subarea B when the subarea B reduction harvest quota is taken.

(b) *Closure of the non-reduction fishery.* The Secretary will close the non-reduction fishery in the PAFA only if the total harvest quota is taken.

(c) *Procedure for closing.* (1) When the harvest quotas prescribed in § 660.509 are about to be taken, the Secretary will announce, by notification in the **Federal Register** and to the Council and the California Department of Fish and Game, the date of closure in one or both subareas.

(2) If a reduction fishery closure is announced, the reduction fishery in the affected subarea will cease on the date of closure specified in the **Federal Register** document provided by paragraph (c)(1) of this section, and will not resume until a final determination of new harvest quotas is announced under § 662.509.

(3) The non-reduction fishery in the PAFA ceases on the date that a total harvest quota closure is announced under paragraph (c)(1) of this section, and will not resume until a new harvest quota is announced under § 660.509.

§ 660.511 Fishing seasons.

All open seasons will begin at 0001 hours and terminate at 2400 hours local time. The PAFA is closed to anchovy fishing except as follows:

(a) *Non-reduction fishing season.* The open season for non-reduction fishing in the PAFA is from August 1 to July 31.

(b) *Reduction fishing season.* (1) In subarea A, the open season for reduction fishing in the PAFA is from August 1 to June 30.

(2) In subarea B, the open season for reduction fishing in the PAFA is from September 15 to June 30.

§ 660.512 Closed areas.

(a) *Non-reduction fishery.* There are no closed areas for non-reduction fishing in the PAFA.

(b) *Reduction fishery.* The following areas are closed to reduction fishing:

(1) *Farallon Islands closure* (see Figure 1). The portion of subarea A bounded by—

(i) A straight line joining Pigeon Point Light (37°10.9′ N. lat., 122°23.6′ W. long.) and the U.S. navigation light on Southeast Farallon Island (37°42.0′ N. lat., 123°00.1′ W. long.).

(ii) A straight line joining the U.S. navigation light on Southeast Farallon Island (37°42.0′ N. lat., 123°00.1′ W. long.) and the U.S. navigation light on Point Reyes (37°59.7′ N. lat., 123°01.3′ W. long.).

(2) *Subarea B closures.* That portion of subarea B described as—

(i) *Oxnard closure* (see Figure 1). The area that extends offshore four (4) miles (7.41 km) from the mainland shore between lines running 250° true from the steam plant stack at Manadalay Beach (34°12.4′ N. lat., 119°15.0′ W. long.) and 220° true from the steam plant stack at Ormond Beach (34°07.8′ N. lat., 119°10.0′ W. long.).

(ii) *Santa Monica Bay closure* (see Figure 1). Santa Monica Bay shoreward of that line from Malibu Point (34°01.8′ N. lat., 188°40.8′ W. long.) to Rocky Point (Palos Verdes Point) (33°46.5′ N. lat., 118°25.7′ W. long.).

(iii) *Los Angeles Harbor closure* (see Figure 1). The area outside Los Angeles Harbor described by a line extending six (6) miles (11.11 km) 180° true from Point Fermin (33°42.3′ N. lat., 118°17.6′ W. long.) and then to a point located three (3) miles (5.56 km) offshore on a line 225° true from Huntington Beach Pier (33°39.2′ N. lat., 118°00.3′ W. long.).

(iv) *Oceanside to San Diego closure* (see Figure 1). The area six (6) miles (11.11 km) from the mainland shore south of a line running 225° true from the tip of the outer breakwater (33°12.4′ N. lat., 117°24.1′ W. long.) of Oceanside Harbor to the United States-Mexico International Boundary.

§ 660.513 Gear limitations.

(a) *Nonreduction fishery.* There are no limitations on gear used in the non-reduction fishery.

(b) *Reduction fishery.* Authorized fishing gear only may be used in the reduction fishery. Authorized fishing gear will be round haul nets that have a minimum wet-stretch mesh size of 10/16 of an inch (1.59 cm) excluding the bag portion of a purse seine. The bag portion must be constructed as a single unit and must not exceed a rectangular area adjacent to 20 percent of the total corkline of the purse seine. Minimum mesh size requirements are met if a stainless steel wedge can be passed with only thumb pressure through 16 of 20 sets of two meshes each of wet mesh. The wedges used to measure trawl mesh size are made of 20 gauge stainless steel, and will be no wider than 10/16 of an inch (1.59 cm) less one thickness of the metal at the widest part.

PART 662—[REMOVED]

5. Under the authority of 16 U.S.C. 1801 *et seq.*, part 662 is removed.

BILLING CODE 3510–22–P

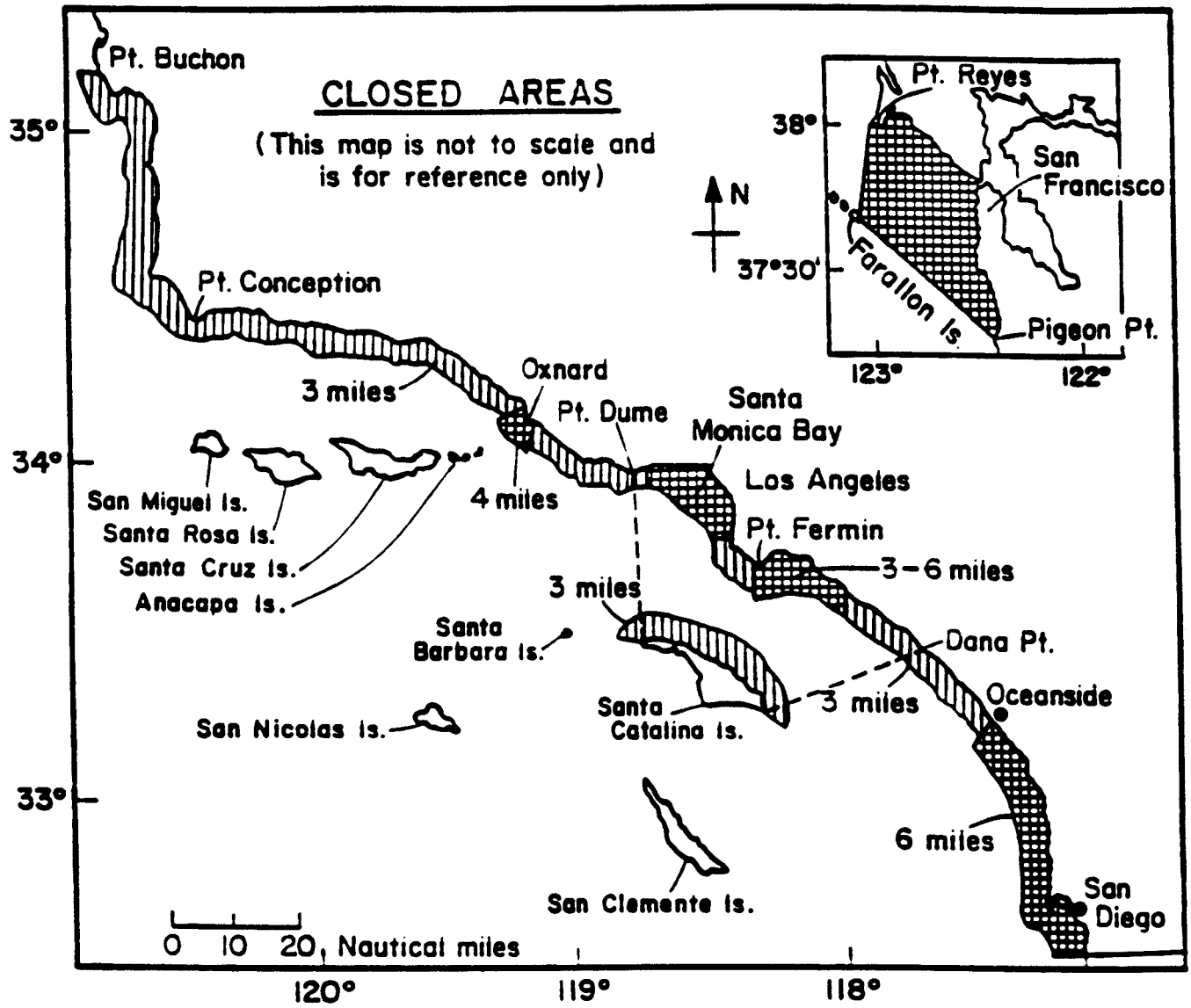

Figure 1—Existing California Area Closures (hatched areas extend to 3 miles (5.56 km) offshore; cross-hatched areas extend beyond 3 miles (5.56 km) 0ffshore) and Optional Catalina Channel foreign vessel closure (outlined by dashed lines)

[FR Doc. 97–10115 Filed 4–17–97; 8:45 am]
BILLING CODE 3510–22–C

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[PA–4055a; FRL–5809–9]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Approval of Source-Specific VOC and NO_X RACT Determinations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving a State Implementation Plan (SIP) revision submitted by the Commonwealth of Pennsylvania. This revision establishes and requires reasonably available control technology (RACT) on nine major sources. The intended effect of this action is to approve source-specific plan approvals, operating permits and one compliance permit. This action is being taken under section 110 of the Clean Air Act.

DATES: This final rule is effective June 2, 1997 unless within May 19, 1997, adverse or critical comments are received. If the effective date is delayed, timely notice will be published in the **Federal Register**.

ADDRESSES: Comments may be mailed to David J. Campbell, Pennsylvania RACT Team Leader, Mailcode 3AT22, U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air, Radiation, and Toxics Division, U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107; the Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460; and the Pennsylvania Department of Environmental Protection, Bureau of Air Quality, P.O. Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105.

FOR FURTHER INFORMATION CONTACT: Janice M. Lewis, (215) 566–2185, or by e-mail at lewis.janice@epamail.epa.gov. While information may be requested via e-mail, comments must be submitted in writing to the above Region III address.

SUPPLEMENTARY INFORMATION: On March 27, 1995, November 15, 1995 and May 2, 1996, the Commonwealth of Pennsylvania submitted a formal revision to its State Implementation Plan (SIP). The SIP revision consists of plan approvals, operating permits and one compliance permit for nine individual sources of volatile organic compounds (VOCs) and/or nitrogen oxides (NO_X) located in Pennsylvania. This rulemaking addresses the plan approvals and operating permits pertaining to the following sources: (1) Maier's Bakery, Inc. (Reading Plant, Berks County)—bakery; (2) Morgan Corporation (Morgantown Plant, Berks County)—heavy duty truck manufacturer; (3) Allentown Cement Company (Maidencreek Township, Berks County)—cement manufacturer; (4) Quaker Maid (Ontelaunee Township, Berks County)—manufacturer of kitchen cabinets; (5) Brentwood Industries, Inc. (Reading, Berks County)—manufacturer of plastic products; (6) Metropolitan Edison Company (Cumru Township, Berks County)—electric generation station; (7) ICI Fluoropolymers (Caln Township, Chester County)—manufacturer of free flow polytetrafluoroethylene (PTFE); (8) Synthetic Thread Company (City of Bethlehem, Lehigh County)—manufacturer of coated nylon and polyester thread; and (9) Bird-In-Hand Woodworks, Inc. (East Hempfield Township, Lancaster County)—manufacturer of wood furniture for children.

Pursuant to sections 182(b)(2) and 182(f) of the Clean Air Act (CAA), Pennsylvania is required to implement RACT for all major VOC and NO_X sources by no later than May 31, 1995. The major source size is determined by its location, the classification of that area and whether it is located in the ozone transport region (OTR), which is established by the CAA. The Pennsylvania portion of the Philadelphia ozone nonattainment area consists of Bucks, Chester, Delaware, Montgomery, and Philadelphia Counties and is classified as severe. The remaining counties in Pennsylvania are classified as either moderate or marginal nonattainment areas or are designated attainment for ozone. However, under section 184 of the CAA, at a minimum, moderate ozone nonattainment area requirements [including RACT as specified in sections 182(b)(2) and 182(f)] apply throughout the OTR. Therefore, RACT is applicable statewide in Pennsylvania.

The March 27, 1995, November 15, 1995 and May 2, 1996 Pennsylvania submittals that are the subject of this notice, are meant to satisfy the RACT requirements for nine sources in Pennsylvania.

Summary of SIP Revision

The details of the RACT requirements for the source-specific plan approvals and operating permits can be found in the docket and accompanying technical support document and will not be reiterated in this notice. Briefly, EPA is approving six plan approvals, three operating permits and one compliance permit as RACT.

RACT

EPA is approving the operating permits of the following facilities located in Pennsylvania: (1) Bird-In-Hand Wood Works, Inc. (East Hempfield Township, Lancaster County)—manufacturer of wood furniture for children—major source of VOC emissions; (2) Quaker Maid (Ontenlaunee Township, Berks County)—manufacturer of kitchen cabinets and finishing—major source of VOC emissions; and (3) Morgan Corporation (Morgantown Plant, Berks County)—manufacturer of heavy duty trucks—major source of VOC emissions.

EPA is approving the plan approval and one compliance permit of the following facilities: (1) Maier's Bakery, Inc. (Reading Plant, Berks County)—bakery—major source of VOC emissions; (2) Allentown Cement Company (Maidencreek Township, Berks County)—cement manufacturer—major source of NOx emissions; (3) Brentwood Industries, Inc. (Reading, Berks County)—manufacturer of plastic products—major source of VOC emissions; (4) Metropolitan Edison Company (Cumru Township, Berks County)—electric generation station—major source of NO_X emissions; (5) ICI Fluoropolymers (Caln Township, Chester County)—manufacturer of free flow polytetrafluoroethylene (PTFE)—major source of VOC emissions; and (6) Synthetic Thread Company (City of Bethlehem, Lehigh County)—manufacturer of coated nylon and polyester thread—major source of VOC emissions.

The specific emission limitations and other RACT requirements for these sources are summarized in the accompanying technical support document, which is available from the EPA Region III office.

EPA is approving this SIP revision without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in a separate document in this **Federal Register** publication, EPA is proposing to approve the SIP revision should adverse or critical comments be filed. This action will be effective June 2, 1997 unless, by May 19, 1997, adverse or critical comments are received.

If EPA receives such comments, this action will be withdrawn before the

effective date by publishing a subsequent document that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on this action serving as a proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this action will be effective on June 2, 1997.

Final Action

EPA is approving six plan approvals, three operating permits and one compliance permit as RACT for nine individual sources located in Pennsylvania.

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

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

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

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

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

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

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

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

List of Subjects in 40 CFR Part 52

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

Dated: March 31, 1997.

W. Michael McCabe,

Regional Administrator, Region III.

40 CFR part 52 is amended as follows:

PART 52—[AMENDED]

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

Authority: 42 U.S.C. 7401–7671q.

Subpart NN—Pennsylvania

2. Section 52.2020 is amended by adding paragraph (c)(118) to read as follows:

§ 52.2020 Identification of plan.

* * * * *

(c) * * *

(118) Revisions to the Pennsylvania Regulations, Chapter 129.91 pertaining to VOC and NO_X RACT, submitted on March 27, 1995, November 15, 1995 and May 2, 1996 by the Pennsylvania Department of Environmental Resources (now know as the Pennsylvania Department of Environmental Protection):

(i) Incorporation by reference.

(A) Four letters, dated March 27, 1995, November 15, 1995, May 2, 1996 and September 13, 1996, from the Pennsylvania Department of Environmental Protection transmitting source-specific VOC and/or NO_X RACT determinations in the form of plan approvals, operating permits or a compliance permit for the following sources:

(*1*) Maier's Bakery, Inc. (Reading Plant, Berks County)—bakery;

(*2*) Morgan Corporation (Morgantown Plant, Berks County)—heavy duty truck manufacturer;

(*3*) Allentown Cement Company (Maidencreek Township, Berks County)—cement manufacturer;

(*4*) Quaker Maid (Ontelaunee Township, Berks County)—manufacturer of kitchen cabinets;

(*5*) Brentwood Industries, Inc. (Reading, Berks County)—manufacturer of plastic products;

(*6*) Metropolitan Edison Company (Cumru Township, Berks County)—electric generation station;

(*7*) ICI Fluoropolymers (Caln Township, Chester County)—manufacturer of free flow polytetrafluoro-ethylene (PTFE);

(*8*) Synthetic Thread Company (City of Bethlehem, Lehigh County)—manufacturer of coated nylon and polyester thread; and

(*9*) Bird-In-Hand Woodworks, Inc. (East Hempfield Township, Lancaster County)—manufacturer of wood furniture for children.

(B) Plan approvals (PA), Operating Permits (OP) and a Compliance Permit:

(*1*) Maier's Bakery, Inc.—PA 06–1023, effective September 20, 1995, except for the expiration date of the plan approval.

(*2*) Morgan Corporation—OP 06–1025, effective August 31, 1995, except the expiration date of the operating permit.

(*3*) Allentown Cement Company, Inc.—PA 06–1002, effective October 11, 1995, except for conditions #17, #20, #21 and #30 pertaining to non-NO_X and non-VOC pollutants and the expiration date of the plan approval.

(*4*) Quaker Maid—OP 06–1028, effective October 27, 1995, except the expiration date of the operating permit.

(*5*) Brentwood Industries, Inc.—PA 06–1006, effective February 12, 1996, except for the expiration date of the plan approval.

(*6*) Metropolitan Edison Company—PA 06–1024, effective March 9, 1995, except the expiration date of the plan approval and condition #13 pertaining to non-NO_X and non-VOC pollutant.

(*7*) ICI Fluoropolymers —PA 15–0009 and CP 15–0009, effective October 3, 1995, except the expiration date of the plan approval and the compliance permit.

(*8*) Synthetic Thread Company—PA 39–0007A, effective August 10, 1995, except the expiration date of the plan approval.

(*9*) Bird-In-Hand Woodworks, Inc.—OP 36–2022, effective September 27, 1995, except for the expiration date of the operating permit.

(ii) Additional material.

(A) Remainder of March 27, 1995, November 15, 1995 and May 2, 1996 State submittals.

[FR Doc. 97–9950 Filed 4–17–97; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[PA–4056a; FRL–5809–7]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Approval of Source-Specific VOC and NO_X RACT Determinations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving a State Implementation Plan (SIP) revision submitted by the Commonwealth of Pennsylvania. This revision establishes and requires volatile organic compounds (VOC) and nitrogen oxides (NO_X) reasonably available control technology (RACT) on four major sources. The intended effect of this action is to approve source-specific operating permits, a plan approval and a compliance permit. This action is being taken under section 110 of the Clean Air Act.

DATES: This final rule is effective June 2, 1997 unless by May 19, 1997, adverse or critical comments are received. If the effective date is delayed, timely notice will be published in the **Federal Register**.

ADDRESSES: Comments may be mailed to David J. Campbell, Pennsylvania RACT Team Leader, Mailcode 3AT22, U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air, Radiation, and Toxics Division, U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107; the Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460; and the Pennsylvania Department of Environmental Protection, Bureau of Air Quality, P.O. Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105.

FOR FURTHER INFORMATION CONTACT: Janice M. Lewis, (215) 566–2185, or by e-mail at lewis.janice@epamail.epa.gov. While information may be requested via e-mail, comments must be submitted in writing to the above Region III address.

SUPPLEMENTARY INFORMATION: On January 21, 1997, January 28, 1997, and May 31, 1995, the Commonwealth of Pennsylvania submitted a formal revision to its State Implementation Plan (SIP). The SIP revision consists of three operating permits, one plan approval, and one compliance permit for four individual sources of volatile organic compounds (VOCs) and/or nitrogen oxides (NO_X) located in Pennsylvania. Any plan approvals and operating permits submitted coincidentally with those being approved in this notice, and not identified below, will be addressed in a separate rulemaking action. This rulemaking addresses operating permits, a plan approval, and a compliance permit pertaining to the following sources: (1) Texas Eastern Transmission Corporation (Bernville, Berks County)—natural gas compressor station; (2) Texas Eastern Transmission Corporation (Bechtelsville, Berks County)—natural gas compressor station; (3) Carpenter Technology Corporation (Reading/Muhlenberg Township, Berks County)—steel manufacturer; and (4) North American Fluoropolymers Company (Ontelanunee, Berks County)—manufacturer of teflon crumbs.

Pursuant to sections 182(b)(2) and 182(f) of the Clean Air Act (CAA), Pennsylvania is required to implement RACT for all major VOC and NO_X sources by no later than May 31, 1995. The major source size is determined by its location, the classification of that area and whether it is located in the ozone transport region (OTR), which is established by the CAA. The Pennsylvania portion of the Philadelphia ozone nonattainment area consists of Bucks, Chester, Delaware, Montgomery, and Philadelphia Counties and is classified as severe. The remaining counties in Pennsylvania are classified as either moderate or marginal nonattainment areas or are designated attainment for ozone. However, under section 184 of the CAA, at a minimum, moderate ozone nonattainment area requirements [including RACT as specified in sections 182(b)(2) and 182(f)] apply throughout the OTR. Therefore, RACT is applicable statewide in Pennsylvania.

The January 21, 1997, January 28, 1997 and May 31, 1995 Pennsylvania submittals that are the subject of this notice are meant to satisfy the RACT requirements for four sources in Pennsylvania.

Summary of SIP Revision

The details of the RACT requirements for the source-specific operating permits, plan approval, and compliance permit can be found in the docket and accompanying technical support document and will not be reiterated in this notice. One of the operating permits contains conditions irrelevant to the determination of VOC and NO_X RACT. Consequently, these provisions are not being included in this approval. Briefly, EPA is approving three operating permits, one plan approval, and one compliance permit as RACT.

RACT

EPA is approving the operating permits of the following facilities located in Pennsylvania: (1) Texas Eastern Transmission Corporation (Bernville, Berks County)—natural gas compressor station—major source of

VOC emissions; (2) Texas Eastern Transmission Corporation (Bechtelsville, Berks County)—natural gas compressor station—major source of VOC emissions; (3) Carpenter Technology Corporation (Reading/Muhlenberg Township, Berks County)—steel manufacturer—major source of VOC and NO_X emissions.

EPA is approving a plan approval and a compliance permit for the following facility: North American Fluoropolymers Company (Ontelanunee, Berks County)—manufacturer of teflon crumbs—major source of VOC emissions.

The specific emission limitations and other RACT requirements for these sources are summarized in the accompanying technical support document, which is available from the EPA Region III office.

EPA is approving this SIP revision without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in a separate document in this **Federal Register** publication, EPA is proposing to approve the SIP revision should adverse or critical comments be filed. This action will be effective June 2, 1997 unless, by May 19, 1997, adverse or critical comments are received.

If EPA receives such comments, this action will be withdrawn before the effective date by publishing a subsequent document that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on this action serving as a proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this action will be effective on June 2, 1997.

Final Action

EPA is approving three operating permits, one plan approval and one compliance permit as RACT for four individual sources located in Pennsylvania.

Administrative Requirements

A. Executive Order 12866

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

B. Regulatory Flexibility Act

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

SIP approvals under section 110 and subchapter I, part D of the Clean Air Act do not create any new requirements but simply approve requirements that the State is already imposing.

Therefore, because the Federal SIP approval does not impose any new requirements, the Administrator certifies that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-State relationship under the CAA, preparation of a flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S. EPA*, 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2).

C. Unfunded Mandates

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

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

D. Submission to Congress and the General Accounting Office

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

E. Petitions for Judicial Review

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

List of Subjects in 40 CFR Part 52

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

Dated: March 31, 1997.

W. Michael McCabe,

Regional Administrator, Region III.

40 CFR part 52 is amended as follows:

PART 52—[AMENDED]

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

Authority: 42 U.S.C. 7401–7671q.

Subpart NN—Pennsylvania

2. Section 52.2020 is amended by adding paragraph (c)(120) to read as follows:

§ 52.2020 Identification of plan.

* * * * *

(c) * * *

(120) Revisions to the Pennsylvania Regulations, Chapter 129.91 pertaining to VOC and NO_X RACT, submitted on January 21, 1997, January 28, 1997, and May 31, 1995 by the Pennsylvania Department of Environmental Resources (now known as the Pennsylvania Department of Environmental Protection):

(i) Incorporation by reference.

(A) Four letters, dated January 21, 1997, January 28, 1997, May 31, 1995 and September 13, 1996, from the Pennsylvania Department of Environmental Protection transmitting source-specific VOC and/or NO_X RACT determinations in the form of operating permits, a plan approval and a compliance permit for the following sources:

(*1*) Texas Eastern Transmission Corporation (Bernville, Berks County)—natural gas compressor station;

(*2*) Texas Eastern Transmission Corporation (Bechtelsville, Berks County)—natural gas compressor;

(*3*) Carpenter Technology Corporation (Reading/Muhlenberg Township, Berks County)—steel manufacturer; and

(*4*) North American Fluoropolymers Company (Ontelanunee, Berks County)—manufacturer of teflon crumbs.

(B) Operating Permits (OP), Plan Approval (PA) and Compliance Permit (CP):

(*1*) Texas Eastern Transmission Corporation (Bernville)—(OP–06–1033) effective January 31, 1997, except for the expiration date of the operating permit.

(*2*) Texas Eastern Transmission Corporation (Bechtelsville)—(OP–06–1034) effective January 31, 1997, except for the expiration date of the operating permit.

(*3*) Carpenter Technology Corporation—(OP–06–1007), effective September 27, 1996, except for those portions of conditions Nos. 28 through 41 and Nos. 43 through 54 pertaining to non-VOC and non-NO_X pollutants and the expiration date of the operating permit.

(*4*) North American Fluoropolymers Company—(PA–06–1026) and (CP–06–1026), effective April 19, 1995, except for the expiration dates of the plan approval and the compliance permit.

(ii) Additional material.

(A) Remainder of the Commonwealth of Pennsylvania's January 21, 1997, January 27, 1997, and May 31, 1995 submittals.

(B) Additional material submitted by Pennsylvania: Letter dated March 25, 1997 from Mr. James Salvaggio, Director, Bureau of Air Quality Control, Pennsylvania Department of Environmental Resources to Mr. Thomas Maslany, Director, Air, Radiation and Toxics Division, EPA Region III providing clarifying information related to the Carpenter Technology Corporation operating permit and the North American Fluoropolymers Company plan approval.

[FR Doc. 97–9954 Filed 4–17–97; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[PA069–4053, PA096–4053; FRL–5808–9]

Approval and Promulgation of Air Quality Implementation Plans; Commonwealth of Pennsylvania; Approval of Source-Specific RACT

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving State Implementation Plan (SIP) revisions submitted by the Commonwealth of Pennsylvania. These revisions establish and require reasonably available control technology (RACT) on three major sources. The intended effect of this action is to approve source-specific determinations made by the Commonwealth which establish and impose RACT requirements in accordance with the Clean Air Act (CAA). This action is being taken under section 110 of the CAA.

DATES: This final rule is effective June 17, 1997 unless by May 19, 1997, adverse or critical comments are received. If the effective date is delayed, timely notice will be published in the **Federal Register**.

ADDRESSES: Comments may be mailed to David L. Arnold, Chief, Ozone/CO & Mobile Sources Section, Mailcode 3AT21, U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air, Radiation, and Toxics Division, U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107; the Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460; and Pennsylvania Department of Environmental Protection, Bureau of Air Quality, P.O. Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105.

FOR FURTHER INFORMATION CONTACT: Jeffrey M. Boylan, (215) 566–2094, at the EPA Region III office or via e-mail at boylan.jeffrey@epamail.epa.gov. While information may be requested via e-mail, comments must be submitted in writing to the above Region III address.

SUPPLEMENTARY INFORMATION:

I. Background

On August 1, 1995, June 10, 1996, and September 13, 1996, the Commonwealth of Pennsylvania submitted formal revisions to its State Implementation Plan (SIP). The SIP revisions that are the subject of this rulemaking consist of RACT determinations for three facilities of volatile organic compounds (VOCs) and nitrogen oxides (NO_X) located in Berks County Pennsylvania. These facilities are: (1) AT&T Corporation, (2) Garden State Tanning, Inc., and (3) The Glidden Company. In addition, on March 20, 1997, the Commonwealth of Pennsylvania submitted a letter amending the August 1, 1995 submittal pertaining to the AT&T Corporation.

Pursuant to section 182(b)(2) and 182(f) of the CAA, Pennsylvania is required to implement RACT for all major VOC and NO_X sources by no later than May 31, 1995. The major source size is determined by its location, the classification of that area, and whether it is located in the ozone transport region (OTR), which is established by the CAA. The Pennsylvania portion of the Philadelphia-Wilmington-Trenton ozone nonattainment area consists of Bucks, Chester, Delaware, Montgomery, and Philadelphia Counties and is classified as severe. The remaining counties in Pennsylvania are classified as either moderate or marginal nonattainment areas or are designated attainment for ozone. However, under section 184 of the CAA, at a minimum, moderate ozone nonattainment area requirements (including RACT as specified in section 182(b)(2) and 182(f)) apply throughout the OTR. Pennsylvania is included within the OTR. Therefore, RACT is applicable statewide in Pennsylvania. The August 1, 1995 (amended March 20, 1997), June 10, 1996, and September 13, 1996 Pennsylvania submittals that are the subject of this notice, consist of plan approvals and operating permits which were issued to satisfy the RACT requirements for three facilities in Berks County Pennsylvania.

II. Summary of SIP Revision

The details of the RACT requirements for the source-specific plan approvals and operating permits can be found in the docket and accompanying Technical

Support Document (TSD), prepared by EPA on this rulemaking. Briefly, EPA is approving three RACT determinations as revisions to the Pennsylvania SIP. Several of the plan approvals and operating permits contain conditions irrelevant to the determination of VOC or NO_X RACT. Consequently, these provisions are not being included in this approval for VOC or NO_X RACT nor are they being made part of the SIP.

RACT Determination for the AT&T Corporation

EPA is approving the plan approval (PA #06–1003) for AT&T Corporation located in Berks County. AT&T Corporation is an electronic components manufacturer and is considered to be a major source of VOC emissions. Although once considered to be a major source of NO_X emissions, the Pennsylvania Department of Environmental Protection (PA DEP) submitted a letter on March 20, 1997, withdrawing the NO_X RACT determination portion of PA #06–1003 from its SIP revision request of August 1, 1995. AT&T Corporation has been issued a permit with conditions that limit facility wide NO_X emissions to 99 TPY. Since AT&T Corporation has never had actual NO_X emissions in excess of 100 TPY (from 1990 and beyond), and is voluntarily accepting a NO_X emission cap of less than 100 TPY, the facility is no longer determined to be a major source of NO_X. Pennsylvania issued the permit to AT&T with an enforceable emissions cap required by a permit issued under Pennsylvania's approved Federally Enforceable State Operating Permit (FESOP) program.

Plan approval PA #06–1003 limits the VOC emissions to a maximum of 2.7 TPY for boilers #1 and #2. Although PA DEP has determined that the VOC emissions from the four (4) boilers, six (6) emergency generators, and seven (7) storage tanks source categories meet de minimis emission criteria of less than 3 lbs./hr, 15 lbs./day, or 2.7 TPY, this emission limitation is only applicable to 25 PA Code Section 129.52 for surface coating processes. Nevertheless, EPA is approving PA DEP's determination that VOC RACT for these sources is no controls.

The manufacturing and support processes at AT&T Corporation take place in four (4) buildings located at the facility. The buildings are identified as #10, #13, #30, and #35. Building #13 is used primarily for product aging and is not a source of VOC emissions. There are over 20 categories of VOC sources distributed in buildings #10, #30, and #35.

AT&T grouped these VOC sources by building because of rapid changes in manufacturing processes and annual changes in operations. This makes examining individual source categories, such as hooded sinks, difficult because of the dynamic nature of company operations. AT&T considered various control options for each building. Carbon adsorption and incineration are considered to be the most effective control measures, but not considered by PA DEP to be cost effective. Therefore, plan approval PA #06–1003 enforceably establishes RACT for VOC emissions as current operations for buildings #10, #30, and #35.

In addition, the plan approval PA #06–1003 requires the company to maintain detailed records of all purchases and disposals of VOC containing materials, and a list of all VOC sources and their locations.

Condition #19 requires the facility to keep applicable records and reports in accordance with 25 PA Code Chapter 129.95 such that compliance with RACT requirements can be determined.

RACT Determination for Garden State Tanning, Inc.

EPA is approving the plan approval (PA #06–1014) for Garden State Tanning, Inc. located in Berks County. Garden State Tanning, Inc. is a leather coating facility and is considered to be a major source of VOC emissions.

Plan approval PA #06–1014 requires, among other things, air assisted airless spray guns, and photoelectric eyes to minimize overspray on automatic booths. Top coats/base coats will have a VOC content limit of 3.5 lbs. VOC/gal-H_2O, and color coats/others will have a VOC content limit of 2.8 lbs. VOC/gal-H_2O. No. 3 and 4 coating lines are further restricted to a Best Available Technology (BAT) VOC content limit of 3.1 lbs. VOC/gal-H_2O. In addition, the five (5) leather coating lines are restricted to the following limits on VOC emissions based on a twelve (12) month running total.

Leather coating line	VOC emission limit
No. 1	35.5 TPY.
No. 2	46.6 TPY.
No. 3	70.2 TPY.
No. 4	55.0 TPY.
No. 5	2.0 TPY.

Plan approval PA #06–1014 requires the Roll Coater, No.5 Drying Oven to have a VOC content limit of 2.0 lbs. VOC/gal-H_2O. The roll coater is further restricted to a limit on VOC emissions of 20 TPY based on a twelve (12) month running total.

Although PA DEP has determined that the VOC emissions from the two (2) boilers, seven (7) storage tanks, one (1) hand spray station, and mixing/storage areas source categories meet de minimis emission criteria of less than 3 lbs./hr, 15 lbs./day, or 2.7 TPY, this emission limitation is only applicable to 25 PA Code Section 129.52 for surface coating processes. Nevertheless, EPA is approving PA DEP's determination that VOC RACT for these sources is no controls. Plan approval PA #06–1014 will establish a VOC emissions limit of 2.7 TPY (12 month running total) for each of the above remaining source categories except the mixing/storage areas, which use only water based coatings. In addition, the storage tanks will conform with presumptive VOC RACT requirements of 25 PA Code Section 129.57.

The facility is required to keep monthly records of coating usage, VOC emissions including cleanup solvents such that compliance with RACT requirements can be determined. The company is also required to submit quarterly reports that include monthly VOC emissions for each coating line, twelve (12) month running totals of each coating line, and twelve (12) month running totals of all sources.

Although EPA considers this facility to be subject to the VOC RACT requirements of 25 PA Code Section 129.52 for surface coating processes, Garden State Tanning, Inc., through the use of waterborne coatings has achieved approximately a 80% reduction in VOC emissions. Requiring the facility to comply with the fabric coating VOC content limit of 2.92 lbs. VOC/gal-H_2O would not yield substantial VOC emission reductions. Subsequently, EPA is approving PA DEP's determination of RACT for this facility as described above.

RACT Determination for The Glidden Company

EPA is approving the operating permit (OP #06–1035) for The Glidden Company located in Berks County. The Glidden Company is a paint manufacturing facility and is considered to be a major source of VOC emissions.

The VOC emissions from the specialty production plant at the facility were based on a 2% solvent loss per total solvent used (lbs) as fugitive emissions exhausted to the atmosphere. Since 14 storage tanks located in building #56 and 16 storage tanks located in building #31 are part of this air space exhausted to the atmosphere, they are considered as part of the fugitive emissions. In EPA's review of this RACT determination, the 2% assumption of

fugitive emissions has not been substantiated by any additional information or testing results which would reasonably assure that the 2% figure is acceptable. However, EPA is accepting the company's estimation as PA DEP did not raise any objections on this issue.

Based on this 2% assumption, the technically feasible controls of recuperative thermal oxidation and regenerative thermal oxidation were calculated to have an average cost effectiveness of $11,935/ton removed and $10,214/ton removed respectively. Using this as a basis for determination, operating permit OP #06–1035 establishes VOC RACT for the specialty production plant as current operations. As a side note, if the fugitive solvent loss per total solvent used was assumed to be 10% versus 2%, the average cost effectiveness for recuperative thermal oxidation and regenerative thermal oxidation would be reduced to $2,387/ton removed and $2,042/ton removed respectively.

The VOC emissions from the emulsion production plant at the facility were based on a 1% solvent loss per total solvent used (lbs) as fugitive emissions exhausted to the atmosphere. Since 4 storage tanks located in building #51 are part of this air space exhausted to the atmosphere, they are considered as part of the fugitive emissions. In EPA's review of this RACT determination, the 1% assumption of fugitive emissions has not been substantiated by any additional information or testing results which would reasonably assure that the 1% figure is acceptable. However, EPA is accepting the company's estimation as PA DEP did not raise any objections on this issue.

Based on this 1% assumption, the technically feasible controls of recuperative thermal oxidation and regenerative thermal oxidation were calculated to have an average cost effectiveness of $63,567/ton removed and $57,070/ton removed respectively. Using this as a basis for determination, operating permit OP #06–1035 establishes VOC RACT for the emulsion production plant as current operations. As a side note, if the fugitive solvent loss per total solvent used was assumed to be 10% versus 1%, the average cost effectiveness for recuperative thermal oxidation and regenerative thermal oxidation would be reduced to $6,357/ton removed and $5,707/ton removed respectively.

The VOC emissions from the resins production plant at the facility were based on a 5% conservative solvent loss factor, derived from high heat conditions of the process, a closed process operation, and a tested 93.2% destruction efficiency of the RTO. Since 4 storage tanks located in building #36A are part of this air space exhausted, they are considered part of the fugitive emissions.

In August of 1994, a reaction which got out of control caused extensive damage to the inlet ducting, the RTO ducting and valves, and the RTO controls. Subsequently, The Glidden Company has decided to shutdown operations of its resin production plant. Operating permit OP #06–1035 establishes VOC RACT for the resin production plant as the company will not operate any sources associated with the resin production plant other than storage tanks identified in the company's January 17, 1996 letter to PA DEP.

Although PA DEP has determined that the VOC emissions from the boilers source category meet de minimis emission criteria of less than 3 lbs./hr, 15 lbs./day, or 2.7 TPY, this emission limitation is only applicable to 25 PA Code Section 129.52 for surface coating processes. Nevertheless, EPA is approving PA DEP's determination that VOC RACT for the boilers is present operations.

The actual 1993 VOC emissions from the storage tanks not included in the plant operations were calculated using an API Tank Program 2.0. Operating permit OP #06–1035 establishes VOC RACT for 124 storage tanks as present operations, with all outside tanks being equipped with pressure/vacuum vents or complying with 25 PA Code Section 129.57.

Operating permit OP #06–1035 requires the facility to keep detailed and accurate records of the throughput of each production area and each storage tank. In addition, the facility is required to record the quantity and identity of all VOC cleaning solvents on all production areas on a daily basis. VOC RACT for cleaning solvents requires that all process tanks being cleaned are kept closed, caustic cleaning solutions be used wherever possible, cleaning compounds in the specialty area be at ambient temperature, and no VOC cleaning compounds be used in the emulsion plant.

The source-specific RACT emission limitations that are being approved into the Pennsylvania SIP are those that were submitted on August 1, 1995 (amended March 20, 1997), June 10, 1996, and September 13, 1996, and are the subject of this rulemaking notice. These emission limitations will remain unless and until they are replaced pursuant to 40 CFR Part 51 and approved by the EPA.

EPA is approving these SIP revisions without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in a separate document in this **Federal Register** publication, EPA is proposing to approve the SIP revision should adverse or critical comments be filed. This action will be effective June 17, 1997 unless, by May 19, 1997, adverse or critical comments are received.

If EPA receives such comments, this action will be withdrawn before the effective date by publishing a subsequent document that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on this action serving as a proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this action will be effective on June 17, 1997.

Final Action

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

III. Administrative Requirements

A. Executive Order 12866

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

B. Regulatory Flexibility Act

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

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

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

C. Unfunded Mandates

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

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

D. Submission to Congress and the General Accounting Office

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

E. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action, pertaining to the RACT approval for AT&T Corporation, Garden State Tanning, Inc., and The Glidden Company, must be filed in the United States Court of Appeals for the appropriate circuit by June 17, 1997. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

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

Dated: April 1, 1997.

W. Michael McCabe,

Regional Administrator, Region III.

40 CFR part 52 is amended as follows:

PART 52—[AMENDED]

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

Authority: 42 U.S.C. 7401–7671q.

Subpart NN—Pennsylvania

2. Section 52.2020 is amended by adding paragraphs (c)(117) to read as follows:

§ 52.2020 Identification of plan.

* * * * *

(c) * * *

(117) Revisions to the Pennsylvania Regulations Chapter 129.91 through 129.95 pertaining to VOC and NO_X RACT, submitted on August 1, 1995 (amended March 20, 1997), June 10, 1996, and September 13, 1996 by the Pennsylvania Department of Environmental Protection:

(i) Incorporation by reference.

(A) Three letters dated August 1, 1995, June 10, 1996, and September 13, 1996 from the Pennsylvania Department of Environmental Protection transmitting three source-specific RACT determinations; two of which involve plan approvals and one which involves an operating permit. One letter dated March 20, 1997 amending the August 1, 1995 submittal pertaining to NO_X RACT for AT&T Corporation. The three sources are:

(*1*) AT&T Corporation (Berks County)—electronics components manufacturer.

(*2*) Garden State Tanning, Inc. (Berks County)—leather coating facility.

(*3*) The Glidden Company (Berks County)—paint manufacturing facility.

(B) Plan Approvals (PA), Operating Permits (OP):

(*1*) AT&T Corporation—PA #06–1003, effective June 26, 1995, except for the expiration date of the plan approval, all conditions pertaining to NO_X RACT determination, and conditions 18d & 18e pertaining to temporary operation regarding compliance extension and expiration date of the plan approval.

(*2*) Garden State Tanning, Inc.—PA #06–1014, effective June 21, 1995, except for the expiration date of the plan approval, conditions 20, 21, 24, and 25 pertaining to visual/malodorous emissions, sulfur content, and water flow rates, and conditions 27d & 27e pertaining to temporary operation regarding compliance extension and expiration date of the plan approval.

(*3*) The Glidden Company—OP #06–1035, effective February 15, 1996, except for the expiration date of the operating permit, conditions 13, 14, and 16, pertaining to operating permit renewal, sulfur content, and visual/malodorous emissions.

(ii) Additional material.

(A) Remainder of August 1, 1995 (amended March 20, 1997), June 10, 1996 and September 13, 1996 State submittals pertaining to AT&T Corporation, Garden State Tanning, Inc., and The Glidden Company.

[FR Doc. 97–9952 Filed 4–17–97; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[IN45–3a; FRL–5698–5]

Approval and Promulgation of Implementation Plans; Indiana

AGENCY: Environmental Protection Agency (USEPA).

ACTION: Direct final rule.

SUMMARY: On September 20, 1996, Indiana submitted a request to incorporate revisions to the definitions of ''nonphotochemically reactive hydrocarbon'' and ''volatile organic compounds'' (VOC) into the Indiana State Implementation Plan (SIP). The term ''VOC'' denotes chemical compounds which react with nitrogen dioxide (NO_2) and sunlight to form ozone. The term ''nonphotochemically reactive hydrocarbon'' refers to chemical compounds which USEPA has determined will not react with NO_2 and sunlight to form ozone. In this action, USEPA is approving the State's request to incorporate into the SIP the revisions to these definitions through a ''direct final'' rulemaking; the rationale for this approval is set forth below. Part of this submittal is in response to USEPA's May 4, 1995 conditional approval of the State's VOC definition. Among other things, in this rulemaking, USEPA is finding that the condition identified in USEPA's May 4, 1995 action have been satisfied; therefore, USEPA is converting the conditional approval to a full approval. Elsewhere in this **Federal Register**, USEPA is proposing approval and soliciting comment on these direct final actions; if adverse comments are received, USEPA will withdraw the direct final rule and address the comments received in a new final rule; otherwise, no further rulemaking will occur on the State's request to incorporate revisions to these definitions into the Indiana SIP.

DATES: This action will be effective June 17, 1997 unless adverse comments not previously addressed by the State or USEPA are received by May 19, 1997. If the effective date of this action is delayed due to adverse comments, timely notice will be published in the **Federal Register**.

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

Copies of the Indiana submittal are available for public review during normal business hours, between 8:00 a.m. and 4:30 p.m., at the above address. A copy of this SIP revision is also available for inspection at: Office of Air and Radiation (OAR) Docket and Information Center (Air Docket 6102), Room 1500, U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Randolph O. Cano, Regulation Development Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois, 60604. Telephone: (312) 886–6036.

SUPPLEMENTARY INFORMATION:

I. Background

1. On May 4, 1995 (60 FR 22241), USEPA conditionally approved as a SIP revision the State of Indiana's modified definition of ''nonphotochemically reactive hydrocarbon'' at Title 326 Indiana Administrative Code (326 IAC) 1–2–48 and of ''VOC'' at 325 IAC 1–2–90. The intention of these revisions was to comport with the February 2, 1992 revisions to the Federal definition of ''VOC'' (57 FR 3945). In addition to making the changes authorized by the revised Federal definition, Indiana also added ''vegetable oils'' as an exclusion to the VOC definition. This additional exclusion was added at the request of commentors who cited August 21,1990 and August 4, 1992 EPA policy memoranda in support of their request. As discussed more fully in the May 4, 1995 rulemaking, this exclusion was not consistent with Federal requirements. By letter dated December 14, 1994, Indiana committed to the necessary rule revision to correct this identified deficiency, thus providing the basis for the Agency's conditional approval.

2. In addition, on October 5, 1994 (59 FR 3945), USEPA excluded two compounds determined to be negligibly photochemically reactive from the Federal definition of VOC—''parachlorobenzotrifluoride'' (PCBTF) and ''cyclic, branched, or linear completely methylated siloxanes.'' In response to this Federal action, Indiana modified its definition of ''nonphotochemically reactive hydrocarbon'' at 326 IAC 1–2–48 to include these two compounds.

3. The September 20, 1996 SIP revision request also includes an additional change to the State's definition of ''nonphotochemically reactive hydrocarbon'' at 326 IAC 1–2–48—the addition of ''acetone.'' This modification reflects USEPA's June 16, 1995 (60 FR 31634) final rule which added acetone to the list of organic chemicals considered to have negligible photochemical reactivity.

4. By this direct final rule, USEPA finds that the conditions of USEPA's May 4, 1995 rulemaking have been satisfied. The conditional approval is, therefore, converted to a full approval. Furthermore, the additional definitional revisions submitted by Indiana are consistent with the applicable Federal definition and are, therefore, approvable.

II. Rulemaking Action

Because the Indiana SIP revision requests are consistent with changes to the Federal requirements, USEPA is approving them for incorporation in the Indiana SIP. The deletion of the exclusion of ''vegetable oil'' from the definition of ''VOC'', codified at 326 IAC 1–2–90, satisfies USEPA's May 4, 1995 (60 FR 22241) conditional approval of 326 IAC 1–2–48 and 1–2–90, and means that ''vegetable oil'' will be regulated as a ''VOC.''. The approval of these rules supersedes USEPA's earlier conditional approval of them.

The USEPA is publishing this action without prior proposal because USEPA views this as a noncontroversial revision and anticipates no adverse comments. However, in a separate document in this **Federal Register** publication, the USEPA is proposing to approve the SIP revision should adverse or critical comments be filed. This action will be effective on June 17, 1997 unless, by May 19, 1997, adverse or critical comments are received.

If the USEPA receives such comments, this action will be withdrawn before the effective date by publishing a subsequent rulemaking that will withdraw the final action. All public comments received will be addressed in a subsequent final rule based on this action serving as a proposed rule. The USEPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this action will be effective on June 17, 1997.

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

III. Administrative Requirements

A. Executive Order 12866

This action has been classified as a Table 3 action for signature by the

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

B. Regulatory Flexibility.

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

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

C. Unfunded Mandates

Under Section 202 of the Unfunded Mandates Reform Act of 1995, signed into law on March 22, 1995, USEPA must undertake various actions in association with any proposed or final rule that includes a Federal mandate that may result in estimated costs to state, local, or tribal governments in the aggregate; or to the private sector, of $100 million or more. This Federal action approves pre-existing requirements under state or local law, and imposes no new Federal requirements. Accordingly, no additional costs to state, local, or tribal governments, or the private sector, result from this action.

D. Submission to Congress and the General Accounting Office

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

E. Petitions for Judicial Review

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by June 17, 1997. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See Section 307(b)(2)).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Ozone, Volatile organic compounds.

Dated: February 18, 1997.

David A. Ullrich,

Acting Regional Administrator.

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

PART 52—[AMENDED]

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

Authority: 42 U.S.C. 7401–7671(q).

Subpart P—Indiana

§ 52.769 [Amended]

2. Section 52.769 is amended by removing and reserving paragraph (a).

3. Section 52.770 is amended by adding paragraph (c)(116) to read as follows:

§ 52.770 Identification of plan.

* * * * *

(c) * * *

(116) On September 20, 1996 the Indiana Department of Environmental Management submitted a request to revise the Indiana State Implementation Plan by adding parachlorobenzotrifluoride (PCBTF), cyclic, branched or linear completely methylated siloxanes and acetone to the definition of ''nonphotochemically reactive hydrocarbon,'' and by deleting ''vegetable oil'' from a list of compounds not considered to be volatile organic compounds (VOC) from the definition of VOC (thus including ''vegetable oil'' as a ''VOC'').

(i) Incorporation by reference.

(A) 326 IAC 1–2–48 ''nonphotochemically reactive hydrocarbon''. Sections 48(a)(22) ''parachlorobenzotrifluoride'' and (23) ''cyclic, branched, or linear completely methylated siloxanes.'' 326 IAC 1–2–90 ''volatile organic compound (VOC)'' definition. Section 90. Published in Indiana Register, Volume 19, Number 1, October 1, 1995, page 29. Filed with the Secretary of State September 5, 1995, effective October 5, 1995.

(B) 326 IAC 1–2–48 ''nonphotochemically reactive hydrocarbon.'' Section 48(a)(24) ''acetone'' (CAS Number 67–64–1). Published in Indiana Register, Volume 19, Number 10, July 1, 1996, page 2856. Filed with the Secretary of State, May 13, 1996, effective June 12, 1996.

[FR Doc. 97–10128 Filed 4–17–97; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 52 and 64

[CC Docket No. 92–237; FCC 97–125]

Administration of the North American Numbering Plan, Carrier Identification Codes (CICs)

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: On April 11, 1997, the Commission released a Second Report and Order setting January 1, 1998, as the end for the transition, or permissive dialing period, for the expansion from three digit to four digit Feature Group D carrier identification codes (CICs), and modifying the CIC conservation plan to allow for up to two CICs per entity. The Second Report and Order is intended to alert the industry and the general public that after January 1, 1998, only four digit CICs, and the corresponding seven digit carrier identification codes (CACs), will be recognized.

DATES: Effective May 19, 1997.

ADDRESSES: Federal Communications Commission, 1919 M Street, N.W., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Elizabeth Nightingale, Attorney,

Network Services Division, Common Carrier Bureau, (202) 418–2352.

SUPPLEMENTARY INFORMATION: This summarizes the Commission's Second Report and Order in the matter of Administration of the North American Numbering Plan, Carrier Identification Codes (CICs), FCC 97–125, adopted April 7, 1997, and released April 11, 1997. The file is available for inspection and copying during the weekday hours of 9 a.m. to 4:30 p.m. in the Commission's Reference Center, room 239, 1919 M St., N.W., Washington D.C., or copies may be purchased from the Commission's duplicating contractor, ITS, Inc., 2100 M St., N.W., Suite 140, Washington, D.C. 20037, phone (202) 857–3800.

Analysis of Proceeding

In the Second Report and Order, the Commission affirms the tentative conclusion in the Notice of Proposed Rulemaking (59 FR 24103, May 10, 1994) that the Feature Group D CIC expansion plan developed by the industry is reasonable, and determines that the transition for the conversion from three digit to four digit Feature Group D CICs will end on January 1, 1998. The Commission finds that, because of the changing circumstances since the record in this docket closed in 1994, the transition should end as soon as practicable, and shortening the originally proposed six-year transition to a two-year and nine-month transition will serve the overall pro-competitive purposes of the Act (by making more CICs available), as well as the specific purposes of Sections 251(e) (by ensuring that numbers are available on an equitable basis) and 251(b)(3) (by lessening hardships, consistent with the duty imposed on all LECs to provide nondiscriminatory access to telephone numbers, caused by the conservation plan's limiting access to CICs). To lessen any disadvantage new entrants may experience during the transition in particular, the Commission also modifies the ongoing CIC conservation plan to allow each entity to have two CIC assignments. The Commission determines that shortening the originally proposed six-year period is reasonable because the industry has been aware for some time that equipment changes (both hardware and software) to accommodate exclusive use of four digit CICs would be necessary. The Commission concludes that ending the transition on January 1, 1998, provides a reasonable period for carriers and equipment owners to reprogram their switch software or upgrade their switch hardware and for callers to become accustomed to the change from five to seven digit CACs. The Commission also requires the North American Numbering Plan (NANP) administrator, as the entity assigning CICs, to notify all CIC assignees of the decision in the Second Report and Order. Finally, the Commission states its intention to initiate further proceedings in this docket in which it will analyze further all issues related to CIC use and assignment.

Ordering Clauses

Accordingly, *it is ordered*, pursuant to Sections 1, 4(i), 201–205, and 251(e)(1) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 154(i), 201–205, and 251(e)(1), that the Second Report and Order is hereby adopted.

It is further ordered, that Bellcore, as the NANP administrator must notify all CIC assignees of the Commission's decision in this Second Report and Order, consistent with the terms described herein.

It is further ordered, that Bellcore, as the NANP administrator must assign CICs in conformity with the Commission's modification to the conservation plan in this Second Report and Order.

It is further ordered, that the *petition for rulemaking* filed by VarTec Telecom, Inc. is hereby *dismissed in part* and *granted in part* to the extent contained herein.

It is further ordered, that the Commission directs the Common Carrier Bureau to take further actions modifying the conservation plan in response to changes in CIC consumption under its delegated authority.

It is further ordered, that this Second Report and Order is effective upon 30 days after publication in the **Federal Register**.

List of Subjects

47 CFR Part 52

Local exchange carrier, Numbering, Telecommunications.

47 CFR Part 64

Communications common carriers, Telephone.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 97–10083 Filed 4–17–97; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary of Transportation

49 CFR Part 40

Recognition of Standards Council of Canada as Laboratory Certification Entity

AGENCY: Office of the Secretary, DOT.

ACTION: Notice of certification.

SUMMARY: This document announces that the Department has recognized the Standards Council of Canada as an entity authorized to certify (or ''accredit'') Canadian laboratories to participate in the Department of Transportation's drug testing program.

DATES: This certification is effective on April 18, 1997.

FOR FURTHER INFORMATION CONTACT: Mary Bernstein, Director, Office of Drug and Alcohol Policy and Compliance, Room 10317, 400 7th Street, SW., Washington DC 20590 (202) 366–3784; or Robert C. Ashby, Deputy Assistant General Counsel for Regulation and Enforcement, Room 10424, same address, (202) 366–9306.

SUPPLEMENTARY INFORMATION: The Department of Transportation's drug testing rules (49 CFR 40.39(b)) establish procedures for the certification of drug testing laboratories outside the United States:

(b) Employers subject to this part may also use laboratories located outside the United States if—

(1) The Department of Transportation, based on a written recommendation from DHHS [the Department of Health and Human Services] has certified the laboratory as meeting DHHS laboratory certification standards or deemed the laboratory fully equivalent to a laboratory meeting DHHS laboratory certification standards; or

(2) The Department of Transportation, based on a written recommendation from DHHS, has recognized a foreign certifying organization as having equivalent laboratory certification standards and procedures to those of DHHS, and the foreign certifying organization has certified the laboratory, pursuant to those equivalent standards and procedures.

Based on a written recommendation from the Department of Health and Human Services, the Department of Transportation, in a March 20, 1997 letter, recognized the Standards Council of Canada (SCC) as having equivalent laboratory certification standards and procedures to those of DHHS. This action authorizes SCC to review and certify Canadian laboratories.

A Canadian laboratory with SCC accreditation (the term SCC uses as an

equivalent to the DHHS term ''certification'') can participate in the DOT drug testing program on the same basis as any U.S. laboratory certified by DHHS. This includes authorization to test urine samples for U.S., as well as foreign, drivers and other employees subject to DOT drug testing rules. At such time as SCC accredits a Canadian laboratory, SCC will publish a notice to this effect in Canada and DHHS will reference the SCC action in the DHHS list of certified laboratories.

Issued this 26th Day of March, 1997, at Washington, D.C.

Mary Bernstein,

Director, Office of Drug and Alcohol Policy and Compliance.

[FR Doc. 97–9785 Filed 4–17–97; 8:45 am]

BILLING CODE 4910–62–M

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

49 CFR Part 1312

[STB Ex Parte No. 618]

Regulations for the Publication, Posting and Filing of Tariffs for the Transportation of Property by or With a Water Carrier in the Noncontiguous Domestic Trade

AGENCY: Surface Transportation Board.

ACTION: Final rules.

SUMMARY: The Board revises its tariff filing regulations to remove obsolete provisions, to provide carriers with additional flexibility to establish appropriate formats for the filed tariffs that continue to be required, and to reflect changes introduced by the ICC Termination Act of 1995.

EFFECTIVE DATE: These rules are effective May 18, 1997.

FOR FURTHER INFORMATION CONTACT: James W. Greene, (202) 565–1578. [TDD for the hearing impaired: (202) 565–1695.]

SUPPLEMENTARY INFORMATION: The Board's decision adopting these regulations is available to all persons for a charge by phoning DC NEWS & DATA, INC., at (202) 289–4357.

Small Entities

The Board certifies that this rule will not have a significant economic effect on a substantial number of small entities.

Environment

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

List of Subjects in 49 CFR Part 1312

Motor carriers, Noncontiguous domestic trade, Tariffs, Water carriers.

Decided: April 4, 1997.

By the Board, Chairman Morgan and Vice Chairman Owen.

Vernon A. Williams,

Secretary.

For the reasons set forth in the preamble, the Board revises part 1312 of title 49, chapter X, of the Code of Federal Regulations to read as follows:

PART 1312—REGULATIONS FOR THE PUBLICATION, POSTING AND FILING OF TARIFFS FOR THE TRANSPORTATION OF PROPERTY BY OR WITH A WATER CARRIER IN NONCONTIGUOUS DOMESTIC TRADE

Sec.
1312.1 Scope; Definitions.
1312.2 Requirement to publish and file a tariff.
1312.3 Tariff contents and standards; Essential criteria.
1312.4 Filing of tariffs.
1312.5 Amendments to tariffs.
1312.6 Advance notice required.
1312.7 STB tariff designation.
1312.8 Identification of tariff publication.
1312.9 Statement of tariff application and other title page requirements.
1312.10 Notification of tariff changes and nature of changes.
1312.11 Special notification for ordered matter.
1312.12 Posting requirements.
1312.13 Furnishing copies of tariff publications.
1312.14 Powers of attorney and concurrences.
1312.15 Change of carrier or agent.
1312.16 Substitution of service.
1312.17 Electronic filing of tariffs.

Authority: 49 U.S.C. 721(a), 13702(a), 13702(b) and 13702(d).

§ 1312.1 Scope; Definitions.

(a) *Applicability.* The provisions of this part address the requirements in 49 U.S.C. 13702 that carriers subject to the Board's jurisdiction under 49 U.S.C. Chapter 135 and providing transportation or service for the movement of property (except bulk cargo, forest products, recycled metal scrap, waste paper, and paper waste) by or with a water carrier in noncontiguous domestic trade shall publish and file with the Board tariffs containing the rates for such transportation.

(b) *Exceptions.* The provisions of this part do not apply to:

(1) Any transportation or service provided by a carrier pursuant to 49 U.S.C. 14101(b); or

(2) The transportation of any cargo or type of cargo or service which was not subject to regulation by, or under the jurisdiction of, either the Federal Maritime Commission (FMC) or the Interstate Commerce Commission under Federal law in effect on November 1, 1995.

(c) *Definitions.* For the purposes of this part:

Act means part B of subtitle IV of title 49 of the United States Code.

Agent means a person, association or corporation authorized to publish and file rates and provisions on behalf of one or more carriers in tariffs published in the agent's name.

Agent's tariff means a tariff filed in the name of an agent.

ATFI means the Automated Tariff Filing and Information System maintained by the FMC, a computer-based system for creating, filing, processing and retrieving tariffs.

Board means the Surface Transportation Board.

Bound tariff means a tariff consisting of two or more sheets bound at the left edge in pamphlet or book form or a single-sheet tariff.

Carrier means a motor carrier, water carrier or freight forwarder subject to the Board's jurisdiction under 49 U.S.C. Chapter 135.

Carrier's tariff means a tariff filed in the name of a carrier.

Collectively established tariff matter means a rate, charge, rule or other tariff provision established pursuant to 49 U.S.C. 13703.

Independently established tariff matter means any rate, charge, rule or other tariff provision not established pursuant to 49 U.S.C. 13703.

Item means a tariff provision of any kind bearing an item number designation.

Joint rate means a rate that applies over the lines or routes of two or more carriers made by an agreement between the carriers and effected by a concurrence or power of attorney.

Joint tariff means a tariff that contains joint rates or provisions affecting joint rates.

Local rate means a rate that applies only to one carrier.

Local tariff means a tariff that contains local rates or provisions affecting local rates.

Looseleaf page means a single page published as part of a new or reissued looseleaf tariff or as an amendment to such a tariff.

Looseleaf tariff means a tariff consisting of looseleaf pages.

Noncontiguous domestic trade means transportation subject to jurisdiction under 49 U.S.C. Chapter 135 involving traffic originating in or destined to Alaska, Hawaii, or a territory or possession of the United States.

Original tariff means a bound or looseleaf tariff as originally filed excluding amendments.

Page means that portion of a tariff or supplement printed on one side of a sheet.

Post refers to making filed tariffs available to the public.

Publication means a bound tariff, a tariff supplement, or a looseleaf tariff page.

Rate means a rate or charge.

Service terms mean all classifications, rules and practices that affect the rates or level of service.

Supplement means a single sheet, or two or more sheets bound at the left edge in pamphlet or book form, identified as a supplement and published to amend or cancel a bound or looseleaf tariff.

Tariff means an issuance (in whole or in part) bearing designations required by this part and containing rates, rules, regulations, classifications or other provisions published and filed with the Board for compliance with 49 U.S.C. 13702.

§ 1312.2 Requirement to publish and file a tariff.

(a) *Requirement for tariff.* Except when providing transportation for charitable purposes without charge, or when providing transportation or service described in § 1312.1(b), carriers subject to the Board's jurisdiction under 49 U.S.C. Chapter 135 may provide transportation or service described in § 1312.1(a) only if the rates, and related rules and practices, for such transportation or service are contained in a published tariff that is on file with the Board and in effect under this part.

(b) *Adherence to tariff.* The carrier may not charge or receive a different compensation for the transportation or service than the rate specified in the tariff, whether by returning a part of that rate to a person, giving a person a privilege, allowing the use of a facility that affects the value of that transportation or service, or another device. The carrier shall keep such tariffs available for public inspection and shall make such tariffs available to subscribers as required in this part.

(c) *Other information.* Provisions for information purposes only may be included in a tariff, provided they are clearly identified as such. Such provisions may include rates and service terms covering transportation not subject to regulation by the Board, and advertising and promotional material.

(d) *Effect of filing.* The tender of a tariff and its receipt and acceptance by the Board do not relieve a carrier of liability for violations of the Act, other laws, the Board's regulations, or any decision of the Board or a court, or have any effect on the rights of persons to file complaints for substantive violations of the Act or the Board's regulations.

(e) *Tariff relief.* Relief from the provisions of this part may be sought. Requests for such relief shall be submitted in duplicate and accompanied by the appropriate fee (see 49 CFR part 1002). Packages containing applications for relief shall be prominently marked ''SPECIAL TARIFF AUTHORITY APPLICATION.'' The application shall cite all pertinent tariff matter and shall provide complete information regarding applicant's justification, purpose and manner of relief sought.

(f) *Invalidation of tariffs.* Tariffs that violate section 13702 of the Act, or a regulation of the Board carrying out that section, may be invalidated by the Board. When a tariff is invalidated, the party that filed it will be furnished a written explanation of the reasons for such action. Tariffs issued in lieu of invalidated tariffs shall so state.

§ 1312.3 Tariff contents and standards; Essential criteria.

(a) *Contents.* Tariffs filed with the Board must include an accurate description of the services offered to the public; must provide the specific applicable rates (or the basis for calculating the specific applicable rates) and service terms; and must be arranged in a way that allows for the determination of the exact rate(s) and service terms applicable to any given shipment (or to any given group of shipments).

(b) *Use of multiple tariffs.* All information necessary to determine applicable rates and service terms for a given shipment need not be contained in a single tariff, but if multiple tariffs are used to convey that information, the tariff containing the rates must make specific reference (by STB tariff designation) to all other tariffs required to determine applicable rates and service terms, and the carrier(s) party to the rates must participate in all of the tariffs so linked.

(c) *Clarity.* Tariff information must be presented in a way that facilitates the determination of the prices and services offered, and the related service terms. Ambiguous terms and complex methods of presentation shall not be used.

(d) *Explanations.* Reference marks and abbreviations, other than commonly used abbreviations, shall be explained either in the item in which they are used or in a separate item.

§ 1312.4 Filing of tariffs.

(a) *Filing requirements.* (1) Tariffs shall be filed in English with rates explicitly stated in U.S. dollars and cents. Two copies of each tariff publication shall be filed with the Board. Packages containing tariff filings should be prominently marked ''TARIFF FILING'' and addressed to: Section of Tariffs, Surface Transportation Board, 1925 K Street, N.W., Washington, DC 20423–0001.

(2) A tariff filing must be accompanied by an authorized document of transmittal identifying each publication filed, and by the appropriate filing fee (see 49 CFR part 1002). Acknowledgment of Board receipt of a tariff filing can be obtained by enclosing a duplicate transmittal letter and a postage-paid, self-addressed return envelope. Each transmittal letter shall clearly indicate in the upper left-hand corner thereof:

(i) The assigned alpha code of the issuing carrier or agent;

(ii) The number of pages transmitted;

(iii) The filing fee enclosed, the account number to be billed, or the credit card to be charged;

(iv) The transmittal number if the filer utilizes transmittal numbers; and

(v) If the filing fee is charged to a credit card, the credit card number and expiration date, and an authorized signature.

(b) *Paper size.* Tariffs shall be printed on paper not larger than 8½ x 11 inches.

§ 1312.5 Amendments to tariffs.

(a) *Manner of making changes.* An amendment is a change in, addition to, or cancellation of part of a tariff. Supplements are the tariff publications used to amend bound tariffs, and new or revised pages are the tariff publications normally used to amend looseleaf tariffs, although looseleaf tariffs can also be amended by supplements. Tariffs can also be canceled by new or reissued tariffs (see § 1312.7).

(b) *Supplements.* Supplements issued to amend a tariff shall be consecutively numbered. Each new supplement shall identify any supplement(s) that it cancels, and any supplement(s) that are still in effect. A tariff amendment published in a supplement may be carried forward to later supplements if it is identified as reissued without change from the supplement in which it was originally published.

(c) *Looseleaf pages.* Looseleaf pages to an original tariff shall be designated as ''Original'' (e.g., Original Title Page, Original Page 1, Original Page 2, etc.). Looseleaf pages issued to amend the tariff shall bear consecutive revision

numbers and shall cancel the prior version(s) of the same page (e.g., 1st Revised Page 1 Cancels Original Page 1, 2nd Revised Page 1 Cancels 1st Revised Page 1, etc.). Additional original pages may also be issued to amend a tariff, by adding new numbered pages after the last numbered page, or by adding existing numbered pages with alphabetic suffixes (e.g., a page designated as Original Page 2–A could be added between pages 2 and 3, etc.). Each looseleaf tariff shall include a Check Sheet, a Correction Number Check Sheet, or some other method of determining the looseleaf pages issued to amend such tariff.

§ 1312.6 Advance notice required.

(a) *Notice requirement.* Unless otherwise specifically authorized by the Board, tariffs must be filed with the Board on not less than the notice shown in paragraph (b) of this section. Notice means the number of days the publication is on file with the Board prior to its effective date(s). The date the publication is received by the Board counts as the first day of notice.

(b) *Length of notice.* A tariff may not become effective earlier than:

(1) Thirty days after filing for all collectively established tariff matter.

(2) Seven workdays after filing for independently established increased tariff matter.

(3) Upon filing for independently established new tariff matter, independently established reduced tariff matter, the addition or restoration of a carrier's participation in a tariff, a correction to the list of participating carriers in a tariff (other than the cancellation of a carrier's participation), an extension of the expiration date of tariff matter, or a postponement of the effective date of proposed tariff matter.

(c) *Receipt of tariffs by the Board.* The Board will receive printed tariff filings between the hours of 8:30 A.M. and 5:00 P.M. Eastern Time on workdays. Printed tariff filings delivered to the Board on other than a workday, or after 5:00 P.M. on a workday, will be considered as received the next workday. The Board will accept electronic tariff filings in accordance with the provisions of 46 CFR part 514, as provided in § 1312.17.

(d) *Definitions.* For the purposes of this section:

Increased means any tariff change that results in higher charges to the payer of freight charges or reduced service at the same rate;

New means an initial rate or other provision for a new service;

Reduced means any tariff change that results in lower charges to the payer of freight charges or expanded service at the same rate; and

Workdays means all days except Saturdays, Sundays and all Federal holidays observed in the District of Columbia.

§ 1312.7 STB tariff designation.

(a) *Format.* Every tariff shall show an authorized tariff designation consisting of:

(1) The characters ''STB'';

(2) The assigned alpha code of the carrier or agent issuing the tariff; and

(3)(i) The tariff number (selected by the carrier or agent) to distinguish that tariff from all other tariffs filed by the same issuing carrier or agent. Tariff numbers shall not exceed 5 numerical digits and may be followed by not more than 2 letter suffixes. Examples of tariff numbers are:

STB XXXX 100
STB XX 8000–A
STB XXXX 12345–AB

(ii) Suffixes may be used only to designate reissues of tariffs. As an example, a reissue of tariff 1000 could be designated 1000–A, a reissue of tariff 1000–A could be designated 1000–B, etc.

(b) *Alpha codes.* Alpha codes are assigned to carriers and tariff agents by the National Motor Freight Traffic Association, Inc., 2200 Mill Road, Alexandria, VA 22314.

(c) *Fees for assignment.* Fees may be assessed for the assignment of codes, but may not exceed the processing costs.

(d) *Code listing.* A list of the assigned alphabetical codes, and the names of the carriers and agents to which they are assigned, as well as subsequent changes to the list, shall be submitted to the Board's Section of Tariffs.

§ 1312.8 Identification of tariff publication.

(a) Every tariff publication filed with the Board shall include:

(1) The STB tariff designation;

(2) The name of the issuing carrier or agent;

(3) The name of the tariff; and

(4) The issue and effective dates of the publication.

(b) If the publication contains matter effective on other than the general effective date, the notation (Except as Noted) shall be included with the general effective date.

§ 1312.9 Statement of tariff application and other title page requirements.

Every new or reissued tariff or supplement filed with the Board shall lead with a title page. The title page of each tariff or supplement shall include the expiration date of the tariff or supplement, if applicable. The title page of each tariff shall also provide the complete name and address of the issuing carrier or agent; a contact person and telephone number; the certificate or operating authority number, if applicable; and a succinct statement of territorial application, mode of serving carrier(s), type of rates, and description of tariff content. EXAMPLES:

(a) Local water carrier rates on FREIGHT, ALL KINDS from points in Alaska to points in the United States.

(b) Joint motor/water commodity rates in containerized service between interior points in the United States and ports in Puerto Rico and Hawaii; and governing rules.

§ 1312.10 Notification of tariff changes and nature of changes.

Every publication filed with the Board containing tariff changes shall clearly identify such changes and their nature (whether an increase or decrease in service, rates or transportation charges).

§ 1312.11 Special notification for ordered matter.

Every tariff publication containing matter filed in compliance with a Board decision or court order shall indicate in the publication the relevant decision or order, and as well the number of days' notice authorized or required.

§ 1312.12 Posting requirements.

(a) *General posting requirements.* (1) Each carrier shall maintain, at its principal office, a complete set of its tariffs (proposed and effective) and those to which it is a party.

(2) Each carrier shall also maintain some or all of its tariffs at other locations, as may be useful. Carriers shall provide information regarding all locations where tariffs may be viewed.

(3) At all points where tariffs are posted, they shall be made available for inspection by any person during the carrier's normal business hours. The tariffs shall be accessible and readable. The carrier shall also post, in a conspicuous place in those locations, a notice, in large print, which contains a statement that the tariffs are available for public inspection.

(4) At all other carrier business offices, the carrier shall display a notice advising the public of the location of the nearest available tariff. The notice shall be in large print and posted in a conspicuous place. In addition, the carrier shall, upon request, make particular tariffs available at that location as soon as possible but not later than within 20 days, or provide the sought information orally if satisfactory to the requestor.

(5) Any publication referred to in a tariff must be posted with that tariff.

(b) *Exception to the posting requirements.* If any tariff maintained pursuant to paragraph (a)(2) of this section has not been used for a substantial length of time, the posting of that tariff, including its reissues, may be discontinued at that station until such time as a request is made to have it reposted. It shall then be reposted within 20 days.

§ 1312.13 Furnishing copies of tariff publications.

(a) *Definitions. Subscriber,* as used in this section, means any person (other than carrier participants in a tariff) that is voluntarily furnished, or that requests that it be furnished, one or more copies of a particular tariff with or without subsequent amendments or reissues of that tariff.

(b) *Sending new publications to subscribers.* (1) The publishing carrier or agent shall send each newly-issued tariff, supplement, or loose-leaf page as requested to each subscriber by first class mail, or other means requested in writing by the subscriber.

(2) Newly-issued tariffs, supplements, or loose-leaf pages shall be sent to each subscriber not later than the time the copies for official filing are sent to the Board.

(3) Carriers or agents may, if acceptable to a subscriber, furnish only specific portions of original tariffs and amendments affecting those portions.

(c) *Certification.* The letter of transmittal accompanying the copies filed with the Board shall contain the following certification:

I certify that compliance with 49 CFR 1312.13 has been made.

(d) *Charges.* (1) If any charge is made, the charge for copies of tariff publications sent to subscribers shall be reasonable, and identical for the same publications.

(2) No charge may be made (even for the cost of sending the publication) for any publication that is invalidated by the Board.

(e) *Notice of invalidation.* If a publication is invalidated, the subscribers shall be notified.

(f) *Alternative subscription services.* The service described in this section must be available to any subscriber requesting it; however, the requirement to offer such service does not preclude the offering of different services to subscribers requesting those services.

§ 1312.14 Powers of attorney and concurrences.

(a) *Authorization.* Rates and services of a carrier must be filed in a tariff issued in that carrier's name unless they are filed:

(1) In an agent's tariff when the carrier has executed a power of attorney authorizing that individual or entity to serve as its tariff agent; or

(2) In a tariff of another carrier through issuance of a concurrence to the latter carrier authorizing the first carrier's participation in joint rates and through routes.

(b) *Disclosure of authorization.* If two or more carriers execute powers of attorney to the same agent, it is not necessary for those carriers to exchange concurrences to participate in joint rates in that agent's tariffs. Powers of attorney and concurrences are not to be filed with the Board, but shall be provided to any person on request.

§ 1312.15 Change of carrier or agent.

(a) *Change in carrier.* When a carrier's name is lawfully changed, or a fiduciary assumes possession and control of a carrier's property, all affected tariffs must be amended to reflect the change. The amendments required by this paragraph shall be filed promptly and, if possible, prior to their effective date, but in no case later than 60 days thereafter. Regardless of the date the tariff is actually filed, the effective date for an amendment required by this paragraph is the date the event occurs.

(b) *Change of agent.* When a new agent is appointed to take over an agency, or when an alternate agent assumes the duties of the principal agent, each of the superseded agent's effective tariffs shall immediately be amended to reflect the change, bearing an effective date the same as the date of the transfer. In the case of a new agent, this may only occur after one or more of the participating carriers issues a power of attorney to the new agent, and revokes the previous power of attorney. At the same time, all affected tariffs will be amended to reflect the new powers of attorney, and all carriers who have not issued them must be canceled from the tariff.

§ 1312.16 Substitution of service.

If a water or motor carrier (hereafter referred to as Carrier A) desires to have the option of substituting the services of a carrier of a different transportation mode (hereafter referred to as Carrier B) for part of its movement of a shipment, it may do so if:

(a) The shipment moves on the bill of lading that would be used if Carrier A were performing the service;

(b) Carrier A assumes the responsibility for the lading while it is in the possession of Carrier B; and

(c) Movement of the lading has been made prior to, or will be made subsequent to, the service performed by Carrier B.

§ 1312.17 Electronic filing of tariffs.

(a) *Use of FMC system.* Subject to the requirements of this section, the tariffs required by this part may be filed electronically through the Federal Maritime Commission's ATFI system, in lieu of being filed in printed form.

(b) *Compliance with FMC requirements.* All tariffs filed electronically must fully comply with the filing procedures, and the data record format and content requirements, established for the ATFI system (see 46 CFR part 514).

(c) *Fees.* Electronically filed tariffs will be subject to the filing and retrieval fees established by the FMC in 46 CFR 514.21 (g) and (i), but such tariffs will not be subject to fee item 78 in 49 CFR 1002.2(f).

(d) *Relief from this part.* Electronically filed tariffs will not be subject to the filing procedures and format requirements for printed tariffs as set forth in §§ 1312.4, 1312.5, and 1312.7 through 1312.15; however, such tariffs must otherwise fully comply with the requirements of this part.

[FR Doc. 97–9817 Filed 4–17–97; 8:45 am]

BILLING CODE 4910–00–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 961107312–7021–02; I.D. 041197B]

Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Ocean Perch in the Aleutian Islands Subarea

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

ACTION: Modification of a closure.

SUMMARY: NMFS is opening directed fishing for Pacific ocean perch in the Central Aleutian District of the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to fully utilize the total allowable catch (TAC) of Pacific ocean perch in that area.

EFFECTIVE DATE: 1200 hrs, Alaska local time (A.l.t.), April 15, 1997, until 1200 hrs, A.l.t., April 16, 1997.

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

SUPPLEMENTARY INFORMATION: The groundfish fishery in the BSAI exclusive

economic zone is managed by 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 part 600 and 50 CFR part 679.

In accordance with § 679.20(c)(3)(iii), the Pacific ocean perch TAC in the Central Aleutian District was established by the Final 1997 Harvest Specifications for Groundfish for the BSAI (62 FR 7168, February 18, 1997) as 3,170 metric tons (mt). The Administrator, Alaska Region, NMFS (Regional Administrator), established a directed fishing allowance of 2,170 mt and set aside the remaining 1,000 mt as bycatch in support of other anticipated groundfish fisheries. In accordance with § 679.20(d)(1)(iii), the Regional Administrator found that the directed fishing allowance would soon be reached and NMFS closed the directed fishery for Pacific ocean perch in the Central Aleutian District of the BSAI on March 24, 1997 (62 FR 14652, March 27, 1997). Subsequently the Regional Administrator reduced the directed fishing allowance from 1,000 mt to 500 mt. Consequently 956 mt remain in the directed fishing allowance. Therefore NMFS is terminating the previous closure and is opening directed fishing for Pacific ocean perch in the Central Aleutian District of the BSAI effective 1200 hrs, A.l.t., April 15, 1997.

In accordance with § 679.20(d)(1)(iii), the Regional Administrator finds that this directed fishing allowance will soon be reached. Current information shows the catching capacity of vessels catching Pacific ocean perch is in excess of 400 mt per day. NMFS is closing directed fishing for Pacific ocean perch in the Central Aleutian District of the BSAI at 1200 hrs, A.l.t., April 16, 1997.

All other closures remain in full force and effect.

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: April 15, 1997.

Gary C. Matlock,

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

[FR Doc. 97–10113 Filed 4–15–97; 3:51 pm]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 961126334–7025–02; I.D. 041197C]

Fisheries of the Exclusive Economic Zone Off Alaska, Pacific Cod in the Central Regulatory Area of the Gulf of Alaska

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

ACTION: Apportionment of reserve.

SUMMARY: NMFS is apportioning the initial reserve of Pacific cod in the Central Regulatory Area of the Gulf of Alaska (GOA). This action is necessary to allow incidental catch of Pacific cod to be retained in other directed fisheries and to account for previous harvest of the total allowable catch (TAC) in the Central Regulatory Area of the GOA.

DATES: Effective: 1200 hrs, Alaska local time (A.l.t.), April 18, 1997, until 2400, A.l.t., December 31, 1997. Comments must be received by May 5, 1997.

ADDRESSES: Comments may be sent to Ronald J. Berg, Chief, Fisheries Management Division, Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802–1668, Attn: Lori Gravel.

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 part 600 and 50 CFR part 679.

The initial TAC of Pacific cod in the Central Regulatory Area of the GOA was established by the Final 1997 Harvest Specifications for Groundfish of the GOA (62 FR 8179, February 24, 1997) as 34,952 metric tons (mt). Directed fishing for Pacific cod for processing by the inshore component in the Central Regulatory Area of the GOA was closed on March 11, 1997, under § 679.20(d)(1)(iii), in order to prevent exceeding the allocation for processing by the inshore component in this area (62 FR 11770, March 13, 1997).

The reserve of Pacific cod in the Central Regulatory Area of the GOA was created as a management buffer to prevent exceeding the TAC and to provide greater assurance that Pacific cod could be retained as bycatch throughout the fishing year by the Final 1997 Harvest Specifications for Groundfish of the GOA (62 FR 8179, February 24, 1997).

The Administrator, Alaska Region, NMFS, (Regional Administrator), has determined that the initial TAC for Pacific cod in the Central Regulatory Area needs to be supplemented from the Pacific cod reserve for that area in order to allow incidental catch of Pacific cod to be retained in other fisheries and to account for prior harvest. Therefore, in accordance with § 679.20(b)(3)(i)(A), NMFS is apportioning 8,738 mt of Pacific cod from the reserve to the TAC in the Central Regulatory Area of the GOA.

Pursuant to § 679.20(a)(6)(iii), the apportionment of the Pacific cod reserve in the Central Regulatory Area of the GOA is allocated to vessels catching Pacific cod for processing by the inshore and offshore components as 7,864 mt and 874 mt respectively. This action increases the total allocation of the 1997 Pacific cod TAC in the Central Regulatory Area for vessels catching Pacific cod for processing by the inshore and offshore components to 39,321 mt and 4,369 mt, respectively.

In accordance with § 679.20 (b)(3)(iii)(A), NMFS finds that there is good cause for not providing the public with a prior opportunity to comment. As of April 2, 1997, NMFS estimates the initial TAC of 34,952 mt for the Central Regulatory Area of the GOA has been reached. This action is necessary to allow retention of amounts of Pacific cod that are caught incidentally while conducting directed fishing for other species in the Central Regulatory Area.

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

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: April 15, 1997.

Gary C. Matlock,

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

[FR Doc. 97–10114 Filed 4–17–97; 8:45 am]

BILLING CODE 3510–22–F

Proposed Rules

Federal Register
Vol. 62, No. 75
Friday, April 18, 1997

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

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

7 CFR Parts 455 and 457

Macadamia Nut Crop Insurance Regulations; and Common Crop Insurance Regulations, Macadamia Nut Crop Insurance Provisions

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Proposed rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) proposes specific crop provisions for the insurance of macadamia nuts. The provisions will be used in conjunction with the Common Crop Insurance Policy Basic Provisions, which contain standard terms and conditions common to most crops. The intended effect of this action is to provide policy changes to better meet the needs of the insured, include the current macadamia nut crop insurance regulations with the Common Crop Insurance Policy for ease of use and consistency of terms, and to restrict the effect of the current macadamia nut crop insurance regulations to the 1997 and prior crop years.

DATES: Written comments, data, and opinions on this proposed rule will be accepted until close of business May 19, 1997 and will be considered when the rule is to be made final.

ADDRESSES: Interested persons are invited to submit written comments to the Director, Product Development Division, Federal Crop Insurance Corporation, United States Department of Agriculture, 9435 Holmes Road, Kansas City, MO 64131.

FOR FURTHER INFORMATION CONTACT: Stephen Hoy, Insurance Management Specialist, Research and Development, Product Development Division, Federal Crop Insurance Corporation, at the Kansas City, MO, address listed above, telephone (816) 926–7730.

SUPPLEMENTARY INFORMATION:

Executive Order No. 12866

The Office of Management and Budget (OMB) has determined this rule to be exempt for the purposes of Executive Order No. 12866, and, therefore, has not been reviewed by OMB.

Paperwork Reduction Act of 1995

The information collection requirements contained in these regulations were previously approved by OMB pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35) under OMB control number 0563–0003 through September 30, 1998.

Section 7 of the 1999 Macadamia Nut Crop Provisions adds interplanting as an insurable farming practice for macadamia nuts interplanted with another perennial crop as long as the crop would not be adversely affected. This practice was not insurable under the previous Macadamia Nut Crop Insurance Policy. Consequently, interplanting information will need to be collected using the FCI–12–P Pre-Acceptance Perennial Crop Inspection Report form for approximately 0.5 percent of the 46 insureds who interplant their macadamia nut crop. Standard interplanting language has been added to most perennial crops. Offering insurance for this practice benefits agriculture because now more perennial crop producers will be able to purchase increased coverage than was otherwise available under the noninsured crop disaster assistance program (NAP).

The amendments set forth in this proposed rule do not contain additional information collections that require clearance by OMB under the provisions of 44 U.S.C. chapter 35.

The title of this information collection is ''Catastrophic Risk Protection Plan and Related Requirements including, Common Crop Insurance Regulations; Macadamia Nut Crop Insurance Provisions.'' The information to be collected includes a crop insurance application and an acreage report. Information collected from the application and acreage report is electronically submitted to FCIC by the reinsured companies. Potential respondents to this information collection are producers of macadamia nuts that are eligible for Federal crop insurance.

The information requested is necessary for the reinsured companies and FCIC to provide insurance and reinsurance, determine eligibility, determine the correct parties to the agreement or contract, determine and collect premiums or other monetary amounts, and pay benefits.

All information is reported annually. The reporting burden for this collection of information is estimated to average 16.9 minutes per response for each of the 3.6 responses from approximately 1,755,015 respondents. The total annual burden on the public for this information collection is 2,676,932 hours.

FCIC is requesting comments on the following: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information gathering technology.

Comments regarding paperwork reduction should be submitted to the Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503.

OMB is required to make a decision concerning the collections of information contained in these proposed regulations between 30 and 60 days after submission to OMB. Therefore, a comment to OMB is best assured of having full effect if OMB receives it within 30 days of publication. This does not affect the deadline for the public to comment on the proposed regulation.

Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on state, local, and tribal governments and the private sector. This rule contains no Federal mandates (under the regulatory provisions of title II of the UMRA) for

state, local, and tribal governments or the private sector. Thus, this rule is not subject to the requirements of sections 202 and 205 of the UMRA.

Executive Order No. 12612

It has been determined under section 6(a) of Executive Order No. 12612, Federalism, that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. The provisions contained in this rule will not have a substantial direct effect on states or their political subdivisions, or on the distribution of power and responsibilities among the various levels of government.

Regulatory Flexibility Act

This regulation will not have a significant impact on a substantial number of small entities. The new provisions included in this rule will not impact small entities to a greater extent than large entities. Under the current regulations, a producer is required to complete an application and acreage report. If the crop is damaged or destroyed, the insured is required to give notice of loss and provide the necessary information to complete a claim for indemnity. The producer must also annually certify to the previous years production if adequate records are available to support the certification. The producer must maintain the production records to support the certified information for at least three years. This regulation does not alter those requirements.

The amount of work required of the insurance companies delivering and servicing these policies will not increase significantly from the amount of work currently required. This rule does not have any greater or lesser impact on the producer. Therefore, this action is determined to be exempt from the provisions of the Regulatory Flexibility Act (5 U.S.C. 605), and no Regulatory Flexibility Analysis was prepared.

Federal Assistance Program

This program is listed in the Catalog of Federal Domestic Assistance under No. 10.450.

Executive Order No. 12372

This program is not subject to the provisions of Executive Order No. 12372, which require intergovernmental consultation with state and local officials. See the Notice related to 7 CFR part 3015, subpart V, published at 48 FR 29115, June 24, 1983.

Executive Order No. 12988

The provisions of this rule will not have a retroactive effect prior to the effective date. The provisions of this rule will preempt state and local laws to the extent such state and local laws are inconsistent herewith. The administrative appeal provisions published at 7 CFR part 11 must be exhausted before any action for judicial review may be brought.

Environmental Evaluation

This action is not expected to have a significant impact on the quality of the human environment, health, and safety. Therefore, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

National Performance Review

This regulatory action is being taken as part of the National Performance Review Initiative to eliminate unnecessary or duplicative regulations and improve those that remain in force.

Background

FCIC proposes to add to the Common Crop Insurance Regulations (7 CFR part 457), a new section, 7 CFR 457.131, Macadamia Nut Crop Insurance Provisions. The new provisions will be effective for the 1999 and succeeding crop years. These provisions will replace and supersede the current provisions for insuring macadamia nuts found at 7 CFR part 455 (Macadamia Nut Crop Insurance Regulations). FCIC also proposes to amend 7 CFR part 455 to limit its effect to the 1997 and prior crop years. FCIC will later publish a regulation to remove and reserve part 455.

This rule makes minor editorial and format changes to improve the Macadamia Nut Crop Insurance Regulations' compatibility with the Common Crop Insurance Policy. In addition, FCIC is proposing substantive changes in the provisions for insuring macadamia nuts as follows:

1. Amend the contract term between the producer and the insurance provider to provide continuous coverage. The current policy is not a continuous contract. This change standardizes the Macadamia Nut Crop Insurance Policy with other crop insurance policies and removes the requirement of annually filing an application.

2. Section 1—Add definitions for the terms ''age,'' ''days,'' ''direct marketing,'' ''good farming practices,'' ''graft,'' ''interplanted,'' ''irrigated practice,'' ''non-contiguous,'' ''pound,'' ''production guarantee (per acre),'' ''rootstock,'' and ''written agreement'' for clarification. Clarify that the crop year is designated by the calendar year in which the insurance period ends.

3. Section 2—Describe the guidelines under which basic units may be divided into optional units consistent with other perennial crops offering optional units. These provisions also incorporate the requirement that each optional unit must contain at least 80 acres of bearing macadamia trees and be located on non-contiguous land. These optional unit guidelines standardize macadamia nuts with other perennial crops.

4. Section 3(a)—Specify that the insured may select only one price election for all the macadamia nuts in the county insured under the policy, unless the Special Provisions provide different price elections by type, in which case the insured may select one price election for each macadamia nut type designated in the Special Provisions to standardize these provisions with other crops that allow insurance prices by type.

5. Section 3(b)—Specify the reporting requirements when any circumstance occurs that may reduce the expected yields and when the insured crop is interplanted with another perennial crop to ensure that the guarantee accurately reflects the production capabilities of the acreage and to maximize the number of acres which are insurable so that such acreage need no longer be covered by NAP.

6. Section 4—Establish August 31 as the contract change date. Previously, the policy contained no contract change date since it was not a continuous policy.

7. Section 5—Establish December 31 as the cancellation date. Previously, the policy contained no cancellation date since it was not a continuous policy.

8. Section 6(d)—Allow insurance coverage for macadamia nuts produced on trees that have not reached the fifth growing season, provided they have produced at least 200 pounds (wet, in-shell) per acre in a previous crop year, and the insurance provider agrees in writing to provide such coverage in order to increase the number of acres that are insurable without adversely affecting the actuarial soundness of the program.

9. Section 6(e)—Specify that the crop insured will be macadamia nuts that are produced from blooms that normally occur during the calendar year in which insurance attaches and that are harvested prior to the end of the insurance period.

10. Section 7—Allow insurance for macadamia nuts interplanted with another perennial crop in order to conform with other perennial crops and increase the number of acres available for insurance coverage.

11. Section 8—Change the calendar date for the end of the insurance period from December 31 to the second June 30th of the crop year. The date insurance attaches remains January 1 of each crop year. Macadamia trees bloom intermittently throughout the entire calendar year; however, the primary bloom periods usually occur between January and July of each calendar year. The nuts are harvested approximately seven to eight months after the bloom period. The macadamia nut industry's crop production year extends from July 1 of each calendar year through June 30 of the next calendar year. The insurance period in the current policy covers the primary bloom periods but ends on December 31, midway through the industry's crop production year; therefore, it is not conducive to maintaining Actual Production History (APH) records or establishing effective loss adjustment procedures. The proposed insurance period will provide coverage against insured causes of loss that occur during the bloom periods, subsequently affecting macadamia nut production during the macadamia nut crop production year. The first revised insurance period will begin January 1, 1998, and end June 30, 1999.

12. Section 8(a)—Specify that if the application is received after December 22 but prior to January 1, insurance will attach on the 10th day after the insured's properly completed application is received in the insurance provider's local office unless the acreage is inspected during the 10 day period and it is determined that insurability requirements are not met. These provisions were modified so they will not be interpreted as allowing late-filed applications and a thirty day period in this situation is not reasonable. Ten days is sufficient to prevent adverse selection and avoid unnecessary exposure to uninsured losses during the waiting period.

13. Section 8(b)—Add provisions to clarify the procedure for insuring acreage when an insurable share is acquired or relinquished on or before the acreage reporting date.

14. Section 9—Clarify that wildlife is an insurable cause of loss, unless proper measures to control wildlife have not been taken. Disease and insect infestation are excluded causes of loss unless adverse weather prevents the proper application of control measures, causes control measures to be ineffective when properly applied, or causes disease or insect infestation for which no effective control mechanism is available to be consistent with other crop provisions.

15. Section 10(a)—Specify the notice requirements if the orchard has suffered a loss and the crop will not be harvested in order to permit a timely appraisal of any loss and accurately determine production to count.

16. Section 10(b)—Require the producer to give notice at least 15 days prior to harvest so a preharvest inspection can be made if the insured intends to engage in direct marketing to consumers in order to permit a timely appraisal and determine production to count.

17. Section 10(c)—Require the producer to give at least 15 days notice prior to the beginning of harvest or immediately if damage is discovered during harvest so damaged production may be inspected.

18. Section 12—Add provisions for providing insurance coverage by written agreement. FCIC has a long standing policy of permitting certain modifications of the insurance contract by written agreement for some policies. This amendment allows FCIC to tailor the policy to a specific insured in certain instances. The new section will cover the procedures for and duration of written agreements.

List of Subjects in 7 CFR Parts 455 and 457

Crop insurance, Macadamia nut.

Proposed Rule

Accordingly, for the reasons set forth in the preamble, the Federal Crop Insurance Corporation hereby proposes to amend 7 CFR parts 455 and 457, as follows:

PART 455—MACADAMIA NUT CROP INSURANCE REGULATIONS

1. The authority citation for 7 CFR part 455 is amended to read as follows:

Authority: 7 U.S.C. 1506(l), 1506(p).

2. The subpart heading preceding Section 455.1 is revised to read as follows:

Subpart—Regulations for the 1988 Through 1997 Crop Years

3. § 455.7 is amended by revising the introductory text of paragraph (d) to read as follows:

§ 455.7 The application and policy.

* * * * *

(d) The application for the 1988 through 1997 crop years is found at subpart D of part 400, General Administrative Regulations (7 CFR 400.37, 400.38). The provisions of the Macadamia Nut Crop Insurance Policy for the 1988 through 1997 crop years are as follows:

* * * * *

PART 457—COMMON CROP INSURANCE REGULATIONS; REGULATIONS FOR THE 1994 AND SUBSEQUENT CONTRACT YEAR

4. The authority citation for 7 CFR part 457 continues to read as follows:

Authority: 7 U.S.C. 1506(l), 1506(p).

5. § 457.131 is added to read as follows:

§ 457.131 Macadamia Nut Crop insurance provisions.

The Macadamia Nut Crop Insurance Provisions for the 1999 and succeeding crop years are as follows:

FCIC policies:

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

Reinsured policies:
(Appropriate title for insurance provider)
Both FCIC and reinsured policies:

Macadamia Nut Crop Provisions

If a conflict exists among the Basic Provisions (§ 457.8), these Crop Provisions, and the Special Provisions; the Special Provisions will control these Crop Provisions and the Basic Provisions; and these Crop Provisions will control the Basic Provisions.

1. Definitions

Age—The number of complete 12-month periods that have elapsed since the month the trees were set out or were grafted, whichever is later. An age determination will be made for each unit, or portion thereof, as of January 1 of each crop year.

Crop year—A period beginning with the date insurance attaches to the macadamia nut crop and extending through the normal harvest time. It is designated by the calendar year in which the insurance period ends.

Days—Calendar days.

Direct marketing—Sale of the insured crop directly to consumers without the intervention of an intermediary such as a wholesaler, retailer, packer, processor, shipper or buyer. Examples of direct marketing include selling through an on-farm or roadside stand, farmer's market, and permitting the general public to enter the field for the purpose of picking all or a portion of the crop.

Good farming practices—The cultural practices generally in use in the county for the crop to make normal progress toward maturity and produce at least the yield used to determine the production guarantee, and are those recognized by the Cooperative State Research, Education, and Extension Service as compatible with agronomic and weather conditions in the county.

Graft—The uniting of a macadamia shoot to an established macadamia tree rootstock for future production of macadamia nuts.

Harvest—Picking of mature macadamia nuts from the ground.

Interplanted—Acreage on which two or more crops are planted in any form of alternating or mixed pattern.

Irrigated practice—A method of producing a crop by which water is artificially applied during the growing season by appropriate systems and at the proper times, with the intention of providing the quantity of water needed to produce at least the yield used to establish the irrigated production guarantee on the irrigated acreage planted to the insured crop.

Non-contiguous—Any two or more tracts of land whose boundaries do not touch at any point, except that land separated only by a public or private right-of-way, waterway, or irrigation canal will be considered as contiguous.

Pound—A unit of weight equal to 16 ounces avoirdupois.

Production guarantee (per acre)—The number of wet, in-shell pounds determined by multiplying the approved APH yield per acre by the coverage level percentage you elect.

Rootstock—The root and stem portion of a macadamia tree to which a macadamia shoot can be grafted.

Wet, in-shell—The weight of the macadamia nuts as they are removed from the orchard with the nut meats in the shells after removal of the husk but prior to being dried.

Written agreement—A written document that alters designated terms of this policy in accordance with section 12.

2. Unit Division

(a) Unless limited by the Special Provisions, a unit as defined in section 1 (Definitions) of the Basic Provisions (§ 457.8), (basic unit) may be divided into optional units if, for each optional unit you meet all the conditions of this section or if a written agreement to such division exists.

(b) Basic units may not be divided into optional units on any basis other than as described in this section.

(c) If you do not comply fully with these provisions, we will combine all optional units that are not in compliance with these provisions into the basic unit from which they were formed. We will combine the optional units at any time we discover that you have failed to comply with these provisions. If failure to comply with these provisions is determined to be inadvertent, and the optional units are combined into a basic unit, that portion of the additional premium paid for the optional units that have been combined will be refunded to you for the units combined.

(d) All units you selected for the crop year must be identified on the acreage report for that crop year.

(e) The following requirements must be met for each optional unit:

(1) You must have records, which can be independently verified, of acreage and production for each optional unit for at least the last crop year used to determine your production guarantee;

(2) You must have records of marketed production or measurement of stored production from each optional unit maintained in such a manner that permits us to verify the production from each optional unit, or the production from each unit must be kept separate until loss adjustment is completed by us;

(3) Each optional unit must contain at least 80 acres of bearing macadamia trees; and

(4) Each optional unit must be located on non-contiguous land.

3. Insurance Guarantees, Coverage Levels, and Prices for Determining Indemnities

In addition to the requirements of section 3 (Insurance Guarantees, Coverage Levels, and Prices for Determining Indemnities) of the Basic Provisions (§ 457.8):

(a) You may select only one price election for all the macadamia nuts in the county insured under this policy unless the Special Provisions provide different price elections by type, in which case you may select one price election for each macadamia nut type designated in the Special Provisions. The price elections you choose for each type must have the same percentage relationship to the maximum price offered by us for each type. For example, if you choose 100 percent of the maximum price election for one type, you must also choose 100 percent of the maximum price election for all other types.

(b) You must report, by the production reporting date designated in section 3 (Insurance Guarantees, Coverage Levels, and Prices for Determining Indemnities) of the Basic Provisions (§ 457.8), by type if applicable:

(1) Any damage, removal of trees, change in practices, or any other circumstance that may reduce the expected yield below the yield upon which the insurance guarantee is based and the number of affected acres;

(2) The number of bearing trees on insurable and uninsurable acreage;

(3) The age of the trees and the planting pattern; and

(4) For the first year of insurance for acreage interplanted with another perennial crop, and anytime the planting pattern of such acreage is changed:

(i) The age of the interplanted crop, and type if applicable;

(ii) The planting pattern; and

(iii) Any other information that we request in order to establish your approved yield.

We will reduce the yield used to establish your production guarantee as necessary, based on our estimate of the effect of the following: interplanted perennial crop; removal of trees; damage; change in practices and any other circumstance on the yield potential of the insured crop. If you fail to notify us of any circumstance that may reduce your yields from previous levels, we will reduce your production guarantee as necessary at any time we become aware of the circumstance.

4. Contract Changes

In accordance with section 4 (Contract Changes) of the Basic Provisions (§ 457.8), the contract change date is August 31 preceding the cancellation date.

5. Cancellation and Termination Dates

In accordance with section 2 (Life of Policy, Cancellation, and Termination) of the Basic Provisions (§ 457.8), the cancellation and termination dates are December 31.

6. Insured Crop

In accordance with section 8 (Insured Crop) of the Basic Provisions (§ 457.8), the crop insured will be all macadamia nuts in the county for which a premium rate is provided by the actuarial table:

(a) In which you have a share;

(b) That are grown on tree varieties that:

(1) Were commercially available when the trees were set out;

(2) Are adapted to the area; and

(3) Are grown on a rootstock that is adapted to the area.

(c) That are grown in an orchard that, if inspected, is considered acceptable by us;

(d) That have reached at least the fifth growing season after being set out or grafted. However, we may agree in writing to insure acreage that has not reached this age if it has produced at least 200 pounds of (wet, in-shell) macadamia nuts per acre in a previous crop year; and

(e) That are produced from blooms that normally occur during the calendar year in which insurance attaches and that are normally harvested prior to the end of the insurance period.

7. Insurable Acreage

In lieu of the provisions in section 9 (Insurable Acreage) of the Basic Provisions (§ 457.8), that prohibit insurance attaching to a crop planted with another crop, macadamia nuts interplanted with another perennial crop are insurable unless we inspect the acreage and determine that it does not meet the requirements contained in your policy.

8. Insurance Period

(a) In accordance with the provisions of section 11 (Insurance Period) of the Basic Provisions (§ 457.8):

(1) Coverage begins on January 1 of each crop year, except that for the year of application, if your application is received after December 22 but prior to January 1, insurance will attach on the 10th day after your properly completed application is received in our local office, unless we inspect the acreage during the 10 day period and determine that it does not meet insurability requirements. You must provide any information that we require for the crop or to determine the condition of the orchard.

(2) The calendar date for the end of the insurance period for each crop year is the second June 30th of the crop year.

(b) In addition to the provisions of section 11 (Insurance Period) of the Basic Provisions (§ 457.8):

(1) If you acquire an insurable share in any insurable acreage after coverage begins but on or before the acreage reporting date for the crop year, and after an inspection we consider the acreage acceptable, insurance will be considered to have attached to such acreage on the calendar date for the beginning of the insurance period.

(2) If you relinquish your insurable share on any insurable acreage of macadamia nuts on or before the acreage reporting date for the crop year, insurance will not be considered to have attached to, and no premium or indemnity will be due for such acreage for that crop year unless:

(i) A transfer of coverage and right to an indemnity, or a similar form approved by us,

is completed by all affected parties; (ii) We are notified by you or the transferee in writing of such transfer on or before the acreage reporting date; and

(iii) The transferee is eligible for crop insurance.

9. Causes of Loss

(a) In accordance with the provisions of section 12 (Causes of Loss) of the Basic Provisions (§ 457.8), insurance is provided only against the following causes of loss that occur during the insurance period:

(1) Adverse weather conditions;

(2) Fire, unless weeds and other forms of undergrowth have not been controlled or pruning debris has not been removed from the orchard;

(3) Earthquake;

(4) Volcanic eruption;

(5) Wildlife, unless proper measures to control wildlife have not been taken; or

(6) Failure of irrigation water supply, if caused by an insured peril that occurs during the insurance period.

(b) In addition to the causes of loss excluded in section 12 (Causes of Loss) of the Basic Provisions (§ 457.8), we will not insure against damage or loss of production due to:

(1) Disease or insect infestation, unless adverse weather:

(i) Prevents the proper application of control measures or causes properly applied control measures to be ineffective; or

(ii) Causes disease or insect infestation for which no effective control mechanism is available; or

(2) Inability to market the macadamia nuts for any reason other than actual physical damage from an insurable cause specified in this section. For example, we will not pay you an indemnity if you are unable to market due to quarantine, boycott, or refusal of any person to accept production.

10. Duties in the Event of Damage or Loss

In addition to the requirements of section 14 (Duties in the Event of Damage or Loss) of the Basic Provisions (§ 457.8), the following will apply:

(a) You must notify us within 3 days of the date harvest should have started if the crop will not be harvested.

(b) You must notify us at least 15 days before any production from any unit will be sold by direct marketing. We will conduct an appraisal that will be used to determine your production to count for production that is sold by direct marketing. If damage occurs after this appraisal, we will conduct an additional appraisal. These appraisals, and any acceptable records provided by you, will be used to determine your production to count. Failure to give timely notice that production will be sold by direct marketing will result in an appraised amount of production to count of not less than the production guarantee per acre if such failure results in our inability to make the required appraisal.

(c) If you intend to claim an indemnity on any unit, you must notify us at least 15 days prior to the beginning of harvest or immediately if damage is discovered during harvest, so that we may inspect the damaged production. If you fail to notify us and such failure results in our inability to inspect the damaged production, we may consider all such production to be undamaged and include it as production to count.

11. Settlement of Claim

(a) We will determine your loss on a unit basis. In the event you are unable to provide separate, acceptable production records:

(1) For any optional units, we will combine all optional units for which such production records were not provided; or

(2) For any basic units, we will allocate any commingled production to such units in proportion to our liability on the harvested acreage for the units.

(b) In the event of loss or damage covered by this policy, we will settle your claim by:

(1) Multiplying the insured acreage for each type, if applicable, by its respective production guarantee;

(2) Multiplying each result in section 11(b)(1) by the respective price election for each type, if applicable;

(3) Totaling the results in section 11(b)(2);

(4) Multiplying the total production to be counted of each type, if applicable, (see section 11(c)) by the respective price election;

(5) Totaling the results in section 11(b)(4);

(6) Subtracting the total in section 11(b)(5) from the total in section 11(b)(3); and

(7) Multiplying the result in section 11(b)(6) by your share.

(c) The total production to count (wet, in-shell pounds) from all insurable acreage on the unit will include:

(1) All appraised production as follows:

(i) Not less than the production guarantee per acre for acreage:

(A) That is abandoned;

(B) That is sold by direct marketing if you fail to meet the requirements contained in section 10;

(C) That is damaged solely by uninsured causes; or

(D) For which you fail to provide acceptable production records;

(ii) Production lost due to uninsured causes;

(iii) Unharvested production; and

(iv) Potential production on insured acreage that you intend to abandon or no longer care for, if you and we agree on the appraised amount of production. Upon such agreement, the insurance period for that acreage will end. If you do not agree with our appraisal, we may defer the claim only if you agree to continue to care for the crop. We will then make another appraisal when you notify us of further damage or that harvest is general in the area unless you harvested the crop, in which case we will use the harvested production. If you do not continue to care for the crop, our appraisal made prior to deferring the claim will be used to determine the production to count; and

(2) All harvested production from the insurable acreage.

12. Written Agreements

Designated terms of this policy may be altered by written agreement in accordance with the following:

(a) You must apply in writing for each written agreement no later than the sales closing date, except as provided in section 12(e);

(b) The application for a written agreement must contain all variable terms of the contract between you and us that will be in effect if the written agreement is not approved;

(c) If approved, the written agreement will include all variable terms of the contract, including, but not limited to, crop type or variety, the guarantee, premium rate, and price election;

(d) Each written agreement will only be valid for one year (If the written agreement is not specifically renewed the following year, insurance coverage for subsequent crop years will be in accordance with the printed policy); and

(e) An application for a written agreement submitted after the sales closing date may be approved if, after a physical inspection of the acreage, it is determined that no loss has occurred and the crop is insurable in accordance with the policy and written agreement provisions.

Signed in Washington D.C., on April 10, 1997.

Kenneth D. Ackerman,

Manager, Federal Crop Insurance Corporation.

[FR Doc. 97–10042 Filed 4–17–97; 8:45 am]

BILLING CODE 3410–FA–P

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

7 CFR Parts 456 and 457

Macadamia Tree Crop Insurance Regulations; and Common Crop Insurance Regulations, Macadamia Tree Crop Insurance Provisions

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Proposed rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) proposes specific crop provisions for the insurance of macadamia trees. The provisions will be used in conjunction with the Common Crop Insurance Policy Basic Provisions, which contain standard terms and conditions common to most crops. The intended effect of this action is to provide policy changes to better meet the needs of the insured, include the current macadamia tree crop insurance regulations with the Common Crop Insurance Policy for ease of use and consistency of terms, and to restrict the effect of the current macadamia tree crop insurance regulations to the 1997 and prior crop years.

DATES: Written comments on this proposed rule will be accepted until close of business May 19, 1997 and will be considered when the rule is to be made final.

ADDRESSES: Interested persons are invited to submit written comments to

the Director, Product Development Division, Federal Crop Insurance Corporation, United States Department of Agriculture, 9435 Holmes Road, Kansas City, MO 64131.

FOR FURTHER INFORMATION CONTACT: Stephen Hoy, Insurance Management Specialist, Research and Development, Product Development Division, Federal Crop Insurance Corporation, at the Kansas City, MO, address listed above, telephone (816) 926–7730.

SUPPLEMENTARY INFORMATION:

Executive Order No. 12866

The Office of Management and Budget (OMB) has determined this rule to be exempt for the purposes of Executive Order No. 12866, and, therefore, has not been reviewed by OMB.

Paperwork Reduction Act of 1995

The information collection requirements contained in these regulations were previously approved by OMB pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35) under OMB control number 0563–0003 through September 30, 1998.

Section 7 of the 1998 Macadamia Tree Crop Provisions adds interplanting as an insurable farming practice for macadamia trees interplanted with another perennial crop as long as the macadamia tree crop would not be adversely affected. This practice was not insurable under the previous Macadamia Tree Crop Insurance Policy. Consequently, interplanting information will need to be collected using the FCI–12–P Pre-Acceptance Perennial Crop Inspection Report form for approximately 0.5 percent of the 27 insureds who interplant their macadamia tree crop. Standard interplanting language has been added to most perennial crops. Offering insurance for this practice benefits agriculture because now more perennial crop producers are covered by insurance.

The amendments set forth in this proposed rule do not contain additional information collections that require clearance by OMB under the provisions of 44 U.S.C. chapter 35.

The title of this information collection is ''Catastrophic Risk Protection Plan and Related Requirements including, Common Crop Insurance Regulations; Macadamia Tree Crop Insurance Provisions.'' The information to be collected includes a crop insurance application and an acreage report. Information collected from the application and acreage report is electronically submitted to FCIC by the reinsured companies. Potential respondents to this information collection are producers of macadamia trees that are eligible for Federal crop insurance.

The information requested is necessary for the reinsured companies and FCIC to provide insurance and reinsurance, determine eligibility, determine the correct parties to the agreement or contract, determine and collect premiums or other monetary amounts, and pay benefits.

All information is reported annually. The reporting burden for this collection of information is estimated to average 16.9 minutes per response for each of the 3.6 responses from approximately 1,755,015 respondents. The total annual burden on the public for this information collection is 2,676,932 hours.

FCIC is requesting comments on the following: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information gathering technology.

Comments regarding paperwork reduction should be submitted to the Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503.

The Office of Management and Budget (OMB) is required to make a decision concerning the collections of information contained in these proposed regulations between 30 and 60 days after submission to OMB. Therefore, a comment to OMB is best assured of having full effect if OMB receives it within 30 days of publication. This does not affect the deadline for the public to comment on the proposed regulation.

Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on state, local, and tribal governments and the private sector. This rule contains no Federal mandates (under the regulatory provisions of title II of the UMRA) for state, local, and tribal governments or the private sector. Thus, this rule is not subject to the requirements of sections 202 and 205 of the UMRA.

Executive Order No. 12612

It has been determined under section 6(a) of Executive Order No. 12612, Federalism, that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. The provisions contained in this rule will not have a substantial direct effect on states or their political subdivisions, or on the distribution of power and responsibilities among the various levels of government.

Regulatory Flexibility Act

This regulation will not have a significant impact on a substantial number of small entities. New provisions included in this rule will not impact small entities to a greater extent than large entities. Under the current regulations, a producer is required to complete an application and acreage report. If the crop is damaged or destroyed, the insured is required to give notice of loss and provide the necessary information to complete a claim for indemnity. This regulation does not alter those requirements. The amount of work required of the insurance companies delivering and servicing these policies will not increase significantly from the amount of work currently required. This rule does not have any greater or lesser impact on the producer. Therefore, this action is determined to be exempt from the provisions of the Regulatory Flexibility Act (5 U.S.C. 605), and no Regulatory Flexibility Analysis was prepared.

Federal Assistance Program

This program is listed in the Catalog of Federal Domestic Assistance under No. 10.450.

Executive Order No. 12372

This program is not subject to the provisions of Executive Order No. 12372, which require intergovernmental consultation with state and local officials. See the Notice related to 7 CFR part 3015, subpart V, published at 48 FR 29115, June 24, 1983.

Executive Order No. 12988

The provisions of this rule will not have a retroactive effect prior to the effective date. The provisions of this rule will preempt state and local laws to the extent such state and local laws are inconsistent herewith. The administrative appeal provisions published at 7 CFR part 11 must be exhausted before any action for judicial review may be brought.

Environmental Evaluation

This action is not expected to have a significant impact on the quality of the human environment, health, and safety. Therefore, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

National Performance Review

This regulatory action is being taken as part of the National Performance Review Initiative to eliminate unnecessary or duplicative regulations and improve those that remain in force.

Background

FCIC proposes to add to the Common Crop Insurance Regulations (7 CFR part 457), a new section, 7 CFR 457.130, Macadamia Tree Crop Insurance Provisions. The new provisions will be effective for the 1998 and succeeding crop years. These provisions will replace and supersede the current provisions for insuring macadamia trees found at 7 CFR part 456 (Macadamia Tree Crop Insurance Regulations). FCIC also proposes to amend 7 CFR part 456 to limit its effect to the 1997 and prior crop years. FCIC will later publish a regulation to remove and reserve part 456.

This rule makes minor editorial and format changes to improve the Macadamia Tree Crop Insurance Regulations' compatibility with the Common Crop Insurance Policy. In addition, FCIC is proposing substantive changes in the provisions for insuring macadamia trees as follows:

1. Amend the insurance contract to provide continuous coverage. The current policy is not a continuous contract. This change standardizes the Macadamia Tree Crop Insurance Policy with other crop insurance policies.

2. Section 1—Add definitions for the terms ''days,'' ''good farming practices,'' ''interplanted,'' ''irrigated practice,'' ''non-contiguous,'' ''rootstock,'' and ''written agreement'' for clarification. Delete the definition of ''planting pattern.'' This is a commonly understood term that is not defined in other crop policies.

3. Section 2—Describe the guidelines under which basic units may be divided into optional units consistent with other perennial crops offering optional units. These provisions also incorporate the requirement that each optional unit must contain at least 80 acres of insurable age macadamia trees and be located on non-contiguous land. These optional unit guidelines standardize macadamia trees with other perennial crops.

4. Section 3(a)(1)—Specify that the insured may select only one dollar amount of insurance for all the macadamia trees in the county in each age group contained in the actuarial table that are insured under the policy to standardize these provisions with other perennial crops. The dollar amount of insurance chosen by the insured for each age group must have the same percentage relationship to the maximum dollar amount offered by the insurance provider for each age group.

5. Section 3(a)(3)—Specify the reporting requirements when any circumstance occurs that may be expected to cause a reduction in the dollar amount of insurance and when the insured crop is interplanted with another perennial crop to ensure that the amount of insurance accurately reflects the value of the trees and to maximize the number of acres which are insurable.

6. Section 4—Establish August 31 as the contract change date. Previously, the policy contained no contract change date since it was not a continuous policy.

7. Section 5—Establish December 31 as the cancellation date. Previously, the policy contained no cancellation date since it was not a continuous policy.

8. Section 7—Allow insurance for macadamia trees interplanted with another perennial crop in order to increase the number of acres that are insurable without adversely affecting the actuarial soundness of the program.

9. Section 8(a)—Specify that if the application is received after December 22 but prior to January 1, insurance will attach on the 10th day after the insured's properly completed application is received in the insurance provider's local office unless the acreage is inspected during the 10 day period and it is determined that requirements of the insurance contract are not met. These provisions were modified so they will not be interpreted as allowing late-filed applications, and a thirty day period in this situation is not reasonable. Ten days is sufficient to prevent adverse selection and avoid unnecessary exposure to uninsured losses during the waiting period.

10. Section 8(b)—Add provisions to clarify the procedure for insuring acreage when an insurable share is acquired or relinquished on or before the acreage reporting date.

11. Section 9—Add adverse weather conditions, earthquake, failure of irrigation water supply, and wildlife, unless proper control measures to control wildlife have not been taken, as insurable causes of loss to be consistent with the coverage provided for other perennial crops. Wind is deleted because it is encompassed by the term adverse weather. Disease and insect infestation are also excluded as causes of loss unless adverse weather prevents the proper application of control measures, causes control measures to be ineffective when properly applied, or causes disease or insect infestation for which no effective control mechanism is available.

12. Section 12—Add provisions for providing insurance coverage by written agreement. FCIC has a long standing policy of permitting certain modifications of the insurance contact by written agreement for some policies. This amendment allows FCIC to tailor the policy to a specific insured in certain instances. The new section will cover the procedures for, and duration of, written agreements.

List of Subjects in 7 CFR Parts 456 and 457

Crop insurance, Macadamia tree.

Proposed Rule

Accordingly, for the reasons set forth in the preamble, the Federal Crop Insurance Corporation hereby proposes to amend 7 CFR parts 456 and 457, as follows:

PART 456—MACADAMIA TREE CROP INSURANCE REGULATIONS

1. The authority citation for 7 CFR part 456 is amended to read as follows:

Authority: 7 U.S.C. 1506(1), 1506(p).

2. The subpart heading preceding 456.1 is revised to read as follows:

Subpart—Regulations for the 1988 Through 1997 Crop Years

3. In § 456.7 the introductory text of paragraph (d) is revised to read as follows:

§ 456.7 The application and policy.

* * * * *

(d) The application is found at subpart D of part 400, General Administrative Regulations (7 CFR 400.37, 400.38). The provisions of the Macadamia Tree Crop Insurance Policy for the 1988 through 1997 crop years are as follows:

* * * * *

PART 457—COMMON CROP INSURANCE REGULATIONS; REGULATIONS FOR THE 1994 AND SUBSEQUENT CONTRACT YEARS

4. The authority citation for 7 CFR part 457 continues to read as follows:

Authority: 7 U.S.C. 1506(l), 1506(p).

5. § 457.130 is added to read as follows:

§ 457.130 Macadamia Tree Crop insurance provisions.

The Macadamia Tree Crop Insurance Provisions for the 1998 and succeeding crop years are as follows:

FCIC policies:

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

Reinsured policies:
(Appropriate title for insurance provider)
Both FCIC and reinsured policies:

Macadamia Tree Crop Provisions

If a conflict exists among the Basic Provisions (§ 457.8), these Crop Provisions, and the Special Provisions; the Special Provisions will control these Crop Provisions and the Basic Provisions; and these Crop Provisions will control the Basic Provisions.

1. Definitions

Age—The number of complete 12-month periods that have elapsed since the month the trees were set out or were grafted, whichever is later. Age determination will be made for each unit, or portion thereof, as of January 1 of each crop year.

Crop year—A period beginning with the date insurance attaches to the macadamia tree crop extending through December 31 of the same calendar year. The crop year is designated by the calendar year in which insurance attaches.

Days—Calendar days.

Destroyed—Trees damaged to the extent that replacement, including grafts, is required.

Good farming practices—The cultural practices generally in use in the county for the crop to have normal growth and vigor, and are those recognized by the Cooperative State Research, Education, and Extension Service as compatible with agronomic and weather conditions in the county.

Graft—The uniting of a macadamia shoot to an established macadamia tree rootstock for future production of macadamia nuts.

Interplanted—Acreage on which two or more crops are planted in any form of alternating or mixed pattern.

Irrigated practice—A method by which the normal growth and vigor of the insured trees is maintained by artificially applying adequate quantities of water during the growing season by appropriate systems and at the proper times.

Non-contiguous—Any two or more tracts of land whose boundaries do not touch at any point, except that land separated only by a public or private right-of-way, waterway, or an irrigation canal will be considered as contiguous.

Rootstock—The root and stem portion of a macadamia tree to which a macadamia shoot can be grafted.

Written agreement—A written document that alters designated terms of this policy in accordance with section 12.

2. Unit Division

(a) Unless limited by the Special Provisions, a unit as defined in section 1 (Definitions) of the Basic Provisions (§ 457.8), (basic unit) may be divided into optional units if, for each optional unit you meet all the conditions of this section or if the division complies with a valid written agreement.

(b) Basic units may not be divided into optional units on any basis other than as described in this section.

(c) If you do not comply fully with these provisions, we will combine all optional units that are not in compliance with these provisions into the basic unit from which they were formed. We will combine the optional units at any time we discover that you have failed to comply with these provisions. If failure to comply with these provisions is determined to be inadvertent, and the optional units are combined into a basic unit, that portion of the additional premium paid for the optional units that have been combined will be refunded to you for the units combined.

(d) All units you selected for the crop year must be identified on the acreage report for that crop year.

(e) The following requirements must be met for each optional unit:

(1) You must have records, which can be independently verified, of acreage and age of trees for each unit for at least the last crop year;

(2) Each optional unit must contain at least 80 acres of insurable age macadamia trees; and

(3) Each optional unit must be located on non-contiguous land.

3. Insurance Guarantees, Coverage Levels, and Dollar Amounts for Determining Indemnities

(a) In addition to the requirements of section 3 (Insurance Guarantees, Coverage Levels, and Prices for Determining Indemnities) of the Basic Provisions (§ 457.8):

(1) You may select only one dollar amount of insurance for all the macadamia trees in the county in each age group contained in the actuarial table that are insured under this policy. The dollar amount of insurance you choose for each age group must have the same percentage relationship to the maximum dollar amount offered by us for each age group. For example, if you choose 100 percent of the maximum dollar amount of insurance for one age group, you must also choose 100 percent of the maximum dollar amount of insurance for all other age groups.

(2) If the stand is less than 90 percent, based on the original planting pattern, the dollar amount of insurance will be reduced 1 percent for each percent below 90 percent. For example, if the dollar amount of insurance you selected is $2,000 and the stand is 85 percent of the original stand, the dollar amount of insurance on which any indemnity will be based is $1,900 ($2,000 multiplied by 0.95).

(3) You must report, by the sales closing date contained in the Special Provisions, by type if applicable:

(i) Any damage, removal of trees, change in practices, or any other circumstance that may reduce the dollar amount of insurance and the number of affected acres;

(ii) The number of trees on insurable and uninsurable acreage;

(iii) The month and year on which the trees were set out or grafted and the planting pattern;

(iv) The month and year of replacement if more than 10 percent of the trees on any unit have been replaced in the previous five crop years; and

(v) For the first year of insurance for acreage interplanted with another perennial crop, and anytime the planting pattern of such acreage is changed:

(A) The age of the interplanted crop, and type if applicable;

(B) The planting pattern; and

(C) Any other information that we request in order to establish your dollar amount of insurance.

We will reduce the dollar amount of insurance as necessary, based on our estimate of the effect of interplanted perennial crop, removal of trees, damage, change in practices, and any other circumstance that adversely affects the insured crop. If you fail to notify us of any circumstance that may reduce your dollar amount of insurance from previous levels, we will reduce your dollar amount of insurance as necessary at any time we become aware of the circumstance.

(b) The production reporting requirements contained in section 3 (Insurance Guarantees, Coverage Levels, and Prices for Determining Indemnities) of the Basic Provisions (§ 457.8), do not apply to macadamia trees.

4. Contract Changes

In accordance with section 4 (Contract Changes) of the Basic Provisions (§ 457.8), the contract change date is August 31 preceding the cancellation date.

5. Cancellation and Termination Dates

In accordance with section 2 (Life of Policy, Cancellation, and Termination) of the Basic Provisions (§ 457.8), the cancellation and termination dates are December 31.

6. Insured Crop

In accordance with section 8 (Insured Crop) of the Basic Provisions (§ 457.8), the crop insured will be all macadamia trees in the county for which a premium rate is provided by the actuarial table:

(a) In which you have a share;

(b) That are grown for the production of macadamia nuts;

(c) For which the rootstock is adapted to the area;

(d) That are at least one year of age when the insurance period begins; and

(e) That, if the orchard is inspected, is considered acceptable by us.

7. Insurable Acreage

In lieu of the provisions in section 9 (Insurable Acreage) of the Basic Provisions (§ 457.8), that prohibit insurance attaching to a crop planted with another crop, macadamia trees interplanted with another perennial crop are insurable unless we inspect the acreage and determine that it does not meet the requirements contained in your policy.

8. Insurance Period

(a) In accordance with the provisions of section 11 (Insurance Period) of the Basic Provisions (§ 457.8):

(1) Coverage begins on January 1 of each crop year, except that for the year of application, if your application is received after December 22 but prior to January 1, insurance will attach on the 10th day after

your properly completed application is received in our local office, unless we inspect the acreage during the 10 day period and determine that it does not meet the requirements contained in the insurance contract. You must provide any information that we require for the crop or to determine the condition of the orchard.

(2) The calendar date for the end of the insurance period for each crop year is December 31.

(b) In addition to the provisions of section 11 (Insurance Period) of the Basic Provisions (§ 457.8):

(1) If you acquire an insurable share in any insurable acreage after coverage begins but on or before the acreage reporting date for the crop year, and after an inspection we consider the acreage acceptable, insurance will be considered to have attached to such acreage on the calendar date for the beginning of the insurance period.

(2) If you relinquish your insurable share on any insurable acreage of macadamia trees on or before the acreage reporting date for the crop year, insurance will not be considered to have attached to, and no premium or indemnity will be due for, such acreage for that crop year unless:

(i) A transfer of coverage and right to an indemnity, or a similar form approved by us, is completed by all affected parties;

(ii) We are notified by you or the transferee in writing of such transfer on or before the acreage reporting date; and

(iii) The transferee is eligible for crop insurance.

9. Causes of Loss

(a) In accordance with the provisions of section 12 (Causes of Loss) of the Basic Provisions (§ 457.8), insurance is provided only against the following causes of loss that occur during the insurance period:

(1) Adverse weather conditions;

(2) Fire, unless weeds and other forms of undergrowth have not been controlled or pruning debris has not been removed from the orchard;

(3) Earthquake;

(4) Volcanic eruption;

(5) Wildlife, unless proper measures to control wildlife have not been taken; or

(6) Failure of irrigation water supply, if caused by an insured cause of loss that occurs during the insurance period.

(b) In addition to the causes of loss excluded in section 12 (Causes of Loss) of the Basic Provisions (§ 457.8), we will not insure against damage due to disease or insect infestation, unless adverse weather:

(1) Prevents the proper application of control measures or causes properly applied control measures to be ineffective; or

(2) Causes disease or insect infestation for which no effective control mechanism is available.

10. Duties in the Event of Damage or Loss

In addition to the requirements of section 14 (Duties in the Event of Damage or Loss) of the Basic Provisions (457.8), in case of damage or probable loss, if you intend to claim an indemnity on any unit, you must allow us to inspect all insured acreage before pruning or removing of any damaged trees.

11. Settlement of Claim

(a) We will determine your loss on a unit basis.

(b) In the event of loss or damage covered by this policy, we will settle your claim by:

(1) Multiplying the insured acreage by the dollar amount of insurance per acre for each age group;

(2) Totaling the results in section 11(b)(1);

(3) Multiplying the total dollar amount of insurance obtained in section 11(b)(2) by the applicable percent of loss, which is determined as follows:

(i) Subtract the coverage level percent you elected from 100 percent;

(ii) Subtract the result obtained in section 11(b)(3)(i) from the actual percent of loss;

(iii) Divide the result in section 11(b)(3)(ii) by the coverage level you elected (For example, if you elected the 75 percent coverage level and your actual percent of loss was 70 percent, the percent of loss specified in section 11(b)(3) would be calculated as follows: 100% − 75%=25%; 70% − 25%=45%; 45%÷75%=60%.); and

(4) Multiply the result in section 11(b)(3) by your share.

(c) The total amount of loss will include both trees damaged and trees destroyed as follows:

(1) Any orchard with over 80 percent actual damage due to an insured cause of loss will be considered to be 100 percent damaged; and

(2) Any percent of damage by uninsured causes will not be included in the percent of loss.

12. Written Agreements

Designated terms of this policy may be altered by written agreement in accordance with the following:

(a) You must apply in writing for each written agreement no later than the sales closing date, except as provided in section 12(e);

(b) The application for a written agreement must contain all variable terms of the contract between you and us that will be in effect if the written agreement is not approved;

(c) If approved, the written agreement will include all variable terms of the contract, including, but not limited to, crop type or variety, the guarantee, premium rate, and dollar amount of insurance;

(d) Each written agreement will only be valid for one year (If the written agreement is not specifically renewed the following year, insurance coverage for subsequent crop years will be in accordance with the printed policy); and

(e) An application for a written agreement submitted after the sales closing date may be approved if, after a physical inspection of the acreage, it is determined that no loss has occurred and the crop is insurable in accordance with the policy and written agreement provisions.

Signed in Washington D.C., on April 10, 1997.

Kenneth D. Ackerman,

Manager, Federal Crop Insurance Corporation.

[FR Doc. 97–10041 Filed 4–17–97; 8:45 am]

BILLING CODE 3410–FA–P

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 20, 30, 40, 50, 51, 70, and 72

RIN 3150–AD65

Radiological Criteria for License Termination; Meeting Between EPA and NRC to Discuss Draft Final Rule

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of meeting between the Environmental Protection Agency (EPA) and the Nuclear Regulatory Commission (NRC) on draft final rule on radiological criteria for license termination.

SUMMARY: The NRC is developing a final rule on radiological criteria for license termination (SECY–97–046A). As part of its preparation of the final rule, the NRC is planning to hold a public meeting with the EPA to discuss their comments related to the final rule.

DATES: The meeting will be held on April 21, 1997, from 2:00 pm–3:00 pm.

ADDRESSES: Conference Room T–2–B–3, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland 20852.

FOR FURTHER INFORMATION CONTACT: Cheryl A. Trottier (301) 415–6232 or Frank Cardile (301) 415–6185, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

SUPPLEMENTARY INFORMATION: The NRC is amending its regulations regarding decommissioning of licensed facilities to provide specific radiological criteria for the decommissioning of lands and structures. The intent of this rulemaking is to provide a clear and consistent regulatory basis for determining the extent to which lands and structures must be remediated before decommissioning of a site can be considered complete and the license terminated.

On August 22, 1994, the NRC published a proposed rule for comment in the **Federal Register** [59 FR 43200] to amend 10 CFR Part 20 of its regulations ''Standards for Protection Against Radiation'' to include radiological criteria for license termination. The public comment period closed on January 20, 1995. Over 100 organizations and individuals submitted comments on NRC's proposed rule. The nature of the comments was varied. For nearly every provision of the rule, there were viewpoints expressed both in support and in disagreement. Comments received on the proposed rule were summarized in NUREG/CR–6353.

Based on the public comments received, the NRC staff has prepared a

draft final rule for consideration by the Commission (SECY–97–046A). As part of its deliberations on SECY–97–046A, the NRC has decided to hold a public meeting with the EPA to discuss their comments on the draft final rule. The format of the meeting will consist of discussion between the EPA and NRC on issues related to the draft final rule. Seating for the public will be on a first come, first-served basis.

Dated at Rockville, Maryland, this 14th day of April 1997.

For the Nuclear Regulatory Commission.

Frank A. Costanzi,

Deputy Director, Division of Regulatory Applications, Office of Nuclear Regulatory Research.

[FR Doc. 97–10073 Filed 4–17–97; 8:45 am]

BILLING CODE 7590–01–P

RAILROAD RETIREMENT BOARD

20 CFR Part 335

RIN 3220–AB30

Sickness Benefits

AGENCY: Railroad Retirement Board.

ACTION: Proposed rule.

SUMMARY: The Railroad Retirement Board (Board) proposes to amend its regulations under the Railroad Unemployment Insurance Act (RUIA) to permit a substance-abuse professional to execute a statement of sickness in support of payment of sickness benefits under the RUIA.

DATES: Comments shall be submitted on or before June 17, 1997.

ADDRESSES: Secretary to the Board, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois 60611.

FOR FURTHER INFORMATION CONTACT: Thomas W. Sadler, Senior Attorney, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois 60611, (312) 751–4513, TDD (312) 751–4701.

SUPPLEMENTARY INFORMATION: Section 335.2(a)(2) of the Board's regulations provides that in order to be entitled to sickness benefits under the RUIA, a claimant must provide a ''statement of sickness''. Section 335.3(a) of the Board's regulations lists the individuals from whom the Board will accept a statement of sickness. That list does not currently include a ''substance-abuse professional'' (SAP), although employees may claim sickness benefits under circumstances resulting from alcohol or controlled-substances-related disorders. In proposing that an SAP under this part must meet the qualifications outlined in the Department of Transportation (DOT) regulations at 49 CFR part 40.3, the Board recognizes the importance of nationally-accepted standards for SAPs. The DOT regulations define an SAP as a licensed physician (Medical Doctor or Doctor of Osteopathy), a licensed or certified psychologist, a licensed or certified social worker, or a licensed or certified employee assistance professional. The DOT regulations also include alcohol and drug abuse counselors certified by the National Association of Alcoholism and Drug Abuse Counselors (NAADAC) Certification Commission, a national organization imposing qualification standards for treatment of alcohol and drug-related disorders.

Under the DOT regulations, an SAP must have knowledge of, and clinical experience in, the diagnosis and treatment of alcohol and controlled substances-related disorders. Accordingly, those individuals who have the requisite degrees or certificates, but who lack knowledge and clinical experience in alcohol and substance abuse-related disorders, would not meet the criteria of a qualified SAP under this part.

The Board, with the concurrence of the Office of Management and Budget, has determined that this is not a significant regulation action for purposes of Executive Order 12866. Therefore, no regulatory impact analysis is required. There are no information collections associated with this rule.

List of Subjects in 20 CFR Part 335

Railroad employees, Railroad sickness benefits.

For the reasons set out in the preamble, title 20, chapter II, part 335 of the Code of Federal Regulations is proposed to be amended as follows:

PART 335—SICKNESS BENEFITS

1. The authority citation for part 335 continues to read as follows:

Authority: 45 U.S.C. 362(i) and 362(l).

2. Section 335.3 is amended by removing ''or'' at the end of paragraph (a)(8) of this section, by removing the period at the end of paragraph (a)(9) of this section and adding ''; or'', and by adding a new paragraph (a)(10) to read as follows:

§ 335.3 Execution of statement of sickness and supplemental doctor's statement.

(a) * * *

* * * * *

(10) A substance-abuse professional as defined in 49 CFR 40.3, if the infirmity involves alcohol or controlled substances-related disorders.

* * * * *

Dated: April 9, 1997.

By Authority of the Board.

Beatrice Ezerski,

Secretary to the Board.

[FR Doc. 97–10009 Filed 4–17–97; 8:45 am]

BILLING CODE 7905–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1 and 25

[REG–209823–96]

RIN 1545–AU25

Guidance Regarding Charitable Remainder Trusts

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking and notice of public hearing.

SUMMARY: This document contains proposed amendments to the regulations under section 664 of the Internal Revenue Code of 1986 relating to charitable remainder trusts and under section 2702 relating to special valuation rules for transfers of interests in trusts. The proposed amendments contain rules on the conditions under which the governing instrument may provide for a change in the method of calculating the unitrust amount, the date by which the annuity amount or the unitrust amount under the fixed percentage method must be paid to the recipient, who is required to value unmarketable assets, and when section 2702 applies to certain charitable remainder unitrusts. The proposed regulations clarify existing law that prohibits allocating precontribution capital gain to trust income. The proposed amendments also contain an example illustrating how the ordering rule of section 664(b) applies to distributions from a charitable remainder unitrust using an income exception method to calculate the unitrust amount. This document also provides notice of a public hearing on these proposed regulations.

DATES: Comments and outlines of topics to be discussed at the public hearing scheduled for September 9, 1997, at 10 a.m. must be received by August 19, 1997.

ADDRESSES: Send submissions to: CC:DOM:CORP:R (REG–209823–96), room 5228, Internal Revenue Service, POB 7604, Ben Franklin Station,

Washington, DC 20044. Submissions may also be hand delivered between the hours of 8 a.m. and 5 p.m. to: CC:DOM:CORP:R (REG–209823–96), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC. Alternatively, taxpayers may submit comments electronically via the internet by selecting the ''Tax Regs'' option on the IRS Home Page, or by submitting comments directly to the IRS internet site at http://www.irs.ustreas.gov/prod/tax/regs/comments.html.

The public hearing will be held in the IRS Auditorium, Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Concerning the regulations, Jeffrey A. Erickson or Mary Beth Collins, (202) 622–3070; concerning submissions and the hearing, Evangelista Lee, (202) 622–7190 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

The collection of information contained in this notice of proposed rulemaking has been submitted to the Office of Management and Budget for review in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)). Comments on the collection of information should be sent to the Office of Management and Budget, Attn: Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, DC 20503, with copies to the Internal Revenue Service, Attn: IRS Reports Clearance Officer, T:FP, Washington, DC 20224. Comments on the collection of information should be received by July 17, 1997. Comments are specifically requested concerning:

Whether the proposed collection of information is necessary for the proper performance of the functions of the Internal Revenue Service, including whether the information will have practical utility;

The accuracy of the estimated burden associated with the proposed collection of information;

How the quality, utility, and clarity of the information to be collected may be enhanced;

How the burden of complying with the proposed collection of information may be minimized, including through the application of automated collection techniques or other forms of information technology; and

Estimates of capital or start-up costs and costs of operation, maintenance, and purchase of service to provide information.

The collection of information in this proposed regulation is in § 1.664–1(a)(7). This information is required to allow taxpayers alternative means of valuing a charitable remainder trust's hard-to-value assets. This information will be used to determine if a taxpayer properly claimed a charitable deduction for a contribution to a charitable remainder trust and if assets in the charitable remainder trust are properly valued each year. The collection of information is voluntary. The likely respondents are for-profit entities.

Estimated total annual recordkeeping burden: 75 hours.

Estimated average annual burden hours per respondent: .5 hours.

Estimated number of respondents: 150.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by the Office of Management and Budget.

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.

Background

This document proposes amendments to 26 CFR parts 1 and 25 to provide additional rules under sections 664 and 2702. Section 664, added to the Internal Revenue Code by section 201 of the Tax Reform Act of 1969 (Pub. L. 91–172), contains the rules for charitable remainder trusts. In general, a charitable remainder trust provides for a specified periodic distribution to one or more noncharitable beneficiaries for life or for a term of years with an irrevocable remainder interest held for the benefit of charity. Section 664(c) provides that a charitable remainder trust is exempt from all taxes under subtitle A of the Code for any taxable year except a taxable year in which the trust has unrelated business taxable income under section 512.

There are two types of charitable remainder trusts. A charitable remainder annuity trust (a CRAT) pays a sum certain at least annually to one or more noncharitable beneficiaries. A charitable remainder unitrust (a CRUT) pays a unitrust amount at least annually to one or more noncharitable beneficiaries. The unitrust amount is generally a fixed percentage of the net fair market value of the CRUT's assets valued annually (the fixed percentage method). The unitrust amount can instead be the lesser of the fixed percentage amount or the trust's net income (the net income method). Alternatively, the unitrust amount can be the amount determined under the net income method plus any amount of income that exceeds the current year's fixed percentage amount to ''make up'' for any shortfall in distributions in prior years when the trust income was less than the fixed percentage amount (the NIMCRUT method).

Explanation of Provisions

I. Flip Unitrusts

A. General Explanation

The governing instrument of a CRUT must specify the method of computing the unitrust payments. Section 664(d)(3) provides that the income exception methods (either the net income method or the NIMCRUT method) may be used to pay the unitrust amount ''for any year.'' The legislative history, however, provides that the method used to determine the unitrust amount may not be discretionary with the trustee. H.R. Conf. Rep. No. 782, 91st Cong., 1st Sess. 296 (1969), 1969–3 C.B. 644, 655.

Some donors may fund a CRUT with unmarketable assets that produce little or no income. These donors often want the income beneficiary or beneficiaries of the CRUT to receive a steady stream of payments based on the total return available from the value of the assets. The donors recognize, however, that the CRUT cannot make these payments until it can convert the unmarketable assets into liquid assets that can be used to pay the fixed percentage amount. These donors establish CRUTs that use one of the income exception methods to calculate the unitrust amount until the unmarketable assets are sold. Following the sale, the donors may prefer that the CRUT use the fixed percentage method to calculate the unitrust amount. A trust using such a combination of methods would be a ''flip unitrust.''

The proposed regulations provide that a donor may establish a flip unitrust that qualifies as a CRUT if the following conditions are satisfied. First, to ensure that the CRUT has substantially all unmarketable assets prior to the switch in methods, at least 90 percent of the fair market value of the assets held in the trust immediately after the initial contribution or any subsequent contribution (prior to the switch in methods) must consist of unmarketable assets. Unmarketable assets are assets that are not cash, cash equivalents, or marketable securities (within the meaning of section 731(c)).

Second, because the legislative history indicates that a trustee should

not have discretion to change the method used to calculate the unitrust amount, the governing instrument must provide that the CRUT will use an income exception method until the earlier of (a) the sale of a specified unmarketable asset or group of unmarketable assets contributed at the time the trust was created or (b) the sale of unmarketable assets such that immediately following the sale, any remaining unmarketable assets total 50 percent or less of the fair market value of the trust's assets. For making this determination, the remaining unmarketable assets are valued as of the most recent valuation date.

Third, to ensure that the CRUT will use the fixed percentage method after the unmarketable assets are sold, the CRUT must switch exclusively to the fixed percentage method for calculating all remaining unitrust amounts payable to any income beneficiary at the beginning of the first taxable year following the year in which the earlier of the above events occurs.

Finally, because the fixed percentage method does not provide for a makeup amount, any makeup amount described in section 664(d)(3)(B) is forfeited when the trust switches to the fixed percentage method.

The IRS and Treasury request comments on whether there are additional circumstances under which a combination of methods should be addressed in regulations.

B. Proposed Effective Date and Transitional Rules

The amendments allowing a flip unitrust are proposed to be effective for CRUTs created on or after the date the final regulations are published in the **Federal Register**.

If a trust was created before the effective date of this amendment and its governing instrument contains a flip provision other than the one permitted by the regulations, the trust may be amended or reformed to comply with the final regulations. If a trust is created after the effective date of this amendment and has a flip provision not expressly permitted by the regulations, the trust will qualify as a CRUT if it is amended or reformed to use the initial method for computing the unitrust amount throughout the term of the trust. If a qualified CRUT is created before or after the effective date of this amendment and its governing instrument does not contain a flip provision, the trust will not continue to qualify as a CRUT if it is amended or reformed to add a flip provision.

The IRS and Treasury invite comments on the least burdensome methods of changing the terms of a trust's governing instrument.

II. Time for Paying the Annuity Amount or the Unitrust Amount

A. General Explanation

The regulatory provisions permitting a trustee of a charitable remainder trust to pay the annuity or unitrust amount within a reasonable period of time following the close of the trust's taxable year were intended as an administrative convenience for trustees. Under the income exception methods, the trustee may not be able to determine the amount of trust income and, thus, the amount to be distributed for a trust's taxable year until after the close of that year. Therefore, a trustee may need the additional time to pay the unitrust amount if a CRUT uses one of the income exception methods.

In contrast, a trustee of a CRAT or a CRUT using the fixed percentage method can easily determine the annuity or unitrust amount and pay it before the close of the taxable year to which it relates. The annuity amount is fixed and determinable as of the date the trust is created. The fixed percentage unitrust amount is fixed and determinable as of the annual valuation date, which is specified in the governing instrument or on the initial Form 5227, Split-Interest Trust Information Return. The valuation date can be set well before the end of the taxable year.

The IRS and Treasury believe that certain trustees of charitable remainder trusts have attempted to abuse the provisions in the current regulations that permit a trustee to pay the annuity or unitrust amount within a reasonable time after the close of the taxable year for which the payment is due. The IRS and Treasury are especially concerned about accelerated charitable remainder trusts described in Notice 94–78 (1994–2 C.B. 555). Therefore, the regulations propose to amend §§ 1.664–2(a)(1)(i) and 1.664–3(a)(1)(i) to provide that the payment of the annuity amount or the unitrust amount determined under the fixed percentage method must be made by the close of the taxable year in which it is due. These proposed amendments should not require the amendment or reformation of governing instruments of existing charitable remainder trusts that allow a trustee to pay the unitrust or annuity amount after the close of the taxable year. The trustees of such trusts can comply with the proposed regulations by actually paying the annuity or unitrust amount within the time permitted by the proposed amendments.

For CRUTs using an income exception method, the regulations continue to provide that if the CRUT pays the unitrust amount within a reasonable time after the close of the trust's taxable year, the trust is not deemed to have engaged in an act of self-dealing, to have unrelated debt-financed income, to have received an additional contribution, or to have failed to function exclusively as a charitable remainder trust.

B. Proposed Effective Date

These amendments are proposed to be effective for taxable years ending after April 18, 1997.

The IRS will continue to challenge the purported tax consequences of accelerated charitable remainder trusts as described in Notice 94–78.

III. Appraising Unmarketable Assets

A. General Explanation

Under § 1.664–1(a)(1)(iii)(*a*), a trust may qualify as a charitable remainder trust only if a deduction is allowable under sections 170, 2055, 2106, or 2522 for transfers to the trust. The legislative history of section 664 indicates that Congress contemplated denying a charitable contribution deduction to a donor who transferred unmarketable assets to a charitable remainder trust unless an independent trustee valued the assets. H.R. Rep. No. 413, 91st Cong., 1st Sess. 60 (1969), 1969–3 C.B. 200, 239. Because the statute does not contain a corresponding provision, many practitioners have asked whether a charitable remainder trust that holds unmarketable assets must have an independent trustee value the assets.

The proposed regulations provide that if a charitable remainder trust holds unmarketable assets and the trustee is the grantor of the charitable remainder trust, a noncharitable beneficiary, or a related or subordinate party to the grantor or the noncharitable beneficiary within the meaning of section 672(c) and the applicable regulations, the trustee must use a current qualified appraisal, as defined in § 1.170A–13(c)(3), from a qualified appraiser, as defined in § 1.170A–13(c)(5), to value those assets. A trustee who is not the grantor, a noncharitable beneficiary, or a related or subordinate party does not have to use a qualified appraisal from a qualified appraiser to value the unmarketable assets. Therefore, the grantor, a noncharitable beneficiary, or a related or subordinate party may be the sole trustee of a charitable remainder trust if the trustee uses a current qualified appraisal from a qualified appraiser to compute the fair

market value of the trust's unmarketable assets.

B. Proposed Effective Date

The amendments are proposed to be effective for trusts created on or after the date on which the final regulations are published in the **Federal Register**. If the governing instrument of an existing trust created before the effective date of this amendment already requires an independent trustee to value the trust's unmarketable assets, the governing instrument may be amended or reformed to conform with this provision.

IV. Application of Section 2702 to Certain Charitable Remainder Unitrusts

A. General Explanation

Section 2702 provides special rules to determine the amount of the gift when an individual makes a transfer in trust to or for the benefit of a family member and the individual or an applicable family member retains an interest in the trust. Under section 2702(a), the retained interest in these situations is generally valued at zero unless the interest is a qualified interest. Under section 2702(b), a qualified interest includes the right to receive fixed payments at least annually and the right to receive amounts at least annually that are a fixed percentage of the annual fair market value of the property in the trust.

Section 2702(a)(3)(A)(iii) was added by section 1702(f)(11)(A)(iv) of the Small Business Job Protection Act of 1996 (Pub. L. 104–188) as a technical correction to the Revenue Reconciliation Act of 1990 (Public Law 101–508). Section 2702(a)(3)(A)(iii) provides that section 2702(a) shall not apply to any transfer to the extent regulations provide that such transfer is not inconsistent with the purposes of the section. According to the legislative history, the regulatory authority could be used to create an exception from the application of section 2702 for a qualified charitable remainder trust that does not otherwise create an opportunity for transferring property to a family member free of transfer tax. H.R. Rep. No. 586, 104th Cong., 2d Sess. 155–56 (1996). Under § 25.2702–1(c)(3) of the Gift Tax Regulations, section 2702 does not apply to CRUTs or CRATs.

Some taxpayers have created CRUTs using an income exception method to take advantage of the section 2702 exclusion granted to charitable remainder trusts in the regulations. These taxpayers attempt to use this exclusion and the income exception feature of a CRUT to pass substantial assets to family members with minimal transfer tax consequences.

For example, a donor establishes a NIMCRUT to pay the lesser of trust income or a fixed percentage to the donor for a term of 15 years or his life, whichever is shorter, and then to the donor's daughter for her life. If the tables under section 7520 are used to value the donor's retained interest and the donor's gift to the daughter, the amount of the donor's gift to the daughter is relatively small compared to the amount the daughter may actually receive. To illustrate, the trustee may invest in assets that produce little or no trust income while the donor retains the unitrust interest, creating a substantial makeup amount. At the end of the donor's interest, the trustee alters the NIMCRUT's investments to generate significant amounts of trust income. The trustee then uses the income to pay to the donor's daughter the current fixed percentage amount and the makeup amount, which includes the makeup amount accumulated while the donor was the unitrust recipient.

The use of a CRUT as described in the above example permits the shifting of a beneficial interest in the trust from the donor to another family member and, thus, creates an opportunity for transferring property to a family member free of transfer tax that is contrary to section 2702(a)(3)(A)(iii). Therefore, the proposed regulations will amend § 25.2702–1(c)(3) to provide that the unitrust interests in a CRUT using an income exception method retained by the donor or any applicable family member will be valued at zero when someone other than (1) the donor, (2) the donor's spouse, or (3) both the donor and the donor's spouse (who is a citizen of the U.S.) is a noncharitable beneficiary of the trust. In these situations, the value of the donor's gift is the fair market value of all the property transferred to the CRUT. The present value of the remainder interest passing to the charitable organization will qualify for the deduction under section 2522. Accordingly, the amount used to calculate the donor's gift tax liability is the value of the property transferred to the trust less the value of the interest passing to charity.

Section 25.2702–1(c)(3) will continue to exclude from the application of section 2702 transfers to pooled income funds described in section 642(c)(5) and to CRATs and CRUTs that pay the unitrust amount under the fixed percentage method.

B. Proposed Effective Date

This amendment is proposed to be effective for transfers in trust made on or after May 19, 1997.

V. Prohibition on Allocating Precontribution Gain to Trust Income

A. General Explanation

When assets are transferred to a charitable remainder trust, the amount of the donor's charitable deduction is generally based in part on the fair market value of the property transferred to the trust. Although an income exception CRUT provides a different method for calculating the unitrust amount than a fixed percentage CRUT, any charitable deduction for an income exception CRUT is calculated as if the fixed percentage is distributed each year. Allocating amounts to trust income that are part of the fair market value of the contributed property on which the charitable deduction was based would be inconsistent with Congress's intent to assure that the amount claimed as a charitable deduction for the contribution to the trust relates to the projected growth of the assets contributed less the expected distributions to the income beneficiaries. H.R. Rep. No. 413, 91st Cong., 1st Sess. 58–59 (1969), 1969–3 C.B. 200, 237–38; S. Rep. No. 552, 91st Cong., 1st Sess. 87 (1969), 1969–3 C.B. 423, 479. Therefore, the regulations clarify that the proceeds from the sale of an income exception CRUT's assets, at least to the extent of the fair market value of the asset when contributed to the trust, must be allocated to principal.

B. Proposed Effective Date

This amendment is proposed to be effective for sales or exchanges after April 18, 1997. For sales or exchanges on or before the effective date of this amendment, the Service will continue to challenge any attempt to allocate precontribution gain to trust income as being fundamentally inconsistent with applicable local law and with the amount of the charitable deduction claimed.

VI. Example Illustrating Rule for Characterizing Distributions From CRUTs

Section 664(b) contains the ordering rule used to determine the character of the annuity or unitrust amount in the hands of the recipient. The legislative history states that the ordering rule applies to both CRATs and CRUTs. S. Rep. No. 552, 91st Cong., 1st Sess. 90 (1969), 1969–3 C.B. 423, 481. The ordering rule applies to the unitrust amounts received from all CRUTs

regardless of the method used by the CRUT to determine the unitrust amount.

Although the current regulations clearly provide that the ordering rule of section 664(b) and § 1.664–1(d)(1)(i) applies to all unitrust amounts received from CRUTs, some practitioners have asked whether the ordering rule applies to unitrust amounts paid under the income exception methods. To provide taxpayers with additional guidance, the proposed regulations add an example of how the ordering rule operates when the unitrust amount is computed under an income exception method.

VII. Request for Comments on Income Exception CRUTs Holding Certain Investments

The IRS and Treasury are aware that taxpayers are using income exception CRUTs to take advantage of the timing difference between the receipt of trust income (as defined in section 643(b)) and income for federal income tax purposes. For example, an income exception CRUT may hold an interest in a partnership controlled by a trustee of the trust, a grantor, a beneficiary, or a party related or subordinate to the trustee, the grantor, or a beneficiary. In such a case, an interested party controls when the trust will receive the earnings from its partnership interest and, accordingly, when the unitrust recipient will receive distributions from the trust. Although the income exception CRUT has taxable income on its distributive share of partnership items, the trust does not have trust income until it actually receives a distribution of its share of the partnership's earnings.

The IRS and Treasury are studying whether investing the assets of an income exception CRUT to take advantage of the timing difference between the receipt of trust income and income for federal tax purposes causes the trust to fail to function exclusively as a charitable remainder trust. Therefore, the IRS and Treasury request comments on drafting future guidance on this issue. Revenue Procedure 97–23, to be published on April 28, 1997, in Internal Revenue Bulletin 1997–17, provides that the IRS will not issue letter rulings on whether a trust that will calculate the unitrust amount under section 664(d)(3) qualifies as a section 664 charitable remainder trust when a grantor, a trustee, a beneficiary, or a person related or subordinate to a grantor, a trustee, or a beneficiary can control the timing of the trust's receipt of trust income from a partnership or a deferred annuity contract to take advantage of the difference between trust income under section 643(b) and income for federal income tax purposes for the benefit of the unitrust recipient.

Special Analyses

It has been determined that this notice of proposed rulemaking is not a significant regulatory action as defined in EO 12866. Therefore, a regulatory assessment is not required. It is hereby certified that these regulations do not have a significant economic impact on a substantial number of small entities. This certification is based upon the fact that the recordkeeping requirement in these regulations does not affect small entities. Therefore, a Regulatory Flexibility Analysis under the Regulatory Flexibility Act (5 U.S.C. chapter 6) is not required. Pursuant to section 7805(f) of the Internal Revenue Code, this notice of proposed rulemaking will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Comments and Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any comments that are submitted timely to the IRS. All comments will be available for public inspection and copying.

A public hearing has been scheduled for September 9, 1997, at 10 a.m. in the IRS Auditorium, Internal Revenue Building, 1111 Constitution Ave, NW., Washington DC. Because of access restrictions, visitors will not be admitted beyond the Internal Revenue Building lobby more than 15 minutes before the hearing starts.

The rules of 26 CFR 601.601(a)(3) apply to the hearing.

Persons who wish to present oral comments at the hearing must submit comments by August 19, 1997, and submit an outline of the topics to be discussed and the time to be devoted to each topic by August 19, 1997.

A period of 10 minutes will be allotted to each person for making comments.

An agenda showing the scheduling of the speakers will be prepared after the deadline for receiving outlines has passed. Copies of the agenda will be available free of charge at the hearing.

Drafting Information: The principal authors of these proposed regulations are Mary Beth Collins and Jeffrey A. Erickson, Office of the Assistant Chief Counsel (Passthroughs and Special Industries), IRS. However, personnel from other offices of the IRS and Treasury Department participated in their development.

List of Subjects

26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

26 CFR Part 25

Gift taxes, Reporting and recordkeeping requirements.

Proposed Amendments to the Regulations

Accordingly, 26 CFR parts 1 and 25 are proposed to be amended as follows:

PART 1—INCOME TAXES

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

Authority: 26 U.S.C. 7805 * * *

Par. 2. In § 1.664–1, paragraphs (a)(7), (d)(1)(iii), and (f)(4) are added to read as follows (paragraph (f)(4) follows the concluding text of paragraph (f)(3)):

§ 1.664–1 Charitable remainder trusts.

(a) * * *

(7) *Valuation of unmarketable assets.* If a trust has assets that are not cash, cash equivalents, or marketable securities (within the meaning of section 731(c) and the applicable regulations) and the trustee is the grantor of the charitable remainder trust, a noncharitable beneficiary, or a related or subordinate party to the grantor or noncharitable beneficiary within the meaning of section 672(c) and the applicable regulations, the trustee must use a current qualified appraisal, as defined in § 1.170A–13(c)(3), from a qualified appraiser, as defined in § 1.170A–13(c)(5), to value those assets. A trustee who is not the grantor of the charitable remainder trust, a noncharitable beneficiary, or a related or subordinate party to the grantor or noncharitable beneficiary does not have to use a current qualified appraisal from a qualified appraiser to value the trust's assets.

* * * * *

(d) * * *

(1) * * *

(iii) *Example.* The following example illustrates the application of this paragraph (d)(1):

Example. (i) *X* is a charitable remainder unitrust described in sections 664(d)(2) and (3). The annual unitrust amount is the lesser of the amount of trust income, as defined in § 1.664–3(a)(1)(i)(*b*)(*3*), or six percent of the net fair market value of the trust assets valued annually. The net fair market value of the trust assets on the valuation date in 1996 is $150,000. During 1996, *X* has $7,500 of income after allocating all expenses. All of *X*'s income for 1996 is tax-exempt income. At the end of 1996, *X*'s ordinary income for the current taxable year and undistributed

ordinary income for prior years are both zero; *X*'s capital gain for the current taxable year is zero and undistributed capital gain for prior years is $30,000; and *X*'s tax-exempt income for the current year is $7,500 and undistributed tax-exempt income for prior years is $2,500.

(ii) Because the trust income of $7,500 is less than the fixed percentage amount of $9,000, the unitrust amount for 1996 is $7,500. The character of that amount in the hands of the recipient of the unitrust amount is determined under section 664(b). Because the unitrust amount is less than *X*'s undistributed capital gain income, the recipient of the unitrust amount treats the distribution of $7,500 as capital gain. At the beginning of 1997, *X*'s undistributed capital gain for prior years is reduced to $22,500, and *X*'s undistributed tax-exempt income is increased to $10,000.

* * * * *

(f) * * *

(4) *Valuation of unmarketable assets.* The rules contained in paragraph (a)(7) of this section are effective for trusts created on or after the date the final regulations are published in the **Federal Register**. A trust whose governing instrument requires that an independent trustee value the trust's unmarketable assets may be amended or reformed to permit any trustee to value those assets if the trustee uses a current qualified appraisal, as defined in § 1.170A–13(c)(3), from a qualified appraiser, as defined in § 1.170A–13(c)(5), in the taxable years beginning on or after the date the final regulations are published in the **Federal Register**.

* * * * *

Par. 3. In § 1.664–2, paragraph (a)(1)(i) is revised to read as follows:

§ 1.664–2 Charitable remainder annuity trust.

(a) * * *

(1) * * * (i) *Payment of sum certain at least annually.* The governing instrument provides that the trust will pay a sum certain not less often than annually to a person or persons described in paragraph (a)(3) of this section for each taxable year of the period specified in paragraph (a)(5) of this section. The annuity amount must be paid to the recipient no later than the close of the taxable year for which the payment is due. The rules contained in this paragraph (a)(1)(i) are effective for taxable years ending after April 18, 1997.

* * * * *

Par. 4. Section 1.664–3 is amended as follows:

1. Paragraphs (a)(1)(i)(*a*), (a)(1)(i)(*b*)(*1*), and (a)(1)(i)(*b*)(*2*) are revised.

2. Paragraphs (a)(1)(i)(*b*)(*3*), (a)(1)(i)(*c*), (a)(1)(i)(*d*), (a)(1)(i)(*e*), and (a)(1)(i)(*f*) are added.

3. The third sentence of paragraph (a)(1)(iv) is revised.

4. Paragraph (a)(1)(vi) is added.

The added and revised provisions read as follows:

§ 1.664–3 Charitable remainder unitrust.

(a) * * *

(1) * * *

(i) * * * (*a*) *General rule.* The governing instrument provides that the trust will pay not less often than annually a fixed percentage of the net fair market value of the trust assets determined annually to a person or persons described in paragraph (a)(3) of this section for each taxable year of the period specified in paragraph (a)(5) of this section.

(*b*) * * *

(*1*) The amount of trust income for a taxable year to the extent that such amount is not more than the amount required to be distributed under paragraph (a)(1)(i)(*a*) of this section.

(*2*) An amount of trust income for a taxable year that is in excess of the amount required to be distributed under (a)(1)(i)(*a*) of this section for such year to the extent that (by reason of paragraph (a)(1)(i)(*b*)(*1*) of this section) the aggregate of the amounts paid in prior years was less than the aggregate of such required amounts.

(*3*) For this paragraph (a)(1)(i)(*b*), trust income means income as defined under section 643(b) and the applicable regulations. Proceeds from the sale or exchange of any assets contributed to the trust by the donor must be allocated to principal and not to trust income at least to the extent of the fair market value of those assets on the date of contribution.

(*c*) *Combination of methods.* Instead of the amount described in paragraph (a)(1)(i) (*a*) or (*b*) of this section, the governing instrument may provide that the trust will pay the amount described in paragraph (a)(1)(i)(*b*) of this section for an initial period and then pay the amount described in paragraph (a)(1)(i)(*a*) of this section (calculated using the same fixed percentage) for the remaining years of the trust if—

(*1*) At least 90 percent of the fair market value of the assets held in the trust immediately after either the initial contribution or any subsequent contribution (prior to the change in methods) to the trust consists of unmarketable assets;

(*2*) The governing instrument provides that the change of method described in this paragraph (a)(1)(i)(*c*) will be triggered by the earlier of—

(*i*) The sale or exchange of a specified asset or group of assets that was contributed to the trust on its creation; or

(*ii*) The sale or exchange of unmarketable assets if immediately following the sale or exchange, the fair market value of any remaining unmarketable assets total 50 percent or less of the total fair market value of the trust's assets. For making this determination, the remaining unmarketable assets must be valued as of the most recent valuation date;

(*3*) The change of method described in this paragraph (a)(1)(i)(*c*) takes effect at the beginning of the first taxable year following the year in which the earlier of paragraph (a)(1)(i)(*c*)(*2*) (*i*) or (*ii*) of this section occurs; and

(*4*) Following the trust's conversion to the method described in paragraph (a)(1)(i)(*a*) of this section, the trust will pay at least annually to the permissible recipients the amount described only in paragraph (a)(1)(i)(*a*) of this section and not any amount described in paragraph (a)(1)(i)(*b*) of this section.

(*5*) For this paragraph (a)(1)(i)(*c*), unmarketable assets are assets that are not cash, cash equivalents, or marketable securities as defined in section 731(c) and the applicable regulations.

(*d*) *Example.* The following example illustrates the rules in paragraph (a)(1)(i)(*c*) of this section:

Example. (i) On the creation of charitable remainder unitrust *Y*, *S* contributes four assets—*A*, *B*, *C*, and *D*. *A* is a marketable security under section 731(c) and the applicable regulations. *B*, *C*, and *D* are unmarketable assets. The fair market value of *B*, *C*, and *D* is at least 90 percent of the fair market value of all four assets at the time of contribution.

(ii) The governing instrument of *Y* provides for calculating the unitrust amount under the combination of methods described in paragraph (a)(1)(i)(*c*) of this section. The initial method for calculating the unitrust amount is the lesser of the amount of trust income, as defined in paragraph (a)(1)(i)(*b*)(*3*) of this section, or six percent of the net fair market value of the trust assets valued annually. The unitrust amount also includes any amount of trust income for any taxable year that exceeds six percent of the net fair market value of the trust's assets valued annually to the extent the total of the amounts paid in prior years was less than the total of the amounts computed as six percent of the net fair market value of *Y*'s assets on the valuation dates. After the change in method, the unitrust amount will equal six percent of the net fair market value of *Y*'s assets on the valuation dates.

(iii) The governing instrument provides that the change in method will occur for the first taxable year beginning after both *B* and *C* are sold or the year in which the trust has sold or exchanged enough unmarketable assets so that the remaining unmarketable assets total 50 percent or less of the fair market value of the trust's assets, whichever occurs first.

(iv) In Year 3, the trustee of *Y* sells *B*, one of the three unmarketable assets. After the sale of *B*, the fair market value of all of *Y*'s unmarketable assets is greater than 50 percent of the fair market value of *Y*'s assets. Therefore, in Year 3, the method used to calculate the unitrust amount remains the initial method.

(v) In Year 4, the trustee sells *D*. After the sale of both *B* and *D*, the fair market value of *Y*'s unmarketable assets is 50 percent or less of the fair market value of *Y*'s assets. In Year 4, however, the method used to calculate the unitrust amount remains the initial method.

(vi) In Year 5 and for all subsequent years, the trust must pay a unitrust amount equal only to six percent of the net fair market value of *Y*'s assets determined annually. The change in method occurs in Year 5 because the fair market value of *Y*'s unmarketable assets totaled 50 percent or less of the fair market value of *Y*'s assets after the sale of both *B* and *D*. The change in method occurs even though *Y* still owns *C*, the other unmarketable asset specified in the governing instrument.

(vii) By the end of Year 4, *Y*'s total trust income had been less than the sum of the unitrust amounts based on six percent of the net fair market value of *Y*'s assets determined annually, leaving a balance of $1,000. The $1,000 balance can never be distributed to the unitrust recipient after the change to the fixed percentage method.

(*e*) *Payment under general rule.* When the unitrust amount is computed under paragraph (a)(1)(i)(*a*) of this section, the unitrust amount must be paid to the recipient no later than the close of the taxable year of the trust for which the payment is due.

(*f*) *Payment under income exception.* When the unitrust amount is computed under paragraph (a)(1)(i)(*b*) of this section, the unitrust amount may be paid to the recipient after the close of the taxable year of the trust for which the payment is due if paid within a reasonable time after the close of such taxable year. The trust will not be deemed to have engaged in an act of self-dealing (within the meaning of section 4941), to have unrelated debt-financed income (within the meaning of section 514), to have received an additional contribution (within the meaning of paragraph (b) of this section), or to have failed to function exclusively as a charitable remainder trust (within the meaning of paragraph (a)(4) of this section) merely because payment of the unitrust amount is made after the close of the taxable year if such payment is made within a reasonable time after the close of such taxable year. For this paragraph (a)(1)(i)(*f*), a reasonable time will not ordinarily extend beyond the date by which the trustee is required to file Form 5227, Split-Interest Trust Information Return, (including extensions) for the taxable year.

* * * * *

(iv) * * * If the governing instrument does not specify the valuation date or dates, the trustee must select such date or dates and indicate the selection on the first return on Form 5227, Split-Interest Trust Information Return, that the trust must file. * * *

* * * * *

(vi) *Effective date and reformations.* (*a*) The rules in paragraph (a)(1)(i)(*a*) of this section are effective for taxable years ending after April 18, 1997.

(*b*) The rules in paragraphs (a)(1)(i) (*c*) and (*d*) of this section are effective for charitable remainder unitrusts created on or after the date the final regulations are published in the **Federal Register**. If a trust was created before the effective date of paragraph (a)(1)(i)(*c*) of this section and contains a provision allowing a change in calculating the unitrust method, the trust may be amended or reformed to comply with the provisions of paragraph (a)(1)(i)(*c*) of this section. If a trust is created after the effective date of paragraph (a)(1)(i)(*c*) of this section and contains a provision allowing a change in calculating the unitrust method that does not comply with the provisions of paragraph (a)(1)(i)(*c*) of this section, the trust will continue to qualify as a charitable remainder unitrust if it is amended or reformed to use the initial method for computing the unitrust amount throughout the term of the trust. A qualified charitable remainder unitrust created before or after the effective date of paragraph (a)(1)(i)(*c*) of this section will not continue to qualify as a charitable remainder unitrust if its governing instrument is amended or reformed to add a provision allowing a change in the method for calculating the unitrust amount.

(*c*) The rules in paragraphs (a)(1)(i)(*b*) (*1*), (*2*), and (*3*) of this section are effective for taxable years ending after April 18, 1997 and for sales or exchanges described in paragraph (a)(1)(i)(*b*)(*3*) of this section that occur after April 18, 1997.

(*d*) The rules in paragraphs (a)(1)(i) (*e*) and (*f*) of this section are effective for taxable years ending after April 18, 1997.

* * * * *

PART 25—GIFT TAX; GIFTS MADE AFTER DECEMBER 31, 1954

Par. 5. The authority for part 25 continues to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

Par. 6. In § 25.2702–1, paragraph (c)(3) is revised to read as follows:

§ 25.2702–1 Special valuation rules in the case of transfers of interests in trust.

* * * * *

(c) * * *

(3) *Charitable remainder trust.* (i) For transfers made on or after May 19, 1997, a transfer to a pooled income fund described in section 642(c)(5); a transfer to a charitable remainder annuity trust described in section 664(d) (1); a transfer to a charitable remainder annuity trust described in section 664(d) (2) if under the terms of the governing instrument the unitrust amount is computed only under section 664(d)(2)(A); and a transfer to a charitable remainder unitrust described in sections 664(d) (2) and (3) if the only permitted recipients of the unitrust amount are the donor, the donor's spouse, or both the donor and the donor's spouse who is a citizen of the United States.

(ii) For transfers made before May 19, 1997, a transfer in trust if the remainder interest in the trust qualifies for a deduction under section 2522.

* * * * *

Margaret Milner Richardson,

Commissioner of Internal Revenue.

[FR Doc. 97–9810 Filed 4–17–97; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF LABOR

29 CFR Part 2570

RIN 1210–0056

Proposed Rule Relating to Adjustment of Civil Monetary Penalties

AGENCY: Pension and Welfare Benefits Administration, Department of Labor.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains a proposed rule that would adjust the civil monetary penalties under Title I of the Employee Retirement Income Security Act of 1974, as amended (ERISA), pursuant to the requirements of the Federal Civil Penalties Inflation Adjustment Act of 1990 (the 1990 Act), Public Law 101–410, 104 Stat. 890, as amended by the Debt Collection Improvement Act of 1996 (the Act), Public Law 104–134, 110 Stat. 1321–373. The Act amended the 1990 Act to require generally the adjustment of civil monetary penalties for inflation no later than 180 days after enactment of the Act, and at least once every four years thereafter, in accordance with guidelines specified in the 1990 Act, as amended.

DATES: Written comments concerning the proposed rule must be received by May 19, 1997.

ADDRESSES: Interested persons are invited to submit written comments concerning the proposed rule to: Pension and Welfare Benefits Administration, Room N–5669, U.S. Department of Labor, 200 Construction Ave., NW., Washington, DC 20210. Attention: Proposed CMP Adjustment Rule. Written comments may also be sent by the Internet to the following address: cmpad@jpwba.dol.gov.

FOR FURTHER INFORMATION CONTACT: Rudy Nuissl, Office of Regulations and Interpretations, Pension and Welfare Benefits Administration, (202) 219–7461. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: Section 3720E of the Act amended section 4 of the 1990 Act to require, with certain exceptions, that, by a regulation published in the **Federal Register**, each civil monetary penalty (CMP) be adjusted in accordance with guidelines specified in the amendment. The Act specifies that any such increase in a CMP shall apply only to violations which occur after the date the increase takes effect.

The term ''civil monetary penalty'' is defined in the 1990 Act to mean any penalty, fine or other sanction that—

A. (i) Is for a specific monetary amount as provided by federal law; and

(ii) Has a maximum amount provided for by federal law; and

B. Is assessed or enforced by an agency pursuant to federal law; and

C. Is assessed or enforced pursuant to an administrative proceeding or a civil action in the federal courts.

Only CMPs that are specified by statute or regulation in dollar amounts are adjusted under the 1990 Act, as amended. CMPs that are specified as percentages are not adjusted. The statutory citations for each of the CMPs under Title I of ERISA that would be adjusted by the proposed rule contained in this Notice are set forth in columns (A) and (B) of Table A. Column (C) briefly describes the nature of the violations associated with these citations. Column (D) of Table A indicates the dollar amount of each CMP to be adjusted, and Column (E) sets forth the year that each penalty was established by law or last adjusted. Columns (F), (G), and (H), (I), and (J) contain the intermediate results of applying the series of steps mandated by the 1990 Act, as amended. Reference should be made to Column (K) of Table A to determine the dollar amounts of the final penalty adjustments that would be effected by the proposed rule contained in this Notice pursuant to the requirements of the 1990 Act, as amended.

TABLE A.—INFLATION ADJUSTMENT OF CIVIL MONETARY PENALTIES UNDER TITLE I OF ERISA

U.S. Code citation (A)	ERISA Title I section (B)	Nature of violation (C)	Penalty amount to be adjusted (D)	Year penalty last set or adjusted (E)	CLA factor= 456.7/ CPI below (F)	Penalty after raw adjustment= col D × 456.7/col F (G)	Unrounded penalty increase= col G-col D (H)	Rounded penalty increase (I)	Uncapped maximum penalty= col D +col I (J)	Caped penalty= min(col J, 1.1 × col D) (K)
29 USC 1059(b)	209(b)	Failure to furnish or maintain records.	$10 per employee	1974	146.9	$31.09	$21.09	$20	$30	$11 per employee.
29 USC 1132(c)(1)(A)	502(c)(1)(A)	Failure to notify plan participants of group health benefits under COBRA.	Up to $100 a day	1986	327.9	139.28	39.28	40	140	Up to $110 a day.
		Failure to notify participants and beneficiaries re: asset transfer.	Up to $100 a day	1990	389.1	117.37	17.37	20	120	Up to $110 a day.
29 USC 1132(c)(1)(B)	502(c)(1)(B)	Refusal to provide required info in timely manner.	Up to $100 a day	1974	146.9	310.89	210.89	210	310	Up to $110 a day.
29 USC 1132(c)(2)	502(c)(2)	Failure or refusal to file an annual report.	Up to $1,000 a day	1987	340.1	1,342.84	342.84	300	1,300	Up to $1,100 a day.
29 USC 1132(c)(3)	502(c)(3)	Failure to notify participants and beneficiaries re: failure to meet minimum funding requirements.	Up to $100 a day	1989	371.7	122.87	22.87	20	120	Up to $110 a day.
		Failure to notify certain persons re: transfer of excess pension assets to health account.	Up to $100 a day	1990	389.1	117.37	17.37	20	120	Up to $110 a day.

Specifically, the 1990 Act, as amended, provides that the required inflation adjustment shall be determined by increasing the maximum CMP amount or the range of maximum and minimum CMP amounts, as applicable, for each CMP by a cost-of-living adjustment (CLA). The term ''cost-of-living adjustment'' is defined in the Act as the percentage for each CMP by which the Consumer Price Index (CPI) for the month of June of the calendar year preceding the adjustment exceeds the CPI for the month of June of the calendar year in which the amount of such CMP was last set or adjusted by law. The term ''Consumer Price Index'' is defined in the 1990 Act, as amended, to mean the Consumer Price Index for All-Urban Consumers published by the U.S. Department of Labor.

Accordingly, to calculate the CLA it is necessary to divide the CPI for June of the calendar year preceding the adjustment by the CPI for June of the calendar year in which the CMP was last set by law or adjusted for inflation. (See Column (F) of Table A). In order to calculate the raw inflation adjustment, it is necessary to multiply the original penalty amount by the relevant CLA. (See Column (G) of Table A). The subtraction of the original CMP amount from this product yields the unrounded penalty increase (See Column (H) of Table A).

Section 5 of the 1990 Act, as amended, sets out the manner in which inflation adjustments must be rounded. Specifically, any increase in the maximum CMP or the range of maximum and minimum CMPs, as applicable, must be rounded to the nearest:

(1) Multiple of $10.00 in the case of penalties less than or equal to $100;

(2) Multiple of $100.00 in the case of penalties greater than $100 but less than or equal to $1000;

(3) Multiple of $1000 in the case of penalties greater than $1000 but less than or equal to $10,000;

(4) Multiple of $10,000 in the case of penalties greater than $100,000 but less than or equal to $200,000; or

(5) Multiple of $25,000 in the case of penalties greater than $200,000.

Once the penalty increase has been rounded in accordance with the procedures set forth in the 1990 Act, as amended (see Column (I) of Table A), the rounded increase must be added to the original penalty amount to determine the uncapped maximum penalty. (See Column (J) of Table A). The first adjustment of a CMP pursuant to the amendments effected by the Act, however, may not exceed 10% of the penalty being adjusted. The final adjusted penalty amounts listed in Column (K) of Table A reflect the application of this statutory cap.

Upon application of the CLA rules described above, the following CMPs under Title I of ERISA need to be adjusted.[1] (See Columns (A), (B), and (C) of Table A):

(1) The per capita CMP of $10.00 set by ERISA section 209(b) (29 U.S.C. 1059(b)) for a failure to furnish the employee benefit plan information or to maintain the plan records specified in ERISA section 209(a);

(2) The CMP of up to $100.00 a day (as determined in the discretion of a court) set by section 502(c)(1)(A) (29 U.S.C. 1132(c)(1)(A) for a failure or refusal by a plan administrator to meet the requirements of ERISA section 101(e)(1) (concerning notice with regard to a transfer of excess pension assets) or ERISA section 606(4) (concerning notice with regard to the occurrence of qualifying events), or to comply with a request for information which such administrator is required by Title I of ERISA to furnish to a participant or beneficiary;

(3) The CMP of up to $100.00 a day (as determined in the discretion of a court) set by ERISA section 502(c)(1)(B) for a failure or refusal to comply with a request for information which a plan administrator is required by Title I of ERISA to furnish to a participant or beneficiary;

(4) The CMP of up to $1,000.00 a day set by ERISA section 502(c)(2) for the failure on the part of a plan administrator to file the annual report required to be filed under ERISA section 101(b)(4);

(5) The CMP of up to $100.00 a day (as determined in the discretion of a court) set by ERISA section 502(c)(3) for the failure on the part of an employer to meet the requirements of ERISA section 101(d) (concerning provision of notice to participants and beneficiaries for failure to meet the minimum funding requirements) or ERISA section 101(e)(2) (concerning provision of notice regarding transfers of excess pension assets).

In view of the foregoing, the proposed rule contained in this document would amend Part 2570 (''Procedural Regulations Under the Employee Retirement Income Security Act'') of Title 29 of the Code of Federal Regulations (CFR) by adding a new ''Subpart E—Adjustment of Civil Penalties Under ERISA Title I.'' New Subpart E contains five new regulations effecting the adjustment for inflation of the civil monetary penalties discussed above.

Executive Order 12866

The Department has determined that this regulatory action is not a ''significant rule'' within the meaning of Executive Order 12866 concerning federal regulations, because it is not likely to result in: (1) an annual effect on the economy of $100 million or more, or an adverse and material effect on a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local or tribal governments or communities; (2) the creation of a serious inconsistency or interference with an action taken or planned by another agency; (3) a material alteration in the budgetary impacts of entitlement, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) the raising of novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in Executive Order 12866.

Regulatory Flexibility Act

The Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, requires each Federal agency to perform an initial regulatory flexibility analysis for all proposed rules unless the head of the agency certifies that the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities. Small entities include small businesses, organizations, and governmental jurisdictions. Because this proposed regulation does no more than mechanically increase certain statutory CMPs to account for inflation, pursuant to specific directions set forth in the 1990 Act, as amended by the Act, the proposed regulation has no impact, independent of the specific statutory requirements, on small entities. The statute specifies the procedure for calculating the adjusted CMP and does not allow the Department to vary the calculation to minimize the effect on small entities. As a result, the undersigned hereby certifies that the rule, if promulgated as proposed, will not have a significant effect on a substantial number of small entities.

Nevertheless, the Department provides the following information concerning the potential effect of the increased penalties on small entities. No small governmental jurisdictions will be affected by this regulation because governmental plans are not covered by Title I of ERISA. Each CMP is discussed in more detail as follows:

ERISA section 209(b)

The CMP provided in ERISA section 209(b), 29 U.S.C. 1059(b) is payable to the Secretary. It applies to employers who maintain ERISA covered pension plans (except those described at ERISA sections 201(2)–(7), 29 U.S.C. 1051(2)–(7)) and who fail to furnish information or maintain records described in section 209(a) unless such failure is due to reasonable cause. Of the approximately 506,000 employers who file reports indicating that they maintain ERISA-covered pension plans, 465,000 employers file report forms indicating that the plans they maintain have less than 100 participants. The data available to the Department does not indicate the number of employers who fail to comply with the requirements of ERISA section 209(a). The Department has to date chosen to pursue voluntary compliance to achieve correction of deficiencies with regard to those requirements, rather than assessing penalties under section 209(b).

ERISA section 502(c)(1)

The CMP provided in ERISA section 502(c)(1) applies to three different situations. Section 502(c)(1)(A), 29 U.S.C. 1132(c)(1)(A), refers to administrators of group health plans sponsored by employers with 20 or more employees if the administrator fails to provide notices to participants and beneficiaries required under ERISA section 606(1) and (4), 29 U.S.C. 1166(1) and (4). Because most group health plans are not required to file annual reports, the data available to the

[1] The civil penalty set forth in ERISA section 502(c)(4) for a failure to provide the information specified in ERISA section 101(f), relating to Medicare and Medicaid coverage data bank requirements, is not being implemented or enforced. See H.R. Conf. Rep. No. 103–733, 103rd Cong. 2nd Sess., at 22 (1994).

Department does not indicate the number of group health plans covered by the requirements of sections 606(1) and (4). Nor does the data available to the Department indicate the number of administrators that are small entities and the number of such administrators who fail to comply with the requirements of sections 606(1) and (4).

Section 502(c)(1)(A) also refers to administrators of defined benefit pension plans who violate ERISA section 101(e)(1) by failing to provide a notice to plan participants and beneficiaries at least 60 days in advance of a qualified transfer of excess plan assets to a health benefits account. Although the Department is unable to estimate the number of administrators that administer such plans or the number which are small entities, the Department estimates that approximately 63,000 employers file annual reports indicating that they maintain defined benefit plans. The Department is unable to estimate the number of employers who maintain such plans but fail to file annual reports. The notices to which the CMP applies concern only those administrators of such plans who fail to meet the notice requirements of ERISA section 101(e)(1).

Section 502(c)(1)(B), 29 U.S.C. 1132(c)(1)(B), refers to administrators of employee benefit plans covered by ERISA who fail to comply with a request (within 30 days) for information which the administrator is required, under Title I of ERISA, to provide to a participant or beneficiary, unless the failure results from matters beyond the control of the administrator.

The CMP amount provided under ERISA Section 502(c)(1) is a maximum penalty amount. It is assessed by the courts in private lawsuits. The courts are free to, and often do, impose less than the maximum amount based on factors such as the degree of prejudice to the affected participant caused by the administrator's violation. Research of court opinions indicates that Federal courts imposed, or indicated some likelihood of imposing, a CMP under § 502(c)(1) in approximately 100 cases since 1978. None of such cases concerned a failure to comply with ERISA section 101(e)(1). The available data with respect to these cases does not indicate how many involved imposition of a CMP on a small entity.

ERISA § 502(c)(2)

The CMP provided in ERISA section 502(c)(2), 29 U.S.C. 1132(c)(2), applies to administrators of employee benefit plans covered by ERISA who fail to file annual reports with the Secretary as required under ERISA section 101(b)(4), 29 U.S.C. 1021(b)(4), unless exempted under the Department's regulations. Annual reports are filed by approximately 970,000 employee benefit plans. Over the past six years, the Department has collected CMPs totalling $56,390,000 under this section from 31,030 plan administrators. Approximately $16,000,000 of such CMPs were collected from 1,600 administrators of small plans (plans having less than 100 participants.

The CMP provided in ERISA section 502(c)(2) is a maximum penalty of $1000 per day. Under the Department's current practice, the Department has not assessed a penalty of more than $300 per day and does not intend to change this practice as a result of promulgating this proposed regulation. In addition, all but approximately $5 million in CMPs collected thus far have been collected under either the temporary grace period program which ended in 1992 or under the Department's Delinquent Filer Voluntary Compliance Program established in 1995 (60 FR 20874, Apr. 27, 1995). Under the DFVC program, the Department assesses much lower CMPs on administrators who voluntarily correct their noncompliance before the Department notifies them of such noncompliance. The same was true during the temporary grace period.

502(c)(3)

The CMP provided in ERISA section 502(c)(3) applies to employers maintaining a defined benefit plan (other than a multiemployer plan) who failed to comply with the notice requirements of ERISA sections 101(d) or (e)(2), 29 U.S.C. 1021(d) or (e)(2). The Department estimates that approximately 63,000 employers file annual reports indicating that they maintain such plans. The Department is unable to estimate the number of employers who maintain such plans but fail to file annual reports. The notices to which the CMP applies concern only those covered plans that fail to meet the minimum funding standard under ERISA section 302, 29 U.S.C. 1082, and those that fail to meet the notice requirements of ERISA section 101(e)(2) in connection with a qualified transfer of excess plan benefits to a health benefits account. The data available to the Department does not indicate the number of employers or the number of small entities that fail to meet the notice requirements of sections 101(d) or (e)(2). To date, however, the Department has not sought to hold an employer liable for the CMP provided under section 502(c)(3). In certain instances, this CMP may also be applied by a court in a private lawsuit. Research of court opinions revealed no cases where an employer was held liable for a CMP under this section.

Paperwork Reduction Act

This proposed rule contains no information collection requirements which are subject to review and approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3500 *et seq.*).

Unfunded Mandates Reform Act

For purposes of Title II of the Unfunded Mandates Reform Act of 1995, 5 U.S.C. 1531–1538, as well as Executive Order 12875, this proposed rule does not contain any federal mandate that may result in increased expenditures in either Federal, State, local, and tribal governments in the aggregate, or impose an annual burden exceeding $100 million on the private sector.

Effective Date

Pursuant to the requirements of the Administrative Procedure Act at 5 U.S.C. 553(b), the Department is publishing this notice of proposed rulemaking for notice and comment and will promulgate this rule in final form subsequent to such comment period. The Department expects to issue a final rule 30 days following the close of the comment period. The final rule will be effective upon publication in the **Federal Register** and will apply only to violations occurring after the date of publication of the final rule in the **Federal Register.**

Congressional Review

The Department has determined that this proposed rule is not a ''major rule'' as that term in defined in 5 U.S.C. 804, because it is not likely to result in (1) an annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumers, individual industries, federal, State or local government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of the United States-based enterprises to compete with foreign-based enterprises in domestic and export markets.

Statutory Authority

This proposed regulation would be adopted pursuant to authority contained in section 4 of the Federal Civil Penalties Adjustment Act of 1990, Public Law 101–410, 104 Stat. 890, 28 U.S.C. 2461 note, as amended by the Debt Collection Improvement Act of

1996, Public Law 104–134, Title III, section 31001(s)(1), 110 Stat. 1321–373, and contained in sections 209(b), 502(c)(1) and 505 of ERISA, 29 U.S.C. 1059(b), 1132(c)(1) and 1135.

List of Subjects in CFR Part 2570

Administrative practice and procedure, Employee benefit plans, Employee Retirement Income Security Act, Pensions, Pension and Welfare Benefits Administration.

Proposed rule

In view of the foregoing, Part 2570 of Chapter XXV of Title 29 of the Code of Federal Regulations is proposed to be amended as follows:

PART 2570—PROCEDURAL REGULATIONS UNDER THE EMPLOYEE RETIREMENT INCOME SECURITY ACT

1. The authority citation for Part 2570 is revised to read as set forth below:

Authority: (5 U.S.C. 8477(c)(3);) 29 U.S.C. 1108, 1135; Reorganization Plan No. 4 of 1978; Secretary of Labor Order No. 1–87.

Subpart A is also issued under 29 U.S.C. 1132(c)(1).

Subpart E is also issued under sec. 4, Pub. L. 101–410, 104 Stat. 890, (28 U.S.C. 2461 note), as amended by sec. 31001(s)(1), Pub. L. 104–134, 110 Stat. 1321–373.

2. Part 2570 is amended by adding a new Subpart E in the appropriate place to read as follows:

PART 2570—PROCEDURAL REGULATIONS UNDER THE EMPLOYEE RETIREMENT INCOME SECURITY ACT

* * * * *

Subpart E—Adjustment of Civil Penalties Under ERISA Title I

§ 2570.100 In general.
§ 2570.209b–1 Adjusted civil penalty under section 209(b).
§ 2570.502c–1 Adjusted civil penalty under section 502(c)(1).
§ 2570.502c–2 Adjusted civil penalty under section 502(c)(2).
§ 2570.502c–3 Adjusted civil penalty under section 502(c)(3).

* * * * *

Subpart E—Adjustment of Civil Penalties Under ERISA Title I

§ 2570.100 In general.

Section 3720E of the Debt Collection Improvement Act of 1996 (the Act, Pub. L. 104–134) amended the Federal Civil Penalties Inflation Adjustment Act of 1990 (the 1990 Act, Pub. L. 101–410) to require generally that the head of each federal agency adjust the civil monetary penalties subject to its jurisdiction for inflation within 180 days after enactment of the Act and at least once every four years thereafter.

§ 2570.209b–1 Adjusted civil penalty under section 209(b).

In accordance with the requirements of the 1990 Act, as amended, the amount of the civil monetary penalty established by section 209(b) of the Employee Retirement Income Security Act of 1974, as amended (ERISA), is hereby increased from $10 for each employee to $11 for each employee. This adjusted penalty applies only to violations occurring after [insert date of publication of the final rule in the Federal Register].

§ 2570.502c–1 Adjusted civil penalty under section 501(c)(1).

In accordance with the requirements of the 1990 Act, as amended, the maximum amount of the civil monetary penalty established by section 502(c)(1) of the Employee Retirement Income Security Act of 1974, as amended (ERISA), is hereby increased from $100 a day to $110 a day. This adjusted penalty applies only to violations occurring after [insert day of publication of the final rule in the Federal Register].

§ 2570.502c–2 Adjusted civil penalty under section 502(c)(2).

In accordance with the requirements of the 1990 Act, as amended, the maximum amount of the civil monetary penalty established by section 502(c)(2) of the Employee Retirement Income Security Act of 1974, as amended (ERISA), is hereby increased from $1000 a day to $1100 a day. This adjusted penalty applies only to violations occurring after [insert date of publication of the final rule in the Federal Register].

§ 2570.502c–3 Adjusted civil penalty under section 502(c)(3).

In accordance with the requirements of the 1990 Act, as amended, the maximum amount of the civil monetary penalty established by section 502(c)(3) of the Employee Retirement Income Security Act of 1974, as amended (ERISA), is hereby increased from $100 a day to $110 a day. This adjusted penalty applies only to violations occurring after [insert date of publication of the final rule in the Federal Register].

Signed at Washington, DC this 11th day of April, 1997.

Olena Berg,

Assistant Secretary, Pension and Welfare Benefits Administration, U.S. Department of Labor.

[FR Doc. 97–10078 Filed 4–17–97; 8:45 am]

BILLING CODE 4510–29–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD09–97–008]

RIN–2115–AE47

Drawbridge Operation Regulations; Grand River, MI

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to revise the operating hours of the U.S. Route 31 highway bridge at mile 2.9 over the Grand River in Grand Haven, MI. The proposed changes would reduce the number of bridge openings for recreational vessels to relieve vehicular traffic congestion and would reduce the notice requirements for draw openings during the winter months.

The Coast Guard requests comments on the proposed revisions.

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

ADDRESSES: Comments may be mailed or delivered to: Commander (obr), Ninth Coast Guard District, 1240 East Ninth Street, Room 2019, Cleveland, OH 44199–2060 between 6:30 a.m. and 3:00 p.m., Monday through Friday, except federal holidays.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Bloom, Chief, Bridge Branch at (216) 902–6084.

SUPPLEMENTARY INFORMATION:

Drafting Information: The principal persons involved in drafting this document are Mr. Scot Striffler, Project Manager, and Lieutenant Commander Kent Booher, Project Counsel, Ninth Coast Guard District.

Requests for Comments

The Coast Guard encourages interested persons to submit written data, or arguments for or against this rule. Persons submitting comments should include their name, address, identify this rulemaking (CGD09–97–008), the specific section of this rule to which each comment applies, and the reason(s) for each comment. The Coast Guard requests that all comments and attachments be submitted in an 8½ × 11″ unbound format suitable for copying and electronic filing. If that is not practical, a second copy of any bound material is requested. Persons wanting acknowledgement of receipt of comments should enclose a stamped self-addressed post card or envelope. Persons may submit comment by writing to the Commander (obr), Ninth

Coast Guard District listed under **ADDRESSES**.

Background and Purpose

In July, 1996, the city of Grand Haven, MI, requested the Coast Guard approve a temporary deviation to the regulations which govern the U.S. Route 31 highway bridge at mile 2.9 over the Grand River in Grand Haven, MI. The bridge presently opens on signal from 3 minutes before to 3 minutes after the hour and half hour between 6:03 a.m. and 9:03 p.m. The city sought to reduce bridge openings to relieve vehicular traffic congestion and still provide for the needs of navigation, particularly during rush-hour times. A trial schedule was devised and the temporary deviation was published in September, 1996. Under this schedule, the bridge was required to open on signal for recreational vessels, from 6 a.m. to 9 p.m., once an hour from 3 minutes before to 3 minutes after the half-hour; except the bridge was not required to open for the passage of recreational traffic at 7:30 a.m., 12:30 p.m., 4:30 p.m., or 5:30 p.m.

The Coast Guard received five letters with comments from the public in response. All comments were from recreational vessel operators, or their representatives, who opposed the revised schedule. The primary exception to the revised schedule involved the ''blackout'' periods during afternoon rush-hour when the bridge was not required to open for vessel traffic. Specifically, the 5:30 p.m. blackout time on Wednesday interfered with the scheduled activities of vessel operators.

The City of Grand Haven City Council conducted meetings on November 18, 1996, January 6, 1997, January 27, 1997, and February 10, 1997 to collect input from concerned parties and discuss alternatives to the temporary schedule used in 1996. Additionally, the cities of Ferrysburg and Spring Lake conducted similar public meetings to discuss the issue. As a result of these joint meetings, the three municipalities submitted a request to the Coast Guard on February 11, 1997 for a permanent change to the regulations and a new operating schedule.

The combined efforts of the three municipalities served on Grand River has resulted in a proposed bridge operating schedule that satisfies the needs and desires of recreational vessel operators on Grand River, relieves vehicular traffic congestion, and provides for the anticipated increase of commercial vessel traffic in the area.

From March 16 to December 14, the bridge will only be required to open for recreational vessel traffic once an hour, on the half-hour, 7 days a week, from 6:30 a.m. to 8:30 p.m., except the bridge need not open at 7:30 a.m., 12:30 p.m., and 5:30 p.m. on Mondays, Tuesdays, Thursdays, and Fridays. On Wednesdays, the bridge need not open at 7:30 a.m., 12:30 p.m., and 4:30 p.m. This schedule will apply to recreational vessel traffic only. The bridge will open on signal for commercial vessel traffic. Additionally, in anticipation of increased commercial vessel traffic in 1997, the Coast Guard will reduce the advance notice requirement, from 24 hours to 12 hours, for vessels requesting an opening of the draw between December 15 and March 15.

Regulatory Evaluation

This proposed rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has not been reviewed by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. This proposed rule was requested and drafted at the behest of three communities on Grand River and only after the aggressive solicitation of input from recreational and commercial entities in the area.

Small Entities

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

The concerns of boat operators, and the facilities that provide services to these marine users, have been conscientiously applied by the originators of this action. Furthermore, this proposed rule has been designed to balance the needs of the marine servicing industry as well as entities served along the highway route.

Therefore, the Coast Guard finds that this proposed rule will not have a significant economic impact on a substantial number of small entities. Any comments submitted in response to this finding will be evaluated under the criteria described earlier in the preamble for comments.

Collection of Information

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

Federalism

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

Environment

The Coast Guard considered the environmental impact of this rule and concluded that, under paragraph 2.B.2 of Commandant Instruction M16475.1B, (as revised by 59 FR 38654, July 29, 1994), this rule is categorically excluded from further environmental documentation. A ''Categorical Exclusion Determination'' is available in the docket for inspection or copying where indicated under **ADDRESSES**.

List of Subjects in 33 CFR Part 117

Bridges.

For reasons set out in the preamble, 33 CFR part 117 is proposed to be amended as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for Part 117 continues to read as follows.

Authority: 33 U.S.C. 499; 49 CFR 1.46; 33 CFR 1.05(g); section 117.255 also issued under the authority of Pub. L. 102–587, 106 Stat. 5039.

2. Section § 117.633 is amended by revising paragraphs (b) and (c) to read as follows:

§ 117.633 Grand River.

* * * * *

(b) The draw of the CSX Transportation Corp. railroad bridge, mile 2.8 at Grand Haven, shall open on signal; except that, from December 15 through March 15, the draw shall open on signal if at least 12 hours notice is given.

(c) The draw of the U.S. Route 31 bridge, mile 2.9 at Grand Haven, shall open on signal for pleasure craft—

(1) From March 16 through December 14, from 6:30 a.m. to 8:30 p.m., seven days a week, once an hour, on the half-hour; except the draw need not open for pleasure craft at 7:30 a.m., 12:30 p.m.,

and 5:30 p.m. on Monday, Tuesday, Thursday, and Friday, and at 7:30 a.m., 12:30 p.m., and 4:30 p.m. on Wednesday.

(2) From December 15 through March 15, if at least 12 hours notice is given.

* * * * *

Dated: April 9, 1997.

G. F. Woolever

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

[FR Doc. 97–9887 Filed 4–17–97; 8:45 am]

BILLING CODE 4910–14–M

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

36 CFR Parts 1190 and 1191

Accessibility Guidelines for Outdoor Developed Areas

AGENCY: Architectural and Transportation Barriers Compliance Board.

ACTION: Notice of intent to form a regulatory negotiation committee.

SUMMARY: The Architectural and Transportation Barriers Compliance Board (Access Board) proposes to establish a regulatory negotiation committee to develop a proposed rule on accessibility guidelines for newly constructed and altered outdoor developed areas covered by the Americans with Disabilities Act and the Architectural Barriers Act. The regulatory negotiation committee will be composed of organizations who represent the interests affected by the accessibility guidelines for outdoor developed areas. The Access Board invites comments on the proposal to establish the regulatory negotiation committee and the proposed committee membership.

DATES: Comments should be received by May 19, 1997.

ADDRESSES: Comments should be sent to the Office of Technical and Information Services, Architectural and Transportation Barriers Compliance Board, 1331 F Street, NW., suite 1000, Washington, DC 20004–1111. Fax number (202) 272–5447.

FOR FURTHER INFORMATION CONTACT: Peggy Greenwell, Office of Technical and Information Services, Architectural and Transportation Barriers Compliance Board, 1331 F Street, NW., suite 1000, Washington, DC 20004–1111. Telephone number (202) 272–5434 extension 34 (Voice); (202) 272–5449 (TTY). This document is available in alternate formats (cassette tape, Braille, large print, or computer disk) upon request. This document is also available on the Board's Internet site (http://www.accessboard.gov/notices/outdoor.htm).

SUPPLEMENTARY INFORMATION: The Architectural and Transportation Barriers Compliance Board (Access Board) is responsible for developing accessibility guidelines under the Americans with Disabilities Act and the Architectural Barriers Act to ensure that new construction and alterations of facilities covered by the laws are readily accessible to and usable by individuals with disabilities.[1]

In July 1993, the Access Board established a Recreation Access Advisory Committee to examine various types of recreation facilities and make recommendations for accessibility guidelines for the facilities. The Committee presented its recommendations to the Access Board in July 1994. The recommendations addressed six types of recreation facilities: sports facilities; places of amusement; play facilities; golf facilities; boating and fishing facilities; and outdoor developed areas. The Access Board published an advance notice of proposed rulemaking (ANPRM) in September 1994 inviting public comment on the Committee's recommendations. 59 FR 48542 (September 21, 1994). Comments received in response to the ANPRM generally supported the Committee's recommendations.

Based on the recommendations of the Recreation Access Advisory Committee and through comments received in response to the ANPRM, the Board has sufficient information to proceed with a proposed rule to address access to sports facilities; places of amusement; golf facilities; and boating and fishing facilities. However, the Board has identified two areas where there is a lack of consensus. These two areas are play facilities such as playgrounds and similar facilities found in schools and day care centers; and outdoor developed areas such as parks, trails, camping facilities, picnic areas, and beaches. The Board will use regulatory negotiation committees to reach consensus in both of these areas. In February 1996 the Board established a regulatory negotiation committee on access to play facilities. The Committee is expected to issue a report to the Board in July 1997.

The Board now is turning its attention to the remaining issues affecting outdoor developed areas. The Recreation Access Advisory Committee provided recommendations for accessibility requirements based upon the premise that there is a spectrum of recreation settings that occur in the outdoor environment. The recommendations identified four different environments that exist in outdoor areas. The areas include the highly developed or urban; the moderately developed or natural; the minimally developed or back-country; and the undeveloped or primitive area. To accommodate the highly, moderately, and minimally developed sites, three degrees of accessibility, (easier, moderate, and difficult) were recommended which correlate with the amount of site modification and development as well as the natural environment and rugged terrain. The Committee recommended that no requirements apply in the primitive environment.

Two alternatives were presented to determine the highest degree of accessibility. One alternative based the determination of highest degree of access on the consideration of five interrelated factors: recreation setting, condition of the natural environment, amount of structural modification, recreation experience, and consultation with people with disabilities. The other approach, defines the highest degree of access at the outset to be the easier degree for all recreation settings and environments unless it would change the fundamental nature of the activity or environment. Exceptions can then be invoked to modify the degree of access, on a requirement by requirement basis, because of severe elevations, geologic features, historic character, or the specific purpose of a trail. Documentation for the exception must include evidence that people with

[1] The Access Board is an independent Federal agency established by section 502 of the Rehabilitation Act (29 U.S.C. 792) whose primary mission is to promote accessibility for individuals with disabilities. The Access Board consists of 25 members. Thirteen are appointed by the President from among the public, a majority of who are required to be individuals with disabilities. The other twelve are heads of the following Federal agencies or their designees whose positions are Executive Level IV or above: The Departments of Health and Human Services, Education, Transportation, Housing and Urban Development, Labor, Interior, Defense, Justice, Veterans Affairs, and Commerce; General Services Administration; and the United States Postal Service.

The Americans with Disabilities Act (42 U.S.C. 12101 *et seq.*) is a comprehensive civil rights law which prohibits discrimination on the basis of disability and requires, among other things, that newly constructed and altered State and local government facilities, places of public accommodation, and commercial facilities be readily accessible to and usable by individuals with disabilities.

The Architectural Barriers Act (42 U.S.C. 4151 *et seq.*) requires that certain federally financed facilities be readily accessible to and usable by individuals with disabilities.

disabilities or their representatives were involved in the decision.

The Access Board proposes to establish a regulatory negotiation committee to reach consensus on the approach and to develop a proposed rule on accessibility guidelines for outdoor developed areas. Regulatory negotiation is a supplement to the traditional rulemaking process that allows for face-to-face negotiations among representatives of affected interests, including the agency, with a goal of arriving at a consensus decision on the text of a proposed rule. The proposed rule is then published in the **Federal Register** and the public has an opportunity to comment.

The interests likely to be significantly affected by accessibility guidelines for outdoor developed areas include State and local governments; individuals with disabilities; designers; conservation groups; trails groups; and private sector camping facilities. The Access Board proposes to appoint the following organizations to represent these interests on the regulatory negotiation committee:

American Association of Landscape Architects
American Trails
KOA (Kampgrounds of America), Inc.
National Association of State Park Directors
National Association of State Trail Administrators
National Center on Accessibility
National Council on Independent Living
National Parks and Conservation Association
National Recreation and Park Association
Paralyzed Veterans of America
Partners for Access to the Woods
Rails to Trails Conservancy
State of Washington, Interagency Committee for Outdoor Recreation
TASH (The Association of Severely Handicapped)
U.S. Architectural and Transportation Barriers Compliance Board
U.S. Army Corps of Engineers
U.S. Department of Agriculture, Forest Service
U.S. Department of the Interior, National Park Service
Whole Access

Comments are invited on the proposal to establish the regulatory negotiation committee and the proposed membership of the committee. Persons who will be significantly affected by the accessibility guidelines for outdoor developed areas and who believe that their interests will not be adequately represented by the above organizations may apply for, or nominate another organization for, membership on the regulatory negotiation committee. The Board especially encourages additional organizations representing individuals with disabilities to apply for membership on the committee.

Applications or nominations should include the following information: (i) The name of the applicant or nominee and the interest that the person proposes to represent; (ii) evidence that the applicant or nominee is authorized to represent an organization or other parties having interests similar to the interests the person proposes to represent; (iii) a written commitment that the applicant or nominee would participate in good faith; and (iv) the reasons that the organizations specified in this notice do not adequately represent the interests that applicant or nominee proposes to represent.

For regulatory negotiation to be effective, the size of the committee should be limited. Each person or organization affected by accessibility guidelines for outdoor developed areas need not have its own representative on the regulatory negotiation committee. Rather, each interest must be adequately represented and the membership must be fairly balanced. Meetings of the regulatory negotiation committee will be announced in the **Federal Register**. The meetings will be open to the public and anyone may attend the meetings and confer with or provide their views to members of the regulatory negotiation committee.

The Access Board has arranged for the Federal Mediation and Conciliation Service to provide facilitators for the regulatory negotiation committee. Staff support will be provided by the Access Board. Members of the regulatory negotiation committee will not be compensated for their service. The Access Board may pay travel expenses for a limited number of persons who would otherwise be unable to serve on the regulatory negotiation committee. Members of the regulatory negotiation committee will not be considered special government employees since they will serve as representatives of their organizations and will not be required to file confidential financial disclosure reports.

After reviewing the comments received in response to this notice, the Access Board will issue a notice in the **Federal Register** announcing the establishment of the regulatory negotiation committee and the committee membership, unless it is determined based on the comments that regulatory negotiation would be inappropriate.

The first meeting of the regulatory negotiation committee is tentatively scheduled for June 26–27, 1997 in Washington, DC. The Access Board expects that the regulatory negotiation committee will develop a proposed rule within 15 months of the first meeting.

However, if unforseen delays occur, the Chairman of the Access Board may agree to an extension of that time if a consensus of the regulatory negotiation committee believes that additional time will result in agreement.

After the regulatory negotiation committee develops a proposed rule on accessibility guidelines for outdoor developed areas, the Access Board will publish a notice of proposed rulemaking (NPRM) in the **Federal Register** inviting public comment.

Issued on April 15, 1997.

Patrick D. Cannon,

Chair, Architectural and Transportation Barriers Compliance Board.

[FR Doc. 97–10125 Filed 4–17–97; 8:45 am]

BILLING CODE 8150–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[PA–4055b; FRL–5810–1]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Approval of Source-Specific VOC and NO_X RACT Determinations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes to approve the State Implementation Plan (SIP) revision submitted by the Commonwealth of Pennsylvania for the purpose of establishing VOC and NO_X RACT for nine facilities. In the Final Rules section of this **Federal Register**, EPA is approving the State's SIP revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial SIP revision and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule and the accompanying Technical Support Document. If no adverse comments are received in response to this proposed rule, no further activity is contemplated in relation to this rule. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will

not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time.

DATES: Comments must be received in writing by May 19, 1997.

ADDRESSES: Written comments on this action should be addressed to David J. Campbell, Pennsylvania RACT Team Leader, Mailcode 3AT22, U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air, Radiation, and Toxics Division, U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107; and the Pennsylvania Department of Environmental Protection, Bureau of Air Quality, P.O. Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105.

FOR FURTHER INFORMATION CONTACT: Janice M. Lewis, (215) 566–2185, at EPA Region III or via e-mail at lewis-janice@epamail.epa.gov. While information may be requested via e-mail, comments must be submitted in writing to the above Region III address.

SUPPLEMENTARY INFORMATION: See the information, pertaining to this action (VOC and NOx RACT approval) affecting nine facilities in Pennsylvania, provided in the Direct Final action of the same title which is located in the Rules and Regulations Section of this **Federal Register**.

Authority: 42 U.S.C. 7401–7671q.

Dated: March 31, 1997.

W. Michael McCabe,

Regional Administrator, Region III.

[FR Doc. 97–9951 Filed 4–17–97; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[PA–4056b; FRL–5809–8]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Approval of Source-Specific VOC and NO_X RACT Determinations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes to approve the State Implementation Plan (SIP) revision submitted by the Commonwealth of Pennsylvania for the purpose of establishing volatile organic compounds (VOC) and nitrogen oxide (NO_X) reasonably available control technology (RACT) for four facilities. In the Final Rules section of this **Federal Register**, EPA is approving the State's SIP revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial SIP revision and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule and the accompanying Technical Support Document. If no adverse comments are received in response to this proposed rule, no further activity is contemplated in relation to this rule. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time.

DATES: Comments must be received in writing by May 19, 1997.

ADDRESSES: Written comments on this action should be addressed to David J. Campbell, Pennsylvania RACT Team Leader, Mailcode 3AT22, U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air, Radiation, and Toxics Division, U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107; and the Pennsylvania Department of Environmental Protection, Bureau of Air Quality, P.O. Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105.

FOR FURTHER INFORMATION CONTACT: Janice M. Lewis, (215) 566–2185, at EPA Region III or via e-mail at lewis-janice@epamail.epa.gov. While information may be requested via e-mail, comments must be submitted in writing to the above Region III address.

SUPPLEMENTARY INFORMATION: See the information pertaining to this action, VOC and NO_X RACT determinations affecting four facilities in Pennsylvania, provided in the Direct Final action of the same title which is located in the Rules and Regulations Section of this **Federal Register**.

Authority: 42 U.S.C. 7401–7671q.

Dated: March 31, 1997.

W. Michael McCabe,

Regional Administrator,Region III.

[FR Doc. 97–9955 Filed 4–17–97; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[PA069–4053b, PA096–4053b; FRL–5809–1]

Approval and Promulgation of Air Quality Implementation Plans; Commonwealth of Pennsylvania; Approval of Source-Specific RACT

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes to approve the State Implementation Plan (SIP) revisions submitted by the Commonwealth of Pennsylvania for the purpose of establishing reasonably available control technology (RACT) on three major sources. In the Final Rules section of this **Federal Register**, EPA is approving the State's SIP revisions as a direct final rule without prior proposal because the Agency views this as a noncontroversial SIP revision and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule and the technical support document. If no adverse comments are received in response to this proposed rule, no further activity is contemplated in relation to this rule. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time.

DATES: Comments must be received in writing by May 19, 1997.

ADDRESSES: Written comments on this action should be addressed to David L. Arnold, Chief, Ozone/CO & Mobile Sources Section, Mailcode 3AT21, U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air, Radiation, and Toxics Division, U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107; and Pennsylvania Department of Environmental Protection, Bureau of Air

Quality, P.O. Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105.

FOR FURTHER INFORMATION CONTACT: Jeffrey M. Boylan, (215) 566–2094, at the EPA Region III office or via e-mail at boylan.jeffrey@epamail.epa.gov.

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

List of Subjects in 40 CFR Part 52

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

Authority: 42 U.S.C. 7401–7671q.

Dated: April 1, 1997.

W. Michael McCabe,

Regional Administrator, Region III.

[FR Doc. 97–9953 Filed 4–17–97; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[IN45–3b; FRL–5698–6]

Approval and Promulgation of Implementation Plans; Indiana

AGENCY: Environmental Protection Agency (USEPA).

ACTION: Proposed rule.

SUMMARY: On September 20, 1996, Indiana submitted a request to incorporate revisions to the definitions of ''nonphotochemically reactive hydrocarbon'' and ''volatile organic compounds'' into the Indiana State Implementation Plan (SIP). In the final rules section of this **Federal Register**, the USEPA is approving these actions as a direct final rule without prior proposal because USEPA views this as a noncontroversial action and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to that direct final rule, no further activity is contemplated in relation to this proposed rule. If USEPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on the proposed rule. USEPA will not institute a second comment period on this action. Any parties interested in commenting on this notice should do so at this time.

DATES: Comments on this proposed rule must be received on or before May 19, 1997.

ADDRESSES: Written comments should be mailed to: J. Elmer Bortzer, Chief, Regulation Development Section, Air Programs Branch (AR18–J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604.

Copies of the State submittal and USEPA's analysis of it are available for inspection at: Regulation Development Section, Air Programs Branch (AR18–J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Randolph O. Cano, Regulation Development Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886–6036.

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

Dated: April 18, 1997.

David A. Ullrich,

Acting Regional Administrator.

[FR Doc. 97–10129 Filed 4–17–97; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 71

[FRL–5813–6]

RIN 2060–AG–90

Federal Operating Permits Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of cancellation of public hearing.

SUMMARY: On March 21, 1997 (62 FR 13748), EPA gave notice of the proposed Federal Operating Permits rule and of the opportunity for a public hearing to present oral testimony concerning the proposed rule. Because EPA received no requests for a public hearing, the public hearing scheduled for April 21, 1997 has been canceled.

DATES: Written comments on the proposed rule will continue to be accepted until May 5, 1997. Send the written comments to the address given below.

Public Hearing Cancellation: Notice is hereby given that the public hearing originally scheduled for April 21, 1997, has been canceled.

ADDRESSES: Comments should be mailed (in duplicate if possible) to: EPA Air Docket (Mail Code 6102), Attention: Docket No. A–93–51, Room M–1500, Waterside Mall, 401 M Street SW, Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Candace Carraway (telephone 919–541–3189), U.S. Environmental Protection Agency, Office of Air Quality Planning and Standards, Information Transfer and Program Integration Division, Mail Drop 12, Research Triangle Park, North Carolina 27711.

Dated: April 14, 1997.

Henry C. Thomas,

Acting Director, Office of Air Quality Planning and Standards.

[FR Doc. 97–10216 Filed 4–16–97; 12:52 pm]

BILLING CODE 6560–50–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 261

[SW–FRL–5813–2]

Hazardous Waste Management System; Identification and Listing of Hazardous Waste; Proposed Exclusion

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule and request for comment.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to grant a petition submitted by General Motors Corporation, Orion Assembly Center (GM) in Lake Orion, Michigan, to exclude (or ''delist'') certain solid wastes generated by its wastewater treatment plant from the lists of hazardous wastes contained in subpart D of part 261. This action responds to a ''delisting'' petition submitted under § 260.20, which allows any person to petition the Administrator to modify or revoke any provision of parts 260 through 266, 268 and 273, and under § 260.22, which specifically provides generators the opportunity to petition the Administrator to exclude a waste on a ''generator-specific'' basis from the hazardous waste lists. This proposed decision is based on an evaluation of waste-specific information provided by the petitioner. If this proposed decision is finalized, the petitioned waste will be conditionally excluded from the requirements of the hazardous waste regulations under the Resource Conservation and Recovery Act (RCRA).

DATES: EPA is requesting public comments on this proposed decision. Comments must be received in writing

by June 2, 1997. Comments postmarked after the close of the comment period will be stamped ''late.''

Any person may request a hearing on this proposed decision by filing a request with Norman R. Niedergang, Director, Waste, Pesticides and Toxics Division, at the address listed under **ADDRESSES**, by May 19, 1997. The request must contain the information prescribed in § 260.20(d).

ADDRESSES: Two copies of any comments should be sent to Steven Pak, Waste, Pesticides and Toxics Division, Waste Management Branch (DRP–8J), U.S. EPA Region 5, 77 W. Jackson Blvd., Chicago, IL 60604.

Requests for a hearing should be addressed to Norman R. Niedergang, Director, Waste, Pesticides and Toxics Division (D–8J), U.S. EPA Region 5, 77 W. Jackson Blvd., Chicago, IL 60604.

The RCRA regulatory docket for this proposed rule which contains the complete petition and supporting documents is located at the U.S. EPA Region 5, 77 W. Jackson Blvd., Chicago, IL 60604, and is available for viewing from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays. Call Steven Pak at (312) 886–4446 for appointments. The public may copy material from the regulatory docket at $0.15 per page.

FOR FURTHER INFORMATION CONTACT: For technical information concerning this notice, contact Steven Pak at the address listed under **ADDRESSES** or at (312) 886–4446.

SUPPLEMENTARY INFORMATION:

I. Background

A. Authority

On January 16, 1981, as part of its final and interim final regulations implementing Section 3001 of RCRA, EPA published an amended list of hazardous wastes from non-specific and specific sources. This list has been amended several times, and is published in §§ 261.31 and 261.32. These wastes are listed as hazardous because they typically and frequently exhibit one or more of the characteristics of hazardous wastes identified in Subpart C of Part 261 (i.e., ignitability, corrosivity, reactivity, and toxicity) or meet the criteria for listing contained in § 261.11(a)(2) or (a)(3).

Individual waste streams may vary, however, depending on raw materials, industrial processes, and other factors. Thus, while a waste that is described in these regulations generally is hazardous, a specific waste from an individual facility meeting the listing description may not be. For this reason, §§ 260.20 and 260.22 provide an exclusion procedure, allowing persons to demonstrate that a specific waste from a particular generating facility should not be regulated as a hazardous waste.

To have their wastes excluded, petitioners must show that wastes generated at their facilities do not meet any of the criteria for which the wastes were listed. See § 260.22(a)(1) and the background documents for the listed wastes. In addition, the Hazardous and Solid Waste Amendments (HSWA) of 1984 require EPA to consider any factors (including additional constituents) other than those for which the waste was listed, if there is a reasonable basis to believe that such additional factors could cause the waste to be hazardous. See § 260.22(a)(2). Accordingly, a petitioner also must demonstrate that the waste does not exhibit any of the hazardous waste characteristics (i.e., ignitability, corrosivity, reactivity, and toxicity), and must present sufficient information for EPA to determine whether the waste contains any other constituents at hazardous levels. Although wastes which are ''delisted'' (i.e., excluded) have been evaluated to determine whether or not they exhibit any of the characteristics of hazardous waste, generators remain obligated under RCRA to determine whether or not their waste remains non-hazardous based on the hazardous waste characteristics.

In addition, residues from the treatment, storage, or disposal of listed hazardous wastes and mixtures containing listed hazardous wastes are also considered hazardous wastes. See § 261.3(a)(2)(iv) and (c)(2)(i), referred to as the ''mixture'' and ''derived-from'' rules, respectively. Such wastes are also eligible for exclusion and remain hazardous wastes until excluded. On December 6, 1991, the U.S. Court of Appeals for the District of Columbia vacated the ''mixture/derived from'' rules and remanded them to EPA on procedural grounds. *Shell Oil Co.* v. *EPA*, 950 F.2d 741 (D.C. Cir. 1991). On March 3, 1992, EPA reinstated the mixture and derived-from rules, and solicited comments on other ways to regulate waste mixtures and residues (57 FR 7628). EPA plans to address issues related to waste mixtures and residues in a future rulemaking.

B. Approach Used to Evaluate This Petition

GM's petition requests a delisting for a listed hazardous waste. In making the initial delisting determination, EPA evaluated the petitioned waste against the listing criteria and factors cited in § 261.11(a). Based on this review, EPA tentatively agreed with the petitioner, pending public comment, that the waste is non-hazardous with respect to the original listing criteria. If EPA had found, based on this review, that the waste remained hazardous based on the factors for which the waste was originally listed, EPA would have proposed to deny the petition.

EPA then evaluated the waste with respect to other factors or criteria to assess whether there is a reasonable basis to believe that other factors could cause the waste to be hazardous. EPA considered whether the waste is acutely toxic, and considered the concentration of the constituents in the waste, the toxicity of the constituents, their tendency to migrate and to bioaccumulate, their persistence in the environment once released from the waste, plausible and specific types of management of the petitioned waste, the quantities of waste generated, and waste variability.

For this delisting determination, EPA used such information gathered to identify plausible exposure routes (i.e., ground water, surface water, air) for hazardous constituents present in the petitioned waste. EPA determined that disposal in a Subtitle D landfill is the most reasonable, worst-case disposal scenario for GM's petitioned waste, and that the major exposure route of concern would be ingestion of contaminated ground water. Therefore, EPA used a fate and transport model to predict the maximum concentrations of hazardous constituents that may be released from the petitioned waste after disposal and to determine the potential impact of the disposal of GM's petitioned waste on human health and the environment. Specifically, EPA used the maximum estimated waste volume and the maximum reported extract concentrations as inputs to estimate the constituent concentrations in the ground water at a hypothetical receptor well down gradient from the disposal site. The calculated receptor well concentrations (referred to as compliance-point concentrations) were then compared directly to the health-based levels at an assumed risk of 10^{-6} used in delisting decision-making for the hazardous constituents of concern.

EPA believes that this fate and transport model represents a reasonable worst-case scenario for disposal of the petitioned waste in a landfill, and that a reasonable worst-case scenario is appropriate when evaluating whether a waste should be relieved of the protective management constraints of RCRA Subtitle C (parts 260 through 266 and 268). The use of a reasonable worst-case scenario results in conservative

values for the compliance-point concentrations and ensures that the waste, once removed from hazardous waste regulation, should not pose a threat to human health or the environment.

EPA also considers the applicability of on-site ground-water monitoring data during the evaluation of delisting petitions. In this case, EPA determined that it would be inappropriate to request ground-water monitoring data because GM currently disposes of the petitioned waste off-site. For petitioners using off-site management, EPA believes that, in most cases, the ground water monitoring data would not be meaningful. Most commercial land disposal facilities accept waste from numerous generators. Any ground water contamination or leachate would be characteristic of the total volume of waste disposed of at the site. In most cases, EPA believes that it would be impossible to isolate ground water impacts associated with any one waste disposed of in a commercial landfill. Therefore, the EPA did not request ground water monitoring data from GM.

From the evaluation of GM's delisting petition, a list of constituents was developed for annual verification testing. Proposed maximum allowable leachable concentrations for these constituents were derived by back-calculating from the delisting health-based levels through the proposed fate and transport model. These concentrations (i.e., ''delisting levels'') are part of the verification testing conditions of this proposed exclusion.

Finally, the Hazardous and Solid Waste Amendments of 1984 specifically require EPA to provide notice and an opportunity for comment before granting or denying a final exclusion. Thus, a final decision will not be made until all timely public comments (including those at public hearings, if any) on today's proposal are addressed.

II. Disposition of Delisting Petition

General Motors Corporation, Orion Assembly Center, 4555 Giddings Road, Lake Orion, Michigan 48361–1001.

A. Petition for Exclusion

General Motors Corporation, Orion Assembly Center (GM), located in Lake Orion, Michigan, assembles automobiles from parts and materials supplied by outside sources. The assembly process includes the chemical conversion coating (phosphate coating) of steel, galvanized steel, and aluminum automobile body panels. The wastewater treatment plant (WWTP) filter press sludge generated from this process is presently listed as EPA Hazardous Waste No. F019—''Wastewater treatment sludges from the chemical conversion coating of aluminum except from zirconium phosphating in aluminum can washing when such phosphating is an exclusive conversion coating process.'' The listed constituents of concern for EPA Hazardous Waste No. F019 are hexavalent chromium and cyanide (complexed) (see appendix VII of part 261).

On January 12, 1996, GM petitioned to exclude its WWTP filter press sludge because it believes that the petitioned waste does not meet any of the criteria under which the waste was listed and that there are no additional constituents or factors that could cause the waste to be hazardous. Review of this petition included consideration of the original listing criteria, as well as the additional factors required by the Hazardous and Solid Waste Amendments (HSWA) of 1984. See Section 222 of HSWA, 42 USC 6921(f), and § 260.22.

B. Background

On January 12, 1996, GM petitioned EPA to exclude an annual volume of 1,500 cubic yards of WWTP filter press sludge from the list of hazardous wastes contained in § 261.31, and subsequently provided additional information to complete its petition. In support of its petition, GM submitted detailed descriptions and schematic diagrams of its manufacturing and wastewater treatment processes, and analytical testing results for representative samples of the petitioned waste, including (1) the hazardous characteristics of ignitability, corrosivity, reactivity, and toxicity; (2) total constituent and Extraction Procedure for Oily Wastes (OWEP, SW–846 Method 1330) analyses for the eight toxicity characteristic metals listed in § 261.24, plus antimony, beryllium, cobalt, copper, hexavalent chromium, nickel, tin, thallium, vanadium, and zinc; (3) total constituent and Toxicity Characteristic Leaching Procedure (TCLP, SW–846 Method 1311) analyses for 163 volatile and semi-volatile organic compounds; (4) total constituent and TCLP analyses for total sulfide, total cyanide, and complexed cyanide; and (5) total constituent analysis for oil and grease, total organic carbon, and percent solids.

GM's automobile assembly process includes the chemical conversion coating (phosphate coating) of automobile body panels. Prior to phosphate coating, the automobile bodies are cleaned, rinsed, and conditioned to promote phosphate crystal refinement. The automobile bodies are then dipped in a 76,000 gallon tank containing the phosphate coating solution. The phosphate coating provides a micro-crystalline corrosion resistant base required for the application of electro-deposited paint. Following phosphate coating, the automobile bodies are rinsed, sprayed with a trivalent chromium sealer to protect and enhance the phosphate coating, and rinsed. The application of the chromium sealer is a physical process and is not a chemical conversion process. After leaving the phosphate process line, the automobile bodies enter the electro-deposition process line where the automobile bodies are rinsed, dipped in a 68,000 gallon tank where an electro-deposited paint film is applied, rinsed, and then baked in an oven at 350 degrees Fahrenheit for 35 minutes. The automobile body then goes to the paint shop process line where primer paint and basecoats, antichip coats, and clearcoats are applied in spraybooths.

The WWTP treats assembly plant process wastewater and powerhouse process wastewater. The assembly plant process wastewater is composed primarily of car washing and plant clean-up and maintenance water, and wastewater generated by the phosphate and electro-deposition lines. The powerhouse wastewater is composed primarily of boiler blowdown and cooling water. Under normal operating conditions, paint shop process wastewater is not routed to the WWTP.

Treatment at the WWTP is a batch operation. General wastewater from the assembly plant enters one of two solids separators. Each separator is equipped with a surface skimmer, dragout system, and oil skimmer for removing floating and settleable solids as well as floating oil. The wastewater discharges through a bar screen and is mixed with the phosphate process line wastewater, electro-deposition process line wastewater, and powerhouse wastewater, and is discharged to one of three batch process treatment tanks. Reagents such as sodium hydroxide, sulfuric acid, and lime, are added and the wastewater is pumped to the clarifiers after treatment is complete. Two clarifiers are utilized in parallel or series to separate the liquid and solid phases of the wastewater. Lime and a secondary flocculent aid are added to improve coagulation and flocculation. The settled sludge is pumped to the sludge thickener tank and the supernatant is discharged over weirs and flows to the pH adjustment sump. The supernatant pH is adjusted with sulfuric acid, if necessary, and discharged to the Detroit Water and

Sewage Department sewer system. In the sludge thickener tank, the sludge is thickened with a sludge rake and then pumped to the sludge conditioning tank where it is mixed with lime and filter aid. The conditioned sludge is then pumped to one of two filter presses. Filtrate from the filter presses, as well as supernatant generated in the sludge thickener and sludge conditioning tanks, drains to the powerhouse sump and is subsequently pumped back to the WWTP for treatment. After dewatering, the filter press cake falls into 20 cubic yard roll-off boxes beneath the filter presses. Once a roll-off box is filled, the waste is disposed of in a land-based management facility as a hazardous waste.

GM submitted a signed certification stating that, based on projected annual waste generation, the maximum annual generation rate of WWTP filter press sludge will not exceed 1,500 cubic yards per year (this corresponds to a mass of approximately 1,500 tons per year based on a reported sludge density of 75 pounds per cubic foot). The EPA reviews a petitioner's estimates of maximum waste generation and, on occasion, has requested a petitioner to re-evaluate the estimated waste generation rate. EPA accepts GM's estimate.

C. Waste Analysis

GM developed a list of analytical constituents based on a review of facility processes, Material Safety Data Sheets for raw materials and chemical additives used in the manufacturing process, and recommendations contained in EPA delisting guidance. See Petitions to Delist Hazardous Wastes, A Guidance Manual, dated March 1993.

For GM's petition, the WWTP filter press sludge was sampled from four separate roll-off boxes on February 20, 1995. Each roll-off box contained WWTP filter press sludge generated over a period of approximately one week and the four boxes were filled on consecutive weeks. One composite and one grab sample of sludge was collected from each roll-off box. Composite samples consisted of sixteen full-depth core grab samples mixed together to form one sample. Composite samples were analyzed for semi-volatile organic compounds and inorganic constituents. Full-depth core grab samples were analyzed for volatile organic compounds (VOCs). Grab samples were collected for VOC analysis to eliminate the possibility of VOC loss due to volatilization which may occur during preparation of composite samples. Samples were collected with a stainless steel hand auger.

Additional samples were taken in 1996 after a minor change to the phosphate coating solution which added magnesium salts. At the request of EPA, the results of the analyses were submitted on December 3, 1996.

To quantify the total constituent and leachate concentrations, GM used SW–846 Method 6010 for antimony, barium, beryllium, cadmium, chromium, cobalt, copper, nickel, silver, thallium, vanadium, and zinc; Method 7060 for arsenic; Method 7421 for lead; Method 7471 for total mercury and Method 7470 for leachate mercury; Method 7740 for selenium; Method 7870 for tin; Method 7196 for hexavalent chromium; Method 9010 for cyanide (total and complexed); Method 9030 for sulfide; Method 8240 for volatile organic compounds; and Method 8270 for semi-volatile organic compounds. Along with these methods, GM used the Extraction Procedure for Oily Wastes (OWEP, SW–846 Method 1330) and the Toxicity Characteristic Leaching Procedure (TCLP, SW–846 Method 1311), as described below, to determine leachate concentrations.

Using SW–846 Method 9071, GM determined that the samples of the petitioned waste had oil and grease contents ranging from 25,000 mg/kg to 41,000 mg/kg. Consistent with EPA delisting guidance, GM used OWEP to quantify the leachable levels of metals and TCLP to quantify the leachable levels of cyanide, sulfide, volatile organic compounds, and semi-volatile organic compounds.

Characteristic testing of the samples included analysis of reactive cyanide (SW–846 Method 7.3.3.2) and reactive sulfide (SW–846 Method 7.3.4.2), ignitability (SW–846 Method 1010), and corrosivity (SW–846 9045).

Table 1 presents the maximum total and leachate concentrations for 18 metals, total cyanide, complexed cyanide, and total sulfide. Table 1 also includes maximum total concentrations for reactive cyanide and reactive sulfide.

The detection limits presented in Table 1 represent the lowest concentrations quantifiable by GM when using the appropriate SW–846 methods to analyze its waste. (Detection limits may vary according to the waste and waste matrix being analyzed, i.e., the ''cleanliness'' of waste matrices varies and ''dirty'' waste matrices may cause interferences, thus raising detection limits.)

TABLE 1.—MAXIMUM TOTAL CONSTITUENT AND LEACHATE CONCENTRATIONS [1]

[WWTP Filter Press Sludge]

Inorganic constituents	Total constituent analyses (mg/kg)	OWEP/TCLP leachate analyses (mg/l)
Antimony	5.0	<0.025
Arsenic	1.1	0.027
Barium	620	0.14
Beryllium	0.29	<0.001
Cadmium	1.9	<0.003
Chromium (total)	580	0.009
Chromium (hexavalent)	<1.1	<0.02
Cobalt	2.0	0.004
Copper	550	0.47
Lead	1300	<0.024
Mercury	0.54	<0.0002
Nickel	1900	13
Selenium	0.58	<0.002
Silver	<0.6	<0.003
Thallium	<0.4	<0.01
Tin	220	<0.053
Vanadium	1.7	0.004
Zinc	7400	0.74

TABLE 1.—MAXIMUM TOTAL CONSTITUENT AND LEACHATE CONCENTRATIONS [1]—Continued

[WWTP Filter Press Sludge]

Inorganic constituents	Total constituent analyses (mg/kg)	OWEP/TCLP leachate analyses (mg/l)
Cyanide (total)	2.2	<0.01
Cyanide (complexed)	2.2	<0.01
Sulfide (total)	18	5.3
Cyanide (reactive)	<0.25	NA
Sulfide (reactive)	<4	NA

[1] These levels represent the highest concentration of each constituent found in any one sample. These levels do not necessarily represent the specific levels found in one sample.
< Denotes that the constituent was not detected at the detection limit specified in the table.
NA Denotes that the constituent was not analyzed.

GM analyzed the samples of petitioned waste for 163 volatile and semi-volatile organic compounds. Table 2 presents the maximum total and leachate concentrations for all detected organic constituents in GM's waste samples.

TABLE 2.—Maximum Total Constituent and Leachate Concentrations [1]

[WWTP Filter Press Sludge]

Organic constituents	Total constituent analyses (mg/kg)	TCLP leachate analyses (mg/l)
Benzene	0.01	<0.025
2-Butanone	0.11	<0.05
Chlorobenzene	0.025	<0.025
Chloroform	0.013	<0.025
1,1-Dichloroethane	0.015	<0.025
1,2-Dichloroethane	0.024	0.013
Ethylbenzene	0.45	0.009
4-Methylphenol	<170	0.063
Naphthalene	<170	0.001
Phenol	<170	0.029
Tetrachloroethene	0.02	<0.025
Toluene	0.39	<0.025
1,1,1-Trichloroethane	0.018	<0.025
Xylene	0.63	0.009

[1] These levels represent the highest concentration of each constituent found in any one sample. These levels do not necessarily represent the specific levels found in one sample.
< Denotes that the constituent was not detected at the detection limit specified in the table.

Hazardous waste characteristic testing found that reactive cyanide and reactive sulfide were not detected in the samples (see Table 1). The flash point of the samples was found to be greater than 212 degrees Farenheit. The pH of the samples ranged from 8.28 to 9.40.

EPA does not generally verify submitted test data before proposing delisting decisions. The sworn affidavit submitted with the petition binds the petitioner to present truthful and accurate results.

D. EPA Evaluation

EPA has reviewed the sampling procedures used by GM and has determined that they satisfy EPA criteria for collecting representative samples.

EPA considered the appropriateness of alternative waste management scenarios for GM's WWTP filter press sludge and decided, based on the information provided in the petition, that disposal in a Subtitle D landfill is the most reasonable, worst-case scenario for this waste. Under a landfill disposal scenario, the major exposure route of concern for any hazardous constituents would be ingestion of contaminated ground water. EPA, therefore, evaluated GM's petitioned waste using the modified EPA Composite Model for Landfills (EPACML) which predicts the potential for ground water contamination from wastes that are landfilled. See 56 FR 32993 (July 18, 1991) and 56 FR 67197 (December 30, 1991) for a detailed description of the EPACML model, the disposal assumptions, and the modifications made for delisting. This model, which includes both unsaturated and saturated zone transport modules, was used to predict reasonable worst-case contaminant levels in ground water at a compliance point (i.e., a receptor well serving as a drinking-water supply). Specifically, the model estimated the dilution/attenuation factor (DAF) resulting from subsurface processes such as three-dimensional dispersion and dilution from ground-water recharge for a specific volume of waste. The DAFs generated using the EPACML vary from a maximum of 100 for smaller annual volumes of waste (i.e., less than 1,000 cubic yards per year) to DAFs approaching ten for larger volume wastes (i.e., 400,000 cubic yards per year).

Typically, EPA uses the maximum annual waste volume to derive a petition-specific DAF. GM's maximum waste volume of 1,500 cubic yards per year corresponds to a DAF of 90. EPA's evaluation, using a DAF of 90 and the maximum reported leachate concentrations (see Tables 1 and 2), yielded compliance-point concentrations (see Table 3) that are below the current health-based levels used in delisting decision-making.

TABLE 3.—EPACML: CALCULATED COMPLIANCE-POINT CONCENTRATIONS

[WWTP Filter Press Sludge]

Inorganic and organic constituents	Compliance point concentrations (mg/l)	Health-based levels [1] (mg/l)
Arsenic	0.0003	0.05
Barium	0.0016	2
Chromium (total)	0.0001	0.1
Cobalt	0.00004	[3] 2.1
Copper	0.0052	[3] 1.4
Nickel	0.14	[2, 3] 0.7
Vanadium	0.00004	0.2
Zinc	0.0082	10
1,2-Dichloroethane	0.0001	0.005
Ethylbenzene	0.0001	0.7
4-Methylphenol	0.0007	[3] 0.18
Naphthalene	0.00001	1
Phenol	0.00032	20
Xylene	0.0001	10

[1] See ''Docket Report on Health-Based Levels and Solubilities Used in the Evaluation of Delisting Petitions,'' December 1994, located in the RCRA public docket for today's notice.

[2] The Maximum Contaminant Level promulgated under the Safe Drinking Water Act was vacated and remanded and subsequently removed from the Code of Federal Regulations on June 29, 1995 (60 FR 33926).

[3] Based on the oral reference dose from ''Risk-Based Concentration Table, January–June 1996,'' March 7, 1997, and the equation used for calculating delisting health-based levels found in the document referenced in footnote.

Note: See the RCRA public docket for today's notice for the specific reference doses and the calculation of the health-based levels.

For inorganic constituents, the maximum reported leachate concentrations of arsenic, barium, chromium (total), cobalt, copper, nickel, vanadium, and zinc in the WWTP filter press sludge yielded compliance point concentrations well below the health-based levels used in delisting decision-making. EPA did not evaluate the mobility of the remaining inorganic constituents (i.e., antimony, beryllium, cadmium, chromium (hexavalent), lead, mercury, selenium, silver, thallium, tin, reactive cyanide, and reactive sulfide) from GM's waste because they were not detected in the leachate using the appropriate analytical test methods (see Table 1). EPA also evaluated the potential hazards of the organic constituents detected in the TCLP extract of GM's samples (i.e., 1,2-dichloroethane, ethylbenzene, 4-methylphenol, naphthalene, phenol, and xylene). The calculated compliance point concentrations are significantly below the respective health-based levels. EPA believes that it is inappropriate to evaluate non-detectable concentrations of a constituent of concern in its modeling efforts if the non-detectable value was obtained using the appropriate analytical method. If a constituent cannot be detected (when using the appropriate analytical method with an adequate detection limit), EPA assumes that the constituent is not present and therefore does not present a threat to human health or the environment.

After reviewing GM's processes, EPA accepts GM's analysis that no other hazardous constituents, other than those tested for, are likely to be present in the waste, and that any migration of hazardous constituents from the waste would result in concentrations below delisting health-based levels of concern. In addition, on the basis of test results and information provided by GM pursuant to § 260.22, EPA concludes that the petitioned waste does not exhibit any of the characteristics of ignitability, corrosivity, reactivity, or toxicity.

In its evaluation of GM's petition, EPA also considered the potential impact of the petitioned waste via non-ground water routes (i.e., air emission and surface runoff). With regard to airborne dispersal, EPA believes that no appreciable air releases are likely from GM's waste under any likely disposal conditions. Therefore, there is no substantial hazard to human health from airborne exposure to constituents from GM's petitioned waste.

EPA also considered the potential impact of the petitioned wastes via a surface water route. EPA believes that containment structures at municipal solid waste landfills can effectively control surface water run-off, as the Subtitle D regulations (see 56 FR 50978, October 9, 1991) prohibit pollutant discharges into surface waters. Furthermore, the concentrations of any hazardous constituents in the run-off will tend to be lower than the extraction procedure test results reported in today's notice because of the aggressive acidic media used for extraction in the TCLP and OWEP. EPA believes that, in general, leachate derived from the waste is unlikely to directly enter a surface water body without first traveling through the saturated subsurface where dilution/attenuation of hazardous constituents will also occur. Leachable concentrations provide a direct measure of the solubility of a toxic constituent in water, and are indicative of the fraction of the constituent that may be mobilized in surface water, as well as ground water. The reported TCLP and OWEP data shows that the constituents that might be released from GM's waste to surface water would be likely to leach in concentrations that would be below the health-based levels of concern. EPA, therefore, concludes that GM's waste is not a significant hazard to human health or the environment via the surface water exposure pathway.

E. Conclusion

Based on descriptions of the process from which the petitioned waste is derived, descriptions of GM's wastewater treatment process, and analytical characterization of the petitioned waste, EPA believes that GM has successfully demonstrated that the petitioned waste is not hazardous. EPA, therefore, proposes to grant an exclusion to GM for its WWTP filter press sludge described in its petition as EPA Hazardous Waste No. F019. If made final, the proposed exclusion will apply to 1,500 tons (or 1,500 cubic yards) of petitioned waste generated annually, on a calendar year basis. The facility must treat waste generated in excess of 1,500 tons (or 1,500 cubic yards) per year as

hazardous. If either the manufacturing or treatment processes are significantly altered such that an adverse change in waste composition occurs (e.g., significantly higher levels of hazardous constituents), this exclusion would no longer be valid.

Although management of the waste covered by this petition would be removed from Subtitle C jurisdiction upon final promulgation of an exclusion, this exclusion applies only where this waste is disposed of in a Subtitle D landfill which is permitted, licensed, or registered by a State to manage municipal or industrial solid waste.

F. Verification Testing Conditions

EPA is proposing to require GM to demonstrate on an annual basis that the constituents of concern in the petitioned waste do not exceed the levels of concern in paragraph 1 below. These levels are based on delisting health-based values and a DAF of 90. GM must analyze a minimum of four representative samples of the WWTP filter press sludge on an annual, calendar-year basis using methods with appropriate detection levels and quality control procedures. If the level of any constituent measured in any sample of WWTP filter press sludge exceeds the levels set forth in paragraph 1 below, then the waste is hazardous and must be managed in accordance with Subtitle C of RCRA.

1. Delisting Levels

Concentrations measured in the TCLP (or OWEP, where appropriate) extract of the waste of the following constituents must not exceed the following levels (mg/l).

Arsenic—4.5; Barium—180.; Chromium (total)—9.; Cobalt—189.; Copper—126.; Nickel—63.; Vanadium—18.; Zinc—900.; 1,2-Dichloroethane—0.45; Ethylbenzene—63.; 4-Methylphenol—16.2; Naphthalene—90.; Phenol—1800.; Xylene—900. These levels are derived by back-calculating from the delisting health-based levels and a DAF of 90 for all constituents detected in the TCLP and OWEP extract of the petitioned waste.

2. Changes in Operating Conditions

If GM significantly changes the manufacturing or treatment process or the chemicals used in the manufacturing or treatment process, GM may handle the WWTP filter press sludge generated from the new process under this exclusion after the facility has demonstrated that the waste meets the levels set in paragraph 1 and that no new hazardous constituents listed in appendix VIII of part 261 have been introduced.

3. Data Submittals

The data obtained through annual verification testing or paragraph 2 must be submitted to U.S. EPA Region 5, 77 W. Jackson Blvd., Chicago, IL 60604, within 60 days of sampling. Records of operating conditions and analytical data must be compiled, summarized, and maintained on site for a minimum of five years and must be made available for inspection. All data must be accompanied by a signed copy of the certification statement in § 260.22(i)(12).

III. Effect on State Authorizations

This proposed exclusion, if promulgated, would be issued under the Federal (RCRA) delisting program. States, however, may impose more stringent regulatory requirements than EPA, pursuant to section 3009 of RCRA. These more stringent requirements may include a provision which prohibits a Federally-issued exclusion from taking effect in the State. Because a petitioner's waste may be regulated under a dual system (i.e., both Federal (RCRA) and State (non-RCRA) programs), petitioners are urged to contact State regulatory authorities to determine the current status of their wastes under the State laws.

Furthermore, some States are authorized to administer a delisting program in lieu of the Federal program (i.e., to make their own delisting decisions). Therefore, this proposed exclusion, if promulgated, would not apply in those authorized States. If the petitioned waste will be transported to any State with delisting authorization, GM must obtain delisting authorization from that State before the waste may be managed as nonhazardous in the State.

IV. Effective Date

This rule, if made final, will become effective immediately upon such final publication. The Hazardous and Solid Waste Amendments of 1984 amended Section 3010 of RCRA to allow rules to become effective in less than six months when the regulated community does not need the six-month period to come into compliance. That is the case here, because this rule, if finalized, would reduce the existing requirements for persons generating hazardous wastes. In light of the unnecessary hardship and expense that would be imposed on this petitioner by an effective date six months after publication and the fact that a six-month deadline is not necessary to achieve the purpose of Section 3010, EPA believes that this exclusion should be effective immediately upon final publication. These reasons also provide a basis for making this rule effective immediately, upon final publication, under the Administrative Procedure Act, 5 U.S.C. 553(d).

V. Regulatory Impact

Under Executive Order 12291, EPA must judge whether a regulation is ''major'' and therefore subject to the requirement of a Regulatory Impact Analysis. The proposal to grant an exclusion is not major, since its effect, if promulgated, would be to reduce the overall costs and economic impact of EPA's hazardous waste management regulations. This reduction would be achieved by excluding waste generated at a specific facility from EPA's lists of hazardous wastes, thereby enabling this facility to manage its waste as non-hazardous. There is no additional impact, therefore, due to today's proposed rule. This proposal is not a major regulation; therefore, no Regulatory Impact Analysis is required.

VI. Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601–612, whenever an agency is required to publish a general notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis which describes the impact of the rule on small entities (i.e., small businesses, small organizations, and small governmental jurisdictions). The Administrator or delegated representative may certify, however, that the rule will not have a significant economic impact on a substantial number of small entities.

This rule, if promulgated, will not have an adverse economic impact on small entities since its effect would be to reduce the overall costs of EPA's hazardous waste regulations. Accordingly, I hereby certify that this proposed regulation, if promulgated, will not have a significant economic impact on a substantial number of small entities. This regulation, therefore, does not require a regulatory flexibility analysis.

VII. Paperwork Reduction Act

Information collection and record-keeping requirements associated with this proposed rule have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 (Pub L. 96–511, 44 U.S.C. 3501 *et seq.*) and have been assigned OMB Control Number 2050–0053.

VIII. Unfunded Mandates Reform Act

Under section 202 of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, which was signed into law on March 22, 1995, EPA generally must prepare a written statement for rules with Federal mandates that may result in estimated costs to State, local, and tribal governments in the aggregate, or to the private sector, of $100 million or more in any one year. When such a statement is required for EPA rules, under section 205 of the UMRA, EPA must identify and consider alternatives, including the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule. EPA must select that alternative, unless the Administrator explains in the final rule why it was not selected or it is inconsistent with law. Before EPA establishes regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must develop under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, giving them meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising them on compliance with the regulatory requirements. The UMRA generally defines a meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising them on compliance with the regulatory requirements. The UMRA generally defines a Federal mandate for regulatory purposes as one that imposes an enforceable duty upon State, local or tribal governments or the private sector. EPA finds that today's proposed delisting decision is deregulatory in nature and does not impose any enforceable duty upon State, local or tribal governments or the private sector. In addition, the proposed delisting does not establish any regulatory requirements for small governments and so does not require a small government agency plan under UMRA section 203.

List of Subjects in 40 CFR Part 261

Environmental Protection, Hazardous waste, Recycling, Reporting and recordkeeping requirements.

Authority: Sec. 3001(f) RCRA, 42 U.S.C. 6921(f).

Dated: April 1, 1997.

Norman R. Niedergang,

Director, Waste, Pesticides and Toxics Division.

For the reasons set out in the preamble, 40 CFR part 261 is proposed to be amended as follows:

PART 261—IDENTIFICATION AND LISTING OF HAZARDOUS WASTE

1. The authority citation for part 261 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912(a), 6921, 6922, and 6938.

2. In table 1 of appendix IX of part 261 it is proposed to add the following waste stream in alphabetical order by facility to read as follows:

Appendix IX to Part 261—Wastes Excluded Under §§ 260.20 and 260.22

TABLE 1.—WASTES EXCLUDED FROM NON-SPECIFIC SOURCES

Facility	Address	Waste description
* * *	* * *	* * *
General Motors Corporation	Lake Orion, Michigan	Wastewater treatment plant (WWTP) sludge from the chemical conversion coating (phosphate coating) of aluminum (EPA Hazardous Waste No. F019) generated at a maximum annual rate of 1,500 tons per year (or 1,500 cubic yards per year), after (insert publication date of the final rule), and disposed of in a Subtitle D landfill. (1) *Verification Testing:* GM must implement an annual testing program to demonstrate, based on the analysis of a minimum of four representative samples, that the constituent concentrations measured in the TCLP extract (or OWEP, where appropriate) of the waste do not exceed the following levels (mg/l). Arsenic—4.5; Barium—180.; Chromium (total)—9.; Cobalt—189.; Copper—126.; Nickel—63.; Vanadium—18.; Zinc—900.; 1,2-Dichloroethane—0.45; Ethylbenzene—63.; 4-Methylphenol—16.2; Naphthalene—90.; Phenol—1800.; Xylene—900. These levels are derived by back-calculating from the delisting health-based levels and a DAF of 90 for all constituents detected in the TCLP and OWEP extract of the petitioned waste. (2) *Changes in Operating Conditions:* If GM significantly changes the manufacturing or treatment process or the chemicals used in the manufacturing or treatment process, GM may handle the WWTP filter press sludge generated from the new process under this exclusion after the facility has demonstrated that the waste meets the levels set forth in paragraph 1 and that no new hazardous constituents listed in appendix VIII of part 261 have been introduced. (3) *Data Submittals:* The data obtained through annual verification testing or paragraph 2 must be submitted to U.S. EPA Region 5, 77 W. Jackson Blvd., Chicago, IL 60604, within 60 days of sampling. Records of operating conditions and analytical data must be compiled, summarized, and maintained on site for a minimum of five years and must be made available for inspection. All data must be accompanied by a signed copy of the certification statement in § 260.22(i)(12).
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[FR Doc. 97–10110 Filed 4–17–97; 8:45 am]
BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 25

[IB Docket No. 95–91; GEN Docket No. 90–357; FCC 97–70]

Satellite Digital Audio Radio Service

AGENCY: Federal Communications Commission.

ACTION: Further notice of proposed rulemaking.

SUMMARY: After carefully reviewing the comments and information the Commission received following issuance of the Notice of Proposed Rulemaking, the Commission issued this Further Notice of Proposed Rulemaking (FNPRM) to seek comment on its proposal to permit deployment of satellite Digital Audio Radio Service (''DARS'') terrestrial repeaters, or ''gap-fillers'', on an as-needed basis by satellite DARS licensees to meet their service requirements. The intended effect of the Commission's action in issuing the NPRM is to seek comment on whether to adopt the Commission's proposed rules for terrestrial repeaters which are based upon proposals suggested by comments from CD Radio. The Commission also seeks comment on its tentative conclusion to prohibit the use of terrestrial repeaters to transmit locally originated programming which would be inconsistent with the allocation of the DARS spectrum.

DATES: Comments must be submitted on or before May 2, 1997. Reply comments must be submitted on or before May 23, 1997.

ADDRESSES: Office of the Secretary, Federal Communications Commission, 1919 M Street, N.W., Room 222, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Rosalee Chiara at (202) 418–0754 or Ron Repasi at (202) 418–0768 with the International Bureau, or Amy Zoslov or Christina Eads Clearwater at (202) 418–0660 with the Auctions Division of the Wireless Telecommunications Bureau.

SUPPLEMENTARY INFORMATION: This is a summary of the Further Notice of Proposed Rulemaking in the Report and Order and Memorandum Opinion and Order and Further Notice of Proposed Rulemaking, 62 FR 11083 (March 11, 1997), IB Docket No. 95–91; GEN Docket No. 90–357; RM No. 8610; PP–24; PP–86; and PP–87, FCC 97–70 (adopted and released March 3, 1997). The complete text of the Report and Order and Memorandum Opinion and Order and Further Notice of Proposed Rulemaking is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, N.W., Washington, D.C. and also may be purchased from the Commission's copy contractor, International Transcription Services (202) 857–3800, 2100 M Street, N.W., Suite 140, Washington, D.C. 20037.

Synopsis of the Further Notice of Proposed Rulemaking in the Report and Order and Memorandum Opinion and Order and Further Notice of Proposed Rulemaking

Further Notice of Proposed Rulemaking on Terrestrial Repeaters

1. As discussed in the Report and Order and Memorandum Opinion and Order and Further Notice of Proposed Rulemaking, the Commission is not mandating a specific service link margin that satellite DARS operators must provide in a given geographic area, such as urban areas. It is important, however, for the satellite DARS systems to maintain sufficient service link margin to reproduce the original information transmitted by the satellite. In the NPRM, 60 FR 35166 (July 6, 1995), the Commission noted that some satellite DARS applicants intend to implement, as necessary, terrestrial repeaters, or ''gap-fillers'', in urban canyons and other areas where it may be difficult to receive DARS signals transmitted by a satellite. These terrestrial gap-fillers would re-transmit the information from the satellite to overcome the effects of signal blockage and multipath interference. Since the Commission had no information in the record on the specifics of operation of these terrestrial gap-fillers, it sought comment on their operation to determine what rules should govern their use.

2. Some commenters expressed concern about use of terrestrial repeaters to complement satellite DARS. Tichenor Media Systems, for example, contends that satellite DARS should not be permitted to originate local programming through the use of terrestrial repeaters. Similarly, NAB and WFAN express concern that the use of terrestrial gap fillers would transform satellite DARS into a terrestrial based service. Indeed, in the NPRM the Commission proposed to prohibit the operation of terrestrial gap-fillers except in conjunction with an operating satellite DARS system to ensure its complementary nature and so that there would be no transformation of satellite DARS into an independent terrestrial DARS network.

3. Satellite DARS applicants provided additional information on how terrestrial gap-fillers will be used with their satellite DARS systems. The commenters agree that terrestrial repeaters would be used to improve satellite DARS service in the authorized satellite coverage areas only and on the same frequencies, and that they would not be used to extend the satellite coverage area or be used to originate programming. CD Radio and DSBC maintain that terrestrial gap-fillers will only be complementary to the satellite DARS systems because they will operate on the same frequency as the satellite transmission and only re-transmit the signals of operating satellite DARS space stations to improve service link margin in difficult propagation environments, especially in urban areas. Additional spectrum is therefore unnecessary for satellite DARS gap-fillers. Primosphere asserts further that no commercial inserts or local programming would be permitted over terrestrial gap-fillers. Furthermore, terrestrial gap-fillers will not extend satellite DARS coverage outside of the systems' already authorized service area. AMRC asserts that they will be used only to fill in coverage gaps within the authorized service area caused by various signal obstructions. Terrestrial gap-fillers will also be transparent to the end users because the receiver will automatically select the stronger of the satellite or repeater signal.

4. Several commenters suggest that regulation of terrestrial gap-fillers be as unrestrictive as possible. CD Radio favors rules to permit flexible deployment of terrestrial gap fillers without prior Commission approval or notification. Primosphere contends that it will be important for the Commission to provide a flexible scheme to implement terrestrial gap-fillers without the necessity to seek separate licenses. DSBC notes that the use of terrestrial gap-fillers for satellite DARS comports with the Commission's authorization of ''boosters'' as defined in Part 22 of the Commission's rules. The comments of all applicants appear to be reflected in a proposal by CD Radio, seen for the first time in its Comments to the NPRM.

5. The Commission did not set forth a specific proposal for authorizing terrestrial repeaters in the NPRM. The Commission now seeks comment on the proposal to permit deployment of satellite DARS gap-fillers, on an as-needed basis by satellite DARS licensees to meet their service requirements. To accomplish the following important objectives, the Commission seeks

comment on whether to adopt rules for terrestrial repeaters based on CD Radio's proposals, as set forth in Appendix C to the Report and Order and Memorandum Opinion and Order and Further Notice of Proposed Rulemaking. The Commission agrees that it would be burdensome for both the Commission and the licensees if licensees were to seek separate authorization for each terrestrial repeater. To this end, the Commission seeks comment on whether to adopt a regulatory structure for satellite DARS terrestrial repeaters similar to the blanket authorizations used for mobile earth stations of other services. At the same time, the Commission must consider and address any potential impact that the operation of these repeaters would have on services of adjacent countries, any potential effects of radio frequency emissions to the public, and must determine how to ensure any use of terrestrial repeaters is complementary to the DARS service and is only for retransmission of signals received from the satellite. The Commission also seeks comment on its tentative conclusion to prohibit the use of terrestrial repeaters to transmit locally originated programming which would be inconsistent with the allocation of this spectrum.

6. The Commission certifies that the proposed rules relating to the authorization of terrestrial repeaters will not have a significant economic impact on a substantial number of small entities. These rules, if adopted, would permit but not require the use of such repeaters to assist in providing higher quality service and should not significantly increase the cost of the systems.

7. The Paperwork Reduction Act does not apply to the rules adopted herein as such rules apply to less than ten persons.

8. This is a non-restricted notice and comment rulemaking proceeding. *Ex parte* presentations are permitted, except during the Sunshine Agenda period, provided they are disclosed as provided in Commission rules. See generally 47 CFR Sections 1.202, 1.203, and 1.1206(a).

9. Pursuant to applicable procedures set forth in sections 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415 and 1.419, interested parties may file comments on or before May 2, 1997 and reply comments on or before May 23, 1997. To file formally in this proceeding, you must file an original and five copies of all comments, reply comments, and supporting comments. If you want each Commissioner to receive a personal copy of your comments, you must file an original plus nine copies. You should send comments and reply comments to Office of the Secretary, Federal Communications Commission, Washington, D.C. 20554. Comments and reply comments will be available for public inspection during regular business hours in the FCC Reference Center of the Federal Communications Commission, Room 239, 1919 M Street, N.W., Washington, D.C. 20554.

10. This action is taken pursuant to Sections 1, 4(i), 4(j), 7, 303(r) and 309(j) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 154(i), 154(j), 157, 303(r) and 309(j).

List of Subjects in 47 CFR Part 25

Communications common carriers, Communications equipment, Radio, Reporting and recordkeeping requirements, Satellites.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

Proposed Rule Changes

For the reasons stated in the preamble, the Commission proposes to amend 47 CFR part 25 as follows:

PART 25—SATELLITE COMMUNICATIONS

1. The authority citation for Part 25 continues to read as follows:

Authority: 47 U.S.C. 701–744, Sec. 4, as amended; 47 U.S.C. 154. Interprets or applies sec. 303, 47 U.S.C. 303. 47 U.S.C. sections 154, 301–303, 307, 309, and 332, unless otherwise noted.

2. A new paragraph (e) to § 25.144 is added to read as follows:

§ 25.144 Licensing provisions for the 2.3 GHz satellite digital audio radio service.

* * * * *

(e) Licensing of satellite DARS complementary terrestrial repeaters. Satellite DARS licensees may construct and operate terrestrial transmitters to retransmit signals received from their operating DARS satellite(s) on the exclusive frequency assignment of the licensee and for use of the same bandwidth as the satellite space station(s). Terrestrial gap-fillers shall not be used to originate programming or transmit signals other than those received from the authorized DARS satellite. Nor shall terrestrial gap fillers be used to extend satellite DARS coverage outside of the satellite systems' authorized service area. Terrestrial gap-fillers may be implemented by a satellite DARS licensee only after obtaining prior Commission authorization and the licensee demonstrates the following:

(1) *International coordination.* Satellite DARS licensee must demonstrate that its repeating transmitter is located at a distance sufficiently away from the Canadian and Mexican borders or otherwise obtain prior coordination with adjacent country co-frequency systems;

(2) *Antenna structure clearance required.* Satellite DARS licensees shall demonstrate that its repeating transmitter construction or alteration will comply with the requirements of § 17.4 of this Chapter;

(3) *Environmental.* Satellite DARS licensee shall demonstrate that its repeating transmitter(s) comply with the Commission's Rules for environmental effects as defined by §§ 1.1301 through 1.1319 of this Chapter.

3. The definition of satellite digital audio radio service in § 25.201 is revised to read as follows :

§ 25.201 Definitions

* * * * *

Satellite Digital Audio Radio Service (''satellite DARS''). A radiocommunication service in which audio programming is digitally transmitted by one or more space stations directly to fixed, mobile, and/or portable stations, and which may involve complementary repeating terrestrial transmitters.

[FR Doc. 97–9728 Filed 4–17–97; 8:45 am]

BILLING CODE 6712–01–P

Notices

Federal Register
Vol. 62, No. 75
Friday, April 18, 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

Animal and Plant Health Inspection Service

[Docket No. 97–028–1]

Availability of an Environmental Assessment and Finding of No Significant Impact

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: We are advising the public that the Animal and Plant Health Inspection Service has prepared an environmental assessment and a finding of no significant impact for the shipment of an unlicensed veterinary biological product for field testing. A risk analysis, which forms the basis for the environmental assessment, has led us to conclude that shipment of the unlicensed veterinary biological product for field testing will not have a significant impact on the quality of the human environment. Based on our finding of no significant impact, we have determined that an environmental impact statement need not be prepared. Therefore, with this notice, we state our intention to authorize shipment of this product for field testing after 14 days from the date of this notice, unless new substantial issues bearing on the effects of the action contemplated here are brought to our attention. Furthermore, with this notice, we also state our intention to issue a veterinary biological product license for this product, provided the field trial data support the conclusions of the original environmental assessment and finding of no significant impact and the product meets all other requirements for licensure.

ADDRESSES: Copies of the environmental assessment and finding of no significant impact may be obtained by writing to the person listed under **FOR FURTHER INFORMATION CONTACT.** When requesting copies, please refer to the docket number of this notice, the product name and code number, and the producer (requester). Copies of the environmental assessment and finding of no significant impact (as well as the risk analysis with confidential business information removed) are also available for public inspection 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 those documents are requested to call ahead on (202) 690–2817 to facilitate entry into the reading room.

FOR FURTHER INFORMATION CONTACT: Dr. Jeanette Greenberg, Technical Writer-Editor, Center for Veterinary Biologics-Licensing and Policy Development, VS, APHIS, USDA, 4700 River Road Unit 148, Riverdale, MD 20737–1231; telephone (301) 734–5338; fax (301) 734–8910.

SUPPLEMENTARY INFORMATION: Under the Virus-Serum-Toxin Act (21 U.S.C. 151 *et seq.*), a veterinary biological product must be shown to be pure, safe, potent, and efficacious before a veterinary biological product license may be issued. A field test is generally necessary to satisfy prelicensing requirements for veterinary biological products. In order to ship an unlicensed veterinary biological product for the purpose of conducting a proposed field test, a person must receive authorization from the Animal and Plant Health Inspection Service (APHIS).

In determining whether to authorize shipment for field testing of the unlicensed veterinary biological product referenced in this notice, APHIS conducted a risk analysis to assess the potential effect of this product on the safety of animals, the public health, and the environment. Based on the risk analysis, APHIS has prepared an environmental assessment (EA). APHIS has concluded that shipment of the unlicensed veterinary biological product for field testing will not significantly affect the quality of the human environment. Based on this finding of no significant impact (FONSI), we have determined that there is no need to prepare an environmental impact statement. An EA and FONSI have been prepared by APHIS for the shipment of the following unlicensed veterinary biological product for field testing:

Requester: Rhone Merieux, Inc.

Product: Avian Influenza-Fowl Pox Vaccine, Live Fowl Pox Vector, Code 1061.R0.

Field test locations: Delaware, Georgia, Texas.

The EA and FONSI have been prepared in accordance with: (1) The National Environmental Policy Act of 1969, as amended (NEPA) (42 U.S.C. 4321 *et seq.*), (2) Regulations of the Council on Environmental Quality for implementing the procedural provisions of NEPA (40 CFR parts 1500–1508), (3) USDA regulations implementing NEPA (7 CFR part 1b), and (4) APHIS' NEPA Implementing Procedures (7 CFR part 372).

Unless substantial environmental issues are raised in response to this notice, APHIS intends to authorize the shipment of the above product and the initiation of the field tests after 14 days from the date of this notice.

Because the issues raised by authorization of a field trial and issuance of a license are identical, APHIS has concluded that the EA and FONSI that were generated for the field trial would also be applicable to the proposed licensing action. Furthermore, provided that the field trial data support the conclusions of the original EA and FONSI, APHIS does not intend to issue a separate EA to support the issuance of the product license, and would determine that an environmental impact statement need not be prepared. Therefore, APHIS intends to issue a veterinary biological product license for this product following the completion of the field trial, provided no adverse impacts on the human environment are identified as a result of field testing this product and provided the product meets all other requirements for licensure.

Authority: 21 U.S.C. 151–159.

Done in Washington, DC, this 15th day of April 1997.

Donald W. Luchsinger,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 97–10102 Filed 4–17–97; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Food and Consumer Service

Commodity Supplemental Food Program: Elderly Poverty Income Guidelines

AGENCY: Food and Consumer Service, USDA.

ACTION: Notice.

SUMMARY: This notice announces the adjusted poverty income guidelines to be used by State agencies in determining the income eligibility of elderly persons applying to participate in the Commodity Supplemental Food Program (CSFP). These poverty income guidelines are to be used in conjunction with the CSFP Regulations.

EFFECTIVE DATE: July 1, 1997.

FOR FURTHER INFORMATION CONTACT: Lillie F. Ragan, Assistant Branch Chief, Household Programs Section, Food Distribution Division, Food and Consumer Service, U.S. Department of Agriculture, 3101 Park Center Drive, Alexandria, Virginia 22302–1594, or telephone (703) 305–2661.

SUPPLEMENTARY INFORMATION:

Regulatory Flexibility Act

This action is not a rule as defined by the Regulatory Flexibility Act (5 U.S.C. 601–612) and thus is exempt from the provisions of that Act.

Paperwork Reduction Act

This notice does not contain reporting or recordkeeping requirements subject to approval by the Office of Management and Budget in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507).

Executive Order 12372

This program is listed in the Catalog of Federal Domestic Assistance Programs under No. 10.565 and is subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with State and local officials (7 CFR Part 3015, Subpart V, 48 FR 29112).

Description

On December 23, 1985 the President signed the Food Security Act of 1985 (Pub. L. 99–198). This legislation amended section 5(f) and (g) of the Agriculture and Consumer Protection Act of 1973 (7 U.S.C. 612c note) to require that the Secretary permit agencies administering the CSFP to serve elderly persons if such service can be provided without reducing service levels for women, infants, and children. The law also mandates establishment of income eligibility requirements for elderly participation. Prior to enactment of Public Law 99–198, elderly participation was restricted by law to three designated pilot projects which served the elderly in accordance with agreements with the Department.

In order to implement the CSFP mandates of Public Law 99–198, the Department published an interim rule on September 17, 1986 at 51 FR 32895 and a final rule on February 18, 1988 at 58 FR 8287. These regulations define ''elderly persons'' as those who are 60 years of age or older. The final rule further stipulates that elderly persons certified on or after September 17, 1986 must have ''household income at or below 130 percent of the Federal Poverty Income Guidelines published annually by the Department of Health and Human Services'' (7 CFR 247.7(a)(3)).

These poverty income guidelines are revised annually to reflect changes in the Consumer Price Index. The revision for 1997 was published by the Department of Health and Human Services (DHHS) in the **Federal Register** for March 10, 1997 at 62 FR 10855. To establish income limits of 130 percent, the poverty income guidelines were multiplied by 1.30 and the results rounded up to the next whole dollar.

At this time the Department is publishing the income limits of 130 percent of the poverty income guidelines. The table in this notice contains the income limits by household size to be used for elderly certification in the CSFP for the period July 1, 1997—June 30, 1998.

EFFECTIVE JULY 1, 1997–JUNE 30, 1998—FCS Poverty Income Guidelines for Elderly in CSFP

[130 Percent of Poverty Income Guidelines]

Family size	Annual	Month	Week
1	10,257	855	198
2	13,793	1,150	266
3	17,329	1,445	334
4	20,865	1,739	402
5	24,401	2,034	470
6	27,937	2,329	538
7	31,473	2,623	606
8	35,009	2,918	674
For each additional family member add:	+3,536	+295	+68

Dated: April 10, 1997.

William E. Ludwig,

Administrator.

[FR Doc. 97–10103 Filed 4–17–97; 8:45 am]

BILLING CODE 3410–30–P

DEPARTMENT OF AGRICULTURE

Natural Resources Conservation Service

Cameron-Creole Maintenance Project (CS–4a), Cameron Parish, Louisiana

AGENCY: Natural Resources Conservation Service, USDA.

ACTION: Notice of Finding of No Significant Impact.

SUMMARY: Pursuant to Section 102(2)(c) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Regulations (40 CFR Part 1500); and the Natural Resources Conservation Service Regulations (7 CFR Part 650); the Natural Resources Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Cameron-Creole Maintenance Project (CS–4a), Cameron Parish, Louisiana.

FOR FURTHER INFORMATION CONTACT: Donald W. Gohmert, State Conservationist, Natural Resources Conservation Service, 3737 Government Street, Alexandria, Louisiana 71302, telephone (318) 473–7751.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Donald W. Gohmert, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed on this project.

The purpose of this project is to provide maintenance on a completed 113,000 acre PL–566 watershed project through PL–646. The original project and maintenance proposal has already gone through public review.

The Notice of a Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various federal, state and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the **Federal Register**.

Dated: April 4, 1997.

Donald W. Gohmert,

State Conservationist.

Finding of No Significant Impact; Cameron-Creole Maintenance Project (CS–4A), Cameron Parish, Louisiana

Introduction

The Cameron-Creole Maintenance Project is a federally assisted action authorized for funding under Public Law 101–646, Coastal Wetlands Planning, Protection, and Restoration Act. An environmental assessment has been completed on this project based upon examination of a Final Environment Statement completed on the PL–566 Cameron-Creole Watershed Project. This document is available for review at the following location: U.S. Department of Agriculture, Natural Resources Conservation Service, Water Resources Planning Section, 3727 Government Street, Alexandria, Louisiana 71302.

Recommended Action

The United States Department of Agriculture, Natural Resources Conservation Service (NRCS) proposes to provide maintenance on the completed PL–566 Cameron-Creole Watershed Project through the authorized PL–646 funding.

Effect of the Recommended Action

The Cameron-Creole Watershed is an 113,000 acre area in Cameron Parish, Louisiana. Providing necessary maintenance will insure continued benefits of the completed project are sustained, as shown by the latest monitoring report.

Consultation—Public Participation

Upon signature of this Finding of No Significant Impact (FONSI), a Notice of Availability will be sent to concerned federal, state, local and other organizations and individuals known to have an interest in the proposed project. The proposed project has been coordinated with and accepted by the U.S. Fish and Wildlife Service, National Marine Fisheries Service, Environmental Protection Agency, U.S. Army Corps of Engineers, Louisiana Department of Natural Resources and the Governor's Office of Coastal Affairs.

Meetings are being held throughout the process to keep all interested parties informed of the project status. Agency consultation and public participation to date have shown no unresolved conflicts with the proposed implementation of the selected plan.

Conclusion

This office has assessed the environmental impacts of the proposed work and has determined that the project will have no significant adverse local, regional, or national impacts on the environment. Therefore, no Environmental Impact Statement (EIS) or Supplemental EIS will be prepared.

Dated: April 4, 1997.

Donald W. Gohmert,

State Conservationist.

Subject: Adoption of Cameron-Creole Watershed Environmental Impact

To: Cameron-Creole Maintenance Project (CS–4A) File

I have reviewed the Cameron Creole Watershed Final Environment Statement which is housed in the Water Resources Planning Section at 3727 Government Street, Alexandria, Louisiana. It adequately addresses the potential environmental impacts for the above identified action and meets the requirements of Natural Resources Conservation Service NEPA as set forth in the regulations of the Council on Environmental Quality (CEQ) (40 CFR 1500–1508) and the SCS (7 CFR 650).

This memorandum is adopted as my environmental assessment of the subject action.

Based on an examination and review of the foregoing information, I have determined that this project:

_____ will have a significant effect on the quality of the human environment and an Environmental Impact Statement must be prepared;

XX will not have a significant effect on the quality of the human environment.

I have made the following compliance determination for the listed environmental requirements.

Not in compliance	In compliance	
_____	XX	Clean Air Act.
_____	XX	Federal Water Pollution Control Act.
_____	XX	Safe Drinking Water Act—Section 1924(e).
_____	XX	Endangered Species Act.
_____	XX	Coastal Barrier Resources Act.
_____	XX	Coastal Zone Management Act-Section 307(c) (1) and (2).
_____	XX	Wild and Scenic Rivers Act.
_____	XX	National Historic Preservation Act.
_____	XX	Archaeological and Historic Preservation Act.
_____	XX	Executive Order 11988, Floodplain Management.
_____	XX	Executive Order 11990, Protection of Wetlands.
_____	XX	Subtitle B, Highly Erodible Land Conservation, and Subtitle Wetland Conservation, of the Food Security Act.
_____	XX	Farmland Protection Policy Act.
_____	XX	Departmental Regulation 9500–3, Land Use Policy.

I have reviewed and considered the type and degree of adverse environmental impacts identified by this assessment. I have also analyzed the proposal for its consistency with NRCS environmental policies, particularly those related to land use, and have considered the potential benefits of the proposal. Based upon a consideration and balancing of these factors, I have determined from an environmental standpoint that the project

XX be approved

_____ not be approved because of the attached reasons.

Dated: April 4, 1997.

Donald W. Gohmert,

State Conservationist.

[FR Doc. 97–10003 Filed 4–17–97; 8:45 am]

BILLING CODE 3410–16–M

DEPARTMENT OF AGRICULTURE

Rural Utilities Service

City of Albany, Kentucky, Cagle Water Expansion Project; Draft Environmental Impact Statement

AGENCY: Rural Utilities Service, USDA.

ACTION: Notice of availability of draft environmental impact statement and notice of public meeting.

SUMMARY: Notice is hereby given that the Rural Utilities Service (RUS) is issuing a Draft Environmental Impact Statement (EIS) related to the proposed potable water treatment plant expansion in Albany, Kentucky. The Draft EIS was prepared pursuant to the National Environmental Policy Act of 1969 (NEPA) (U.S.C. 4231 *et seq.*) in accordance with the Council on Environmental Quality (CEQ) regulations for implementing the procedural provisions of NEPA (40 CFR parts 1500–1508) and Agency regulations (7 CFR part 1940–G). RUS invites comments on the Draft EIS.

The purpose of this Draft EIS is to evaluate the environmental impacts of the proposal to expand Albany's potable water treatment plant to increase its treatment capacity from 2.0 million gallons daily (MGD) to 5.0 MGD. As a result of the action, Cagle's, Inc., plans to build a poultry processing plant in Clinton County, Kentucky. Support operations such as a feed mill, hatchery, poultry farms, and associated utility lines would be built in the region. The Clinton County Industrial Park would also be built as a result of the water plant expansion.

DATES: Written comments on the Draft EIS will be accepted on or before June 9, 1997.

ADDRESSES FOR FURTHER INFORMATION: To send comments or for more information, contact: Mark S. Plank, USDA, Rural Utilities Service, Engineering and Environmental Staff, 1400 Independence Avenue, Mail Stop 1571, Washington, DC 20250, telephone (202) 720–1649, fax (202) 720–0820, or e-mail: mplank@rus.usda.gov.

Comments may also be made from Kentucky and Tennessee only, by calling 1–800–444–9765.

A copy of the Draft EIS can be obtained over the Internet at http://www.usda.gov/rus/water/ees/ees.htm. The file is in a portable document format (pdf); in order to review the document, users need to obtain a free copy of Acrobat Reader. The Acrobat Reader can be obtained from http://www.adobe.com/prodindex/acrobat/readstep.html.

Copies of the Draft EIS will be available for public review during normal business hours at the following locations:

Clinton County Public Library, 205 Burkeville Road, Albany, KY 40601, (606) 387–5989

Goodnight Memorial Library, 203 South Main, Franklin, KY 42134, (502) 586–8397

Simpson County Extension Service, 300 N. Main Street, Franklin, KY 42134, (502) 586–4484

Warren County Extension Service, 1117 Cabell Drive, Bowling Green, KY 42102–1018, (502) 842–1681

Bowling Green Public Library, 1225 State Street, Bowling Green, KY 42102, (502) 843–1438

Helm-Cravers Library, 1 Big Red Way, Western Kentucky University, Bowling Green, KY 42101, (502) 745–3951

PUBLIC MEETING: A public meeting to solicit review comments will be held on April 29, 1997, at the Clinton County High School, at 4 p.m. and 7 p.m. Agencies, organizations, and the general public are invited to participate in the meeting and to offer comments on the Draft EIS. Oral statements will be heard and transcribed by a stenographer. However, to ensure accuracy of the record, RUS requests that statements also be submitted in writing. All statements, both oral and in writing, will become part of the public record on this study. All comments submitted by mail must be postmarked by no later than June 9, 1997 to become part of the public record.

SUPPLEMENTARY INFORMATION: The City of Albany, located in south-central Kentucky, applied for Federal financial assistance to expand its potable water treatment plant on September 5, 1996. This action is a part of a Federal program that empowers depressed rural communities to develop economically through a government and private business partnership. The U.S. Department of Agriculture (USDA), Rural Utilities Service (RUS), announced its intent on November 29, 1996, to prepare an Environmental Impact Statement (EIS) for the proposed expansion.

This EIS is the evaluation of the potential impacts on the environment from the proposed potable water treatment plant expansion. In addition, the EIS considers the potential environmental impacts from the construction and operation of industries that would locate in the Albany, Kentucky area as a result of the expansion. Cagle's, Inc., plans to build a poultry processing facility in the area. This would require construction of support operations such as a feed mill, hatchery, poultry farms, and associated utility lines or ancillary systems. The Clinton County Industrial Park is also proposed as a result of the expansion, even though no specific plans have been made for the industrial park.

In preparing this EIS, the study team considered several alternatives to the proposed action, but most were considered unlikely, impracticable, or unreasonable. Therefore, this EIS evaluates in depth only two alternatives: the proposed action to expand the potable water treatment plant and the no action alternative.

The affected environment of the proposed facilities consists of rural settings that are dominated by agricultural operations. The proposed expansion would require building a new potable water treatment plant next to the existing plant. This would increase the overall raw water treatment capacity from 2 million gallons per day to 5 million gallons per day. The raw water would be drawn from Lake Cumberland, a major recreational lake in the area.

The proposed poultry processing facility would be located about 3 miles from Lake Cumberland. The proposed poultry processing facility would use an on-site no discharge wastewater treatment system that would spray irrigate treated water on a hay farm. No wastewater would be directly discharged to Indian Creek, which drains into Lake Cumberland. A feed mill and hatchery would be located about 70 miles due west of the poultry processing facility, with poultry farms likely to span throughout fifteen counties in Kentucky and Tennessee. The Clinton County Industrial Park would be located about four miles south of the proposed raw water treatment plant.

The EIS evaluates the potential environmental impacts from the construction and operation of the various proposed facilities and associated utility lines. Construction and operation of the proposed facilities and utility lines would have no significant impact on biological resources, noise, aesthetics, and air quality of the region.

Construction of the facilities and utility lines would use best management practices to control erosion, runoff, and sedimentation, as required by Kentucky regulations. Therefore, minimal impacts on soils and surface water would occur. The geology of the area consists largely of limestone, containing sinkholes, crevices, and caves. Therefore, to minimize the risk of problems associated with sinkholes, subsurface investigations would have to be used to help determine the exact siting of buildings, lagoons, and the other facilities.

Operation of the proposed potable water treatment plant would have little impact on Lake Cumberland's water capacity. The proposed spray irrigation of treated water at the poultry processing facility would have no

significant impact on soils or surface and groundwater. However, a monitoring program for soils, surface, and groundwater would be set up to assess any potential long-term effects. The proposed feed mill and hatchery would have minimal impact on the environment since its wastewater would be discharged to a local municipal sewer.

Disposal of poultry wastes from the poultry processing facility and poultry farms would use best management practices as required by the Kentucky Agriculture Water Quality Plan, which is in the process of being implemented. Each new agriculture operation would need to comply with the plan. The plan also includes long-term monitoring of the state's water quality to evaluate the effectiveness of the best management practices. Therefore, no significant impacts on water quality are expected.

For most of the proposed facility areas, no significant cultural resources have been found. However, an ongoing archaeological investigation is being conducted at the poultry processing facility site to recover any significant archaeological resources. The site is expected to receive clearance from the State Historical Preservation Officer before any construction activity would begin.

Most of the socioeconomic effects would result from the construction and operation of the poultry processing facility and its support operations. The proposed poultry farming operations would be consistent with U.S. Department of Agriculture's family farming policy. The projected industrial growth in the area would result in increased employment and income. This would in turn stimulate economic growth of this low-income area. No significant impact on the transportation system in the region is expected.

The proposed Clinton County Industrial Park would be able to accommodate businesses interested in locating to the area in the future. This would further stimulate economic growth in the area.

The construction and operation of the proposed facilities and utility lines would meet all federal, state, and local regulations and permitting requirements. Best management practices for construction activities and poultry farming operations would prevent any significantly adverse impacts on the environment. Funding of the potable water treatment plant is the preferred alternative at this time.

The No Action Alternative is not to award Federal financial assistance to the City of Albany. If the No Action Alternative is chosen, the potential environmental effects of the various proposed facilities, discussed above, would not occur. However, potential economic development in the area would not be realized, and the goals of the federal assistance program would not be met. The area would continue to suffer from high unemployment, poverty, and dependence on Federal and State entitlements.

Dated: April 11, 1997.

John P. Romano,

Deputy Administrator, Water and Environmental Program.

[FR Doc. 97–10045 Filed 4–17–97; 8:45 am]

BILLING CODE 3410–15–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: May 19, 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 January 7 and February 28, 1997, the Committee for Purchase From People Who Are Blind or Severely Disabled published notices (62 FR 964 and 9159) 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:

Publications Distribution

Beale Air Force Base, California

Switchboard Operation

VA Medical Center and Administration Building 21, 3600 30th Street, Des Moines, Iowa

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. 97–10105 Filed 4–17–97; 8:45 am]

BILLING CODE 6353–01–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

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 services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

COMMENTS MUST BE RECEIVED ON OR BEFORE: May 19, 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 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 services to the Government.

2. The action does not appear to 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. Comments on this certification are invited. Commenters should identify the statement(s) underlying the certification on which they are providing additional information.

The following services have been proposed for addition to Procurement List for production by the nonprofit agencies listed:

Janitorial/Custodial

Guy Cardillo USARC, Roslindale, Massachusetts
NPA: Morgan Memorial Goodwill Industries, Roxbury, Massachusetts
Naval Air Station, South Weymouth, Massachusetts
NPA: South Shore Association for Retarded Citizens, Inc., North Weymouth, Massachusetts
G.H. Crossman USARC, Taunton, Massachusetts
NPA: Morgan Memorial Goodwill Industries, Roxbury, Massachusetts

Janitorial/Ground Maintenance

Federal Building and U.S. Post Office, Carson City, Nevada
NPA: United Cerebral Palsy of Northern Nevada, Sparks, Nevada.

Beverly L. Milkman,

Executive Director.

[FR Doc. 97–10106 Filed 4–17–97; 8:45 am]

BILLING CODE 6353–01–P

DEPARTMENT OF COMMERCE

International Trade Administration

Trade Mission to Bahia, Brazil, May 19–28, 1997

AGENCY: International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: This notice serves to inform the public of a trade mission to Bahia, Brazil to be held May 19–28, 1997 (''the mission''); provides interested U.S. firms with the opportunity to submit an application to participate in the mission; sets forth objectives, procedures, and selection review criteria for the mission; and requests applications. The recruitment and selection of private sector participants in the mission will be conducted in accordance with the Statement of Policy Governing Department of Commerce Overseas Trade Missions announced by Secretary Daley on March 3, 1997 and reflected herein.

DATES: Applications should be received by May 5, 1997. This mission is scheduled for May 19 through May 28, 1997. Applications received after that date will be considered only if space and scheduling constraints permit.

ADDRESSES: Request for and submission of applications: Applications are available from: Paulo Mendes, Project Officer, Department of Commerce, 14th and Constitution Avenue, N.W., Room 3025, Washington, DC 20230; phone 202–482–3872; facsimile 202–482–4157. Numbers listed in this notice are not toll-free. An original and two copies of the required application materials should be sent to the Project Officer at the above address. Applications sent by facsimile must be immediately followed by submission of the original application to the Project Officer.

FOR FURTHER INFORMATION CONTACT: Paulo Mendes, Project Officer, 202–482–3872.

SUPPLEMENTARY INFORMATION:

Mission Description

As part of the outreach component of the U.S.-Brazil Business Development Council (BDC), ITA will organize and lead a trade mission to the state of Bahia, Brazil. Because of Brazil's prospects for continued economic growth over the next few years, the U.S. Department of Commerce has developed special initiatives to assist U.S. companies establish stronger bilateral commercial relations, including the U.S.-Brazil BDC. The BDC was formed to develop a program of activities to facilitate bilateral commerce and is comprised of public and private sector members. A major objective of the BDC is to cultivate U.S. business links with non-traditional economic areas in Brazil, including the state of Bahia.

The mission will introduce U.S. companies to opportunities for the sales of U.S. goods and services and investment in the emerging northeastern region of Brazil. The region is undergoing an industrial boom; it received over US$6 billion in foreign direct investment in 1995 and 1997. It is expected that the state will attract over US$20 billion in foreign direct investment between 1997 and 2012. There is a rapidly growing market for U.S. products and services which are often related to new investments in the state.

The mission is intended to provide greater access and expose U.S. firms to the booming state of Bahia, Brazil. Moreover, because the state of Bahia is the gateway to other growing markets in the northeastern region of Brazil, it will provide participant companies a foothold in the region.

This will be a ''horizontal'' mission. The industry focus of the mission will depend on the mix of companies—limited to 15—that ITA is able to recruit. The sectors of the state of Bahia economy which present best opportunities for U.S. companies include: (1) Chemicals and petrochemicals, (2) telecommunications, (3) tourism (hotels and resorts), (4) mining, (5) paper and pulp, (6) electricity, and (7) agribusiness.

The itinerary of the mission should include the following stops: Salvador, Brasilia, São Paulo and Rio de Janeiro. The exact itinerary will depend on the final mix of participating companies. The stops in cities outside the state of Bahia may be scheduled to facilitate and enhance the commercial activities in the target market.

Mission Goals

The goals of the mission are to increase U.S. exports and promote U.S. investment in Bahia and to cultivate U.S. business links with non-traditional economic areas in Brazil, including the state of Bahia. Similarly to what was done in prior missions, we will measure our effectiveness by actual exports and/or investments triggered by the trade mission. Accordingly, after the mission, we will monitor progress made by the companies.

Mission Scenario

We will offer the following opportunities to the private sector participants: (1) Contacts with high level government officials, (2) one-on-

one matchmaking meetings, (3) in-depth workshops on doing business in Brazil, and (4) all logistical support. We expect that individuals—after participating in the mission—will feel comfortable operating in Brazil and, thus, will know how to establish an effective strategy to penetrate and/or expand their commercial presence in Brazil.

Participation Criteria

A maximum of 15 companies will be selected to participate in the mission. Participants must be potential exporters to and/or investors in the state of Bahia or neighboring regions. We will assess a company's potential to penetrate the Brazilian market in light of the opportunities in Bahia and select the best candidates based on the following factors: (1) Consistency of a company's goals with the scope, nature and desired outcome of the mission as described herein; (2) Relevance of a company's business line to the plan for the mission; (3) Past, present and prospective business activity in Bahia (and Brazil); (4) Diversity of company size, type, location, demographics and traditional under-representation in business; and (5) Timeliness of completed application by company (including payment of participation fee).

An applicant's partisan political activities (including political contributions) are entirely irrelevant to the selection process.

Endorsements/Referrals

Third parties may nominate or endorse potential applicants, but companies that are nominated or endorsed must themselves submit an application in order to be eligible for consideration. Referrals from political organizations will not be considered.

Costs; The fee to participate in the mission is $750. The participation fee does not cover the participants' travel, lodging or other personal expenses.

Authority: 15 U.S.C. 1512.

Walter Bastian,

Director, Office of Latin America and the Caribbean.

[FR Doc. 97–10030 Filed 4–17–97; 8:45 am]

BILLING CODE 3510–DA–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Southeast Region Federal Fisheries Permits

ACTION: Proposed collection; comment request.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before June 17, 1997.

ADDRESSES: Direct all written comments to Linda Engelmeier, Departmental Forms Clearance Officer, Department of Commerce, Room 5327, 14th and Constitution Avenue, NW, Washington DC 20230.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Edward E. Burgess, Southeast Regional Office, 9721 Executive Center Drive North, St. Petersburg, Florida 33702, (813) 570-5326.

SUPPLEMENTARY INFORMATION:

I. Abstract

This mandatory requirement is being implemented under authority of 50 CFR 622.4. Commercial fishermen and dealers participating in certain Federally-controlled fisheries are required to obtain fishing or dealer permits. Federal permits are a major component of fishery management in the Southeast. Identification and control of fishing vessels and dealers through a permit system are necessary in rebuilding stressed fish stocks.

II. Method of Collection

Vessel owners and fishery dealers must submit applications for federal fishing permits. In most cases fishery permit applications are filled out using data which had previously been submitted and mailed to the applicant. The applicant need only modify any data which has changed and choose the desired permits.

III. Data

OMB Number: 0648–0205.

Form Number: None.

Type of Review: Regular Submission.

Affected Public: Commercial fishermen and seafood dealers.

Estimated Number of Respondents: 7,000.

Estimated Time Per Response: The response time varies by the type of permit requirement. Generally vessel permits are estimated to take 20 minutes per application and dealer permits 5 minutes.

Estimated Total Annual Burden Hours: 3,431 hours.

Estimated Total Annual Cost to Public: Fishermen are charged for the administrative cost of issuing the permit. This annual cost is expected to be $310,000.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: April 11, 1997.

Linda Engelmeier,

Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 97–10064 Filed 4–17–97; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Antarctic Marine Living Resources Conservation and Management Measures

ACTION: Proposed collection; comment request.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before June 17, 1997.

ADDRESSES: Direct all written comments to Linda Engelmeier, Departmental

Forms Clearance Officer, Department of Commerce, Room 5327, 14th and Constitution Avenue, NW, Washington DC 20230.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Robin Tuttle, F/ST, Room 14212, 1315 East-West Highway, Silver Spring, MD 20910 (301–713–2282).

SUPPLEMENTARY INFORMATION:

I. Abstract

Pursuant to the Antarctic Marine Living Resources Act (1984), NOAA regulates harvesting, importing and research activities in the Antarctic area. Permits are issued and forms are used to collect information from an anticipated six respondents for the conservation and management of resources and to meet the treaty obligations of the Convention on the Conservation of Antarctic Marine Living Resources (CCAMLR).

II. Method of Collection

Fishers seeking permits to fish in the Convention Area submit permit application forms to the National Marine Fisheries Service. Fishers holding permits and fishing in the Convention Area keep daily logs. Logbooks are submitted at the conclusion of a fishing season, with every 5-day, 10-day, or monthly reporting (by cable, telex or fax) of certain species catch. Fishers proposing to conduct a new or exploratory fishery are required to submit information describing the operation. Importers seeking to import fish harvested from the Convention area submit permit application forms to the National Marine Fisheries Service. Importers holding permits submit import tickets reporting each importation. Researchers who anticipate catches of less than 50 tons of finfish submit a notification of research vessel activity. Researchers who anticipate catches of greater than 50 tons of finfish submit plans for finfish surveys. Persons proposing to enter a CCAMLR Ecosystem Monitoring (CEMP) site submit an application for an entry permit and report annually on CEMP site activity.

III. Data

OMB Number: 0648–0194.

Form Number: None.

Type of Review: Regular Submission.

Affected Public: Individuals requesting/holding permits to harvest or import resources from the Convention Area.

Estimated Number of Respondents: 4–6.

Estimated Time Per Response: Permit applications for established fisheries are expected to take ½ hour each to complete. Applications for new or exploratory fisheries should take 16 to forty hours, respectively, but are a function of how much or how little is known about the fishery, and therefore, cannot be reliably predicted. Import tickets should take no more than 15 minutes each to complete since the information requested tracks data previously supplied in applying for an import permit. CEMP site entry applications should require about one hour to complete. An annual CEMP site activity report should require ½ hour. There are currently no U.S. fishers holding permits to fish in the Convention Area. There is no U.S. Research underway or planned which will exceed the tonnage figures required for reporting.

Estimated Total Annual Burden Hours: 54½ hours.

Estimated Total Annual Cost to Public: $1090.00.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: April 11, 1997.

Linda Engelmeier,

Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 97–10065 Filed 4–17–97; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 041497D]

Endangered Species; Permits

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

ACTION: Receipt of three applications for scientific research permits (P631, P633, P644).

SUMMARY: Notice is hereby given that the State of California, Jackson Demonstration State Forest at Fort Bragg, CA (JDSF); William M. Kier and Associates at Sausalito, CA (KIER); and ENTRIX Incorporated at Walnut Creek, CA (ENTRIX) have applied in due form for permits authorizing takes of a threatened species for scientific research purposes.

DATES: Written comments or requests for a public hearing on any of these applications must be received on or before May 19, 1997.

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

Protected Species Division, NMFS, 777 Sonoma Avenue, Room 325, Santa Rosa, CA 95404–6528 (707–575–6066).

Written comments or requests for a public hearing should be submitted to the Protected Species Division in Santa Rosa, CA.

SUPPLEMENTARY INFORMATION: JDSF, KIER, and ENTRIX request permits 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 217–227).

JDSF (P631) requests a five-year permit for takes of adult and juvenile, threatened, central California coast coho salmon (*Oncorhynchus kisutch*) associated with fish population and habitat studies on JDSF lands in Mendocino County. The studies consist of three assessment tasks for which ESA-listed fish are proposed to be taken: 1) Presence/absence, 2) population estimates, and 3) habitat quality evaluation. ESA-listed fish are proposed to be observed or captured, anesthetized, handled, allowed to recover from the anesthetic, and

released. ESA-listed juvenile salmon indirect mortalities associated with the research are also requested.

KIER (P633) requests a five-year permit for takes of adult and juvenile, threatened, central California coast coho salmon (*Oncorhynchus kisutch*) associated with fish population and habitat studies throughout the Evolutionarily Significant Unit (ESU). The studies consist of three assessment tasks for which ESA-listed fish are proposed to be taken: 1) Presence/absence, 2) population estimates, and 3) habitat quality evaluation. ESA-listed fish are proposed to be observed or captured, anesthetized, handled, allowed to recover from the anesthetic, and released. ESA-listed juvenile salmon indirect mortalities associated with the research are also requested.

ENTRIX (P644) requests a five-year permit for takes of adult and juvenile, threatened, central California coast coho salmon (*Oncorhynchus kisutch*) associated with fish population and habitat studies throughout the ESU. The studies consist of three assessment tasks for which ESA-listed fish are proposed to be taken: 1) Presence/absence, 2) population estimates, and 3) habitat quality evaluation. ESA-listed fish are proposed to be observed or captured, anesthetized, handled, allowed to recover from the anesthetic, and released. ESA-listed salmon indirect mortalities associated with the research are also requested.

Those individuals requesting a hearing on any of the requests for a permit should set out the specific reasons why a hearing would be appropriate (see **ADDRESSES**). The holding of such a hearing is at the discretion of the Assistant Administrator for Fisheries, NOAA. All statements and opinions contained in the above application summaries are those of the applicants and do not necessarily reflect the views of NMFS.

Dated: April 15, 1997.

Robert C. Ziobro,

Acting Chief, Endangered Species Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 97–10116 Filed 4–17–97; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF DEFENSE

Department of the Navy

Record of Decision for Capital Improvements at the Naval Surface Warfare Center, Acoustic Research Detachment, Bayview, ID

Pursuant to Section 102(2)(c) of the National Environmental Policy Act (NEPA) of 1969 and the Council on Environmental Quality regulations implementing NEPA procedures (40 CFR 1500–1508), the Department of the Navy announces its decision to implement capital improvements at the Naval Surface Warfare Center (NSWC), Carderock Division (CD), Acoustic Research Detachment (ARD), Bayview, Idaho.

The Navy is selecting the preferred alternative suite of capital improvements presented in the Final Environmental Impact Statement (FEIS) for this action. Major components of the capital improvements include construction of: an extended pier Model Engineering Support Facility (MESF) and related improvements; a Model Support Platform (MSP) access pier; and Acoustical Testing and Analysis Center (ATAC) and related improvements; realignment of the main entry gate; and expansion of the main parking lot (without acquisition of the Bayview Public Park).

The selected capital improvements will meet four programmatic objectives of improving model operational support, program management support, site circulation and security, and environmental protection.

A Notice of Intent (NOI) to prepare an EIS was published in the **Federal Register** on January 25, 1996. A public scoping meeting was held at the Bayview Community Center in Bayview, Idaho on February 27, 1996. A Draft EIS (DEIS) was distributed in July 1996, followed by a public hearing to receive oral and written comment held at the Bayview Community Center on September 5, 1996. The public and agency comment period ended on September 23, 1996. The Environmental Protection Agency rated the DEIS ''LO'' (lack of objections). All comments were addressed in the FEIS which was distributed to the public on January 31, 1997. No comments were received from the public on the FEIS.

Major issues identified during public participation and review related to potential impacts to aesthetics, land use and land acquisition, and noise impacts on the surrounding community, as well as potential impacts to aquatic resources (e.g., fish and water quality) from construction and operation associated with the selected capital improvements. Aesthetic concerns related primarily to the visibility and appearance of proposed new facilities as viewed from residential areas within Bayview.

Some commenters raised the issue of compliance with existing county ordinances, including fire regulations and zoning requirements. Specific issues raised regarding potential noise impacts to the community included pile driving and hours per day of construction.

Concerns about water quality and impacts to fish spawning habitat were related to dredging activities associated with construction of the Model Engineering Support Facility (MESF), and in-lake acoustical testing operations. Other issues such as parking, impacts to local recreation, utilities, water craft safety, and hazardous materials were also raised.

Background

The Acoustic Research Detachment (ARD) at Bayview, Idaho comprises 22 acres on the shoreline of Lake Pend Oreille, Kootenai County, Idaho. The mission of ARD is to provide: (1) Research, development, test and evaluation, fleet support, and in-service engineering for surface and undersea vehicle hull, mechanical, and electrical systems, and propulsors; (2) logistics research and development; and (3) support to the Maritime Administration and the maritime industry. To do this, ARD maintains shore support facilities in Bayview, Idaho, two remote support facilities on U.S. Forest Service property, and five test sites in Lake Pend Oreille.

Three types of operations are provided at ARD: (1) Waterborne Operations, (2) Project Operations, and (3) Base Administration. Waterborne Operations encompass all in-water operations, which include model testing, model storage and handling, boat and barge storage, fueling, cranes, and piers. Project Operations include all shoreside operations that directly support in-lake testing, such as industrial shops, project engineering and management, material storage, an computer system operations. Base Administration includes general operations support such as security, administration, parking, and recreation. Capital improvement projects for each type of operation are described below.

Proposed improvements supporting Waterborne Operations include the construction of a Model Engineering and Support Facility (MESF), construction of a new access pier to the Model Support Platform (MSP), re-

establishment of the spill containment boom, and other related improvements.

Two design options were identified in the EIS for construction of the MESF: (1) A near-shore MESF, and (2) an extended pier MESF. The near-shore MESF would be pile-supported and include dredging to provide sufficient water depth to accommodate the movement of the models in and out of the water. The selected design option is to locate the proposed MESF away from the shoreline at a depth sufficient to move large scale models to and from the water without the need for dredging. Access to the MESF will be by an extended pile-supported pier.

Other improvements supporting waterborne operations include construction of an access pier from the shoreline to the MSP, allowing direct transfer of heavy equipment and machinery between the MSP and shore; attachment pilings to allow for permanent deployment of floating spill containment booms; and bank and shoreline stabilization above the Lake Pend Oreille high water level to halt erosion.

Adequate access to the proposed MESF will require removal of the existing hazardous materials storage facility to be replaced with a new building of approximately 800 square feet. Upon completion of the MESF, an existing barge (Green Barge, PSP–4) will be removed.

Project Operations facilities provide support for in-lake testing. Typical activities include machine fabrication, project engineering and management, computer testing, and analysis. Currently, these operations are dispersed throughout ARD and there is a need to consolidate these operations. The EIS evaluated two options: the selected option of constructing an Acoustical Testing and Analysis Center (ATAC), and a second option of constructing a Research and Development Support Facility (RDSF) in combination with a new Shops Facility replacing Building 1.

Construction of the proposed ATAC, as selected, will consolidate all project operations facilities into one building. The ATAC will serve as the principal facility for fabrication, test data collection and analysis, and project management and engineering. Buildings 1 and 4 will be demolished along with construction of the proposed ATAC to allow vehicle maneuverability. A new storage facility will be constructed in the Remote Storage Area to make up for lost storage space. No longer needed for project operations, Buildings 1, 101, 102, and 103 will be demolished after construction of the ATAC. Concrete pads will be constructed in place of Buildings 101, 102, and 103 to accommodate existing trailers pads that will be displaced as a result of the ATAC.

In association with the construction of the ATAC, a pedestrian path will be constructed around the rear (west) of the building to provide a more efficient pedestrian linkage between the upland and lower portions of the base. All significant vegetation, including a stand of Douglas-fir trees, will remain where feasible. A new stairway will be constructed just east of Building 60, between the main parking lot and Shore Road. This will replace the existing walkway west of Building 60, which is narrow and unsafe , especially during inclement weather.

Base Administration includes general operations support such as administration, security, and parking. The selected capital improvements will include realignment of the main entry gate and expansion of the main parking lot. The Navy proposes to expand the existing main parking lot by acquiring, as appropriate funding becomes available, only the privately-owned single-family residence adjacent to ARD. Because this will result in a smaller main parking lot that originally proposed, the existing overflow gravel parking lot will be paved and used for permanent parking. In response to several public comments on this matter, the Navy does not propose to acquire the Bayview Public Park parcel.

The selected road alignment will shift the entry gate north, providing enhanced visitor control, more efficient truck and heavy equipment access, and space for short-term visitor parking. The realignment will also provide a space for large trucks to park on ARD property rather than on State Route (SR) 54, as currently occurs during check-in. The existing security building (Building 100) will be either retained and remodeled or demolished and replaced to accommodate access from the new main gate control point.

Implementation of the selected capital improvements will occur over the next 10 to 15 years. The MESF is planned for construction beginning in Summer 1997. In addition, both the re-established spill containment boom and the shoreline stabilization project are planned to begin in 1997. The MSP access pier is planned for 1998. Both the ATAC and the new covered storage building in the Remote Storage Area are planned for execution in 2000. No other proposed projects are currently scheduled for execution in a specific year.

A No Action Alternative was also evaluated and would have resulted in continued operations at ARD using the existing facilities without any of the changes discussed in this decision. Movement of large scale models and other equipment to and from the water would have continued to occur from the three existing model support barges (LSV, MSP, and Green Barge), as well as from the shoreline. The administrative, office, and computer functions would have continued to operate from the existing facilities dispersed throughout ARD. Neither the MESF and ATAC, nor the RDSF would have been constructed.

Under the selected improvement program, some soils will be removed from ARD and some vegetation will be lost. However, the removed vegetation will be replaced with new vegetation once each capital improvement is completed. Depending on the disposal method of removed soils and excess materials from demolition and construction of buildings, additional landfill space will be consumed and unavailable for other uses. Additional truck traffic associated with construction of the selected improvements will increase the risk of vehicle and pedestrian conflicts on adjacent roadways in the short term. The natural visual character of Scenic Bay will be diminished slightly as a result of the improvements. However, given the amount of development that has already occurred, and the fact that the proposed improvements will occur in an area already characterized by industrial development, such visual impacts will not be significant.

Proposed construction, including pile driving, demolition, and material transport, will cause a short-term, localized increase in air pollutant emissions at the project site and along area roadways. However, implementation of individual projects will occur over a 10- to 15-year period, limiting the environmental effects at any one time. Noise from pile driving, demolition, and material transport and handling will be audible on site and in the vicinity, but will be short-term and occur only during daylight hours. The selected capital improvement program will cause fewer water quality and habitat impacts than other alternatives because no dredging will be required for the extended pier MESF design and related improvements.

In accordance with Section 10 of the Rivers and Harbors Act of 1899 and section 404 of the Clean Water Act, all required permits from the U.S. Army Corps of Engineers to perform work in navigable waters of the United States will be obtained prior to construction

and operation of the proposed improvements. In compliance with the National Historic Preservation Act, potential impacts to cultural resources have been evaluated at ARD. No sites listed in, or eligible for listing in, the National Register of Historic Places have been identified within the area of potential effects from the selected capital improvements. The Idaho State Historic Preservation Officer has concurred with this finding. To ensure compliance with the Endangered Species Act, a Biological Assessment was completed and the U.S. Fish and Wildlife Service has confirmed that the selected capital improvements will have no effect on any species under the jurisdiction of the Endangered Species Act.

Pursuant to Executive Order 12898, Environmental Justice, potential environmental and economic impacts on minority and low income populations and communities were assessed. No disproportionate concentrations of minority or low income populations were identified in the areas of potential impacts of the selected capital improvements. Additionally, the Navy has ensured that opportunities for community involvement (including minority and low income individuals and populations) in the NEPA process has been provided.

Cumulative impacts are caused by the incremental impact of the selected capital improvements when added to other past, present, and foreseeable future actions in the area. Navy operations have been occurring in the ARD vicinity over the past 50 years. The tempo of operations and maintenance has increased over time as a result of testing demands. While there have been some limited environmental impacts to the lake, they have been infrequent and minor, causing no significant environmental impact overall. Acoustic testing has not caused a significant impact to recreation and boating activity on Lake Pend Oreille, nor to aquatic resources. No additional plans, in addition to the selected capital improvements, are currently envisioned by ARD. Should additional future plans develop, these will be addressed in subsequent documentation in compliance with NEPA.

The Navy selection of capital improvements results in a balancing of impacts and achieves the needed improvements in operations at ARD, while still responding to the primary concerns of agencies and the public who commented on the DEIS: Minimize or eliminate dredging, minimize visual impacts and the height of structures, and avoid the acquisition of the Bayview Public Park parcel. There are no significant impacts associated with the proposed capital improvements that cannot be mitigated through use of best management practices, proper scheduling, and continued coordination with the community. The selected improvements fulfill the purpose and need and represent the environmentally preferred alternative.

Questions regarding the Environmental Impact Statement prepared for this action may be directed to: Officer in Charge, Naval Surface Warfare Center, Acoustic Research Detachment, PO Box 129, Bayview, Idaho, 83803–0129 (Attention: Mr. Dave Gerzina), telephone (208) 683–2321, extension 4200.

Dated: April 11, 1997.

Duncan Holaday,

Deputy Assistant Secretary of the Navy (Installations and Facilities).

[FR Doc. 97–10069 Filed 4–17–97; 8:45 am]

BILLING CODE 3810–FF–M

DEPARTMENT OF DEFENSE

Department of the Navy

Notice of Intent To Grant Exclusive License; U.S. Foam Corporation

SUMMARY: The Department of the Navy hereby gives notice of its intent to grant to U.S. Foam Corporation, a revocable, nonassignable, exclusive license in the United States to practice the Government owned inventions described in U.S. Patents Nos. 5,190,624, entitled ''Electroheological Fluid Chemical Processing, ''5,194,181, entitled ''Process for Shaping Articles from Electrosetting Compositions,'' and 5,518,664, entitled ''Programmable Electroset Materials and Processing.'' Anyone wishing to object to the grant of this license has 60 days from the date of this notice to file written objections along with supporting evidence, if any. Written objections are to be filed with the Carderock Division, NSWC, Code 004, 9500 MacArthur Blvd., West Bethesda, MD 20817–5700.

FOR FURTHER INFORMATION CONTACT: Mr. Dick Bloomquist, Director, Technology Transfer, Carderock Division, NSWC Code 0117, 9500 MacArthur Blvd., West Bethesda, MD 20817–5700, telephone number (301) 227–4299.

Dated: April 7, 1997.

D.E. Koenig, Jr.,

LCDR, JAGC, USN, Federal Register Liaison Officer.

[FR Doc. 97–10016 Filed 4–17–97; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF ENERGY

Advisory Committee for National Electric and Magnetic Fields

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770), notice is hereby given of a meeting of the National Electric and Magnetic Fields Advisory Committee.

DATES: Thursday, May 1, 1997: 9:00 a.m.–5:30 p.m.; Friday, May 2, 1997: 9:00 a.m.–12:30 p.m.

ADDRESSES: U.S. Department of Energy, 1000 Independence Avenue, S.W., Room 6E–083, Washington, DC 20585.

FOR FURTHER INFORMATION CONTACT: Dr. Imre Gyuk, EMF Program Manager, EE–14, 1000 Independence Avenue, S.W., Washington, D.C. 20585, (202) 586–1482.

SUPPLEMENTARY INFORMATION:

Purpose of the Committee: The National Electric and Magnetic Fields Advisory Committee (NEMFAC) advises the Department of Energy and the National Institute of Environmental Health Sciences on the design and implementation of a five-year, national electric and magnetic fields (EMF) research and public information dissemination (RAPID) program. The Secretary of Energy, pursuant to Section 2118 of the Energy Policy Act of 1992, Public Law 102–486, has overall responsibility for establishing the national program which includes health effects research, development of technologies to assess and manage exposures, and dissemination of information.

Tentative Agenda:

Thursday, May 1, 1997

9:00 a.m. Welcome and opening remarks
9:15 a.m. Status of RAPID program extension
10:00 a.m. Summary of FY97 non-Federal contributions
10:15 a.m. Break
10:45 a.m. Status of RAPID engineering research
11:15 a.m. Status of RAPID communication activities
11:45 a.m. Lunch
1:30 p.m. Record of expenditures and budgets
2:00 p.m. Status of RAPID health effects research
2:20 p.m. Project reporting requirements
2:30 p.m. Science review symposium
3:30 p.m. Break
3:45 p.m. Science review symposium, discussion
5:30 p.m. Adjourn

Friday, May 2, 1997

9:00 a.m. Site visits for quality assurance
9:30 a.m. Regional EMF facilities, progress reports
10:00 a.m. Summary of replication experiments
10:30 a.m. Break
11:00 a.m. NEMFAC business
11:30 a.m. Open time for public comments
12:30 a.m. Adjourn

A final agenda will be available at the meeting.

Public Participation: The meeting is open to the public. Written statements may be filed with the Committee either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact Dr. Gyuk at the address or telephone number listed above. Requests must be received five days prior to the meeting and reasonable provision will be made to include the presentation on the agenda. Depending on the number of requests, comments may be limited to five minutes. The Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. This notice is being published less than 15 days before the date of the meeting due to programmatic issues that needed to be resolved prior to publication.

Transcript and Minutes: A transcript and minutes of this meeting will be available for public review and copying at the Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585 between 9:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays. Copies of the minutes will also be available by request.

Issued at Washington, D.C. on April 15, 1997.

Rachel M. Samuel,

Acting Deputy Advisory Committee Management Officer.

[FR Doc. 97–10082 Filed 4–17–97; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER97–2153–000]

Amerada Hess Corporation; Notice of Filing

April 14, 1997.

Take notice that on April 4, 1997, Amerada Hess Corporation tendered for filing an amendment in the above-referenced docket.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426 in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protest should be filed on or before April 23, 1997. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 97–10057 Filed 4–17–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP97–327–000]

El Paso Natural Gas Company; Notice of Request Under Blanket Authorization

April 14, 1997.

Take notice that on April 4, 1997, El Paso Natural Gas Company (El Paso), Post Office Box 1492, El Paso, Texas 79978, filed a request with the Commission in Docket No. CP97–327–000, pursuant to Sections 157.205, and 157.216(b) of the Commission's Regulations under the Natural Gas Act (NGA) for authorization to abandon natural gas service to certain delivery points (meters and/or taps) located in Texas and Oklahoma, authorized in blanket certificate issued in Docket Nos. CP82–435–000 and CP88–433–000, all as more fully set forth in the request on file with the Commission and open to public inspection.

El Paso proposes to abandon delivery points used for the transportation and delivery of natural gas to WESTCO Gas, Inc. (WESTCO). El Paso states that WESTCO owns and operates facilities for the distribution, transportation, and sale of natural gas to consumers situated in Gray, Wheeler, Donley, and Collingsworth Counties, Texas and Beckham Country, Oklahoma. WESTCO has ultimately succeeded to the interests and properties of Rimrock Gas Company (Rimrock).

El Paso further states that it received authorization for the construction of certain delivery points and the sale for resale of natural gas to Rimrock, by order issued June 28, 1968 in Docket No. CP68–224. Additional delivery points were added pursuant to orders issued August 21, 1969 and May 8, 1980 in Docket Nos. CP69–23 (42 FPC Para. 562) and CP80–129 (11 FERC Para. 61,147), respectively. These facilities were required by El Paso to facilitate the delivery ad sale of natural gas from its interstate transmission pipeline system to Rimrock for resale to various community and irrigation customers.

The delivery point facilities were constructed on existing nonjurisdictional well-tie and lateral gathering lines in El Paso's Panoma and South Zybach Gathering Systems. El Paso's Panoma Gathering System is located in Texas in the counties of Gray, Donley, Collingsworth, and Wheeler. El Paso's South Zybach Gathering system is located, in part, in Beckham County, Oklahoma. El Paso further states that effective April 1, 1988, El Paso sold the Panoma Gathering System facilities, on which these delivery point facilities in Texas are located, to Meridian Oil, Inc. (Meridian). Effective January 1, 1996, El Paso transferred the South Zybach Gathering System facilities, on which one delivery point in Beckham County, Oklahoma is located, to El Paso Field Services Company (Field Services). To facilitate the delivery of gas, Meridian and Field Services have continued to provide deliveries to WESTCO on El Paso's behalf. Although El Paso abandoned the facilities serving WESTCO, El Paso retained the certificate authorization permitting WESTCO, El Paso retained the certificate authorization permitting the sale in interstate commerce of natural gas to WESTCO for resale to the various consumers in the described areas.

El Paso also states that El Paso and WESTCO are parties to a Transportation Service Agreement dated August 7, 1991 (TSA) providing for the firm transportation of WESTCO's full requirements of natural gas for delivery to various residential and irrigation consumers in the States of Texas and Oklahoma.

WESTCO has informed El Paso that it has obtained gas supply and transportation services for the delivery points in the Panoma Gathering System in Texas from Hunter Gas Gathering, Inc. Gas supply and transportation services for the delivery point in the South Zybach Gathering System in Beckham County, Oklahoma would be provided by El Paso Gas Marketing Company and Field Services, respectively. Accordingly, El Paso

proposes to abandon service at these delivery point facilities.

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

Lois D. Cashell,

Secretary.

[FR Doc. 97–10052 Filed 4–17–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–73–003]

Mississippi River Transmission Corporation; Notice of Proposed Changes in FERC Gas Tariff

April 14, 1997.

Take notice that on April 9, 1997, Mississippi River Transmission Corporation (MRT) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, the following revised tariff sheet to be effective May 1, 1997:

Substitute Second Revised Sheet No. 120

MRT states that this tariff sheet is filed herewith to reinstate language dropped in MRT's most recent GISB compliance filing made on February 28, 1997 in the above-referenced docket, and pointed out by Natural Gas Clearinghouse in its March 21, 1997 protest to such filing.

Any person desiring to protest the proposed tariff sheet 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 of Practice and Procedure. All such protests should be filed on or before April 21, 1997. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary

[FR Doc. 97–10054 Filed 4–17–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–61–003]

NorAm Gas Transmission Company; Notice of Proposed Changes in FERC Gas Tariff

April 14, 1997.

Take notice that on April 9, 1997, NorAm Gas Transmission Company (NGT) tendered for filing as part of its FERC Gas Tariff, Fourth Revised Volume No. 1, the following revised tariff sheet to be effective May 1, 1997:

Substitute Original Sheet No. 204A

NGT states that this tariff sheet is filed herewith to correct an inadvertent omission made in NGT's March 3, 1997 compliance filing in the above-referenced docket, and pointed out by Natural Gas Clearinghouse in its March 24, 1997 protest to such filing. NGT had failed to delete language regarding a default end date for delivery nominations from its tariff.

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 of Practice and Procedure. All such protests must be filed on or before April 21, 1997. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 97–10053 Filed 4–17–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER97–2173–000]

Northern Indiana Public Service Company; Notice of Filing

April 14, 1997.

Take Notice that on March 20, 1997 and as amended on April 1, 1997, Northern Indiana Public Service Company (''Northern Indiana'') tendered for filing (1) an Application for authority to make sales of electricity for resale at points not directly interconnected to the Northern Indiana transmission system and (2) an amendment to its Application to provide for certain changes to its currently effective Wholesale Power Sales Tariff to specifically allow sales for resale at points of delivery which are not directly interconnected to the Northern Indiana Transmission System. In addition, Northern Indiana on April 4, 1997, tendered for filing a Notice of Withdrawal of its request for waiver of the requirement to file blanket service agreements for short-term transactions.

Copies of this filing have been sent to the Indiana Utility Regulatory Commission and the Indiana Office of Utility Consumer Counselor.

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 the 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 and protests should be filed on or before April 25, 1997. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. 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. 97–10058 Filed 4–17–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–109–001]

Sabine Pipe Line Company; Notice of Compliance Filing

April 3, 1997.

Take notice that on March 31, 1997, Sabine Pipe Line Company (Sabine) tendered for filing the tariff sheets listed on Attachment A to the filing.

Sabine states that the instant filing is being made to comply with the provisions of Order No. 587 issued July 17, 1996, in Docket No. RM96–1–000, and the Commission's order issued March 3, 1997 in Docket No. RP97–109–000. The filing, to be effective June 1, 1997, incorporates all of the GISB Standards (Version 1.0) adopted by the Commission in Order Nos. 587 and 587–B. The GISB Standards were incorporated into Sabine's FERC Gas Tariff through either modification of the specific tariff language, or by reference. As required by the March 3, Order, Sabine has incorporated 54 additional Standards into its Tariff, including the Data Dictionary and Electronic Delivery Mechanism (EDM) Standards.

Sabine states that copies of this filing are being mailed to its customers, state commissions and other interested parties.

Any person desiring to protest said filing should file a protest with the Federal Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests will be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 97–10055 Filed 4–17–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP97–223–000]

Southern Natural Gas Company; Notice of Site Visit

April 14, 1997.

On April 23, 1997, beginning at 11:00 a.m., the Office of Pipeline Regulation (OPR) staff will conduct a site visit with Southern Natural Gas Company of the proposed Montgomery-Columbus Abandonment and Replacement Project in Autauga, Dallas, Elmore, and Macon Counties, Alabama.

All parties may attend. Those planning to attend must provide their own transportation.

For further information, please contact Paul McKee at (202) 208–1088.

Warren C. Edmunds,

Acting Director, Office of Pipeline Regulation.

[FR Doc. 97–10056 Filed 4–17–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER97–804–000, et al.]

Florida Power & Light Company, et al.; Electric Rate and Corporate Regulation Filings

April 11, 1997.

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

1. Florida Power & Light Company

[Docket No. ER97–804–000]

Take notice that on March 26, 1997, Florida Power & Light Company tendered for filing an amendment in the above referenced docket.

Comment date: April 25, 1997, in accordance with Standard Paragraph E at the end of this notice.

2. Cinergy Services, Inc.

[Docket No. ER97–1531–000]

Take notice that on March 6, 1997, Cinergy Services, Inc. tendered for filing an amendment in the above referenced docket.

Comment date: April 25, 1997, in accordance with Standard Paragraph E at the end of this notice.

3. NewCorp Resources Electric Cooperative, Inc.

[Docket No. ER97–1689–000]

Take notice that on March 27, 1997, NewCorp Resources Electric Cooperative, Inc. tendered for filing an amendment in the above referenced docket.

Comment date: April 25, 1997, in accordance with Standard Paragraph E at the end of this notice.

4. Commonwealth Edison Company

[Docket No. ER97–1864–000]

Take notice that on April 1, 1997, Commonwealth Edison Company tendered for filing an amendment in the above referenced docket.

Comment date: April 25, 1997, in accordance with Standard Paragraph E at the end of this notice.

5. Rayburn Country Electric Cooperative, Inc.

[Docket No. ER97–1903–000]

Take notice that Rayburn Country Electric Cooperative, Inc. (Rayburn Electric), on April 1, 1997, tendered for filing amendments to the initial rate filing filed on February 28, 1997, pursuant to Section 205 of the Federal Power Act and Section 35.12 of the regulations of the Federal Energy Regulatory Commission (FERC or Commission). Rayburn Electric has submitted certain revisions, due to the inadvertent omission of transmission operation and maintenance costs from the rate previously submitted to the Commission, with respect to the Transmission and Interconnection Agreement (Agreement) between Rayburn Electric, East Texas Electric Cooperative, Inc. and Southwestern Electric Power Company (collectively, the Parties), and has clarified the filing.

Rayburn Electric has served copies of the amendments to the filing on each of the Parties to the Agreement, its member/customers and the Public Utility Commission of Texas.

Comment date: April 25, 1997, in accordance with Standard Paragraph E at the end of this notice.

6. Public Service Electric and Gas Company, PECO Energy Company, Pennsylvania Power & Light Company, Baltimore Gas & Electric Company, Pennsylvania Electric Company, Metropolitan Edison Company, Jersey Central Power & Light Company, Potomac Electric Company, Atlantic City Electric Company, and Delmarva Power & Light Company (collectively, the PJM Companies)

[Docket No. ER97–2190–000]

Take notice that on March 31, 1997, the PJM Companies filed a revision to the filing in the subject docket regarding certain schedules in the Interconnection Agreement between Cleveland Electric Illuminating Company and Public

Service Electric and Gas Company, PECO Energy Company, Pennsylvania Power & Light Company, Baltimore Gas and Electric Company, Pennsylvania Electric Company, Metropolitan Edison Company, Jersey Central Power & Light Company, Potomac Electric Power Company, Atlantic City Electric Company, Delmarva Power & Light Company, dated September 30, 1965.

Comment date: April 25, 1997, in accordance with Standard Paragraph E at the end of this notice.

7. Public Service Electric and Gas Company, PECO Energy Company, Pennsylvania Power & Light Company, Baltimore Gas & Electric Company, Pennsylvania Electric Company, Metropolitan Edison Company, Jersey Central Power & Light Company, Potomac Electric Company, Atlantic City Electric Company and Delmarva Power & Light Company (collectively, the PJM Companies)

[Docket No. ER97–2191–000]

Take notice that on March 31, 1997, the PJM Companies filed a revision to the filing in the subject Docket regarding certain schedules in the Interconnection Agreement between Central Hudson Gas & Electric Corporation, Consolidated Edison Company of New York, Inc., Long Island Lighting Company, New York State Electric & Gas Corporation, Niagara Mohawk Power Corporation, Orange and Rockland Utilities, Inc., Rochester Gas and Electric Corporation and Public Service Electric and Gas Company, PECO Energy Company, Pennsylvania Power & Light Company, Baltimore Gas and Electric Company, Pennsylvania Electric Company, Metropolitan Edison Company, Jersey Central Power & Light Company, Potomac Electric Power Company, Atlantic City Electric Company, Delmarva Power & Light Company, dated April 9, 1974.

Comment date: April 25, 1997, in accordance with Standard Paragraph E at the end of this notice.

8. Commonwealth Edison Company

[Docket No. ER97–2277–000]

Take notice that on March 26, 1997, Commonwealth Edison Company (ComEd) submitted for filing Service Agreements for various firm transactions with Sonat Power Marketing, LP (Sonat), Commonwealth Edison Company, in its wholesale merchant function (ComEd WMD), Enron Power Marketing, Inc. (Enron), NIPSCO Energy Services, Inc. (NESI), and a Non-Firm Service Agreement with CMS Marketing, Services and Trading Company (CMS), under the terms of ComEd's Open Access Transmission Tariff (OATT).

ComEd requests various effective dates, corresponding to the date each service agreement was entered into, and accordingly seeks waiver of the Commission's requirements. Copies of this filing were served upon Sonat, ComEd WMD, Enron, NESI, CMS, and the Illinois Commerce Commission.

Comment date: April 25, 1997, in accordance with Standard Paragraph E at the end of this notice.

9. Pennsylvania Power & Light Company

[Docket No. ER97–2278–000]

Take notice that on March 26, 1997, Pennsylvania Power & Light Company (PP&L), tendered for filing a Notice of Cancellation of PP&L's FERC Rate Schedule No. 98 between PP&L and the Public Service Company of New Hampshire.

PP&L requests that this cancellation become effective April 4, 1997.

Comment date: April 25, 1997, in accordance with Standard Paragraph E at the end of this notice.

10. Pennsylvania Power & Light Company

[Docket No. ER97–2279–000]

Take notice that on March 26, 1997, Pennsylvania Power & Light Company (PP&L), tendered for filing a Notice of Cancellation of PP&L's FERC Electric Rate Schedule No. 78 between PP&L and Niagara Mohawk Power Corporation.

PP&L requests that this cancellation become effective April 4, 1997.

Comment date: April 25, 1997, in accordance with Standard Paragraph E at the end of this notice.

11. Pennsylvania Power & Light Company

[Docket No. ER97–2280–000]

Take notice that on March 26, 1997, Pennsylvania Power & Light Company (PP&L), tendered for filing a Notice of Cancellation of PP&L's FERC Electric Rate Schedule No. 145 between PP&L and Catex Vitol Electric Inc.

PP&L requests that this cancellation become effective April 4, 1997.

Comment date: April 25, 1997, in accordance with Standard Paragraph E at the end of this notice.

12. Pennsylvania Power & Light Company

[Docket No. ER97–2281–000]

Take notice that on March 26, 1997, Pennsylvania Power & Light Company (PP&L), tendered for filing a notice of Cancellation of PP&L's FERC Electric Rate Schedule No. 80 between PP&L and the New York State Electric & Gas Corporation.

PP&L requests that this cancellation become effective April 4, 1997.

Comment date: April 25, 1997, in accordance with Standard Paragraph E at the end of this notice.

13. Pennsylvania Power & Light Company

[Docket No. ER97–2282–000]

Take notice that on March 26, 1997, Pennsylvania Power & Light Company (PP&L), tendered for filing a Notice of Cancellation of PP&L's FERC Electric Rate Schedule No. 135 between PP&L and the Louis Dreyfus Electric Power, Inc.

PP&L requests that this cancellation become effective April 4, 1997.

Comment date: April 25, 1997, in accordance with Standard Paragraph E at the end of this notice.

14. Pennsylvania Power & Light Company

[Docket No. ER97–2283–000]

Take notice that on March 26, 1997, Pennsylvania Power & Light Company (PP&L), tendered for filing a Notice of Cancellation of PP&L's FERC Electric Rate Schedule No. 82 between PP&L and the Connecticut Mutual Electric Company Cooperative.

PP&L requests that this cancellation become effective April 4, 1997.

Comment date: April 25, 1997, in accordance with Standard Paragraph E at the end of this notice.

15. Pennsylvania Power & Light Company

[Docket No. ER97–2284–000]

Take notice that on March 26, 1997, Pennsylvania Power & Light Company (PP&L), tendered for filing a Notice of Cancellation of PP&L's FERC Electric Rate Schedule No. 103 between PP&L and Atlantic City Electric Company.

PP&L requests that this cancellation become effective April 4, 1997.

Comment date: April 25, 1997, in accordance with Standard Paragraph E at the end of this notice.

16. Pennsylvania Power & Light Company

[Docket No. ER97–2285–000]

Take notice that on March 26, 1997, Pennsylvania Power & Light Company (PP&L), tendered for filing a Notice of Cancellation of PP&L's FERC Electric Rate Schedule No. 138 between PP&L and Public Service Electric and Gas Company.

PP&L requests that this cancellation become effective on April 4, 1997.

Comment date: April 25, 1997, in accordance with Standard Paragraph E at the end of this notice.

17. Pennsylvania Power & Light Company

[Docket No. ER97–2286–000]

Take notice that on March 26, 1997, Pennsylvania Power & Light Company (PP&L), tendered for filing a Notice of Cancellation of PP&L's FERC Electric Rate Schedule No. 75 between PP&L and the Northeast Utilities Service Company.

PP&L requests that this cancellation become effective April 4, 1997.

Comment date: April 25, 1997, in accordance with Standard Paragraph E at the end of this notice.

18. Pennsylvania Power & Light Company

[Docket No. ER97–2287–000]

Take notice that on March 26, 1997, Pennsylvania Power & Light Company (PP&L), tendered for filing a Notice of Cancellation of PP&L's FERC Electric Rate Schedule No. 77 between PP&L and Orange and Rockland Utilities, Inc.

PP&L requests that this cancellation become effective April 4, 1997.

Comment date: April 25, 1997, in accordance with Standard Paragraph E at the end of this notice.

19. Pennsylvania Power & Light Company

[Docket No. ER97–2288–000]

Take notice that on March 26, 1997, Pennsylvania Power & Light Company (PP&L), tendered for filing a Notice of Cancellation of PP&L's FERC Electric Rate Schedule No. 83 between PP&L and the Power Authority of the State of New York.

PP&L requests that this cancellation become effective April 4, 1997.

Comment date: April 25, 1997, in accordance with Standard Paragraph E at the end of this notice.

20. Pennsylvania Power & Light Company

[Docket No. ER97–2289–000]

Take notice that on March 26, 1997, Pennsylvania Power & Light Company (PP&L), tendered for filing a Notice of Cancellation of PP&L's FERC Electric Rate Schedule No. 136 between PP&L and the North American Energy Conservation, Inc.

PP&L requests that this cancellation become effective April 4, 1997.

Comment date: April 25, 1997, in accordance with Standard Paragraph E at the end of this notice.

21. Pennsylvania Power & Light Company

[Docket No. ER97–2290–000]

Take notice that on March 26, 1997, Pennsylvania Power & Light Company (PP&L), tendered for filing a Notice of Cancellation of PP&L's FERC Electric Rate Schedule No. 104 between PP&L and Public Service Electric and Gas Company.

PP&L requests that this cancellation become effective April 4, 1997.

Comment date: April 25, 1997, in accordance with Standard Paragraph E at the end of this notice.

22. Pennsylvania Power & Light Company

[Docket No. ER97–2291–000]

Take notice that on March 26, 1997, Pennsylvania Power & Light Company (PP&L), tendered for filing a Notice of Cancellation of PP&L's FERC Electric Rate Schedule No. 81 between PP&L and the New England Power Company.

PP&L requests that this cancellation become effective April 4, 1997.

Comment date: April 25, 1997, in accordance with Standard Paragraph E at the end of this notice.

23. Pennsylvania Power & Light Company

[Docket No. ER97–2292–000]

Take notice that on March 26, 1997, Pennsylvania Power & Light Company (PP&L), tendered for filing a Notice of Cancellation of PP&L's FERC Electric Rate Schedule No. 109 between PP&L and the Long Island Lighting Company.

PP&L requests that this cancellation become effective April 4, 1997.

Comment date: April 25, 1997, in accordance with Standard Paragraph E at the end of this notice.

24. Kansas City Power & Light Company

[Docket No. ER97–2293–000]

Take notice that on March 27, 1997, Kansas City Power & Light Company (KCPL), tendered for filing a Service Agreement dated March 10, 1997 by KCPL. KCPL proposes an effective date of June 1, 1997. This Agreement provides for the rates and charges for Firm Transmission Service by KCPL for a wholesale transaction.

In its filing, KCPL states that the rates included in the above-mentioned Service Agreement are KCPL's rates and charges in the compliance filing to FERC Order No. 888 in Docket No. OA96–4–000.

Comment date: April 25, 1997, in accordance with Standard Paragraph E at the end of this notice.

25. Western Resources, Inc. Company

[Docket No. OA97–251–000]

Take notice that on April 1, 1997, Western Resources, Inc. tendered for filing on behalf of its wholly owned subsidiary Kansas Gas and Electric Company a signature page to the Amended Interchange Agreement between Associated Electric Cooperative, Inc., Kansas Gas and Electric Company, Public Service Company of Oklahoma, and Union Electric Company.

Copies of the filing were served upon all parties of record.

Comment date: April 25, 1997, in accordance with Standard Paragraph E at the end of this notice.

26. St. Joseph Light & Power Company

[Docket No. OA97–554–000

Take notice that on February 25, 1997, St. Joseph Light & Power Company (SJLP) tendered for filing a request for waiver of Order No. 889 that requires SJLP to provide an Open Access Same-Time Information System for its utility system.

Comment date: April 25, 1997, in accordance with Standard Paragraph E at the end of this notice.

27. Entergy Services, Inc.

[Docket No. OA97–555–000

Take notice that on February 26, 1997, Entergy Services, Inc. (Entergy Services) submitted for filing the FERC Order No. 888 Compliance Amendment to the Power Interconnection Agreement between Entergy Gulf States, Inc. (formerly Gulf States Utility Company) and the town of New Roads, Louisiana. Entergy Services requests the FERC Order No. 888 Compliance amendment become effective the later of January 1, 1997 or the date upon which the Commission permits said amendment to become effective.

Comment date: April 25, 1997, in accordance with Standard Paragraph E at the end of this notice.

28. Ohio Edison Company Pennsylvania Power Company

[Docket No. OA97–558–000

Take notice that on February 28, 1997, Ohio Edison Company and Pennsylvania Power Company (OES) tendered for filing a statement describing the steps taken by the OES to comply with the requirements of Order No. 888 regarding provision of transmission service, associated with economy energy coordination transactions in a manner consistent with the requirements of non-discriminatory open access, not later than March 1,

1997. The OES also requests clarification that it has met the Commission's requirement for unbundling. If the Commission determines that the steps taken by OES are not sufficient, then the OES requests additional time to meet such requirements.

All affected parties and rate schedules are identified in an exhibit submitted with the filing. A copy of the filing was served upon the affected parties and the State Utility Regulatory Commissions of Ohio and Pennsylvania.

Comment date: April 25, 1997, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

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

Lois D. Cashell,

Secretary.

[FR Doc. 97–10084 Filed 4–17–97; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP97–25–000]

Northern Natural Gas Company; Notice of Availability of the Environmental Assessment for the Proposed Peak Day 2000 Expansion Project

April 14, 1997.

The staff of the Federal Energy Regulatory Commission (FERC or Commission) has prepared an environmental assessment (EA) on the natural gas pipeline facilities proposed by Northern Natural Gas Company (Northern) in the above-referenced docket.

The EA was prepared to satisfy the requirements of the National Environmental Policy Act. The staff concludes that approval of the proposed project, with appropriate mitigating measures, would not constitute a major Federal action significantly affecting the quality of the human environment.

The EA assesses the potential environmental effects of the construction and operation of the proposed pipeline looping facilities including:

- Three 30-inch-diameter mainline loops in Hardin County, Iowa and Rice and Washington Counties, Minnesota;
- Four branchline loops (6-, 6-, 6-, and 12-inch-diameter pipelines in Dakota, Scott, Wright, and Carver Counties, Minnesota and Dickinson County, Iowa;
- One 8-inch-diameter branchline replacement (Carver County, Minnesota) and one 6-inch-diameter branchline tie-over (Jackson County, Iowa);
- Three new compressor stations and six modified compressor stations in Washington, Steele, Rice, and Dakota Counties, Minnesota, Guthrie and Hardin Counties, Iowa, Clay County, Kansas, and Gage and Otoe County, Nebraska; and
- Three new town border stations and 31 modified town border stations in various counties in Minnesota, Iowa, Wisconsin, and Nebraska.

The purpose of the proposed facilities would be to provide about 267,161 thousand cubic feet per day (Mcfd) of gas to 26 local distribution companies, commercial, and industrial customers in Northerns operational zones ABC, D, and EF.

The EA 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., Room 2A, Washington, DC 20426, (202) 208–1371.

Copies of the EA have been mailed to Federal, state and local agencies, public interest groups, interested individuals, newspapers, and parties to this proceeding. A limited number of copies of the EA are available from the above address.

Specific Comment Request

Areas residents, local or state governments, intervenors, Northern, and other interested parties are asked to provide specific comments on whether the Rockford branchline alternative is reasonable and practicable and environmentally preferable to the proposed facilities. Comments should also address any effect on project timing and related cost/benefits.

Comment Procedures

Any person wishing to comment on the EA may do so. Written comments must reference Docket No. CP97–25–000, and be addressed to: Office of the Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Room 1A, Washington, DC 20426.

Comments should be filed as soon as possible, but must be received no later than May 16, 1997, to ensure consideration prior to a Commission decision on this proposal.

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 Procedures (18 CFR 385.214).

Lois D. Cashell,

Secretary.

[FR Doc. 97–10051 Filed 4–17–97; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5813–1]

Proposed Settlement; Acid Rain Allowance Allocations and Reserves Rule Litigation

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed settlement; request for public comment.

SUMMARY: In accordance with section 113(g) of the Clean Air Act (''Act''), notice is hereby given of a proposed settlement of *Duke Power Company* v. *Environmental Protection Agency,* No. 93–1343 (D.C. Cir.) and a consolidated case.

This case involves a challenge to the final rule, entitled ''Acid Rain Allowance Allocations and Reserves,'' which, *inter alia,* established provisions concerning the allocation of early reduction credit allowances under section 404(e) of the Act. 58 FR 15634 (March 23, 1993).

For a period of thirty (30) days following the date of publication of this notice, the Environmental Protection Agency will receive written comments relating to the settlement from persons who were not named as parties to the litigation in question. The Agency or the Department of Justice may withhold or withdraw consent to the proposed settlement if the comments disclose facts or circumstances that indicate that such consent is inappropriate, improper, inadequate, or inconsistent with the requirements of the Act. Copies of the settlement are available from

Jacqueline Jordan, Cross-Cutting Issues Division (2322), Office of General Counsel, U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460, (202) 260–7622. Written comments should be sent to Jonathan Averback, Air and Radiation Division, Office of General Counsel, U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460 and must be submitted on or before May 19, 1997.

Dated: April 9, 1997.

Scott C. Fulton,

Acting General Counsel.

[FR Doc. 97–10109 Filed 4–17–97; 8:45 am]

BILLING CODE 6560–50–M

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–5479–3]

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 April 07, 1997 Through April 11, 1997 Pursuant to 40 CFR 1506.9.

EIS No. 970132, Draft EIS, EPA, AL, Sand Mountain Region On-Site Sewage Pollution Wastewater Disposal Site, Dekalb, Etowah, Marshall and Jackson Counties, AL, Due: June 02, 1997, Contact: Heinz J. Mueller (404) 562–9617.

EIS No. 970133, Final EIS, BLM, WY, North Rochelle Mine, Application for Federal Coal Lease (WYW127221), Special-Use-Permits and NPDES Permit, Campbell County, WY, Due: May 19, 1997, Contact: Nancy Doelger (307) 261–7627.

EIS No. 970134, Final SUPPLEMENT, AFS, ID, Packsaddle Timber Sale and Road Construction Project, Implementation, New Information to Address the Severe Root Disease, Idaho Panhandle National Forests, Sandpoint Ranger District, Bonner County, ID, Due: May 19, 1997, Contact: Tong Erba (208) 263–5111.

EIS No. 970135, Final EIS, FHW, AK, Third Street Widening Project, Improvement, Old Steese Highway and Hamilton Avenue, Funding and Right-of-Way Acquisition, Fairbanks North Star Borough, AK, Due: May 19, 1997, Contact: James Bryson (907) 586–7430.

EIS No. 970136, DRAFT EIS, NOA, MA, New Bedford Harbor Environment Restoration Plan, Implementation, Acushnet River, Buzzards Bay, MA, Due: June 02, 1997, Contact: Rolland A. Schmitten (301) 713–2239.

EIS No. 970137, Draft EIS, AFS, CA, Canyons Analysis Area, Implementation, Tahoe National Forest, Trucker Ranger District, Sierra and Nevada County, CA, Due: June 02, 1997, Contact: Caryn Huntt (916) 587–3558.

EIS No. 970138, Final EIS, SCS, HI, Upcountry Maui Watershed, Implementation, To Address Agricultural Water Shortage, COE Section 404 Permit, Makawao District, Island of Maui, Maui County, HI, Due: May 19, 1997, Contact: Kenneth M. Kaneshiro (808) 541–2600.

EIS No. 970139, Final EIS, AFS, ID, Prince John Timber Sale Project, Implementation, Boise National Forest, Cascade Ranger District, Valley County, ID, Due: May 19, 1997, Contact: Steve Patterson (208) 364–7400.

Amended Notices

EIS No. 960589, Final EIS, FHW, PA, US 220 Transportation Improvements Project, Bald Eagle Village to Interstate 80 (I–80), Funding and COE Section 404 Permit, Blair and Centre Counties, PA, Due: May 19, 1997, Contact: Ronald W. Carmichael (717) 782–3461. Published FR –12–27–96—Review Period Reopened.

EIS No. 970108, Draft EIS, SCS, HI, Waimea-Paauilo Watershed Project, Alleviation of Agricultural Water Storage Problems for Corp Irrigation and Livestock Drinking Water, Funding, COE Section 404 Permit Issuance and Implementation, Hawaii County, HI, Published FR–04–04–97—This EIS was inadvertently published in the 04–04–97 FR. The correct Notice of Availability was published in the 03–28–97 FR. The correct date comments are due back to the preparing agency is MAY 15, 1997.

Dated: April 15, 1997.

William D. Dickerson,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 97–10117 Filed 4–17–97; 8:45 am]

BILLING CODE 6560–50–U

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–5479–4]

Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared March 31, 1997 Through April 04, 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 04, 1997 (62 FR 16154).

Final EISs

ERP No. F–AFS–L61207–AK, Upper Carroll Timber Sale, Implementation, Tongass National Forest, Ketchikan Administrative Area, Ketchikan Ranger District, Revillagigedo Island, AK.

Summary: Review of the Final EIS was not deemed necessary. No formal comment letter was sent to the preparing agency.

ERP No. F–AFS–L65271–AK, South Lindenberg Timber Sale(s), Timber Harvesting, Tongass National Forest, Stikine Area, Kupreanof Island, AK.

Summary: Review of the Final EIS was not deemed necessary. No formal comment letter was sent to the preparing agency.

ERP No. F–BLM–G65061–NM, Roswell Resource Area Management Plan and Carlsbad Resource Area Management Plan Amendment, Implementation, Quay, Curry, DeBaca, Roosevelt, Lincoln, Guadalupe, Chaves, Eddy, and Lea Counties, NM.

Summary: Review of the Final EIS has been completed and the project found to be satisfactory. No formal comment letter was sent to the preparing agency.

ERP No. F–BLM–G65064–TX, Texas Land and Resource Management Plan (RMP), Implementation, Split Estates Federal Mineral Ownership (FMO), Several Counties, TX.

Summary: EPA had no objection to the selection of the preferred alternative described in the final EIS.

ERP No. F–BLM–K67039–NV, Denton-Rawhide Mine Expansion Project, Plan of Operation Approval, Implementation, Mineral County, NV.

Summary: Review of the Final EIS was not deemed necessary. No formal comment letter was sent to the preparing agency.

ERP No. F–DOE–K05218–00, Sierra Nevada Region 2004 Power Marketing Program, Implementation, 1,480 megawatts (MW) Power from the Central Valley and Washoe Project, NV and CA.

Summary: Review of the Final EIS was not deemed necessary. No formal comment letter was sent to the preparing agency.

ERP No. F–NPS–G65063–NM, Pecos National Historical General

Management Plan and Development Concept Plan, Implementation, San Miguel and Santa Fe Counties, NM.

Summary: Review of the Final EIS was not deemed necessary. No formal comment letter was sent to the preparing agency.

ERP No. F–NPS–L61196–AK, Denali (South Slope) National Park and Preserve Development Concept Plan, Implementation, Mantanuska-Susitna Borough, AK.

Summary: Review of the Final EIS was not deemed necessary. No formal comment letter was sent to the preparing agency.

ERP No. F–SFW–G64012–00, Mexican Wolf (Canis lupus baileyi) Reintroduction within the Historic Range, Implementation, in the Southwestern United States, Catron, Dona Ana, Grant and Lincoln Counties, NM and Apache and Greenlee Counties, AZ.

Summary: Review of the Final EIS was not deemed necessary. No formal comment letter was sent to the preparing agency.

Dated: April 15, 1997.

William D. Dickerson,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 97–10118 Filed 4–17–97; 8:45 am]

BILLING CODE 6560–50–U

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5813–4]

National Drinking Water Advisory Council; Small Systems Working Group; Notice of Open Meeting

Under Section 10(a)(2) of Public Law 92–423, ''The Federal Advisory Committee Act,'' notice is hereby given that a meeting of the Small Systems Working Group of the National Drinking Water Advisory Council established under the Safe Drinking Water Act, as amended (42 U.S.C. S300f *et seq.*), will be held on April 28 and 29, 1997 from 8:30 a.m. to 5:30 p.m., at the Washington Plaza, 10 Thomas Circle, NW., Washington, DC 20005. The meeting is open to the public, but due to past experience, seating will be limited.

The purpose of this meeting is to review and discuss options for how EPA might implement the capacity development and state affordability information provisions of the Safe Drinking Water Act Amendments of 1996. The meeting is open to the public to observe. The working group members are meeting to gather information, analyze relevant issues and facts and discuss options. Statements will be taken from the public at this meeting, as time allows.

For more information, please contact, Peter E. Shanaghan, Designated Federal Officer, Small Systems Working Group, U.S. EPA, Office of Ground Water and Drinking Water (4606), 401 M Street SW., Washington, DC 20460. The telephone number is (202) 260–5813 and the email address is shanaghan.peter@epamail.epa.gov.

Dated: April 14, 1997.

Charlene Shaw,

Designated Federal Officer, National Drinking Water Advisory Council.

[FR Doc. 97–10107 Filed 4–17–97; 8:45 am]

BILLING CODE 6560–50–M

ENVIRONMENTAL PROTECTION AGENCY

[OPP–00478; FRL–5600–9]

Plant Pesticides Resistance Management; Notice of Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA will conduct a public meeting on May 21, 1997, to solicit public comment on resistance management plans for plant pesticides, including the necessity for such plans, critical elements of resistance management plans and requirements for successful implementation.

DATES: The meeting will be held on May 21, 1997 from 9 am to 5 pm. Written comments from interested parties not able to attend the meeting must be received on or before May 21, 1997. Persons who wish to speak at the public meeting are encouraged to register in advance by submitting a brief written request and abstract to EPA on or before May 14, 1997.

ADDRESSES: The meeting is open to the public and will be held at Texas A & M University, College Station, Texas 77843–2475, in Rm. 301 of the Rudder Tower. Interested parties who cannot attend the public meeting but who wish to comment may do so by submitting written comments. Comments should be identified by the docket control number OPP–00478, and be submitted to: Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

Comments and data may also be submitted electronically by sending electronic mail (e-mail) to: opp-docket@epamail.epa.gov. Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on disks in WordPerfect 5.1 file format of ASCII file format. All comments and data in electronic form must be identified by the docket control number OPP–00478. No Confidential Business Information (CBI) should be submitted through e-mail. Electronic comments may be filed online at many Federal Depository Libraries. Additional information on electronic submissions can be found in Unit IV of this document.

FOR FURTHER INFORMATION CONTACT: By mail: Michael L. Mendelsohn, Biopesticides and Pollution Prevention Division 7501W, Office of Pesticide Programs, U. S. Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: 5th Floor CS, 2800 Crystal Drive, Arlington, VA, (703)–308–8715; Email: Mendelsohn.mike@epamail.epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

Resistance management has been a consideration for the registration of plant pesticides for some time. This is because plant pesticides tend to produce the pesticidal active ingredient throughout a growing season, increasing the selection pressure upon both the target pests and any other susceptible insects feeding on the transformed crop.

Resistance management has become an issue particularly in relation to plant-pesticides based on the insecticidal proteins from the bacterium *Bacillus thuringiensis* (Bt). EPA recognizes the value of Bt as a safer pesticide and has determined that it is necessary to conserve this resource as appropriate by requiring resistance management plans. The Agency has reviewed initial strategies from registrants for managing resistance to Bt delta endotoxins produced in potato, corn, and cotton. EPA has worked with stakeholders (industry, public sector research and extension, growers, user groups, and government agencies) to address resistance management for Bt-based plant pesticides.

In March of 1995, EPA held a Scientific Advisory Panel (SAP) meeting as part of the review for the first registered plant pesticides. This meeting primarily addressed issues related to the *Bacillus thuringiensis* (Bt) *tenebrionis* CryIII delta endotoxin in potato, although some issues related to Bt Corn and Bt cotton were also discussed. The

Panel stated in their review that the submitted resistance management plan (RMP)is a ''scientifically credible Colorado potato beetle (CPB) resistance management protocol''. For the Bt potato, the SAP recommended that the company should have specific monitoring plans for resistance which should be sent to the Agency for review. The SAP also requested that the company make specific recommendations on what course of action should be taken if resistance should be discovered. It was the opinion of the panel that EPA should work with the applicant in developing a long-term resistance management plan (RMP), but that such plans should not be a formal condition of registration. EPA agreed with this assessment for Bt potato as the pesticide was only for the control of the Colorado Potato Beetle, the CryIII delta endotoxin was at a high dose, and existing Bt *tenebrionis* sprayable products only worked for early instars of this pest. In addition, the Colorado potato beetle has a limited host range of economic crops.

The SAP further agreed with the seven elements, described by OPP, that need to be addressed to develop an adequate resistance management plan for plant-pesticides. These elements are: (1) Knowledge of pest biology and ecology, (2) Appropriate gene deployment strategy, (3) Appropriate refugia (primarily for insecticides, (4) Monitoring and reporting of incidents of pesticide resistance development, (5) Employment of IPM, (6) Communication and educational strategies for use of the product and (7) Development of alternative modes of action.

Bt CryIA(b) delta endotoxin in corn was the second plant pesticide registered. This product was intended primarily for the control of the European corn borer. EPA noted in its review of the application that other lepidopterous pests that also feed on corn might be affected by the endotoxin, and therefore have the potential for the development of resistance. This review also noted that both the primary pests claimed on the label and those secondary pests may be controlled by the use of existing sprayable Bt products. Bt is considered to be a reduced risk pesticide and corn is planted in large acreages in the U.S. Therefore the Agency required the development of a resistance management plan as a condition of the corn registrations, so that such plans could be implemented if pest resistance was detected.

Bt cotton was the last plant pesticide crop to registered. For Bt cotton, there was compelling evidence to require the implementation of a resistance management plan as a condition of the registration. This was due to the fact that: (1) Bt was already used extensively on cotton, (2) Corn earworm (a primary pest, known as the cotton bollworm when feeding on cotton) moves from corn to cotton thus extending the period of exposure to the Bt toxin, and (3) That corn earworm feeds on many other crops that are treated with Bt in significant amounts. Cotton is also planted in large acreages in the United States. An RMP was therefore required as a condition of the registration for Bt Cotton.

The Pesticide Program Dialogue Committee (PPDC) is a group representing various interests and points of view including public interest, industry, users, public health, legal, Congress, and the general public. The PPDC meeting in July of 1996 addressed the issue of resistance management. OPP asked the committee for their views on the best approach for the Agency to take in addressing the problem of pest resistance; the need for a new active ingredient screening process; whether OPP should address the problem of pest resistance to already registered pesticides; and whether resistance management recommendations should be required on pesticide labelling.

Panelists agreed that EPA should have some role in resistance management, but disagreed as to what that role should be. Panelists indicated that EPA should not make resistance management mandatory in all cases.

It was the general opinion of the dialogue committee that the agency should function as a liaison or clearing house for RMP information, but only require resistance management plans as part of the registration when the development of resistance would cause the potential loss of a pesticide that was in the ''public good'', like Bt. The committee found it difficult to define ''public good'' parameters. Other panelists commented that EPA needed to provide more alternative tools for minor crops, and one panelist suggested that EPA could promote better resistance management by classifying pesticides according to their mode of action similar to Canadian requirements.

During the 1996 season, there were numerous instances reported to EPA where Bt cotton failed to control a segment of the cotton bollworm population. The registrant has submitted a report concerning these instances. The report is currently under review by the Agency to determine how crop performance is related to resistance management.

On March 21, 1997, EPA held an initial hearing on this subject in the EPA Auditorium in Washington, D.C. Approximately 30 individuals/organizations submitted written comments or delivered presentations regarding the subject of resistance management. The information presented to EPA at both the March 21 and May 21 hearings will be compiled into a report available to the public after the Agency has had sufficient opportunity to review all of the submitted material.

II. Information Sought by EPA

EPA is required by law to ensure that pesticides have a reasonable certainty of no harm to people (including infants and children) and do not cause unreasonable adverse effects to the environment. As part of the evaluation process, the Agency collects information on the risks and benefits of pesticides. The Agency is interested in soliciting public comment regarding resistance management plans for plant pesticides because resistance management plans are a new requirement related to a novel technology.

1. *The requirement for resistance management plans.* This will include information on the criteria for requiring a resistance management plan and whether such plans should be voluntary or mandatory (conditions of registration).

2. *Scientific Needs for resistance management plans.* Certain data may be required in order to adequately evaluate resistance management plans. EPA needs information on what kinds of data should be required to assess the potential for resistance and/or adequately evaluate proposed plans.

3. *The ''public good'' criteria.* The Agency wants comment on whether this criteria should be used, and if so, information on the definition or determination of when a pesticide would be in the ''public good''.

4. *Performance failures for Bt cotton.* Information concerning the control failures for Bt cotton, suggested evaluation tools concerning these failures, and implications on future resistance management efforts.

III. Registration to Make Comments

Persons who wish to speak at the public meeting are encouraged to register in advance by submitting a brief written request to EPA on or before May 14, 1997. Those who do not register by May 14 may register in person, on May 21, to make a presentation if time permits. Register by mail with the person listed under FOR FURTHER INFORMATION CONTACT.

IV. Public Record

The Agency encourages parties to submit data to substantiate comments whenever possible. All comments, as well as information gathered at the public meeting will be available for public inspection from 8:30 am to 4 pm, Monday through Friday (except legal holidays), at the Public Response and Program Resource Branch, Field Operations Division, Rm. 1132, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA 22202.

Information submitted as part of any comment may be claimed as confidential by marking any or all of that information as CBI. Information so marked will not be disclosed except in accordance with the procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by the Agency without prior notice to the submitted. The Agency anticipates that most of the comments will not be classified as CBI, and prefers that all information submitted be publicly available. Any records or transcripts of the open meeting will be considered public information and cannot be declared CBI.

V. Structure of the Meeting

EPA will open the meeting with brief introductory comments. EPA will then invite those parties who have registered by May 14 to make their presentations. Those who register the day of the meeting will be offered the opportunity to present their comments if time permits. EPA anticipates that each speaker will be permitted about 10 minutes to make comments. After each speaker, Agency representatives may ask the presenter questions of clarification. The Agency reserves the right to adjust the time for presenters depending upon the number of speakers.

Members of the public are encouraged to submit written documentation to EPA at or before the meeting to ensure that their entire position goes on record in the event that time does not permit a complete oral presentation. Written comments should include the name and address of the author as well as any sources used. Written documentation should be submitted to Michael L. Mendelsohn at the address stated earlier in this notice.

Dated: April 11, 1997.

Janet L. Andersen,

Director, Biopesticides and Pollution Prevention Division, Office of Pesticide Programs.

[FR Doc. 97–10111 Filed 4-17-97; 8:45 am]

BILLING CODE 6560–50–F

FEDERAL DEPOSIT INSURANCE CORPORATION

Sunshine Act Meeting

Pursuant to the provisions of the ''Government in the Sunshine Act'' (5 U.S.C. 552b), notice is hereby given that at 10:07 a.m. on Tuesday, April 15, 1997, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session to consider: (1) Reports of the Office of Inspector General, and (2) matters relating to the Corporation's corporate 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 Nicolas P. Retsinas (Director, Office of Thrift Supervision), Ms. Judith A. Walter, acting in the place and stead of Director Eugene A. Ludwig (Comptroller of the Currency), 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 subsection (c)(2) of the ''Government in the Sunshine Act'' (5 U.S.C. 552b(c)(2)).

The meeting was held in the Board Room of the FDIC Building located at 530—17th Street, N.W., Washington, D.C.

Dated: April 15, 1997.

Federal Deposit Insurance Corporation.

Valerie J. Best,

Assistant Executive Secretary.

[FR Doc. 97–10207 Filed 4–16–97; 10:16 am]

BILLING CODE 6714–01–M

FEDERAL MARITIME COMMISSION

Notice of Agreement(s) Filed

The Commission hereby gives notice of the filing of the following agreement(s) under the Shipping Act of 1984.

Interested parties can review or obtain copies of agreements at the Washington, DC offices of the Commission, 800 North Capitol Street, N.W., Room 962. Interested parties may submit comments on an agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days of the date this notice appears in the **Federal Register.**

Agreement No.: 202–010424–035.

Title: U.S. Atlantic & Gulf/Hispaniola Steamship Freight Association.

Parties:

NPR, Inc.
Sea-Land Service, Inc.
Crowley American Transport, Inc.
A.P. Moller-Maersk Line
Tropical Shipping and Construction Co., Ltd.
Seaboard Marine, Ltd.

Synopsis: The proposed modification amends Article 7 of the Agreement to provide for financial guarantees in a fixed amount. It also amends Article 11(g) to comply with certain directions of the Commission staff in regards to holding companies, parents, subsidiaries, associated or affiliated companies of members to the Agreement.

Agreement No.: 224–201022.

Title: Port of New Orleans/Coastal Cargo Co., Inc. Terminal Lease Agreement

Parties:

Board of Commissioners of the Port of New Orleans (''Port'').
Coastal Cargo Co., Inc. (''Coastal'')

Synopsis: The proposed lease agreement permits Coastal the use and occupancy of 37.1 acres, including 431,021 square feet of shed space, at the Port's Seventh Street, Harmony Street and Louisiana Avenue Wharves. The Agreement's term is for a period of five years with three five-year options.

Dated: April 15, 1997.

By Order of the Federal Maritime Commission.

Joseph C. Polking,

Secretary.

[FR Doc. 97–10089 Filed 4–17–97; 8:45 am]

BILLING CODE 6730–01–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 May 2, 1997.

A. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63102-2034:

1. Coffman Family, LLC, Harrison, Arkansas; to acquire a total of 12.05 percent, of the voting shares of Mountain Home Bancshares, Inc., Mountain Home, Arkansas, and thereby indirectly acquire First National Bank & Trust Company of Mountain Home, Mountain Home, Arkansas.

B. Federal Reserve Bank of Dallas (Genie D. Short, Vice President) 2200 North Pearl Street, Dallas, Texas 75201-2272:

1. Richard E. Lane, San Antonio, Texas; Nick McFadin, Jr., San Antonio, Texas; Michael L. Garrett, Dallas, Texas; Charles F. Krause, San Antonio, Texas; Rockwald Ltd., San Antonio, Texas; Gary W. Wolff, San Antonio, Texas; Gilbert R. Meadows, San Antonio, Texas; George A. Wolff, Boerne, Texas; G. G. Gale Family Partners, Ltd., San Antonio, Texas; BGG Associates, LC, San Antonio, Texas; Paul R. Friddle, Boerne, Texas; George F. Schroeder, San Antonio, Texas; Jack B. Sommerfield Defined Benefit Pension Plan, Dallas, Texas; J. Patrick Garrett, Houston, Texas; and Karen Wynne McDonie, Houston, Texas; to acquire a total of 90.0 percent, of the voting shares of South Texas Capital Group, Inc., San Antonio, Texas, and thereby indirectly acquire Plaza International Bank, N.A., San Antonio, Texas.

Board of Governors of the Federal Reserve System, April 14, 1997.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 97–10093 Filed 4-17-97; 8:45 am]

BILLING CODE 6210-01-F

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. 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. 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 May 12, 1997.

A. Federal Reserve Bank of Atlanta (Lois Berthaume, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303-2713:

1. Compass Bancshares, Inc., Birmingham, Alabama, Compass Banks of Texas, Inc., Birmingham, Alabama, and Compass Bancorporation of Texas, Inc., Wilmington, Delaware; to merge with Central Texas Bancorp, Inc., Waco, Texas, and thereby indirectly acquire The Texas National Bank of Waco, Waco, Texas.

2. Premier Bancshares, Inc., Atlanta, Georgia (formerly First Alliance/Premier Bancshares, Inc.); to merge with Central and Southern Holding Company, Milledgeville, Georgia, and thereby indirectly acquire Central and Southern Bank of Georgia, Milledgeville, Georgia.

In connection with this application, Applicant also has applied to acquire Central and Southern Bank of North Georgia, Greensboro, Georgia, and thereby engage in operating a savings association, pursuant to § 225.25(b)(9) of the Board's Regulation Y.The proposed activity will be conducted throughout the State of Georgia.

A. Federal Reserve Bank of Chicago (James A. Bluemle, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690-1413:

1. F&M Bancorporation, Inc., Kaukana, Wisconsin, and F&M Merger Corporation, Kaukana, Wisconsin; to merge with Citizen's National Bancorporation, Darlington, Wisconsin, and thereby indirectly acquire Citizen's National Bank of Darlington, Darlington, Wisconsin.

2. F&M Bancorporation, Inc., Kaukana, Wisconsin, and F&M Merger Corporation, Kaukana, Wisconsin; to merge with Wisconsin Ban Corp., Prairie Du Chien, Wisconsin, and thereby indirectly acquire Prairie City Bank, Prairie Du Chien, Wisconsin.

Board of Governors of the Federal Reserve System, April 14, 1997.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 97–10094 Filed 4–17–97; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL 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, April 23, 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: April 16, 1997.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 97–10210 Filed 4–16–97; 10:35 am]

BILLING CODE 6210–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Advisory Board on Welfare Indicators, Meeting

AGENCY: Advisory Board on Welfare Indicators.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda for the third meeting of the Advisory Board on Welfare Indicators. This notice also describes the functions of the Advisory Board. Notice of this meeting is required under section 10(a)(2) of the Federal Advisory Committee Act and is intended to notify the public of their opportunity to attend.

DATE AND TIME: April 30, 1997, 11:00 a.m. to 5:00 p.m.

ADDRESSES: Hubert H. Humphrey Building, Alice Mitchell Rivlin Conference Room, 415F, 200 Independence Avenue, S.W., Washington, D.C. 20201.

FOR FURTHER INFORMATION CONTACT: Ann McCormick, Department of Health and Human Services, Office of the Assistant Secretary for Planning and Evaluation—Human Services Policy, 200 Independence Ave., S.W., Washington, D.C. 20201. Telephone: (202) 690–5880; FAX: (202) 690–6562.

SUPPLEMENTARY INFORMATION: The Advisory Board on Welfare Indicators was established by Subtitle D, section 232 of the Social Security Act Amendments of 1994 (Pub. L. 103–432). The duties of the Advisory Board include (A) Providing advice and recommendations to the Secretary of Health and Human Services on the development of indicators of the rate at which and, to the extent feasible, the degree to which, families depend on income from welfare programs and the duration of welfare receipt and (B) providing advice on the development and presentation of annual welfare indicators reports to the Congress required by the Social Security Act Amendments of 1994.

The meeting of the Advisory Board is open to the public. The agenda for the April 30 meeting includes discussion of the first annual welfare indicators report to Congress. The report will include analysis of families and individuals receiving assistance under means-tested benefit programs under part A of title IV of the Social Security Act, the Food Stamp Act of 1977, and title XVI of the Social Security Act, or as general assistance under programs administered by state and local governments. At a minimum, the report is required to set forth indicators of the rate at which and, to the extent feasible, the degree to which, families depend on income from welfare programs and the duration of receipt; trends in indicators; predictors of welfare receipt; the causes of welfare receipt; and patterns of multiple program receipt. A final agenda will be available from the office of the Assistant Secretary for Planning and Evaluation—Human Services Policy on April 24, 1997.

Records will be kept of the Advisory Board proceedings, and will be available for public inspection at offices of the Assistant Secretary for Planning and Evaluation—Human Services Policy, 200 Independence Avenue, S.W., room 404–E, Washington, D.C. 20201 between the hours of 9:00 a.m.—5:00 p.m.

Dated: April 14, 1997.

Ann Rosewater,

Deputy Assistant Secretary for Human Services Policy, ASPE.

[FR Doc. 97–10091 Filed 4–17–97; 8:45 am]

BILLING CODE 4150–04–P

DEPARTMENT OF HEALTH AND HUMAN SERVICE

Administration for Children and Families

Submission for OMB review; comments request

Title: Annual Survey of Refugees.

OMB No.: 0970–0033.

Description: The Refugee Act of 1980, and the Refugee Assistance amendments enacted in 1982 and 1986, stress the achievement of employment and self-sufficiency by refugees as soon as possible after their arrival in the U.S. The Annual Survey of Refugees collects information on the economic circumstances of a random sample of refugees, Amerasians, and entrants who arrived in the U.S. during the previous five years focusing on their education, training, labor force participation, and welfare utilization rates. From their responses, ORR reports on the economic adjustment of refugees to the American economy. These data are used by Congress in its annual deliberations of refugee admissions and funding and by program managers in formulating policies for the future direction of the Refugee Resettlement Program.

Respondents: Individuals and households.

Annual Burden Estimates:

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
ORR–9	2,100	1	.6666	1,400

Estimated Total Annual Burden Hours: 1,400.

In compliance with the requirements of Section 3506(c))(2)(A) of the Paperwork Reduction Act of 1995, the Administration for Children and Families is soliciting public comment on these specific aspects of the information collection described above. Copies of the proposed collection of information can be obtained and comments may be forwarded by writing to The Administration for Children and Families, Office of Information Services, Division of Information Resource Management Services, 370 L'Enfant Promenade, SW., Washington DC 20447, Attn: ACF Reports Clearance Officer. All requests should be identified by title.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

Dated: April 14, 1997.

Bob Sargis,

Acting Reports Clearance Officer.

[FR Doc. 97–9986 Filed 4–17–97; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Proposed Information Collection Activity; Comment Request Proposed Projects

Title: Child Care and Development Fund Quarterly Financial Report.

OMB No.: New Request.

Description:

The form provides specific data regarding claims and provides a mechanism for States to request grant awards and certify the availability of State matching funds. Failure to collect this data would seriously compromise ACF's ability to monitor expenditures. This information is also used to estimate outlays and may be used to prepare ACF budget submissions to Congress.

Respondents; State, Local or Tribal Govt.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
ACF–696	54	4	8	1,728

Estimated Total Annual Burden Hours: 1,728.

In compliance with the requirements of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Administration for Children and Families is soliciting public comment on the specific aspects of the information collection described above. Copies of the proposed collection of information can be obtained and comments may be forwarded by writing to the Administration for Children and Families, Office of Information Services, Division of Information Resource Management Services, 370 L'Enfant Promenade, S.W., Washington, D.C. 20447, Attn: ACF Reports Clearance Officer. All requests should be identified by the title of the information collection.

The Department specifically requests comments on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

Dated: April 14, 1997

Bob Sargis,

Acting Reports Clearance Officer.

[FR Doc. 97–10090 Filed 4–17–97; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). This notice also summarizes the procedures for the meeting and methods by which interested persons may participate in open public hearings before FDA's advisory committees.

FDA has established an Advisory Committee Information Hotline (the hotline) using a voice-mail telephone system. The hotline provides the public with access to the most current information on FDA advisory committee meetings. The advisory committee hotline, which will disseminate current information and information updates, can be accessed by dialing 1–800–741–8138 or 301–443–0572. Each advisory committee is assigned a 5-digit number. This 5-digit number will appear in each individual notice of meeting. The hotline will enable the public to obtain information about a particular advisory committee by using the committee's 5-digit number. Information in the hotline is preliminary and may change before a meeting is actually held. The hotline will be updated when such changes are made.

MEETING: The following advisory committee meeting is announced:

General and Plastic Surgery Devices Panel of the Medical Devices Advisory Committee

Date, time, and place. May 5, 1997, 8:30 a.m., Corporate Bldg., conference room 020B, 9200 Corporate Blvd., Rockville, MD. A limited number of overnight accommodations have been reserved at the Gaithersburg Marriott Washingtonian Center, 9751 Washingtonian Blvd., Gaithersburg, MD. Attendees requiring overnight accommodations may contact the hotel at 1–800–228–9290 or 301–590–0044 and reference the FDA Panel meeting block. Reservations will be confirmed at the group rate based on availability. Attendees with a disability requiring special accommodations should contact Christie Wyatt, KRA Corp., 301–495–1591, ext. 224. The availability of appropriate accommodations cannot be assured unless prior notification is received.

Type of meeting and contact person. Open public hearing, 8:30 a.m. to 9:30 a.m., unless public participation does not last that long; open committee discussion, 9:30 a.m. to 2 p.m.; closed committee deliberations, 2 p.m. to 3 p.m.; Gail G. Gantt, Center for Devices and Radiological Health (HFZ–410), Food and Drug Administration, 9200 Corporate Blvd., Rockville, MD 20850, 301–594–3090, or FDA Advisory Committee Information Hotline, 1–800–741–8138 (301–443–0572 in the Washington, DC area), General and Plastic Surgery Devices Panel, code 12519. Please call the hotline for information concerning any possible changes.

General function of the committee. The committee reviews and evaluates data on the safety and effectiveness of marketed and investigational devices

and makes recommendations for their regulation.

Agenda—Open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Those desiring to make formal presentations should notify the contact person before April 28, 1997, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time required to make their comments.

Open committee discussion. The committee will discuss and vote on a premarket approval application for a hyaluronic acid coating solution used to reduce adhesions resulting from incidental tissue damage during abdominal and pelvic surgery.

Closed committee deliberations. FDA staff will present to the committee trade secret and/or confidential commercial information regarding present and future FDA issues. This portion of the meeting will be closed to permit discussion of this information (5 U.S.C. 552b(c)(4)).

Each public advisory committee meeting listed above may have as many as four separable portions: (1) An open public hearing, (2) an open committee discussion, (3) a closed presentation of data, and (4) a closed committee deliberation. Every advisory committee meeting shall have an open public hearing portion. Whether or not it also includes any of the other three portions will depend upon the specific meeting involved. The dates and times reserved for the separate portions of each committee meeting are listed above.

The open public hearing portion of the meeting(s) shall be at least 1 hour long unless public participation does not last that long. It is emphasized, however, that the 1 hour time limit for an open public hearing represents a minimum rather than a maximum time for public participation, and an open public hearing may last for whatever longer period the committee chairperson determines will facilitate the committee's work.

Public hearings are subject to FDA's guideline (subpart C of 21 CFR part 10) concerning the policy and procedures for electronic media coverage of FDA's public administrative proceedings, including hearings before public advisory committees under 21 CFR part 14. Under 21 CFR 10.205, representatives of the electronic media may be permitted, subject to certain limitations, to videotape, film, or otherwise record FDA's public administrative proceedings, including presentations by participants.

Meetings of advisory committees shall be conducted, insofar as is practical, in accordance with the agenda published in this **Federal Register** notice. Changes in the agenda will be announced at the beginning of the open portion of a meeting.

Any interested person who wishes to be assured of the right to make an oral presentation at the open public hearing portion of a meeting shall inform the contact person listed above, either orally or in writing, prior to the meeting. Any person attending the hearing who does not in advance of the meeting request an opportunity to speak will be allowed to make an oral presentation at the hearing's conclusion, if time permits, at the chairperson's discretion.

The agenda, the questions to be addressed by the committee, and a current list of committee members will be available at the meeting location on the day of the meeting.

Transcripts of the open portion of the meeting may be requested in writing from the Freedom of Information Office (HFI–35), Food and Drug Administration, 5600 Fishers Lane, rm. 12A–16, Rockville, MD 20857, approximately 15 working days after the meeting, at a cost of 10 cents per page. The transcript may be viewed at the Dockets Management Branch (HFA–305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857, approximately 15 working days after the meeting, between the hours of 9 a.m. and 4 p.m., Monday through Friday. Summary minutes of the open portion of the meeting may be requested in writing from the Freedom of Information Office (address above) beginning approximately 90 days after the meeting.

The Commissioner has determined for the reasons stated that those portions of the advisory committee meetings so designated in this notice shall be closed. The Federal Advisory Committee Act (FACA) (5 U.S.C. app. 2, 10(d)), permits such closed advisory committee meetings in certain circumstances. Those portions of a meeting designated as closed, however, shall be closed for the shortest possible time, consistent with the intent of the cited statutes.

The FACA, as amended, provides that a portion of a meeting may be closed where the matter for discussion involves a trade secret; commercial or financial information that is privileged or confidential; information of a personal nature, disclosure of which would be a clearly unwarranted invasion of personal privacy; investigatory files compiled for law enforcement purposes; information the premature disclosure of which would be likely to significantly frustrate implementation of a proposed agency action; and information in certain other instances not generally relevant to FDA matters.

Examples of portions of FDA advisory committee meetings that ordinarily may be closed, where necessary and in accordance with FACA criteria, include the review, discussion, and evaluation of drafts of regulations or guidelines or similar preexisting internal agency documents, but only if their premature disclosure is likely to significantly frustrate implementation of proposed agency action; review of trade secrets and confidential commercial or financial information submitted to the agency; consideration of matters involving investigatory files compiled for law enforcement purposes; and review of matters, such as personnel records or individual patient records, where disclosure would constitute a clearly unwarranted invasion of personal privacy.

Examples of portions of FDA advisory committee meetings that ordinarily shall not be closed include the review, discussion, and evaluation of general preclinical and clinical test protocols and procedures for a class of drugs or devices; consideration of labeling requirements for a class of marketed drugs or devices; review of data and information on specific investigational or marketed drugs and devices that have previously been made public; presentation of any other data or information that is not exempt from public disclosure pursuant to the FACA, as amended; and, deliberation to formulate advice and recommendations to the agency on matters that do not independently justify closing.

This notice is issued under section 10(a)(1) and (a)(2) of the Federal Advisory Committee Act (5 U.S.C. app. 2), and FDA's regulations (21 CFR part 14) on advisory committees.

Dated: April 15, 1997.

Michael A. Friedman,

Deputy Commissioner for Operations.

[FR Doc. 97–10212 Filed 4–16–97; 12:52 pm]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Submission of OMB Review; Comment Request; Women's Health Initiative Observational Study

SUMMARY: Under the provisions of Section 3506(c)(2)(A) of the Paperwork

Reduction Act of 1995, the Office of the Director (OD), National Institutes of Health (NIH), has submitted to the Office of Management and Budget (OMB) a request for review and approval of the information collection listed below. This proposed information collection was previously published in the **Federal Register** on November 4, 1996 (Volume 61, Number 214, Page 56696) and allowed 60-days for public comment. No public comments were received. The purpose of this notice is to allow an additional 30 days for public comment. The National Institutes of Health may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised or implemented on or after October 1, 1995 unless it displays a currently valid OMB control number.

PROPOSED COLLECTION: *Title:* Women's Health Initiative (WHI) Observational Study. *Type of Information Collection Request:* Revision of OMB #0925–0414. Exp: 6/30/97. *Need for Use of Information Collection:* This study will be used by NIH to evaluate risk factors for chronic disease among older women by developing and following a large cohort of postmenopausal women and relating subsequent disease development to baseline assessments of historical, physical, psychosocial, and physiologic characteristics. In addition, the observational study will complement the clinical trial (which has received clinical exemption) and provide additional information on the common cause of frailty, disability and health for postmenopausal women, namely, coronary heart disease, breast and colorectal cancer, and osteoporotic fractures. *Frequency of Response:* On occasion. *Affected Public:* Individuals and physicians. *Type of Respondents:* Women, next of kin, and physicians. The annual reporting burden is as follows:

Type of respondents	Estimated number of respondents	Estimated number of responses per respondent	Average burden hours per response	Estimated total annual hours requested
OS Participants	100,000	1.06667	.819	87,360
Next-of-Kin	2,682	1	.0835	224
Physician	166	1	.0835	14
Total				87,598

The annualized cost to respondents is: $876,525.

There are no annual Capital Costs, Operating Costs, and/or Maintenance Costs to report.

Request for Comments

Written comments and/or suggestions from the public and affected agencies should address one or more of the following points: (1) Evaluate whether the proposed collection is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Direct Comments to OMB

Written comments and/or suggestions regarding item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the: Office of Management and Budget, Office of Regulatory Affairs, New Executive Office Building, Room 10235, Washington, D.C. 20503, Attention: Desk Officer for NIH. to request more information on the proposed project or to obtain a copy of the data collection plan and instruments, contact: Dr. Loretta Finnegan, Women's Health Initiative Program Office, 7550 Rockville Pike, Room 6A09, Bethesda, Maryland 20892–9110 or call non-toll-free number (301) 402–2900, or E-mail your request, including your address to: <FinnegaL@od31em1.od.nih.gov>.

COMMENTS DUE DATE: Comments regarding this information collection are best assured of having their full effect if received on or before May 19, 1997.

Dated: March 11, 1997.

Stephen Benowitz,

Executive Officer, Office of the Director, NIH.

[FR Doc. 97–9993 Filed 4–17–97; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; 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 the following meeting of the National Cancer Institute Frederick Cancer Research and Development Center Advisory Committee.

The open portion of the meeting will be limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the contact person in advance of the meeting.

Committee Name: Frederick Cancer Research and Development Center Advisory Committee.

Date: June 9–10, 1997.

Place: Frederick Cancer Research and Development Center, Building 549, Executive Board Room, Frederick, Maryland.

Open: June 9—8:30 a.m.–10:00 a.m.

Agenda: Discussion of administrative matters such as future meetings, budget, and information items related to the operation of the NCI Frederick Cancer Research and Development Center.

Closed: June 9—10 a.m. to recess; June 10–8:30 a.m. to adjournment.

Agenda/Purpose: Discussion of previous site visit report and response for the Molecular Virology and Carcinogenesis Laboratory review held December 17–18, 1996. The majority of the closed session will be devoted to a site review of the Gene Regulation and Chromosome Biology Laboratory with ABL-Basic Research Program Contract. Also included is a re-review of the Molecular Aspects of Drug Design Section, Macromolecular Structure Laboratory with ABL-Basic Research Program Contract.

Contact Person: Cedric W. Long, Ph.D., Frederick Cancer Research and Development Center, P.O. Box B,

Frederick, MD 21702, Telephone: 301–846–1108.

The meeting will be closed in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. The report and the discussions could reveal confidential trade secrets or commercial property such as a patentable material and personal information concerning individuals associated with the programs, disclosure of which constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Program Numbers: 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control)

Dated: April 11, 1997.

LaVerne Y. Springfield,

Committee Management Officer, NIH.

[FR Doc. 97–9988 Filed 4–17–97; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Mental Health; Notice of Meeting

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the National Advisory Mental Health Council of the National Institute of Mental Health (NIMH) for May 1997.

The meeting will be open to the public, as indicated, for discussion of NIMH policy issues and will include current administrative, legislative, and program developments. Attendance by the public will be limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should contact the person named below in advance of the meeting.

In accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. and sec. 10(d) of Public Law 92–463, a portion of the council will be closed to the public as indicated below for the review, discussion and evaluation of individual grant applications. These applications, evaluations, and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

The contact person named below will provide a summary of the meeting and a roster of committee members.

Other information pertaining to the meetings may be obtained from the contact person indicated.

Name of Committee: National Advisory Mental Health Council.

Date: May 12–13, 1997.

Place: May 12—Conference Room D, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857; May 13—Conference room 10, Building 31C, National Institutes of Health, 9000 Rockville Pike, Bethesda, MD 20892.

Closed: May 12, 9 a.m. to recess.

Open: May 13, 9 a.m. to adjournment.

Contact Person: Jane A. Steinberg, Ph.D., Parklawn Building, Room 18C–26, 5600 Fishers Lane, Rockville, MD 20857, Telephone: 301, 443–5047.

(Catalog of Federal Domestic Assistance Program Numbers 93.242, 93.281, 93.282.)

Dated: April 14, 1997.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 97–9987 Filed 4–17–97; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Child Health and Human Development; Notice of Closed Meeting

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following National Institute of Child Health and Human Development Special Emphasis Panel (SEP) meeting.

Name of SEP: Early Non-Tidal vs. Tidal Ventilation in Premature Infants (Teleconference).

Date: April 14, 1997.

Time: 2:00 p.m.—adjournment.

Place: 6100 Executive Boulevard, 6100 Building, Room 5E03, Rockville, Maryland 20852.

Contact Person: Gopal Bhatnagar, Scientific Review Administrator, NICHD, 6100 Executive Boulevard, 6100 Building, Room 5E01, Rockville, Maryland 20852, Telephone: 301–496–1485.

Purpose/Agenda: To evaluate and review a grant application.

The meeting will be closed in accordance with the provisions set forth in sections 552b(c)(4) and 552(c)(6), Title 5, U.S.C. The discussions of this application could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with this application, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

This notice is being published less than 15 days prior to the meeting due to the urgent need to meet timing limitations imposed by the revise and funding cycle.

(Catalog of Federal Domestic Assistance Program Nos. [93.864, Population Research and No. 93.865, Research for Mothers and Children,] National Institutes of Health.)

Dated: April 14, 1997.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 97–9992 Filed 4–17–97; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Library of Medicine; Notice of Meetings of the Board of Regents and the Extramural Programs Subcommittee

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the Board of Regents of the National Library of Medicine on May 13–14, 1997, in the Board Room of the National Library of Medicine, 8600 Rockville Pike, Bethesda, Maryland. The extramural Programs Subcommittee will meet on May 12 in the 5th-Floor Conference Room, Building 38A, from 2 p.m. to approximately 3:30 p.m. and will be closed to the public.

The meeting of the Board will be open to the public from 9 a.m. to approximately 12 noon on May 13 and from 9 a.m. to adjournment on May 14, for administrative reports and program discussions. Attendance by the public will be limited to space available. Individuals who plan to attend and need special assistance, such as sign-language interpretation or other reasonable accommodations, should contact Mrs. Bonnie Kaps at 301–496–4621 two weeks before the meeting.

In accordance with provisions set forth in sections 552b(c)(4), 552b(c)(6), Title 5, U.S.C. and section 10(d) of Public Law 92–463, the entire meeting of the Extramural Programs Subcommittee on May 12 will be closed to the public from 2 p.m. to approximately 3:30 p.m., and the regular Board meeting on May 13, will be closed from approximately 4:30 to 5 p.m. for the review, discussion, and evaluation of individual grant applications. These applications and the discussion 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.

Mr. Robert B. Mehnert, Chief, Office of Inquiries and Publications Management, National Library of Medicine, 8600 Rockville Pike, Bethesda, Maryland 20894, Telephone Number: 301–496–6308, will furnish a summary of the meeting, rosters of Board members, and other information pertaining to the meeting.

(Catalog of Federal Domestic Assistance Program No. 93.879—Medical Library Assistance, National Institutes of Health)

Dated: April 14, 1997.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 97–9991 Filed 4–17–97; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Meeting President's Cancer Panel

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 President's Cancer Panel.

This meeting will be open to the public as indicated below, with attendance by the public limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below.

Linda Quick-Cameron, Committee Management Officer, National Cancer Institute, Executive Plaza North, Room 630E, 6130 Executive Blvd., MSC 7410, Bethesda, MD 20892–7410 (301/496–5708) will provide a summary of the meeting and the roster of committee members upon request. Other information pertaining to the meeting may be obtained from the contact person indicated below.

Committee Name: President's Cancer Panel.

Date: May 22, 1997.

Place: Comprehensive Cancer Center, University of Michigan, 102 Observatory, Ann Arbor, Michigan 48109–0724.

Time: 8:30 a.m. to 5:30 p.m.

Agenda: Concerns of Special Populations in the National Cancer Program: Cancer and the Aging Population.

Contact Person: Maureen O. Wilson, Ph.D, Executive Secretary, National Cancer Institute, Building 31, Room 4A48, Bethesda, MD 20892–2473, Telephone: (301) 496–1148.

Dated: April 11, 1997.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 97–9989 Filed 4–17–97; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Mental Health; Request for Public Commentary to National Advisory Mental Health Council Workgroup on Mental Disorders Prevention Research

Notice is hereby given that the National Advisory Mental Health Council (NAMHC) Workgroup on Mental Disorders Prevention Research (the Workgroup) is seeking public testimony from individuals and organizations regarding critical issues germane to research on the prevention of mental disorders. That testimony will be used by members of the Workgroup, an ad hoc group of consultants to the NAMHC, as they develop recommendations to that advisory body and ultimately the Director of NIMH. Their recommendations will identify important research opportunities and suggest proprieties for developing the future NIMH prevention research portfolio.

All testimony must be faxed to Ann Rosenfeld (301–443–2578), the Workgroup's Executive Secretary, no later than 5:00 p.m. (EST) on April 30, 1997. Testimony must be typed, and should not exceed three pages. An additional page should contain the name, address, and phone number of the individual or sponsoring organization submitting the statement, as well as a paragraph describing the sponsoring organization (if any).

Dated: April 11, 1997.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 97–9990 Filed 4–17–97; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4124–N–34]

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.

EFFECTIVE DATE: April 18, 1997.

FOR FURTHER INFORMATION CONTACT: Mark Johnston, Department of Housing and Urban Development, Room 7256, 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 the December 12, 1988 court order in *National Coalition for the Homeless* v. *Veterans Administration*, No. 88–2503–OG (D.D.C.), HUD publishes a Notice, on a weekly basis, identifying unutilized, underutilized, excess and surplus Federal buildings and real property that HUD has reviewed for suitability for use to assist the homeless. Today's Notice is for the purpose of announcing that no additional properties have been determined suitable or unsuitable this week.

Dated: April 10, 1997.

Jacquie M. Lawing,

General Deputy Assistant Secretary.

[FR Doc. 97–9790 Filed 4–17–97; 8:45 am]

BILLING CODE 4210–29–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Information Collection Request Submitted for Reinstatement Approval

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice.

SUMMARY: This notice announces that the Fish and Wildlife Service (Service) has submitted a proposal for the collection of information described below to the Office of Management and Budget (OMB) for reinstatement approval under the provisions of the Paperwork Reduction Act of 1995. Copies of the information collection requirement, related forms, and explanatory material may be obtained by containing the Service's Information Collection Clearance Officer at the phone number listed below. The Service is soliciting comments and suggestions on the requirements as described below.

DATES: Comments should be submitted on or before May 19, 1997.

ADDRESSES: Comments should be sent to the Office of Information and Regulatory Affairs; Office of Management and Budget; Attention: Desk Officer for the Department of the Interior; Washington, DC 20240; and a copy of the comments should be sent to the Information Collection Clearance Officer, U.S. Fish and Wildlife Service (MS 224 ARL SQ), 1849 C Street, NW., Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Phyllis H. Cook, Information Collection Clearance Officer, 703/358–1943; 703/358–2269 (fax).

SUPPLEMENTARY INFORMATION: On January 26, 1996, the Service published in the **Federal Register** (61 FR 2470), a proposed rule which amended the test protocol for nontoxic shot approval procedures for shot and shot coatings. The principal purpose of this proposed rule making is to update and amend the current nontoxic shot approval procedures by establishing a 3-tiered approval process. Shot approval will be considered at each tier with the testing procedures becoming more demanding. An environmentally benign shot could be granted approval at the first tier. This process is designed to include both candidate shot and shot coating.

Comments were not solicited on the information collection requirements contained in the proposed rule cited above. The Service is now soliciting comments on the proposed information collection requirements prior to the issuance of the final rule amending the nontoxic shot approval procedures. The public is invited to comment on: (1) 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 (2) the accuracy of the agency's estimate of the burden of the collection of information; (3) ways to enhance the quality, utility and clarity of the information to be collected; and, (4) ways to minimize the burden of the collection of information on respondents on the requirements as outlined below.

Title: Text Protocol for Nontoxic Approval Procedures for Shot and Shot Coatings.

OMB Approval Number: 1018–0067.

Description and Use: As of January 1991, lead shot was banned for hunting waterfowl and coots in the United States. Steel shot was the only nontoxic alternative available. Since then, the Service has encouraged manufacturers to develop other alternatives that the hunting public may use. In approving a candidate material as nontoxic for hunting waterfowl and coots, the Service must first ensure that the secondary exposure (ingestion of spent shot or its components) are not a hazard to migratory birds and the environment. In order to make this decision, the Service requires that applicant to submit information collected about the toxicity of their candidate material to migratory birds and the environment. This data provides the bulk of the application.

The information from scientific literature, risk assessment analysis, and toxicity studies, will be gathered and packaged by the applicant (company producing and/or marketing the shot or shot coating). The Service will utilize the information about the candidate material to approve or deny a designation as nontoxic for hunting waterfowl and coots.

Frequency of collection: On occasion.

Description of respondents: Business or other for-profit; not-for-profit institutions.

Estimated completion time: The Service estimates it will take 3,200 hours for an applicant to submit the requested information.

Annual responses: 1.

Annual burden hours: 3,200.

Dated: March 21, 1997.

Carolyn A. Bohan,

Assistant Director, Refuges and Wildlife.

[FR Doc. 97–10025 Filed 4–17–97; 8:45 am]

BILLING CODE 4310–55–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Coastal Barrier Improvement Act of 1990 (Pub. L. 101–591); Technical Corrections to the Coastal Barrier Resources System

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice.

SUMMARY: The Department of the Interior, through the Fish and Wildlife Service, has completed modifications to the boundaries of two units of the Coastal Barrier Resources System (System), one in New York (NY–59P) and one in South Carolina (SC–01), as required by Public Law 104–148 and Public Law 104–265, respectively. The purpose of this notice is to inform the public about the filing, distribution, and availability of maps reflecting these modifications.

DATES: The boundary revision for Unit NY–59P became effective on May 24, 1996; the boundary revision for Unit SC–01 became effective on October 9, 1996.

ADDRESSES: Copies of the revised maps for the two System units are available for purchase from the U.S. Geological Survey, Earth Science Information Center, P.O. Box 25286, Denver, Colorado 80225. Official maps can be viewed at the Fish and Wildlife Service offices listed in the appendix.

FOR FURTHER INFORMATION: Contact Ms. Denise Henne, Department of the Interior, U.S. Fish and Wildlife Service, Division of Habitat Conservation, (703) 358–2201.

SUPPLEMENTARY INFORMATION: Section 2 of Public Law 104–148 requires the Department to modify the maps of the System to move the eastern boundary of the excluded area of the Fire Island Unit NY–59P (covering Ocean Beach, Seaview, Ocean Bay Park, and part of Point O' Woods) to the western boundary of the Sunken Forest Preserve. This law further directs the Department to ensure that the depiction of ''otherwise protected areas'' does not include any area owned by the Point O' Woods Association, a privately held corporation under the laws of the State of New York.

Section 201 of Public Law 104–265 requires the Department of the Interior to modify the maps of the Coastal Barrier Resources System to move the southernmost boundary of the Long Pond Unit SC–01 to exclude from the unit structures known as ''Lands End,'' ''Beachwalk,'' and ''Courtyard Villas'' and extend the boundary in a straight line between the coast and north boundary of the unit at the break in development.

Copies of the revised System maps have been filed with the House of Representatives Committee on Resources and the Committee on Banking and Financial Services, and the Senate Committee on Environment and Public Works. Copies of these maps have been distributed to the Chief Executive Officer (or representative) of each appropriate Federal, State, or local agency having jurisdiction over the areas in which the modified units are located. Copies of the maps are also available for inspection at Service headquarters, regional, and field offices (see addresses in appendix).

Dated: April 10, 1997.

John G. Rogers,

Acting Director, U.S. Fish and Wildlife Service, U.S. Department of the Interior.

Appendix—Location of Maps Available for Review

Headquarters Office

U.S. Fish and Wildlife Service, 4401 N. Fairfax Drive, Room 400, Arlington,

VA 22203, (703) 358–2201 (All System Maps)

Regional Offices

U.S. Fish and Wildlife Service, 300 Westgate Center Drive, Hadley, MA 01035–9589, (413) 253–8614 (NY–59P)

U.S. Fish and Wildlife Service, 1875 Century Blvd., Atlanta, GA 30345, (404) 679–7086 (SC–01)

Field Offices

U.S. Fish and Wildlife Service, 3817 Luker Road, Cortland, NY 13045, (607) 753–9334 (NY–59P)

U.S. Fish and Wildlife Service, 217 Fort Johnson Road, Charleston, SC 29412, (803) 727–4707 (SC–01)

[FR Doc. 97–10087 Filed 4–17–97; 8:45 am]

BILLING CODE 4310–55–M

DEPARTMENT OF THE INTERIOR

Geological Survey

Federal Geographic Data Committee (FGDC); Public Review of Content Standards for Digital Geospatial Metadata

ACTION: Notice; request for comments.

SUMMARY: The Federal Geographic Data Committee (FGDC) is sponsoring a public review to review the Content Standards for Digital Geospatial Metadata, known as the FGDC Metadata Standard. After this public review, the revised Standard will be considered for adoption as a revised FGDC standard. The Standard must be followed by all Federal agencies to document all geospatial data collected directly or indirectly, through grants, partnerships, or contracts. In its assigned leadership role for developing the National Spatial Data Infrastructure (NSDI), the FGDC also intends that the Metadata Standard meet the needs and recognize the view of State and local governments, academia, industry, and the public. The purpose of this notice is to solicit the views of these groups.

This review is limited to three areas: (1) Formalizing a method of creating ''user-defined'' metadata elements; elements outside the present Standard, but needed by the data producer; (2) establishing the methodology for creating a customized metadata profile, such as those for cultural and demographic data sets; and (3) refining the Standard's production rules for implementation. A second public review, to be announced later this summer, will address additional user concerns and the relationship between the FGDC Metadata Standard and the International Standards Organization (ISO) Metadata Standard. The comments received at that time will contribute to the United States' position on the ISO standard.

For the current review, the proposed modifications will make the FGDC Metadata Standard easier to use while keeping it compatible with the emerging ISO Standard. It is desirable that the modifications resulting from the review do not adversely affect present compliant metadata implementations. The highest priority is compatibility with metadata collected under the current FGDC Metadata Standard.

Since the FGDC Metada Standard was approved in 1994, it has been implemented by numerous Federal, state, and local agencies, companies, and groups. It has also been used by other nations as they develop their own national metadata standards. Changes to the FGDC Metadata Standard have been suggested during the time since it was issued. In 1995 an implementor's workshop was held specifically to discuss strengths, weaknesses, and proposed improvements. Drawing on this body of knowledge, the FGDC proposes to modify the current Metadata Standard in the three areas described above.

The public review is open to all interested parties, and all are encouraged to participate. Participants in the public review are encouraged to limit their comments to the specific modifications in the proposed revision. All participants who make comments during the public review period will receive an acknowledgment of their comment. After comments have been considered, participants will receive notification of how their comments were addressed. After the formal adoption of the revised Standard by the FGDC, the revised Standard, and a summary analysis of the changes, will be made available at the FGDC World Wide Web (WWW) site. The primary review activity will be conducted on the Internet, using Web sites, electronic mail and an online HyperNews threaded discussion list. However, Internet access is not required, and participants wishing to use other means should contact the FGDC. Currently available documents include a description of the public review process and scope of the Standard revision activity, the current FGDC Metadata Standard, the Draft Revised Standard, and an explanation of the modifications to the current Standard.

DATES: The public review will be open, and comments will be accepted until July 9, 1997.

CONTACT AND ADDRESSES: Requests for written copies of the ''Content Standards for Digital Geospatial Metadata'' should be addressed to: FGDC Secretariat (Attention: Jennifer Fox), U.S. Geological Survey, 590 National Center, 12201 Sunrise Valley Drive, Reston, Virginia, 20192; telephone 703.648.5514; facsimile 703.648.5755; or Internet ''metadata@www.fgdc.gov''. For answers to metadata related questions, please call Richard Pearsall 703.648.4532 or Ruth Hildenberger 703.648.6084.

There are three ways to participate in the public review:

1. The FGDC Web site link to the Metadata Standard public review site at http://www.fgdc.gov.

The Metadata Standard public review Web site is the focal point of information distribution during the public review period. News, announcements, documents, and the entrance to the HyperNews on-line threaded discussion list can be found here. In addition, this page links to the other methods of participation in the public review. Using an Internet browser, participants can make a suggestion, comment on another's suggestion, or propose a new idea. The discussion is presented as a set of topics with comments, similar to news groups in Usenet. Users can log on to read, respond, and propose new topics for discussion. All topics and comments in this forum are available to everyone. This particular HyperNews site contains topics relevant to this limited scope revision.

2. Metadata-related electronic mail to metadata@www.fgdc.gov

An electronic mail account has been established to receive correspondence relating to the Standard and the public review. This electronic address may be used to send comments directly to the FGDC. Also, if a participant wants to comment in the HyperNews discussion and remain anonymous, they may send their comment and request to this address. The comment will be placed into HyperNews without the author's name. Participants who would like to make a comment directly to the FGDC or would like to remain anonymous in the HyperNews discussion should send electronic mail to this address.

3. Participation without Internet access or without computer access.

Participants may contact the FGDC at the address given above for paper copies of the revision documents or copies of the HyperNews on-line threaded discussion list.

Participants without computer access interested in having their comments

included in the HyperNews on-line discussion may send comments typed or printed (no handwritten notes, please); one comment per page on white unlined paper; use Times Roman or Times New Roman font; use font size of 14 point or larger. These comments will be scanned using Optical Character Recognition (OCR) software and a digital copy will be loaded into the HyperNews on-line threaded discussion list. In addition, participants may send one hardcopy version of their comments and one softcopy version, preferably on 3.5″ diskette in WordPerfect 5.0 or 6.0/6.1 format.

Dated: April 9, 1997.

Wendy Budd,

Associate Chief, National Mapping Division, U.S. Geological Survey.

[FR Doc. 97–10007 Filed 4–17–97; 8:45 am]

BILLING CODE 4310–31–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV–030–97–1220–00]

Closure and Land Use Restrictions—Amendment to Notice NV–030–97002

EFFECTIVE DATES: The closure and activity restrictions become effective February 28, 1997. Interested persons may submit comments to the Carson City District Manager.

FOR FURTHER INFORMATION CONTACT: John O. Singlaub, District Manager, Carson City District, Bureau of Land Management, 1535 Hot Springs Road, Carson City, Nevada 89706, *Telephone:* (702) 885–6000.

Dated: January 27, 1997.

John O. Singlaub,

District Manager, Carson City District.

[FR Doc. 97–10004 Filed 4–17–97; 8:45 am]

BILLING CODE 4310–HC–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV–033–97–1220–00]

Temporary Closure of Public Lands: Nevada, Carson City District

AGENCY: Bureau of Land Management, Interior Department.

ACTION: Temporary closure of certain public lands in Lyon and Storey Counties on and adjacent to two Off Highway Vehicle race courses: May 10–11, 1997: Virginia City Grand Prix—Permit Number NV–030–97–011; May 25, 1997: Yerington 300 Desert Race—Permit Number NV–030–96–10.

SUMMARY: The Acting Assistant District Manager, Non-Renewable Resources announces the temporary closure of selected public lands under his administration. This action is being taken to provide for public safety and to protect adjacent resources.

EFFECTIVE DATES: May 10, 11 & 25, 1997.

FOR FURTHER INFORMATION CONTACT: Fran Hull, Outdoor Recreation Planner, Carson City District, Bureau of Land Management, 1535 Hot Springs Road, Carson City, Nevada 89706, Telephone: (702) 885–6000.

SUPPLEMENTARY INFORMATION: A map of the closures may be obtained at the contact address. The event permittees are required to clearly mark and monitor the event routes during the closure periods. Spectators and support vehicles may drive on existing accessory roads only. Spectators may observe the races from safe locations as directed by event officials and LBM personnel.

Specific information pertaining to each event is as follows:

1. *Western States Racing Association—Virginia City Grand Prix Motorcycle Race—Permit Number NV–030–99–011.* This event is a multiple-lap motorcycle race on dirt roads and trails near Virginia City, Nevada in Storey County within T16N R21E and T17N R21E. Bureau lands to be closed to public use include the width and length of those roads and trails identified by colorful flagging and paper arrows attached to wooden stakes designating the race route on the ground. Camping on public lands within the vicinity of and in conjunction with the race shall be prohibited. This closure will be in effect from 6:00 a.m. on May 10 through 4:00 p.m. on May 11, 1997.

2. *Valley Off-Road Racing Association Yerington 300 Desert Race—Permit Number NV–030–96–10.* A multiple-lap OHV race on roads and washes near Yerington, Nevada in Lyon County, within T12N R24E; T13N R24E; T14N R24E; T15N R24E; T16N R24E; T13N R25E; T15N R25E; T16N R25E; T17N R26E. Bureau lands to be closed to public use include the width and length of those roads and washes identified with colorful flagging and paper arrows attached to wooden stakes designating the race course on the ground. Designated spectator areas include: the Start/Finish gravel pit; points along Gallagher Pass and Churchill Canyon Roads. This closure will be in effect from 6:00 a.m. until midnight on May 25, 1997.

The above restrictions do not apply to race officials, law enforcement and agency personnel monitoring the event.

Authority: 43 CFR 8364 and 43 CFR 8372.

Penalty

Any person failing to comply with the closure order may be subject to imprisonment for not more than 12 months, or a fine in accordance with the applicable provisions of 18 U.S.C. 3571, or both.

Dated: April 3, 1997.

Daniel L. Jacquet,

Acting Assistant District Manager, Non Renewable Resources.

[FR Doc. 97–10005 Filed 4–17–97; 8:45 am]

BILLING CODE 4310–HC–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY–060–07–1310–00]

Notice of Availability of the Draft Environmental Impact Statement (DEIS) for the Gillette South Coalbed Methane Project, Campbell County, Wyoming

SUMMARY: The Bureau of Land Management (BLM) announces the availability of the Gillette South Coalbed Methane Project Draft Environmental Impact Statement (DEIS) which analyzes the environmental consequences of coalbed methane development within the Gillette South Project area. This development area is located in Campbell County and generally located within Townships 42 through 49 North; Ranges 70 through 73 West, 6th Principal Meridian. The area is accessed by U.S. Highway 59 south of Gillette, Wyoming. Access to the interior of the project area is provided by a road system developed to service prior and ongoing drilling and production activities.

DATES: Comments on the DEIS will be accepted through May 12, 1997.

ADDRESSES: Comments on the draft EIS should be sent to Mr. Richard Zander, Bureau of Land Management, Buffalo Resource Area, 1425 Fort Street, Buffalo, Wyoming 82834.

SUPPLEMENTARY INFORMATION: The draft EIS analyzes a proposed action and the no action alternative. It also considers four other alternatives: restrict timing of approval of Federal wells, reduce number of Federal wells approved, change the method of surface water disposal, and inject produced water underground. The proposal presented by the project operators is to continue to drill additional wells on their leased acreage within this natural gas development area.

Over the next 3 to 5 years, the project operators propose to drill up to 400

additional wells (210 private or State, and 190 Federal) to obtain maximum recovery of natural gas from existing Federal (41 percent), State, and private oil and gas leases. The draft EIS describes the physical, biological, cultural, historic, and socioeconomic resources in and surrounding the project area. The focus of the impact analysis was based upon resource issues and concerns identified during public scoping.

Dated: April 4, 1997.

Alan R. Pierson,

State Director.

[FR Doc. 97–10022 Filed 4–17–97; 8:45 am]

BILLING CODE 4310–22–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AZ–942–07–1420–00]

Arizona; Notice of Filing of Plats of Survey

April 3, 1997.

1. The plats of survey of the following described lands were officially filed in the Arizona State Office, Phoenix, Arizona, on the dates indicated:

A plat, in 4 sheets, representing the dependent resurvey of a portion of the subdivisional lines and portions of Mineral Surveys Numbers 1867, 2859, 3110, 3346, 4282 and 4481, and the metes-and-bounds surveys in sections 7, 8 and 18, Township 4 South, Range 29 East, Gila and Salt River Meridian, Arizona, was approved January 6, 1997, and officially filed January 15, 1997.

A plat representing the dependent resurvey of a portion of the north boundary, and the metes-and-bounds survey of the North Maricopa Mountains Wilderness Area Boundary, in Township 5 South, Range 2 West, Gila and Salt River Meridian, Arizona, was approved January 6, 1997, and officially filed January 15, 1997.

A plat, in 6 sheets, representing the dependent resurvey of a portion of the north boundary and a portion of the subdivisional lines, and the metes-and-bounds survey of North Maricopa Mountains Wilderness Area Boundary, in Township 4 South, Range 2 West, Gila and Salt River Meridian, Arizona, was approved January 8, 1997, and officially filed January 17, 1997.

A plat, in 4 sheets, representing the dependent resurvey of a portion of the east boundary, a portion of the subdivisional lines and Mineral Survey Number 4036A, and the subdivision of sections 12, 13, 14, and 23, Township 1 South, Range 13 East, Gila and Salt River Meridian, Arizona, was approved January 16, 1997, and officially filed January 24, 1997.

A plat, in 2 sheets, representing the dependent resurvey of a portion of the subdivisional lines, a portion of Mineral Survey Number 2337, and Mineral Survey Number 4036B, and the subdivision of section 7, Township 1 South, Range 14 East, Gila and Salt River Meridian, Arizona, was approved January 21, 1997, and officially filed January 24, 1997.

A plat representing the dependent resurvey of portions of certain mineral surveys, and a metes-and-bounds survey in section 11, Township 20 South, Range 22 East, Gila and Salt River Meridian, Arizona, was approved January 30, 1997, and officially filed February 6, 1997.

A plat, in 2 sheets, representing the dependent resurvey of portions of the west boundary, and subdivisional lines, the metes-and-bounds survey of the 1983 alignment of University Drive, a portion of the metes-and-bounds survey of lot 6 of section 18, the subdivision of section 18, and certain metes-and-bounds surveys in section 18, Township 1 North, Range 7 East, Gila and Salt River Meridian, Arizona, was approved February 7, 1997, and officially filed February 13, 1997.

A supplemental plat showing amended lottings of fractional areas created by the segregation of patented mineral surveys and the cancellation of a portion of Mineral Survey 4257, in section 34, Township 2 South, Range 13 East, Gila and Salt River Meridian, Arizona, was approved February 7, 1997, and officially filed February 13, 1997.

A supplemental plat showing amended lottings of fractional areas created by the segregation of patented mineral surveys and the cancellation of Mineral Surveys Numbers 2718 and 3367, in Section 2, Township 3 South, Range 13 East, Gila and Salt River Meridian, Arizona, was approved February 7, 1997, and officially filed February 13, 1997.

A supplemental plat showing amended lottings of fractional areas created by the segregation of patented mineral surveys, in section 18, Township 3 South, Range 14 East, Gila and Salt River Meridian, Arizona, was approved February 7, 1997, and officially filed February 13, 1997.

A plat, in 8 sheets, representing the dependent resurvey of a portion of the subdivisional lines, and the metes-and-bounds survey of North Maricopa Mountains Wilderness Area Boundary, Township 3 South, Range 2 West, Gila and Salt River Meridian, Arizona, was approved February 18, 1997, and officially filed February 27, 1997.

A plat, in 9 sheets, representing the dependent resurvey of a portion of the subdivisional lines, and the metes-and-bounds survey of North Maricopa Mountains Wilderness Area Boundary, in Township 3 South, Range 3 West, Gila and Salt River Meridian, Arizona, was approved February 25, 1997, and officially filed March 6, 1997.

A plat representing the dependent resurvey of a portion of the south boundary and portions of Mineral Surveys Numbers 3881 and 4564, and the subdivision and metes-and-bounds survey in section 35, Township 12 South, Range 6 West, Gila and Salt River Meridian, Arizona, was approved March 13, 1997, and officially filed March 27, 1997.

A plat representing the dependent resurvey of the east and north boundaries and the subdivisional lines, in Township 19 North, Range 29 East, Gila and Salt River Meridian, Arizona, was approved March 13, 1997, and officially filed March 27, 1997.

A plat, in 2 sheets, representing the dependent resurvey of the south, east and west boundaries and a portion of the subdivisional lines and a metes-and-bounds survey in section 30, Township 20 North, Range 30 East, Gila and Salt River Meridian, Arizona, was approved March 13, 1997, and officially filed March 27, 1997.

2. These plats will immediately become the basic records for describing the land for all authorized purposes. These plats have been placed in the open files and are available to the public for information only.

3. All inquiries relating to these lands should be sent to the Arizona State Office, Bureau of Land Management, 222 N. Central Avenue, Phoenix, Arizona 85004.

Kenny D. Ravnikar,

Chief Cadastral Surveyor of Arizona.

[FR Doc. 97–10021 Filed 4–17–97; 8:45 am]

BILLING CODE 4310–32–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CA–942–5700–00]

Filing of Plats of Survey; California

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The purpose of this notice is to inform the public and interested state and local government officials of the

latest filing of Plats of Survey in California.

EFFECTIVE DATE: Unless otherwise noted, filing was effective at 10:00 a.m. on the next federal work day following the plat acceptance date.

FOR FURTHER INFORMATION CONTACT: Clifford A. Robinson, Chief, Branch of Cadastral Survey, Bureau of Land Management (BLM), California State Office, 2135 Butano Drive, Sacramento, CA 95825–0451, (916) 979–2890.

SUPPLEMENTARY INFORMATION: The plats of Survey of lands described below have been officially filed at the California State Office of the Bureau of Land Management in Sacramento, CA.

Humboldt Meridian, California

T. 10 N., R. 7 E.,—Dependent resurvey and metes-and-bounds survey, (Group 1214) accepted March 3, 1997 to meet certain administrative needs of the US Forest Service, Klamath National Forest.

Mount Diablo Meridian, California

T. 25 S., R. 21 E.,—Supplemental plat of section 6, accepted March 6, 1997, to meet certain administrative needs of the BLM, Bakersfield District, Caliente Resource Area.

T. 39 N., R. 11 E.,—Dependent resurvey and subdivision of sections, (Group 1176) accepted March 12, 1997, to meet certain administrative needs of the US Forest Service, Modoc National Forest.

T. 7 N., R. 12 E.,—Metes-and-bounds survey, (Group 1271) accepted March 28, 1997, to meet certain administrative needs of the BLM, Bakersfield District, Folsom Resource Area.

San Bernardino Meridian

T. 13 S., R. 19 E.,—Supplemental plat of section 17, accepted January 31, 1997, to meet certain administrative needs of the BLM, California Desert District, El Centro Resource Area.

T. 13 S., R. 19 E.,—Supplemental plat of the S ½ of section 8, accepted January 31, 1997, to meet certain administrative needs of the BLM, California Desert District, El Centro Resource Area.

T. 13 S., R. 19 E.,—Supplemental plat of Tract 38, accepted January 31, 1997, to meet certain administrative needs of the BLM, California Desert District, El Centro Resource Area.

All of the above listed survey plats are now the basic record for describing the lands for all authorized purposes. The survey plats have been placed in the open files in the BLM, California State Office, and are available to the public as a matter of information. Copies of the survey plats and related field notes will be furnished to the public upon payment of the appropriate fee.

Dated: April 7, 1997.

Clifford A. Robinson,

Chief, Branch of Cadastral Survey.

[FR Doc. 97–10010 Filed 4–17–97; 8:45 am]

BILLING CODE 4310–40–M

DEPARTMENT OF THE INTERIOR

National Park Service

Submission of Study Package to Office of Management and Budget Review Opportunity for Public Comment

AGENCY: National Park Service; Bryce Canyon National Park; Grand Teton National Park; Lincoln Boyhood National Memorial; Lowell National Historical Park; Voyageurs National Park, Interior.

ACTION: Notice and request for comments.

ABSTRACT: The National Park Service (NPS) Visitor Services Project and five parks (Bryce Canyon National Park in Utah; Grand Teton National Park in Wyoming; Lincoln Boyhood National Memorial in Indiana; Lowell National Historical Park in Massachusetts; Voyageurs National Park in Minnesota) propose to conduct visitor surveys to learn about visitor demographics and visitor opinions about services and facilities in each of these five parks. The results of the surveys will be used by park managers to improve the services they provide to visitors while better protecting park natural and cultural resources. Study packages that include the proposed survey questionnaires for these five proposed park studies have been submitted to the Office of Management and Budget for review.

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 and 5 CFR Part 1320, Reporting and Record Keeping Requirements, the NPS invites public comment on these five proposed information collection requests (ICR). Comments are invited on: (1) The need for the information including whether the information has practical utility; (2) the accuracy of the reporting burden estimate; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the information collection on respondents, including the use of automated collection techniques or other forms or information technology.

The purpose of the five proposed ICRs is to document the demographics of visitors to the five parks, to learn about the motivations and expectations these visitors have for their park visits, and to obtain their opinions regarding services provided by the five parks and the suitability of the visitor facilities maintained in the five parks. This information will be used by park planners and managers to plan, develop, and operate visitor services and facilities in ways that maximize use of limited park financial and personnel resources to meet the expectations and desires of park visitors.

There were no public comments received as a result of publishing in the **Federal Register** a 60 day notice of intention to request clearance of information collection for these five surveys.

DATES: Public comments will be accepted on or until May 19, 1997.

SEND COMMENTS TO: Office of Information and Regulatory Affairs of OMB, Attention Desk Officer for the Interior Department, Office of Management and Budget, Washington, DC 20503; and also to: Margaret Littlejohn; Cooperative Park Studies Unit; Department of Forest Resources; College of Forestry, Wildlife and Range Sciences; University of Idaho; Moscow, ID 83844–1133.

FOR FURTHER INFORMATION OR A COPY OF THE QUESTIONNAIRE SUBMITTED FOR OMB REVIEW, CONTACT: Margaret Littlejohn, 208–885–7863.

SUPPLEMENTARY INFORMATION:

Title: National Park Service (NPS) Visitor Services Project Visitor Surveys at Five Parks.

Form: Not applicable

OMB Number: To be assigned.

Expiration Date: To be assigned.

Type of Request: Request for new clearance.

Description of Need: The National Park Service needs information concerning visitor demographics and visitor opinions about the services and facilities that the National Park Service provides in each of these five parks. The proposed information to be collected regarding visitors in these five parks is not available from existing records, sources, or observations.

Description of Respondents: A sample of visitors to each of these five parks.

Estimated Average Number of Respondents: 500 at Bryce Canyon National Park; 800 at Grand Teton National Park; 500 at Lincoln Boyhood National Memorial; 500 at Lowell National Historical Park; 800 at Voyageurs National Park.

Estimated Average Number of Responses: 500 at Bryce Canyon National Park; 800 at Grand Teton National Park; 500 at Lincoln Boyhood National Memorial; 500 at Lowell National Historical Park; 800 at Voyageurs National Park.

Estimated Average Burden Hours Per Response: 12 minutes.

Estimated Annual Reporting Burden: 100 hours at Bryce Canyon National Park; 160 hours at Grand Teton National Park; 100 hours at Lincoln Boyhood

National Memorial; 100 hours at Lowell National Historical Park; 160 hours at Voyageurs National Park.

Estimated Frequency of Response: One time.

Diane M. Cooke,

Information Collection Clearance Officer, WASO Administrative Program Center, National Park Service.

[FR Doc. 97–10097 Filed 4–17–97; 8:45 am]

BILLING CODE 4310–70–M

DEPARTMENT OF THE INTERIOR

National Park Service

New Bedford Whaling National Historical Park, Bristol County, MA; Notice of Intent To Prepare an Environmental Impact Statement and Notice of Public Meetings

In accordance with the National Environmental Policy Act of 1969 (Pub. L. 91–109 section 102(c)), the National Park Service (NPS) is preparing an Environmental Impact Statement (EIS) for the New Bedford Whaling National Historical Park (NHP), located in New Bedford, Bristol County, Massachusetts. The purpose of the EIS is to assess the impacts of alternative management strategies which will be described in the general management plan for New Bedford Whaling NHP. A range of alternatives will be formulated for natural and cultural resource protection, visitor use and interpretation, facilities development, and operations.

The NPS will hold a series of four (4) public meetings between May 3 and May 21, 1997 which will provide an opportunity for public input into the scoping for the GMP/EIS. The date, time, and location of these meetings will be announced through local media as they will be held at various places in the New Bedford area. The purpose of these meetings is to obtain both written and verbal comments concerning the future development of New Bedford Whaling NHP. Those persons who wish to comment verbally or in writing should contact Ellen Levin Carlson, Planning Project Manager, New England Support Office, National Park Service, 15 State Street, Boston, MA 02109–3572, (617) 223–5048.

The draft GMP/EIS is expected to be completed and available for public review in late 1998. After public and interagency review of the draft document comments will be considered, and a final EIS followed by a Record of Decision will be prepared.

The responsible official is Richard Rambur, Acting Superintendent, New Bedford Whaling National Historical Park, 33 William Street, New Bedford, MA 02740.

Terry W. Savage,

Superintendent, New England System Support Office.

[FR Doc. 97–10098 Filed 4–17–97; 8:45 am]

BILLING CODE 4310–70–M

DEPARTMENT OF THE INTERIOR

National Park Service

National Capital Region; Mary McLeod Bethune Council House National Historic Site Advisory Commission; Notice of Public Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the Mary McLeod Bethune Council House National Historic Site Advisory Commission will be held on May 2nd 1997 at 10:00 a.m. to 5:00 p.m. and on May 3rd, 1997 at 8:30 a.m. to 12:30 p.m., at the Madison Hotel, located at 15th and M Street, N.W., Washington, D.C.

The Commission was authorized on December 11, 1991, by Pub. L. 102–211, for the purpose of advising the Secretary of the Interior in the development of a General Management Plan for the Mary McLeod Bethune Council House National Historic site.

The members of the Commission are as follow: Dr. Dorothy I. Height; Ms. Barbara Van Blake; Ms. Brenda Girton-Mitchell; Dr. Savanna C. Jones; Dr. Bettye J. Gardner, Bettye Collier-Thomas; Mr. Eugene Morris; Dr. Rosalyn Terborg-Penn; Mrs. Bertha S. Waters; Dr. Frederick Stielow; Dr. Sheila Flemming; Dr. Ramona Edelin; Mrs. Romaine B. Thomas; Ms. Brandi L. Creighton; and Dr. Janette Hoston Harris.

The purpose of these meeting will be to continue planning and developing a general management plan for the Mary McLeod Bethune Council House National Historic Site. The meeting will be open to the public. Any person may file with the Commission a written statement concerning the matters to be discussed. Persons who wish further information concerning this meeting or wish to file a written statement or testify at the meeting may contact Ms. Marta C. Kelly, the Federal Liaison Officer for the Commission, at (202) 673–2402. Minutes of these meetings will be available for public inspection 4 weeks after the meeting at the Mary LcLeod Bethune Council House National Historic site, located at 1318 Vermont Avenue, N.W., Washington, D.C. 20005.

Dated: April 9, 1997.

Richard S. Powers,

Acting Regional Director, National Capital Region.

[FR Doc. 97–10095 Filed 4–17–97; 8:45 am]

BILLING CODE 4310–70–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Settlement Agreement Pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act

In accordance with Departmental policy, notice is hereby given that a proposed Consent Decree in *United States* v. *AAF McQuay, Inc., et al.*, Case No. 3–95–2032–23 was lodged on March 28, 1997, with the United States District Court for the District of South Carolina. The proposed consent decree settles certain claims asserted by the United States on behalf of the U.S. Environmental Protection Agency (''EPA'') pursuant to Section 107(a) of the Comprehensive Environmental Response, Compensation, and Liability Act (''CERCLA''), 42 U.S.C. 9601 *et seq.*, for costs incurred in response to the release on threatened release of hazardous substances at the Hinson Superfund Site (''Site''), located near Clover, South Carolina.

The proposed Consent Decree requires Settling Defendants W.R. Grace & Co. and Collins & Aikman Corporation to pay the United States $350,000 in reimbursement of certain response costs that the United States has incurred for response actions at the Site. A consent decree previously entered in this action required another group of settling defendants to pay the United States $1,590,000 in reimbursement of response costs with respect to the Site.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States* v. *AAF McQuay, Inc., et al.* et al., 90–11–2–1114.

The proposed Consent Decree may be examined at the Office of the United States Attorney, District of South Carolina, 1441 Main Street, Columbia, South Carolina 29201; and at the Consent Decree Library, 1120 G Street, N.W., 4th Floor, Washington, D.C. 20005, (202) 624–0892. A copy of the proposed Consent Decree may be

obtained in person or by mail from the Consent Decree Library, 1120 G Street, N.W., 4th Floor, Washington, D.C. 20005. In requesting a copy, please refer to the referenced case and enclose a check in the amount of $8.75 (25 cents per page reproduction costs), payable to the Consent Decree Library.

Joel M. Gross,

Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 97–10014 Filed 4–17–97; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Amendment to Consent Decree Pursuant to the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA)

In accordance with Departmental policy, 28 CFR 50.7, and with Section 122 of CERCLA, 42 U.S.C. 9622, notice is hereby given that a proposed amendment to a consent decree in *United States* v. *American Cyanamid, et al.*, Civil Action No. 2:93–0654 (S.D.W.V.), was lodged on March 31, 1997, with the United States District Court for the Southern District of West Virginia. The original consent decree, entered on February 19, 1997, resolved claims that we filed under Section 107 of the CERCLA, 42 U.S.C. 9607, for past response costs incurred at the Fike/Artel Chemical Company Superfund Site, located near Nitro, West Virginia. The proposed amendment incorporates limited provisions reflecting two settlements with the final two parties in this matter. The first settlement is with Shell Chemical Company and Shell Oil Company (''Shell''), the last company to settle in this matter. The United States will receive $360,000 and the State of West Virginia $360,000. These amounts are in addition to those to be paid in a private settlement with the Settling Work Defendants in this matter.

The second settlement involves the United States Department of Energy (''DOE'') and Westinghouse Electric Corporation (''Westinghouse'') with respect to sodium tanks sent from a Westinghouse facility to the Fike/Artel Site. The settlement obligates Westinghouse to contribute $110,000 to the Trust cleaning up the Site, to pay EPA $25,000, and to pay the State $5,000. The United States, on behalf of DOE, will pay the Fike/Artel Site Trust $100,000.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed amendment to the consent decree. Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States* v. *American Cyanamid, et al.*, DOJ Ref. #90–11–3–706.

The proposed amendment to the consent decree may be examined at the office of the United States Attorney, 500 Quarrier Street, Charleston, West Virginia; the Region III Office of the Environmental Protection Agency, 841 Chestnut Street, Philadelphia, PA; and at the Consent Decree Library, 1120 G Street, NW., 4th Floor, Washington, DC 20005, (202) 624–0892. A copy of the proposed amendment to the consent decree may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, NW., 4th Floor, Washington, DC 20005. In requesting a copy please refer to the referenced case and enclose a check in the amount of $2.00, payable to the Consent Decree Library.

Joel M. Gross,

Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 97–10019 Filed 4–17–97; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Pursuant to the Comprehensive Environmental Response Compensation and Liability Act (''CERCLA'')

In accordance with Departmental Policy, 28 CFR 50.7, 38 FR 19029, and 42 U.S.C. 9622(d), notice is hereby given that a proposed consent decree in *United States* v. *Jane Doe, as Executrix of the Estate of Edmund Barbera, et al.*, 96 Civ. 8563 (BSJ), was lodged on March 31, 1997, with the United States District Court for the Southern District of New York. The Consent Decree addresses the hazardous waste contamination at the Port Refinery Superfund Site (the ''Site''), located in the Village of Rye Brook, Westchester County, New York. The Consent Decree requires twenty-two *de minimis* generators of hazardous substances transported to the Site to pay to the United States a total of $286,168.00.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed consent decree. Comment should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States* v. *Jane Doe, as Executrix of the Estate of Edmund Barbera, et al.*, DOJ Ref. #90–11–3–1142A.

The proposed consent decree may be examined at the office of the United States Attorney for the Southern District of New York, 100 Church Street, New York, 10007 (contact Assistant United States Attorney Kathy S. Marks); the Region II Office of the Environmental Protection Agency, 290 Broadway, New York, New York, 10007–1866 (contact Assistant Regional Counsel Michael Mintzer); and at the Consent Decree Library, 1120 G Street, N.W., 4th Floor, Washington, D.C. 20005, (202) 624–0892. A copy of the proposed consent decree may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, N.W., 4th Floor, Washington, D.C. 20005. In requesting a copy please refer to the referenced case and enclose a check in the amount of $11.25 (25 cents per page reproduction costs) for the Consent Decree, payable to the Consent Decree Library.

Joel M. Gross,

Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 97–10013 Filed 4–17–97; 8:45 am]

BILLING CODE 4410–13–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Pursuant to the Clean Air Act

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that a proposed consent decree in *United States* v. *Point Corp., et al.*, Civil Action No. 3:97–0294, was lodged on March 27, 1997 with the United States District Court for the Southern District of West Virginia. The consent decree settles claims against Point Corp. (''Point'') and Marshall T. Reynolds (''Reynolds'') pursuant to the Clean Air Act, 42 U.S.C. 7401, *et seq.*, for violations of the asbestos NESHAP, 40 CFR part 61, subpart M, with respect to the demolition of two buildings owned by Point. The decree requires that Point and Reynolds pay a civil penalty of $350,000. The buildings were demolished several years ago, and the defendants do not engage in asbestos related operations. Accordingly, the decree does not provide for any injunctive relief. The decree does not resolve claims against Rayburn Darst, doing business as Environmental Protection Abatement, the asbestos removal contractor involved in the demolition.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States* v. *Point Corp., et al.*, DOJ Ref. #90–5–2–1–1991.

The proposed consent decree may be examined at the office of the United States Attorney, Room 3201, Federal Building, 500 Quarrier Street, Charleston, West Virginia 25301; the Region III Office of the Environmental Protection Agency, 840 Chestnut Building, Philadelphia, Pennsylvania 19107; and the Consent Decree Library, 1120 G Street, N.W., 4th Floor, Washington, D.C. 20005, (202) 624–0892. A copy of the proposed decree may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, N.W., 4th Floor, Washington, D.C. 20005. In requesting a copy please refer to the referenced case and enclose a check in the amount of $2.25 (25 cents per page production costs), payable to the Consent Decree Library.

Joel M. Gross,

Chief, Environmental Enforcement Section, Environment and Natural Resources Division, Department of Justice.

[FR Doc. 97–10018 Filed 4–17–97; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Consent Decree Pursuant to the Safe Drinking Water Act

In accordance with Departmental Policy, 28 CFR 50.7, notice is hereby given that a proposed Consent Decree in *United States* v. *Rio Bravo Farms, Ltd., et al.*, Civil Action No. EP–97–CA–146, was lodged in the United States District Court for the Western District of Texas on April 16, 1997. The proposed Consent Decree resolves the United States' claims for injunctive relief against defendants, Rio Bravo Farms, Ltd., Pecotos Corp., Arthur H. Ivey, Arthur H. Ivey, Jr., Cuna del Valle, Ltd., and CDV Investments, Inc., under Section 1431 of the Safe Drinking Water Act, 42 U.S.C. 300i, with respect to the Cuna del Valle subdivision (the ''colonia'') in El Paso County, Texas.

Under the terms of the Consent Decree, the defendants are required to install plumbing hookups from each qualifying residence at the colonia to water mains and meters expected to be constructed by the El Paso County Lower Valley Water District Authority. In addition, the defendants are required to install a temporary drinking water station for the residents of the colonia. The defendants will maintain the water station and pay the water bills for it until the hookups are completed. In return, the United States will grant the defendants certain covenants not to sue with respect to the colonia.

The Department of Justice will receive, for a period of fourteen (14) days from the date of this publication, written comments relating to the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States* v. *Rio Bravo Farms, Ltd., et al.*, DOJ No. 90–5–1–1–4327.

The proposed Consent Decree may be examined at the Office of the United States Attorney, Western District of Texas, 700 E. San Antonio Street, Suite 200, El Paso, Texas 79901; at the Region 6 Office of the U.S. Environmental Protection Agency, 1445 Ross Avenue, Dallas, Texas 75202; and at the Consent Decree Library, 1120 G Street NW., 4th Floor, Washington, DC 20005, (202) 624–0892. Copies of the Consent Decree may be obtained in person or by mail from the Consent Decree Library, 1120 G Street NW., 4th Floor, Washington, DC 20005. In requesting a copy, please enclose a check in the amount of $9.00 for a copy (25 cents per page reproduction costs), payable to the Consent Decree Library.

Bruce S. Gelber,

Deputy Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 97–10284 Filed 4–17–97; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

[AAG/A Order No. 132–97]

Privacy Act of 1974; Removal of a System of Records

Pursuant to the provisions of the Privacy Act of 1974 (5 U.S.C. 552a), the Immigration and Naturalization Service (INS), Department of Justice is removing a published Privacy Act system of records entitled ''Alien Address Report System, JUSTICE/INS–006.'' Records have been destroyed in accordance with approved records retention and disposal schedules. The National Archives and Records Administrative removed the requirement that any records be offered the permanent retention. Therefore, the ''Alien Address Report System'', last published in the **Federal Register** on October 10, 1995, 60 FR 52696, is removed from the Department's compilation of Privacy Act systems.

Dated: March 28, 1997.

Stephen R. Colgate,

Assistant Attorney General for Administration.

[FR Doc. 97–10012 Filed 4–17–97; 8:45 am]

BILLING CODE 4410–10–M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

[INS No. 1850–97]

Immigration and Naturalization Service User Fee Advisory Committee: Meeting

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Notice of meeting.

Committee meeting: Immigration and Naturalization Service User Fee Advisory Committee.

Date and time: May 7, 1997, at 10:00 a.m.

Place: Immigration and Naturalization Service Headquarters 425 I Street, N.W., Washington, DC 20536, Kelly Conference Room—6th Floor.

Status: Open, 15th meeting of this Advisory Committee.

Purpose: Performance of advisory responsibilities to the Commissioner of the Immigration and Naturalization Service pursuant to section 286(k) of the Immigration and Nationality Act, as amended, 8 U.S.C. 1356(k) and the Federal Advisory Committee Act 5 U.S.C. app.2. The responsibilities of this standing Advisory Committee are to advise the Commissioner of the Immigration and Naturalization Service on issues related to the performance of airport and seaport immigration inspectional services. This advice should include, but need not be limited to, the time period during which such services should be performed, the proper number and deployment of inspection officers, the level of fees, and the appropriateness of any proposed fee. These responsibilities are related to the assessment of an immigration user fee pursuant to section 286(d) of the Immigration and Nationality Act, as amended, 8 U.S.C. 1356(d). The Committee focuses attention on those areas of most concern and benefit to the travel industry, the traveling public, and the Federal Government.

Agenda

1. Introduction of the Committee members.
2. Discussion of administrative issues.
3. Discussion of activities since last meeting.

4. Discussion of specific concerns and questions of Committee members.
5. Discussion of future traffic trends.
6. Discussion of relevant written statements submitted in advance by members of the public.
7. Scheduling of next meeting.

Public Participation

The meeting is open to the public, but advance notice of attendance is requested to ensure adequate seating. Persons planning to attend should notify the contact person at least two (2) days prior to the meeting. Members of the public may submit written statements any time before or after the meeting to the contact person for consideration by this Advisory Committee. Only written statements received by the contact person at least five (5) days prior to the meeting will be considered for discussion at the meeting.

Contact person: Charles D. Montgomery, Office of the Assistant Commissioner, Inspections, Immigration and Naturalization Service, Room 4064, 425 I Street, N.W., Washington, D.C. 20536, telephone number (202) 616–7498 or fax number (202) 514–8345.

Dated: April 14, 1997.

Doris Meissner,

Commissioner, Immigration and Naturalization Service.

[FR Doc. 97–10092 Filed 4–17–97; 8:45 am]

BILLING CODE 4410–10–M

DEPARTMENT OF JUSTICE

[OJP(BJA)–1122]

RIN 1121–ZA68

State Identification Systems (SIS) Grant Program

AGENCY: Office of Justice Programs, Bureau of Justice Assistance (BJA), Justice, with funding from the Federal Bureau of Investigation (FBI).

ACTION: Notice of funding availability.

SUMMARY: This notice is to announce the availability of $9.5 million pursuant to the State Identification Systems Grant Program (SIS), as newly authorized under the Antiterrorism and Effective Death Penalty Act.

DATES: Application kits will be sent out on or about May 15, 1997, to agencies designated by the Governor or Chief Executive Officer of each State. To make it easier for States to complete applications, the application form will be simplified to the maximum extent possible and narrative requirements will be minimal. Applications must be postmarked no later than July 1, 1997.

ADDRESSES: All required forms and documentation must be completed and submitted by the application deadline to the Bureau of Justice Assistance, c/o State and Local Assistance Division, 633 Indiana Avenue, Washington, D.C. 20531, or call 202–514–6638.

FOR FURTHER INFORMATION CONTACT: The Department of Justice Response Center or Maggie H. Shelko, State and Local Assistance Division, BJA, on 1–800–421–6770. Assistance will be provided for questions concerning the application process only, not the substance of the application.

SUPPLEMENTARY INFORMATION: The following supplementary information is provided:

The State Identification Systems (SIS) Grant Program enables eligible States to support three types of efforts. Funds may be applied to establish, develop, update, or upgrade:

(1) Computerized identification systems that are compatible and integrated with the databases of the National Crime Information Center (NCIC) of the Federal Bureau of Investigation;

(2) The capability to analyze deoxyribonucleic acid (DNA) of their forensic laboratories in ways that are compatible and integrated with the Combined DNA Identification System (CODIS) of the Federal Bureau of Investigation; and

(3) Automated fingerprint identification systems that are compatible and integrated with the Integrated Automated Fingerprint Identification System (IAFIS) of the Federal Bureau of Investigation.

Eligibility: To be eligible to receive a grant under this program, a State shall require that each person convicted of a felony of a sexual nature provide to appropriate State law enforcement officials, as designated by the chief executive officer of the State, a sample of blood, saliva, or other specimen necessary to conduct a DNA analysis consistent with the standards established for DNA testing by the FBI Director.

For purposes of the SIS grant program, the term ''State'' means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam and the Commonwealth of the Northern Mariana Islands. However, for the purpose of this program, American Samoa and the Commonwealth of the Northern Mariana Islands shall be considered as one State whereby, 67 percent of the amounts allocated shall be allocated to American Samoa and 33 percent to the Commonwealth of the Northern Mariana Islands. The determination of which states are eligible will be made by the FBI.

The Fiscal Year 1997 appropriation for the ''State Identification Systems Grant Program'' is $9.5 million.

An application kit will be mailed to agencies designated by the Governor or Chief Executive Officer of States. The designated State agency will be responsible for submitting the State's application, selecting subrecipients to receive funds, disbursing funds, and performing other administrative functions. Any State that does not receive a copy of the application kit may obtain a copy by contacting the Bureau of Justice Assistance through the DOJ Response Center as described below.

Each State and territory has been allocated approximately $172,727 except for American Samoa which is allocated $115,727 and Northern Mariana Islands which is allocated $57,000.

Any appropriated funds which cannot be awarded in any fiscal year shall be carried forward to the next fiscal year and added to the amount appropriated by Congress for the SIS Grant Program.

Expenditures for the SIS Grant Program may include equipment, supplies, training or education expenses, modifications to space necessary to accommodate equipment, contractor-provided services to address backlog or program implementation issues, and State and local personnel expenses if personnel are devoted to a qualifying identification project(s).

States receiving funding under this program are not required to pass through funding to local agencies. However, States may use grant funds in conjunction with local government agencies or enter into a compact(s) with another State(s) to carry out the grant purposes. No match is required and the Federal funds may cover up to 100% of the total cost of the project(s) described in the application.

States are advised to coordinate SIS program resources and activities with related activities supported by other federal grant programs including the Bureau of Justice Assistance Byrne Formula Grant Program, the National Institute of Justice DNA Laboratory Improvement Program, and the Bureau of Justice Statistics National Criminal History Records Improvement Program (NCHIP).

The application, and award processes will be fully explained in the application kit.

Nancy E. Gist,

Director, Bureau of Justice Assistance.

[FR Doc. 97–10043 Filed 4–17–97; 8:45 am]

BILLING CODE 4410–18–P

DEPARTMENT OF LABOR

Office of the Secretary

Bureau of International Labor Affairs; National Administrative Office; North American Agreement on Labor Cooperation; Notice of Cancellation of Hearing on Submission #9602

AGENCY: Office of the Secretary, Labor.

ACTION: Notice of cancellation of hearing.

SUMMARY: On March 13, 1997, the Department provided notice in the **Federal Register** of the hearing, open to the public, on Submission #9602. The notice stated that the hearing would be held in Tucson, Arizona, on April 17, 1997, at a location to be announced. On March 31, 1997, the Department provided notice of change of date, that the hearing would be held on April 18, 1997, beginning at 9:00 a.m., and providing the location at City Hall, 255 West Alameda, Tucson, Arizona 85701.

Submisstion #9602 has since been withdrawn. The purpose of this notice is to announce the cancellation of the hearing.

FOR FURTHER INFORMATION CONTACT:

Irasema T. Garza, Secretary, U.S. National Administrative Officer, Department of Labor, 200 Constitution Avenue, N.W., Room C–4327, Washington, D.C. 20210. Telephone: (202) 501–6653 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: Please refer to the notices published in the **Federal Register** on March 13, 1997 (62 FR 11924) and March 31, 1997 (62 FR 15198–15199).

Signed at Washington, D.C. on April 16, 1997.

Irasema T. Garza,

Secretary, National Administrative Office.

[FR Doc. 97–10202 Filed 4–17–97; 8:45 am]

BILLING CODE 4510–28–M

DEPARTMENT OF LABOR

Employment and Training Administration

Proposed Collection; Comment Request

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) [44 U.S.C. 3506(c)(2)(A)]. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Employment and Training Administration (ETA) is soliciting comments concerning the proposed extension of approval for Form ETA 581, Contribution Operations. A copy of the proposed information collection request (ICR) can be obtained by contacting the office listed below in the addressee section of this notice.

DATES: Written comments must be submitted to the office listed in the addressee section below on or before June 17, 1997. The Department of Labor is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

ADDRESSES: Constance I. Peterkin, Room S–4522, 200 Constitution Avenue, NW, Washington, D.C. 20210; telephone number: (202) 219–5615, extension 198 (this is not a toll-free number); internet address: peterkinc@doleta.gov; facsimile number: (202) 219-8506.

SUPPLEMENTARY INFORMATION:

I. Background

The Unemployment Insurance Service (UIS) of the Employment and Training Administration (ETA) has three programs which evaluate the separate functions within the Unemployment Insurance (UI) program. The Benefit Accuracy Measurement (BAM) program assesses the accuracy of paying UI benefits. The Benefit Timeliness and Quality (BTQ) program assesses the quality and timeliness of UI benefit functions; while the Tax Performance System (TPS) evaluates the employer-related functions or tax operations of the UI program. The Contribution Operations report (Form ETA 581), is a comprehensive report of each State's UI tax operations and is essential in providing quarterly tax performance data to DOL/ETA/UIS, the source of grants funding authority. ETA 581 data is the basis for determining the adequacy of funding of States' UI tax operations and measuring the performance and effectiveness of such operations. These are required Federal functions under the Federal-State UI program.

Using ETA 581 data, the TPS program measures performance, accuracy, and promptness in employer registration (status determination), report delinquency, collections (accounts receivable), and the audit function.

II. Current Actions

It is important that approval of the ETA 581 report be extended because it is the only vehicle for collection of information required under the TPS program. If ETA 581 data were not collected, there would be no basis for determining the adequacy of funding for States' UI tax operations, making projections and forecasts in conjunction with the budgetary process, nor measuring program performance and effectiveness. The ETA 581 accounts receivable data are necessary in the preparation of complete and accurate financial statements for the Unemployment Trust Fund (UTF) and the maintenance of a modified accrual system for UTF accounting.

Type of Review: Extension (without change).

Agency: Employment and Training Administration.

Title: Contribution Operations.

OMB Number: 1205–0178.

Agency Number: ETA 581.

Affected Public: State Government.

Cite/Reference/Form/etc.: ETA 581.

Total Respondents: 53.

Frequency: Quarterly.

Total Responses: 212.

Average Time per Response: 8 hours.
Estimated Total Burden Hours: 1,696.
Total Burden Cost (operating/maintaining): $33,920.

Comments submitted in response to this comment request will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Dated: April 11, 1997.

Grace A. Kilbane,

Director, Unemployment Insurance Service.

[FR Doc. 97–10077 Filed 4–17–97; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment Standards Administration; Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character and in the localities specified therein.

The determinations in these decisions of prevailing rates and fringe benefits have been made in accordance with 29 CFR part 1, by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR Part 1, Appendix, as well as such additional statutes as may from time to time be enacted containing provisions for the payment of wages determined to be prevailing by the Secretary of Labor in accordance with the Davis-Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public comment procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue current construction industry wage determinations frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions, and modifications and supersedes decisions thereto, contain no expiration dates and are effective from their date of notice in the **Federal Register**, or on the date written notice is received by the agency, whichever is earlier. These decisions are to be used in accordance with the provisions of 29 CFR parts 1 and 5. Accordingly, the applicable decision, together with any modifications issued, must be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR Part 5. The wage rates and fringe benefits, notice of which is published herein, and which are contained in the Government Printing Office (GPO) document entitled ''General Wage Determinations Issued Under The Davis-Bacon And Related Acts,'' shall be the minimum paid by contractors and subcontractors to laborers and mechanics.

Any person, organization, or governmental agency having an interest in the rates determined as prevailing is encouraged to submit wage rate and fringe benefit information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of Wage Determinations, 200 Constitution Avenue, NW., Room S–3014, Washington, DC 20210.

Modifications to General Wage Determination Decisions

The number of decisions listed in the Government Printing Office document entitled ''General Wage Determinations Issued Under the Davis-Bacon and Related Acts'' being modified are listed by Volume and State. Dates of publication in the **Federal Register** are in parentheses following the decisions being modified.

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CA970110 (Feb. 14, 1997)

General Wage Determination Publication

General wage determinations issued under the Davis-Bacon and related Acts, including those noted above, may be found in the Government Printing Office (GPO) document entitled ''General Wage Determinations Issued Under the Davis-Bacon and Related Acts''. This publication is available at each of the 50 Regional Government Depository Libraries and many of the 1,400 Government Depository Libraries across the county.

The general wage determinations issued under the Davis-Bacon and related Acts are available electronically by subscription to the FedWorld Bulletin Board System of the National Technical Information Service (NTIS) of the U.S. Department of Commerce at (703) 487–4630.

Hard-copy subscriptions may be purchased from: Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402, (202) 512–1800.

When ordering hard-copy subscription(s), be sure to specify the State(s) of interest, since subscriptions may be ordered for any or all of the seven separate volumes, arranged by State. Subscriptions include an annual edition (issued in January or February) which includes all current general wage determinations for the States covered by each volume. Throughout the remainder of the year, regular weekly updates are distributed to subscribers.

Signed at Washington, D.C. this 10th day of April 1997.

Terry Sullivan,

Chief, Branch of Construction Wage Determinations.

[FR Doc. 97–9697 Filed 4–17–97; 8:45 am]

BILLING CODE 4510–27–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 97–05]

NASA Advisory Council, Life and Microgravity Sciences and Applications Advisory Committee, Microgravity Research Advisory Subcommittee; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92–463, as amended, the National Aeronautics and Space Administration announces a meeting of the NASA Advisory Council, Life and Microgravity Sciences and Applications Advisory Committee, Microgravity Research Advisory Subcommittee.

DATES: May 12, 1997, 10:00 a.m. to 5:00 p.m.

ADDRESSES: National Aeronautics and Space Administration, Room MIC–6, 300 E Street, SW, Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Dr. Bradley M. Carpenter, Code UG, National Aeronautics and Space Administration, Washington, DC 20546, 202–358–0813.

SUPPLEMENTARY INFORMATION: The meeting will be open to the public up to the seating capacity of the room. The agenda for the meeting is as follows:

—Program Status Report
—Advisory Committee Changes
—Biotechnology Discipline Status
—Impact of the National Aeronautics and Space Administration Downsizing/Restructuring
—Program Outlook and Planning Efforts
—Informal Discussion

It is imperative that the meeting be held on this date to accommodate the scheduling priorities of the key participants. Visitors will be requested to sign a visitor's register.

Dated: April 11, 1997.

Leslie M. Nolan,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 97–10068 Filed 4–17–97; 8:45 am]

BILLING CODE 7510–01–M

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Records Schedules; Availability and Request for Comments

AGENCY: National Archives and Records Administration, Office of Records Services.

ACTION: Notice of availability of proposed records schedules; request for comments.

SUMMARY: The National Archives and Records Administration (NARA) publishes notice at least once monthly of certain Federal agency requests for records disposition authority (records schedules). Records schedules identify records of sufficient value to warrant preservation in the National Archives of the United States. Schedules also authorize agencies after a specified period to dispose of records lacking administrative, legal, research, or other value. Notice is published for records schedules that propose the destruction of records not previously authorized for disposal, or reduce the retention period for records already authorized for disposal. NARA invites public comments on such schedules, as required by 44 U.S.C. 3303a(a).

DATES: Requests for copies must be received in writing on or before June 2, 1997. Once the appraisal of the records is completed, NARA will send a copy of the schedule. The requester will be given 30 days to submit comments.

ADDRESSES: Address requests for single copies of schedules identified in this notice to the Civilian Appraisal Staff (NWRC), National Archives and Records Administration, College Park, MD 20740–6001. Requesters must cite the control number assigned to each schedule when requesting a copy. The control number appears in the parentheses immediately after the name of the requesting agency.

SUPPLEMENTARY INFORMATION: Each year U.S. Government agencies create billions of records on paper, film, magnetic tape, and other media. In order to control this accumulation, agency records managers prepare records schedules specifying when the agency no longer needs the records and what happens to the records after this period.

Some schedules are comprehensive and cover all the records of an agency or one of its major subdivisions. These comprehensive schedules provide for the eventual transfer to the National Archives of historically valuable records and authorize the disposal of all other records. Most schedules, however, cover records of only one office or program or a few series of records, and many are updates of previously approved schedules. Such schedules also may include records that are designated for permanent retention.

Destruction of records requires the approval of the Archivist of the United States. This approval is granted after a thorough study of the records that takes into account their administrative use by the agency of origin, the rights of the Government and of private persons directly affected by the Government's activities, and historical or other value.

This public notice identifies the Federal agencies and their subdivisions requesting disposition authority, includes the control number assigned to each schedule, and briefly describes the records proposed for disposal. The records schedule contains additional information about the records and their disposition. Further information about the disposition process will be furnished to each requester.

Schedules Pending

1. Department of the Interior, Bureau of Land Management (N1–49–96–1). Artwork created for and used in production of posters.
2. Department of Justice (N1–60–97–1). Computer security records.
3. Department of Justice, Immigration and Naturalization Service (N1–85–97–1). Crew lists and related documentation.
4. Department of Transportation, Office of the Secretary (N1–398–97–1). Political appointee application files.
5. Department of the Treasury, Internal Revenue Service (N1–58–96–6). Revisions to Records Control Schedule 106, Office of the Chief Counsel.
6. Commission on Protecting and Reducing Government Secrecy (N1–220–97–8). Comprehensive schedule.
7. Environmental Protection Agency (N1–412–94–4). Comprehensive schedule for Regional offices.
8. Environmental Protection Agency (N1–412–95–4). Office of Water comprehensive schedule
9. Federal Retirement Thrift Investment Board (N1–474–96–2). Comprehensive schedule for the Office of General Counsel.
10. General Services Administration, Public Building Service (N1–121–97–1). Reduction in retention period for asbestos program records.
11. General Services Administration (N1–269–96–3). General management and planning records.
12. Panama Canal Commission (N1–185–97–10). Routine and duplicative legal records.
13. Postal Rate Commission (N1–458–96–3). Commenter letters, routine administrative files and records maintained outside of official mail classification docket files.
14. President's Council on Sustainable Development (N1–220–97–9). Comprehensive schedule.
15. Securities and Exchange Commission (N1–266–96–3). Records supporting collection and disbursement of filing fees.

Dated: April 14, 1997.

Michael J. Kurtz,

Assistant Archivist for Record Services, Washington, DC.

[FR Doc. 97–10067 Filed 4–17–97; 8:45 am]

BILLING CODE 7515–01–P

NATIONAL COMMUNICATIONS SYSTEM

Proposed Collection; Comment Request

AGENCY: National Communications System (NCS).

ACTION: Notice.

In compliance with Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the National Communications System announces the proposed changes of a public information collection and seeks public comment on the provisions thereof. Comments are invited on (a) the accuracy of the agency's estimate of the burden of the proposed changes to the information collection; (b) ways to enhance the quality, utility, and clarity of the information to be collected; and (c) ways to minimize the burden of the information collection on respondents, including the use of information technology.

DATES: Consideration will be given to all comments received by June 17, 1997.

ADDRESSES: Written comments and recommendations on the proposed information collection should be sent to: National Communications System, Code N31, Attn: Betty Hoskin, 701 S. Court House Road, Arlington, VA, 22204–2198

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed changes to the information collection or to obtain a copy of the proposal and associated collection instruments, please write to the above address, or call the Office of Priority Telecommunications at 703–607–4932.

Titles, Associated Forms, and OMB Number: Revalidation for Service Users, Standard Form 314, New Form; TSP Request for Service Users, Standard Form 315, OMB Number 0704–0305; TSP Service Order Report, Standard Form 316, OMB Number 0704–0305; TSP Action Appeal for Service Users, Standard Form 317, OMB 0704–0305; TSP Service Confirmation For Service Vendors, Standard Form 318, OMB Number 0704–0305; TSP Service Reconciliation For Service Vendors, Standard Form 319, OMB Number 0704–0305; NSEP Invocation Report, Standard Form 320, OMB Number 0704–0305.

Needs and Uses: The changes to the information collection are necessary to ensure efficient operation of the Telecommunications Service Priority (TSP) System. The forms are used to determine participation in the TSP System and management of the TSP program. Addition of a new form and simplification of existing forms.

Affected Public: Business or other for-profit institutions, not-for-profit institutions, and State and local governments.

Annual Burden Hours: 3600.

Number of Respondents: 94.

Response Per Respondent: 18.

Average Burden Per Response: 2.13 hours.

Frequency: On occasion.

SUPPLEMENTARY INFORMATION: The purpose of having a TSP System is to provide a legal basis for telecommunications vendors to give priority treatment to particular telecommunications services that have been identified as the most important services supporting national security or emergency preparedness. The information being gathered by the TSP system is the minimum necessary for the NCS to manage the TSP system, and without it, the NCS could not accomplish this task.

Dr. Dennis Bodson,

Federal Register Liaison Officer, National Communications System.

[FR Doc. 97–10017 Filed 4–17–97; 8:45 am]

BILLING CODE 3610–05–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Bioengineering and Environmental Systems; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science

Foundation announces the following meeting.

Name: Special Emphasis Panel in Bioengineering and Environmental Systems (No. 1189).

Date and Time: May 5, 1997; 8:30 am–5:00 pm.

Place: National Science Foundation, 4201 Wilson Boulevard, Room 530, Arlington, VA 22230.

Type of Meeting: Closed.

Contact Person: George B. Vermont, Program Director, Biochemical Engineering, Division of Bioengineering and Environmental Systems, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230, Telephone: (703) 306–1318.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate the 1997 MRI proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matter are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: April 14, 1997.

Linda Allen-Benton,

Deputy Director, Division of Human Resource Management, Acting Committee Management Officer.

[FR Doc. 97–9995 Filed 4–17–97; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Advisory Panel for Biomolecular Structure and Function; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

Name: Advisory Panel for Biomolecular Structure and Function-(1134) (Panel B).

Date and Time: Monday, Tuesday, and Wednesday, May 5, 6, & 7, 1997 8:30 A.M. to 6:00 P.M.

Place: National Science Foundation, 4201 Wilson Blvd., Room 330, Arlington, VA 22230.

Type of Meeting: Closed.

Contact Person: Dr. Kamal Shukla or Dr. Dagmar Ringe, Program Directors for Molecular Biophysics, Room 655, National Science Foundation, 4201 Wilson Boulevard, Arlington, Virginia 22230. (703/306–1444).

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate research proposals submitted to the Molecular Biophysics Program as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: April 14, 1997.

Linda Allen-Benton,

Deputy Director, Division of Human Resource Management, Acting Committee Management Officer.

[FR Doc. 97–9996 Filed 4–17–97; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Advisory Panel for Cell Biology; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

Name: Advisory Panel for Cell Biology (1136)–(Panel B)

Date and Time: May 7–9, 1997, 8:30 a.m. to 6:00 p.m.

Place: Room 310, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230.

Type of Meeting: Closed.

Contact Person: Dr. Eve Barak or Dr. Eliot Herman, Program Directors for the Cell Biology Program, National Science Foundation, Room 655 South, Arlington, VA 22230. Telephone: (703) 306–1442.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate research proposals submitted to the Cellular Organization Program as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information, financial data such as salaries, and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c) (4) and (6) of the Government in the Sunshine Act.

Dated: April 14, 1997.

Linda Allen-Benton,

Deputy Director, Division of Human Resource Management, Acting Committee Management Officer.

[FR Doc. 97–9998 Filed 4–17–97; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Advisory Panel for Cognitive, Psychological and Language Sciences; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation (NSF) announces the following meeting.

Name: Advisory Panel for Cognitive, Psychological and Language Sciences (#1758).

Date & Time: May 5–7, 1997; 9:00 a.m.–5:00 p.m.

Place: National Science Foundation, Stafford Place, 4201 Wilson Boulevard, Room 360, Arlington, VA 22230.

Contact Person: Dr. Michael McCloskey, Program Director for Human Cognition and Perception, National Science Foundation, 4201 Wilson Boulevard, Suite 995, Arlington, VA 22230. Telephone (703) 306–1732.

Agenda: To review and evaluate human cognition and perception proposals as part of the selection process for awards.

Type of Meeting: Closed.

Purpose of Meeting: To provide advice and recommendations concerning support for research proposals submitted to the National Science Foundation for financial support.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries, and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c) (4) and (6) of the Government in the Sunshine Act.

Dated: April 14, 1997.

Linda Allen-Benton,

Deputy Director, Division of Human Resource Management, Acting Committee Management Officer.

[FR Doc. 97–9997 Filed 4–17–97; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Computer and Computation Research; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting. Special Emphasis Panel in Computer and Computation Research.

Name: Special Emphasis Panel in Computer and Computation Research (1192).

Date: May 8–9 1997.

Time 8:00 a.m.–5:00 p.m.

Place: National Science Foundation, 4201 Wilson Boulevard, Arlington, VA., 22230, May 8: Rooms 1105.1 and 1105.17, May 9: Rooms 1120 and 1105.1

Type of Meeting: Closed.

Contact Person(s): S. Kamal Abdali, Program Director, Numeric, Symbolic and Geometric Computation, CISE/CCR, Room

1145, National Science Foundation, 4201 Wilson Boulevard, Arlington, Virginia 22230. Telephone: (703) 306–1912.

Purpose of Meeting: To provide advice and recommendations for the Numeric, Symbolic, and Geometric Computation Program (NSG) by providing review of a group of approximately 50 proposals with special attention to changing emphases for that program.

Agenda: To review and evaluate NSG proposals as a part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information, financial data, such as salaries, and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), the Government in the Sunshine Act.

Dated: April 14, 1997.

Linda Allen-Benton,

Deputy Director, Division of Human Resource Management, Acting Management Officer.

[FR Doc. 97–9999 Filed 4–17–97; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Engineering Education and Centers; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Public Law 92–463, as amended), the National Science Foundation announces the following meetings:

Name: Special Emphasis Panel in Engineering Education and Centers (173).

Date & Time: May 5 and 6, 1997, 8:00 a.m–5:00 p.m.

Place: National Science Foundation, Room 530, 4201 Wilson Boulevard, Arlington, VA 22230.

Contact Person: Ms. Lynn Preston, Deputy Division Director, Engineering Education and Centers Division, National Science Foundation, Room 585, 4201 Wilson Blvd., Arlington, VA 22230.

Agenda: To review and evaluate Environment preproposals submitted to the Engineering Research Centers Program as part of the selection process for awards.

Date & Time: May 5 and 6, 1997, 8:00 a.m.–5:00 p.m.

Place: National Science Foundation, Room 580, 4201 Wilson Boulevard, Arlington, VA 22230.

Contact Person: Ms. Lynn Preston, Deputy Division Director, Engineering Education and Centers Division, National Science Foundation, Room 585, 4201 Wilson Blvd., Arlington, VA 22230.

Agenda: To review and evaluate Imaging and Multimedia-1 preproposals submitted to the Engineering Research Centers Program as part of the selection process for awards.

Date & Time: May 7 and 8, 1997, 8:00 a.m.–5:00 p.m.

Place: National Science Foundation, Room 580, 4201 Wilson Boulevard, Arlington, VA 22230.

Contact Person: Ms. Lynn Preston, Deputy Division Director, Engineering Education and Centers Division, National Science Foundation, Room 585, 4201 Wilson Blvd., Arlington, VA 22230.

Agenda: To review and evaluate Imaging and Multimedia-2 preproposals submitted to the Engineering Research Centers Program as part of the selection process for awards.

Date & Time: May 8, 1997, 8:00 a.m.–5:00 p.m.

Place: National Science Foundation, Room 530, 4201 Wilson Boulevard, Arlington, VA 22230.

Contact Person: Ms. Lynn Preston, Deputy Division Director, Engineering Education and Centers Division, National Science Foundation, Room 585, 4201 Wilson Blvd., Arlington, VA 22230.

Agenda: To review and evaluate Bioengineering and Bioprocessing preproposals submitted to the Engineering Research Centers Program as part of the selection process for awards.

Date & Time: May 8 and 9, 1997, 8:00 a.m.–5:00 p.m.

Place: National Science Foundation, Room 530, 4201 Wilson Boulevard, Arlington, VA 22230.

Contact Person: Ms. Lynn Preston, Deputy Division Director, Engineering Education and Centers Division, National Science Foundation, Room 585, 4201 Wilson Blvd., Arlington, VA 22230.

Agenda: To review and evaluate Systems, Control and Computation preproposals submitted to the Engineering Research Centers Program as part of the selection process for awards.

Date & Time: May 8 and 9, 1997, 8:00 a.m.–5:00 p.m.

Date & Time: May 8 and 9, 1997, 8:00 AM–5:00 PM.

Place: National Science Foundation, Room 365, 4201 Wilson Boulevard, Arlington, VA 22230.

Contact Person: Ms. Lynn Preston, Deputy Division Director, Engineering Education and Centers Division, National Science Foundation, Room 585, 4201 Wilson Blvd., Arlington, VA 22230.

Agenda: To review and evaluate Materials Processing preproposals submitted to the Engineering Research Centers Program as part of the selection process for awards.

Date & Time: May 8 and 9, 1997, 8:00 AM–5:00 PM.

Place: National Science Foundation, Room 370, 4201 Wilson Boulevard, Arlington, VA 22230.

Contact Person: Ms. Lynn Preston, Deputy Division Director, Engineering Education and Centers Division, National Science Foundation, Room 585, 4201 Wilson Blvd., Arlington, VA 22230.

Agenda: To review and evaluate manufacturing preproposals submitted to the Engineering Research Centers Program as part of the selection process for awards.

Date & Time: May 13 and 14, 1997, 8:00 AM–5:00 PM.

Place: National Science Foundation, Room 530, 4201 Wilson Boulevard, Arlington, VA 22230.

Contact Person: Ms. Lynn Preston, Deputy Division Director, Engineering Education and Centers Division, National Science Foundation, Room 585, 4201 Wilson Blvd., Arlington, VA 22230.

Agenda: To review and evaluate Electronics Materials Processing and Fabrication preproposals submitted to the Engineering Research Centers Program as part of the selection process for awards.

Date & Time: May 13 and 14, 1997, 8:00 AM–5:00 PM.

Place: National Science Foundation, Room 580, 4201 Wilson Boulevard, Arlington, VA 22230.

Contact Person: Ms. Lynn Preston, Deputy Division Director, Engineering Education and Centers Division, National Science Foundation, Room 585, 4201 Wilson Blvd., Arlington, VA 22230.

Agenda: To review and evaluate Electronics Devices and Displays preproposals submitted to the Engineering Research Centers Program as part of the selection process for awards.

Date & Time: May 15 and 16, 1997, 8:00 AM–5:00 PM.

Place: National Science Foundation, Room 530, 4201 Wilson Boulevard, Arlington, VA 22230.

Contact Person: Ms. Lynn Preston, Deputy Division Director, Engineering Education and Centers Division, National Science Foundation, Room 585, 4201 Wilson Blvd., Arlington, VA 22230.

Agenda: To review and evaluate Civil Infrastructure-2 preproposals submitted to the Engineering Research Centers Program as part of the selection process for awards.

Date & Time: May 15 and 16, 1997, 8:00 AM–5:00 PM.

Place: National Science Foundation, Room 580, 4201 Wilson Boulevard, Arlington, VA 22230.

Contact Person: Ms. Lynn Preston, Deputy Division Director, Engineering Education and Centers Division, National Science Foundation, Room 585, 4201 Wilson Blvd., Arlington, VA 22230.

Agenda: To review and evaluate Chemical Engineering and Thermal Processing preporposals submitted to the Engineering Research Centers Program as part of the selection process for awards.

Type of Meetings: Closed.

Purpose of Meetings: To provide advice and recommendations concerning preproposals submitted to NSF for financial support.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposal. These matters are exempt under 5 U.S.C. 552b.(c)(4) and (6) of the Government in the Sunshine Act.

Dated: April 14, 1997.

Linda Allen-Benton,

Deputy Director, Division of Human Resource Management, Acting Committee Management Officer.

[FR Doc. 97–10000 Filed 4–17–97; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

Termination of License SNM–145 for the Babcock & Wilcox Apollo Site and Release of the Property for Unrestricted Use

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of license termination.

SUMMARY: This notice is to advise the public of the U.S. Nuclear Regulatory Commission's decision to terminate License SNM–145 for the Babcock & Wilcox (B&W) Apollo, Pennsylvania, site and release the property for unrestricted use.

The Apollo facility was used for the manufacture of nuclear fuel under NRC License SNM–145, which was issued in December of 1957. The primary activity at the site was the conversion of uranium hexafluoride (UF_6) into uranium dioxide (UO_2). Operations at the site ceased in 1983 and decommissioning activities were completed in 1995.

Based on the results of NRC's inspections, Oak Ridge Institute for Science and Education's Confirmatory Surveys, B&W's Termination Surveys, and B&W's groundwater monitoring program results, the staff concludes that decommissioning activities are complete and the site is suitable to be released for unrestricted use.

SUPPLEMENTARY INFORMATION: The Apollo facility was used for the manufacture of nuclear fuel under NRC License SNM–145, which was issued in December of 1957. The primary activity at the site was the conversion of UF_6 into UO_2.

The site is located on Warren Avenue in Apollo, Armstrong County, Pennsylvania, about 40 km (25 miles) east-northeast of Pittsburgh along the Kiskiminetas River. The Apollo site consisted of three areas: (1) The Main Facility containing the process buildings, laundry building, and parking lot, which were located between Warren Avenue and the river; (2) another industrial facility located next to the Main Facility, but not owned nor operated by B&W; and (3) the Apollo office building, which was located outside the restricted area, on the opposite side of Warren Avenue. The site was located in a residential neighborhood with some privately owned houses within several hundred yards of the facility.

Atlantic Richfield Company (ARCO) was the operator of the site from 1967 to 1971. In 1971, ARCO sold its shares of Nuclear Material and Equipment Corporation (NUMEC) stock to B&W, who then operated the site from 1971 to the present. Low-level waste containing thorium and uranium was shipped for disposal at a number of locations, including the neighboring Parks Township Shallow Land Disposal Area, which is also listed on the Site Decommissioning Management Plan (SDMP) and is being assessed for remediation. Decommissioning of inactive portions of the facility began in 1978 and continued through 1995. The Apollo site was included on the SDMP because of the large quantity of building and soil contamination which was present on-site. All operations at the site ceased in 1983 and on August 30, 1991, B&W submitted a specific decommissioning plan to complete the final activities necessary to remediate the entire site to NRC requirements for unrestricted use. In a letter dated April 15, 1992, B&W requested that NRC terminate this license. The staff reviewed the decommissioning submittal and developed an Environmental Assessment (EA) to consider the impacts to the environment from the remediation of the site. The EA was published in the **Federal Register** on June 25, 1992, along with the staff's Finding of No Significant Impact and an opportunity for a hearing (57 FR 28539).

A request for a hearing was filed by petitioners on July 27, 1992, which cited 20 areas of concern about the amendment request. The petitioners submitted a supplement dated October 9, 1992, requesting an immediate cessation of site clean-up activities. Memorandum and Order LBP–92–31, dated November 12, 1992, denied the petitioners' request to cease clean-up activities. During the remainder of the proceedings, there were several requests for information from the presiding officer and several additional submittals by the participants. Then, in Memorandum and Order LBP–93–4, dated February 5, 1993, the judge denied the hearing request and terminated the proceedings.

Decommissioning activities at the site continued, and in 1995 the Apollo office building, the last major remaining structure on the site, was dismantled. The Apollo office building had been used for office space since the mid-1950s. Portions of the building had been used for an analytical laboratory and to develop and manufacture calibration sources in the 1960s and early 1970s. Both laboratory operations had been terminated by 1972. NRC contracted with Oak Ridge Institute for Science and Education (ORISE) to perform several radiological surveys in 1993. Both B&W and the NRC regional inspector performed additional surveys. By letter dated September 7, 1994, NRC staff released the building for unrestricted use and removed it from License SNM–145. The building was then dismantled and returned to a green area.

B&W has completed decommissioning activities at the remainder of the site, which included: dismantlement of the main building; The removal or replacement of three sewer lines; remediation and reconstruction of the riverbank; and remediation of other contaminated areas. B&W removed over 22,000 m^3 (800,000 ft^3) of contaminated soil and building rubble and disposed of it at Envirocare in Utah, and Barnwell in South Carolina. B&W submitted radiological survey data for each phase of remediation, which staff reviewed. NRC and ORISE performed several confirmatory radiological surveys during the period from 1992 to 1995. These surveys consisted of document and data reviews, gamma surface scans, exposure rate measurements, and soil, sediment, water, and miscellaneous sampling. The final surveys showed that the site meets NRC's criteria for unrestricted use.

Based on the results of NRC's inspections, ORISE's Confirmatory Surveys, B&W's Termination Surveys, and groundwater monitoring program results, the staff concludes that decommissioning activities are complete. The staff has informed the U.S. Environmental Protection Agency (EPA) of NRC's intent to release the Apollo site. In addition, in accordance with the recently issued Memorandum of Understanding with the Pennsylvania Department of Environmental Protection (PADEP), staff has also informed PADEP of NRC's intent to release the site. The staff is notifying B&W that remediation of the site is complete, that the site is suitable for unrestricted use, and that license SNM–145 is terminated.

FOR FURTHER INFORMATION CONTACT: Heather Astwood, Division of Waste Management, U.S. Nuclear Regulatory Commission, Mail Stop T–7F–27, Washington, D.C., 20555, telephone (301) 415–5819.

Dated at Rockville, MD this 14th day of April 1997.

For the U. S. Nuclear Regulatory Commission.

John W.N. Hickey,

Chief, Low-Level Waste and Decommissioning Projects Branch, Division of Waste Management, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 97–10070 Filed 4–17–97; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–237 and 50–249]

Commonwealth Edison 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–19 and DPR–25, issued to Commonwealth Edison Company (ComEd, the licensee) for operation of the Dresden Nuclear Power Station, Units 2 and 3, located in Grundy County, Illinois.

The proposed amendments would remove the Main Steam Line Radiation Monitor High scram and the Main Steam Line Tunnel Radiation High input to the Main Steam Line Isolation function requirement from the Technical Specifications (TS). The proposed changes are a result of a Boiling Water Reactor Owners Group (BWROG) initiative to minimize inadvertent scrams and Main Steam Isolation Valve closure due to erroneous radiation monitor actuation.

Before issuance of the proposed license amendments, 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 amendments requested involve 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) Involve a significant increase in the probability or consequences of an accident previously evaluated because of the following:

This amendment request proposes to remove the existing [Main Steam Line Radiation Monitor] MSLRM scram and the MSLRM [Main Steam Line] MSL Valve closure signal. The purpose of the MSLRM High scram and the MSL Valve closure signal is to mitigate the radiological effects of a fuel element failure. These functions do not serve as initiators for any of the accidents evaluated in chapter 15 of the [Updated Final Safety Analysis Report] UFSAR. Removal of these functions will not increase the probability of any of the accidents previously evaluated.

The radiological effects of a [Control Rod Drop Accident] CRDA have been evaluated by the BWROG in their Safety Analysis Report NEDO—31400. The BWROG report was evaluated by the NRC and found acceptable by letter dated May 15, 1991. The NRC Safety Evaluation Report accepting the BWROG analysis required licensees to demonstrate that the assumptions of the BWROG analysis were bounding on their plants. ComEd's Dresden Station has evaluated the BWROG analysis for applicability on Dresden Units 2 and 3.

The BWROG analysis demonstrates that operation of Units 2 and 3 with the proposed amendment does not represent a significant increase in the consequences of a CRDA.

Therefore, operation of Dresden Units 2 and 3 under the proposed amendment does not represent a significant increase in the probability or consequences of an accident previously evaluated.

(2) Create the possibility of a new or different kind of accident from any accident previously evaluated because:

This amendment request proposes to remove the existing MSLRM High scram and the MSL Valve closure input from the MSL Tunnel Radiation High signal. Removal of these functions does not represent a change in operating parameters for Dresden Units 2 and 3. Removal of these functions does not add any additional hardware and does not represent any new failure modes. Operation of Dresden Units 2 and 3 under the proposed amendment does not create the possibility of a new or different type of accident previously evaluated.

(3) Involve a significant reduction in the margin of safety because:

The requested amendment proposes to eliminate the MSLRM High scram and the MSL Valve Closure input from the MSL Tunnel Radiation High signal. Operation under the proposed amendment will not change any plant operation parameters, nor any protective system setpoints other than removal of these functions. The BWROG Safety Analysis Report had demonstrated that the consequences of the CRDA without the MSLRM High scram and MSL Valve Closure signal from the MSL Tunnel Radiation monitor does not result in doses which are not well within guidelines of 10 CFR part 100 limits. Therefore, the proposed changes do not involve a significant reduction in the margin of safety.

Guidance has been provided in ''Final Procedures and Standards on No Significant Hazards Considerations,'' Final Rule, 51 FR 7744, for the application of standards to license change requests for determination of the existence of significant hazards considerations. This document provides examples of amendments which are and are not considered likely to involve significant hazards considerations.

This proposed amendment does not involve any irreversible changes, a significant relaxation of the criteria used to establish safety limits, a significant relaxation of the bases for the limiting safety system settings or a significant relaxation of the bases for the limiting conditions for operations. Therefore, based on the guidance provided in the **Federal Register** and the criteria established in 10 CFR 50.92(c), the proposed change does not constitute a significant hazards consideration.

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 amendments requested involve 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 amendments 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 amendments before the expiration of the 30-day notice period, provided that its final determination is that the amendments involve 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 May 19, 1997, the licensee may file a request for a hearing with respect to issuance of the amendments 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 Morris Area Public Library District, 604 Liberty Street, Morris, Illinois 60450. 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 amendments requested involve no significant hazards consideration, the Commission may issue the amendments and make them immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendments.

If the final determination is that the amendments requested involve a significant hazards consideration, any hearing held would take place before the issuance of any amendments.

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 Robert A. Capra: 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 Michael I. Miller, Esquire; Sidley and Austin, One First National Plaza, Chicago, Illinois 60603, 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 amendments dated March 5, 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 Morris Area Public Library District, 604 Liberty Street, Morris, Illinois 60450.

Dated at Rockville, Maryland, this 14th day of April 1997.

For the Nuclear Regulatory Commission.

Robert M. Pulsifer,

Project Manager, Project Directorate III–2, Division of Reactor Projects—III/IV, Office of Nuclear Reactor Regulation.

[FR Doc. 97–10072 Filed 4–17–97; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–237 and 50–249]

Commonwealth Edison 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–19 and DPR–25, issued to Commonwealth Edison Company (ComEd, the licensee) for operation of the Dresden Nuclear Power Station, Units 2 and 3, located in Grundy County, Illinois.

The proposed amendments would change the Technical Specifications (TS) to reflect the installation of new reactor water level instrumentation for the Emergency Core Cooling System (ECCS) actuation.

Before issuance of the proposed license amendments, 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 amendments requested involve 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) Involve a significant increase in the probability or consequences of an accident previously evaluated because of the following:

The proposed change to note (f) to Table 4.2.B–1, which modifies the surveillance frequency for the Reactor Vessel Water level Low Low inputs to the CS, LPCI, HPCI, and ADS systems (items 1.a, 2.a, 3.a, and 4.a) and the Reactor Vessel Water level High trip input to the HPCI system (item 3.c), will not increase the probability of or the consequences of any accident previously evaluated in the SAR. Similarly, the proposed editorial change to achieve consistency in notation between tables 4.2.B–1 and 4.2.C–1 will not increase the probability or consequences of any accident previously evaluated in the SAR.

The surveillance requirements proposed for the Unit 3 Reactor Vessel Water level transmitters are the same 18 month channel calibration requirements required by Table 4.2.C–1 ''ATWS-RPT Instrument Surveillance Requirements.'' The surveillance schedule proposed for the new Unit 3 Reactor Vessel Water level analog trip units has the same quarterly requirement as the replaced Yarway level switches. The proposed change will impose a calibration schedule on the post modification trip units only, the trip setpoints of Table 3.2.B–1 ''ECCS Actuation Instrumentation'' will not change.

The proposed change affects the scheduling of the surveillance only and will not have any effect on the operating trip points of the instrumentation. The proposed change cannot initiate any of the accidents previously evaluated in the SAR. Based on this the proposed change to note (f) will not increase the probability of any accident nor the consequences of any accident previously evaluated in the SAR.

The change to the table to achieve consistency with Table 4.2.C–1 is an editorial change only. This editorial change will not increase the probability of an accident previously evaluated, nor will it increase the consequences of any accident previously evaluated.

(2) Create the possibility of a new or different kind of accident from any accident previously evaluated because:

The proposed change to note (f) provides a schedule for performing channel calibrations on the Reactor Vessel Water Level inputs to the ECCS System. The proposed change does not introduce any new failure mechanisms or modes. The proposed change will not create the possibility of a new or different type of accident previously evaluated.

The change to the table is an editorial change only and will not create the possibility of a new or different type of accident previously evaluated.

(3) Involve a significant reduction in the margin of safety because:

The proposed amendment only specifies a schedule for performing channel calibrations for the Reactor Vessel Water level instrumentation. The change will not impact the availability or trip setpoints of the ECCS system. Further the editorial change to achieve consistency between tables will not impact the availability or operating setpoints of the instruments. Therefore, the proposed changes do not involve a significant reduction in the margin of safety.

Guidance has been provided in ''Final Procedures and Standards on No Significant Hazards Considerations,'' Final Rule, 51 FR 7744, for the application of standards to license change requests for determination of the existence of significant hazards considerations. This document provides examples of amendments which are and are not considered likely to involve significant hazards considerations.

This proposed amendment does not involve any irreversible changes, a significant relaxation of the criteria used to establish safety limits, a significant relaxation of the bases for the limiting safety system settings or a significant relaxation of the bases for the limiting conditions for operations. Therefore, based on the guidance provided in the **Federal Register** and the criteria established in 10 CFR 50.92(c), the proposed change does not constitute a significant hazards consideration.

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 amendments requested involve 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 amendments 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 amendments before the expiration of the 30-day notice period, provided that its final determination is that the amendments involve 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 May 19, 1997, the licensee may file a request for a hearing with respect to issuance of the amendments 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 Morris Area Public Library District, 604 Liberty Street, Morris, Illinois 60450. 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 amendments requested involve no significant hazards consideration, the Commission may issue the amendments and make them immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendments.

If the final determination is that the amendments requested involve a significant hazards consideration, any hearing held would take place before the issuance of any amendments.

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 Robert A. Capra: 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 Michael I. Miller, Esquire; Sidley and Austin, One First National Plaza, Chicago, Illinois 60603, 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 amendments dated January 24, 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 Morris Area Public Library District, 604 Liberty Street, Morris, Illinois 60450.

Dated at Rockville, Maryland, this 14th day of April 1997.

For the Nuclear Regulatory Commission.

Robert M. Pulsifer,

Project Manager, Project Directorate III–2, Division of Reactor Projects—III/IV, Office of Nuclear Reactor Regulation.

[FR Doc. 97–10074 Filed 4–17–97; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–416]

Entergy Operations, Inc.; System Energy Resources, Inc.; South Mississippi Electric Power Association; Entergy Mississippi, Inc.; Grand Gulf Nuclear Station, Unit 1; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering the issuance of an amendment to Facility Operating License No. NPF–29, issued to Entergy Operations, Inc. (the licensee), for operation of the Grand Gulf Nuclear

Station, Unit 1 (GGNS), located in Claiborne County, Mississippi.

Environmental Assessment

Identification of the Proposed Action

GGNS is currently licensed to operate until June 16, 2022, which is 40 years from the issuance of the low-power license on June 16, 1982. The proposed action would extend the expiration date of the operating license from June 16, 2022, to November 1, 2024. The extended date under consideration would be 40 years after the full-power license was issued on November 1, 1984.

The proposed action is in accordance with the licensee's application for amendment dated July 21, 1995.

The Need for the Proposed Action

The proposed action would allow the licensee to operate GGNS until November 1, 2024. This would allow the licensee to recapture approximately 2.5 years of low-power operation from June 16, 1982, to November 1, 1984, which was an unusually long period for low-power operation. For the low-power license, the licensee was only authorized to operate the plant up to 5 percent of rated power or 191 megawatts thermal. On August 31, 1984, the Commission amended the low-power license to allow the licensee to operate up to 100 percent rated power or 3833 megawatts thermal. However, in response to a court challenge to the amendment, the Commission issued CLI–84–19 on October 25, 1984, directing the Staff to issue a separate full power license to GGNS. This action by the Commission prevented the licensee from operating GGNS at full power. On November 1, 1984, a full power license was issued to GGNS whose expiration date was 40 years from the date of issuance of the low power license. In the full-power license, the licensee was authorized to operate up to 100 percent of rated power.

Therefore, this proposed action would allow the licensee to operate GGNS for approximately two additional operating cycles before the plant would be shut down for the expiration of the operating license. The licensee stated that the benefits of the proposed action were the following:

- Reduction in the need for buying replacement power, because of operating GGNS, on the order of $120 million using current estimates;
- Additional flexibility in long-range planning by the licensee and a savings in excess of $100,000 in construction costs;
- Deferral of additional system construction;
- Delayed application for license renewal under 10 CFR part 54 until the process has been implemented;
- Compatibility with projected refueling outage schedules for GGNS.

Environmental Impacts of the Proposed Action

The Commission has completed its evaluation of the proposed action and concludes that there are no significant environmental considerations involved with the proposed action. The extension of the operating license does not affect the design or operation of the plant, does not involve any modifications to the plant or any increase in the licensed power for the plant, and will not create any new or unreviewed environmental impacts that were not considered in the Final Environmental Statement (FES) related to the operation of GGNS, NUREG–0777, dated September 1981. The evaluations presented in the FES were the environmental impacts of generating power at GGNS and the basis for granting a 40-year operating license for GGNS. The environmental impacts of the proposed action are based on the evaluations in the FES. The FES also considered the environmental impacts of operating both Unit 1 and Unit 2; however, Unit 2 was abandoned in 1985 and was never completed.

Although the FES considered a specific operating period of 30 years for GGNS, the staff concluded in the full-power license issued on November 1, 1984, that the environmental impacts associated with a 40-year operating period were sufficiently addressed in the FES. This was based on a consideration of the FES which in general, assesses various impacts associated with operation of the facility in terms of annual impacts and balances these against the anticipated annual energy production benefits. Thus, the overall assessment and conclusions would not be dependent on a specific operating life. There are, however, three areas in which a specific operating life was assumed:

1. Project costs are based on a 30-year levelized cost.
2. Radiological assessments are based on a 15-year plant midlife.
3. Uranium fuel cycle impacts are based on one initial core load and annual refuelings.

These were assessed by the staff to determine whether the use of a 40-year operating period rather than a 30-year operating period would significantly affect the staff's assessment concerning these areas.

1. Projected Costs

The projected costs of the facility which includes the cost of decommissioning are based on a 30-year operating life and are levelized over that period of time. The use of a 40-year operating period rather than a 30-year period would not significantly affect the operating and maintenance cost. If the facility's capital cost were spread over a 40-year period, the overall resulting cost of facility operation would be lowered. Therefore, any extension in the operating life of the facility would result in savings in system production costs. The production of energy at reduced cost results in an incremental net benefit for the use of a 40-year operating life of the facility.

2. Radiological Assessments

The NRC staff calculates dose commitments to the human population residing around nuclear power reactors to assess the impact on people from radioactive material released from these reactors. The annual dose commitment is calculated to be the dose that would be received over a 50-year period following the intake of radioactivity for 1 year under the conditions that would exist 15 years after the plant began operation.

The 15-year period is chosen as representing the midpoint of plant operation and factors into the dose models by allowing for buildup of long life radionuclides in the soil. It affects the estimated doses only for radionuclides ingested by humans that have half-lives greater than a few years. For a plant licensed for 40 years, increasing the buildup period from 15 to 20 years would increase the dose from long life radionuclides via the ingestion pathways by 33% at most. It would have much less effect on dose from shorter life radionuclides. Tables D–4 and D–5 of Appendix D to the FES indicate that the estimated doses via the ingestion pathways are only a fraction of the regulatory design objectives. For example, the ingestion dose to the thyroid is 7.0 mrem/yr compared to an Appendix I design objective of 15 mrem/yr. Thus, for 7 mrem/yr, an increase of even as much as 33% in these pathways results in a dose within the Appendix I guidelines and would still not be significant.

3. Uranium Fuel Cycle Impacts

The impacts of the uranium fuel cycle are based on 30 years of operation of a model light water reactor (LWR). The fuel requirements for the model LWR were assumed to be one initial core load and 29 annual refuelings (approximately ⅓ core). The annual fuel requirements for the model LWR averaged out over a 40-year operating life (1 initial core and 39 refuelings of approximately ⅓ core)

would be reduced slightly as compared to the annual fuel requirement averaged for a 30-year operating life.

The net result would be an approximately 1.5% reduction in the annual fuel requirement for the model LWR. This small reduction in fuel requirements would not lead to significant changes in the impacts of the uranium fuel cycle. The staff does not believe that there would be any changes to Grand Gulf FES Table 5.10 (S–3) that would be necessary in order to consider 40 years of operation. If anything, the values in Table 5.10 become more conservative when a 40-year period of operation is considered.

The staff has concluded, based on the reasons discussed above, that the impacts associated with a 40-year operating license duration are not significantly different from those associated with a 30-year operating license duration assessed in the Grand Gulf FES. Therefore, the staff concluded that the Grand Gulf FES sufficiently addresses the environmental impacts associated with a 40-year operating period.

The considerations involved in completing the Commission's evaluation for the proposed action are discussed below.

1. Radiological Impacts of Design Basis Accidents

The offsite exposure from releases during postulated accidents has been previously evaluated in the Updated Final Safety Analysis Report (UFSAR) for GGNS. The results are acceptable when compared with the criteria defined in 10 CFR Part 100, as documented in the Commission's Safety Evaluation Report, NUREG–0831, dated September 1981, and its seven supplements.

This conservative design-basis evaluation is a function of four parameters: (1) The type of accident postulated, (2) the radioactivity calculated to be released during the accident, (3) the assumed meteorological conditions at the site, and (4) the population distribution versus distance from the plant. An environmental assessment of accidents is also provided in Section 5.9.2 of the FES. The type of accidents and the calculated radioactivity released do not change with the proposed action. The site meteorology as defined in Chapter 2 of the UFSAR is essentially constant. The Commission staff has concluded that the population size and distribution is the only parameter in the accident analyses that is considered to change for the proposed action.

The licensee presented information on the population distribution in the general vicinity of GGNS as new data from the 1980 and 1990 census compared to the data presented also in Chapter 2 of the UFSAR. The 1980 and 1990 census show a general reduction in the near site population (up to 10 miles) and in Mississippi communities and population centers within 50 miles of the site. Because of the general reduction in population near the site and the short 2.5 years that the license is proposed to be extended, the staff concludes that the proposed action will not significantly change previous conclusions on the potential environmental of offsite releases from postulated accidents.

2. Radiological Impacts of Annual Releases

The annual occupational exposure of workers at the plant, station employees and contractors, is reported in the Annual Operating Report for GGNS submitted by the licensee. For 1989 through 1995, the annual exposure has been measured at values between 56 and 484 person-rems, with the average annual exposure over 7 years being 327 person-rems. The lowest exposure value is for a year without a refueling outage and the highest value is for a year with a refueling outage. In Section 5.9.1.1.1 of the FES, the average occupational exposure for a boiling water reactor, as is GGNS, was reported as 740 person-rems. Therefore, the expected annual occupational exposure for the proposed extended period of operation does not change previous conclusions presented in the FES on occupational exposure.

The offsite exposure from releases during routine operations has been previously evaluated in Section 5.9.1 of the FES. During the low-power license up to August 31, 1984, the plant was restricted to no more than 5 percent of rated power and the generation of radioactivity at the plant was significantly smaller than would have occurred if the plant was at full-power operation. The licensee provided in its application the annual public dose from releases of radioactive materials in gaseous and liquid effluents from GGNS for 1987 through 1994. These doses for 1995 were reported in the 1995 Annual Radioactive Effluent Release Report which was submitted in the licensee's letter of May 2, 1996. These doses were a small fraction of the dose design objectives of Appendix I to 10 CFR Part 50 which were the estimates of doses to the public that the FES was based on. The average of the 9 years was less than 10 percent of the Appendix I values. Therefore, the additional 2.5 years of operation that the licensee has requested does not change previous conclusions presented in the FES on annual public doses.

3. Environmental Impact of the Uranium Fuel Cycle

In addition to the impacts associated with the operation of the plant, there are impacts associated with the uranium fuel cycle. The uranium fuel cycle includes those facilities and processes (e.g., uranium mills, fuel fabrication plants, and fuel enrichment facilities) that are necessary to support the operation of the plant by providing the fuel for the reactor. Section 5.10 of the FES described the impacts associated with the fuel cycle for GGNS.

The operation of the plant from June 16, 1982, to November 1, 1984, did not consume sufficient fuel to require the licensee to use any more fuel than was expected in the estimate for 40 years of operations. If the plant had operated at the maximum power level allowed by the low-power license from June 16, 1982, to November 1, 1984, the impact on fuel of this operation would be less than 1 percent of that for the 40 years of operation at 100 percent power which is allowed by the full-power license. Therefore, the proposed action does not change the estimates of the impacts of the fuel cycle that were presented in the FES.

4. Transportation of Fuel and Radioactive Waste

The environmental impacts of transportation of fuel to and from the site and the transportation of solid radioactive wastes from the site to a waste burial grounds were considered in Table 5.3 of the FES. Because the proposed action should not change the amount of fuel that is expected to be used in 40 years of operations, the impacts in the FES associated with the transportation of fuel should not change due to the proposed action.

The licensee provides the amount of solid radioactive wastes shipped from the site in its annual (after 1992) and semi-annual (up through 1992) radioactive effluent release reports. In these reports for 1991 through 1995, the average amount of solid radioactive wastes shipped for these 5 years was 46 truck shipments of less than 190 cubic meters per year. This is less than the annual impact reported in the FES for transportation of solid radioactive wastes; therefore, the proposed action should not exceed the environmental impacts given in the FES.

5. Nonradiological Impacts

The staff has reevaluated the non-radiological impacts associated with the operation of the plant for the proposed action. The non-radiological impacts, primarily on water and land use, are shown in the FES to be minor. The major non-radiological impact is the concentrations in and the temperature of the water discharged from the plant to the nearby Mississippi River. The plant makeup and service water is supplied by a series of radial collector wells located in the floodplain parallel to the Mississippi, as described in Section 2.4 of the UFSAR and Section 4.2.3 of the FES. The wells are cylindrical concrete caissons sunk into the alluvial aquifer adjacent to the Mississippi River with perforated pipes projecting horizontally into the aquifer, which draw water from the aquifer and the Mississippi River. The cooling of water for power generation is provided by a cooling tower. The water discharged from the plant to the Mississippi River is the cooling tower blowdown from the cooling tower basin to maintain water quality.

As explained in Section 5.6 of the FES, the plant's discharges to the Mississippi are regulated by applicable Federal effluent limitations under Sections 401 and 402 of the Federal Water Pollution Control Act. Section 401 is a certification and Section 402 is the National Pollutant Discharge Elimination System (NPDES) Permit, which are issued by the State of Mississippi. These restrictions on the plant effluent into the Mississippi River are not affected by the proposed action.

In NUREG–1437, ''Generic Environmental Impact Statement for License Renewal of Nuclear Plants,'' dated October 27, 1995, the use of groundwater at GGNS, from the radial collector wells for the cooling tower makeup, is discussed in Sections 4.8.1.4 and 4.8.2.2, in terms of the impact of the groundwater intake on the groundwater level and the water quality. These sections state that the intake of cooling water by GGNS does not conflict with other groundwater uses in the area and that the intake water quality will not be lower than that in the nearby Mississippi River. This is consistent with Section 2.4 of the UFSAR. Therefore, NUREG–1437 shows no adverse environmental impact by the proposed action; however, if the licensee should apply for license renewal of the GGNS full-power operating license under 10 CFR Part 54, ''Requirements for Renewal of Operating Licenses for Nuclear Power Plants,'' the issue of other groundwater uses in the vicinity of the plant would be addressed.

6. Conclusion

Beyond the impacts discussed above, the proposed action will not increase the probability or consequences of any accidents and will not change the licensed power level for the plant. No changes are being made to any structure, system, or component in the plant, to how the plant is operated, in the types of any effluents that may be released offsite, and in the allowable individual or cumulative occupational radiation exposure for the plant. Accordingly, the Commission concludes that there are no significant radiological environmental impacts associated with the proposed action.

With regard to potential nonradiological impacts, the proposed action does involve features located entirely within the restricted area as defined in 10 CFR Part 20. It does not affect nonradiological plant effluents and has no other environmental impact. Accordingly, the Commission concludes that there are no significant nonradiological environmental impacts associated with the proposed action.

Alternatives to the Proposed Action

Since the Commission has concluded there is no significant environmental impact associated with the proposed action, any alternatives with equal or greater environmental impact need not be evaluated. As an alternative to the proposed action, the staff considered denial of the proposed action. In this case, GGNS would shut down upon expiration of the present full-power operating license. Denial of the application would result in no change in current environmental impacts. The environmental impacts of the proposed action and the alternative action are similar.

In Section 6.4 of the FES, a benefit-cost analysis was presented for the operation of GGNS. The environmental costs for the extended period of operation would be less than the cost of the replacement power or the installation of new electrical generating capacity. Moreover, with the extended period of operation, the overall financial cost per year of the plant would decrease because the initial capital outlay would be averaged over a greater number of years of operation. In summary, the benefit-cost of operating GGNS would improve with the extended plant operating lifetime.

Alternative Use of Resources

This action does not involve the use of any resources not previously considered in the FES for the GGNS.

Agencies and Persons Consulted

In accordance with its stated policy, on April 8, 1997, the staff consulted with Mississippi State officials, Robert Goff and Robert Bell of the Division of Radiological Health, State Board of Health, regarding the environmental impact of the proposed action. The State officials had no comments.

Finding of No Significant Impact

Based upon the environmental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed action.

For further details with respect to the proposed action, see the licensee's letter dated July 21, 1995, which is available for public inspection at the Commission's Public Document Room, The Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Judge George W. Armstrong Library, 220 S. Commerce Street, Natchez, Mississippi 39120.

Dated at Rockville, Maryland, this 11th day of April, 1997.

For the Nuclear Regulatory Commission.

William D. Beckner,

Director, Project Directorate IV–1, Division of Reactor Projects III/IV, Office of Nuclear Reactor Regulation.

[FR Doc. 97–10071 Filed 4–17–97; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards Subcommittee Meeting on Planning and Procedures

The ACRS Subcommittee on Planning and Procedures will hold a meeting on May 1, 1997, Room T–2B1, 11545 Rockville Pike, Rockville, Maryland.

The entire meeting will be open to public attendance, with the exception of a portion that may be closed pursuant to 5 U.S.C. 552b(c) (2) and (6) to discuss organizational and personnel matters that relate solely to internal personnel rules and practices of ACRS, and information the release of which would constitute a clearly unwarranted invasion of personal privacy.

The agenda for the subject meeting shall be as follows:

Thursday, May 1, 1997—11:45 a.m. Until 1:00 p.m.

The Subcommittee will discuss proposed ACRS activities and related matters. It may also discuss the qualifications of candidates for appointment to the ACRS. The purpose of this meeting is to gather information, analyze relevant issues and facts, and to formulate proposed positions and actions, as appropriate, for deliberation by the full Committee.

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairman; written statements will be accepted and made available to the Committee. Electronic recordings will be permitted only during those portions of the meeting that are open to the public, and questions may be asked only by members of the Subcommittee, its consultants, and staff. Persons desiring to make oral statements should notify the cognizant ACRS staff person named below five days prior to the meeting, if possible, so that appropriate arrangements can be made.

Further information regarding topics to be discussed, the scheduling of sessions open to the public, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements, and the time allotted therefor can be obtained by contacting the cognizant ACRS staff person, Dr. John T. Larkins (telephone: 301/415–7360) between 7:30 a.m. and 4:15 p.m. (edt). Persons planning to attend this meeting are urged to contact the above named individual one or two working days prior to the meeting to be advised of any changes in schedule, etc., that may have occurred.

Dated: April 14, 1997.

Sam Duraiswamy,

Chief, Nuclear Reactors Branch.

[FR Doc. 97–10075 Filed 4–17–97; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards; Meeting

In accordance with the purposes of Sections 29 and 182b. of the Atomic Energy Act (42 U.S.C. 2039, 2232b), the Advisory Committee on Reactor Safeguards will hold a meeting on May 1–3, 1997, in Conference Room T–2B3, 11545 Rockville Pike, Rockville, Maryland. The date of this meeting was previously published in the **Federal Register** on Thursday, January 23, 1997 (62 FR 3539).

Thursday, May 1, 1997

8:30 A.M.–8:45 A.M.: Opening Remarks by the ACRS Chairman (Open)—The ACRS Chairman will make opening remarks regarding conduct of the meeting and comment briefly regarding items of current interest. During this session, the Committee will discuss priorities for preparation of ACRS reports.

8:45 A.M.–10:30 A.M.: Design Basis Verification (Open)—The Committee will hear presentations by and hold discussions with representatives of the NRC staff regarding the proposed memoranda to the Commission associated with review criteria for design basis verification and other related NRC staff activities.

Representatives of the nuclear industry will participate, as appropriate.

10:45 A.M.–11:45 A.M.: Electric Utility Restructuring and Deregulation (Open)—The Committee will hear presentations by and hold discussions with representatives of the NRC Staff regarding the proposed final Policy Statement on restructuring and economic deregulation of the electric utility industry.

Representatives of the nuclear industry will participate, as appropriate.

1:00 P.M.–2:00 P.M.: Proposed Final Regulatory Guide 1.164, ''Time Response Design Criteria for Safety-Related Operator Actions'' (Open)—The Committee will hear presentations by and hold discussions with representatives of the NRC staff regarding the proposed final Regulatory Guide 1.164.

Representatives of the nuclear industry will participate, as appropriate.

2:00 P.M.–3:15 P.M.: Regulatory Effectiveness (Open)—The Committee will hear presentations by and hold discussions with the Deputy Executive Director for Operations regarding regulatory effectiveness.

3:15 P.M.–5:15 P.M.: Preparation of ACRS Reports (Open). The Committee will discuss proposed ACRS reports on matters considered during this meeting, as well as proposed reports considered during previous meetings on issues such as use of potassium iodide after a severe accident.

5:15 P.M.–7:00 P.M.: Preparation for Meeting with the NRC Commissioners (Open)—The Committee will discuss the following items in preparation for meeting with the NRC Commissioners on May 2, 1997:

(1) Risk-informed, performance-based regulation and risk-based regulatory acceptance criteria for plant-specific application of safety goals;

(2) proposed regulatory approach associated with steam generator integrity;

(3) shutdown operations risk;

(4) status of ACRS review of National Academy of Sciences/National Research Council Phase 2 study on digital instrumentation and control systems;

(5) Human Performance Program Plan; and

(6) ACRS report to Congress on Nuclear Safety Research and Regulatory Reform.

Friday, May 2, 1997

8:30 A.M.–8:45 A.M.: Opening Remarks by the ACRS Chairman (Open)—The ACRS Chairman will make opening remarks regarding conduct of the meeting.

9:00 A.M.–10:30 A.M.: Meeting with the NRC Commissioners—Commissioners' Conference Room, One White Flint North (Open)—Meeting with the NRC Commissioners to discuss the following items:

(1) Risk-informed, performance-based regulation and risk-based regulatory acceptance criteria for plant-specific application of safety goals;

(2) proposed regulatory approach associated with steam generator integrity;

(3) shutdown operations risk;

(4) status of ACRS review of National Academy of Sciences/National Research Council Phase 2 report on digital instrumentation and control systems;

(5) Human Performance Program Plan; and

(6) ACRS report to Congress on Nuclear Safety Research and Regulatory Reform.

11:00 A.M.–12:00 NOON: Staff Requirements Memorandum (SRM) on Direction Setting Issue 22, Research (Open)—The Committee will discuss issues raised by the Commission in the March 28, 1997 SRM related to research.

Representatives of the NRC staff will participate, as appropriate.

1:00 P.M.–2:00 P.M.: Implementation of the Maintenance Rule (Open)—The Committee will hear presentations by and hold discussions with representatives of the NRC staff regarding the results of the pilot inspections conducted by the staff to monitor the effectiveness of the licensees in implementing the Maintenance Rule.

Representatives of the nuclear industry will participate, as appropriate.

2:00 P.M.–2:30 P.M.: Future ACRS Activities (Open)—The Committee will discuss the recommendations of the Planning and Procedures Subcommittee

regarding items proposed for consideration by the full Committee during future meetings.

2:30 P.M.–2:45 P.M.: Reconciliation of ACRS Comments and Recommendations (Open)—The Committee will discuss responses from the NRC Executive Director for Operations to comments and recommendations included in recent ACRS reports.

3:00 P.M.–7:00 P.M.: Preparation of ACRS Reports (Open)—The Committee will discuss proposed ACRS reports on matters considered during this meeting, as well as proposed reports considered during previous meetings on issues such as use of potassium iodide after a severe accident.

Saturday, May 3, 1997

8:30 A.M.–9:00 A.M.: Report of the Planning and Procedures Subcommittee (Open/Closed)—The Committee will hear a report of the Planning and Procedures Subcommittee on matters related to the conduct of ACRS business, qualifications of candidates nominated for appointment to the ACRS, and organizational and personnel matters relating to the ACRS.

[**Note:** A portion of this session may be closed to discuss organizational and personnel matters that relate solely to the internal personnel rules and practices of this Advisory Committee, and information the release of which would constitute a clearly unwarranted invasion of personal privacy.]

9:00 A.M.–12:00 NOON: Preparation of ACRS Reports (Open)—The Committee will continue its discussion of proposed ACRS reports on matters considered during this meeting, as well as proposed reports considered during previous meetings on issues such as use of potassium iodide after a severe accident.

12:00 NOON–1:00 P.M.: Strategic Planning (Open)—The Committee will continue its discussion of items of significant importance to NRC, including rebaselining of the Committee activities for FY 1998.

1:00 P.M.–1:30 P.M.: Miscellaneous (Open)—The Committee will discuss matters related to the conduct of Committee activities and matters and specific issues that were not completed during previous meetings, as time and availability of information permit.

Procedures for the conduct of and participation in ACRS meetings were published in the **Federal Register** on October 1, 1996 (61 FR 51310). In accordance with these procedures, oral or written statements may be presented by members of the public, electronic recordings will be permitted only during the open portions of the meeting, and questions may be asked only by members of the Committee, its consultants, and staff. Persons desiring to make oral statements should notify Mr. Sam Duraiswamy, Chief, Nuclear Reactors Branch, at least five days before the meeting, if possible, so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements. Use of still, motion picture, and television cameras during this meeting may be limited to selected portions of the meeting as determined by the Chairman. Information regarding the time to be set aside for this purpose may be obtained by contacting the Chief of the Nuclear Reactors Branch prior to the meeting. In view of the possibility that the schedule for ACRS meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should check with the Chief of the Nuclear Reactors Branch if such rescheduling would result in major inconvenience.

In accordance with Subsection 10(d) P.L. 92–463, I have determined that it is necessary to close portions of this meeting noted above to discuss matters that relate solely to the internal personnel rules and practices of this Advisory Committee per 5 U.S.C. 552b(c)(2), and to discuss information the release of which would constitute a clearly unwarranted invasion of personal privacy per 5 U.S.C. 552b(c)(6).

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by contacting Mr. Sam Duraiswamy, Chief, Nuclear Reactors Branch (telephone 301/415–7364), between 7:30 A.M. and 4:15 P.M. EDT.

ACRS meeting notices, meeting transcripts, and letter reports are now available on FedWorld from the ''NRC MAIN MENU.'' Direct Dial Access number to FedWorld is (800) 303–9672 or ftp.fedworld. These documents and the meeting agenda are also available for downloading or reviewing on the internet at http://www.nrc.gov/ACRSACNW.

Dated: April 14, 1997.

Andrew L. Bates,

Advisory Committee Management Officer.

[FR Doc. 97–10076 Filed 4–17–97; 8:45 am]

BILLING CODE 7590–01–P

OFFICE OF PERSONNEL MANAGEMENT

Civil Service Retirement System; Present Value Factors

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: The Office of Personnel Management (OPM) is providing notice of adjusted present value factors applicable to retirees who elect to provide survivor annuity benefits to a spouse based on a post-retirement marriage and to retiring employees who elect the alternative form of annuity, owe certain redeposits based on refunds of contributions for service before October 1, 1990, or elect to credit certain service with nonappropriated fund instrumentalities. This notice is necessary to conform the present value factors to changes in economic assumptions and demographic factors approved by the Board of Actuaries of the Civil Service Retirement System.

EFFECTIVE DATE: Revised present value factors will apply to survivor reductions or employee annuities that commence on or after October 1, 1997.

ADDRESSES: Send requests for actuarial assumptions and data to the Office of the Actuary, Room 4307 STOP, Office of Personnel Management, Washington, DC 20415.

FOR FURTHER INFORMATION CONTACT: Harold L. Siegelman, (202) 606–0299.

SUPPLEMENTARY INFORMATION: Several provisions of the Civil Service Retirement System (CSRS) require reduction of annuities on an actuarial basis. Under each of these provisions, we are required to issue regulations on the method of determining the reduction to ensure that the present value of the reduced annuity plus a lump-sum equals, to the extent practicable, the present value of the unreduced benefit. The regulations for each of these benefits provide that we will publish a notice in the **Federal Register** whenever we change the factors used to compute the present values of these benefits.

Section 831.2205(a) of Title 5, Code of Federal Regulations, prescribes the method for computing the reduction in the beginning rate of annuity payable to a retiree who elects an alternative form of annuity under 5 U.S.C. 8343a. That reduction is required to produce an annuity that is the actuarial equivalent of the annuity of a retiree who does not elect an alternative form of annuity. The present value factors currently used to compute the reduction were published by OPM (59 FR 35534) on July 12, 1994.

Section 831.303(c) of Title 5, Code of Federal Regulations, prescribes the use of these factors for computing the reduction to complete payment of certain redeposits of refunded deductions based on periods of service that ended before October 1, 1990, under section 8334(d)(2) of title 5, United States Code.

Section 831.663 of Title 5, Code of Federal Regulations, prescribes the use of similar factors for computing the reduction required for certain elections to provide survivor annuity benefits based on a post-retirement marriage under section 8339(j)(5) (C) or (k)(2) of title 5, United States Code. Under section 11004 of the Omnibus Budget Reconciliation Act of 1993, Public Law 103–66, effective October 1, 1993, OPM ceased collection of these survivor election deposits by means of either a lump sum payment or by installments. Instead, OPM is required to establish a permanent actuarial reduction in the annuity of the retiree. This means that OPM must take the amount of the deposit computed under the old law, and ''translate'' it into a lifetime reduction in the retiree's benefit. The reduction is based on actuarial tables, similar to those used for alternative forms of annuity under section 8343a of title 5, United States Code. The present value factors currently used to compute the reduction were published by OPM (59 FR 12143) on March 16, 1994.

Subpart F of part 847 of Title 5, Code of Federal Regulations, prescribes the use of similar factors for computing the deficiency the retiree must pay to receive credit for certain service with nonappropriated fund instrumentalities made creditable by an election under section 1043 of Public Law 104–106. The present value factors currently used to compute the deficiency were published by OPM (61 FR 41718) on August, 9, 1996.

Today, OPM is publishing a notice in the **Federal Register** to revise the normal cost percentage under the FERS Act of 1986, Public Law 99–335, based on changed economic assumptions and demographic factors approved by the Board of Actuaries of the Civil Service Retirement System. Those changed economic assumptions require corresponding changes in the present value factors. The revised factors will become effective in October 1997 to correspond with the changes in FERS normal cost percentages. For alternative forms of annuity and redeposits of employee contributions, the new factors will apply to annuities that commence on or after October 1, 1997. See 5 CFR 831.2205 and 831.303(c). For survivor election deposits, the new factors will apply to survivor reductions that commence on or after October 1, 1997. See 5 CFR 831.663 (c) and (d). For obtaining credit for service with certain nonappropriated fund instrumentalities, the new factors will apply to cases in which the date of computation under section 847.603 of Title 5, Code of Federal Regulations, is on or after October 1, 1997. See 5 CFR 847.602(c) and 847.603.

OPM is, therefore, revising the tables of present value factors to read as follows:

CSRS PRESENT VALUE FACTORS APPLICABLE TO ANNUITY PAYABLE FOLLOWING AN ELECTION UNDER SECTION 8339(j) OR (k) OR SECTION 8343a OF TITLE 5, UNITED STATES CODE, OR UNDER SECTION 1043 OF PUBLIC LAW 104–106 OR FOLLOWING A REDEPOSIT UNDER SECTION 8334(d)(2) OF TITLE 5, UNITED STATES CODE

Age	Present value factor
40	271.2
41	267.1
42	263.3
43	259.9
44	256.5
45	252.5
46	248.4
47	244.4
48	240.2
49	235.8
50	230.9
51	226.7
52	222.6
53	218.2
54	213.5
55	208.5
56	204.0
57	199.4
58	194.7
59	190.2
60	186.1
61	181.2
62	176.0
63	171.3
64	166.4
65	161.5
66	156.8
67	152.0
68	147.1
69	142.3
70	137.1
71	131.9
72	126.7
73	121.5
74	116.2
75	111.0
76	105.9
77	100.8
78	95.8
79	90.9

CSRS PRESENT VALUE FACTORS APPLICABLE TO ANNUITY PAYABLE FOLLOWING AN ELECTION UNDER SECTION 8339(j) OR (k) OR SECTION 8343a OF TITLE 5, UNITED STATES CODE, OR UNDER SECTION 1043 OF PUBLIC LAW 104–106 OR FOLLOWING A REDEPOSIT UNDER SECTION 8334(d)(2) OF TITLE 5, UNITED STATES CODE—Continued

Age	Present value factor
80	86.2
81	81.6
82	77.1
83	72.8
84	68.7
85	64.7
86	61.0
87	57.4
88	54.1
89	50.9
90	47.9

CSRS PRESENT VALUE FACTORS APPLICABLE TO ANNUITY PAYABLE FOLLOWING AN ELECTION UNDER SECTION 1043 OF PUBLIC LAW 104–106 (FOR AGES AT CALCULATION BELOW 40)

Age at calculation	Present value of a monthly annuity
17	339.7
18	337.5
19	335.1
20	332.7
21	330.3
22	327.8
23	325.2
24	322.6
25	319.9
26	317.1
27	314.3
28	311.4
29	308.4
30	305.4
31	302.3
32	299.1
33	295.9
34	292.6
35	289.2
36	285.8
37	282.8
38	278.7
39	275.0

U.S. Office of Personnel Management.

James B. King,

Director.

[FR Doc. 97–10080 Filed 4–17–97; 8:45 am]

BILLING CODE 6325–01–M

OFFICE OF PERSONNEL MANAGEMENT

Federal Employees Retirement System; Present Value Factors

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: The Office of Personnel Management (OPM) is providing notice of adjusted present value factors applicable to retirees who elect to provide survivor annuity benefits to a spouse based on a post-retirement marriage and to retiring employees who elect the alternative form of annuity or elect to credit certain service with nonappropriated fund instrumentalities. This notice is necessary to conform the present value factors to changes in economic assumptions and demographic factors approved by the Board of Actuaries of the Civil Service Retirement System.

EFFECTIVE DATE: Revised present value factors will apply to survivor reductions or employee annuities that commence on or after October 1, 1997.

ADDRESSES: Send requests for actuarial assumptions and data to the Office of the Actuary, Room 4307 STOP, Office of Personnel Management, Washington, DC 20415.

FOR FURTHER INFORMATION CONTACT: Harold L. Siegelman, (202) 606–0299.

SUPPLEMENTARY INFORMATION: Several provisions of the Federal Employees Retirement System (FERS) require reduction of annuities on an actuarial basis. Under each of these provisions, we are required to issue regulations on the method of determining the reduction to ensure that the present value of the reduced annuity plus a lump-sum equals, to the extent practicable, the present value of the unreduced benefit. The regulations for each of these benefits provide that we will publish a notice in the **Federal Register** whenever we change the factors used to compute the present values of these benefits.

Section 842.706(a) of Title 5, Code of Federal Regulations, prescribes the method for computing the reduction in the beginning rate of annuity payable to a retiree who elects an alternative form of annuity under 5 U.S.C. 8420a. That reduction is required to produce an annuity that is the actuarial equivalent of the annuity of a retiree who does not elect an alternative form of annuity. The present value factors currently used to compute the reduction were published by OPM (59 FR 35534) on July 12, 1994.

Section 842.615 of Title 5, Code of Federal Regulations, prescribes the use of similar factors for computing the reduction required for certain elections to provide survivor annuity benefits based on a post-retirement marriage or divorce under section 8416(b) or (c) or section 8417(b) of title 5, United States Code. Under section 11004 of the Omnibus Budget Reconciliation Act of 1993, Public Law 103–66, effective October 1, 1993, OPM ceased collection of these survivor election deposits by means of either a lump sum payment or by installments. Instead, OPM is required to establish a permanent actuarial reduction in the annuity of the retiree. This means that OPM must take the amount of the deposit computed under the old law, and ''translate'' it into a lifetime reduction in the retiree's benefit. The reduction is based on actuarial tables, similar to those used for alternative forms of annuity under section 8420a of title 5, United States Code. The present value factors currently used to compute the reduction were published by OPM (59 FR 12143) on March 16, 1994.

Subpart F of part 847 of Title 5, Code of Federal Regulations, prescribes the use of similar factors for computing the deficiency the retiree must pay to receive credit for certain service with nonappropriated fund instrumentalities made creditable by an election under section 1043 of Public Law 104–106. The present value factors currently used to compute the deficiency were published by OPM (61 FR 41718) on August 9, 1996.

Today, OPM is publishing a notice in the **Federal Register** to revise the normal cost percentage under the FERS Act of 1986, Public Law 99–335, based on changed economic assumptions and demographic factors approved by the Board of Actuaries of the Civil Service Retirement System. Under section 8461(i) of title 5, United States Code, those changed economic assumptions require corresponding changes in the present value factors. The revised factors will become effective in October 1997 to correspond with the changes in FERS normal cost percentages. For alternative forms of annuity, the new factors will apply to annuities that commerce on or after October 1, 1997. See 5 CFR 842.706. For survivor election deposits, the new factors will apply to survivor reductions that commerce on or after October 1, 1997. See 5 CFR 842.615(b). For obtaining credit for service with certain nonappropriated fund instrumentalities, the new factors will apply to cases in which the date of computation under § 847.603 of Title 5, Code of Federal Regulations, is on or after October 1, 1997. See 5 CFR 847.602(c) and 847.603.

OPM is, therefore, revising the tables of present value factors to read as follows:

TABLE I.—FERS PRESENT VALUE FACTORS AGES 62 AND OLDER

[Applicable to Annuity Payable Following an Election under Section 8416 (b) or (c) or Section 8417(b) or Section 8420a of Title 5, United States Code, or under Section 1043 of Public Law 104–106]

Age	Present value factor
62	160.0
63	155.6
64	151.3
65	147.0
66	142.7
67	138.4
68	134.0
69	129.5
70	125.0
71	120.4
72	115.7
73	111.1
74	106.4
75	101.7
76	97.1
77	92.6
78	88.1
79	83.8
80	79.5
81	75.4
82	71.4
83	67.6
84	64.0
85	60.4
86	57.1
87	53.9
88	50.9
89	48.0
90	45.2

TABLE II.A.—FERS PRESENT VALUE FACTORS AGES 40 THROUGH 61

[Applicable to Annuity Payable Following an Election under Section 8416 (b) or (c) or Section 8417 (b) or Section 8420a of Title 5, United States Code, or under Section 1043 of Public Law 104–106 when Annuity is not increased by COLA'S before Age 62]

Age	Present value factor
40	167.4
41	166.7
42	166.2
43	166.0
44	165.9
45	165.5
46	165.1
47	164.8
48	164.6
49	164.1
50	163.5
51	163.4
52	163.3
53	163.2
54	162.9
55	162.5

TABLE II.A.—FERS PRESENT VALUE FACTORS AGES 40 THROUGH 61—Continued

[Applicable to Annuity Payable Following an Election under Section 8416 (b) or (c) or Section 8417 (b) or Section 8420a of Title 5, United States Code, or under Section 1043 of Public Law 104–106 when Annuity is not increased by COLA'S before Age 62]

Age	Present value factor
56	162.6
57	162.8
58	162.9
59	163.5
60	164.5
61	165.2

TABLE II.B.—FERS PRESENT VALUE FACTORS AGES 40 THROUGH 61

[Applicable to annuity payable following an election under section 8416 (b) or (c) or section 8417(b) or section 8420a of title 5, United States Code, or under section 1043 of Public Law 104–106 when annuity is increased by COLA's before age 62]

Age	Present value factor
40	236.4
41	233.0
42	230.0
43	227.4
44	224.7
45	221.9
46	219.0
47	216.1
48	213.1
49	210.0
50	206.8
51	203.5
52	200.1
53	196.5
54	192.8
55	188.9
56	185.0
57	181.0
58	176.9
59	172.7
60	168.5
61	164.3

TABLE III.—FERS PRESENT VALUE FACTORS FOR AGES AT CALCULATION BELOW 40

[Applicable to an Annual Payable Following an Election under Section 1043 of Public Law 104–106]

Age at calculation	Present value of a monthly annuity
17	287.3
18	285.7
19	284.1
20	282.4
21	280.7

TABLE III.—FERS PRESENT VALUE FACTORS FOR AGES AT CALCULATION BELOW 40—Continued

[Applicable to an Annual Payable Following an Election under Section 1043 of Public Law 104–106]

Age at calculation	Present value of a monthly annuity
22	278.9
23	277.1
24	275.2
25	273.3
26	271.3
27	269.2
28	267.1
29	264.9
30	262.7
31	260.4
32	258.0
33	255.6
34	253.0
35	250.5
36	247.8
37	245.1
38	242.3
39	239.5

U.S. Office of Personnel Management.

James B. King,

Director.

[FR Doc. 97–10079 Filed 4–17–97; 8:45 am]

BILLING CODE 6325–01–M

OFFICE OF PERSONNEL MANAGEMENT

Federal Employees Retirement System; Normal Cost Percentages

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: The Office of Personnel Management (OPM) is providing notice of revised normal cost percentage for employees covered by the Federal Employees Retirement System (FERS) Act of 1986.

DATES: The revised normal cost percentages are effective at the beginning of the first pay period commencing on or after October 1, 1997.

Agency appeals of the normal cost percentages must be filed no later than October 20, 1997.

ADDRESSES: Send or deliver agency appeals of the normal cost percentages to the Board of Actuaries, care of William E. Flynn, III, Associate Director for Retirement and Insurance, Office of Personnel Management, Room 4A10, 1900 E Street, NW., Washington, DC 20415.

Send requests for actuarial assumptions and data to the Office of the Actuary, Room 4307 STOP, Office of Personnel Management, Washington, DC 20415.

FOR FURTHER INFORMATION CONTACT: Harold L. Siegelman, (202)–606–0299.

SUPPLEMENTARY INFORMATION: The FERS Act of 1986, Public Law 99–335, created a new retirement system intended to cover most Federal employees hired after 1983. Most Federal employees hired before 1984 are under the older Civil Service Retirement System (CSRS). Section 8423 of title 5, United States Code, as added by the FERS Act of 1986, provides for the payment of the Government's share of the cost of the retirement system under FERS. Employees' contributions are established by law and constitute only a small fraction of the cost of funding the retirement system; employing agencies are required to pay the remaining costs. The amount of funding required, known as ''normal cost,'' is the entry age normal cost of the provisions of FERS that relate to the Civil Service Retirement and Disability Fund (Fund). The normal cost must be computed by OPM in accordance with generally accepted actuarial practice and standards (using dynamic assumptions). Subpart D of Part 841 of Title 5, Code of Federal Regulations, regulates how normal costs are determined.

The Board of Actuaries of the Civil Service Retirement System approved a revised set of economic assumptions for use in the dynamic actuarial valuations of CSRS and FERS. These assumptions were adopted after the Board reviewed statistical data prepared by the OPM actuaries and considered trends that may affect future experience under the Systems.

Based on its analysis, the Board concluded that it would be appropriate to continue to assume a 7% rate of investment return, while reducing the anticipated rate of inflation from 4.5% to 4% and lowering the projected rate of General Schedule salary increases from 4.5% to 4.25%. These salary increases are in addition to assumed in-grade increases that reflect past experience.

In setting the new inflation assumption, the Board took into account technical changes in the calculation of the Consumer Price Index that were announced on April 1, 1996. It has been estimated that these changes will lower the annual rate of increase in the Index by about .25 of a percentage point.

The new assumptions anticipate that over the long term the annual rate of investment return will exceed inflation by 3% and General Schedule salary increases will exceed inflation by .25% a year, as compared to 2.5% and 0%,

respectively, under the previous assumptions.

The Board also adopted new demographic or ''non-economic'' assumptions. The new demographic rates are based on methodology adopted by the Board in December 1995, in conjunction with its comprehensive review of an extensive 10-year experience study prepared by the OPM actuaries.

The normal cost calculations depend on both the economic and demographic assumptions. The demographic assumptions are determined separately for each of a number of special groups, in cases where separate experience data is available. Based on the new economic assumptions and demographic factors, OPM has determined the normal cost percentage for each category of employees under § 841.403 of Title 5, Code of Federal Regulations. The Government-wide normal cost percentages, including the employee contributions, are as follows:

Members	16.5%
Congressional employees	16.7%
Law enforcement officers, firefighters, and employees under section 302 of the Central Intelligence Agency Act of 1964 for Certain Employees	24.6%
Air traffic controllers	23.1%
Military reserve technicians	11.9%
Employees under section 303 of the Central Intelligence Agency Act of 1964 for Certain Employees (when serving abroad)	16.3%
All other employees	11.5%

Under § 841.408 of Title 5, Code of Federal Regulations, these normal cost percentages are effective at the beginning of the first pay period commencing on or after October 1, 1997.

The time limit and address for filing agency appeals under §§ 841.409 through 841.412 of Title 5, Code of Federal Regulations, are stated in the **DATES** and **ADDRESSES** sections of this notice.

Office of Personnel Management.

James B. King,

Director.

[FR Doc. 97–10081 Filed 4–17–97; 8:45 am]

BILLING CODE 6325–01–M

POSTAL SERVICE

Sunshine Act Meeting; Notification of Item Added to Meeting Agenda

DATE OF MEETING: April 7, 1997.

STATUS: Closed.

PREVIOUS ANNOUNCEMENT: 62 FR 14480, March 26, 1997.

CHANGE: At its meeting on April 7, 1997, the Board of Governors of the United States Postal Service voted unanimously to add an item to the agenda of its closed meeting held on that date: Discussion of Postal Rate Commission Docket No. MC97–2, Parcel Classification Reform.

CONTACT PERSON FOR MORE INFORMATION: Thomas J. Koerber, Secretary of the Board, U.S. Postal Service, 475 L'Enfant Plaza, S.W., Washington, D.C. 20260–1000. Telephone (202) 268–4800.

Thomas J. Koerber,

Secretary.

[FR Doc. 97–10249 Filed 4–16–97; 2:13 pm]

BILLING CODE 7710–12–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 35–26703]

Filings Under the Public Utility Holding Company Act of 1935, as Amended (''Act'')

April 11, 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 May 5, 1997, to the Secretary, Securities and Exchange Commission, Washington, DC 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.

GPU Inc., et al. (70–8409)

GPU, Inc. (''GPU''), 100 Interpace Parkway, Parsippany, New Jersey, 07054, a registered holding company, its electric utility subsidiary companies, Jersey Central Power & Light Company, 300 Madison Avenue, Morristown, New Jersey, 07960, Metropolitan Edison Company, 2800 Pottsville Pike, Reading, Pennsylvania, 19640, Pennsylvania Electric Company, 2800 Pottsville Pike, Reading, Pennsylvania, 19640 (collectively, ''Utilities''), and three non-utility subsidiary companies of GPU, GPU Service, Inc., 100 Interpace Parkway, Parsippany, New Jersey, 07054, GPU Generation, Inc. (''GPUG''), 1001 Broad Street, Johnstown, Pennsylvania, 15907, and GPU International, Inc. (''GPUI''), One Upper Pond Road, Parsippany, New Jersey, 07054, have filed a post-effective amendment under section 13(b) of the Act and rules 90 and 91 thereunder to an application-declaration previously filed under sections 6(a), 7, 9(a), 10, 12(b) and 13(b) of the Act and rules 45, 54 and 86 through 95 thereunder.

By order dated January 26, 1996 (HCAR No. 26463), the Commission authorized GPU to organize and capitalize GPUG to operate, maintain and rehabilitate the non-nuclear generation facilities owned and/or operated by the Utilities pursuant to service contracts and/or an operating agreement. GPUG also will design, construct, start up and test new non-nuclear generation facilities that the Utilities could require in the future. Those services will be performed by GPUG at cost in accordance with rules 90 and 91.

By order dated March 6, 1996 (HCAR No. 26484) (''Order''), the Commission authorized the Utilities to perform services for exempt wholesale generators (''EWGs''), as defined in section 32 of the Act, and foreign utility companies (''FUCOs''), as defined in section 33 of the Act, in which GPU, directly or indirectly, owns an interest.

The Order also authorized the Utilities to perform services for GPU companies that directly or indirectly, and exclusively, own and hold the interests and securities of one or more FUCOs and/or EWGs and in project development activities related to the acquisition of such securities and their related projects (''Subsidiaries'').

The post-effective amendment requests Commission authorization for GPUG to provide services to EWGs, the Subsidiaries, and to GPUI or its subsidiaries.[1] All such services will be

[1] By orders dated November 16, 1995 (HCAR No. 26409), June 14, 1995 (HCAR No. 26307) (''June 1995 Order''), December 28, 1994 (HCAR No. 26205), September 12, 1994 (HCAR No. 26123), December 18, 1992 (HCAR No. 25715), and June 26, 1990 (HCAR No. 25108), GPUI was authorized to engage in project development and administrative

Continued

provided at cost in accordance with rules 90 and 91.

Entergy Gulf States, Inc. (70–9037)

Entergy Gulf States, Inc. (''Gulf States''), 350 Pine Street, Beaumont, Texas 77701, an electric public utility subsidiary of Entergy Corporation (''Entergy''), a registered holding company, has filed an application under sections 9(a) and 10 of the Act, and rule 54 thereunder.

Gulf States proposes to acquire two high-voltage transmission lines and related assets from the bankruptcy estate of Cajun Electric Power Cooperative, Inc. (''Cajun''). The acquisition of these assets is a part of a comprehensive settlement agreement among the Chapter 11 Trustee of Cajun, Entergy, Gulf States, and the Rural Utilities Services of the Department of Agriculture (the ''Settlement Agreement'') resolving numerous disputes between Entergy and Gulf States on the one hand, and Cajun, on the other hand, which are currently pending before the bankruptcy court adjudicating Cajun's bankruptcy, the Federal Energy Regulatory Commission, and federal district courts.[2] on April 26, 1996, the bankruptcy court approved the Settlement Agreement which requires the acquisition to be completed no later than June 1, 1997.

The utility assets proposed to be acquired by Gulf States consists of two 500 kv transmission lines designated as lines 745 and 746, and related towers, support facilities, and rights-of-way (collectively, the ''Facilities'') and presently are part of the integrated transmission system over which Gulf States and Cajun transfer electric energy to serve their respective customers. After the acquisition, the Facilities will continue to be used as part of Gulf States' integrated transmission system. The two transmission lines serve only to interconnect certain Cajun and Gulf States facilities and do not interconnect with any other entities. The Entergy public utility companies already provide service over these transmission lines under Entergy's open-access transmission tariff and, after the acquisition of the lines by Gulf States, Entergy will continue to provide service over the transmission lines under its open-access tariff.[3]

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–10040 Filed 4–17–97; 8:45 am]

BILLING CODE 8010–01–M

activities relative to GPU system investments in (i) qualifying facilities (''QFs''), as defined in the Public Utility Regulatory Policies Act of 1978, located anywhere in the United States, (ii) EWGs located in any geographic area, and (iii) FUCOs. GPUI also is authorized to acquire interests in EWGs and FUCOs. The June 1995 Order also authorized GPUI to perform services for and to sell goods to associated QFs, EWGs and FUCOs at market rates.

[2] See, *e.g.*, *Cajun Elec. Power Coop. Inc* v. *Gulf States Utils. Co.*, 47 FERC 63,053 (1989), *aff'd in part and rev'd in part*, 59 FERC 61,041 (1992), *rev'd Gulf States Utils. Co.* v. *F.E.R.C.*, 1 F.3d 288 (5th Cir. 1993), *reh'g pending on other issues, on remand*, 71 FERC 63,009, *aff'd* 72 FERC 61,157 (1995), *appeals pending, Gulf States* v. *F.E.R.C.*, Nos. 95–60357 and 95–60626 (5th Cir. motion for stay granted Dec. 13, 1996; *Cajun* v. *F.E.R.C.*, No. 96–60554 (5th Cir. motion for stay granted Nov. 5, 1996).

[3] The Facilities already are part of the integrated transmission system used by Entergy to provide transmission services to others by virtue of the service schedule CTOC to the Gulf States-Cajun Power Interconnection Agreement. As a result, the costs of the two lines already are included in the cost of service used to establish Entergy's open-access transmission rates and no adverse effect on cost and rates will result from the acquisition of the two transmission lines.

SOCIAL SECURITY ADMINISTRATION

Agency Information Collection Activities: Proposed Collection Requests

This notice lists information collection packages that will require submission to the Office of Management and Budget (OMB), in compliance with Public Law 104–13 effective October 1, 1995, The Paperwork Reduction Act of 1995.

1. Consent for Release of Information—0960–0567. The information collected on form SSA–3288 is used by the Social Security Administration (SSA) to ensure that an individual consents to the release of his/her personal information to another individual. The respondents are individuals assenting to the disclosure of information from their social security records to someone else.

Number of Respondents: 200,000.

Frequency of response: 1.

Average Burden Per Response: 3 minutes.

Estimated Annual Burden: 10,000 hours.

2. Application for Special Age 72-or-Over Monthly Payments—0960–0096. The information collected on form SSA–19 is used by SSA to determine entitlement of individuals to special age 72-or-over payments. The respondents are applicants who file for the special payment.

Number of Respondents: 15.

Frequency of Response: 1.

Average Burden Per Response: 20 minutes.

Estimated Average Burden: 5 hours.

3. Request for Self-Employment Information (SSA–2765), Request for Employment Information (SSA–3365), Request for Employer Information (SSA–4002)—0960–0508. The information is needed by SSA when earnings information reported to the agency is incomplete or incorrect. The information is used to post the reported earnings to the appropriate earnings record. The respondents are employers of the wage earners or employees and self-employed individuals for whom the earnings were reported.

Number of Respondents: 3,000,000.

Frequency of Response: 1.

Average Burden Per Response: 10 minutes.

Estimated Annual Burden: 500,000 hours.

4. State Agency Report of Obligations for SSA Disability Program—0960–0421. The information collected on form SSA–4513 is used by SSA in a detailed analysis and evaluation of costs incurred by the State Disability Determination Services (DDS) in making determinations of disability for SSA and to determine funding levels for each DDS. The respondents are State DDS offices.

Number of Respondents: 54.

Frequency of Response: 4.

Average Burden Per Response: 1 hour.

Estimated Annual Burden: 216 hours.

5. State Vocational Rehabilitation Agency Claim (SSA–199) and Subpart V—Payments for Vocational Rehabilitation Services, 20 CFR Sections 404.2104, 404.2108, 404.2113, 404.2117, 404.2121, 416.2204, 416.2208, 416.2213 and 416.2217—0960–0310. The information collected on form SSA–199 and through this current rule is used by the Social Security Administration to determine if State vocational rehabilitation agencies are providing appropriate services, including referrals when necessary, and whether those claims for services should be paid.

Number of Respondents: 80–100.

Frequency of Response: On occasion.

Average Burden Per Response: Varies from 23 minutes to 4 hours.

Estimated Annual Burden: 8,465 hours.

Written comments and recommendations regarding the information collection(s) should be sent within 60 days from the date of this publication, directly to the SSA Reports Clearance Officer at the following address: Social Security Administration, DCFAM, Attn: Judith T. Hasche, 6401 Security Blvd., 1–A–21 Operations Bldg., Baltimore, MD 21235.

In addition to your comments on the accuracy of the agency's burden

estimate, we are soliciting comments on the need for the information; its practical utility; ways to enhance its quality, utility and clarity; and on ways to minimize burden on respondents, including the use of automated collection techniques or other forms of information technology.

To receive a copy of any of the forms or clearance packages, call the SSA Reports Clearance Officer on (410) 965–4123 or write to her at the address listed above.

Dated: April 11, 1997.

Frederick W. Brickenkamp,

Forms Management Officer, Social Security Administration.

[FR Doc. 97–10085 Filed 4–17–97; 8:45 am]

BILLING CODE 4190–29–P

DEPARTMENT OF STATE

[Public Notice 2527]

Privacy Act of 1974; Altered System of Records

Notice is hereby given that the Department of State proposes to alter a system of records, STATE–22, pursuant to the provisions of the Privacy Act of 1997, as amended (5 U.S.C. 552a(r)), and the Office of Management and Budget Circular No. A–130, Appendix I. The Department's report was filed with the Office of Management and Budget on April 1, 1997.

It is proposed that the current system STATE–22 entitled ''Media Correspondents' Records'' be renamed ''Records of the Bureau of Public Affairs.'' It is also proposed that due to the expanded scope of the current system, the system description will include revisions and/or additions to each section. The altering of STATE–22 will reflect more accurately the Bureau of Public Affairs' record-keeping practices and a reorganization of its activities and operations. Also, certain relevant records will be removed from Media Personnel Records, STATE–23 and will become part of STATE–22. STATE–22 will be deleted in the near future.

Any persons interested in commenting on the altered system of records may do so by submitting comments in writing to Kenneth F. Rossman; Acting Chief, Programs and Policies Division; Office of Information Resources Management Programs and Services; Room 1239; Department of State; 2201 C Street, NW., Washington, DC 20520–1239. This system of records will be effective 40 days from the date of publication, unless we receive comments which will result in a contrary determination.

The altered system description, ''Records of the Bureau of Public Affairs, STATE–22'' will read as set forth below.

Dated: April 1, 1997.

Genie M. Norris,

Acting Assistant Secretary for the Bureau of Administration.

STATE—22

SYSTEM NAME:

Records of the Bureau of Public Affairs.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

Department of State; 2201 C Street, NW., Washington, DC 20520 and Annex 1; 2401 E Street, NW., Washington, DC 20037.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Media representatives * who: Request interviews with the Secretary of State and Department Principals, or other inquiries; have been contacted for media events, interviews, occasions, invitations, travel opportunities or placement of articles; apply to accompany the Secretary of State on official travel; request a building pass for regular access to the Department of State (correspondents, technicians, and/or producers); request information from a press officer on a specific topic;

Individuals on the mailing list for the Secretary's speeches;

Individuals who request the Secretary or a Department Principal to accept a speaking engagement, accept an honor, attend a function, or request information about the Department and its policies, etc.;

Representatives of nongovernmental organizations throughout the U.S. (business, think tanks, media, ethnic, foreign affairs, educational, environmental);

State and local government officials (e.g. governors and mayors), state economic development staff, and representatives of intergovernmental organizations (state/local entities);

State Department employees who have authorized the Bureau of Public Affairs to place articles about their achievements in hometown newspapers or have been interviewed by the media;

Present and past Secretaries of State (foreign travel);

Present and past Principal officers and Chiefs of Mission (assignment history); and

Department Principals, officers and ambassadors who perform domestic speaking/media engagements.

CATEGORIES OF RECORDS IN THE SYSTEM:

The Public Affairs Communication Electronically (PACE) database is comprised of several tracking systems. Records may be automated and/or hard copy. Those subject to the Privacy Act are listed below.

Automated and hard copy records usually contain names, titles, addresses, organizations, telephone/fax/internet numbers and, when necessary for travel documents, date of birth and Social Security numbers of individuals covered by the system of records; previously published and recently automated listings of all present and past Secretaries of State's foreign travel including dates, places visited and purpose of trip; previously published and recently automated listings of all present and past Principal officers' and Chiefs of Missions' assignment history, years of birth and death, and state of residency; biographies of Department Principals, officers and ambassadors who perform domestic speaking engagements; completed Applications for Department of State Building Pass (DSP–97); copies of Press Office memoranda to Diplomatic Security requesting issuance of a building pass for a media representative; correspondents' inquiries; correspondence, E-mail messages and facsimilies from a media organization requesting a building pass for an employee; correspondence, E-mail messages and facsimilies from an embassy endorsing/requesting access to the Department of State for a specific media representative; information about travel requests and trips applied for and/or taken; copies of interview tapes of media representatives' previous work and transcripts of the interview; information on domestic speaking engagements, radio, television and newspaper interviews, and organizations involved; press releases; event schedules, comments and follow-up information; E-mail, facsimiles and copies of logistical and administrative arrangements for media representatives who accompany the Secretary of State on trips; a list of local media organizations; information about specific State Department employees who authorized the Department to use information for publishing information/stories about them and text or comments on the story itself; dates and places of speaking engagements by the Secretary,

/*/ Media Representatives may include anyone who works for a newspaper, magazine, radio or television station, wire service, or any other form of media.

Principals, and U.S. Ambassadors and Department officers along with topics covered, media status and audience size and composition; and information about invitations sent to the Secretary, Deputy Secretary and Under Secretaries including the name/organization of the requester, internal control number, assigned action office and status.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301 (Management of Executive agencies) and 22 U.S.C. 2651a (Organization of the Department of State); 22 U.S.C. 3921 (Management of the service.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

The information in the Records of the Bureau of Public Affairs is used:

—To contact members of the media to inform them about specific events (briefings), occasions, invitations, travel opportunities, and status of requests for building access;
—To track the progress of media events, placement of stores and as a reference for future use;
—To generate reports on the status of events and number of events, e.g., by category/topic/geographic area;
—To respond to media representatives' inquiries on specific topics;
—To respond to inquiries on specific topics from the general public;
—To provide the Department Spokesman with information regarding the main issues of interest to media representatives and the public;
—To prepare briefing materials for interviewees;
—To generate reports on previous interviews by organization, journalist and subject;
—To prepare interview and briefing memoranda for the Secretary of State for subsequent events;
—To provide the Public Affairs Bureau managers, appropriate bureaus and posts abroad with information to facilitate travel arrangements and to advise those selected and their organizations of the itinerary, etc.;
—To coordinate the processing of applications for media representatives for a building pass for regular access to the Department and to prepare reports listing the members of the media/organization who have been issued building passes;
—To promote the Department of State and its role in government to the American public;
—To aid/assist the general public in its understanding of U.S. foreign policy;
—To record trends of public opinions about foreign policy by geographic regions, ethnic groups, and political groups;
—To respond to requests from the public regarding past travel of a particular Secretary of State;
—To respond to requests from Bureaus within the Department such as desk officers, Protocol and other appropriate offices when information regarding travel of the Secretary of State is necessary in carrying out their responsibilities;
—To build invitation lists for briefings and conferences in the Department;
—To maintain internal reporting and tracking of domestic speaking appearances by Department Principals, officers and ambassadors; and
—For billing purposes for travel expenses to organizations requesting speakers.

This information may be shared with other foreign affairs agencies such as the Departments of Commerce and Defense and the National Security Council. Also see ''Routine Uses'' paragraph of the Prefatory Statement published in the **Federal Register**.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE;

Computer media, hard copy.

RETRIEVABILITY:

By individual name, organization name.

SAFEGUARDS:

All employees of the Department of State have undergone a thorough background security investigation. Access to the Department and its annexes is controlled by security guards and admission is limited to those individuals possessing a valid identification card or individuals under proper escort. All records containing personal information are maintained in secured file cabinets or in restricted areas, access to which is limited to authorized personnel. Access to computerized files is password-protected and under the direct supervision of the system manager. The system manager has the capability of printing audit trails of access from the computer media, thereby permitting regular and *ad hoc* monitoring of computer usage.

RETENTION AND DISPOSAL:

These records will be maintained until they become inactive at which time they will be retired or destroyed in accordance with published record schedules of the Department of State and as approved by the National Archives and Records Administration. More specified information may be obtained by writing to the Acting Director, Office of Information Resources Management Programs and Services; Room 1239; Department of State; 2201 C Street, NW; Washington, DC 20520–1239.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Assistant Secretary for Public Affairs and Deputy Spokesman, Bureau of Public Affairs; Room 6800; Department of State; 2201 C Street, NW; Washington, DC 20520.

NOTIFICATION PROCEDURE:

Individuals who have reason to believe that the Bureau of Public Affairs has records pertaining to themselves should write to the Acting Director, Office of Information Resources Management Programs and Services; Room 1239; Department of State; 2201 C Street, NW; Washington, DC 20520–1239. The individual must specify that he/she wishes the Records of the Bureau of Public Affairs be checked. At a minimum, the individual must include: name; date and place of birth; current mailing address and zip code; name of his/her employing agency and dates of assignment; a description of the circumstances which may have caused the creation of the record; and signature.

RECORD ACCESS PROCEDURES:

Individuals who wish to gain access or amend records pertaining to themselves should write to the Acting Director, Office of Information Resources Management Programs and Services (address above).

RECORD SOURCE CATEGORIES:

These records contain information obtained directly from: the individual who is the subject of these records, the agency or organization that the individual represents, published directories and/or other Bureaus in the Department.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 97–10002 Filed 4–17–97; 8:45 am]
BILLING CODE 4710–05–M

DEPARTMENT OF STATE

Bureau of Oceans and International Environmental and Scientific Affairs

[Public Notice 2528]

Certifications Pursuant to Section 609 of Public Law 101–162

April 3, 1997.

SUMMARY: On April 30, 1996, the Department of State certified, pursuant to Section 609 of Public Law 101–162, that 36 countries with commercial shrimp trawl fisheries have adopted programs to reduce the incidental capture of sea turtles in such fisheries comparable to the program in effect in the United States and have an incidental take rate comparable to that of the United States, or that the fishing environment in the countries does not pose a threat of the incidental taking of species of sea turtles protected under U.S. law and regulations. The Department has also certified four other countries since that time. The Department was unable to issue a certification for Brazil on April 30, 1996, and, as a result, imports of shrimp harvested in Brazil in a manner harmful to sea turtles were prohibited effective May 1, 1996. The Department of State subsequently issued a certification for Brazil on April 2, 1997, and, as a result, the ban on shrimp imports from that country that had been in effect since May 1, 1996, was lifted.

EFFECTIVE DATE: April 18, 1997.

FOR FURTHER INFORMATION CONTACT: Hollis Summers, Office of Marine Conservation, Bureau of Oceans and International Environmental and Scientific Affairs, Department of State, Washington, DC 20520–7818; telephone: (202) 647–3940.

SUPPLEMENTARY INFORMATION: Section 609 of Public Law 101–162 prohibits imports of shrimp unless the President certifies to the Congress not later than May 1 of each year either: (1) That the harvesting nation has adopted a program governing the incidental capture of sea turtles in its commercial shrimp fishery comparable to the program in effect in the United States and has an incidental take rate comparable to that of the United States; or (2) that the fishing environment in the harvesting nation does not pose a threat of the incidental taking of sea turtles. The President has delegated the authority to make this certification to the Department of State. Revised State Department guidelines for making the required certifications were published in the **Federal Register** on April 19, 1996 (61 FR 17342).

On April 30, 1996, the Department of State certified that 36 shrimp harvesting nations have met, for the current certification year, the requirements of the law. The Department has also certified four additional countries since that time. The Department of State was unable to certify Brazil at that time. As a result, imports of shrimp from Brazil that were harvested in ways harmful to sea turtles were prohibited pursuant to Public Law 101–162, effective May 1, 1996.

The Department did not previously certify Brazil because the Government of Brazil had not demonstrated that its sea turtle protection program was comparable to that of the United States, or that its specific fishing environment did not pose a threat to sea turtles. The Government of Brazil has now provided documentary evidence of the adoption of a sea turtle protection program comparable to the program in the United States. On February 19, 1997, Brazil adopted a regulation prohibiting shrimp trawling conducted in ways harmful to sea turtles. The regulation requires all shrimp trawl vessels, including the vessels fishing for pink shrimp in the southern region, to use turtle excluder devices (TEDs). The Department of State, therefore, was able to certify to Congress that Brazil has met the standards of Section 609 of Public Law 101–162.

Dated: April 3, 1997.

Mary Beth West,

Deputy Assistant Secretary for Oceans.

[FR Doc. 97–10001 Filed 4–17–97; 8:45 am]

BILLING CODE 4710–09–M

TENNESSEE VALLEY AUTHORITY

Upper Ocoee River Corridor Recreational Development, Polk County, TN, Ocoee Ranger District, Cherokee National Forest

AGENCY: Tennessee Valley Authority.

ACTION: Issuance of record of decision.

SUMMARY: This notice is provided in accordance with the Council on Environmental Quality's regulations (40 CFR 1500 to 1508) and TVA's implementing procedures. As a cooperating agency, TVA's Board of Directors has decided to adopt Alternative 5, the environmentally preferred alternative, identified in the United States Department of Agriculture, Forest Service, Cherokee National Forest's final environmental impact statement (EIS), ''Upper Ocoee River Corridor Recreational Development, Polk County, Ocoee Ranger District, Cherokee National Forest.'' The final EIS was made available to the public on February 14, 1997. A Notice of Availability of the final EIS was published by the Environmental Protection Agency (EPA) in the **Federal Register** on February 21, 1997 (62 FR 8012–8013). The preferred alternative proposes a maximum level of land-and water-based recreation development to provide and meet the increasing demand for a variety of recreation opportunities in the Upper Ocoee River Corridor.

In support of maximum recreation development in the Upper Ocoee River Corridor, TVA has decided to release water from Ocoee No. 3 Dam into the upper Ocoee River channel to accommodate special events and commercial and recreation use of the river. TVA will make available water releases for up to 20 days per year for special competitive events associated with the Ocoee Whitewater Center and up to 54 days per year for commercial rafting and recreational use. Water releases will be consistent with TVA water management objectives and take into account the existing TVA operations of Blue Ridge and Ocoee No. 2 and 3 dams. Water releases will require TVA be reimbursed for revenues foregone by diverting water used for power generation to recreation use. However, TVA has decided to ''sponsor'' without reimbursement up to 10 days of the 20 days of water releases for special events annually for a five year period.

FOR FURTHER INFORMATION CONTACT: Linda B. Oxendine, Senior NEPA Specialist, Environmental Management, Tennessee Valley Authority, 400 West Summit Hill Drive, Mailstop WT 8C, Knoxville, Tennessee 37902–1499, telephone (423) 632–3440 or e-mail lboxendine@tva.gov. Copies of the final EIS may be obtained by writing to Dave Carroll, Cherokee National Forest, USDA Forest Service, P. O. Box 2010, Cleveland, Tennessee 37320, or by calling (423) 476–9700.

SUPPLEMENTARY INFORMATION: In July 1995, TVA and the state of Tennessee were invited by the Forest Service to participate as cooperating agencies in an EIS on post Olympic recreation use of the Upper Ocoee River Corridor. TVA agreed to participate in the EIS because it controls water flows within the Ocoee River and its approval of water-related structures would be needed under Section 26a of the TVA Act. TVA must approve water releases for river based recreational opportunities. TVA's actions are limited to those described above.

In 1994, both the Forest Service and TVA, as a cooperating agency, issued Records of Decision (ROD) on the 1994 Olympics Whitewater Venue Final Environmental Impact Statement. Both RODs recognized that the Ocoee Whitewater Center, Olympic facilities, and water course could be used for athletic training and future competitive events and general recreational use to enhance economic development within the area; however, both agencies recognized that any post-Olympic use of the site would require further environmental analysis. The 1997 Upper Ocoee River Corridor Recreational Development final EIS provides that further environmental analysis.

The Ocoee River has a national and international reputation as a premier whitewater river. Since the 1996 International Olympics Slalom Competition and World Cup events, the Ocoee Whitewater Center and other recreational facilities within the Upper Ocoee River Corridor have been a focal point for enhanced visitation and associated increase in demand for recreation opportunities within the area. The existing recreational facilities within the lower Ocoee River corridor are approaching maximum capacity. The growing demand for recreation areas by the public requires the development of facilities that will provide quality recreation experiences while protecting the natural beauty and resources of the area. Development of recreational opportunities will enhance economic development within the area.

New land-based or land-and water-based recreational opportunities within and adjacent to the Upper Ocoee River Corridor are planned by one or more of the involved agencies. These include horse, mountain bike, and hiking trails; campground and day use areas; and improved access to the upper Ocoee River for competitive, recreation, and commercial use.

The proposed site is located within the Cherokee National Forest, Ocoee Ranger District, Polk County, Tennessee, about 28 miles east of Cleveland, Tennessee, along U.S. Highway 64. The upper Ocoee River as defined in the proposal includes that portion of the river from river mile 29.2 to river mile 24.2 or the area just below Ocoee No. 3 Dam down to the Roger's Branch river put-in just above Ocoee No. 2 Dam. This section of the Ocoee River has very low flow because of water diversion at Dam No. 3 for power generation. Water present in the channel is attributed mainly to small inflows from tributary drainages.

Based on comments received during the scoping process, five alternatives were developed and evaluated in the draft EIS. A Notice of Availability of the draft was published by EPA in the **Federal Register** on October 25, 1996 (61 FR 55294), and copies of the draft EIS were sent to over 300 individuals, organizations, and agencies. The public was invited to submit comments on the draft or to attend a meeting at the Ocoee Whitewater Center. No new information or issues were raised in the process.

Alternatives Considered

The following five alternatives were considered by the Forest Service and cooperating agencies and were evaluated in the final EIS. These alternatives were designed to address significant issues raised during scoping and to minimize adverse effects on potentially affected resource categories. The No Action alternative assumed a continuation of present management direction and practices and served as a basis for evaluating both the beneficial and adverse impacts associated with the other four alternatives.

Alternative 1. No Action. The proposed development would not occur and baseline conditions would continue. Current management directions and practices would continue.

Alternative 2. A moderate level of land-based recreational development would occur. Forty two miles of multiple use trails would be established. The Tumbling Creek campground would be reconditioned to accommodate equestrian use. A trailhead would be developed on Chestnut Ridge, and day use facilities at Boyd Gap would be developed. No regularly scheduled water releases would be available from TVA Ocoee Dam No. 3.

Alternative 3. A moderate level of land-based and minimum water-based recreational development would occur. Development would include 23 miles of multiple use trails, a 25 to 30 site campground just north of Ocoee Lake No. 3, a trailhead on Chestnut Ridge, day use facilities at Boyd Gap and on the road leading to Ocoee Dam No. 3. The current put-in at Ocoee Dam No. 2 would be expanded. There would be scheduled water releases available from TVA Ocoee Dam No. 3 for 20 days to accommodate special events associated with the Ocoee Whitewater Center.

Alternative 4. A moderate to high level of land- and water-based recreation development would occur. Land-based development would include 44 miles of multiple use trails; a 40 site campground north of Ocoee Lake No. 3; a trailhead on Chestnut Ridge; day use facilities at Boyd Gap, below and on the road leading to Ocoee Dam No. 3, and at ''Stumpfield.'' The current put-in at Ocoee Dam No. 2 would be expanded. There would be scheduled water releases available from TVA Ocoee Dam No. 3 to accommodate 20 days for special events associated with the Ocoee Whitewater Center and 38 days for commercial and recreational use.

Alternative 5. A maximum level of land- and water-based recreation development would occur. Development is similar to Alternative 4, with the exception of a slightly larger campground north of Ocoee No. 3 Lake and an increase from 38 to 54 days for commercial and recreational use. As in Alternatives 3 and 4, there would be 20 days of scheduled water releases available for special events.

For commercial and recreation use, TVA considered flows for water release in the range of 2,000 cubic feet per second (cfs) for 8 hours on weekends in March, April, and May; 1,400 cfs for 10 hours on weekends in June, July, and August; and 8 hours for the days of July 4 and Labor Day. Flows for special events were in the range of 1400 cfs for 9.25 hours, which will ensure 8 hours of optimal flow for the event. Flows for commercial and recreational use would not occur during special or competitive events. In providing scheduled water releases, TVA operations at Blue Ridge Lake and Ocoee No. 2 and Ocoee No. 3 powerhouses will be carefully coordinated to ensure that sufficient water is available at the scheduled times, and to avoid flow conditions adverse to recreation whitewater activities associated with Ocoee No. 2. Because of the limited storage of Ocoee No. 3 Lake, TVA cannot control high flows from the local drainage area between Blue Ridge Dam and Ocoee No. 3 Dam during heavy rainfall events. If drought conditions occur, TVA will use water from Blue Ridge to supply the competitive course. Use of water stored in Blue Ridge Lake could potentially lower the lake level; this effect would be negligible. However, TVA's decision to release water is subject to the availability of water.

TVA concurs with the determination of the Forest Service and the state of Tennessee that Alternative 5 is the environmentally preferred alternative. This determination is based on the existing environment and includes potential physical, biological, and socioeconomic impacts of implementing the proposed actions as required by 40 CFR 1502. The environmental impacts of Alternatives 2 through 5 are very similar. Alternative 1 would have the

least impact on the physical and biological environment as no disturbance would occur. Alternatives 2 through 5, with their mitigation measures, have virtually the same environment effects. The main difference between the alternatives is the economic impact to the Ocoee region as a whole and the enhanced recreation opportunities associated with the action alternatives. Alternative 5 provides the greatest opportunity for public use and enjoyment of the Ocoee Whitewater Center, and best meets the increasing demand and expectation by the public for a variety of recreation opportunities and experiences in the Upper Ocoee River Corridor.

Basis for the Decision

The TVA Board has decided to adopt Alternative 5 because it would produce the most recreation and economic development benefits without significantly impacting the environment. Economic development benefits include approximately 500 additional new jobs and an estimated $25 million annually added to the economy of the area through direct spending. Implementation of Alternative 5 by TVA and the other involved agencies is also expected to increase recreation opportunities and the quality of the recreation experience, increase national recognition of the recreation resources of the southeast, and provide trails and other physical improvements to the site and increase efforts to protect the area.

Environmental Consequences and Commitments

The principal effect of TVA's water release decision is to provide increased flows from Ocoee No. 3 Dam for competitive and special events and recreational and commercial uses. Scheduled water releases are not expected to impact water quality. The impact on Blue Ridge Lake level was the main factor in determining the range of flows considered in the analysis. Minor impacts on Blue Ridge would only be noticeable during drought years, and would occur during the period when the seasonal drawdown is already in progress. Operation of the TVA system to provide water in the upper Ocoee River channel would result in power losses to the TVA system. Most of the power losses result from bypassing Ocoee No. 3 powerhouse. In addition, some power generation would be shifted from peak to off-peak periods at Blue Ridge, Ocoee No. 2, and Ocoee No. 3 powerhouses. Also, additional spills at Ocoee No. 2 diversion dam would result in lost power generation. The amount would depend on the hours during the day releases are actually scheduled. The ''cost'' of these changes in hydroelectric plants operation would range from $660,000 to $830,000 per year. This cost includes 20 days for special events and 54 days for recreation and commercial uses.

An additional potential cost in implementing Alternative 5 water releases includes replacement of low-level sluice gates on Ocoee No. 3 Dam. To allow for water releases on a regular basis, the low-level sluice gates on Ocoee No. 3 Dam would have to be replaced. The current gates were designed to periodically release water from the bottom of the reservoir for siltation removal. The life expectancy of these gates average about 500 cycles before replacement is required. The estimated cost of a gate design for long-term use is $350,000. This cost includes design and installation of a gate that can be used for operation releases without excess wear and tear on the components.

When TVA approval under Section 26a of the TVA Act of water use facilities is sought in the future, it will require best management practices to control erosion and sedimentation, as necessary, to prevent adverse water quality impacts. The possible location of acid bearing rock formations would be identified in any construction plans, and their disturbance would be avoided to the extent possible.

Dated: April 3, 1997.

Mark O. Medford,

Executive Vice President, Customer Service and Marketing.

[FR Doc. 97–10008 Filed 4–17–97; 8:45 am]

BILLING CODE 8120–01–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Reports, Forms and Recordkeeping Requirements

Agency Information Collection Activity Under OMB Review

AGENCY: Office of the Secretary, DOT.

ACTION: Notice.

SUMMARY: The Department of Transportation (DOT) will submit the following emergency processing public information collection requests (ICRs) to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). The DOT is publishing a notice in the **Federal Register**, informing the public of DOT's plan to submit to OMB, 13 information collections for reinstatement, some with changes, of previously approved collections for which approval has expired, under the emergency processing procedures, 5 CFR 1320.13. The titles, descriptions, affected public, with burden estimates are shown below. Because OMB approval is valid for 180 days, DOT is taking appropriate steps to obtain a regular approval.

DATES: Comments on this notice must be received on or before June 17, 1997.

FOR FURTHER INFORMATION CONTACT: Mr. Phillip Leach, DOT Information Collection Clearance Officer, Office of Information Resource Management, Room 7107-R, Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590, Telephone: (202) 366–0770.

SUPPLEMENTARY INFORMATION:

Federal Transit Administration (FTA)

Title: University Research and Training Program.

OMB Control Number: 2132–0547.

Affected Public: Accredited Institutions of Higher Learning.

Abstract: 49 U.S.C. 5312 authorizes the Secretary of Transportation to make grants to public and private nonprofit institutions of higher learning to assist in establishing or carrying on comprehensive research in the problems of transportation in urban and rural areas. The information collected is submitted in the form of an application for a grant and is used to determine eligibility of grant applicants and to assure that all FTA and Federal requirements are met. This information also enables FTA and the academic community to properly define subject matter categories and to identify the kinds of organizations that are submitting proposals. Also, the information is essential to support basic and theoretical research within the academic community that will advance the current knowledge base, improve the transportation service provider's decisionmaking and management processes, and assist transit professionals to anticipate significant national issues and trends. The information is also used to report annually to Congress, the Secretary, and to the FTA Administrator on how grantees are responding to national emphasis areas and Congressional direction, and allows FTA to track grantees' use of Federal planning and research funds.

Estimated Annual Burden: 4,728 hours.

Title: Managerial Training Program.

OMB Control Number: 2132–0551.

Affected Public: State and local governments, business or other for profit, and non-profit institutions.

Abstract: 49 U.S.C. 5323(c) authorizes the Secretary of Transportation to make grants to States and local public transportation services to provide fellowships for training personnel employed in managerial, technical, and professional positions in the public transportation field. The information collected is submitted in the form of an application and is used to determine eligibility and appropriateness of intended training in light of program goals. Collection of information for this program is also necessary to provide documentation that grant applicants and recipients are complying with appropriate FTA Circular C 6300.1A and other Federal requirements. Without this information, FTA would not be able to determine if the goals and objectives as set forth for this program are being met fully, partially, or not at all.

Estimated Annual Burden: 1,412 hours.

Federal Highway Administration

Title: Statement of Materials and Labor used by Contractors on Highway Construction Involving Federal Funds.

OMB Control Number: 2125–0033.

Form Number: FHWA–47.

Affected Public: Contractors.

Abstract: The form FHWA–47, ''Statement of Materials and Labor Used by Contractors on Highway Construction Involving Federal Funds,'' is needed to obtain information on the usage of materials and labor in highway construction. Title 29 U.S.C. 2 authorizes the Department of Labor to collect the labor-related information using its own forces or by getting the information from other Federal agencies. An informal agreement has been reached for FHWA to collect the desired data for the Department of Labor. This information is used by FHWA for estimating current material usage and cost distribution on Federal-aid highway construction contracts to aid in planning for future requirements based on anticipated program levels. There is also considerable interest by industry, particularly suppliers of highway construction materials, for the usage information derived from the FHWA–47 forms. This data is collected from contracts of $1,000,000 or more on the National Highway System and is not considered confidential. The respondent must submit the FHWA–47 form after the project has been completed.

Estimated Annual Burden: 7,475 hours.

Title: Utility Use and Occupancy Agreements.

OMB Control Number: 2125–0522.

Affected Public: Highway authorities.

Abstract: In carrying out the requirements of 23 U.S.C. 116 to assure Federal-aid highway projects are being properly maintained, the Secretary of Transportation is authorized by 23 U.S.C. 315 to prescribe and promulgate rules and regulations. This authority is delegated to the Federal Highway Administrator at 49 CFR 1.48. Further, 23 CFR 1.23 and 1.27 establish the authority and responsibility of the Federal Highway Administrator to prescribe policies and procedures for the use, occupancy, and maintenance of the rights-of-way of Federal-aid projects. Under the Federal-aid highway program, States, or their political subdivisions, actually own the highway rights-of-way. State and/or local highway authorities are responsible for maintaining the highway rights-of-way, which includes controlling utility use of it. The FHWA regulations found in 23 CFR 645, Subpart B require that in controlling utility use on Federal-aid highway projects, the highway authority is to document the terms under which the utility is to cross or otherwise occupy highway rights-of-way. This documentation, consisting of a use and occupancy agreement, is to be in writing and must be contained in the highway authority's files. No submission to the FHWA is required. The use and occupancy agreement issued by the highway authority serves to document the arrangements made between it and a utility to allow the utility to use public right-of-way under the control of the highway authority. These agreements are reviewed periodically by the FHWA to determine whether or not the State is effectively maintaining the highway right-of-way and fulfilling its responsibilities under its utility accommodation policy. The use and occupancy agreements are an important means of controlling the installation of utilities in order to provide a safe environment for highway users.

Estimated Annual Burden: 552,000 hours.

Title: Inspection, Repair, and Maintenance.

OMB Control Number: 2125–0037.

Affected Public: Motor carriers.

Abstract: Motor carriers must maintain, or cause to be maintained, records that document the inspection, repair, and maintenance activities performed on their owned and leased motor vehicles. Burden hours will increase due primarily to a revised estimate of the daily usage rate of commercial motor vehicles that increases the estimated frequency of a recordkeeping requirement.

Estimated Annual Burden: 37,614,867 hours.

Title: Medical Qualification Requirements.

OMB Control Number: 2125–0080.

Affected Public: Medical examiners, medical specialists, physicians, licensed doctors of medicine or osteopathy, motor carriers, and CMV drivers.

Abstract: The Motor Carrier Safety Act of 1984 requires the Secretary of Transportation to prescribe regulations to ensure that the physical qualification of commercial motor vehicle (CMV) operators is adequate to enable them to operate CMVs safely. Information about an individual's physical condition must be collected in order for the FHWA and motor carriers to verify that the individual meets the physical qualification standards for CMV drivers and for the FHWA to determine whether the individual is physically able to operate a CMV safely.

Estimated Annual Burden: 459,097 hours.

Title: Operations Plan, Traffic Surveillance and Control.

OMB Control Number: 2125–0512.

Affected Public: State and local transportation agencies who utilize federal funds for traffic management projects and contractors involved in ITS/Traffic Management, who may write the implementation plan for the state and local transportation agency.

Abstract: An implementation plan for a federal aid traffic control project is required from the states and local agencies to assure that there are adequate provisions and resources for the acquisition and operational phases of the project.

Estimated Annual Burden: 160 hours.

Title: Developing and Recording Costs for Utility Adjustments.

OMB Number: 2125–0519.

Affected Public: 3,000 U.S. Utilities Companies.

Abstract: Under the provisions of 23 U.S.C. 123, Federal-aid highway funds may be used to reimburse State highway agencies (SHAs) when they have paid for the cost of relocation of utility facilities necessitated by the construction of Federal-aid highway projects. This reimbursement is based on actual costs incurred by a utility company as a result of adjusting its facilities. Payment for ''costs incurred'' is a basic tenet of the Federal-aid program. This general principle is also established in 23 U.S.C. 121 when Federal-aid highway funds are being used to reimburse the State highway agencies for the cost of construction of Federal-aid highway projects. To

implement these provisions of law, Federal Highway Administration (FHWA) regulations, 23 CFR 645, Subpart A, require that the utility be able to document its costs or expenses for adjusting its facilities. This record of costs then forms the basis for payment by the SHA to the utility company and in turn FHWA reimburses the SHA for its payments to the utility company. A utility company's cost accounting records establish a means of identifying the costs incurred in adjusting utility facilities. The SHA uses these records to verify the costs to base its payments on. The FHWA payment is based on the costs the State pays for. If the utility did not keep a record of its costs, then there would be no documentation of the expenses it would have incurred in adjusting its facilities. If this should occur, there would be no basis for Federal-aid highway fund participation in the costs and, under 23 U.S.C. 123, the FHWA would not be able to reimburse the State for utility adjustments. There are approximately 30,000 utility companies in the United States. In any one year, it is estimated that about 10 percent, or 3,000, of these utilities will be involved with reimbursable utility adjustments on Federal-aid projects. It is further estimated that each of these 3,000 utilities will have about 3 adjustments of its facilities per year on Federal-aid projects. The net impact is approximately 9,000 reimbursable utility adjustments. For a typical adjustment, about 20 hours of staff time (16 hours professional staff; 4 hours secretarial staff) are expended to establish and maintain the record of costs.

Estimated Annual burden: 180,000 hours.

Title: Notification Requirements for Commercial Driver License Holders (Previous title: Commercial Driver Licensing and Testing Standards).

OMB Control Number: 2125–0542.

Affected Public: Commercial motor vehicle (CMV) drivers.

Abstract: An active commercial motor vehicle (CMV) driver who holds a commercial driver's license (CDL) is required to notify his/her employer of all traffic law violations, his/her State licensing agency of traffic law convictions in other jurisdictions, and his/her employer of license suspensions. Any person applying for employment as a driver of a CMV for which a CDL is required, must provide his/her prospective employer with his/her employment history for the previous 10 years.

Estimated Burden Hours: 500,000 hours.

United States Coast Guard (USCG)

Title: Non Destructive Testing Proposal and Results for Pressure Vessels Cargo Tanks on Unmanned Barges.

OMB Control Number: 2115–0563.

Affected Public: Owners of inspected barges.

Abstract: This collection of information requires owners of unmanned barges with tanks that are required to be nondestructively tested (NDT) to submit a proposal which includes the NDT methods and procedures, and locations of the tanks to be tested. The results must also be submitted to identify any defects and to evaluate the suitability of a tank to remain in service. The Coast Guard requires pressure vessel type tanks that are thirty years old and older to be subjected to NDT at 10 year intervals.

Need: Under 46 U.S.C. 3703, the U.S. Coast Guard is responsible for ensuring safe shipment of liquid dangerous cargoes and has promulgated regulations on board certain barges to ensure that safety standards are met.

Estimated Annual Burden: 39 hours.

Title: Display of Plans.

OMB Number: 2115–0135.

Affected Public: Owners or operators of inspected vessels.

Abstract: This collection of information requires owners or operators of inspected vessels to display certain vessel plans.

Need: Under 46 U.S.C. 3305 and 3306, the U.S. Coast Guard is responsible for ensuring the safety of inspected vessels and has promulgated regulations to ensure that safety standards are met. The information contained on these plans will be used by shipboard personnel during routine duties, such as equipment and system maintenance or servicing, as well as under emergency conditions such as fire or flooding. In the event assistance is rendered from external sources, the plans allow for rapid familiarization with the vessels and its system, the information and its availability is crucial in minimizing danger to those on board, damage to the vessel, and the safety of the port and the environment.

Frequency: On occasion.

Estimated Annual Burden: 900 hours

Title: Plan Approval and Records for Foreign Vessels Carrying Oil in Bulk.

OMB Number: 2115–0106.

Affected Public: Owners or operators of foreign vessels carrying oil in bulk.

Abstract: This collection of information requires owners or operators of certain foreign vessels carrying oil in bulk to submit documents to the U.S. Coast Guard to determine if vessels meets certain requirements in 33 CFR 157. This collection mainly affects vessels from countries that are not signatory to the International Convention for the Prevention of Pollution from Ships, 1973, as amended by the Protocol of 1978 relating thereto (MARPOL 73/78).

Need: Under 46 U.S.C. 3703 and 3703(a), the U.S. Coast Guard is authorized to issue regulations dealing with design, construction, alteration, repair, maintenance, operation and equipping of foreign vessels which carry or are constructed to carry or adapted to carry, oil in bulk. The information will be used to determine if (1) the vessel meets the Double Hull standards in 33 CFR 157.10(d); (2) information is available to vessel personnel to operate the vessel and equipment required and (3) a means is available to appeal U.S. Coast Guard decisions with respect to the regulations and for obtaining those waivers or exemptions permitted by the regulations.

Frequency: On occasion.

Estimated Annual Burden: 250 hours.

Title: Report: Declaration of Inspection.

OMB Number: 2115–0506.

Affected Public: Persons in Charge of Transfer Operation.

Abstract: The collection of information requires a person in charge of onshore and offshore facilities to complete a Declaration of Inspection (DOI) for each bulk transfer of oil and hazardous material conducted and to maintain the DOI onboard the vessel and facility for a one month period.

Need: 33 U.S.C. 1221 authorizes the Coast Guard to establish procedure, methods, and equipment requirements to prevent the discharge of oil and hazardous material from vessels and both onshore and offshore.

Estimated Annual Burden: 78,800 hours.

Frequency: Monthly.

Send comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725–17th Street, NW., Washington, DC 20503, Attention DOT Desk Officer. Comments are invited on: whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimate of the burden of the proposed information collection; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of

automated collection techniques or other forms of information technology.

Issued in Washington, DC on April 11, 1997.

Diane Litman,

Clearance Officer, United States Department of Transportation.

[FR Doc. 97–10066 Filed 4–17–97; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Reports, Forms and Recordkeeping Requirements

Agency Information Collection Activity Under OMB Review

AGENCY: Office of the Secretary, DOT.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), 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 12, 1996 [FR 61, 41819–41820].

DATES: Comments must be submitted on or before May 19, 1997.

FOR FURTHER INFORMATION CONTACT: Richard Weaver, Information Collection Clearance Officer, Maritime Administration, MAR–318, Room 7301, 400 Seventh Street, SW., Washington, DC 20590. Telephone 202–366–5755 or fax 202–366–3889. Copies of this collection can also be obtained from that office.

SUPPLEMENTARY INFORMATION:

Maritime Administration (MARAD)

Title: Maritime Administration Service Obligation Compliance Report and Merchant.

Type of Request: Reinstatement, with change, of a previously approved information collection for which approval has expired.

OMB Control Number: 2133–0509.

Affected Public: Every student and graduate of the USMMA and subsidized State maritime academy student.

Abstract: Information collection is necessary to determine if a graduate of the USMMA or subsidized State maritime academy graduate is complying with the requirement to submit annually a Service Obligation Compliance Report form to the Maritime Administration (MARAD). This form is used to determine if a graduate has complied with the terms of the service obligation for that year.

Estimated Annual Burden: 1500 hours.

Send comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725–17th Street, NW., Washington, DC 20503, Attention MARAD 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 April 11, 1997.

Vanester M. Williams,

Clearance Officer, United States Department of Transportation.

[FR Doc. 97–10046 Filed 4–17–97; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Notice of Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q During the Week Ending April 11, 1997

The following Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits were filed under Subpart Q of the Department of Transportation's Procedural Regulations (See 14 CFR 302.1701 et seq.). The due date for Answers, Conforming Applications, or Motions to Modify Scope are set forth below for each application. Following the Answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause, a tentative order, or in appropriate cases a final order without further proceedings.

Docket Number: OST–97–2323.

Date Filed: April 8, 1997.

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: May 6, 1997.

Description: Application of Northern Air Cargo, Inc., Northern Air Cargo Network, Inc.d/b/a NACNET and the Trustee in Bankruptcy for MarkAir Express, Inc., pursuant to Subpart Q of the Regulations, request approval of the transfer to NACNET of the MarkAir Express certificate of public convenience and necessity, issued by the Department of Transportation on February 13, 1990, Order 90–2–22.

Docket Number: OST–97–2330.

Date Filed: April 9, 1997.

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: May 7, 1997.

Description: Application of American Airlines, Inc., pursuant to 49 U.S.C. Section 41108, and Subpart Q of the Regulations, applies for amendment of its certificate of public convenience and necessity for Route 602 so as to authorize foreign air transportation of persons, property, and mail between the United States and Prague, Czech Republic, and requests the allocation of 7 weekly frequencies. American proposes to provide service, via London, under a code-sharing arrangement with British Midland Airways, Ltd. This application is submitted in response to the Department's Notice of March 26, 1997 (U.S.-Czech Third-Country Code-Share Opportunities).

Docket Number: OST–97–2333.

Date Filed: April 9, 1997.

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: May 7, 1997.

Description: Application of Delta Air Lines, Inc., pursuant to the Department's Notice served March 26, 1997, and Subpart Q of the Regulations, requests (1) A certificate of public convenience and necessity authorizing Delta to provide scheduled foreign air transportation between the United States and the Czech Republic, (2) one of the three U.S.-Czech Republic third-country code-share designations and (3) fourteen (14) of the 35 weekly frequencies available to U.S. carriers under the terms of the September 10, 1996 Air Transport Agreement between the Governments of the United States and the Czech Republic. Delta proposes to operate third-country code-share service to Prague via Zurich, Switzerland in conjunction with Swissair, Swiss Air Transport Company Ltd. and its affiliate Crossair.

Paulette V. Twine,

Chief, Documentary Services.

[FR Doc. 97–10121 Filed 4–17–97; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD 97–003]

Additional Hazards Study Expert Panel

AGENCY: Coast Guard, DOT.

ACTION: Notice of meeting.

SUMMARY: The expert panel for the Additional Hazards Study will meet to discuss the information gathered at two public workshops held in Seattle, Washington on March 6, 1997, and collected from other sources which includes the public comments to the docket.

DATES: Meeting will be held April 21 through 23, 1997.

ADDRESSES: The meeting will be held at the Best Western, 11211 Main Street, Bellevue, Washington, 206–455–5240.

FOR FURTHER INFORMATION CONTACT: LT Duane Boniface, Human Element and Ship Design Division (G–MSE–1), telephone 202–267–0178, fax 202–267–4816, email fldr-he@comdt.uscg.mil.

SUPPLEMENTARY INFORMATION:

Background and Purpose

On February 18, 1997, the Coast Guard published a notice of initiation of the Additional Hazards Study and request for comments in the **Federal Register** (62 FR 7292). The Additional Hazards Study will use information gathered at two public workshops held in Seattle, Washington on March 6, 1997, and collected from other sources including the public comments to the docket. This notice announces the meeting of the expert panel to discuss the information developed during the workshops, along with information submitted to the docket and derived from other sources. The panel will use the information to identify and rank, by level of risk, the hazards related to a major spill of cargo or fuel oil by commercial vessels transiting the study area. The expert panel will also identify potential measures to decrease the risks. The panel will entertain new comments as time permits. The comment period for the Additional Hazards Study closed April 4, 1997.

A brief summary of the March 6, 1997 workshops, which includes potential hazards, potential additional measures, and attendees, is available by contacting the person listed above in **FOR FURTHER INFORMATION CONTACT.**

Dated: April 15, 1997.

Joseph J. Angelo,

Director of Standards.

[FR Doc. 97–10112 Filed 4–17–97; 8:45 am]

BILLING CODE 4910–14–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE–97–21]

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 April 24, 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. 28590, 800 Independence Avenue, SW., Washington, D.C. 20591.

Comments may also be sent electronically to the following internet address: 9–NPRM–CMNTS@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 April 14, 1997.

Donald P. Byrne,

Assistant Chief Counsel for Regulations.

Petitions for Exemption

Docket No.: 28590.

Petitioner: Human Flight, Inc.

Sections of the FAR Affected: 14 CFR 105.43(a).

Description of Relief Sought: To permit the petitioner's employees, representatives, and volunteer test jumpers to make tandem parachute jumps while wearing a dual-harness, dual-parachute pack, having at least one main parachute and one approved auxiliary parachute packed in accordance with 105.43(a). This exemption would also permit a pilot in command of an aircraft to allow such persons to make these parachute jumps.

[FR Doc. 97–10050 Filed 4–17–97; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent to Rule on Application (97–11–C–00–CHO) to use the Revenue From a Passenger Facility Charge (PFC) at the Charlottesville-Albermarle Airport, Charlottesville, VA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Intent to Rule on Application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to use the revenue from a PFC at Charlottesville-Albermarle 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 May 19, 1997.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address:

Mr. Terry Page, Acting Manager, Washington Airports District Office, 101 West Broad Street, Suite 300, Falls Church, Virginia 22046.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Bryan O. Elliott, Airport Manager of the Charlottesville-Albermarle Airport at the following address: Charlottesville-

Albermarle Airport, 201 Bowen Loop, Charlottesville, Virginia 22901.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the Charlottesville-Albermarle Airport Authority under section 158.23 of Part 158.

FOR FURTHER INFORMATION CONTACT: Mr. Terry Page, Acting Manager, Washington Airports District Office, 101 West Broad Street, Suite 300, Falls Church, Virginia, 22046 (Tel. (703) 285-2570). 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 use the revenue from a PFC at Charlottesville-Albermarle Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

On April 1, 1997, the FAA determined that the application to use the revenue from a PFC submitted by the Charlottesville-Albermarle Airport Authority was substantially complete within the requirements of section 158.25 of Part 158. The FAA will approve or disapprove the application, in whole or in part, no later than July 1, 1997.

The following is a brief overview of the application.

Level of the proposed PFC: $3.00.

Proposed charge effective date: August 1, 2004.

Proposed charge expiration date: January 1, 2007.

Total estimated PFC revenue: $1,041,500.

Brief description of proposed project: Acquire Land for Runway 3 Protection Zone.

Class or classes of air carriers which the public agency has requested not be required to collect PFCs: Air Taxi/Commercial Operator Filing FAA form 1800–31.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT** and at the FAA Regional Airports office located at: Fitzgerald Federal Building, John F. Kennedy International Airport, Jamaica, New York, 11430.

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Charlottesville-Albermarle Airport Authority.

Issued in Jamaica, New York on April 9, 1997.

Robert B. Mendez,

Manager, Airports Division, Eastern Region.

[FR Doc. 97–10047 Filed 4–17–97; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on Application (97–02–C–00–RIC) To Impose and Use the Revenue From a Passenger Facility Charge (PFC) at the Richmond International Airport, Richmond, VA

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 Richmond International Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

DATES: Comments must be received on or before May 19, 1997.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Mr. Terry Page, Acting Manager, Washington Airports District Office, 101 West Broad Street, Suite 300, Falls Church, Virginia 22046.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. David L. Blackshear, Executive Director of the Capital Region Airport Commission at the following address: 1 Richard E. Byrd Terminal Drive, Richmond International Airport, Richmond, Virginia 23250–2400.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the Capital Region Airport Commission under section 158.23 of Part 158.

FOR FURTHER INFORMATION CONTACT: Mr. Terry Page, Acting Manager, Washington Airports District Office, 101 West Broad Street, Suite 300, Falls Church, Virginia 22046 (Tel. (703) 285–2570). 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 Richmond International Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

On March 20, 1997, the FAA determined that the application to impose and use the revenue from a PFC submitted by the Capital Region Airport Commission was substantially complete within the requirements of section 158.25 of Part 158. The FAA will approve or disapprove the application, in whole or in part, no later than July 19, 1997.

The following is a brief overview of the application.

Level of the proposed PFC: $3.00.

Proposed charge effective date: May 1, 2001.

Proposed charge expiration date: January 1, 2002.

Total estimated PFC revenue: $22,139,779.

Brief description of proposed projects:

—FAR Part 150 Study
—Terminal Area Drainage Improvements
—Midfield Drainage Improvements
—Rehabilitate Taxiway A and Construct New Partial Taxiway U

Class or classes of air carriers which the public agency has requested not be required to collect PFCs: Part 135 On-demand Air Taxi/Commercial Operator (ATCO).

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT** and at the FAA regional Airports office located at: Fitzgerald Federal Building, John F. Kennedy International Airport, Jamaica, New York, 11430.

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Capital Region Airport Commission.

Issued in Jamaica, New York, on April 8, 1997.

Robert B. Mendez,

Manager, Airports Division, Eastern Region.

[FR Doc. 97–10049 Filed 4–17–97; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on Application (97–02–C–00–CRW) To Impose and Use the Revenue From a Passenger Facility Change (PFC) at the Yeager Airport, Charleston, WV

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 Yeager Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

DATES: Comments must be received on or before May 19, 1997.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Mr. Elonza Turner, Program Manager, Beckley Airports Field Office, 176 Airports Circle, Beaver, West Virginia

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Timothy C. Murnahan, Assistant Airport Director for Central West Virginia Regional Airport Authority at the following address 100 Airport Road—Suite 175, Charleston, West Virginia 25311–1080.

Air carriers and foreign air carriers may submit copies or written comments previously provided to the Central West Virginian Regional Airport Authority under section 158.23 of Part 158.

FOR FURTHER INFORMATION CONTACT: Mr. Elonza Turner, Acting Manager, Beckley Airports Field Office, 176 Airports Circle, Beaver, West Virginia, 25813 (Tel. (304) 252–6216). 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 Yeager Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnbus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

On April 1, 1997, the FAA determined that the application to impose and use the revenue from a PFC submitted by the Central West Virginia Regional Airport Authority was substantially complete within the requirements of section 158.25 of Part 158. The FAA will approve or disapprove the application, in whole or in part, no later than July 2, 1997.

The following is a brief overview of the application.

Level of the proposed PFC: $3.00.

Proposed charge effective date: August 1, 1998.

Proposed charge expiration date: April 1, 2000.

Total estimated PFC revenue: $2,021,250.

Brief description of proposed projects:

—Overlay and Groove Runway 5/23
—Install Low Visibility Take-Off Equipment System
—Purchase Snow Blower
—Replace Terminal Roof
—Install Glycol Handling System
—Add 800 feet of over-run to Runway 5.23 and Extend Taxiway A
—Update Master Plan

Class or classes of air carriers which the public agency has requested not be required to collect PFCs:

Part 135 charter Operator for hire to the general public and Part 121 charter Operator for hire to the general public.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT** and at the FAA regional Airports office located at: Fitzgerald Federal Building, John F. Kennedy International Airport, Jamaica, New York, 11430.

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Central West Virginia Regional Airport Authority.

Issued in Jamaica, New York on April 9, 1997.

Robert B. Mendez,

Manager, Airports Division, Eastern Region.

[FR Doc. 97–10048 Filed 4–17–97; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. 96–125; Notice 2]

Decision That Nonconforming 1989 Alfa Romeo 164 Passenger Cars Are Eligible for Importation

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Notice of decision by NHTSA that nonconforming 1989 Alfa Romeo 164 passenger cars are eligible for importation.

SUMMARY: This notice announces the decision by NHTSA that 1989 Alfa Romeo 164 passenger cars not originally manufactured to comply with all applicable Federal motor vehicle safety standards are eligible for importation into the United States because they are substantially similar to a vehicle originally manufactured for importation into and sale in the United States and certified by its manufacturer as complying with the safety standards (the 1989 Alfa Romeo Milano), and they are capable of being readily altered to conform to the standards.

DATE: The decision is effective April 18, 1997.

FOR FURTHER INFORMATION CONTACT: George Entwistle, Office of Vehicle Safety Compliance, NHTSA (202–366–5306).

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. 30141(a)(1)(A), a motor vehicle that was not originally manufactured to conform to all applicable Federal motor vehicle safety standards shall be refused admission into the United States unless NHTSA has decided that the motor vehicle is substantially similar to a motor vehicle originally manufactured for importation into and sale in the United States, certified under 49 U.S.C. 30115, and of the same model year as the model of the motor vehicle to be compared, and is capable of being readily altered to conform to all applicable Federal motor vehicle safety standards.

Petitions for eligibility decisions may be submitted by either manufacturers or importers who have registered with NHTSA pursuant to 49 CFR Part 592. As specified in 49 CFR 593.7, NHTSA publishes notice in the **Federal Register** of each petition that it receives, and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA decides, on the basis of the petition and any comments that it has received, whether the vehicle is eligible for importation. The agency then publishes this decision in the **Federal Register**.

Champagne Imports, Inc. of Lansdale, Pennsylvania (Registered Importer R–90–009) petitioned NHTSA to decide whether 1989 Alfa Romeo 164 passenger cars are eligible for importation into the United States. NHTSA published notice of the petition on December 18, 1996 (61 FR 66742) to afford an opportunity for public comment. (A second notice concerning this matter was inadvertently published on March 26, 1997 at 62 FR 14500. This notice should

be disregarded because it was published with incomplete text.) The reader is referred to the December 18 notice for a thorough description of the petition. No comments were received in response to the notice. Based on its review of the information submitted by the petitioner, NHTSA has decided to grant the petition.

Vehicle Eligibility Number for Subject Vehicles

The importer of a vehicle admissible under any final decision must indicate on the form HS–7 accompanying entry the appropriate vehicle eligibility number indicating that the vehicle is eligible for entry. VSP 196 is the vehicle eligibility number assigned to vehicles admissible under this notice of final decision.

Final Decision

Accordingly, on the basis of the foregoing, NHTSA hereby decides that a 1989 Alfa Romeo 164 is substantially similar to a 1989 Alfa Romeo Milano originally manufactured for importation into and sale in the United States and certified under 49 U.S.C. 30115, and is capable of being readily altered to conform to all applicable Federal motor vehicle safety standards.

Authority: 49 U.S.C. 30141 (a)(1)(A) and (b)(1); 49 CFR 593.8; delegations of authority at 49 CFR 1.50 and 501.8.

Issued on: April 9, 1997.

Marilynne Jacobs,

Director, Office of Vehicle Safety Compliance.

[FR Doc. 97–10006 Filed 4–17–97; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. 97–23; Notice 1]

Notice of Receipt of Petition for Decision That Nonconforming 1995 Saab 900 SE Passenger Cars Are Eligible for Importation

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Notice of receipt of petition for decision that nonconforming 1995 Saab 900 SE passenger cars are eligible for importation.

SUMMARY: This notice announces receipt by the National Highway Traffic Safety Administration (NHTSA) of a petition for a decision that a 1995 Saab 900 SE that was not originally manufactured to comply with all applicable Federal motor vehicle safety standards is eligible for importation into the United States because (1) it is substantially similar to a vehicle that was originally manufactured for importation into and sale in the United States and that was certified by its manufacturer as complying with the safety standards, and (2) it is capable of being readily altered to conform to the standards.

DATES: The closing date for comments on the petition is May 19, 1997.

ADDRESSES: Comments should refer to the docket number and notice number, and be submitted to: Docket Section, Room 5109, National Highway Traffic Safety Administration, 400 Seventh St., SW, Washington, DC 20590. [Docket hours are from 9:30 a.m. to 4 p.m.]

FOR FURTHER INFORMATION CONTACT: George Entwistle, Office of Vehicle Safety Compliance, NHTSA (202–366–5306).

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. 30141(a)(1)(A), a motor vehicle that was not originally manufactured to conform to all applicable Federal motor vehicle safety standards shall be refused admission into the United States unless NHTSA has decided that the motor vehicle is substantially similar to a motor vehicle originally manufactured for importation into and sale in the United States, certified under 49 U.S.C. 30115, and of the same model year as the model of the motor vehicle to be compared, and is capable of being readily altered to conform to all applicable Federal motor vehicle safety standards.

Petitions for eligibility decisions may be submitted by either manufacturers or importers who have registered with NHTSA pursuant to 49 CFR Part 592. As specified in 49 CFR 593.7, NHTSA publishes notice in the **Federal Register** of each petition that it receives, and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA decides, on the basis of the petition and any comments that it has received, whether the vehicle is eligible for importation. The agency then publishes this decision in the **Federal Register**.

Champagne Imports, Inc. of Lansdale, Pennsylvania (''Champagne'') (Registered Importer 90–009) has petitioned NHTSA to decide whether 1995 Saab 900 SE passenger cars are eligible for importation into the United States. The vehicle which Champagne believes is substantially similar is the 1995 Saab 900 SE that was manufactured for importation into, and sale in, the United States and certified by its manufacturer as conforming to all applicable Federal motor vehicle safety standards.

The petitioner claims that it carefully compared the non-U.S. certified 1995 Saab 900 SE to its U.S. certified counterpart, and found the two vehicles to be substantially similar with respect to compliance with most Federal motor vehicle safety standards.

Champagne submitted information with its petition intended to demonstrate that the non-U.S. certified 1995 Saab 900 SE, as originally manufactured, conforms to many Federal motor vehicle safety standards in the same manner as its U.S. certified counterpart, or is capable of being readily altered to conform to those standards.

Specifically, the petitioner claims that the non-U.S. certified 1995 Saab 900 SE is identical to its U.S. certified counterpart with respect to compliance with Standards Nos. 102 *Transmission Shift Lever Sequence* * * *., 103 *Defrosting and Defogging Systems*, 104 *Windshield Wiping and Washing Systems*, 105 *Hydraulic Brake Systems*, 106 *Brake Hoses*, 109 *New Pneumatic Tires*, 113 *Hood Latch Systems*, 116 *Brake Fluid*, 124 *Accelerator Control Systems*, 201 *Occupant Protection in Interior Impact*, 202 *Head Restraints*, 204 *Steering Control Rearward Displacement*, 205 *Glazing Materials*, 206 *Door Locks and Door Retention Components*, 207 *Seating Systems*, 209 *Seat Belt Assemblies*, 210 *Seat Belt Assembly Anchorages*, 212 *Windshield Retention*, 216 *Roof Crush Resistance*, 219 *Windshield Zone Intrusion*, and 302 *Flammability of Interior Materials*.

Petitioner also contends that the vehicle is capable of being readily altered to meet the following standards, in the manner indicated:

Standard No. 101 *Controls and Displays*: (a) Substitution of a lens marked ''Brake'' for a lens with a noncomplying symbol on the brake failure indicator lamp; (b) installation of a seat belt warning lamp that displays the appropriate symbol; (c) recalibration of the speedometer/odometer from kilometers to miles per hour.

Standard No. 108 *Lamps, Reflective Devices and Associated Equipment:* (a) installation of U.S.-model headlamp assemblies; (b) installation of U.S.-model front and rear sidemarker/reflector assemblies; (c) installation of U.S.-model taillamp assemblies; (d) installation of a high-mounted stop lamp.

Standard No. 110 *Tire Selection and Rims:* installation of a tire information placard.

Standard No. 111 *Rearview Mirror:* replacement of the convex passenger

side rearview mirror with a U.S.-model component.

Standard No. 114 *Theft Protection:* installation of a warning buzzer microswitch in the steering lock assembly and a warning buzzer.

Standard No. 118 *Power Window Systems:* rewiring of the power window system so that the window transport is inoperative when the ignition is switched off.

Standard No. 208 *Occupant Crash Protection:* (a) Installation of a U.S.-model seat belt in the driver's position, or a belt webbing actuated microswitch inside the driver's seat belt retractor; (b) installation of an ignition switch actuated seat belt warning lamp and buzzer; (c) replacement of the driver's and passenger's side air bags and knee bolsters with U.S. model components if the vehicle is not already so equipped. The petitioner states that the vehicle is equipped with combination lap and shoulder restraints that adjust by means of an automatic retractor and release by means of a single push button at both front designated seating positions, with combination lap and shoulder restraints that release by means of a single push button at both rear outboard designated seating positions, and with a lap belt in the rear center designated seating position.

Standard No. 214 *Side Impact Protection:* installation of reinforcing beams.

Standard No. 301 *Fuel System Integrity:* installation of a rollover valve in the fuel tank vent line between the fuel tank and the evaporative emissions collection canister.

Additionally, the petitioner states that the bumpers on the non-U.S. certified 1995 Saab 900 SE must be reinforced or replaced with U.S.-model components to comply with the Bumper Standard found in 49 CFR Part 581.

The petitioner also states that a vehicle identification number plate must be affixed to the vehicle to meet the requirements of 49 CFR Part 565.

Interested persons are invited to submit comments on the petition described above. Comments should refer to the docket number and be submitted to: Docket Section, National Highway Traffic Safety Administration, Room 5109, 400 Seventh Street, S.W., Washington, DC 20590. It is requested but not required that 10 copies be submitted.

All comments received before the close of business on the closing date indicated above will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Notice of final action on the petition will be published in the **Federal Register** pursuant to the authority indicated below.

Authority: 49 U.S.C. 30141(a)(1)(A) and (b)(1); 49 CFR 593.8; delegations of authority at 49 CFR 1.50 and 501.8.

Issued on: April 9, 1997.

Marilynne Jacobs,

Director, Office of Vehicle Safety Compliance.

[FR Doc. 97–10023 Filed 4–17–97; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. 97–25; Notice 1]

Notice of Receipt of Petition for Decision That Nonconforming 1993 Land Rover Defender 110 Multi–Purpose Passenger Vehicles Are Eligible for Importation

AGENCY: National Highway Traffic Safety Administration, DOT

ACTION: Notice of receipt of petition for decision that nonconforming 1993 Land Rover Defender 110 multi-purpose passenger vehicles (MPVs) are eligible for importation.

SUMMARY: This notice announces receipt by the National Highway Traffic Safety Administration (NHTSA) of a petition for a decision that a 1993 Land Rover Defender 110 that was not originally manufactured to comply with all applicable Federal motor vehicle safety standards is eligible for importation into the United States because (1) It is substantially similar to a vehicle that was originally manufactured for importation into and sale in the United States and that was certified by its manufacturer as complying with the safety standards, and (2) it is capable of being readily altered to conform to the standards.

DATES: The closing date for comments on the petition is May 19, 1997.

ADDRESSES: Comments should refer to the docket number and notice number, and be submitted to: Docket Section, Room 5109, National Highway Traffic Safety Administration, 400 Seventh St., SW, Washington, DC 20590. [Docket hours are from 9:30 am to 4 pm].

FOR FURTHER INFORMATION CONTACT: George Entwistle, Office of Vehicle Safety Compliance, NHTSA (202–366–5306).

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. 30141(a)(1)(A), a motor vehicle that was not originally manufactured to conform to all applicable Federal motor vehicle safety standards shall be refused admission into the United States unless NHTSA has decided that the motor vehicle is substantially similar to a motor vehicle originally manufactured for importation into and sale in the United States, certified under 49 U.S.C. 30115, and of the same model year as the model of the motor vehicle to be compared, and is capable of being readily altered to conform to all applicable Federal motor vehicle safety standards.

Petitions for eligibility decisions may be submitted by either manufacturers or importers who have registered with NHTSA pursuant to 49 CFR Part 592. As specified in 49 CFR 593.7, NHTSA publishes notice in the **Federal Register** of each petition that it receives, and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA decides, on the basis of the petition and any comments that it has received, whether the vehicle is eligible for importation. The agency then publishes this decision in the **Federal Register**.

Wallace Environmental Testing Laboratories, Inc. of Houston, Texas (''Wallace'') (Registered Importer 90–005) has petitioned NHTSA to decide whether 1993 Land Rover Defender 110 MPVs are eligible for importation into the United States. The vehicle which Wallace believes is substantially similar is the 1993 Land Rover Defender 110 that was manufactured for importation into, and sale in, the United States and certified by its manufacturer as conforming to all applicable Federal motor vehicle safety standards.

The petitioner claims that it carefully compared the non-U.S. certified 1993 Land Rover Defender 110 to its U.S. certified counterpart, and found the two vehicles to be substantially similar with respect to compliance with most Federal motor vehicle safety standards.

Wallace submitted information with its petition intended to demonstrate that the non-U.S. certified 1993 Land Rover Defender 110, as originally manufactured, conforms to many Federal motor vehicle safety standards in the same manner as its U.S. certified counterpart, or is capable of being readily altered to conform to those standards.

Specifically, the petitioner claims that the non-U.S. certified 1993 Land Rover Defender 110 is identical to its U.S.

certified counterpart with respect to compliance with Standards Nos. 102 *Transmission Shift Lever Sequence* * * *., 103 *Defrosting and Defogging Systems,* 104 *Windshield Wiping and Washing Systems,* 105 *Hydraulic Brake Systems,* 106 *Brake Hoses,* 113 *Hood Latch Systems,* 116 *Brake Fluid,* 119 *New Pneumatic Tires for Vehicles other than Passenger Cars,* 124 *Accelerator Control Systems,* 201 *Occupant Protection in Interior Impact,* 202 *Head Restraints,* 203 *Impact Protection for the Driver From the Steering Control System,* 204 *Steering Control Rearward Displacement,* 205 *Glazing Materials,* 206 *Door Locks and Door Retention Components,* 207 *Seating Systems,* 209 *Seat Belt Assemblies,* 211 *Windshield Mounting,* 212 *Windshield Retention,* 214 *Side Impact Protection,* 219 *Windshield Zone Intrusion,* and 302 *Flammability of Interior Materials.*

Petitioner also contends that the vehicle is capable of being readily altered to meet the following standards, in the manner indicated:

Standard No. 101 *Controls and Displays:* replacement of the speedometer/odometer with one calibrated in miles per hour.

Standard No. 108 *Lamps, Reflective Devices and Associated Equipment:* (a) replacement of the headlight and taillight assemblies with conforming parts; (b) installation of turnsignal lens assemblies and sidemarkers.

Standard No. 111 *Rearview Mirrors:* inscription of the required warning statement on the passenger-side rearview mirror.

Standard No. 114 *Theft Protection:* installation of a warning buzzer in the ignition switch.

Standard No. 120 *Tire Selection and Rims for Vehicles other than Passenger Cars:* installation of a tire information placard.

Standard No. 208 *Occupant Crash Protection:* (a) Installation of a seat belt warning system; (b) installation of lap belts adjustable by means of an emergency locking retractor in the rear side mount seats. The petitioner states that the vehicle is equipped at each front and rear outboard seating position with Type 2 lap and shoulder belts that are adjustable by means of an emergency locking retractor. Additionally, the petitioner states that the vehicle is equipped with a Type 1 lap belt in the rear center designated seating position.

Standard No. 210 *Seat Belt Assembly Anchorages:* installation of seat belt anchorages at the rear side mount seating positions.

Standard No. 216 *Roof Crush Resistance:* installation of an internal and external roll cage assembly identical to the one found on the vehicle's U.S.–certified counterpart.

Standard No. 301 *Fuel System Integrity:* installation of a rear bumper assembly with supports attached to the frame to provide protection to the fuel tank.

Additionally, the petitioner states that the rear bumper on the non-U.S. certified 1993 Land Rover Defender 110 must be replaced with a component identical to the one found on the vehicle's U.S.–certified counterpart.

The petitioner also states that a vehicle identification number plate must be affixed to the vehicle to meet the requirements of 49 CFR Part 565.

Interested persons are invited to submit comments on the petition described above. Comments should refer to the docket number and be submitted to: Docket Section, National Highway Traffic Safety Administration, Room 5109, 400 Seventh Street, S.W., Washington, DC 20590. It is requested but not required that 10 copies be submitted.

All comments received before the close of business on the closing date indicated above will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Notice of final action on the petition will be published in the **Federal Register** pursuant to the authority indicated below.

Authority: 49 U.S.C. 30141 (a)(1)(A) and (b)(1); 49 CFR 593.8; delegations of authority at 49 CFR 1.50 and 501.8.

Issued on: April 9, 1997.

Marilynne Jacobs,

Director, Office of Vehicle Safety Compliance.

[FR Doc. 97–10024 Filed 4–17–97; 8:45 am]

BILLING CODE: 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. 97–028; Notice 1]

Hella K.G., Hueck & Co.; Receipt of Application for Decision of Inconsequential Noncompliance

Hella K.G., Hueck & Co. (Hella) has determined that some of its headlamps designed for Van Hool buses of Belgium fail to conform to the headlamp marking requirements of 49 CFR 571.108, Federal Motor Vehicle Safety Standard (FMVSS) No. 108, Lamps, Reflective Devices and Associated Equipment, and has filed an appropriate report pursuant to 49 CFR Part 573, ''Defect and Noncompliance Reports.'' Hella has also applied to be exempted from the notification and remedy requirements of 49 U.S.C. Chapter 301—Motor Vehicle Safety'' on the basis that the noncompliance is inconsequential to motor vehicle safety.

This notice of receipt of an application is published under 49 CFR Part 556 and does not represent any agency decision or other exercise of judgment concerning the merits of the application.

Paragraph S.7.5(g) of FMVSS No. 108 requires that the lens of each replaceable bulb headlamp shall bear permanent marking in front of each replaceable light source with which it is equipped that states the HB Type, if the light source is designed to conform to specified subparagraphs.

Hella's description of the inconsequential noncompliance follows:

''VAN HOOL buses of Belgium designed a new bus (T9) which is intended to be exported to the U.S.A. HELLA K.G. in Germany designed and manufactured the US-type headlamps but inadvertently exchanged the required bulb designation on the headlamp's lens so that an ''HB 3'' marking appears in front of the HB 4 reflector area—and vice versa. The total manufacturing of these headlamps has been done in 1996 in advance of a two years need for the intended export of the buses. Today, only a few buses for expositions for vehicle shows has been exported to the U.S.A. About [a] hundred headlamps are still on stock at HELLA, VAN HOOL or HELLA's representative in Belgium.''

Hella supports its application for inconsequential noncompliance with the following:

''Federal Motor Vehicle Safety Standard No. 108 (FMVSS 108) requires in Section S.7.5(g) that the relevant light source designation has to be marked on the lens in front of the headlamps reflector area. This is the case but the marking does not appear at the correct location. We [Hella] do not see any violation of highway safety because the bulb and socket system have indexing features that prevent a misuse or wrong insertion into a headlamp where the bulb is not designed to be used for. So, only some kind of irritation may occur whenever a bulb has to [be] replaced. Another important aspect will be that the relevant vehicles are not sold to a random experienced motorist but only to professionals and the service of the bus will also be done by an experienced staff.

''VAN HOOL's representative in the U.S.A.: Distributor, ABC Coach Inc.,7469 West Highway, Winter Garden, FL 32787 USA, will be informed about this case. The total number of buses involved will be 300 within the next two years.

''In November 1996 and December 1996 each two vehicles are already delivered. The next scheduled delivery will be in April 1997 (13 buses).

''Remedy action: A warning label on the back of the headlamp housing near the bulbs indicates the correct bulb type designation to be used. (A retooling or labeling of the lens with the proper markings will cause the headlamp photometry to fail in terms of photometric performance.)''

Interested persons are invited to submit written data, views, and arguments on the application of Van Hool, described above. Comments should refer to the docket number and be submitted to: Docket Section, National Highway Traffic Safety Administration, Room 5109, 400 Seventh Street, SW, Washington, D.C., 20590. It is requested but not required that six copies be submitted.

All comments received before the close of business on the closing date indicated below will be considered. The application and supporting materials, and all comments received after the closing date, will also be filed and will be considered to the extent possible. When the application is granted or denied, the notice will be published in the **Federal Register** pursuant to the authority indicated below.

Comment closing date: May 19, 1997.

(49 U.S.C. 30118 and 30120; delegations of authority at 49 CFR 1.50 and 501.8)

Issued on: April 15, 1997.

L. Robert Shelton,

Associate Administrator for Safety Performance Standards.

[FR Doc. 97–10123 Filed 4–17–97; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB–167 (Sub–No. 1174X)]

Consolidated Rail Corporation—Abandonment Exemption—in Crawford County, PA

AGENCY: Surface Transportation Board.

ACTION: Notice of exemption.

SUMMARY: The Board, pursuant to 49 U.S.C. 10502, exempts Consolidated Rail Corporation (Conrail) from the prior approval requirements of 49 U.S.C. 10903 to permit Conrail to abandon a 1.25-mile portion of its Meadville Branch, known as the Dad's Dog Food Company Lead, between milepost 0.00± and milepost 1.25±, in Crawford County, PA, subject to 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 May 18, 1997. Formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2) must be filed by April 28, 1997, petitions to stay must be filed by May 5, 1997, requests for a public use condition conforming to 49 CFR 1152.28(a)(2) must be filed by May 8, 1997, and petitions to reopen must be filed by May 13, 1997.

ADDRESSES: Send pleadings, referring to STB Docket No. AB–167 (Sub-No. 1174X) to: (1) Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, N.W., Washington, DC 20423–0001; and (2) John K. Enright, 2001 Market Street—16A, P.O. Box 41416, Philadelphia, PA 19101–1416.

FOR FURTHER INFORMATION CONTACT: Beryl Gordon, (202) 565–1600. [TDD for the hearing impaired: (202) 565–1695.]

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 News & Data, Inc., 1925 K Street, N.W., Suite 210, Washington, DC 20006. Telephone: (202) 289–4357. [Assistance for the hearing impaired is available through TDD services (202) 565–1695.]

Decided: April 14, 1997.

By the Board, Chairman Morgan and Vice Chairman Owen.

Vernon A. Williams,

Secretary.

[FR Doc. 97–10096 Filed 4–17–97; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF TRANSPORTATION

Bureau of Transportation Statistics

Agency Information Collection; Activity Under OMB Review; Report of Traffic and Capacity Statistics—The T–100 System

AGENCY: Bureau of Transportation Statistics (BTS), DOT.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, Public Law 104–13, the Bureau of Transportation Statistics (BTS) invites the general public, industry and other Federal Agencies to comment on the continuing need and usefulness of collecting market and segment traffic statistics from U.S. and foreign air carriers.

DATES: Written comments should be submitted by June 17, 1997.

ADDRESSES: Comments should be directed to: Office of Airline Information, K–25, Room 4125, Bureau of Transportation Statistics, Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590–0001.

COMMENTS: Comments should identify the OMB #2138–0040 and submit a duplicate copy to the address listed above. Commenters wishing the Department to acknowledge receipt of their comments must submit with those comments a self-addressed stamped postcard on which the following statement is made: Comments on OMB #2138–0040. The postcard will be date/time stamped and returned to the commenter.

FOR FURTHER INFORMATION CONTACT: Bernie Stankus, Office of Airline Information, K–25, Bureau of Transportation Statistics, 400 Seventh Street, SW., Washington, DC 20590–0001, (202) 366–4387.

SUPPLEMENTARY INFORMATION:

OMB Approval No. 2138–0040

Title: Report of Traffic and Capacity Statistics—The T–100 System.

Form No.: Schedule T–100 and Schedule T–100(f).

Type of Review: Extension of a currently approved collection.

Respondents: U.S. certificated and foreign air carriers.

Number of Respondents: 90 U.S. certificated air carriers 176 foreign air carriers.

Number of Responses: 3192.

Estimated Time Per Response: 10 hours per U.S. air carrier 1.5 hours per foreign air carrier.

Total Annual Burden: 14,000 hours.

Needs and Uses: Air services between the United States and most foreign countries are governed by bilateral aviation agreements. Evaluations of existing bilateral agreements and proposed changes to such agreements are based on a determination of the traffic and revenues between the United States and foreign countries for scheduled passenger and cargo flights as well as charter services. In order to determine conditions of reciprocity and the overall balance of trade, DOT conducts similar analyses for countries with which the United States does not have bilateral aviation agreements. Information used in these analyses includes traffic volume by countries and by city-pairs for passenger and cargo services and the corresponding traffic yields. Data such as passenger and cargo load factors, aircraft seating configurations, cargo capacities, and aircraft unit costs are also used.

Air Carrier Safety

The Department is responsible for monitoring the safety levels and continuing fitness of individual air

carrier operators. These programs conduct risk analysis and evaluations based on air carrier traffic and capacity statistics. For instance, if a carrier is rapidly expanding its operations, traffic data may indicate whether its expansion is exceeding its capacity for growth. Further, Departmental decisions as to frequency of and intensity of in-depth inspections are affected by such activity indicators.

International Routes

In air carrier selection cases for limited entry international routes, the competing air carriers are required to include an operating plan. To analyze a proposed operating plan, the Department uses current and historical traffic and capacity data of the applicant and other air carriers serving the relevant markets to determine the reliability of the applicant's financial and traffic forecasts and to evaluate the applicant's competing fare and service proposals.

In a route case where an air carrier proposes ''primary service'' and ''behind gateway'' service, timely and consistent data are essential for the Department to respond to the procedural deadlines mandated by the Airline Deregulation Act in route application proceedings, such as the 150 days given to the Administrative Law Judge to receive evidence, conduct a hearing, and issue a Recommended Decision.

International/Alaska Mail Rates

The Department is responsible for establishing international and intra-Alaska mail rates. Separate international mail rates are set based on scheduled operations in four geographic areas: Transborder, Latin America, the Atlantic and the Pacific. The rate structure is updated biannually to reflect changes in unit costs in each ratemaking entity. In the rate-making process, the investment base and area cost calculations use traffic and capacity data, such as enplaned tons and available ton-miles, to develop the required unit cost data, as well as to evaluate the reasonableness of carrier cost allocations between entities.

International Fares and Rates

The Department is charged with establishing regulatory benchmarks (zones of reasonableness) for its review of international fares and rates for passenger and cargo traffic, respectively. The benchmark for passenger fares is the Standard Foreign Fare Level (SFFL) and the benchmark for cargo rates is the Standard Foreign Rate Level (SFRL). Both establish levels below which proposed fares or rates normally will not be suspended. These standards rely upon cost and capacity data by entity (i.e., Latin America, Pacific and Atlantic), and require that such data be uniform among the various air carrier submissions.

Review of IATA Agreements

The Department reviews all of the International Air Transport Association (IATA) agreements on fares, rates and rules governing international air transportation to ensure that such agreements meet the public interest criteria set forth in the Federal Aviation Act of 1958, as amended (FAAct). Current and historical summary traffic and capacity data, such as revenue ton-miles and available ton-miles, by type of aircraft, type of service, and length of haul are needed in these analyses: (1) To develop the volume elements that are required for making various passenger/cargo cost allocations, (2) to evaluate fluctuations in volume of scheduled and charter services, (3) to assess the competitive impact of different operations such as charter versus scheduled, (4) to calculate load factors by aircraft type, and (5) to monitor traffic in specific markets.

Foreign Air Carriers Applications

Foreign air carriers are required to submit to the Department applications for operating authority to the United States. In reviewing foreign air carrier applications, the Department must find that the requested authority is encompassed in a bilateral aviation agreement or other intergovernmental understanding, or, in the absence of such an agreement or an understanding, that granting the application is consistent with the public interest. In these latter cases, T–100 data are used in assessing the level of benefits that carriers of the applicant's homeland presently are receiving from their United States operations. In addition, those benefits, coupled with the value of the authority requested by the applicant carrier, are compared to the benefits accruing to U.S. carriers from their operations in the applicant's homeland. This assessment is critical in making the necessary public interest determination.

Air Carrier Fitness

The Department is required to determine whether or not applicants for certificate authority are fit, willing and able to conduct the proposed level of service, and whether the certificate holders remain fit. The requirement also applies to all established air carriers that propose a substantial change in operations, or whose certificates have been dormant for over one year and want to resume service.

In air carrier fitness determinations, T–100 nonstop segment and on-flight market statistics are reviewed to analyze an air carrier's level of traffic and capacity. Load factors (passenger and cargo) are compared with those of other air carriers with similar operating characteristics, and used to assess trends in the level of operations.

Acquisitions and Mergers

While the Justice Department has primary responsibility over air carrier acquisitions and mergers, the Department reviews the transfer of international routes involved in acquisitions and mergers to determine if they would substantially reduce competition, or if they in some other way would be inconsistent with the public interest. In making these determinations, the proposed transaction's effect on competition in the markets served by the affected air carriers is analyzed. This analysis includes, among other things, a consideration of the volume of traffic and available capacity, the flight segments and origins-destinations involved, and the existence of entry barriers, such as limited airport slots or gate capacity. Also included is a review of the volume of traffic handled by each air carrier at specific airports and in specific markets which would be affected by the proposed acquisition or merger.

The Justice Department also uses T–100 data in carrying out its responsibilities relating to airline competition and consolidation.

Airline Industry Status Evaluations

The Department apprises Congress, the Administration and others of the effect major changes or innovations are having on the air transportation industry. For this purpose, summary traffic and capacity data as well as the detailed segment and market data are essential. These data must be timely to be relevant for analyzing emerging issues and must be based upon uniform and reliable data submissions that are consistent with the Department's regulatory requirements.

Safety Surveillance and Inspection/Operational Safety Analysis

The FAA uses summary traffic and capacity statistics and total airborne hours, broken down by air carrier, as important safety indicators. The FAA uses these data in allocating inspection resources and in making decisions as to increased safety surveillance. Similarly, airport activity statistics are used by the

FAA to develop airport profiles and establish priorities for airport inspections.

Safety Forecasting and Regulatory Analysis

The FAA uses summary traffic, capacity and airport activity statistics to prepare the air carrier traffic and operation forecasts that are used in developing its budget and staffing plans, facility and equipment funding levels, and environmental impact and policy studies.

National Plan of Integrated Airport Systems

The FAA is responsible for preparing and updating the National Plan of Integrated Airport Systems (NPIAS), a 10-year planning document, that forecasts the developmental needs for maintaining and upgrading the national system of integrated airports. Reported air carrier traffic and capacity data are used to continuously update the NPIAS for system changes such as current air carrier hub transportation practices. In projecting future airport service levels and the impact of seasonal flight schedule adjustments on operations, the aircraft types handled and services available by airport are considered.

System Planning at Airports

Under the Airport and Airways Improvement Act of 1982 (Pub. L. 97–248), the FAA is charged with administering a series of grants that are designed to accomplish the necessary airport planning for future development and growth. These grants are made to state, metropolitan and regional aviation authorities to fund needed airport systems planning work. Individual airport activity statistics, nonstop market data and service segment data are used to prepare airport activity level forecasts.

Airport Capacity Analysis

Aircraft type operating data (the mix of aircraft at an airport) are used in determining the practical annual capacity (PANCAP) at airports as prescribed in FAA Advisory Circular ''Airport Capacity Criteria Used in Preparing the National Airport Plan.'' The PANCAP is a safety-related benchmark measure of the annual airport capacity or level of operations. It is a predictive measure which indicates potential capacity problems, delays, and possible airport expansion or runway construction needs. If the level of operations at an airport exceeds PANCAP significantly, the frequency and length of delays will increase, with a potential concurrent risk of accidents. Under this program, FAA develops ways of increasing airport capacity at congested airports.

Airport Improvement

The Airport and Airway Improvement Act of 1982 includes a revenue passenger enplanement formula that is used by the FAA to allocate airport improvement program (entitlement) funds to owners of primary airports. A primary airport is one which accounts for more than 0.01 percent of the total passengers enplaned at U.S. airports. The passenger enplanement data, both summary and by airport, contained in T–100, T–100(f) and the supplementary schedules are used in calculating the monies due each primary airport. The T–100 System is the sole data base used by FAA in determining U.S. certificated and foreign air carrier enplanements.

War Air Service Program

The Department is responsible under Executive Order 11490, as amended, for emergency preparedness planning in the event of war or national emergency. To fulfill its mobilization responsibilities for airlift in the event of a national emergency, the Department needs timely traffic and capacity data. Data elements used in assessing total available airlift capacity include for each aircraft operator: the number of aircraft by type, the airframe license number, the payload or capacity (passenger and/or cargo), and whether or not the aircraft is approved for over-water operations. Revenue aircraft miles, revenue aircraft hours (airborne), aircraft fuels issued (gallons), aircraft days assigned to service, and aircraft hours (ramp-to-ramp) are also needed for each reported aircraft type to assess aircraft fleet mobilization characteristics and capabilities.

International Civil Aviation Organization

Under Article 67 of the 1944 Chicago Convention, the United States is obligated to report certain individual U.S. air carrier data to the International Civil Aviation Organization (ICAO). Much of the traffic data supplied to ICAO are extracted from T–100 and the supplementary schedules.

Timothy E. Carmody,

Director, Office of Airline Information, Bureau of Transportation Statistics.

[FR Doc. 97–10122 Filed 4–17–97; 8:45 am]

BILLING CODE 4910–FE–P

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

[Docket No. 97–10]

Operating Subsidiary Notice

AGENCY: Office of the Comptroller of the Currency, Treasury.

ACTION: Notice and request for public comment on an operating subsidiary application.

SUMMARY: The Office of the Comptroller of the Currency (OCC) requests public comment concerning an application filed by Zions First National Bank, Salt Lake City, Utah to underwrite, deal in, and invest in securities of states and their political subdivisions through an operating subsidiary of the bank.

DATES: Comments should be submitted on or before May 19, 1997.

ADDRESSES: Written comments regarding the application should be sent to Office of the Comptroller of the Currency, Communications Division, 250 E Street, SW, Washington, DC 20219, Attn: Docket No. 97–10, Application Control Number 97–WO–08–0003. In addition, comments may be sent by facsimile transmission to fax number (202) 874–5274 or by Internet mail to REGS.COMMENTS@OCC.TREAS.GOV. A copy of the application will be available for inspection and copying at the OCC's Public Reference Room, 250 E Street, SW, Washington, DC 20219, through the OCC's Information Line at (202) 479–0141, or through the OCC's Web Site at HTTP://WWW.OCC.TREAS.GOV. Appointments for inspection of comments or the application can be made by calling (202) 874–5043.

FOR FURTHER INFORMATION CONTACT: Elizabeth Malone, Senior Attorney or Elizabeth Kirby, Senior Attorney, Securities and Corporate Practices Division, (202) 874–5210, or Robert Sihler, Senior Bank Structure Analyst, Bank Organization and Structure, (202) 874–5060.

SUPPLEMENTARY INFORMATION: A national bank may establish or acquire an operating subsidiary to conduct, or may conduct in an existing operating subsidiary, activities that are part of or incidental to the business of banking, as determined by the OCC pursuant to 12 U.S.C. 24 (Seventh) and other activities permissible for national banks or their subsidiaries under other statutory authority. Section 5.34(d) of 12 CFR Part 5 authorizes the OCC to permit a national bank to conduct an activity

through its operating subsidiary that is different from that permissible for the parent national bank, subject to the additional requirements specified in 12 CFR 5.34(f). For activities not previously approved by the OCC, the OCC provides public notice and opportunity for comment on the application by publishing notice of the application in the **Federal Register**.

Zions First National Bank (Zions) , Salt Lake City, Utah has applied to the OCC pursuant to 12 CFR 5.34(f) to commence the activity described below in an existing operating subsidiary. This subsidiary currently provides brokerage and investment advisory services relating to securities and investment products. Zions' application generally describes the proposed activities in which the operating subsidiary would engage as follows:

The subsidiary would underwrite, deal in, and invest in securities of states and their political subdivisions. These securities would include: (i) Obligations presently defined by the Comptroller as general obligations of states and political subdivisions (General Obligation Securities); and (ii) other obligations of states and their political subdivisions that do not qualify under the Comptroller's current definitions as general obligations (Revenue Bonds).

Zions currently underwrites, deals in, and invests in General Obligation Securities, and Zions' sales force markets these products to an institutional clientele. Zions will continue to underwrite, deal in, and invest in General Obligation Securities, and proposes that its subsidiary conduct similar activities with respect to Revenue Bonds. Zions will provide brokerage and investment advice, as agent, to institutional customers regarding Revenue Bonds underwritten by the subsidiary. In all instances, Zions' sales representatives will fully disclose that Zions is acting only as agent and that the securities are underwritten by the subsidiary, not Zions. The subsidiary will clear all transactions in municipal securities through Zions, and Zions will fully disclose in public contacts, including in confirmations, that it acts solely as clearing agency and that the subsidiary is the underwriter (or dealer, if appropriate).

The OCC reviews operating subsidiary applications to determine whether the proposed activities are legally permissible for an operating subsidiary and to ensure that the proposal is consistent with safe and sound banking practices and OCC policy and does not endanger the safety or soundness of the parent national bank. In publishing notice of the application, the OCC does not take a position on issues raised by the proposal. Notice is published solely to seek the views of interested persons on the issues presented and does not represent a determination by the OCC that the proposal meets, or is likely to meet, the criteria outlined above. Interested parties are invited to comment on any aspect of the application.

Dated: April 14, 1997.

Eugene A. Ludwig,

Comptroller of the Currency.

[FR Doc. 97–10026 Filed 4–17–97; 8:45 am]

BILLING CODE 4810–33–P

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

[Docket No. 97–09]

Notice and Request for Comment on Application

AGENCY: Office of the Comptroller of the Currency, Treasury.

ACTION: Notice and request for comment on an application pursuant to 12 CFR 5.8(f).

SUMMARY: The Office of the Comptroller of the Currency (OCC) is giving public notice and requesting comment concerning a merger application filed with the OCC which raises issues regarding national banks' authority to conduct interstate fiduciary activities.

DATES: Comments should be submitted on or before May 19. 1997.

ADDRESSES: Written comments regarding the application should cite OCC Application Control Number 97–ML–02–0005 and should be sent to the Communications Division, 250 E Street, SW, Third Floor, Washington, DC 20219. Attention: Docket No. 97–09. In addition, comments may be sent by facsimile transmission to FAX number (202) 874–5274 or by electronic mail to REGS.COMMENTS@OCC.TREAS.GOV. Copies of the public portions of the merger application and any public comments will be available for inspection and copying at the OCC's Public Reference Room, 250 E Street, SW, Washington, DC 20219. Appointments to inspect the application and comments can be made by calling (202) 874–5043. Copies are also available upon written request from the Disclosure Unit of the Communications Division.

FOR FURTHER INFORMATION CONTACT: Robert C. Criswell, Associate Licensing Manager, Multinational Banking, (202) 874–4610; Cheryl A. Martin, Senior Licensing Policy Analyst, Licensing Policy and Systems Division, (202) 874–5060; Richard H. Cleva, Senior Counsel, Bank Activities and Structure Division, Law Department, (202) 874–5300.

SUPPLEMENTARY INFORMATION: Bank One Trust Company, N.A., Columbus, Ohio, and Bank One Wisconsin Trust Company, N.A., Milwaukee, Wisconsin, have applied to the OCC for approval to merge under 12 U.S.C. 215a–1, 1828(c)(2), and 1831u(a). Following the merger, at former locations of the Wisconsin Trust Company, Bank One Trust Company plans to have a branch and other locations in Wisconsin at which it will conduct business as a fiduciary. However, Wisconsin banking law contains a provision that could be interpreted as preventing an out-of-state national bank, such as Bank One Trust Company, from having a branch or other place of business in Wisconsin for the conduct of business as a fiduciary, as Bank One Trust proposes to do. See Wisc. Stat. § 223.12(3).

This merger application therefore raises the issue of whether the authority of national banks to exercise fiduciary powers on an interstate basis pursuant to 12 U.S.C. 36 and 92a preempts conflicting state law that would prevent the exercise of that authority. See Interpretive Letter No. 695, December 8, 1995, and 12 CFR 9.2(g). Because this transaction presents one of the first two situations in which proposed interstate fiduciary activities could be in conflict with state law, as well as one of the first transactions raising issues regarding interstate fiduciary activities subsequent to the effective date of revisions to 12 CFR Part 9, the OCC has determined it would be appropriate under 12 CFR 5.8(f) to solicit additional public comment on the application and the preemption issue it presents. The OCC will carefully consider any comments received in reviewing and acting upon the merger application.

Dated: April 14, 1997.

Eugene A. Ludwig,

Comptroller of the Currency.

[FR Doc. 97–10028 Filed 4–17–97; 8:45 am]

BILLING CODE 4810–33–P

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

[Docket No. 97–08]

Notice and Request for Comment on Application

AGENCY: Office of the Comptroller of the Currency, Treasury.

ACTION: Notice and request for comment on an application pursuant to 12 CFR 5.8(f).

SUMMARY: The Office of the Comptroller of the Currency (OCC) is giving public notice and requesting comment concerning a charter application filed with the OCC which raises issues regarding national banks' authority to conduct interstate fiduciary activities.

DATES: Comments should be submitted on or before May 19, 1997.

ADDRESSES: Written comments regarding the application should cite OCC Application Control Number 97–NE–01–0002 and should be sent to the Communications Division, 250 E Street, SW, Third Floor, Washington, DC 20219. Attention: Docket No. 97–08. In addition, comments may be sent by facsimile transmission to FAX number (202) 874–5274 or by electronic mail to REGS.COMMENTS@OCC.TREAS.GOV. Copies of the public portions of the charter application and any public comments will be available for inspection and copying at the OCC's Public Reference Room, 250 E Street, SW, Washington, DC 20219. Appointments to inspect the application and comments can be made by calling (202) 874–5043. Copies are also available upon written request from the Disclosure Unit of the Communications Division.

FOR FURTHER INFORMATION CONTACT: Michael G. Tiscia, Licensing Manager, Northeastern District, (212) 790–4055; Cheryl A. Martin, Senior Licensing Policy Analyst, Licensing Policy and Systems Division, (202) 874–5060; Richard H. Cleva, Senior Counsel, Bank Activities and Structure Division, Law Department, (202) 874–5300.

SUPPLEMENTARY INFORMATION: CoreStates Bank, National Association, Philadelphia, Pennsylvania (CBNA) has applied to the OCC to form a subsidiary national bank, CoreStates Asset Management, National Association, Malvern, Pennsylvania (CSAM). CBNA currently engages in fiduciary business at its main office and at branches in Pennsylvania, New Jersey, and Delaware. CSAM will be a national bank limited to fiduciary activities and will take over the existing fiduciary business of CBNA. CSAM will have offices in all three states, but its offices will not be branches within the meaning of 12 U.S.C. 36(j). However, New Jersey banking law contains a provision that could be interpreted as preventing an out-of-state national bank, such as CSAM, from having an office in New Jersey for the conduct of business as a fiduciary, as CSAM proposes to do. See N.J. Stat. Ann. 17:9A–316(B) and 17:9A–316(C).

This charter application therefore raises the issue of whether the authority of national banks to exercise fiduciary powers on an interstate basis pursuant to 12 U.S.C. 36 and 92a preempts conflicting state law that would prevent the exercise of that authority. See Interpretive Letter No. 695, December 8, 1995, and 12 CFR 9.2(g). Because this transaction presents one of the first two situations in which proposed interstate fiduciary activities could be in conflict with state law, as well as one of the first transactions raising issues regarding interstate fiduciary activities subsequent to the effective date of revisions to 12 CFR Part 9, the OCC has determined it would be appropriate under 12 CFR 5.8(f) to solicit additional public comment on the application and the preemption issue it presents. The OCC will carefully consider any comments received in reviewing and acting upon the charter application.

Dated: April 14, 1997.

Eugene A. Ludwig,

Comptroller of the Currency.

[FR Doc. 97–10029 Filed 4–17–97; 8:45 am]

BILLING CODE 4810–33–P

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

[Docket No. 97–11]

Consumer Electronic Payments Task Force; Public Meeting; Comment Request

AGENCIES: Office of the Comptroller of the Currency, Treasury.

ACTION: Notice of public meeting; request for comment.

SUMMARY: The Consumer Electronic Payments Task Force (Task Force), an inter-agency effort initiated by the Secretary of the Treasury, consisting of the Office of the Comptroller of the Currency, Federal Deposit Insurance Corporation, the Board of Governors of the Federal Reserve System, Office of Thrift Supervision, Federal Trade Commission, Financial Management Service of the Department of the Treasury, and the Federal Reserve Bank of Atlanta, is seeking comment on issues affecting consumers raised by emerging electronic money technologies and on non-regulatory responses to those issues. This notice also sets forth the time and other particulars concerning the first public meeting of the Task Force.

DATES: Requests to participate in the public meeting, indicating the topic to be addressed, must be received by May 9, 1997. Each person selected to participate must submit a summary of his or her statement by May 30, 1997.

The public meeting will be held on June 9, 1997.

Comments in response to this notice, and the public meeting, must be received by the OCC on or before July 17, 1997.

ADDRESSES: Requests to participate in the June 9, 1997, public meeting and summaries of statements should be addressed to the Consumer Electronic Payments Task Force—Public Meetings, Office of the Comptroller of the Currency, 250 E Street, SW, Mailstop 8–1, Washington, DC 20219.

Written comments should be sent to Consumer Electronic Payments Task Force—Public Meetings, Communications Division, Third Floor, Office of the Comptroller of the Currency, 250 E Street, SW, Washington, DC 20219, Attn: Docket No. 97–11, or hand delivered on business days between 9:00 a.m. and 5:00 p.m. In addition, comments may be sent by facsimile transmission to fax number (202) 874–5274 or by internet mail to REGS.COMMENTS@OCC.TREAS.GOV. Requests to participate and statements may be faxed to (202) 874–5274, or e-mailed to EMONEY.COMMENTS@OCC.TREAS.GOV.

Comments and statements will be available for inspection and photocopying at the OCC's Public Reference Room, 250 E Street, SW, Washington DC 20219, between 9:00 a.m. and 5:00 p.m. on business days. Appointments for inspection of comments or statements can be made by calling (202) 874–5043.

Meeting Location. Auditorium, First Floor, NASA, 300 E St. S.W., Washington D.C.

FOR FURTHER INFORMATION CONTACT: Franca Harris, Attorney, Chief Counsel's Office, (202) 874–5200; Diane Feeney, Staff Assistant, Chief Counsel's Office (202) 874–5200.

SUPPLEMENTARY INFORMATION:

Background

The Task Force, established by Secretary of the Treasury Robert E. Rubin in the fall of 1996, focuses on consumer issues expected to arise from emerging electronic money and payments technology. The Task Force is chaired by Eugene A. Ludwig, Comptroller of the Currency, and includes Andrew C. Hove, Jr., Vice Chairman, Federal Deposit Insurance Corporation; Edward W. Kelley, Jr., Governor, Board of Governors of the Federal Reserve System; Nicolas P. Retsinas, Director, Office of Thrift Supervision; Robert Pitofsky, Chairman, Federal Trade Commission; Russell D. Morris, Commissioner, Financial Management Service; and, Jack Guynn, President, Federal Reserve Bank of Atlanta.

The Task Force's mission is to identify and explore issues affecting consumers raised by emerging electronic money technologies (such as stored value and smart card and internet based payment systems) and to identify innovative responses to those issues, consistent with the needs of a developing market. The Task Force's objectives include:

(1) Identifying consumer issues raised by electronic money;

(2) Evaluating the extent to which consumer issues concerning electronic money are addressed by state and federal laws and regulations and voluntary industry guidelines; and,

(3) Identifying innovative, non-regulatory approaches that help the electronic money industry address consumer issues.

Request for Comment and Statements at the Public Meeting

The Task Force is hereby requesting comment on all aspects of this notice including, the following specific issues:

Consumer Disclosure and Protections

(1) Currently, what information is disclosed to customers about electronic money products and how and when does the disclosure occur? What concerns, if any, arise from the potential different disclosures from different types of providers or concerning different types of products?

(2) What information do customers most often seek? What sorts of things do customers most often misunderstand about electronic money products? Does the disclosed information provided by electronic money issuers respond to customer information needs?

(3) What types of customer complaint or customer problems are the most prevalent? What have been the responses of electronic money issuers to these problems?

Access to Electronic Money

(4) What electronic money products are, or are likely to be, most useful to the elderly, members of minority groups, disabled persons, the poor? What impediments, if any, exist to access by these groups to these products or to the development of products that are responsive to these needs?

(5) What are electronic money issuers doing to reach and serve these types of customers?

(6) Do electronic money issuers need additional incentives to reach and serve these customers? What role do electronic money issuers and the government have in helping to improve access to electronic money products?

Financial Condition of Issuers

(7) If an issuer fails, what is the status of customers holding electronic money issued by that entity? What problems, if any, would customers face as a result of the failure of, or financial difficulties experienced by, an issuer? Do customers believe some types of products or issuers to be more secure than others?

(8) What types of prudential requirements—such as liquidity and capital requirements—apply to issuers (both depository and non-depository institutions)? What types of financial resources and backing are used by issuers?

(9) What information is available to consumers concerning the financial condition of, and customer satisfaction with, issuers?

Public Meeting

Any person desiring to participate in the public meeting must submit a request to do so.

The Task Force will hold the first public meeting which will address all aspects of this notice, on June 9, 1997, from 9:00 a.m. until 4:30 p.m. The meeting will be held in the NASA Auditorium, which is located on the first floor of the NASA building, West Entrance, 300 E St., SW, Washington, DC. At that meeting one or more members of the Task Force, and their senior staffs, will receive oral comments from those interested persons scheduled in advance to appear. Participants will be permitted to make a brief oral presentation. The Task Force will acknowledge receipt of requests to participate and will inform participants of scheduling.

Please notify Franca Harris, OCC, Attorney, Chief Counsel's Office, prior to the public meeting if auxiliary aids or services are needed at (202) 874–5200.

The Task Force will hold a second public meeting, focused on privacy and other issues, on July 17, 1997. Details concerning the time and place of this meeting will appear in a subsequent **Federal Register** notice.

Dated: April 14, 1997.

Eugene A. Ludwig,

Comptroller of the Currency and Chairman, Consumer Electronic Payments Task Force.

[FR Doc. 97–10027 Filed 4–17–97; 8:45 am]

BILLING CODE 4810–33–P

DEPARTMENT OF THE TREASURY

Bureau of the Public Debt

Proposed Collection: Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A). Currently the Bureau of the Public Debt within the Department of the Treasury is soliciting comments concerning the Certificate of Ownership of United States Bearer Securities.

DATES: Written comments should be received on or before June 17, 1997, to be assured of consideration.

ADDRESSES: Direct all written comments to Bureau of the Public Debt, Vicki S. Thorpe, 200 Third Street, Parkersburg, WV 26106–1328.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Vicki S. Thorpe, Bureau of the Public Debt, 200 Third Street, Parkersburg, WV 26106–1328, (304) 480–6553.

SUPPLEMENTARY INFORMATION:

Title: Certificate of Ownership of United States Bearer Securities.

OMB Number: 1535–0102.

Form Number: PD F 1071.

Abstract: The information is requested to establish ownership and support a request for payment.

Current Actions: None.

Type of Review: Extension.

Affected Public: Individuals or businesses.

Estimated Number of Respondents: 1,000.

Estimated Time Per Respondent: 30 minutes.

Estimated Total Annual Burden Hours: 500.

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.

Date: April 14, 1997.

Vicki S. Thorpe,

Manager, Graphics, Printing and Records Branch.

[FR Doc. 97–10062 Filed 4–17–97; 8:45 am]

BILLING CODE 4810–39–P

DEPARTMENT OF THE TREASURY

Bureau of the Public Debt

Proposed Collection; Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A). Currently the Bureau of the Public Debt within the Department of the Treasury is soliciting comments concerning the Request By Fiduciary For Reissue of United States Savings Bonds/Notes.

DATES: Written comments should be received on or before June 17, 1997, to be assured of consideration.

ADDRESSES: Direct all written comments to Bureau of the Public Debt, Vicki S. Thorpe, 200 Third Street, Parkersburg, WV 26106–1328.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Vicki S. Thorpe, Bureau of the Public Debt, 200 Third Street, Parkersburg, WV 26106–1328, (304) 480–6553.

SUPPLEMENTARY INFORMATION:

Title: Request By Fiduciary For Reissue Of United States Savings Bonds/Notes.

OMB Number: 1535–0012.

Form Number: PD F 1455.

Abstract: The information is requested to support a request for reissue by the fiduciary of a decedent's estate.

Current Actions: None.

Type of Review: Extension.

Affected Public: Individuals or businesses.

Estimated Number of Respondents: 72,000.

Estimated Time Per Respondent: 30 minutes.

Estimated Total Annual Burden Hours: 36,000.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: April 14, 1997.

Vicki S. Thorpe,

Manager, Graphics, Printing and Records Branch.

[FR Doc. 97–10063 Filed 4–17–97; 8:45 am]

BILLING CODE 4810–39–P

federal register

Friday
April 18, 1997

Part II

Architectural and Transportation Barriers Compliance Board

36 CFR Part 1193

Telecommunications Act Accessibility Guidelines; Proposed Rule

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

36 CFR Part 1193

[Docket No. 97–1]

RIN 3014–AA19

Telecommunications Act Accessibility Guidelines

AGENCY: Architectural and Transportation Barriers Compliance Board.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Architectural and Transportation Barriers Compliance Board (Access Board) proposes guidelines for accessibility, usability, and compatibility of telecommunications equipment and customer premises equipment covered by the Telecommunications Act of 1996. The Act requires manufacturers of telecommunications equipment and customer premises equipment to ensure that the equipment is designed, developed, and fabricated to be accessible to and usable by individuals with disabilities, if readily achievable. When it is not readily achievable to make the equipment accessible, the Act requires manufacturers to ensure that the equipment is compatible with existing peripheral devices or specialized customer premises equipment commonly used by individuals with disabilities to achieve access, if readily achievable. The guidelines will assist manufacturers to comply with the Act.

DATES: Comments should be received by June 2, 1997, but late comments will be considered to the extent practicable.

ADDRESSES: Comments should be sent to the Office of Technical and Information Services, Architectural and Transportation Barriers Compliance Board, 1331 F Street NW., suite 1000, Washington, DC 20004–1111. To facilitate posting comments on the Board's Internet site, commenters are requested to submit comments in electronic format, preferably as a Word or WordPerfect file, either by e-mail or on disk. Comments sent by e-mail will be considered only if they include the full name and address of the sender in the text. E-mail comments should be sent to docket@access-board.gov. Comments will be available for inspection at the above address from 9:00 a.m. to 5:00 p.m. on regular business days.

FOR FURTHER INFORMATION CONTACT: Dennis Cannon, Office of Technical and Information Services, Architectural and Transportation Barriers Compliance Board, 1331 F Street, NW., suite 1000, Washington, DC 20004–1111. Telephone number (202) 272–5434 extension 35 (voice); (202) 272–5449 (TTY). Electronic mail address: cannon@access-board.gov.

SUPPLEMENTARY INFORMATION:

Availability of Copies and Electronic Access

Single copies of this publication may be obtained at no cost by calling the Access Board's automated publications order line (202) 272–5434, by pressing 1 on the telephone keypad, then 1 again, and requesting publication S–33 (Telecommunications Act Accessibility Guidelines Notice of Proposed Rulemaking). Persons using a TTY should call (202) 272–5449. Please record a name, address, telephone number and request publication S–33. This document is available in alternate formats upon request. Persons who want a copy in an alternate format should specify the type of format (cassette tape, Braille, large print, or computer disk). This document is also available on the Board's Internet site (http://www.access-board.gov/rules/telenprm.htm).

This proposed rule is based on recommendations of the Board's Telecommunications Access Advisory Committee. The report can be obtained by contacting the Access Board and requesting publication S–32. The report is also available on the Board's Internet site (http://www.access-board.gov/pubs/taacrpt.htm).

Background

On February 8, 1996, the President signed the Telecommunications Act of 1996. The Architectural and Transportation Barriers Compliance Board (Access Board) is responsible for developing accessibility guidelines in conjunction with the Federal Communications Commission (FCC) under section 255(e) of the Act for telecommunications equipment and customer premises equipment.

Section 255 provides that a manufacturer of telecommunications equipment or customer premises equipment shall ensure that the equipment is designed, developed, and fabricated to be accessible to and usable by individuals with disabilities, if readily achievable. A provider of telecommunications services shall ensure that the service is accessible to and usable by individuals with disabilities, if readily achievable. Whenever either of these are not readily achievable, such a manufacturer or provider shall ensure that the equipment or service is compatible with existing peripheral devices or specialized customer premises equipment commonly used by individuals with disabilities to achieve access, if readily achievable. Section 255(f) provides that the FCC shall have exclusive jurisdiction in any enforcement action under section 255. It also limits an individual's private right of action to enforce any requirement of section 255 or any regulation issued pursuant to section 255.

The Telecommunications Act requires the Board's accessibility guidelines to be issued by August 8, 1997. The Board is also required to review and update the guidelines periodically. The Board's guidelines for telecommunications equipment and customer premises equipment are required to principally address the access needs of individuals with disabilities affecting hearing, vision, movement, manipulation, speech, and interpretation of information.

This proposed rule is based on recommendations of the Telecommunications Access Advisory Committee (Committee or TAAC). The Committee was convened by the Access Board in June 1996 to assist the Board in fulfilling its mandate under section 255.

On May 24, 1996, the Access Board published a notice appointing members to the Committee. 61 FR 26155 (May 24, 1996). Between June 1996 and January 1997, the Committee held six meetings, each of three working days in length, during which members worked to develop recommendations for implementing requirements under section 255. In selecting members of the Committee, the Access Board sought to ensure representation from all parties interested in the promulgation of telecommunications accessibility guidelines. The Committee was composed of representatives of manufacturers of telecommunications equipment and customer premises equipment; manufacturers of specialized customer premises equipment and peripheral devices; manufacturers of software; organizations representing the access needs of individuals with disabilities; telecommunications providers and carriers; and other persons affected by the guidelines.

The following organizations served on the Committee:

American Council of the Blind
American Foundation for the Blind
American Speech-Language Hearing Association

Arkenstone
AT&T
Cellular Telecommunications Industry Association
Consumer Action Network and the Alexander Graham Bell Association for the Deaf
Consumer Electronics Manufacturers Association
Council of Organizational Representatives
Ericsson
Gallaudet University
Inclusive Technologies
Lucent Technologies
Massachusetts Assistive Technology Partnership
Microsoft Corporation
Motorola
National Association of State Relay Administration
National Federation of the Blind
NCR Corporation
Netscape Communications
Northern Telecom
NYNEX Corporation
Pacific Bell
Pennsylvania Citizens Consumer Council
Personal Communications Industry Association
RESNA
Self Help for Hard of Hearing People
Siemens Business Communications
Telecommunications Industry Association
Trace Research and Development Center
United Cerebral Palsy Associations
United States Telephone Association
World Institute on Disability

Each organization selected a principal member and an alternate. The Committee formed several subcommittees and task groups in which alternates and nonmembers were invited to participate. As a result, the actual group which developed the recommendations was broader than the formal membership. The result of the Committee's work was a report containing recommendations to the Access Board for implementing section 255 of the Telecommunications Act.

This proposed rule is based primarily on the recommendations of chapters four ''Process Guidelines'' and five ''Performance Guidelines'' of the Committee report. In preparing its recommendations, the Committee recognized that evolving telecommunications technologies often make it difficult to distinguish whether a product's functions and interfaces are the result of the design of the product itself, or are the result of a service provider's software or even an information service format. The Committee's recommendations also did not differentiate between hardware and software implementations of a product's functions or features, nor was any distinction made between functions and features built into the product and those that may be provided from a remote server over the network. In response to a request from the Access Board, the FCC issued a Notice of Inquiry (FCC 96–382, September 17, 1996) to develop a record to assist the Board in the development of accessibility guidelines. In the Notice of Inquiry, the FCC also sought comment on issues raised when accessibility issues involve both telecommunications equipment and services.

The Committee report provides a broad overview of accessibility to telecommunications equipment and customer premises equipment and is intended to stand alone as a model for achieving such access. It, therefore, covers issues that go beyond the Board's jurisdiction. The report provides advice to the FCC in the areas of compliance and telecommunications service delivery, as well as recommendations to manufacturers, engineers, and design professionals.

The report recommends the establishment of a cooperative dialogue among manufacturers, product developers, engineers, academicians, individuals with disabilities, and others involved in the telecommunications equipment design and development process. The report also recommends the creation of a technical subgroup of a professional society which could train and eventually certify ''accessibility specialists'' or engineers. As a result of work by several Committee members, such a group has already been created. The National Association of Radio and Telecommunications Engineers recently formed the Association of Accessibility Engineering Specialists. This association is expected to sponsor conferences and workshops, disseminate information, and suggest course curricula for future training and certification. The association could also serve as an advisory resource to the FCC to help speed resolution of complaints.

With respect to complaints, the Committee report recommends that a Declaration of Conformity accompany each product. Such a Declaration, among other things, would state that the product has met the requirements of section 255 and provide information on how to contact the manufacturer to obtain information about the product's accessibility features. Since enforcement for section 255 is under the exclusive jurisdiction of the FCC, this rule does not address the Declaration of Conformity.

The Committee's recommendations also suggest that a ''Market Monitoring'' report be issued periodically to address the state of the art of customer premises equipment and telecommunications equipment and the progress of making this equipment accessible. The Access Board intends to compile such a report on a regular basis and make it available to the public.

The provisions of section 255 recognize that individuals with disabilities need improved access to telecommunications technology. Section 255 places an obligation on manufacturers to consider accessibility when designing, developing, and fabricating telecommunications equipment and customer premises equipment. Among other things, these proposed guidelines set forth factors to be considered throughout manufacturing processes to achieve accessibility. Because the pace of technological change is so rapid, it is expected that many aspects of accessibility which are not readily achievable today may become readily achievable in the future.

An important approach reflected in these proposed guidelines and in designing accessible products is called Universal Design. This is the practice of designing products so that they are usable by the broadest possible audience. Products designed in this manner are more usable by people with a wide range of abilities without reducing the product's usability or attractiveness for mass or core audiences. With Universal Design, the goal is to ensure maximum flexibility and ease of use for as many individuals as possible.

In the past, some products or designs developed with Universal Design principles have attracted a wider audience than may have otherwise been attracted by the product. For example, curb ramps, originally designed to ensure wheelchair access, are routinely used by people with strollers, bicyclists, and delivery personnel. Similarly, closed captioning on television programs, created for the benefit of individuals who are deaf or hard of hearing, sometimes is used in airports, restaurants, and other noisy locations where it is difficult to hear the audio portion of the program. Similarly, voice activated telephone dialers not only enable individuals with limited hand and finger mobility to place calls, they allow drivers to place calls while driving without requiring them to take their hands off the steering wheel. Also, vibrating pagers, which are accessible to deaf and hard of hearing persons, can alert users to calls without the audible

tones interrupting business meetings. Finally, an audio adjunct to caller ID not only enables individuals who are blind to learn the identity of a caller, but enables people eating dinner to identify callers without leaving the dinner table.

Manufacturers are increasingly finding that by making a product accessible for people with disabilities, the product becomes more usable by other customers as well. For example, a recent article (Murphy, ''Investing in Voice'', Wired, March 1997, at 100) highlights the growing importance of voice recognition technology. At least two of the companies cited for leading edge advances in this field originally developed the technology as peripheral devices and software to provide access for individuals with disabilities. However, it was quickly discovered that other customers benefitted from the change. Clearly, Universal Design works in both directions. Some members of TAAC reported that adding accessibility features (e.g., adding voice to caller ID) increased sales.

Question 1: The Board seeks any other available information on whether adding accessibility features has actually increased sales.

The Board encourages the use of Universal Design in the manufacture of telecommunications equipment and customer premises equipment. For some time, Pacific Bell has had a program to consider Universal Design in products and services, and Bell Atlantic and NYNEX recently held a joint press conference to announce their plans to embrace such principles. They stated that, if incorporated early enough in the design process, the cost of accessibility was insignificant.

In developing its recommendations to the Board, the Committee recommended that accessibility guidelines required by section 255, adhere to the following principles:

- The guidelines must be specific enough that one can determine when they have been followed.
- The guidelines must be sufficiently flexible to give manufacturers the freedom to innovate.
- Products should be made accessible to and usable by people with as wide a range of abilities or disabilities as is readily achievable.
- Whenever it is not readily achievable to make a product accessible, the manufacturer or provider of that product, shall ensure that the product is compatible with existing peripheral devices or specialized customer premises equipment commonly used by individuals with disabilities to achieve access, if readily achievable.
- It may not be readily achievable to make every type of product accessible for every type of disability using present technology; future technologies may result in accessibility where it is not currently readily achievable.
- Because telecommunications technology is changing so rapidly, it is expected that the guidelines will need to be updated on a regular basis.
- Guidelines must reflect the fact that computer, telephone, information, and tele-transaction systems may converge, such that single devices may simultaneously provide all of these functions.
- Guidelines should address process, performance, and compliance and coordination issues.

In proposing these guidelines, the Board believes that it has adhered to the above principles, within the framework of the Board's statutory authority.

Section-by-Section Analysis

This section of the preamble contains a concise summary of the rule which the Access Board is proposing. The text of the proposed rule follows this section. An appendix provides examples of non-mandatory strategies for addressing these guidelines.

Subpart A—General

Section 1193.1 Purpose

This section describes the purpose of the guidelines which is to provide specific guidance for the accessibility, usability, and compatibility of telecommunications equipment and customer premises equipment covered by the Telecommunications Act of 1996. Section 255(b) of the Act requires that manufacturers of telecommunications equipment or customer premises equipment shall ensure that the equipment is designed, developed, and fabricated to be accessible to and usable by individuals with disabilities, if readily achievable. Section 255(d) of the Act requires that whenever it is not readily achievable to make a product accessible, a manufacturer shall ensure that the equipment is compatible with existing peripheral devices or specialized customer premises equipment commonly used by individuals with disabilities to achieve access, if readily achievable. The requirement for the Board to issue accessibility guidelines is contained in section 255(e) which specifies the issuance of guidelines by August 8, 1997.

Section 1193.2 Scoping

This section provides requirements for accessibility, usability, and compatibility of telecommunications equipment and customer premises equipment.

The guidelines apply to telecommunications equipment and customer premises equipment required by section 255(b) to be designed, developed, and fabricated to be accessible to and usable by individuals with disabilities, if readily achievable. By grouping ''design, develop and fabricate'' together, section 255(b) suggests that the requirement applies to new equipment designed, developed and fabricated after February 8, 1996. The FCC agrees that the requirement of section 255(b) became effective on that date. See Notice of Inquiry, FCC 96–382, page 3 (September 17, 1996). The application of these guidelines to new products designed, developed and fabricated between the effective date of the Act and the effective date of the Board's final guidelines is a matter for the FCC to determine.

These guidelines apply to all telecommunications equipment and customer premises equipment. Some members of the TAAC, and some comments to the FCC's Notice of Inquiry, argued that ''equipment'' can be interpreted as either singular or plural, therefore, allowing accessibility to be applied on a ''product line'' basis rather than to individual products. Manufacturers create multiple products in the same product line in order to offer customers a choice of options and features. The Board finds no evidence in the statute or its legislative history that Congress intended individuals with disabilities to have fewer choices in selecting products than the general public. Therefore, all products are subject to these guidelines.

Manufacturers periodically change, upgrade, or distribute new releases of existing products. Therefore, this section requires that when these events occur, manufacturers shall evaluate the accessibility features, and incorporate those features into existing products when readily achievable. Minor or insubstantial changes that do not affect functionality need not trigger accessibility reviews pursuant to these guidelines.

Section 1193.3 Definitions

With a few exceptions discussed below, the definitions in this section are the same as the definitions used in the Telecommunications Act of 1996.

Accessible. Subpart C contains the minimum requirements for accessibility. Therefore, the term accessible is defined as meeting the provisions of Subpart C.

Alternate Formats. Certain product information is required to be made

available in alternate formats to be usable by individuals with various disabilities. Common forms of alternate formats are Braille, large print, ASCII text, and audio cassettes. Further discussion of alternate formats is provided in section 1193.25 and in the appendix.

Alternate Modes. Alternate modes are different means of providing information to users of products including product documentation and information about the status or operation of controls. For example, if a manufacturer provides product instructions on a video cassette, captioning would be required. Further discussion of alternate modes is provided in sections 1193.25, 1193.31 through 1193.37, and in the appendix.

Compatible. Subpart D contains the minimum requirements for compatibility. Therefore, the term compatible is defined as meeting the provisions of Subpart D.

Customer Premises Equipment. This definition is taken from the Telecommunications Act. Equipment employed on the premises of a person, which can originate, route or terminate telecommunications, is customer premises equipment. ''Person'' is a legal term meaning an individual, corporation, or organization.

Customer premises equipment can also include certain specialized customer premises equipment which are directly connected to the telecommunications network and which can originate, route, or terminate telecommunications. Equipment with such capabilities is covered by section 255(b) and is required to meet the accessibility requirements of Subpart C, if readily achievable, or to be compatible with other specialized customer premises equipment and peripheral devices according to Subpart D, if readily achievable. Customer premises equipment may also include wireless sets.[1]

Manufacturer. This definition is provided as a shorthand reference for a manufacturer of telecommunications equipment and customer premises equipment.

Peripheral Devices. Peripheral devices are referenced in section 255(d) of the Act, as equipment commonly used by individuals with disabilities to achieve access to telecommunications equipment and customer premises equipment. No definition is provided in the Act but the term peripheral devices commonly refers to audio amplifiers, ring signal lights, some TTYs, refreshable Braille translators, text-to-speech synthesizers and similar devices. These devices must be connected to a telephone or other customer premises equipment to enable an individual with a disability to originate, route, or terminate telecommunications. Peripheral devices cannot perform these functions on their own.

Product. This definition is provided as a shorthand reference for telecommunications equipment and customer premises equipment.

Readily Achievable. The Telecommunications Act defines ''readily achievable'' as having the same meaning as in the Americans with Disabilities Act (ADA) but the ADA applies the concept in an entirely different context than the Telecommunications Act. The ADA applies the term to the removal of architectural barriers in an existing building or facility, whereas the Telecommunications Act applies the term to the design, development and fabrication of new telecommunications equipment and customer premises equipment. The factors which apply in the ADA context may not be appropriate here. Section 301(9) of the ADA defines readily achievable as follows:

''The term ''readily achievable'' means easily accomplishable and able to be carried out without much difficulty or expense. In determining whether an action is readily achievable, factors to be considered include:

(A) the nature and cost of the action needed under this Act;

(B) the overall financial resources of the facility or facilities involved in the action; the number of persons employed at such facility; the effect on expenses and resources, or the impact otherwise of such action upon the operation of the facility;

(C) the overall financial resources of the covered entity; the overall size of the business of a covered entity with respect to the number of its employees; the number, type, and location of its facilities; and

(D) the type of operation or operations of the covered entity, including the composition, structure, and functions of the workforce of such entity; the geographic separateness, administrative or fiscal relationship of the facility or facilities in question to the covered entity.'' (42 U.S.C. 12181(9))

Since the ADA definition is intended to apply to the removal of architectural barriers in existing buildings and facilities, the factors relate to the cost of alterations, the financial resources of the particular entity and its relationship to a parent entity, and the corporate structure which might affect the allocation of resources.

In implementing title III of the ADA, the Department of Justice (DOJ) adopted a slightly different wording for its definition, based, in part, on the extensive legislative history of the ADA. The DOJ definition of readily achievable is as follows:

''Readily achievable means easily accomplishable and able to be carried out without much difficulty or expense. In determining whether an action is readily achievable factors to be considered include—

(1) The nature and cost of the action needed under this part;

(2) The overall financial resources of the site or sites involved in the action; the number of persons employed at the site; the effect on expenses and resources; legitimate safety requirements that are necessary for safe operation, including crime prevention measures; or the impact otherwise of the action upon the operation of the site;

(3) The geographic separateness, and the administrative or fiscal relationship of the site or sites in question to any parent corporation or entity;

(4) If applicable, the overall financial resources of any parent corporation or entity; the overall size of the parent corporation or entity with respect to the number of its employees; the number, type, and location of its facilities; and

(5) If applicable, the type of operation or operations of any parent corporation or entity, including the composition, structure, and functions of the workforce of the parent corporation or entity.'' (28 CFR 36.104)

The DOJ definition makes clear the connection between parent entity and subdivision and includes safety considerations related to the possible disruption of construction or the inability to comply with the strict requirements of an accessibility standard.

Substituting ''manufacturer'' for ''building'', ''facility'', or ''site'' makes partial sense but does not clarify how the factors would be applied to the telecommunications industry. For one thing, the DOJ rule makes it clear that, in evaluating whether a particular structural modification is readily achievable, the covered entity starts with the alteration provisions of the ADA Accessibility Guidelines (ADAAG). Those provisions include the concept of ''technical infeasibility'' which relates to effects on the existing building's structural frame. The factors in either of the above definitions do not explicitly include technical

[1] See Declaratory Ruling, DA 93–122 , 8 FCC Rcd 6171, 6174 (Com. Car. Bur. 1993) *(TOCSIA Declaratory Ruling), recon. pending* (finding that definition of ''premises'' includes ''locations'' such as airplanes, trains and rental cars, despite the fact that they are mobile).

infeasibility. The TAAC, therefore, considered explicitly including the concept of ''technologically feasible'' as a factor in determining what is readily achievable.

The definition of readily achievable in section 1193.3 includes only the first phrase from the ADA definition. The Board intends to include an appendix section in the final rule containing a discussion of factors for determining when an action is readily achievable. The FCC asked questions in its Notice of Inquiry regarding the readily achievable factors and their application to the telecommunications industry and intends to issue guidance on the application of the readily achievable limitation in the telecommunications context. The Board will coordinate its rulemaking with any FCC proceeding.

Question 2: The Board seeks comment regarding the definition of readily achievable in the telecommunications context. (a) What factors translate from the ADA or DOJ definition of readily achievable, which address the built environment, to the telecommunications industry? (b) Both the ADA and the DOJ definitions specify that overall resources and overall size of a covered entity are factors in determining whether an action is readily achievable. Should a large company be expected to provide more accessibility in its products than a small company with limited production capacity or narrow design experience? (c) If small companies are expected to provide less accessibility in its products than large companies, would small companies have a competitive advantage in the marketplace? (d) Is the concept of ''technologically feasible'' an appropriate factor? (e) In the ADA context, ''resources'' refer only to financial resources but are there other resources in the telecommunications context, such as information, design expertise, knowledge of specific manufacturing techniques or procedures, or availability of certain kinds of technological solutions? (f) Finally, are there other factors to be considered in defining ''readily achievable'' in these guidelines? Since the success of these guidelines depends largely upon the term ''readily achievable'' the Board is concerned that this term is appropriately applied. Further discussion of these issues is provided in section 1193.21.

Specialized Customer Premises Equipment. Section 255(d) of the Telecommunications Act requires that whenever it is not readily achievable to make a product accessible, a manufacturer shall ensure that the equipment is compatible with existing peripheral devices or specialized customer premises equipment commonly used by individuals with disabilities to achieve access, if readily achievable. The Telecommunications Act does not define specialized customer premises equipment. As discussed above, the Act defines customer premises equipment as ''equipment employed on the premises of a person (other than a carrier) to originate, route, or terminate telecommunications''. The Board views specialized customer premises equipment as a subset of customer premises equipment.

The Act and its legislative history do not make it clear whether Congress intended to treat specialized customer premises equipment differently from peripheral devices. The Act appears to treat this equipment in the same manner as peripheral devices. However, certain specialized equipment, such as direct-connect TTYs, can originate, route, or terminate telecommunications without connection to anything else. Equipment which can independently originate, route or terminate telecommunications is customer premises equipment and must meet the requirements of Subpart C, if readily achievable. Where accessibility is not readily achievable, customer premises equipment (including specialized customer premises equipment) must be compatible with other devices.

If specialized customer premises equipment can originate, route, or terminate telecommunications, it appears that for purposes of these guidelines, the equipment should be treated the same as customer premises equipment.

Question 3: The Board seeks comment on how specialized customer premises equipment should be treated. Should this equipment be treated the same as peripheral devices or treated differently than peripheral devices?

TTY. This definition is taken from the ADA Accessibility Guidelines, primarily for consistency with other statutes and regulations.

Usable. This definition is included to convey the important point that products which have been designed to be accessible are usable only if an individual has adequate information on how to operate the product. Further discussion of usability is provided in section 1193.25.

Subpart B—General Requirements

Section 1193.21 Accessibility and Compatibility

This section provides that where readily achievable, telecommunications equipment and customer premises equipment shall comply with the specific technical provisions of Subpart C. Where it is not readily achievable to comply with Subpart C, telecommunications equipment and customer premises equipment shall comply with the provisions of Subpart D, if readily achievable. This is a restatement of the Act and sets forth the readily achievable limitation which applies to all subsequent sections of these guidelines.

It is the responsibility of a manufacturer to determine whether compliance with any particular provision is readily achievable. Some of the factors which might be considered are those discussed under § 1193.3 in the definition of readily achievable. The possible factors include the cost of compliance, balanced with the financial resources of the manufacturer, taking into account whether compliance is technologically feasible. The resources to be considered might include those of any parent entity, depending on the extent to which those resources can be made available to the subsidiary.

In the telecommunications industry, the ''resources'' to be considered may be more than financial. Resources could include design expertise, knowledge of specific manufacturing techniques, or availability of certain kinds of technological solutions. On the other hand, absence of direct experience with, or knowledge of, accessibility solutions is not necessarily automatic grounds for determining that an action is not readily achievable. Manufacturers are expected to seek out information and develop expertise. In addition, manufacturers may be able to utilize expertise from outside sources rather than developing it in-house. The U.S. Department of Education's National Institute of Disability and Rehabilitation Research funds a research center focusing on access to telecommunications. Currently, the grantees consist of the Trace Research and Development Center, Gallaudet University, and the World Institute on Disability. The Trace Center maintains a site on the Internet (http://trace.wisc.edu/world/telecomm/) where information on accessible design solutions can be found. Some of those design solutions which have already been developed can be directly incorporated in telecommunications equipment and customer premises equipment. Thus, a manufacturer is not limited to relying only on its own resources to comply with these guidelines.

Since the provisions of these guidelines are largely performance based, a particular design solution may not be known at the outset, and it is

difficult to assess what it might cost before it is developed. Also, it may be difficult to assess the cost of information acquisition. For example, if a current employee is given the task of becoming familiar with access technology, and can do so with minimal negative impact on other work, such information acquisition is not an additional cost borne by the manufacturer. In fact, such acquisition is a positive asset to the company because it improves its competitive advantage. On the other hand, if this activity displaces other tasks, especially if another person must be hired, the cost of the new employee may be a direct cost attributable to the information task, insofar as the new employee's time is compensating for the additional work load. Moreover, such costs may not be associated with a particular product since the costs are part of future product design. Some of those costs are also not associated with this rule since the statute has already imposed them.

Question 4: The Board, seeks any information on the incremental costs which this proposed rule might add beyond normal product development costs and those already imposed by the statute.

In addition to available resources, the application of the readily achievable limitation might depend on what is technologically feasible. Since technology is constantly changing, what is not readily achievable now may be in the future. As a result, the evaluation of what is readily achievable is an ongoing activity. It is critical, therefore, that manufacturers incorporate accessibility consideration as early as possible into the design process. A design solution may be readily achievable if incorporated early enough, but may not be later in the process. Further discussion of these issues is provided in § 1193.23.

Furthermore, technological change is not the only factor that determines whether something is readily achievable. As the manufacturer's knowledge base and experience increase, certain things will become easier. Thus, some design solutions may not be readily achievable, not because the technology is lacking, but because the manufacturer has not yet fully implemented its design process.

Section 1193.23 Product Design, Development, and Evaluation

This section requires manufacturers to evaluate the accessibility, usability, and compatibility of telecommunications equipment and customer premises equipment and incorporate such evaluation throughout product design, development, fabrication, and delivery, as early and consistently as possible. Manufacturers are required to develop a process to ensure that barriers to accessibility, usability, and compatibility are identified throughout product design and development, from conceptualization to distribution. The details of such a process will vary from one company to the next, so this section does not specify its structure or specific content. Instead, this section sets forth a series of factors that a manufacturer must consider in developing such a process. How, and to what extent, each of the factors is incorporated in a specific process is up to the manufacturer, so long as due consideration is given to each. This section does not require that such a process be submitted to any entity or that it even be in writing. The requirement is outcome-oriented, and a process could range from purely conceptual to formally documented, as suits the manufacturer.

In particular, a manufacturer must consider how it could include individuals with disabilities in target populations of market research. In this regard, it is important to realize that any target population for which a manufacturer might wish to focus a product contains individuals with disabilities, whether it is teenagers, single parents, women between the ages of 25 and 40, or any other subgroup, no matter how narrowly defined. Any market research which excludes individuals with disabilities will be deficient.

Similarly, including individuals with disabilities in product design, testing, pilot demonstrations, and product trials will encourage appropriate design solutions to accessibility barriers. In addition, such involvement may result in designs which have an appeal to a broader market.

Working cooperatively with appropriate disability-related organizations is a key recommendation of the TAAC and is one of the factors that manufacturers must consider in their product design and development process. The primary reason for working cooperatively is to exchange relevant information. This is a two-way process since the manufacturer will get information on barriers to the use of its products, and may also be alerted to possible sources for solutions. The process will also serve to inform individuals with disabilities about what is readily achievable. In addition, manufacturers will have a conduit to a source of subjects for market research and product trials.

Finally, manufacturers must consider how they can make reasonable efforts to validate any unproven access solutions through testing with individuals with disabilities or with appropriate disability-related organizations that have established expertise with individuals with disabilities. It is important to obtain input from persons or organizations with established expertise to ensure that input is not based merely on individual preferences or limited experience.

Section 1193.25 Information, Documentation, and Training

Paragraph (a) of this section requires that manufacturers provide access to information and documentation. This information and documentation includes user guides, installation guides, and product support communications, regarding both the product in general and the accessibility features of the product. Information and documentation should be provided to people with disabilities at no additional charge. Alternate formats or alternate modes of this information is also required to be available. Manufacturers are also required to ensure usable customer support and technical support, upon request, in the call centers and service centers, which support their products.

The specific alternate format or mode to be provided is that which is usable by the customer. Obviously, it does no good to provide documentation in Braille to someone who does not read it. While the user's preference is first priority, manufacturers are not expected to stock copies of all materials in all possible alternate formats and may negotiate with users to supply information in other formats. For example, Braille is extremely bulky and can only be read by a minority of individuals who are blind. Audio cassettes are usable by more people but are difficult for users to find a specific section or to skip from one section to the next. Documentation provided on disk in ASCII format can often be accessed by computers with appropriate software, but is worthless if the information sought is how to set up the computer in the first place. Of course, if instructions are provided by videotape, appropriate audio description would be needed for persons who are blind and captions would be needed for persons who are deaf or hard of hearing.

Ensuring usable customer support may mean providing a TTY number, since the usual complicated voice menu systems cannot be used by individuals who are deaf. Also, if such menu

systems require quick responses, they may not be usable by persons with other disabilities. See the appendix for guidance on how to provide information in alternate formats and modes.

Paragraph (b) requires manufacturers to include in general product information the name and telephone number of a contact point for obtaining the information required by paragraph (a). The name of the contact point can be an office of the manufacturer rather than an individual.

Paragraph (c) requires manufacturers to provide employee training appropriate to an employee's function. In developing, or incorporating existing training programs, consideration shall be given to the following factors: Accessibility requirements of individuals with disabilities; means of communicating with individuals with disabilities; commonly used adaptive technology used with the manufacturer's products; designing for accessibility; and solutions for accessibility and compatibility.

Obviously, not every employee needs training in all factors. Designers and developers need to know about barriers and solutions. Technical support and sales personnel need to know how to communicate with individuals with disabilities and what common peripheral devices are compatible with the manufacturer's products. Other employees may need a combination of this training. No specific program is required by this section and the manufacturer is free to address the needs in whatever way it sees fit, as long as the training results in the provision of effective information.

Section 1193.27 Information Pass Through

This section requires telecommunications equipment and customer premises equipment to pass through all codes, translation protocols, formats or any other information necessary to provide telecommunications in an accessible format. In particular, signal compression technologies shall not remove information needed for access or shall restore it upon decompression. Some transmissions include codes or tags embedded in ''unused'' portions of the signal to provide accessibility. For example, closed captioning information is usually included in portions of a video signal not seen by users without decoders. This section prohibits telecommunications equipment and customer premises equipment from stripping out such information or requires the information to be restored at the end point.

Section 1193.29 Prohibited Reduction of Accessibility, Usability, and Compatibility

This section provides that no change shall be undertaken which decreases or has the effect of decreasing the accessibility, usability, and compatibility of telecommunications equipment or customer premises equipment to a level less than the requirements of these guidelines.

Subpart C—Requirements for Accessibility

Section 1193.31 Accessibility

This section provides that, subject to the general provisions of Subpart B, manufacturers must design, develop and fabricate their products to meet the specific requirements of §§ 1193.33, 1193.35 and 1193.37.

Sections 1193.35 and 1193.37 are organized according to the recommendations contained in chapter five ''Performance Guidelines'' of the TAAC report and are divided according to input or output. This organization of functions is consistent with common computer functionality but may not be the most appropriate organization for designers and developers to apply.

Question 5: Other ways of organizing functions may be more appropriate. The Board seeks comment on other approaches to organizing functions and requirements that might be easier to understand and implement.

Section 1193.33 Redundancy and Selectability

This section requires that products incorporate multiple modes for input and output functions and that the user be able to select the desired mode. Since there is no single interface design that accommodates all disabilities, accessibility is likely to be accomplished through product designs which emphasize interface flexibility to maximize user configurability and multiple, alternative and redundant modalities of input and output.

Selectability is especially important where an accessibility feature for one group of individuals with disabilities may conflict with an accessibility feature for another. A conflict may arise between captions, provided for persons who are deaf or hard of hearing, and a large font size, for persons with low vision. The resulting caption would either be so large that it obscures the screen or need to be scrolled or displayed in segments for a very short time. This potential problem could be solved by allowing the user to switch one of the features on and off. Of course, it may not be readily achievable to provide all input and output functions in a single product or to permit all functions to be selectable. For example, switching requires control mechanisms which must be accessible and it may be more practical to have multiple modes running simultaneously. Nevertheless, it is preferable for the user to be able to turn on or off a particular mode.

Section 1193.35 Input, Controls, and Mechanical Functions

This section requires product input, control and mechanical functions to be locatable, identifiable, and operable through at least one mode which meets each of the following paragraphs. This means each of the product's input, control and mechanical functions must be evaluated against each of paragraphs (a) through (i) to ensure that there is at least one mode that meets each of those requirements. Of course, there may be one mode which meets more than one of the specific provisions. This section does not specify how the requirement is to be met but only specifies the outcome. It provides a ''checklist'' for evaluating products. The appendix to this rule contains a set of strategies which may help in developing solutions. In some cases, a particular strategy may be directly applicable while a different strategy may be a useful starting point for further exploration.

Paragraph (a) requires product input, control and mechanical functions to be locatable, identifiable, and operable through at least one mode without requiring the user to see. Individuals with severe visual disabilities or blindness cannot locate or identify controls, latches, or input slots by sight or operate controls that require sight. Touchscreens, visual indicators or prompts, and flat keypads with undifferentiated keys are all barriers to individuals who are blind. On the other hand, many software programs include a tone or chord to accompany on-screen displays or upon start-up which alert users about the status of the product. Some telephones provide an intermittent tone to indicate that a call is on hold (although a flashing light is frequently the only way to know which line is active on a multi-line phone, a condition which would not meet this requirement). Providing voice output for on-screen display messages would satisfy this provision.

Paragraph (b) requires product input, control and mechanical functions to be locatable, identifiable, and operable through at least one mode by individuals who have low vision but are not legally blind, and which does not rely on audio output. Visual acuity of

20/70 after correction is commonly regarded as the beginning of low vision; visual acuity of 20/200 after correction is the beginning of legal blindness; a field of vision of less than 20 degrees after correction also constitutes legal blindness. Individuals with visual disabilities often also have hearing disabilities, especially older individuals, and cannot rely on audio access modes commonly used by people who are blind. However, some strategies for making functions accessible to persons who are blind will also satisfy the requirements of this paragraph.

Paragraph (c) requires product input, control and mechanical functions to be locatable, identifiable, and operable through at least one mode that does not require user color perception. Many people have an inability to see or distinguish between certain color combinations. Others are unable to see color at all. This requirement does not mean that color should not be used, but that it not be the only means of identifying, locating or operating functions.

Paragraph (d) requires product input, control and mechanical functions to be locatable, identifiable, and operable through at least one mode without requiring the user to hear. Individuals who are deaf or hard of hearing cannot always locate or identify those controls or functions that require hearing.

Paragraph (e) requires product input, control and mechanical functions to be locatable, identifiable, and operable through at least one mode that does not require fine motor control or simultaneous actions. Individuals with tremor, cerebral palsy, paralysis, arthritis, or artificial hands may have difficulty operating systems which require fine motor control, assume a steady hand, or require two hands or fingers for operation, such as requiring two keys to be pushed simultaneously.

Paragraph (f) requires product input, control and mechanical functions to be locatable, identifiable, and operable through at least one mode that is operable with limited reach and strength. Individuals with high spinal cord injuries, arthritis, and other conditions may have difficulty operating controls which require reach or strength. This provision does not specify limits on reach or strength. The ADA Accessibility Guidelines specify that controls and operating mechanisms not require ''* * * tight grasping, pinching or twisting of the wrist'' and limits the force required to five pounds. See ADAAG section 4.27.4.

Question 6: The Board seeks comment on whether the ADAAG provisions regarding tight grasping, pinching or twisting of the wrist and the force required to operate controls, or some other provision, should be included in this paragraph.

Paragraph (g) requires product input, control and mechanical functions to be locatable, identifiable, and operable through at least one mode that does not require a sequential response within a three second period, or requires the response time to be selected or adjustable by the user over a wide range. Individuals with physical, sensory and cognitive disabilities may not be able to find, read and operate a control quickly. The three second time frame is derived from anecdotal evidence on the response time some individuals with disabilities need to activate sequential controls.

Question 7: The Board seeks comment on whether this three second period is adequate or whether some other time frame is more appropriate. If possible, please supply any information that supports this or any other time interval.

Paragraph (h) requires product input, control and mechanical functions to be locatable, identifiable, and operable through at least one mode that does not require speech. Products which require speech for operability, and which do not provide an alternate way to achieve the same function will not be usable by individuals who cannot speak or speak clearly.

Paragraph (i) requires product input, control and mechanical functions to be locatable, identifiable, and operable through at least one mode that minimizes the cognitive, memory, language, and learning skills required of the user to operate the product. Many individuals have reduced cognitive abilities either from birth, accident, illness, or aging. These include reduced memory, sequencing, reading, and interpretive skills.

Section 1193.37 Output, Displays, and Control Functions

Section 1193.37 applies to output, displays, and control functions which are necessary to operate products. This includes lights and other visual displays and prompts, alphanumeric characters and text, static and dynamic images, icons, screen dialog boxes, and tones and beeps which provide operating cues or control status.

Paragraph (a) requires voice communication to meet certain requirements for users of hearing aids and other similar technologies. Voice communication is the actual voice output from the transmission source, not the incidental operating sounds (e.g., tones, chords, and beeps) or synthetic speech generated by the product itself to provide information about operation or control status.

Paragraph (b)(1) requires that information which is presented visually also be available in auditory form. Some individuals have difficulty seeing or reading, or cannot see or read. The flashing buttons on a multi-line phone which indicate which lines are open or holding are particularly problematic for individuals who are blind. Also, on-screen dialogue boxes and error messages are not usable without additional output.

Paragraph (b)(2) requires that information which is provided through a visual display shall not require visual acuity better than 20/70 and shall not rely on audio.

Paragraph (b)(3) requires that text which is presented in a moving fashion also be available in a static presentation mode at the option of the user. Moving text can be an access problem because individuals with low vision, or people with physical or sensorimotor disabilities find it difficult or impossible to track moving text with their eyes. This provision does not apply to the text on a TTY since that text is controlled directly by the sender. A recipient who has difficulty perceiving moving text can ask the sender to type slower or pause periodically.

Paragraph (b)(4) requires that information which is provided auditorially be available in visual form and, where appropriate, in tactile form. Individuals who are deaf or hard of hearing may be unable to hear auditory output or to hear mechanical and other sounds that are emitted by a product which may be needed for its safe or effective operation.

Paragraph (b)(5) requires information which is provided auditorially to be available in enhanced auditory fashion (i.e., increased amplification, or increased signal-to-noise ratio). Individuals who are hard of hearing may prefer to use their residual hearing as an alternative to access strategies used by people who are deaf. The direct voice output of a caller is specified further in paragraphs (b)(9) and (b)(10).

Paragraph (b)(6) requires that flashing visual displays and indicators shall not exceed a frequency of 3 Hz to avoid triggering a seizure in an individual with photosensitive epilepsy. Individuals with photosensitive epilepsy can have a seizure triggered by displays which flicker or flash, particularly if the flash has a high intensity and is within certain frequency ranges. The maximum flash rate of 3 Hz is derived from research the Access Board sponsored on visual fire

alarms which typically use high intensity Xenon strobes.

Question 8: The Board seeks comment on whether the 3 Hz value is appropriate for these guidelines or whether some other value is more appropriate. If possible, please supply information that supports this or any other value.

Question 9: The TAAC also recommended a similar provision for non-inducement of seizures triggered by auditory stimuli. However, the Board does not have information to set the parameters for such a requirement. The Board seeks comment on whether such a requirement should be included and any information that supports a provision.

Paragraph (b)(7) requires products which use audio output modes, to have an industry standard connector for headphones or personal listening devices which cuts off the audio speakers when a handset is picked up or the headphones are plugged in. Individuals using the audio output mode, as well as individuals using a product with the volume turned up, need a way to limit the range of audio broadcast.

Paragraph (b)(8) requires that products shall not cause interference to hearing technologies (including hearing aids, cochlear implants, and assistive listening devices) which are used by a product user or bystanders. In the fall of 1995, the FCC formed a steering committee to initiate a summit on hearing aid compatibility and accessibility to digital wireless telecommunications. The purpose of this summit was to continue and formalize discussions among organizations representing people with hearing loss, hearing aid manufacturers, and the digital wireless telephone industry, with the ultimate goal of resolving the issues involved.

A summit meeting was held on January 3–4, 1996, in Washington, DC. At this summit meeting three working groups were formed. The long-term solutions user and bystander interference group reached a consensus that a standards project was needed to document the definition of and method of measurement for hearing aid compatibility and accessibility to wireless telecommunications.

Subsequently, the American National Standards Institute's (ANSI) C63 Committee was petitioned to undertake a joint standards project documenting the methods of measurement and defining the limits for hearing aid compatibility and accessibility to wireless telecommunications. At its April 1996 meeting, ANSI C63 established a task group under its subcommittee on medical devices to work toward the development of such standards. The C63.19 task group is continuing to develop its standard, C63.19–199X, American National Standard for Methods of Measurement for Hearing Aid Compatibility with Wireless Communications Devices. When the standard is completed, the Board intends to reference it in the appendix to these guidelines.

Paragraph (b)(9) requires products providing auditory output by an audio transducer which is normally held up to the ear to provide a means for effective wireless coupling to hearing aids. Generally, this means the earpiece generates sufficient magnetic field strength to induce an appropriate field in a hearing aid T-coil. The output in this case is the direct voice output of the transmission source, not the ''machine language'' such as tonal codes transmitted by TTYs.

Paragraph (b)(10) requires products to be equipped with volume control that provides an adjustable amplification ranging from 18–25 dB of gain. The gain is to the voice output intended to be heard by the listener, not Baudot, ASCII, or other machine codes. The proposed level of amplification is different from that required under the Hearing Aid Compatibility Act and the FCC's regulations. The FCC requires volume control that provides, through the receiver in the handset or headset of the telephone, 12 dB of gain minimum and up to 18 dB of gain maximum, when measured in terms of Receive Objective Loudness Rating. (See 47 CFR 68.317(a)).

Question 10: Since functions requiring voice communication are more specific than the general output functions covered by this section, the Board seeks comment on whether moving the requirements of paragraphs (b)(9) and (b)(10) to a different section would be less confusing to designers and manufacturers.

Subpart D—Requirements for Compatibility With Peripheral Devices and Specialized Customer Premises Equipment

Section 1193.41 Compatibility

Section 1193.41 requires that when it is not readily achievable to make a product accessible, the product must be compatible with existing peripheral devices or specialized customer premises equipment commonly used by individuals with disabilities to achieve access, if readily achievable.

Paragraph (a) requires information needed for the operation of a product (including output, alerts, icons, on-line help, and documentation) to be available in a standard electronic text format on a cross-industry standard port. It also requires that all input to and control of a product shall allow for real time operation by electronic text input into a cross-industry standard external port and in cross-industry standard format which do not require manipulation of a connector by the user. Products shall also provide a cross-industry standard connector which may require manipulation.

Some individuals with severe or multiple disabilities are unable to use the built-in displays and control mechanisms on a product and may need to attach a peripheral device. For example, the requirement for a standard electronic text format could mean that the product could be controlled and operated through a laptop computer or similar device that was adapted to the needs of a specific individual. The requirement for cross-industry standardization means that the product cannot employ odd or proprietary protocols or codes. Manufacturers must use industry standards where they exist. In fact, a number of industry standards already exist such as IrDA standard 1.1 and standard RJ–11 phone connectors. In addition, if audio output is delivered through a standard 9 mm phone jack, it can be used by any common personal audio headset on the market.

The cross-industry standard port has two components, one which does not require manipulation of a connector by the user, and one which may. The intent is to move toward the use of wireless connection technologies, such as infrared, because some individuals with disabilities will have difficulty manipulating plugs and connectors. However, the Telecommunications Act requires compatibility with devices ''* * * commonly used by individuals with disabilities'' to achieve access. Many devices in use today are not equipped with infrared or other wireless ports. That is why the cross-industry standard port can also require manipulation, such as a plug.

For some peripheral devices, a simple infrared transceiver can be plugged into a convenient serial or parallel port. Providing such a device to consumers with the appropriate peripheral devices may allow manufacturers to meet both requirements.

Paragraph (b) requires products providing auditory output to provide the auditory signal through an industry standard connector at a standard signal level. Individuals using amplifiers, audio couplers, and other audio processing devices need a place to tap

into the audio generated by the product in a standard way.

Paragraph (c) requires that products not cause interference to hearing technologies (including hearing aids, cochlear implants, and assistive listening devices) of a product user or bystander. Individuals who are hard of hearing use hearing aids and other assistive listening devices, but they cannot be used if products introduce noise into the listening aids because of stray electromagnetic interference. See the discussion at section 1193.37(b)(8) regarding a technical standard for acceptable interference levels which is currently being developed through the American National Standards Institute.

Paragraph (d) requires touchscreen and touch-operated controls to be operable without requiring body contact or close body proximity. Individuals who have artificial hands or use headsticks or mouthsticks to operate products have difficulty with capacitive or heat-operated controls which require contact with a person's body.

Paragraph (e) requires that products which provide a function allowing voice communication and which do not themselves provide a TTY functionality shall provide a standard non-acoustic connection point for TTYs. It shall also be possible for the user to easily turn any microphone on the product on and off to enable the user who can talk to intermix speech with TTY use. Individuals who use TTYs to communicate must have a non-acoustic way to connect TTYs to telephones in order to obtain clear TTY connections, such as through a direct RJ–11 connector. When a TTY is connected directly into the network, it must be possible to turn off the acoustic pickup (microphone) to avoid having background noise in a noisy environment mixed with the TTY signal. Since some TTY users make use of speech for outgoing communications, the microphone on/off switch should be easy to flip back and forth or a push-to-talk mode should be available.

Paragraph (f) requires products providing voice communication functionality to be able to support use of all cross-manufacturer non-proprietary standard signals used by TTYs. Some products compress the audio signal in such a manner that standard signals used by TTYs are distorted or attenuated, preventing successful TTY communication. Use of such technology is not prohibited as long as the compression can be turned off to allow undistorted TTY communication. In addition, this paragraph would require computer modems to support protocols which are compatible with TTYs.

Regulatory Process Matters

Executive Order 12866

Under Executive Order 12866, the Board must determine whether these guidelines are a significant regulatory action. The Executive Order defines a ''significant regulatory action'' as one that is likely to result in a rule that may:

''(1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive Order.''

For significant regulatory actions that are expected to have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities, a written assessment must be prepared of the costs and benefits anticipated from the regulatory action and any potentially effective and reasonably feasible alternatives to the planned regulation.

These guidelines have been developed to assist manufacturers of telecommunications equipment and customer premises equipment comply with section 255 of the Telecommunications Act of 1996. Manufacturers are required to comply with section 255, and therefore these guidelines, to the extent that it is readily achievable. As discussed earlier in the preamble under § 1193.3 (Definitions) and § 1193.21 (Accessibility and Compatibility), the term ''readily achievable'' means ''easily accomplishable and able to be carried out without much difficulty or expense.'' Each manufacturer will have to determine the extent to which compliance is readily achievable, balancing costs and available resources. The guidelines are also largely performance based and give manufacturers considerable flexibility in achieving design solutions. For these reasons, it is difficult to assess the costs that may be attributable to the guidelines. Questions are included in the proposed rule to elicit specific information on the costs and benefits of the guidelines. At this stage of the rulemaking, the Board has determined that the proposed rule is not expected to have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities. The Board will analyze the information submitted during the comment period and other available data, and if it is determined at the final rule stage that the guidelines are expected to have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities, the required written assessment will be prepared.

The Board and the Office of Management and Budget (OMB) have determined that the proposed rule meets the other criteria for a significant regulatory action (i.e., the proposed rule raises novel legal or policy issues arising out of legal mandates), and OMB has reviewed the proposed rule.

The guidelines adhere to the principles of the Executive Order. The Board has utilized an advisory committee comprised of representatives of the telecommunications industry and disability groups to develop the guidelines. The guidelines are based on the consensus recommendations of the advisory committee, and represent a balanced and reasonable means of achieving the objectives of section 255 of the Telecommunications Act of 1996.

The Board has provided a 45 day comment period, instead of the usual 60 day period, due to the statutory deadline for issuing a final rule by August 8, 1997. As noted above, the guidelines have been developed through an advisory committee process. The public was invited to attend the advisory committee meetings and participate in subcommittees and task groups. A listserv site was also established on the Internet to allow the advisory committee and the public to conduct discussions between meetings. The public has been afforded a meaningful opportunity to participate in the development of the guidelines.

Regulatory Flexibility Act

The Board has determined that the proposed rule will not have a significant economic impact on a substantial number of small entities, and that it is therefore not necessary to prepare an initial regulatory flexibility analysis. As discussed above, manufacturers of telecommunications equipment and customer premises equipment are required to comply with section 255 of the Telecommunications Act of 1996, and therefore these guidelines, to the extent that it is ''readily achievable'', which means that is ''easily accomplishable and able to be carried out without much difficulty or expense.'' By its terms, the statute recognizes differences in the size and resources of manufacturers and minimizes the economic impact on small entities. Questions are included in the proposed rule to elicit information on how the size of an entity should affect what is readily achievable. The Board will analyze the information submitted during the comment period, and if it is determined at the final rule stage that the guidelines will have a significant economic impact on a substantial number of small entities, a final regulatory flexibility analysis will be prepared.

Unfunded Mandates Reform Act

Under the Unfunded Mandates Reform Act, Federal agencies must prepare a written assessment of the effects of any Federal mandate in a proposed or final rule that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year. As discussed above, at this stage of the rulemaking, the Board has determined that the proposed rule is not a significant regulatory action that will reach the $100 million or more level. The proposed rule seeks specific information on the costs and benefits of the guidelines. The Board will analyze the information submitted during the comment period and other available information, and if it is determined at the final rule stage that the $100 million or more level is reached, the required written assessment will be prepared.

Paperwork Reduction Act, Collection of Information: Telecommunications Act Accessibility Guidelines

Section 1193.25 contains information collection requirements. As required by the Paperwork Reduction Act of 1995, the Board has submitted a copy of this section to the Office of Management and Budget (OMB) for its review.

The public reporting and record keeping burden for this collection of information is estimated to be 1,350 hours in order for manufacturers of telecommunications equipment and customer premises equipment to provide (1) a description of the accessibility and compatibility features of the equipment on request; and (2) the name and telephone number of a contact point for obtaining information concerning the accessibility and compatibility features of the equipment, alternate formats and customer and technical support for the equipment.

The estimated burden associated with providing a description of the accessibility and compatibility features of the equipment on request was calculated as follows:

Respondents.....150
Average responses.....×60
Hours per response .....×.08 (5 minutes)
Annual reporting burden .....720 hours

The estimated burden associated with providing the name and telephone number of a contact point for obtaining information concerning the accessibility and compatibility features of the equipment, alternate formats and customer and technical support for the equipment was calculated as follows:

Respondents.....150
Average responses.....×3000
Hours per response.....×.0014 (5 seconds)
Annual reporting burden .....630 hours
Total annual burden hours.....1,350 hours

Organizations and individuals desiring to submit comments on the information collection requirements should direct them to the Office of Information and Regulatory Affairs, OMB, Room 10235, New Executive Office Building, Washington, DC 20503; Attention: Desk Officer for the Architectural and Transportation Barriers Compliance Board.

The Board will consider comments by the public on this proposed collection of information in:

- Evaluating whether the proposed collection of information is necessary for the proper implementation of Section 255 of the Telecommunications Act of 1996, including whether the information will have a practical use;
- Evaluating the accuracy of the Board's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhancing the quality, usefulness, and clarity of the information to be collected; and
- Minimizing the burden of collection of information of 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).

OMB is required to make a decision concerning the collection of information contained in these proposed guidelines between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication. This does not affect the deadline for the public to comment to the Board on the proposed guidelines.

List of Subjects in 36 CFR Part 1193

Communications, Communications equipment, Individuals with disabilities, Reporting and recordkeeping requirements, Telecommunications.

Authorized by vote of the Access Board on March 12, 1997.

Patrick D. Cannon,

Chair, Architectural and Transportation Barriers Compliance Board.

For the reasons set forth in the preamble, the Board proposes to add part 1193 to chapter XI of title 36 of the Code of Federal Regulations to read as follows:

PART 1193—TELECOMMUNICATIONS ACT ACCESSIBILITY GUIDELINES

Subpart A—General

Sec.
1193.1 Purpose.
1193.2 Scoping.
1193.3 Definitions.

Subpart B—General Requirements

1193.21 Accessibility and compatibility.
1193.23 Product design, development, and evaluation.
1193.25 Information, documentation, and training.
1193.27 Information pass through.
1193.29 Prohibited reduction of accessibility, usability, and compatibility.

Subpart C '' Requirements for Accessibility

1193.31 Accessibility.
1193.33 Redundancy and selectability.
1193.35 Input, controls, and mechanical functions.
1193.37 Output, displays, and control functions.

Subpart D '' Requirements for Compatibility With Peripheral Devices and Specialized Customer Premises Equipment

1193.41 Compatibility.

Appendix to Part 1193—Advisory Guidance

Authority: 47 U.S.C. 255(e).

Subpart A—General

§ 1193.1 Purpose.

This part provides guidelines for accessibility, usability, and compatibility of telecommunications equipment and customer premises equipment covered by the Telecommunications Act of 1996 (47 U.S.C. 255).

§ 1193.2 Scoping.

This part provides requirements for accessibility, usability, and compatibility of new products and existing products which undergo substantial change or upgrade, or for which new releases are distributed. This part does not apply to minor or insubstantial changes to existing products that do not affect functionality.

§ 1193.3 Definitions.

Terms used in this part shall have the specified meaning unless otherwise stated. Words, terms and phrases used in the singular include the plural, and use of the plural includes the singular.

Accessible. Telecommunications equipment or customer premises equipment which comply with the requirements of subpart C of this part.

Alternate formats. Alternate formats may include, but are not limited to, Braille, ASCII text, large print, and audio cassette recording.

Alternate modes. Alternate modes may include, but are not limited to, voice, fax, relay service, TTY, Internet posting, captioning, text-to-speech synthesis, and audio description.

Compatible. Telecommunications equipment or customer premises equipment which comply with the requirements of subpart D of this part.

Customer premises equipment. Equipment employed on the premises of a person (other than a carrier) to originate, route, or terminate telecommunications.

Manufacturer. A manufacturer of telecommunications equipment or customer premises equipment.

Peripheral devices. Devices employed in connection with telecommunications equipment or customer premises equipment to translate, enhance, or otherwise transform telecommunications into a form accessible to individuals with disabilities.

Product. Telecommunications equipment or customer premises equipment.

Readily achievable. Easily accomplishable and able to be carried out without much difficulty or expense.

Specialized customer premises equipment. (See *Peripheral devices*)

Telecommunications. The transmission, between or among points specified by the user, of information of the user's choosing, without change in the form or content of the information as sent and received.

Telecommunications equipment. Equipment, other than customer premises equipment, used by a carrier to provide telecommunications services, and includes software integral to such equipment (including upgrades).

Telecommunications service. The offering of telecommunications for a fee directly to the public, or to such classes of users as to be effectively available directly to the public, regardless of the facilities used.

TTY. An abbreviation for teletypewriter. Machinery or equipment that employs interactive text based communications through the transmission of coded signals across the standard telephone network. TTYs can include, for example, devices known as TDDs (telecommunication display devices or telecommunication devices for deaf persons) or computers with special modems. TTYs are also called text telephones.

Usable. Means that individuals with disabilities have access to instructions, product information (including accessible feature information), documentation, and technical support functionally equivalent to that provided to individuals without disabilities.

Subpart B—General Requirements

§ 1193.21 Accessibility and compatibility.

Where readily achievable, telecommunications equipment and customer premises equipment shall comply with the requirements of subpart C of this part. Where it is not readily achievable to comply with subpart C of this part, telecommunications equipment and customer premises equipment shall comply with the requirements of subpart D of this part, if readily achievable.

§ 1193.23 Product design, development, and evaluation.

(a) Manufacturers shall evaluate the accessibility and usability of telecommunications equipment and customer premises equipment and shall incorporate such evaluation throughout product design, development, fabrication, and delivery, as early and consistently as possible. Manufacturers shall identify barriers to accessibility and usability as part of such a product design and development process.

(b) In developing such a process, manufacturers shall consider the following factors, as appropriate:

(1) Including individuals with disabilities in target populations of market research;

(2) Including individuals with disabilities in product design, testing, pilot demonstrations, and product trials;

(3) Working cooperatively with appropriate disability-related organizations; and

(4) Making reasonable efforts to validate any unproven access solutions through testing with individuals with disabilities or with appropriate disability-related organizations that have established expertise with individuals with disabilities.

§ 1193.25 Information, documentation, and training.

(a) Manufacturers shall provide access to information and documentation including user guides, installation guides for end-user installable devices, and product support communications, regarding both the product in general and the accessibility features of the product, at no additional charge; and shall take such other steps as necessary including:

(1) Providing a description of the accessibility and compatibility features of the product upon request, including, as needed, in alternate formats or alternate modes;

(2) Providing end-user product documentation in alternate formats or alternate modes upon request; and

(3) Ensuring usable customer support and technical support, upon request, in the call centers and service centers which support their products.

(b) Manufacturers shall include in general product information the name and telephone number of a contact point for obtaining the information required by paragraph (a) of this section.

(c) Manufacturers shall provide employee training appropriate to an employee's function. In developing, or incorporating existing training programs, consideration shall be given to the following factors:

(1) Accessibility requirements of individuals with disabilities;

(2) Means of communicating with individuals with disabilities;

(3) Commonly used adaptive technology used with the manufacturer's products;

(4) Designing for accessibility; and

(5) Solutions for accessibility and compatibility.

§ 1193.27 Information pass through.

Telecommunications equipment and customer premises equipment shall pass through all codes, translation protocols, formats or any other information necessary to provide

telecommunications in an accessible format. In particular, signal compression technologies shall not remove information needed for access or shall restore it upon decompression.

§ 1193.29 Prohibited reduction of accessibility, usability, and compatibility.

No change shall be undertaken which decreases or has the effect of decreasing the accessibility, usability, and compatibility of telecommunications equipment or customer premises equipment to a level less than the requirements of this part.

Subpart C—Requirements for Accessibility

§ 1193.31 Accessibility.

When required by subpart B of this part, telecommunications equipment and customer premises equipment shall be accessible to and usable by individuals with disabilities and shall comply with §§ 1193.33, 1193.35, and 1193.37 as applicable.

§ 1193.33 Redundancy and selectability.

Telecommunications equipment and customer premises equipment shall provide redundancy such that input and output functions are available in more than one mode. Alternate input and output modes shall be selectable by the user.

§ 1193.35 Input, controls, and mechanical functions.

Input, controls, and mechanical functions shall be locatable, identifiable, and operable through at least one mode that complies with the following:

(a) *Operable without vision.* Functions shall not require user vision.

(b) *Operable with low vision.* Functions shall not require user visual acuity better than 20/70, and shall not rely on audio output.

(c) *Operable with little or no color perception.* Functions shall not require user color perception.

(d) *Operable without hearing.* Functions shall not require user auditory perception.

(e) *Operable with limited manual dexterity.* Functions shall not require fine motor control or simultaneous actions.

(f) *Operable with limited reach and strength.* Functions shall be operable with limited reach and strength.

(g) *Operable without time-dependent controls.* Functions shall not require a sequential response less than three seconds. Alternatively, any response time may be selected or adjusted by the user over a wide range.

(h) *Operable without speech.* Functions shall not require speech.

(i) *Operable with limited cognitive skills.* Functions shall minimize the cognitive, memory, language, and learning skills required of the user.

§ 1193.37 Output, displays, and control functions.

(a) Voice telecommunications shall comply with paragraphs (b)(9) and (b)(10) of this section.

(b) All information necessary to operate and use the product, including text, static or dynamic images, icons, or incidental operating cues, shall be provided through at least one mode that complies with the following:

(1) *Availability of visual information.* Information which is presented visually shall also be available in auditory form.

(2) *Availability of visual information for low vision users.* Information which is provided through a visual display shall not require user visual acuity better than 20/70, and shall not rely on audio.

(3) *Access to moving text.* Text, other than text output of a TTY, which is presented in a moving fashion shall also be available in a static presentation mode at the option of the user.

(4) *Availability of auditory information.* Information which is provided in auditory form shall be available in visual form and, where appropriate, in tactile form.

(5) *Availability of auditory information for people who are hard of hearing.* Information which is provided in auditory form shall be available in enhanced auditory fashion (i.e., increased amplification, or increased signal-to-noise ratio).

(6) *Prevention of visually-induced seizures.* Flashing visual displays and indicators shall not exceed a frequency of 3 Hz.

(7) *Availability of audio cutoff.* Products which use audio output modes shall have an industry standard connector for headphones or personal listening devices (e.g., phone-like handset or earcup) which cuts off speakers when used.

(8) *Non-interference with hearing technologies.* Products shall not cause interference to hearing technologies (including hearing aids, cochlear implants, and assistive listening devices) of the user or bystanders.

(9) *Hearing aid coupling.* Products providing auditory output by an audio transducer which is normally held up to the ear shall provide a means for effective wireless coupling to hearing aids.

(10) *Availability of enhanced audio.* Products shall be equipped with volume control that provides an adjustable amplification ranging from 18–25 dB of gain.

Subpart D—Requirements for Compatibility With Peripheral Devices and Specialized Customer Premises Equipment

§ 1193.41 Compatibility.

When required by subpart B of this part, telecommunications equipment and customer premises equipment shall be compatible with peripheral devices and specialized customer premises equipment commonly used by individuals with disabilities to achieve accessibility, and shall comply with the following provisions, as applicable:

(a) *External electronic access to all information and control mechanisms.* Information needed for the operation of products (including output, alerts, icons, on-line help, and documentation) shall be available in a standard electronic text format on a cross-industry standard port and all input to and control of a product shall allow for real time operation by electronic text input into a cross-industry standard external port and in cross-industry standard format. The cross-industry standard port shall not require manipulation of a connector by the user. Products shall also provide a cross-industry standard connector which may require manipulation.

(b) *Connection point for external audio processing devices.* Products providing auditory output shall provide the auditory signal at a standard signal level through an industry standard connector.

(c) *Non-interference with hearing technologies.* Products shall not cause interference to hearing technologies (including hearing aids, cochlear implants, and assistive listening devices) of the user or bystanders.

(d) *Compatibility of controls with prosthetics.* Touchscreen and touch-operated controls shall be operable without requiring body contact or close body proximity.

(e) *TTY connectability.* Products which provide a function allowing voice communication and which do not themselves provide a TTY functionality shall provide a standard non-acoustic connection point for TTYs. It shall also be possible for the user to easily turn any microphone on and off to allow the user to intermix speech with TTY use.

(f) *TTY signal compatibility.* Products providing voice communication functionality shall be able to support use of all cross-manufacturer non-proprietary standard signals used by TTYs.

Appendix to Part 1193—Advisory Guidance

Introduction

1. This appendix provides examples of strategies and notes to assist in understanding the guidelines and are a source of ideas for alternate strategies for achieving accessibility. These strategies and notes are not mandatory. A manufacturer is not required to incorporate all of these examples or any specific example. Manufacturers are free to use these or other strategies in addressing the guidelines. The examples listed here are not comprehensive, nor does adopting or incorporating them guarantee an accessible product. They are meant to provide a useful starting point for evaluating the accessibility of a product or conceptual design and are not intended to inhibit innovation. For a more complete list of all of the published strategies to date, as well as for further information and links to on-going discussions, the reader is referred to the National Institute on Disability and Rehabilitation Research's Rehabilitation Engineering Center on Access to Telecommunications System's strategies Web site (http://trace.wisc.edu/world/telecomm/).

2. This appendix is organized to correspond to the sections and paragraphs of the guidelines in this part to which the explanatory material relates. This appendix does not contain explanatory material for every section and paragraph of the guidelines in this part.

Subpart B—General Requirements

Section 1193.25 Information, Documentation, and Training

Paragraph (a)

Alternate Formats and Alternate Modes

1. This section requires that manufacturers provide access to information and documentation. The information and documentation includes user guides, installation guides, and product support communications, regarding both the product in general and the accessibility features of the product. Information and documentation should be provided to people with disabilities at no additional charge. Alternate formats or alternate modes of this information is also required to be available. Alternate formats may include, but are not limited to, Braille, ASCII text, large print, and audio cassette recording. Alternate modes may include, but are not limited to, voice, fax, relay service, TTY, Internet posting, captioning, text-to-speech synthesis, and audio description.

2. In considering how to best provide product information to people with disabilities, it is essential that information be provided in an alternate format or mode that is usable by the person needing the information. For example, some individuals who are blind might require a manual in Braille to understand and use the product effectively. Other persons who are blind may prefer this information on a computer disk. Persons with limited reading skills may need this information recorded on audio cassette tape so they can listen to the manual. Still other persons with low vision may be able to read the text version of the manual if it is provided in a larger font. Likewise, persons who are deaf may require a captioned tutorial video, if one is provided, so that they will understand how to use the product effectively. Finally, individuals who rely on TTYs will need direct TTY access to a customer service line so they can ask questions about a product like everyone else.

3. This portion of the appendix explains how to provide information in alternate formats (Braille, ASCII text, large print, audio cassette) to persons with disabilities.[1] The Access Board maintains a list of disability-related organizations that can provide information on local companies that produce information in alternate formats. The list is available by contacting the Access Board.

Braille

4. Some persons who are blind rely on the use of Braille in order to obtain information that is typically provided in print. These persons may need Braille because of the nature of their disability (such as persons who are deaf-blind) or because of the complexity of the material. Most large urban areas have companies or organizations which can translate printed material to Braille. On the other hand, manufacturers may wish to consider producing Braille documents ''in house'' using a personal computer, Braille translation software, and a Braille printer. The disadvantage is the difficulty in ensuring quality control and accuracy. Software programs exist which can translate common word processing formats directly into Braille, but they are not always error free, especially if the document contains special characters, jargon, graphics, or charts. Since the typical office worker will not be able to proofread a Braille document, the initial apparent cost saving may be quickly lost by having to re-do documents. The Braille translation software costs approximately $500 and Braille printers range from $10,000 to $60,000 depending on the speed and other features. A Braille printer in the $10,000 to $20,000 range should be adequate for most users. By using automatic translation software, individuals who do not have knowledge of Braille or who have limited computer skills may be able to produce simple Braille documents without much trouble. If the document is of a complex format, however, such as a text box over multiple columns, a sophisticated knowledge of Braille translation software and formatting will be required.

Electronic Text

5. People who are blind or have low vision and who have access to computers may be able to use documents in electronic form. Electronic text must be provided in ASCII or a properly formatted word processor file. Using electronic text allows this information to be transmitted through e-mail or other on-line telecommunications. Blind or low vision persons who have access to a personal computer can then read the document using synthetic speech, an electronic Braille display, a large print computer monitor, or they can produce a hard copy in large print or Braille.

6. Documents prepared for electronic transmission should be in ASCII. Documents supplied on disk should also be provided in either ASCII or a word processor format usable by the customer. Word processing documents should be properly formatted before distribution or conversion to ASCII. To be correctly formatted, the document should be in Courier 10 CPI (10 pitch) and formatted for an 80 character line. Tables should be converted to plain text. Graphics or text boxes should be deleted and explained or described in text format. This will allow the reader to understand all of the documentation being presented. Replace bullets (•) with ''*'' or ''—'' and convert other extended ASCII characters into text. When converting a document into ASCII or word processor formats, it is important to utilize the appropriate ''tab key'' and ''centering key'' rather than using the space bar. This is necessary because Braille translation software relies on the proper use of commands to automate the formatting of a Braille document.

Large Print

7. Persons with low vision may require documentation to be provided in large print. Large print documents can easily be produced using a scalable font from any good word processing program and a standard laser printer. Using the document enlargement option on a photocopier will usually yield unsatisfactory results.

8. To obtain the best results follow these guidelines:

a. Paper should not be larger than standard 8½ – 11 inches. Always use 1 inch margins. Lines longer than 6⅓ inches will not track well for individuals who must use a magnifier.

b. The best contrast with the least glare is achieved on very pale yellow or cream-colored non-glossy paper, such as paper that is used for photocopying purposes. To produce a more aesthetic looking document, an off-white paper may be used and will still give good contrast while producing less glare than white. Do not use dark colors and shades of red. Double-sided copying (if print does not bleed through) will produce a less bulky document.

c. Remove formatting codes that can make reading more difficult. For example, centered or indented text could be difficult to track because only a few words will fit on a line. All text should begin at the left margin. Use only left margin justification to maintain uniform spacing across lines. Right margin justification can produce uneven spacing between letters and words. Use 1¼ (1.25) line spacing; do not double space. Replace tabs with two spaces. Page numbering should be at the top or bottom left. Avoid columns. If columns are absolutely necessary, use minimum space between columns. Use dot leaders for tabular material. Remove graphics, tables, and charts, but include descriptions, information, or data in text.

d. There is no standard typeface or point size. For more universal access, use 18 point type; anything larger could make text too choppy to read comfortably. Use a good

[1] This information was provided by the American Foundation for the Blind.

strong bolded typeface. Do not use italics, fine, or fancy typefaces. Fonts similar to Helvetica/Swiss Bold or Dutch/Times Roman Bold are good. Do not use compressed typefaces; there should be normal ''white space'' between characters.

e. Use upper and lowercase letters.

f. Using these instructions, one page of print (11–12 point type) will equal approximately three pages of large print (14–18 point) depending on the density of the text.

Cassette Recordings

9. Some persons who are blind or who have learning disabilities may require documentation on audio cassettes. Audio materials can be produced commercially or by utilizing the assistance of volunteer organizations which record material on tape. Agencies sometimes record material in-house and purchase a high speed tape duplicator ($1,000–2,000) which is used to make cassette copies from the master. The cost of a duplicator can be higher depending upon the number of copies produced on a single run, and whether the duplicator can produce standard speed two-sided copies or half-speed four-sided copies. Although unit costs can be reduced by using the four-track, half-speed format, this will require the reader to use a specially designed playback machine. Tapes can also be produced with ''tone indexing'' to allow a user to skip back and forth from one section to another. By following a few simple guidelines for selecting readers and creating recordings, most organizations will be able to successfully record most simple documents. There is no legal definition of a qualified reader.

10. The American Foundation for the Blind offers this guidance:

a. The reader should be proficient in the language being recorded.

b. The reader should be familiar with the subject. Someone who is familiar with the technical aspects of a product but who can explain functions in ordinary language would be a logical person to record an audio cassette.

c. The reader should have good diction. Recording should be done in a conversational tone and at a conversational pace; neither too slow nor too fast.

d. The reader should be familiar with the material to minimize stumbling and hesitation.

e. The reader should not editorialize. When recording a document, it should be read in full. Graphic and pictorial information available to sighted readers should be described in the narrated text. Tables and charts whose contents are not already contained in text should be converted into text and included in the recording.

f. The reader should spell difficult or unusual words and words of foreign origin.

g. At the beginning of the tape, identify the reader, i.e., ''This document is being read by John Smith.''

h. On each side of the tape, identify the document and the page number where the reader is continuing, i.e., ''tape 2, side 1, Guide to Barrier Free Meetings, continuing on page 75.''

Alternate Modes

11. Information is provided increasingly through a variety of means including television advertisements, Internet postings, information seminars, and telephone. This portion of the appendix explains how to provide information in some alternate modes (captioning, audio description, Internet postings, relay service, and TTY).

Captioning

12. When manufacturers of telecommunications equipment or customer premises equipment provide videos with their products (such as tutorials or information explaining various components of a product) the video should be available with captioning. Closed captioning refers to assistive technology designed to provide access to television for persons with hearing disabilities that is visible only through the use of a decoder. Open captions are visible at all times. Captioning is similar to subtitles in that the audio portion of a television program is displayed as printed words on the television screen. Captions should be carefully placed to identify speakers, on- and off-screen sound effects, music and laughter. Increased captioning was made possible because of the Television Decoder Circuitry Act which requires all television sets sold in the United States with screens 13 inches or larger to have built-in decoder circuitry.

13. Although captioning technology was developed specifically to make television and video presentations accessible to deaf and hard of hearing people, there has been widespread interest in using this technology to provide similar access to meetings, classroom teaching, and conferences. For meetings, video-conferences, information seminars, and the like, real-time captioning is sometimes provided. Real-time captioning uses a stenographic machine connected to a computer with translation software. The output is then displayed on a monitor or projected on a screen.

Audio Description

14. Just as manufacturers of telecommunications equipment and customer premises equipment need to make their videos accessible to persons deaf or hard of hearing, they must also be accessible to persons who are blind or have low vision. This process is known as descriptive video service (DVS), or audio description, in which a ''video soundtrack'' is inserted unobtrusively into pauses in the regular audio portion of the video. This extra narration provides otherwise unavailable descriptions such as how to properly place a disk into a new computer. DVS is accessed by pushing a button on a stereo television set or VCR which has a standard feature called Second Audio Program (SAP) channel. No additional special equipment is needed and there is no extra cost to the end-user.[2]

Internet Postings

15. The fastest growing way to obtain information about a product is through use of the Internet, and specifically the World Wide Web. However, many Internet users with disabilities have difficulty obtaining this information if it is not correctly formatted. This section provides information on how to make a World Wide Web site more accessible to persons with disabilities.[3] Because of its structure, the Web provides tremendous power and flexibility in presenting information in multiple formats (text, audio, video, and graphic). However, the features that provide power and elegance for some users present potential barriers for people with sensory disabilities. The indiscriminate use of graphic images and video restrict access for people who are blind or have low vision. Use of audio and non-captioned video restrict access for people who are deaf or hard of hearing.

16. The level of accessibility of the information on the Web is dependent on the format of the information, the transmission media, and the display system. Many of the issues related to the transmission media and the display system cannot be affected by the general user. On the other hand, anyone creating information for a Web server has control of the accessibility of the information. Careful design and coding of information will provide access to all people without compromising the power and elegance of the Web site.

17. A few suggestions are:

a. Every graphic image should have associated text. This will enable a person using a character-based program, such as Lynx, to understand the material being presented in the graphical format. It also allows anyone who does not want to wait for graphics to load to have quick access to the information on the site.

b. Provide text transcriptions or descriptions for all audio output. This will enable people who are deaf or hard of hearing to have access to this information, as well as individuals who do not have sound cards.

c. Make any link text descriptive, but not verbose. For example, words like ''this'', ''here'', and ''click'' do not convey enough information about the nature of the link, especially to people who are blind. Link text should consist of substantive, descriptive words which can be quickly reviewed by the user. Conversely, link text which is too long bogs down efficient browsing.

d. Provide alternate mechanisms for on-line forms. Forms are not supported by all browsers. Therefore, it is important to provide the user with an opportunity to select alternate methods to access such forms.

e. All Web pages should be tested using multiple viewers. At a minimum, pages should be tested with one version of Mosaic and one version of Lynx. Ideally, pages should be tested with several versions of Mosaic, both versions of Lynx, and on other Web browsers. Pages should also be tested in DOS, Windows, and Unix environments.

[2] This information was provided by the WGBH Foundation which specializes in closed captioning and descriptive video for persons with disabilities.

[3] This information is based on the document ''Writing HTML Documents and Implementing Accessibility for the World Wide Web'' by Paul Fountaine, Center for Information Technology Accommodation, General Services Administration. For further information, see http:// www.gsa.gov/coca.

Telecommunications Relay Services (TRS)

18. By using telecommunications relay services (TRS), it has now become easier for persons with hearing and speech disabilities to communicate by the telephone. TRS links TTY users with those who do not have a TTY and use standard telephones. With TRS, a TTY user communicates with another person with the help of a communications assistant. The communications assistant reads the message typed by the TTY user, or the TTY user speaks for herself. The communications assistant then types the response from the non-TTY user to be read on the visual display of the TTY.

19. There are now TRS programs in every state. Although TRS is very valuable, it does have limitations. For example, relay calls take longer, since they always involve a third party, and typing words takes longer than speaking words.

Text Telephones (TTYs)

20. A TTY also provides direct two-way typed conversations. The cost of these devices begins at approximately $200, for a peripheral device to which a standard telephone can be attached, and they can be operated by anyone who can type. Using a TTY skillfully, especially for communicating technical information, will require some training, especially to become familiar with the conventions of TTY usage.

21. The following information is excerpted from the brochure ''Using a TTY'' which is available free of charge from the Access Board:

a. If the TTY line is also used for incoming voice calls, be sure the person who answers the phone knows how to recognize and answer a TTY call. You will usually hear silence, a high-pitched, electronic beeping sound, or a pre-recorded voice message when it is a TTY call. If there is silence, assume it is a TTY call.

b. TTYs should be placed near a standard telephone so there is minimal delay in answering incoming TTY calls.

c. To initiate a TTY call, place the telephone headset in the acoustic cups of the TTY adapter. If the TTY unit is directly connected to the phone line, there is no need to put the telephone headset in the acoustic cups. Turn the TTY on. Make sure there is a dial tone by checking for a steady light on the TTY status indicator.

d. Dial the number and watch the status indicator light to see if the dialed number is ringing. The ring will make a long slow flash or two short flashes with a pause in between. If the line is busy, you will see short, continuous flashes on the indicator light. When the phone is answered, you will see an irregular light signal as the phone is picked up and placed in the cradle. If you are calling a combination TTY and voice number, tap the space bar several times to help the person on the other end identify this as a TTY call.

e. The person who answers the call is the first to type. Answer the phone as you would by voice, then type ''GA''.

f. ''GA'' means ''I'm done, go ahead and type''. ''HD'' means hold. ''GA or SK'' means ''Is there anything more, I'm done''. ''SK'' means stop keying. This is how you show that the conversation is ended and that you will hang up. It is polite to type good-bye, thank you for calling, or some other closing remark before you type ''SK''. Stay on the line until both parties type SKSK.

22. Because of the amount of time it takes to send and receive messages, it is important to remember that short words and sentences are desired by both parties. With some TTY calls it is often not possible to interrupt when the other person is typing. If you get a garbled message in all numbers or mixed numbers and letters, tap the space bar and see if the message clears up. If not, when the person stops typing, you should type, ''Message garbled, please repeat.'' If the garbled messages continue, this may mean that one of the TTYs is not working properly, there is background noise causing interference, or that you may have a bad connection. In this case you should say something like, ''Let's hang up and I'll call you back.''

23. The typical TTY message will include many abbreviations and jargon. The message may also include misspelled words because, if the meaning is clear, many callers will not bother to correct spelling since it takes more time. Also, some TTY users communicate in American sign language, a language with its own grammar and syntax. English may be a second language. Extend the same patience and courtesy to TTY callers as you do to all others.

Subpart C—Requirements for Accessibility

Section 1193.35 Input, Controls, and Mechanical Functions

Paragraph (a)

Operable Without Vision

1. Individuals who are blind or have low vision cannot locate or identify controls, latches, or input slits by sight or operate controls that require sight. Products should be manufactured to be usable independently by these individuals. For example, individuals who cannot see must use either touch or sound to locate and identify controls. If a product uses a flat, smooth touch screen or touch membrane, the user without vision will not be able to locate the controls without auditory or tactile cues.

2. Once the controls have been located, the user must be able to identify the various functions of the controls. Having located and identified the controls, individuals must be able to operate them.

3. Below are some examples of ways to make products accessible to persons with visual disabilities:

a. If buttons are used on a product, make them discrete buttons which can be felt and located by touch. If a flat membrane is used for a keyboard, provide a raised edge around the control areas or buttons to make it possible to locate the keys by touch. Once an individual locates the different controls, he or she needs to identify what the keys are. If there is a standard number pad arrangement, putting a nib on the ''5'' key may be all that is necessary for identifying the numbers. On a QWERTY keyboard, putting a tactile nib on the ''F'' and ''J'' keys allows touch typists to easily locate their hands on the key.

b. Provide distinct shapes for keys to indicate their function or make it easy to tell them apart. Provide Braille labels for keys and controls for those who read Braille to determine the function and use of controls.

c. Provide large raised letters for short labels on large objects. Where it is not possible to use raised large letters, a voice mode selection could be incorporated that announces keys when pressed, but does not activate them. This would allow people to turn on the voice mode long enough to explore and locate the item they are interested in, then release the voice mode and press the control. If it is an adjustable control, voice confirmation of the status may also be important.

d. Provide tactile indication on a plug which is not a self-orienting plug. Wireless connections, which eliminate the need to orient or insert connectors, also solve the problem.

e. Avoid buttons that are activated when touched to allow an individual to explore the controls to find the desired button. If touch-activated controls cannot be avoided (for example, on a touch screen), provide an alternate mode where a confirm button is used to confirm selections (for example, items are read when touched, and activated when the confirm button is pressed). All actions should be reversible, or require confirmation before executing non-reversible actions.

f. Once controls have been located and users know what the functions are, they must be operable. Some types of controls, including mouse devices, track balls, dials without markings or stops, and push-button controls with only one state, where the position or setting is indicated only by a visual cue, will not be usable by persons who are blind or have low vision. Providing a rotational or linear stop and tactile or audio detents is a useful strategy. Another is to provide keyboard or push-button access to the functions. If the product has an audio system and microprocessor, use audio feedback of the setting. For simple products, tactile markings may be sufficient.

g. Controls may also be shaped so that they can easily be read by touch (e.g., a twist knob shaped like a pie wedge). For keys which do not have any physical travel, some type of audio or tactile feedback should be provided so that the individual knows when the key has been activated. A two-state key (on/off) should be physically different in each position (e.g., a toggle switch or a push-in/pop-out switch), so the person can tell what state the key is in by feeling it.

h. If an optional voice mode is provided for operating a product, a simple ''query'' mode can also be provided, which allows an individual to find out the function and state of a switch without actually activating it. In some cases, there may be design considerations which make the optimal mode for a sighted person inaccessible to someone without vision (e.g., use of a touch screen or mouse). In these cases, a primary strategy may be to provide a closely linked parallel method for efficiently achieving the same results (e.g., keyboard access) if there is a keyboard, or ''SpeedList'' access for touch screens.

Paragraph (b)

Operable With Low Vision

1. Individuals with low vision often also have hearing disabilities, especially older individuals. These persons cannot rely solely on audio access modes commonly used by people who are blind. Tactile strategies are still quite useful, although many older persons may not be familiar with Braille. The objective, therefore, is to maximize the number of people who can use their residual vision, combined with tactile senses, to operate a product.

2. Strategies for addressing this provision may include the following:

a. Make the information on the product easier to see. Use high-contrast print symbols and visual indicators, minimize glare on the display and control surfaces, provide adequate lighting, position controls near the items they control to make them easy to find, and use Arabic instead of Roman numerals.

b. The type-face and type-spacing used can greatly effect legibility. The spacing between letters should be approximately 1/16 the height of uppercase letters and the spacing should be uniform from one label to the next. Also, symbols can sometimes be used which are much more legible and understandable than fine print.

c. Where the display is dynamic, provide a means for the user to enlarge the display and to ''freeze'' it. In addition to making it easier to see, there are strategies which can be used to reduce the need to see things clearly in order to operate them.

d. A judicious use of color-coding, always redundant with other cues, is extremely helpful to persons with low vision. These cues should follow standard conventions, and can be used to reduce the need to read labels (or read labels more than the first time). In addition, all of the tactile strategies discussed under § 1193.35 (a) can also be used here.

Paragraph (c)

Operable With Little or No Color Perception

1. Many people have an inability to see or distinguish between certain color combinations. Others are unable to see color at all.

2. Strategies for addressing this provision include:

a. Eliminate the need for a person to see color to operate the product. This does not eliminate the use of color completely but rather requires that any information essential to the operation of a product also be conveyed in some other fashion.

b. Avoid color pairs such as red/green and blue/yellow, that are indistinguishable by people with limited color perception.

c. Provide colors with different hues and intensity so that colored objects can be distinguished even on a black and white screen by their different appearance. Depending upon the product, the manufacturer may also be able to allow users to adjust colors to match their preferences and visual abilities.

d. Avoid colors with a low luminance.

Paragraph (d)

Operable Without Hearing

1. Individuals who are deaf or hard of hearing cannot locate or identify controls that require hearing. Products that provide only audio prompts cannot be used by individuals who are deaf or hard of hearing. For example, a voice-based interactive product that can be controlled only by listening to menu items and then pressing buttons is not accessible. By addressing the output issues under § 1193.37(b)(4) many accessibility problems that affect input under this section can be solved.

2. Some strategies include:

a. Text versions of audio prompts could be provided which are synchronized with the audio so that the timing is the same.

b. If prompts are provided visually and no speech or vocalization is required, most problems associated with locating, identifying, and operating controls without hearing will be solved.

Paragraph (e)

Operable With Limited Manual Dexterity

1. Individuals may have difficulty manipulating controls on products for any number of reasons. Though these disabilities may vary widely, these persons have difficulty grasping, pinching, or twisting objects and often have difficulty with finer motor coordination. Some persons may use a headstick, mouthstick, or artificial limb.

2. Below are some strategies which will assist in designing products which will meet the needs of these persons:

a. Provide larger buttons and controls, or buttons which are more widely spaced, to reduce the likelihood that a user will accidentally activate an adjacent control.

b. Provide guard bars between the buttons or near the buttons so that accidental movements would hit the guard bars rather than accidentally bumping switches.

c. Provide an optional mode where buttons must be depressed for a longer period of time (e.g., SlowKeys) before they would accept input to help separate between inadvertent motions or bumps and desired activation.

d. Where two buttons must be depressed simultaneously, provide an option to allow them to be activated sequentially (e.g., StickiKeys).

e. Avoid buttons which are activated merely by touch, such as capacitance switches. Where that is difficult to do (e.g., with touchscreens), provide a ''confirm'' button which an individual can use to confirm that the item touched is the desired one. Also, make all actions reversible, or request confirmation before initiating non-reversible actions.

f. Avoid latches, controls, or key combinations which require simultaneous activation of two or more buttons, or latches. Also, avoid very small controls or controls which require rotation of the wrist or pinching and twisting. Where this is not possible, provide alternate means for achieving the same functions.

g. Controls which have non-slip surfaces and those that can be operated with the side of the hand, elbow or pencil can be used to minimize physical activity required. In some cases, rotary controls can be used if they can be operated without grasping and twisting (e.g., a thin pie slice shape control or an edge control). Providing a concave top on buttons makes them easier to use.

h. Make it easier to insert cards or connectors by providing a bevel around the slot or connector, or use cards or connectors which can be inserted in any orientation or which self-center or self-align. Placing the slot or connector on the front and near a ledge or open space allows individuals to brace their hands or arms to make use of the slot or connector easier.

i. For some designs, controls which pose problems for individuals with disabilities may be the most efficient, logical or effective mechanism for a majority of users. In these cases, provide alternate strategies for achieving the same functions, but which do not require fine manipulation. Speech input or voice recognition could be provided as an alternate input, although it should not be the only input technique (see § 1193.35 (h)).

Paragraph (f)

Operable With Limited Reach and Strength

1. Some individuals may have difficulty operating systems which require reach or strength. The most straight-forward solution to this problem is to place the controls where they can be easily reached with minimal changes to body position. Many products also have controls located on different parts of the product.

2. When this is the case, the following strategies may be used:

a. Allow the functions to be controlled from the keyboard, which is located directly in front of the user.

b. Allow voice recognition to be used as an option. This provides input flexibility, but should never be the only means for achieving a function.

c. Provide a remote control option that moves all of the controls for the product together on a unit that can be positioned optimally for the individual. This allows the individual to operate the product without having to move to it. If this strategy is used, a standard communication format would be important to allow the use of alternate remote controls for those who cannot use the standard remote control.

d. Reduce the force needed to operate controls or latches and avoid the need for sustained pressure or activity (e.g., use guards rather than increased strength requirements to avoid accidental activation of crucial switches).

e. Provide arm or wrist rests or supports, create short cuts that reduce the number of actions needed, or completely eliminate the need to operate controls wherever possible by having automatic adjustments.

Paragraph (g)

Operable Without Time-Dependent Controls

1. Many persons find it very difficult to operate time-dependent controls.

2. Some strategies which address this problem include:

a. Avoid any timed-out situations or provide instances where the user must respond to a question or moving display in

a set amount of time or at a specific time (e.g., a rotating display).

b. Where timed responses are required or appropriate, allow the user to adjust them or set the amount of time allotted to complete a given task. Warn users that time is running out and allow them to secure extended time.

c. If the standard mode of operation would be awkward or inefficient, then provide an alternate mode of operation that offers the same functions.

Paragraph (h)

Operable Without Speech

1. Many individuals cannot speak or speak clearly. Products which require speech in order to operate them should also provide an alternate way to achieve the same function.

2. Some strategies to achieve this include:

a. Provide an alternate mechanism for achieving all of the functions which are controlled by speech. If a product includes speech identification or verification, provide an alternate mechanism for this function as well.

b. Include individuals who are deaf or who have speech disabilities in the subject populations that are used to develop voice recognition algorithms, so that the algorithms will better accommodate a wider range of speech patterns.

Paragraph (i)

Operable With Limited Cognitive Skills

1. Many individuals have reduced cognitive abilities, including reduced memory, sequence tracking, and reading skills. This does not necessarily prevent these persons from using a telecommunications product or feature.

2. The following strategies are extensions of techniques for making products easier for everyone to learn and use:

a. Use standard colors and shapes and group similar functions together. On products which have some controls that are used by everyone and other controls which would only be used by advanced users, it is generally good practice to separate the two, putting the more advanced features behind a door or under a separate menu item.

b. Products which read the contents of the display aloud, or controls which announce their settings, are easier for individuals who have difficulty reading.

c. Design products that are self-adjusting to eliminate additional controls which must be learned, and reduce the visual clutter.

d. On products which have sign-in procedures, allow user settings to be associated with them when they sign in or insert their identification card. The system can then autoconfigure to them. Some new ''smart cards'' are being designed with user preferences encoded on the card.

e. Where a complex series of steps is required, provide cuing to help lead the person through the process. It is also helpful to provide an ''undo'' or back up function, so that any mistakes can be easily corrected. Most people will find this function helpful.

f. Where functions are not reversible, request some type of confirmation from the user before proceeding. On labels and instructions, it is helpful to use short and simple phrases or sentences. Avoid abbreviations wherever possible. Eliminate the need to respond within a certain time or to read text within a certain time.

Section 1193.37 Output, Displays, and Control Functions

Paragraph (b)(1)

Availability of Visual Information

1. Just as persons with visual or cognitive disabilities need to be able to operate the input, controls, and mechanical functions of a product, they must also have access to the output functions.

2. The following are strategies for addressing this provision:

a. Provide speech output of all displayed text and labels. For information which is presented in non-text form (e.g., a picture or graphic), provide a verbal description unless the graphic is just decorative. When speech output is provided, allow for the spoken message to be repeated if the message is very long. A message for stepping through menus is also helpful.

b. Providing Braille labels for controls is an extremely effective mechanism for those individuals who read Braille.

c. Large raised print can also be used but is generally restricted to rather large objects due to the size of the letters.

Paragraph (b)(2)

Availability of Visual Information for Low Vision Users

1. Individuals with low vision often also have hearing disabilities, especially older individuals. These persons cannot rely solely on audio access modes commonly used by people who are blind. Tactile strategies are still quite useful. Many people who have low vision but are not legally blind can use their vision to access visually presented information on a product.

2. Strategies for meeting this provision involve:

a. Provide larger, higher contrast text and graphics. Individuals with 20/200 vision can see lettering if they get close to it, unless it is very small or has very poor contrast. Although 14 or 18 point type is recommended for visual displays, it is usually not possible to put this size text on small products.

b. Make the lettering as large and high contrast as possible to maximize the number of people who can use the product.

c. On displays where the font size can be varied, allow the user to increase the font size, even if it means that the user must pan or move in order to see the full display.

Paragraph (b)(3)

Access to Moving Text

1. Moving text can be an access problem because individuals with low vision, or other disabilities may find it difficult or impossible to track moving text with their eyes.

2. Strategies to address this requirement may include the following:

a. Provide a mechanism for freezing the text. Thus, persons could read the stationary text and obtain the same information.

b. Provide scrolling to display one full line at a time, with a pause before the next line replaces it.

c. Provide the same information in another type of display which does not move. The right-to-left scrolling text on a TTY does not usually present a problem because it can be controlled by asking the sender to type slower or pause at specified intervals.

Paragraph (b)(4)

Availability of Auditory Information

1. Individuals who have hearing disabilities are unable to receive auditory output, or mechanical and other sounds that are emitted by a product. These sounds are often important for the safe or effective operation of the product. Therefore, information which is presented auditorially should be available to all users.

2. Some strategies to achieve this include the following:

a. Provide a visual or tactile signal that will attract the person's attention and alert the user to a call, page, or other message, or to warn the user of significant mechanical difficulties in the product.

b. In portable products, a tactile signal such as vibration is often more effective than a visual signal because a visual signal may be missed. An auxiliary vibrating signaler might be effective if it is not readily achievable or effective to build vibration into a portable product.

c. For stationary products, a prominent visual indicator in the field of vision (e.g., a screen flash for a computer, or a flashing light for a telephone) is effective. To inform the user of the status of a process (e.g., line status on a telephone call, power on, saving to disk, or disconnected), text messages may be used. It is also desirable to have an image or light that is activated whenever acoustic energy is present on a telephone line.

d. Speech messages should be portrayed simultaneously in text form and displayed where easily seen by the user. Such captions should usually be verbatim and displayed long enough to be easily read. If the product provides speech messages and the user must respond to those messages (e.g., interactive voice response and voice mail), a TTY accessible method of accessing the product could be provided. If the product provides interactive communication using speech and video, it would be helpful to provide a method and channel for allowing non-speech communication (e.g., text conversation) in parallel with the video.

e. Certain operations of products make sounds that give status information, although these sounds are not programmed signals. Examples include the whir of an operating disk drive and the click of a key being pushed. Where sounds of this type provide information important for operating the product, such as a ''beep'' when a key is activated, provide a light or other visual confirmation of activation.

Paragraph (b)(5)

Availability of Auditory Information for People Who Are Hard of Hearing

1. People who are hard of hearing but not deaf can often use their hearing to access auditory information on a product.

2. Strategies for addressing this requirement may include the following:

a. Improve the signal to noise ratio by making the volume adjustable, increasing the maximum undistorted volume, and minimizing background noise by such methods as better coupling between the signal source and the user.

b. Alerting tones are most likely to be heard if they involve multiple tones, separated in frequency, which contrast with the environment.

c. Occasionally, varying tones may be preferred for attracting attention. If speech is used, it is best to test its intelligibility with individuals who are hard of hearing to maximize its clarity and ease of understanding. Provide the ability for the user to have any messages repeated or to repeat the message if no response is received from the user.

d. For essential auditory information, the information might be repeated and an acknowledgment from the user requested.

e. The intelligibility of the output can also be maximized by the location of the speakers and by keeping the speakers away from noise sources. However, visual displays are often more desirable than loud prompts or alerts, because the latter reduce privacy and can annoy others unless the amplified signal is isolated by means of a headphone, induction coupling, direct plug-in to a hearing aid, or other methods.

f. The use of a telephone handset or earcup which can be held up to the ear can improve intelligibility without disturbing others in the area. If a handset or earcup is used, making it compatible with a hearing aid allows users to directly couple the auditory signal to their hearing aids. If the microphone in the handset is not being used, turning it off will also reduce the amount of background noise which the person hears in the earpiece. Providing a headphone jack also allows individuals to plug in headphones, induction loops, or amplifiers which they may use to hear better.

Paragraph (b)(6)

Prevention of Visually-Induced Seizures

1. Individuals with photo-sensitive epilepsy can have a seizure triggered by displays which flicker or flash, particularly if the flash has a high intensity and within certain frequency ranges.

2. Strategies to address this requirement involve reducing or eliminating screen flicker or image flashing. In particular, the 6–30 Hz range is the most sensitive frequency range, and should be avoided. A maximum frequency of 3 Hz has usually been set for visual fire alarms to provide a margin of safety. The chance of triggering seizures can also be reduced by avoiding very bright flashes which occupy a large part of the visual field (particularly in the center of the visual field) in order to minimize the impact on the visual cortex.

Paragraph (b)(7)

Availability of Audio Cutoff

1. Individuals using the audio access mode, as well as those using a product with the volume turned up, need a way to limit the range of audio broadcast.

2. If an audio headphone jack is provided, a cut-off switch can be included in the jack so that insertion of the jack would cut off the speaker. If a telephone-like handset is used, the external speakers can be turned off when the handset is removed from the cradle.

Paragraph (b)(8)

Non-Interference With Hearing Technologies

1. Individuals who are hard of hearing use hearing aids and other assistive listening devices but these devices cannot be used if a telecommunications product introduces noise into the listening aids because of stray electromagnetic interference.

2. Strategies for reducing this interference (as well as improving hearing aid immunity) are being researched. The most desirable strategy is to avoid the root causes of interference when a product is initially designed. If the root sources of interference cannot be removed, then shielding, placement of components to avoid hearing aid interference, and field-canceling techniques may be effective. Standards are being developed to limit interference to acceptable levels, but complete elimination for some technologies may not yet be practical.

Paragraph (b)(9)

Hearing Aid Coupling

1. Many individuals who are hard of hearing use hearing aids with a T-coil (or telecoil) feature to allow them to listen to audio output of products without picking up background noise and to avoid problems with feedback, signal attenuation or degradation.

2. The Hearing Aid Compatibility (HAC) Act defines a telephone as hearing aid compatible if it provides internal means for effective use with hearing aids and meets established technical standards for hearing aid compatibility.

3. The technical standards for HAC telephones are specified in ANSI/EIA–504–1989, ''Magnetic Field Intensity Criteria for Telephone Compatibility with Hearing Aids,'' ANSI/TIA/EIA–504–1–1994, ''An Addendum to EIA–504,'' which adds the HAC requirements, and the FCC regulations at 47 CFR 68.317(a).

4. A good strategy for addressing this requirement for any product held up to the ear would be to meet these same technical requirements. If not readily achievable to provide built-in telecoil compatibility, an accessory or other means of providing the electro-magnetic signal is the next strategy to be considered.

Paragraph (b)(10)

Availability of Enhanced Audio

1. Strategies for addressing this provision are the same as for paragraph (b)(5) of this section.

Subpart D—Requirements for Compatibility With Peripheral Devices and Specialized Customer Premises Equipment

Section 1193.41 Compatibility

Paragraph (a)

External Electronic Access to All Information and Control Mechanisms

1. Some individuals with severe or multiple disabilities are unable to use the built-in displays and control mechanisms on a product.

2. The two most common forms of manipulation-free connections are an infrared connection or a radio frequency connection point. Currently, the Infrared Data Association (IrDA) infrared connection point is the most universally used approach. A cross-industry standard for alternative control and display does not exist, however a standard protocol is under development.

Paragraph (b)

Connection Point for External Audio Processing Devices

1. Individuals using audio peripheral devices such as amplifiers, telecoil adapters, or direct-connection into a hearing aid need a standard, noise free way to tap into the audio generated by a product.

2. Individuals who cannot hear well can often use products if they can isolate and enhance the audio output. For example, they could plug in a headphone which makes the audio louder and helps shut out background noise; they might feed the signal through an amplifier to make it louder, or through filters or frequency shifters to make it better fit their audio profile. If they are wearing a hearing aid, they may directly connect their hearing aid to the audio signal or plug in a small audio loop which allows them to couple the audio signal through their hearing aid's built-in T-coil.

3. Devices which can process the information and provide visual and/or tactile output are also possible. The most common strategy for achieving this requirement is the use of a standard 9 mm miniature plug-in jack, common to virtually every personal tape player or radio. For small products, a subminiature phone jack could be used.

Paragraph (c)

Non-Interference With Hearing Technologies

1. Strategies for addressing this provision are the same as those for § 1193.37 (b)(8) of this appendix.

Paragraph (d)

Compatibility of Controls With Prosthetics

1. Individuals who have artificial hands or use headsticks or mouthsticks to operate products have difficulty with capacitive or heat-operated controls which require contact with a person's body rather than a tool. Individuals who wear prosthetics are unable to operate some types of products because they either require motions that cannot easily be made with a prosthetic hand, or because products are designed which require touch of the human skin to operate them (e.g., capacitive touchscreen kiosks), making it impossible for individuals with artificial

arms or hands to operate, except perhaps with their nose or chin. Some individuals who do not have the use of their arms use either a headstick or a mouthstick to operate products. Controls and mechanisms which require a grasping and twisting motion should be avoided.

Paragraph (e)

TTY Connectability

1. Acoustic coupling is subject to interference from ambient noise, as many handsets do not provide an adequate seal with TTYs. Therefore, alternate (non-acoustic) connections are needed. Control of the microphone is needed for situations such as pay-phone usage, where ambient noise picked up by the mouthpiece often garbles the signal. For the use of voice carry-over, where the person can speak but not hear, the user needs to be able to turn the microphone on to speak and off to allow them to receive the TTY text replies.

2. A TTY can be connected to and used with any telecommunications product supporting speech communication without requiring purchase of a special adapter, and the user is able to intermix speech and clear TTY communication. The most common approach today is to provide a RJ–11 jack. On very small products, where there may not be room for this large jack, a miniature or subminiature phone-jack wired as a ''headset'' jack (with both speaker and microphone connections) could be used as an alternate approach. In either case, a mechanism for turning the phone mouthpiece (microphone) on and off would reduce garbling in noisy environments, while allowing the user to speak into the microphone when desired (to conduct conversations with mixed voice and TTY). For equipment that combines voice communications, displays, keyboards and data communication functions, it is desirable to build in direct TTY capability.

Paragraph (f)

TTY Signal Compatibility

1. Some telecommunications systems compress the audio signal in such a manner that standard signals used by a TTY is distorted or attenuated preventing successful TTY communication over the system. A TTY can be used with any product providing voice communication function.

2. The de facto standard of domestic TTYs is Baudot which has been defined in ITU–T Recommendation V.18. Although the V.18 standard has been adopted, products are not yet available which meet its requirements.

3. This provision can be addressed by ensuring that the tones used can travel through the phones compression circuits undistorted. It is even more desirable to provide undistorted connectivity to the telephone line in the frequency range of 390 Hz to 2300 Hz (ITU–T Recommendation V.18), as this range covers all of the TTY protocols known throughout the world. An alternate strategy might be to recognize the tones, transmit them as codes, and resynthesize them at the other end. In addition, it should be possible for individuals using TTYs to conduct conversations with mixed voice and TTY, and to control all aspects of the product and receive any messages generated by the product.

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Friday
April 18, 1997

Part III

Department of Defense

General Services Administration

National Aeronautics and Space Administration

48 CFR Part 12, et al.

Empowerment Contracting Federal Acquisition Regulations and Empowerment Contracting Proposed Information Collection Requirement Comment Request; Proposed Rule and Notice

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 12, 14, 15, 26, 36, and 52

[FAR Case 97–603]

RIN 9000–AH58

Federal Acquisition Regulation; Empowerment Contracting

AGENCIES: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Proposed rule with request for comments.

SUMMARY: The Department Of Defense, General Services Administration, National Aeronautics And Space Administration are proposing amendments to the Federal Acquisition Regulation (FAR) to establish phase one of an Empowerment Contracting Program that provides procurement incentives to both large and small businesses to encourage their activity in areas of general and severe economic distress. This action is being taken to implement Presidential Executive Order 13005 of May 21, 1996, Empowerment Contracting. On September 13, 1996, the Department of Commerce (DoC) published in the **Federal Register** proposed guidelines for implementing Executive Order 13005 in the FAR. The amendments to the FAR that are being proposed in this rule are largely based on those guidelines. However, the amendments to the FAR in this proposed rule do depart from the September 13, 1996, guidelines in certain respects based either on comments received in response to the guidelines' publication or on the need to develop a program that could more readily be implemented. This regulatory action was subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993. This is a major rule under 5 U.S.C. 804.

DATES: *Comment Closing Date:* Comments on the proposed rule should be submitted in writing to the address below on or before June 17, 1997, to be considered in the formulation of the final rule.

ADDRESSES: Interested parties should submit written comments to: General Services Administration, FAR Secretariat (MVRS), 1800 F Street NW., Room 4035, Washington DC 20405.

Please cite FAR case 97–603 in all correspondence related to this issue.

FOR FURTHER INFORMATION CONTACT: Ms. Victoria Moss, Procurement Analyst, Federal Acquisition Policy Division, General Services Administration, Telephone: (202) 501–4764 or Mr. Mike Sipple, Procurement Analyst, Office of the Director of Defense Procurement, Department of Defense, Telephone: (703) 695–8567. For general information pertaining to publication and scheduling call the FAR Secretariat at (202) 501–4755.

SUPPLEMENTARY INFORMATION:

A. Background

Executive Order 13005 established the Empowerment Contracting Program to encourage business activity in areas of general economic distress by providing procurement incentives to qualified businesses. The procurement incentive program prescribed in the Executive order applies to both large and small businesses and is race neutral. DoC has published for comment proposed guidelines for implementing the Empowerment Contracting Program in the FAR (61 FR 48463, September 13, 1996). That program is expected to be implemented through revisions to the FAR and the FAR Supplements and through the issuance of DoC regulations. This proposed rule contains the FAR revisions. The program that is described in this proposed rule represents phase one of a phased implementation that will likely be amended following the evaluation of its results. The planned duration of phase one of the program is 18 months following the issuance of an interim or final FAR rule. Agencies shall select the contracting activities that will participate in phase one. Agencies shall select a sufficient number of contracting activities such that approximately twenty five percent (in terms of dollars) of the applicable acquisitions awarded during phase one of the program, in each of the applicable Standard Industrial Classification (SIC) major groups, are subject to an empowerment contracting preference.

B. Regulatory Flexibility Act

This proposed rule may have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, because the rule provides preferences through which small and large business concerns may be provided benefits in Federal contracting. An Initial Regulatory Flexibility Analysis (IRFA) has been prepared and may be obtained from the FAR Secretariat. A copy of the IRFA has been submitted to the Chief Counsel for Advocacy of the Small Business Administration. Comments are invited. Comments from small entities concerning the affected FAR subparts will be considered in accordance with Section 610 of the Regulatory Flexibility Act. Such comments must be submitted separately and cite FAR Case 97–603 in correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (Pub. L. 104–13) applies because the proposed rule contains reporting and recordkeeping requirements. This proposed rule provides two means by which a firm can apply for an evaluation preference. Under the first process, prequalification with the DoC, a firm may submit information to DoC under rules being developed by that agency and receive a qualification certification which will be valid for the period of time determined by DoC. When competing for Federal contracts, these firms need only show that they are prequalified in order to receive the preference.

Firms that are not prequalified may self-certify on individual solicitations. Under self-certification, a firm must indicate how it will qualify against the stated empowerment criteria, report on its actual performance against those criteria, and grant the Government certain audit rights.

A request for approval of the paperwork burden has been submitted to the Office of Management and Budget and a notice of that request appears elsewhere in this issue.

List of Subjects in 48 CFR Parts 12, 14, 15, 26, 36, and 52

Government procurement.

Dated: April 14, 1997.

Edward C. Loeb,

Director, Federal Acquisition Policy Division.

Therefore, 48 CFR Parts 12, 14, 15, 26, 36, and 52 are proposed to be amended as follows:

1. The authority citation for 48 CFR 12, 14, 15, 26, 36, and 52 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. Chapter 137; and 42 U.S.C. 2473(c).

PART 12—COMMERCIAL ITEMS

2. Section 12.301 is amended by adding paragraph (g) to read as follows:

12.301 Solicitation provisions and contract clauses for the acquisition of commercial items.

* * * * *

(g) *Empowerment Contracting Program*. The contracting officer shall

ensure that solicitations and contracts subject to the Empowerment Contracting Program (see subpart 26.4) include the appropriate solicitation provisions and contract clauses (see 26.409).

PART 14—SEALED BIDDING

3. Section 14.206 is revised to read as follows:

14.206 Small business set-asides and the Empowerment Contracting Program.

See part 19 for small business set-asides, and part 26 for the Empowerment Contracting Program.

PART 15—CONTRACTING BY NEGOTIATION

4. Section 15.605 is amended by adding paragraph (b)(1)(v) to read as follows:

15.605 Evaluation factors and subfactors.

* * * * *

(b)(1) * * *

(v) For acquisitions subject to subpart 26.4, Empowerment Contracting Program, a 10 percent price evaluation preference shall be used in acquisitions when cost or price is a significant evaluation factor; a non-price empowerment contracting evaluation factor shall be used when price or cost is not a significant evaluation factor (see subpart 26.4).

* * * * *

5. Section 15.1003 is amended by adding paragraph (a)(3) to read as follows:

15.1003 Notifications to unsuccessful offerors.

(a) * * *

(3) *Preaward notices for the Empowerment Contracting Program*. When the apparently successful offeror has received an empowerment contracting preference (see subpart 26.4) that was the determining factor in its selection, upon completion of negotiations and determinations of responsibility, but prior to award, the contracting officer shall notify each unsuccessful offeror in writing of the name and location of the apparently successful offeror. The notice shall indicate whether the apparently successful offeror represented itself as prequalified or self-certified, and shall indicate the type of prequalification or self-certification. The notice also shall state that—

(i) The Government will not consider subsequent revisions of the unsuccessful offeror's proposal; and

(ii) No response is required unless a basis exists to challenge the empowerment contracting status of the apparently successful offeror. The notice is not required when the contracting officer determines in writing that the urgency of the requirement necessitates award without delay.

* * * * *

PART 26—OTHER SOCIOECONOMIC PROGRAMS

6. Part 26 is amended by adding subpart 26.4 to read as follows:

Subpart 26.4—Empowerment Contracting Program

26.401 General.
26.402 Definitions.
26.403 Status as a qualified business.
26.404 Protesting a firm's status as a qualified business.
26.405 Applicability.
26.406 Preferences.
26.406–1 Price evaluation preference.
26.406–2 Non-price evaluation factor.
26.407 Contractor obligations.
26.408 Agency reporting requirements.
26.409 Solicitation provisions and contract clauses.

26.401 General.

This subpart implements Executive Order 13005, Empowerment Contracting. The Order provides for procurement preferences in certain acquisition categories to encourage business activity by both large and small businesses in areas of general economic distress. The program that is described in this subpart represents phase one of a phased implementation that will likely be amended following the evaluation of its results. The planned duration of phase one of the program is 18 months following the issuance of an interim or final FAR rule. The head of the agency shall select the contracting activities that will participate in phase one. The head of the agency shall select a sufficient number of contracting activities such that approximately 25 percent (in terms of dollars) of the applicable acquisitions awarded during phase one of the program, in each of the applicable Standard Industrial Classification (SIC) major groups (see 26.405), are subject to an empowerment contracting preference.

26.402 Definitions.

''Qualified business,'' as used in this subpart, means a for-profit or not-for-profit business concern that has represented itself as prequalified by the Department of Commerce for the Empowerment Contracting Program or has self-certified to specific definitions in accordance with the clause at 52.226–3, Empowerment Contracting—Qualified Business Status.

26.403 Status as a qualified business.

(a) *Size*. The appropriate size standard for each acquisition shall be established consistent with 19.102. Notwithstanding the definition of business or concern at 13 CFR 121.403, the size standard for each acquisition shall also apply to not-for-profit entities.

(b) *Qualification process*. In order to qualify for the procurement preferences of this subpart, a business concern may obtain status as a qualified business through either prequalification by the Department of Commerce (DoC) or self-certification on a solicitation-by-solicitation basis. Prequalification may be used when a business concern believes that it already meets the qualification criteria established by DoC (XX CFR Part XXX). Self-certification may be used when a business concern can meet established criteria during the period of performance of a contract (see 52.226–3). If a business concern is prequalified, it is entitled to receive preferences for the effective period of its prequalification. If a business concern chooses to qualify by self-certifying, it must grant the Government certain audit rights and shall be required to pay the amount of any premium paid due to an empowerment contracting preference should it not fulfill its promises. Prequalification by DoC will be conducted according to DoC regulations at XX CFR Part XXX. Offerors shall represent to the contracting officer whether they have obtained prequalification from DoC in the clause at 52.226–3. Self-certification also shall be accomplished using the clause at 52.226–3. For an apparently successful offeror that represented itself as prequalified or self-certified, the contracting officer shall ensure that the offeror is not listed on DoC's List of Ineligible Contractors for Empowerment Contracting Preferences by accessing DoC's website at [insert URL].

26.404 Protesting a firm's status as a qualified business.

This section applies to protests of a business concern's status as a qualified business. Protests of a concern's size shall be processed in accordance with 19.302. Issues related to the Empowerment Contracting Program, other than size, shall be resolved in accordance with the procedures in this section. If a protest includes both size and other issues, the protest shall be processed concurrently under the procedures in 19.302 and this section. Any offeror, the contracting officer, or the DoC may protest the apparently successful offerors prequalified status or self-certification.

(a) An offeror may protest a concern's prequalified status or self-certification by filing a protest with the contracting officer. The protest—

(1) Must be filed within the times specified in paragraph (b) of this section; and

(2) Must contain specific detailed evidence supporting the basis of protest.

(b) In order to affect a specific solicitation, a protest must be timely.

(1) To be timely, a protest by an interested party must be received by the contracting officer by the close of business on the 5th business day after bid opening (in sealed bid acquisitions) or by the close of business on the 5th business day after receipt of the notification from the contracting officer that identifies the apparently successful offeror (in negotiated acquisitions) (see 15.1003(a)(3)).

(i) An oral protest must be confirmed in writing. The written confirmation must be delivered to the contracting officer within the 5-day period or sent by U.S. mail postmarked no later than one day after the oral protest.

(ii) A written protest must be delivered to the contracting officer within the 5-day period, or sent by U.S. mail postmarked within the 5-day period.

(2) A contracting officer's protest is always considered timely whether filed before or after award.

(c) The contracting officer or the DoC may protest a concern's prequalified status or self-certification at any time.

(1) If a contracting officer's protest is based on information provided by a party ineligible to protest directly or ineligible to protest under the timeliness standard, the contracting officer must be persuaded by the evidence presented before adopting the grounds for protest as his or her own.

(2) The DoC may protest a concern's prequalified status or self-certification by filing directly with its Office of XXXXX and notifying the contracting officer.

(d) The contracting officer shall return untimely protests to the protestor, including protests filed before bid opening or notification of the apparently successful offeror.

(e) Upon receipt of a timely protest, the contracting officer shall withhold award and forward the protest to the DoC Office of XXXXX, 14th and Constitution Ave. NW, Washington, DC 20230. The contracting officer shall send to DoC—

(1) The protest;

(2) The date the protest was received and a determination of timeliness;

(3) A copy of the protested concern's submittals regarding prequalified status or self-certification; and

(4) The date of bid opening or date on which notification of the apparently successful offeror was sent to unsuccessful offerors.

(f) When the contracting officer makes a written determination that award must be made to protect the public interest, award may be made notwithstanding the protest.

(g) The DoC, Office of XXXXX, will determine the qualification status of the challenged offeror and will notify the contracting officer, the challenged offeror, and the protestor. Award may be made on the basis of that determination. The determination is final for purposes of the instant acquisition, unless—

(1) It is appealed; and

(2) The contracting officer receives the DoC's decision on the appeal before award.

(h) If the contracting officer does not receive a DoC determination within 15 business days after the DoC's receipt of the protest, the contracting officer shall presume that the challenged offeror's prequalified status or self-certification is valid.

(i) A DoC determination may be appealed by—

(1) The interested party whose protest has been denied;

(2) The concern whose status was protested; or

(3) The contracting officer. The appeal must be filed with the DoC's Office of XXXXX within five business days after receipt of the determination.

26.405 Applicability.

(a) Except as stated in paragraph (b) of this section, the empowerment contracting preferences shall be applied in competitive acquisitions, at contracting activities designated by the head of the agency, in the following Standard Industrial Classification (SIC) Major Groups:

15 Building Construction-General Contractors and Operative Builders;
20 Food and Kindred Products;
23 Apparel and Other Finished Products Made from Fabrics and Similar Materials;
25 Furniture and Fixtures;
27 Printing, Publishing, and Allied Industries;
30 Rubber and Miscellaneous Plastic Products;
34 Fabricated Metal Products, Except Machinery and Transportation Equipment;
42 Motor Freight Transportation and Warehousing;
51 Wholesale Trade-Nondurable Goods;
73 Business Services; and
87 Engineering, Accounting, Research, Management, and Related Services.

(b) Do not use the empowerment contracting preferences in acquisitions that—

(1) Are not greater than the simplified acquisition threshold;

(2) Are set-aside for small business concerns;

(3) Are awarded pursuant to the 8(a) program;

(4) Are awarded to required sources of supply under part 8 (*e.g.*, Federal Prison Industries, Committee for Purchase from People Who are Blind or Severely Disabled, and Federal Supply Schedule Contracts); or

(5) Will be performed entirely outside of any State, territory, or possession of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.

26.406 Preferences.

For each acquisition subject to this subpart, the contracting officer shall use a 10 percent price evaluation preference or a non-price evaluation factor. When the non-price evaluation factor is used, and the source selection uses a numerical rating system, the non-price evaluation factor for empowerment contracting may be given a weight of up to 15 percent. The Empowerment Contracting Program shall not displace the agencies' authority or responsibilities, as authorized by law, regarding any other programs designed to promote the development of small, small disadvantaged, or woman-owned small businesses. Accordingly, any preference a business receives under this program shall be added to the preference it may receive pursuant to other statutory or regulatory programs.

26.406–1 Price evaluation preference.

(a) *Policy.* A price evaluation preference of 10 percent shall be used in acquisitions subject to this subpart when price or cost is a significant evaluation factor.

(b) *Procedures.* (1) The contracting officer shall—

(i) Give offers from qualified businesses a price evaluation preference by adding ten percent to all offers, except offers from qualified businesses;

(ii) Apply the preference on a line item basis or apply it to any group of items on which award may be made; and

(iii) Add other evaluation factors such as transportation costs or rent-free use of Government facilities to the offers before applying the price evaluation preference.

(2) This preference shall be additive along with any other price evaluation preferences. Preferences shall not be calculated based on an offer with

another preference added, but rather on the base offer alone. For example, if an acquisition is subject to this subpart and a price evaluation preference or adjustment for small disadvantaged business concerns, each of the preferences shall be applied to the initial offers and the preferences combined to arrive at total evaluated prices.

26.406–2 Non-price evaluation factor.

A non-price evaluation factor shall be used in acquisitions when price or cost is not a significant evaluation factor. The contracting officer shall ensure that the factor will be given sufficient weight to be meaningful when source selection is made on a best value basis. When the non-price evaluation factor is used, and the source selection uses a numerical rating system, the non-price evaluation factor for empowerment contracting may be given a weight of up to 15 percent. The solicitation shall describe the empowerment contracting non-price evaluation factor.

26.407 Contractor obligations.

(a) All qualified business contractors shall comply with the limitations on subcontracting specified in the clause at 52.226–5.

(b) *Contractors that qualify by self-certification*—(1) *Reporting requirement.* Not later than 30 days after completion of the contract, the contractor shall submit a report to the contracting officer that documents its compliance or failure to comply with the criteria by which the contractor self-certified its status as a qualified business.

(2) *Government right to audit.* The contracting officer, or an authorized representative of the contracting officer, shall have the right to examine and audit all of the contractor's records necessary to determine whether the contractor complied with the terms of the self-certification. ''Records'' includes books, documents, accounting procedures and practices, and other data, regardless of type and regardless of whether such items are in written form, in the form of computer data, or in any other form.

(3) *Failure to comply with the terms of the self-certification.* In addition to other remedies available to the Government, the following apply:

(i) *Preference recoupment.* When a contractor does not comply with the terms of a self-certification, the Government shall require a preference recoupment. If the contracting officer finds that the contractor failed to comply with the terms of the self-certification, the contracting officer shall issue a final decision to the contractor to that effect and require recoupment of the dollar amount of the premium paid by the Government due to an empowerment contracting preference. The contracting officer's final decision shall state that the contractor has the right to appeal under the clause in the contract entitled Disputes. Preference recoupments shall be in addition to any other remedies that the Government may have.

(ii) *List of Ineligible Contractors for the Empowerment Contracting Program.* If the contracting officer suspects that the contractor failed to make a good faith effort to comply with the terms of its self-certification, the matter shall be referred to DoC's Office of XXXXX for a determination on whether the contractor should be included on the List of Ineligible Contractors for Empowerment Contracting Program. This is in addition to other remedies, including suspension, debarment, and ineligibility under Part 9.

26.408 Agency reporting requirements.

Each agency shall submit to the DoC Office of XXXXX, 14th and Constitution Ave. NW, Washington, DC 20230, a report covering each fiscal year in which it has conducted procurements under the Empowerment Contracting Program described in this subpart. The report shall be submitted within three months after the end of the fiscal year and shall contain the following information:

(a) The number and dollar amount of solicitations in which an empowerment contracting preference was offered. This information will be broken down by SIC Major Group and by the use of the 10 percent price evaluation preference and non-price evaluation factor;

(b) The contract numbers, dollar amounts, names of awardees, and price premiums paid (if identifiable) for awards made as a result of an empowerment contracting preference. This information will be broken down by SIC Major Group.

(c) Comments on the advantages and disadvantages of the Empowerment Contracting Program, including comments on whether the program had any impact on the quality of supplies and services procured through its use.

26.409 Solicitation provisions and contract clauses.

(a) The contracting officer shall insert the clause at 52.226–3, Empowerment Contracting—Qualified Business Status, in solicitations and contracts that include an empowerment contracting preference.

(b) The contracting officer shall insert the provision at 52.226–4, Empowerment Contracting—Notice of Price Evaluation Preference, in solicitations that include an empowerment contracting price evaluation preference.

(c) The contracting officer shall insert the clause at 52.226–5, Empowerment Contracting—Contractor Obligations, in solicitations and contracts that include an empowerment contracting preference. The clause shall be used with its Alternate I when the contracting officer believes that the amount of the preference recoupment should be specified in the contract.

PART 36—CONSTRUCTION AND ARCHITECT-ENGINEER CONTRACTS

7. 36.602–1 is amended by adding paragraph (a)(8) to read as follows:

36.602–1 Selection criteria.

(a) * * *

(8) Status as a qualified business, if the acquisition is subject to subpart 26.4, Empowerment Contracting.

* * * * *

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

8. Part 52 is amended by adding 52.226–3, 52.226–4, and 52.226–5 to read as follows:

52.226–3 Empowerment Contracting—Qualified Business Status.

As prescribed in 26.409(a), use the following clause:

EMPOWERMENT CONTRACTING—QUALIFIED BUSINESS STATUS (XXX 1997)

(a) *Definitions.* As used in this clause—

''Area of general economic distress'' means, for all urban and rural communities, any census tract that has a poverty rate of at least 20 percent or any designated Federal Empowerment Zone, Supplemental Empowerment Zone, Enhanced Enterprise Community, or Enterprise Community. It also means any rural area or Indian reservation that currently meets the criteria for designation as a redevelopment area under section 401(a) of the Public Works and Economic Development Act of 1965, as amended (42 U.S.C. 3161(a)), as set forth at 13 CFR 301.2 (loss of population), 13 CFR 301.4 (Indian Lands), and 13 CFR 301.7 (special impact areas). *Note:* These areas have been identified by the Department of Commerce (DoC) and are available on the DoC website at [enter URL].

''Area of severe economic distress'' means any census tract that has a poverty rate of at least 50 percent. *Note:* These areas have been identified by DoC and are available on the DoC website at [enter URL].

(b) *General.* This clause is used to assess an offeror's qualified status for the purpose of obtaining an empowerment contracting preference for this acquisition. Status as a

small business is covered by 52.219–1, Small Business Program Representations or 52.212–3, Offeror Representations and Certifications—Commercial Items. An offeror claiming qualified business status must either represent that it has obtained prequalification from DoC or certify to specified definitions. (The offeror shall check one of the following.)

____ The offeror is claiming qualified business status on the basis of prequalification by DoC (the offeror must complete subparagraph (b)(1)).

____ The offeror is claiming qualified business status on the basis of self-certification to specified definitions (the offeror must complete subparagraph (b)(2)).

(1) *Prequalification by the Department of Commerce.* If DoC has prequalified the offeror as meeting one or more of the definitions for qualification (see XX CFR XXX), the offeror shall provide a copy of its current prequalification certificate with its offer. Based on its current prequalification certificate and the size standard applicable to this acquisition, the offeror represents its status as a (the offeror shall check one of the following):

____ Qualified small business.

____ Qualified large business in areas of general economic distress.

____ Qualified business in areas of severe economic distress.

(2) *Self-certification.* The offeror certifies, as part of its offer, that it meets the definitions of qualified small business, qualified large business in areas of general economic distress, or qualified business in areas of severe economic distress for the Standard Industrial Classification (SIC) Major Group of this acquisition (the offeror shall check the applicable criterion or criteria):

____ (i) *Qualified small business* (check one of the following).

____ The contractor will pay, during the period of performance of the contract, at least 25 percent of its total wages and benefits to residents from areas of general economic distress; or

____ The contractor will maintain, during the period of performance of the contract, physical plant(s) in areas of general economic distress where at least 25 percent of its employees will perform their jobs (employees will be considered to perform their jobs at the location where they spend the most time working, as long as it is at least six hours per work week); or

____ The contractor will incur, during the period of performance of the contract, at least 25 percent of its expenses on goods, materials, and services from firms located in areas of general economic distress.

____ (ii) *Qualified large business in areas of general economic distress.* The contractor will pay, during the period of performance of the contract, at least 25 percent of its total wages and benefits to residents from areas of general economic distress; and at least one of the following:

____ The contractor will maintain, during the period of performance of the contract, physical plant(s) in areas of general economic distress where at least 25 percent of its employees will perform their jobs (employees will be considered to perform their jobs at the location where they spend the most time working, as long as it is at least six hours per work week); or

____ The contractor will pay, during the period of performance of the contract, at least 50 percent of its total wages and benefits to residents from areas of general economic distress; or

____ The contractor will incur, during the period of performance of the contract, at least 25 percent of its expenses on goods, materials, and services from firms located in areas of general economic distress.

____ (iii) *Qualified business in areas of severe economic distress* (check one of the following).

____ The contractor will pay, during the period of performance of the contract, at least 25 percent of its total wages and benefits to residents from areas of severe economic distress; or

____ The contractor will maintain, during the period of performance of the contract, physical plant(s) in areas of severe economic distress where at least 25 percent of its employees will perform their jobs (employees will be considered to perform their jobs at the location where they spend the most time working, as long as it is at least six hours per work week); or

____ The contractor will incur, during the period of performance of the contract, at least 25 percent of its expenses on goods, materials, and services from firms located in areas of severe economic distress.

(End of clause)

52.226–4 Empowerment Contracting—Notice of Price Evaluation Preference.

As prescribed in 26.409(b), use the following provision:

EMPOWERMENT CONTRACTING—NOTICE OF PRICE EVALUATION PREFERENCE (XXX 1997)

(a) *Definition.*

''Qualified business,'' as used in this provision, means a for-profit or not-for-profit business concern that has represented itself as prequalified by the Department of Commerce for the Empowerment Contracting Program or has self-certified to specific definitions in accordance with the clause at 52.226–3, Empowerment Contracting—Qualified Business Status.

(b) *Evaluation preference.*

(1) Offers will be evaluated by adding a factor of ten percent to the price of all offers, except offers from qualified businesses.

(2) The preference shall be applied on a line item basis or to any group of items on which award may be made. Other evaluation factors described in the solicitation shall be applied before application of the factor described in paragraph (b)(1) of this provision.

(3) This preference is additive along with any other price evaluation preferences. Preferences shall not be calculated based on an offer with another preference added, but rather on the base offer alone.

(End of provision)

52.226–5, Empowerment Contracting—Contractor Obligations.

As prescribed in 26.409(a), use the following clause:

EMPOWERMENT CONTRACTING—CONTRACTOR OBLIGATIONS (XXX 1997)

This clause applies to Contractors that claim qualified business status under the Empowerment Contracting Program.

(a) *Limitations on subcontracting.* The Contractor agrees that in performance of this contract in the case of a contract for—

(1) Services, except construction, at least 50 percent of the cost of personnel for contract performance will be spent for employees of the concern.

(2) Supplies, at least 50 percent of the cost of manufacturing, excluding the cost of materials, will be performed by the concern.

(3) General construction, at least 15 percent of the cost of the contract, excluding the cost of materials, will be performed by employees of the concern.

(4) Construction by special trade contractors, at least 25 percent of the cost of the contract, excluding the cost of materials, will be performed by employees of the concern.

(b) *Additional requirements.* This paragraph applies if the Contractor self-certified its status as a qualified business in the clause at 52.226–3, Empowerment Contracting—Qualified Business Status.

(1) *Reporting requirement.* Not later than 30 days after the completion of this contract, the Contractor shall submit a report to the Contracting Officer that documents its compliance or failure to comply with the criteria by which the Contractor self-certified its status as a qualified business.

(2) *Government right to audit.* The Contracting Officer, or an authorized representative of the Contracting Officer, shall have the right to examine and audit all of the Contractor's records necessary to determine whether the Contractor complied with the terms of its self-certification. ''Records'' includes books, documents, accounting procedures and practices, and other data, regardless of type and regardless of whether such items are in written form, in the form of computer data, or in any other form.

(3) *Failure to comply with the terms of the self-certification*—(i) *Preference recoupment.* If the Contractor does not comply with the terms of the self-certification, the Government shall require a preference recoupment. If the Contracting Officer finds that the Contractor failed to comply with the terms of the self-certification, the Contracting Officer shall issue a final decision to the Contractor to that effect and unilaterally reduce the price of the contract by the dollar amount of the premium paid by the Government due to an empowerment contracting preference. The Contractor has the right to appeal the Contracting Officer's

final decision in accordance with the Disputes clause of this contract. Preference recoupment shall be in addition to any other remedies that the Government may have.

(ii) *List of Ineligible Contractors for the Empowerment Contracting Program*. If the Contracting Officer suspects that the Contractor failed to make a good faith effort to comply with the terms of its self-certification, the Contracting Officer shall refer the Contractor to Department of Commerce's Office of XXXXX for a determination on whether or not the contractor should be included on the List of Ineligible Contractors for Empowerment Contracting Program.

(End of clause)

Alternate I (XXX 1997). As prescribed in 26.409(c), substitute the following paragraph (b)(3)(i) for paragraph (b)(3)(i) of the basic clause:

(i) *Preference recoupment.* If the Contractor does not comply with the terms of the self-certification, the contract price shall be reduced by an amount equal to _____ (Contracting Officer shall insert an amount equal to the dollar amount of the premium paid by the Government due to an empowerment contracting preference). If the Contracting Officer finds that the Contractor failed to comply with the terms of the self-certification, the Contracting Officer shall issue a final decision to the Contractor to that effect, reduce the contract price, and require payment of the preference recoupment in the amount stated in this paragraph. The Contractor has the right to appeal the Contracting Officer's final decision in accordance with the Disputes clause of this contract. Preference recoupment shall be in addition to any other remedies that the Government may have.

[FR Doc. 97–10060 Filed 4–17–97; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[FAR Case 97–603]

Proposed Collection; Comment Request Entitled Empowerment Contracting

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of request for public comments regarding a new OMB clearance.

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Federal Acquisition Regulation (FAR) Secretariat will be submitting to the Office of Management and Budget (OMB) a request to review and approve a new information collection requirement concerning Empowerment Contracting (FAR Case 97–603).

DATES: *Comment Due Date:* June 17, 1997.

ADDRESSES: Comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, should be submitted to: FAR Desk Officer, OMB, Room 10102, NEOB, Washington, DC 20503, and a copy to the General Services Administration, FAR Secretariat, 1800 F Street, NW, Room 4037, Washington, DC 20405. Please cite FAR case 97–603, Empowerment Contracting, in all correspondence.

FOR FURTHER INFORMATION CONTACT: Victoria Moss, Office of Federal Acquisition Policy, GSA (202) 501–4764.

SUPPLEMENTARY INFORMATION:

A. Purpose

In order to promote economy and efficiency in Federal procurement, it is necessary to secure broad-based competition for Federal contracts. This broad competition is best achieved where there is an expansive pool of potential contractors capable of producing quality goods and services at competitive prices. A great and largely untapped opportunity for expanding the pool of such contractors can be found in economically distressed communities. Fostering growth of Federal contractors in economically distressed communities and ensuring that those contractors become viable businesses for the long term will promote economy and efficiency in Federal procurement and help to empower those communities.

This proposed rule implements Executive Order 13005, ''Empowerment Contracting,'' dated May 21, 1996. The Order establishes the Empowerment Contracting Program, which seeks to promote economy and efficiency in Federal procurement by expanding the pool of potential contractors from the Nation's economically distressed areas that are capable of providing supplies and services at competitive prices.

This proposed rule establishes in the FAR Phase I of an Empowerment Contracting Program to assist businesses located in areas of general and severe economic distress by providing for price and non-price evaluation adjustments for qualified firms. Phase I is limited to specified standard industrial classification major groups.

B. Annual Reporting Burden

Public reporting burden for this collection of information is estimated to average *0.96* hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

The annual reporting burden is estimated as follows: Respondents *6,648*; responses per respondent, *1*; total annual responses, *6,648*; preparation hours per response, *1.93*; and total response burden hours, *12,852*.

Obtaining Copies of Justifications

Requester may obtain a copy of the justification from the General Services Administration, FAR Secretariat (MVRS), Room 4037, 1800 F Street, NW, Washington, DC 20405, telephone (202) 501–4755. Please cite FAR case 97–603, Empowerment Contracting, in all correspondence.

Dated: April 14, 1997.

Sharon A. Kiser,

FAR Secretariat.

[FR Doc. 97–10059 Filed 4–17–97; 8:45 am]

BILLING CODE 6820–EP–P

federal register

Friday
April 18, 1997

Part IV

Department of Housing and Urban Development

Funding Availability, Family Unification Program, Fiscal Year 1997; Notice

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4194–N–01]

Notice of Funding Availability, Family Unification Program, Fiscal Year 1997

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Notice of Funding Availability (NOFA) for Fiscal Year (FY) 1997.

SUMMARY: *Purpose.* This notice announces the availability of FY 1997 funding for section 8 rental certificates under the Family Unification Program, which will provide rental assistance for approximately 6,400 families. The purpose of the Family Unification Program is to provide housing assistance to families for whom the lack of adequate housing is a primary factor in the separation, or imminent separation, of children from their families.

Available Funds. Up to $ 58.8 million in one-year budget authority.

Eligible Applicants. Housing agencies (HAs), including Indian Housing Authorities (IHAs), are invited to submit applications for housing assistance. Applications from twenty-four HAs that were included in the FY 1996 lottery and were not selected for funding in FY 1996 because of insufficient funds will be funded with FY 1997 funds. HUD will fund applications for Section 8 rental certificates from these HAs for approximately 1,100 units at an estimated cost of $10 million of one-year budget authority from FY 1997 funds. The balance of available funding of approximately $ 48.8 million in one-year budget authority will be made available for a new competition under this NOFA.

For FY 1997, HUD has determined that there are sufficient funds available to conduct a national lottery. Therefore, unlike in prior fiscal years when HAs within sixteen selected states only were eligible to apply, for FY 1997, any HA nationwide that currently administers a Section 8 certificate program or rental voucher program is eligible to apply and may be eligible for the lottery selection process for the FY 1997 Section 8 Family Unification Program.

DATES: The application deadline for the Family Unification program NOFA is June 17, 1997, 3:00 p.m., local time.

This application deadline is firm as to date and hour. In the interest of fairness to all competing HAs, HUD will not consider any application that is received after the application deadline. Applicants should take this practice into account and make early submission of their materials to avoid any risk of loss of eligibility brought about by unanticipated delays or other delivery-related problems. HUD will not accept, at any time during the NOFA competition, application materials sent via facsimile (FAX) transmission.

ADDRESSES: The local HUD State or Area Office, Attention: Director, Office of Public Housing, is the official place of receipt for all applications, except applications from Indian Housing Authorities (IHAs). The local HUD Native American Programs Office, Attention: Administrator, Office of Native American Programs, is the place of official receipt for IHA applications. For ease of reference, the term ''HUD Office'' will be used throughout this NOFA to mean the HUD State Office, HUD Area Office, and the HUD Native American Programs Office. If a particular type of HUD Office needs to be identified, e.g., the HUD Native American Programs Office, the appropriate office will be used.

FOR FURTHER INFORMATION CONTACT: Gerald J. Benoit, Director, Operations Division, Office of Rental Assistance, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410–8000, telephone number (202) 708–0477 (this is not a toll-free number). For hearing-and speech-impaired persons, this number may be accessed via TTY (text telephone) by calling the Federal Information Relay Service at 1–800–877–8339.

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act Statement

The section 8 information collection requirements contained in this NOFA have been approved by the Office of Management and Budget in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520), and assigned OMB control number 2577–0169. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a valid control number.

Promoting Comprehensive Approaches to Housing and Community Development

HUD is interested in promoting comprehensive, coordinated approaches to housing and community development. Economic development, community development, public housing revitalization, homeownership, assisted housing for special needs populations, supportive services, and welfare-to-work initiatives can work better if linked at the local level. Toward this end, the Department in recent years has developed the Consolidated Planning process designed to help communities undertake such approaches.

In this spirit, it may be helpful for applicants under this NOFA to be aware of other related HUD NOFAs that have recently been published or are expected to be published in the near future. By reviewing these NOFAs with respect to their program purposes and the eligibility of applicants and activities, applicants may be able to relate the activities proposed for funding under this NOFA to the recent and upcoming NOFAs and to the community's Consolidated Plan.

The related NOFAs that the Department has published are as follows: the NOFA for the Continuum of Care Assistance, published on April 8, 1997 (62 FR 17024), the NOFA for the Section 8 Mainstream Housing Opportunities for Persons with Disabilities, published on April 10, 1997 (62 FR 17666), and the NOFA for the Rental Assistance for Persons with Disabilities in Support of Designated Housing Allocation Plans, published on April 10, 1997 (62 FR 17672). The related NOFAs that the Department expects to publish within the next few weeks include: the NOFA for Housing Opportunities for Persons with Aids; the NOFA for the Supportive Housing for the Elderly; the NOFA for Supportive Housing for Persons with Disabilities; and the NOFA for Section 8 Service Coordinators.

To foster comprehensive, coordinated approaches by communities, the Department intends for the remainder of FY 1997 to continue to alert applicants to upcoming and recent NOFAs as each NOFA is published. In addition, a complete schedule of NOFAs to be published during the fiscal year and those already published appears under the HUD Homepage on the Internet, which can be accessed at http://www.hud.gov/nofas.html. Additional steps on NOFA coordination may be considered for FY 1998.

For help in obtaining a copy of your community's Consolidated Plan, please contact the community development office of your municipal government.

Family Self-Sufficiency (FSS) Program Requirement

Unless specifically exempted by HUD, all rental voucher or rental certificate funding reserved in FY 1997 (except funding for renewals or amendments) will be used to establish the minimum size of an HA's FSS program.

A. Purpose and Substantive Description of Family Unification Program

(1) Authority

The Family Unification Program is authorized by Section 8(x) of the United States Housing Act of 1937, 42 U.S.C. 1437f(x).

The Department of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1997 (Pub. L. No. 104–204) provides funding for the Family Unification Program.

(2) Background

The Family Unification Program is a program under which Section 8 rental assistance is provided to families for whom the lack of adequate housing is a primary factor which would result in:

(a) The imminent placement of the family's child, or children, in out-of-home care; or

(b) The delay in the discharge of the child, or children, to the family from out-of-home care.

The purpose of the Family Unification Program is to promote family unification by providing rental assistance to families for whom the lack of adequate housing is a primary factor in the separation, or the threat of imminent separation, of children from their families.

Rental certificates awarded under the Family Unification Program are administered by HAs under HUD's regulations for the Section 8 rental certificate program (24 CFR parts 882 and 982). If the family requests a rental voucher, the HA may issue a rental voucher (24 CFR parts 887 and 982) to a family selected for participation in the Family Unification Program if the HA has one available.

(3) Eligibility of HAs

(a) *Family Unification Program Eligibility.* HUD has revised the family unification eligibility criteria for FY 1997 to allow any HA nationwide that currently administers a Section 8 rental voucher or certificate program to apply.

(b) *Eligibility for HUD-Designated Housing Agencies with Major Program Findings.* Some housing agencies currently administering the Section 8 rental voucher and certificate programs have, at the time of publication of this NOFA, major program management findings that are open and unresolved or other significant program compliance problems (e.g., HA has not implemented mandatory FSS program). HUD will not accept applications for additional funding from these HAs as contract administrators if, on the application deadline date, the findings are not closed to HUD's satisfaction. If any of these HAs want to apply for the Family Unification Program, the HA must submit an application that designates another housing agency, nonprofit agency, or contractor that is acceptable to HUD. The HA application must include an agreement by the other housing agency or contractor to administer the program for the new funding increment on behalf of the HA and a statement that outlines the steps the HA is taking to resolve the program findings. Immediately after the publication of this NOFA, the Office of Public Housing in the local HUD Office will notify, in writing, those HAs that are not eligible to apply because of outstanding management or compliance problems. The HA may appeal the decision, if HUD has mistakenly classified the HA as having outstanding management or compliance problems. Any appeal must be accompanied by conclusive evidence of HUD's error and must be received prior to the application deadline. Applications submitted by these HAs without an agreement from another housing agency or contractor, approved by HUD, to administer the program on behalf of the HA will be rejected.

(4) Program Guidelines

(a) *Eligibility.* (i) Family Unification eligible families. Each HA must modify its selection preference system to permit the selection of Family Unification eligible families for the program with available funding provided by HUD for this purpose. The term ''Family Unification eligible family'' means a family that:

(*A*) The public child welfare agency has certified is a family for whom the lack of adequate housing is a primary factor in the imminent placement of the family's child, or children, in out-of-home care, or in the delay of discharge of a child, or children, to the family from out-of-home care; and

(*B*) The HA has determined is eligible for Section 8 rental assistance.

(ii) Lack of Adequate Housing. The lack of adequate housing means:

(*A*) A family is living in substandard or dilapidated housing; or

(*B*) A family is homeless; or

(*C*) A family is displaced by domestic violence; or

(*D*) A family is living in an overcrowded unit.

(iii) Substandard Housing. A family is living in substandard housing if the unit where the family lives:

(*A*) Is dilapidated;

(*B*) Does not have operable indoor plumbing;

(*C*) Does not have a usable flush toilet inside the unit for the exclusive use of a family;

(*D*) Does not have a usable bathtub or shower inside the unit for the exclusive use of a family;

(*E*) Does not have electricity, or has inadequate or unsafe electrical service;

(*F*) Does not have a safe or adequate source of heat;

(*G*) Should, but does not, have a kitchen; or

(*H*) Has been declared unfit for habitation by an agency or unit or government.

(iv) Dilapidated Housing. A family is living in a housing unit that is dilapidated if the unit where the family lives does not provide safe and adequate shelter, and in its present condition endangers the health, safety, or well-being of a family, or the unit has one or more critical defects, or a combination of intermediate defects in sufficient number or extent to require considerable repair or rebuilding. The defects may result from original construction, from continued neglect or lack of repair or from serious damage to the structure.

(v) Homeless. A homeless family includes any person or family that:

(*A*) Lacks a fixed, regular, and adequate nighttime residence; and

(*B*) Has a primary nighttime residence that is:

(*1*) A supervised publicly or privately operated shelter designed to provide temporary living accommodations (including welfare hotels, congregate shelters, and transitional housing);

(*2*) An institution that provides a temporary residence for persons intended to be institutionalized; or

(*3*) A public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings.

(vi) Displaced by Domestic Violence. A family is displaced by domestic violence if:

(*A*) The applicant has vacated a housing unit because of domestic violence; or

(*B*) The applicant lives in a housing unit with a person who engages in domestic violence.

(*C*) ''Domestic violence'' means actual or threatened physical violence directed against one or more members of the applicant family by a spouse or other member of the applicant's household.

(vii) Involuntarily Displaced. For a family to qualify as involuntarily displaced because of domestic violence:

(*A*) The HA must determine that the domestic violence occurred recently or is of a continuing nature; and

(*B*) The applicant must certify that the person who engaged in such violence

will not reside with the family unless the HA has given advance written approval. If the family is admitted, the HA may terminate assistance to the family for breach of this certification.

(viii) Living in Overcrowded Housing. A family is considered to be living in an overcrowded unit if:

(*A*) The family is separated from its child [or children] and the parent(s) are living in an otherwise standard housing unit, but, after the family is re-united, the parents' housing unit would be overcrowded for the entire family and would be considered substandard; or

(*B*) The family is living with its child [or children] in a unit that is overcrowded for the entire family and this overcrowded condition may result in the imminent placement of its child [or children] in out-of-home care.

For purpose of this paragraph (viii), the HA may determine whether the unit is ''overcrowded'' in accordance with HA subsidy standards.

(ix) Detained Family. A Family Unification eligible family may not include any person imprisoned or otherwise detained pursuant to an Act of the Congress or a State law.

(x) Public child welfare agency (PCWA) means the public agency that is responsible under applicable State or Tribal law for determining that a child is at imminent risk of placement in out-of-home care or that a child in out-of-home care under the supervision of the public agency may be returned to his or her family.

(b) *HA Responsibilities.* HAs must:

(i) Accept families certified by the PCWA as eligible for the Family Unification Program. The HA, upon receipt of the PCWA list of families currently in the PCWA caseload, must compare the names with those of families already on the HA's Section 8 waiting list. Any family on the HA's Section 8 waiting list that matches with the PCWA's list must be assisted in order of their position on the waiting list in accordance with HA admission policies. Any family certified by the PCWA as eligible and not on the Section 8 waiting list must be placed on the waiting list. If the HA has a closed Section 8 waiting list, it must reopen the waiting list to accept a Family Unification Program applicant family who is not currently on the HA's Section 8 waiting list;

(ii) Determine if any families with children on its waiting list are living in temporary shelters or on the street and may qualify for the Family Unification Program, and refer such applicants to the PCWA;

(iii) Determine if families referred by the PCWA are eligible for Section 8 assistance and place eligible families on the Section 8 waiting list;

(iv) Amend the administrative plan in accordance with applicable program regulations and requirements;

(v) Administer the rental assistance in accordance with applicable program regulations and requirements; and

(vi) Assure the quality of the evaluation that HUD intends to conduct on the Family Unification Program and cooperate with and provide requested data to the HUD office or HUD-approved contractor responsible for program evaluation.

(c) *Public Child Welfare Agency (PCWA) Responsibilities.* A public child welfare agency must:

(i) Establish and implement a system to identify Family Unification eligible families within the agency's caseload and to review referrals from the HA;

(ii) Provide written certification to the HA that a family qualifies as a Family Unification eligible family based upon the criteria established in Section 8(x) of the United States Housing Act of 1937, and this notice;

(iii) Commit sufficient staff resources to ensure that Family Unification eligible families are identified and determined eligible in a timely manner and to provide follow-up supportive services after the families lease units; and

(iv) Cooperate with the evaluation that HUD intends to conduct on the Family Unification Program, and submit a certification with the HA's application for Family Unification funding that the PCWA will agree to cooperate with and provide requested data to the HUD office or HUD-approved contractor having responsibility for program evaluation.

(d) *Section 8 Rental Certificate Assistance.* The Family Unification Program provides assistance under the Section 8 rental assistance programs. Although HUD is providing a special allocation of rental certificates, the HA may use both rental vouchers and certificates to assist families under this program.

HAs must administer this program in accordance with HUD's regulations governing the Section 8 rental certificate and rental voucher programs. The HA may issue a rental voucher to a family selected to participate in the Family Unification Program if the family requests a rental voucher and the HA has one available. If Section 8 assistance for a family under this program is terminated, the rental assistance must be reissued to another Family Unification eligible family for five years from the initial date of execution of the Annual Contributions Contract subject to the availability of renewal funding.

B. Family Unification Allocation Amounts

This NOFA announces the availability of approximately $58.8 million for the Family Unification Program which will provide assistance for about 6,400 families. Each HA with a current Section 8 rental voucher and certificate program of more than 500 units as shown in the most recent HUD approved program budget may apply for funding for a maximum of 100 units. Each HA with a current Section rental voucher or certificate program of 500 units or less as shown in the most recent HUD approved program budget may apply for a maximum of 50 units.

The amounts allocated under this NOFA will be awarded under a national competition, based on the threshold criteria and a lottery for selection from all approvable applications. The Family Unification Program is exempt from the fair share allocation requirements of section 213(d) of the Housing and Community Development Act of 1974 (42 U.S.C. 1439(d)) and the implementing regulations at 24 CFR part 791, subpart D. A few applications for FY 1996 funding that met the requirements of the FY 1996 NOFA, were included in the FY 1996 lottery and were not selected for funding from funds in FY 1996 will be selected using funds appropriated for FY 1997 funding for the Family Unification Program. In order to allow the HAs that had approvable applications in FY 1996 to begin implementation of the Family Unification Program, these FY 1996 applications will be funded upon publication of this NOFA.

C. Family Unification Application Submission Requirements

(1) Form HUD–52515

Funding Application Section 8 Tenant-Based Assistance, Form HUD–52515, must be completed in accordance with the program regulations (24 CFR 982.102). An application must include the information in Section C, Average Monthly Adjusted Income, of Form HUD–52515 in order for HUD to calculate the amount of Section 8 budget authority necessary to fund the requested number of certificate units. HAs may obtain a copy of Form HUD–52515 from the local HUD Office or may download it from the HUD Home page on the internet's world wide web (http://www.hud.gov).

(2) Local Government Comments

Section 213 of the Housing and Community Development Act of 1974 requires that HUD independently determine that there is a need for the housing assistance requested in applications and solicit and consider comments relevant to this determination from the chief executive officer of the unit of general local government. The HUD Office will obtain Section 213 comments from the unit of general local government in accordance with 24 CFR part 791, subpart C, Applications for Housing Assistance in Areas Without Housing Assistance Plans. Comments submitted by the unit of general local government must be considered before an application can be approved.

For purposes of expediting the application process, the HA should encourage the chief executive officer of the unit of general local government to submit a letter with the HA application commenting on the HA application in accordance with Section 213. Because HUD cannot approve an application until the 30-day comment period is closed, the Section 213 letter should not only comment on the application, but also state that HUD may consider the letter to be the final comments and that no additional comments will be forthcoming from the unit of general local government.

(3) Letter of Intent and Narrative

All the items in this Section must be included with the application submitted to the HUD Office. Funding is limited, and HUD may only have enough funds to approve a smaller amount than the number of rental certificates requested. The HA must state in its cover letter to the application whether it will accept a smaller number of rental certificates and the minimum number of rental certificates it will accept. The cover letter must also include a statement by the HA certifying that the HA has consulted with the agency or agencies in the state responsible for the administration of welfare reform to provide for the successful implementation of the state's welfare reform for families receiving rental assistance under the family unification program. The application must include an explanation of how the application meets, or will meet, Threshold Criteria 1 through 4 in Section D of this NOFA, below.

The application must also include a letter of intent from the PCWA stating its commitment to provide resources and support for the Family Unification Program. The PCWA letter of intent must explain:

(i) The definition of eligible family unification program families;

(ii) The method used to identify eligible family unification program families;

(iii) The process to certify eligible family unification program families;

(iv) The PCWA assistance to families to locate suitable housing;

(v) The PCWA staff resources committed to the program; and

(vi) PCWA experience with the administration of similar programs including cooperation with a HA.

The PCWA serving the jurisdiction of the HA is responsible for providing the information for Threshold Criterion 4, PCWA Statement of Need for Family Unification Program, to the HA for submission with the HA application. This should include a discussion of the case-load of the PCWA and information about homelessness, family violence resulting in involuntary displacement, number and characteristics of families who are experiencing the placement of children in out-of-home care as a result of inadequate housing, and the PCWA's experience in obtaining housing through HUD assisted housing programs and other sources for families lacking adequate housing. A State-wide Public Child Welfare Agency must provide information on Threshold Criterion 4, PCWA Statement of Need for Family Unification Program, to all HAs that request such information; otherwise, HUD will not consider applications from any HAs with the State-wide PCWA as a participant in its program.

(4) Evaluation Certifications

The HA and the PCWA, in separate certifications, must state that the HA and Public Child Welfare Agency agree to cooperate with HUD and provide requested data to the HUD office or HUD-approved contractor delegated the responsibility for the program evaluation. No specific language for this certification is prescribed by HUD.

D. Family Unification Application Rating Process

(1) General

The HUD Office is responsible for rating the applications for the selection criteria established in this NOFA, and HUD Headquarters is responsible for selection of applications (including applications rated by the Native American Programs Office) that will receive assistance under the Family Unification Program. The HUD Office will initially screen all applications and determine any technical deficiencies based on the application submission requirements.

Each eligible application submitted in response to the NOFA, in order to be eligible for funding, must receive at least 30 points for Threshold Criterion 1, Unmet Housing Needs, and at least 20 points for Threshold Criterion 2, Efforts of HA to Provide Area-Wide Housing Opportunities for Families. Each application must also meet the requirements for Threshold Criterion 3, Coordination between HA and Public Child Welfare Agency, and Threshold Criterion 4, Public Child Welfare Agency Statement of Need for Family Unification Program.

(2) Threshold Criteria

(a) *Threshold Criterion 1: Unmet Housing Needs (50 Points).*

(i) Description: This criterion assesses the unmet housing need in the primary area specified in the HA's application compared to the unmet housing need for the allocation area. Unmet housing need is defined as the number of very low-income renter households with housing problems based on 1990 Census, minus the number of federally assisted housing units provided since the 1990 Census.

In awarding points under this criterion, HUD will, to the extent practicable, consider all units provided since the 1990 Census under the Section 8 Rental Voucher and Certificate programs, any other Section 8 programs, the Public and Indian Housing programs, the Section 202 program, and the Farmers Home Administration's Section 515 Rural Rental Housing program.

(ii) Rating and Assessment: The number of points assigned is based on the percentage of the allocation area's unmet housing need that is within the HA's primary area. State or Regional Housing Agencies will receive points based on the areas they intend to serve with this allocation, e.g., the entire allocation area or the localities within the allocation area specified in the application. The HUD Office will assign one of the following point totals:

- *50 points.* If the HA's percentage of unmet housing need is greater than 50 percent of the allocation area's unmet need.
- *45 points.* If the HA's percentage of unmet housing need is equal to or less than 50 percent but greater than 40 percent of the allocation area's unmet need.
- *40 points.* If the HA's percentage of unmet housing need is equal to or less than 40 percent but greater than 30 percent of the allocation area's unmet need.
- *35 points.* If the HA's percentage of unmet housing need is equal to or less than 30 percent but greater than 20

percent of the allocation area's unmet need.

• *30 points.* If the HA's percentage of unmet housing need is equal to or less than 20 percent but greater than 10 percent of the allocation area's unmet need.

• *0 points.* If the HA's percentage of unmet housing need is equal to or less than 10 percent of the allocation area's unmet need.

The HUD Office will not consider for funding any HA application receiving zero (0) points.

In accordance with Notice PIH 91–45, the HUD Office will notify the Rural Housing Service (RHS) of applications it receives and ask that RHS provide advisory comments concerning the market for additional assisted housing or the possible impact the proposed units may have on RHS projects. Applications for which RHS has provided comments expressing concerns about market need or the continued stability of existing RHS projects, with which HUD agrees, will receive zero points for this criterion.

(b) *Threshold Criterion 2: Efforts of HA to Provide Area-Wide Housing Opportunities for Families (60 Points).*

(i) Description: Many HAs have undertaken voluntary efforts to provide area-wide housing opportunities for families. The efforts described in response to this selection criterion must be beyond those required by federal law or regulation such as the portability provisions of the Section 8 rental voucher and certificate programs. HAs in metropolitan and non-metropolitan areas are eligible for points under this criterion. The HUD Office will assign points to HAs that have established cooperative agreements with other HAs or created a consortium of HAs in order to facilitate the transfer of families and their rental assistance between HA jurisdictions. In addition, the HUD Office will assign points to HAs that have established relationships with nonprofit groups to provide families with additional counseling, or have directly provided counseling, to increase the likelihood of a successful move by the families to areas that do not have large concentrations of poverty.

(ii) Rating and Assessment: The HUD Office will assign point values for any of the following assessments for which the HA qualifies and add the points for all the assessments (maximum of 60 points) to determine the total points for this Selection Criterion:

• *10 points*—Assign 10 points if the HA documents that it participates in an area-wide rental voucher and certificate exchange program where all HAs absorb portable Section 8 families.

• *10 points*—Assign 10 points if the HA certifies that its administrative plan does not include a ''residency preference'' for selection of families to participate in its rental voucher and certificate programs or the HA certifies that it will eliminate immediately any ''residency preference'' currently in its administrative plan.

• *10 points*—Assign 10 points if the HA documents that HA staff will provide housing counseling for families that want to move to low-poverty on non-minority areas, or if the HA has established a contractual relationship with a nonprofit agency or a local governmental entity to provide housing counseling for families that want to move to low-poverty or non-minority areas. The five HAs approved for the FY 1993 Moving to Opportunity (MTO) for Fair Housing Demonstration and any other HAs that receive counseling funds from HUD (e.g., in settlement of litigation involving desegregation or demolition of public housing, regional opportunity counseling, or mixed population projects) may qualify for points under this assessment, but these HAs must identify all activities undertaken, other than those funded by HUD, to expand housing opportunities.

• *10 points*—Assign 10 points if the HA documents that it requested from HUD, and HUD approved, the authority to utilize exceptions to the fair market rent limitations as allowed under 24 CFR 882.106(a)(4) to allow families to select units in low-poverty or non-minority areas.

• *10 points*—Assign 10 points if the HA documents that it participates with other HAs in using a metropolitan wide or combined waiting list for selecting participants in the program.

• *10 Points*—Assign 10 points if the HA documents that it has implemented other initiatives that have resulted in expanding housing opportunities in areas that do not have undue concentrations of poverty or minority families.

(c) *Threshold Criterion 3: Coordination Between HA and Public Child Welfare Agency to Identify and Assist Eligible Families.*

The application must describe the method that the HA and the PCWA will use to identify and assist Family Unification eligible families. The application must include a letter of intent from the PCWA stating its commitment to provide resources and support for the program. The PCWA letter of intent and other information must include an explanation of: the method for identifying Family Unification eligible families, the PCWA's certification process for determining Family Unification eligible families, the responsibilities of each agency, the assistance that the PCWA will provide to families in locating housing units, the PCWA staff resources committed to the program, the past PCWA experience administering a similar program, and the PCWA/HA cooperation in administering a similar program.

(d) *Threshold Criterion 4: Public Child Welfare Agency Statement of Need for Family Unification Program.*

The application must include a statement by the PCWA describing the need for a program providing assistance to families for whom lack of adequate housing is a primary factor in the placement of the family's children in out-of-home care or in the delay of discharge of the children to the family from out-of-home care in the area to be served, as evidenced by the caseload of the public child welfare agency. The PCWA must adequately demonstrate that there is a need in the HA's jurisdiction for the Family Unification program that is not being met through existing programs. The narrative must include specific information relevant to the area to be served, about homelessness, family violence resulting in involuntary displacement, number and characteristics of families who are experiencing the placement of children in out-of-home care or the delayed discharge of children from out-of-home care as the result of inadequate housing, and the PCWA's past experience in obtaining housing through HUD assisted programs and other sources for families lacking adequate housing.

E. Corrections to Deficient Family Unification Applications

(1) Acceptable Applications

To be eligible for processing, an application must be received by the appropriate HUD Office no later than the date and time specified in this NOFA. The HUD Office will initially screen all applications and notify HAs of technical deficiencies by letter.

If an application has technical deficiencies, the HA will have 14 calendar days from the date of the issuance of the HUD notification letter to submit the missing or corrected information to the HUD Office. Curable technical deficiencies relate only to items that do not improve the substantive quality of the application relative to the rating factors.

All HAs must submit corrections within 14 calendar days from the date of the HUD letter notifying the applicant of any such deficiency. Information received after 3 p.m. local time (i.e., the

time in the appropriate HUD Office) of the 14th calendar day of the correction period will not be accepted and the application will be rejected as incomplete.

(2) Unacceptable Applications

(a) After the 14-calendar day technical deficiency correction period, the HUD Office will disapprove HA applications that it determines are not acceptable for processing. The HUD Office notification of rejection letter must state the basis for the decision.

(b) Applications that fall into any of the following categories will not be processed:

(i) There is a pending civil rights suit against the HA instituted by the Department of Justice or there is a pending administrative action for civil rights violations instituted by HUD (including a charge of discrimination under the Fair Housing Act).

(ii) There has been an adjudication of a civil rights violation in a civil action brought against the HA by a private individual, unless the HA is operating in compliance with a court order or implementing a HUD-approved resident selection and assignment plan or compliance agreement designed to correct the areas of noncompliance.

(iii) There are outstanding findings of noncompliance with civil rights statutes, Executive Orders, or regulations, as a result of formal administrative proceedings, or the Secretary has issued a charge against the applicant under the Fair Housing Act, unless the applicant is operating under a conciliation or compliance agreement designed to correct the areas of noncompliance.

(iv) HUD has denied application processing under Title VI of the Civil Rights Act of 1964, the Attorney General's Guidelines (28 CFR 50.3), and the HUD Title VI regulations (24 CFR 1.8) and procedures (HUD Handbook 8040.1), or under section 504 of the Rehabilitation Act of 1973 and HUD regulations (24 CFR 8.57).

(v) The HA has serious unaddressed, outstanding Inspector General audit findings, Fair Housing and Equal Opportunity monitoring review findings, or HUD management review findings for one or more of its Rental Voucher, Rental Certificate, or Moderate Rehabilitation Programs, or, in the case of a HA that is not currently administering a Rental Voucher, Rental Certificate, or Moderate Rehabilitation Program, for its Public Housing Program or Indian Housing Program. The only exception to this category is if the HA has been identified under the policy established in section A.(3)(b) of this NOFA and the HA makes application with another agency or contractor that will administer the family unification assistance on behalf of the HA.

(vi) The HA is involved in litigation and HUD determines that the litigation may seriously impede the ability of the HA to administer an additional increment of rental vouchers or rental certificates.

(vii) After the 14-calendar day technical deficiency correction period, an HA application that does not comply with the requirements of 24 CFR 982.102 and this NOFA, will be rejected from processing.

(viii) A HA application submitted after the deadline date.

F. Family Unification Application Selection Process

(1) Funding FY 1996 Applications

The FY 1996 NOFA was published in the **Federal Register** on May 2, 1996, (61 FR 19761) and provides that HUD may use FY 1997 funds for applications from the FY 1996 lottery that were not awarded funds in FY 1996. HUD has determined that sufficient funds are available in FY 1997 to fund these applications and to conduct a new lottery in FY 1997 for new applicants. HUD will fund the remaining FY 1996 lottery applications upon publication of this NOFA prior to funding any FY 1997 applications. Any HA that applied under the FY 1996 NOFA and is being funded under the FY 1997 NOFA may also submit an FY 1997 application.

(2) Funding FY 1997 Applications

After the HUD Office has screened HA applications and disapproved any applications unacceptable for further processing (See Section E.(2) of this NOFA), the HUD Office will review and rate all approvable applications, utilizing the Threshold Criteria and the point assignments listed in this NOFA. Each HUD Office will send to HUD Headquarters the following information on each application that passes the Threshold Criteria:

(1) Name and address of the HA;

(2) Name and address of the Public Child Welfare Agency;

(3) State Office, Area Office, or Native American Programs Office contact person and telephone number;

(4) The requested number of rental certificates in the HA application and the minimum number of rental certificates specified in the HA application, and the corresponding budget authority; and

(5) A completed fund reservation worksheet for the number of rental certificates requested in the application.

HUD Headquarters will select eligible HAs to be funded based on a lottery. All acceptable applications by HAs identified by the HUD Offices as meeting the Threshold Criteria identified in this NOFA will be eligible for the lottery selection process. The costs of funding the FY 1997 applications will be counted against the total available funds remaining for the Family Unification Program. If the cost of funding the applications received by HUD exceeds available funds, in order to achieve geographic diversity HUD Headquarters will limit the number of FY 1997 applications selected for funding under the lottery for any State to no more than 10 percent of the budget authority made available under this NOFA. However, if establishing this geographic limit results in unspent budget authority, HUD may modify this limit to assure that all available funds are used.

Applications will be funded in full for the number of rental certificates requested by the HA in accordance with the NOFA. However, if the remaining rental certificate funds are insufficient to fund the last HA application in full, HUD Headquarters may fund that application to the extent of the funding available and the applicant's willingness to accept a reduced number of rental certificates. Applicants that do not wish to have the size of their programs reduced may indicate in their applications that they do not wish to be considered for a reduced award of funds. HUD Headquarters will skip over these applicants if assigning the remaining funding would result in a reduced funding level.

G. Other Matters

Environmental Impact

This NOFA provides funding under, and does not alter environmental requirements of, regulations in 24 CFR part 882 subparts A, B, C and F. 887 and 982, which have been previously published in the **Federal Register**. This NOFA provides funding only for tenant-based assistance, which is a categorical exclusion not subject to the individual compliance requirements of the Federal laws and authorities cited in § 50.4, and therefore those regulations do not contain environmental review requirements. Accordingly, under 24 CFR 50.19(c)(5), this NOFA is categorically excluded from environmental review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321).

Federalism Impact

The General Counsel, as the Designated Official under section 6(a) of Executive Order 12612, Federalism, has determined that the policies contained in this notice will not have substantial direct effects on States or their political subdivisions, or the relationship between the Federal Government and the States, or on the distribution of power and responsibilities among the various levels of government. As a result, the notice is not subject to review under the Order. This notice is a funding notice and does not substantially alter the established roles of the Department, the States, and local governments, including HAs.

Impact on the Family

The General Counsel, as the Designated Official under Executive Order 12606, The Family, has determined that this notice does not have potential for significant impact on family formation, maintenance, and general well-being within the meaning of the Executive Order and, thus, is not subject to review under the Order. This is a funding notice and does not alter program requirements concerning family eligibility.

Accountability in the Provision of HUD Assistance

Section 102 of the Department of Housing and Urban Development Reform Act of 1989 (HUD Reform Act) and the final rule codified at 24 CFR part 4, subpart A, published on April 1, 1996 (61 FR 1448), contain a number of provisions that are designed to ensure greater accountability and integrity in the provision of certain types of assistance administered by HUD. On January 14, 1992, HUD published, at 57 FR 1942, a notice that also provides information on the implementation of section 102. The documentation, public access, and disclosure requirements of section 102 are applicable to assistance awarded under this NOFA as follows:

Documentation and Public Access Requirements

HUD will ensure that documentation and other information regarding each application submitted pursuant to this NOFA are sufficient to indicate the basis upon which assistance was provided or denied. This material, including any letters of support, will be made available for public inspection for a five-year period beginning not less than 30 days after the award of the assistance. Material will be made available in accordance with the Freedom of Information Act (5 U.S.C. 552) and HUD's implementing regulations at 24 CFR part 15. In addition, HUD will include the recipients of assistance pursuant to this NOFA in its **Federal Register** notice of all recipients of HUD assistance awarded on a competitive basis.

Disclosures

HUD will make available to the public for five years all applicant disclosure reports (HUD Form 2880) submitted in connection with this NOFA. Update reports (also Form 2880) will be made available along with the applicant disclosure reports, but in no case for a period less than three years. All reports—both applicant disclosures and updates—will be made available in accordance with the Freedom of Information Act (5 U.S.C. 552) and HUD's implementing regulations at 24 CFR part 15.

Section 103 of the HUD Reform Act

HUD's regulation implementing section 103 of the HUD Reform Act, codified as 24 CFR part 4, applies to the funding competition announced today. The requirements of the rule continue to apply until the announcement of the selection of successful applicants.

HUD employees involved in the review of applications and in the making of funding decisions are restrained by part 4 from providing advance information to any person (other than persons authorized to receive such information) concerning funding decisions, or from otherwise giving any applicant an unfair competitive advantage. Persons who apply for assistance in this competition should confine their inquiries to the subject areas permitted under 24 CFR part 4.

Applicants or employees who have ethics related questions should contact the HUD Office of Ethics (202) 708–3815 (voice), (202) 708–1112 (TTY). (These are not toll-free numbers.) For HUD employees who have specific program questions, the employee should contact the appropriate Field Office Counsel or Headquarters Counsel for the program to which the question pertains.

Prohibition Against Lobbying Activities

The use of funds awarded under this NOFA is subject to the disclosure requirements and prohibitions of section 319 of the Department of Interior and Related Agencies Appropriations Act for Fiscal Year 1990 (31 U.S.C. 1352) (the ''Byrd Amendment'') and the implementing regulations at 24 CFR part 87. These authorities prohibit recipients of Federal contracts, grants, or loans from using appropriated funds for lobbying the Executive or Legislative Branches of the Federal Government in connection with specific contract, grant, or loan. The prohibition also covers the awarding of contracts, grants, cooperative agreements, or loans unless the recipient has made an acceptable certification regarding lobbying. Under 24 CFR part 87, applicants, recipients, and sub-recipients of assistance exceeding $100,000 must certify that no Federal funds have been or will be spent on lobbying activities in connection with the assistance. IHAs established by an Indian tribe as a result of the exercise of the tribe's sovereign power are excluded from coverage of the Byrd Amendment, but IHAs established under State law are not excluded from the statute's coverage.

Dated: April 10, 1997.

Kevin Emanuel Marchman,

Acting Assistant Secretary for Public and Indian Housing.

[FR Doc. 97–10124 Filed 4–17–97; 8:45 am]

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federal register

Friday
April 18, 1997

Part V

The President

Executive Order 13043—Increasing Seat Belt Use in the United States

Federal Register
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Friday, April 18, 1997

Presidential Documents

Title 3—

The President

Executive Order 13043 of April 16, 1997

Increasing Seat Belt Use in the United States

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the Highway Safety Act of 1966, 23 U.S.C. 402 and 403, as amended, section 7902(c) of title 5, United States Code, and section 19 of the Occupational Safety and Health Act of 1970, 29 U.S.C. 668, as amended, and in order to require that Federal employees use seat belts while on official business; to require that motor vehicle occupants use seat belts in national park areas and on Department of Defense (''Defense'') installations; to encourage Tribal Governments to adopt and enforce seat belt policies and programs for occupants of motor vehicles traveling on highways in Indian Country; and to encourage Federal contractors, subcontractors, and grantees to adopt and enforce on-the-job seat belt use policies and programs, it is hereby ordered as follows:

Section 1. *Policies.* (a) *Seat Belt Use by Federal Employees.* Each Federal employee occupying any seating position of a motor vehicle on official business, whose seat is equipped with a seat belt, shall have the seat belt properly fastened at all times when the vehicle is in motion.

(b) *Seat Belt Use in National Parks and on Defense Installations.* Each operator and passenger occupying any seating position of a motor vehicle in a national park area or on a Defense installation, whose seat is equipped with a seat belt or child restraint system, shall have the seat belt or child restraint system properly fastened, as required by law, at all times when the vehicle is in motion.

(c) *Seat Belt Use by Government Contractors, Subcontractors and Grantees.* Each Federal agency, in contracts, subcontracts, and grants entered into after the date of this order, shall seek to encourage contractors, subcontractors, and grantees to adopt and enforce on-the-job seat belt policies and programs for their employees when operating company-owned, rented, or personally owned vehicles.

(d) *Tribal Governments.* Tribal Governments are encouraged to adopt and enforce seat belt policies and programs for occupants of motor vehicles traveling on highways in Indian Country that are subject to their jurisdiction.

Sec. 2. *Scope of Order.* All agencies of the executive branch are directed to promulgate rules and take other appropriate measures within their existing programs to further the policies of this order. This includes, but is not limited to, conducting education, awareness, and other appropriate programs for Federal employees about the importance of wearing seat belts and the consequences of not wearing them. It also includes encouraging Federal contractors, subcontractors, and grantees to conduct such programs. In addition, the National Park Service and the Department of Defense are directed to initiate rulemaking to consider regulatory changes with respect to enhanced seat belt use requirements and standard (primary) enforcement of such requirements in national park areas and on Defense installations, consistent with the policies outlined in this order, and to widely publicize and actively enforce such regulations. The term ''agency'' as used in this order means an Executive department, as defined in 5 U.S.C. 101, or any employing unit or authority of the Federal Government, other than those of the legislative and judicial branches.

Sec. 3. *Coordination.* The Secretary of Transportation shall provide leadership and guidance to the heads of executive branch agencies to assist them

with the employee seat belt programs established pursuant to this order. The Secretary of Transportation shall also cooperate and consult with the legislative and judicial branches of the Government to encourage and help them to adopt seat belt use programs.

Sec. 4. *Reporting Requirements.* The Secretary of Transportation, in cooperation with the heads of executive branch agencies, and after consultation with the judicial and legislative branches of Government, shall submit an annual report to the President. The report shall include seat belt use rates and statistics of crashes, injuries, and related costs involving Federal employees on official business and occupants of motor vehicles driven in national park areas, on Defense installations, and on highways in Indian Country. The report also shall identify specific agency programs that have made significant progress towards achieving the goals of this order or are notable and deserving of recognition. All agencies of the executive branch shall provide information to, and otherwise cooperate with, the Secretary of Transportation to assist with the preparation of the annual report.

Sec. 5. *Other Powers and Duties.* Nothing in this order shall be construed to impair or alter the powers and duties of the heads of the various Federal agencies pursuant to the Highway Safety Act of 1966, 23 U.S.C. 402 and 403, as amended, section 19 of the Occupational Safety and Health Act of 1970, 29 U.S.C. 668, as amended, or sections 7901, 7902, and 7903 of title 5, United States Code, nor shall it be construed to affect any right, duty, or procedure under the National Labor Relations Act, 29 U.S.C. 151 *et seq.*

Sec. 6. *General Provisions.* (a) Executive Order 12566 of September 26, 1986, is revoked. To the extent that this order is inconsistent with any provisions of any prior Executive order, this order shall control.

(b) If any provision of this order or application of any such provision is held to be invalid, the remainder of this order and other applications of such provision shall not be affected.

(c) Nothing in this order shall be construed to create a new cause of action against the United States, or to alter in any way the United States liability under the Federal Tort Claims Act, 28 U.S.C. 2671-2680.

(d) The Secretary of Defense shall implement the provisions of this order insofar as practicable for vehicles of the Department of Defense.

(e) The Secretary of the Treasury and the Attorney General, consistent with their protective and law enforcement responsibilities, shall determine the extent to which the requirements of this order apply to the protective and law enforcement activities of their respective agencies.

THE WHITE HOUSE,
April 16, 1997.

[FR Doc. 97–10331
Filed 4–17–97; 11:04 am]
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