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August 19, 1997

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Office of the Federal Register
WHERE: Conference Room
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Washington, DC
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RESERVATIONS: 202–523–4538

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Smith Hall
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Contents

Federal Register

Vol. 62, No. 160

Tuesday, August 19, 1997

Separate Parts In This Issue

Reader Aids

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

Electronic Bulletin Board

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CFR PARTS AFFECTED IN THIS ISSUE

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

Rules and Regulations

Federal Register
Vol. 62, No. 160
Tuesday, August 19, 1997

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Parts 145 and 147

[Docket No. 96–070–2]

National Poultry Improvement Plan and Auxiliary Provisions

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are amending the National Poultry Improvement Plan (the Plan) and its auxiliary provisions to establish new program classifications and provide new or modified sampling and testing procedures for Plan participants and participating flocks. These changes, which were voted on and approved by the voting delegates at the Plan's 1994 and 1996 National Plan Conferences, will keep the provisions of the Plan current with changes in the poultry industry and provide for the use of new sampling and testing procedures.

EFFECTIVE DATE: September 18, 1997.

FOR FURTHER INFORMATION CONTACT: Mr. Andrew R. Rhorer, Senior Coordinator, Poultry Improvement Staff, National Poultry Improvement Plan, Veterinary Services, APHIS, USDA, 1500 Klondike Road, Suite A–102, Conyers, GA 30207; (770) 922–3496.

SUPPLEMENTARY INFORMATION:

Background

The National Poultry Improvement Plan (referred to below as ''the Plan'') is a cooperative Federal-State-industry mechanism for controlling certain poultry diseases. The Plan consists of a variety of programs intended to prevent and control egg-transmitted, hatchery-disseminated poultry diseases. Participation in all Plan programs is voluntary, but flocks, hatcheries, and dealers must qualify as ''U.S. Pullorum-Typhoid Clean'' before participating in any other Plan program. Also, the regulations in 9 CFR part 82, subpart C, which provide for certain testing, restrictions on movement, and other restrictions on certain chickens, eggs, and other articles due to the presence of *Salmonella enteritidis*, require that no hatching eggs or newly hatched chicks from egg-type chicken breeding flocks may be moved interstate unless they are classified ''U.S. S. Enteritidis Monitored'' under the Plan or they meet the requirements of a State classification plan that the Administrator of the Animal and Plant Health Inspection Service (APHIS) has determined to be equivalent to the Plan, in accordance with 9 CFR 145.23(d).

The Plan identifies States, flocks, hatcheries, and dealers that meet certain disease control standards specified in the Plan's various programs. As a result, customers can buy poultry that has tested clean of certain diseases or that has been produced under disease-prevention conditions.

The regulations in 9 CFR parts 145 and 147 (referred to below as the regulations) contain the provisions of the Plan. APHIS amends these provisions from time to time to incorporate new scientific information and technologies within the Plan. On March 11, 1997, we published in the **Federal Register** (62 FR 11111–11117, Docket No. 96–070–1) a proposal to amend the regulations to:

1. Standardize the time frame for the retesting of U.S. Pullorum-Typhoid Clean breeding flocks retained for more than 12 months by requiring the retesting to occur a minimum of 4 weeks after the induction of molt;
2. Establish a ''U.S. Salmonella Monitored'' program for primary meat-type chicken breeding flocks;
3. Establish a ''U.S. M. Gallisepticum Monitored'' classification for multiplier meat-type chicken breeding flocks that are not participating in the ''U.S. M. Gallisepticum Clean'' classification;
4. Establish a ''U.S. M. Synoviae Monitored'' classification for multiplier meat-type chicken breeding flocks that are not participating in the ''U.S. M. Synoviae Clean'' classification;
5. Amend the ''U.S. M. Gallisepticum Clean'' and ''U.S. M. Synoviae Clean'' classifications for meat-type chicken breeding flocks by augmenting testing when adding (spiking) males;
6. Add a procedure for swabbing or collecting chick papers for bacteriological examination for salmonella;
7. Add a 4 to 6 week surveillance test for M. gallisepticum to the ''U.S. M. Gallisepticum Clean'' classification for turkeys;
8. Make the qualification test sample size for ''U.S. M. Meleagridis Clean'' consistent with that for the ''U.S. M. Gallisepticum Clean'' and ''U.S. M. Synoviae Clean'' classifications for turkeys;
9. Simplify the description of the procedure for determining the status of flocks reacting to tests for *M. gallisepticum*, *M. synoviae*, and *M. meleagridis*;
10. Amend the ''U.S. Sanitation Monitored, Turkeys'' classification to remove the requirement for the environmental sampling of a laying house following the removal of a flock from the house;
11. Establish a ''U.S. M. Synoviae Clean'' classification for waterfowl, exhibition poultry and game birds; and
12. Raise from 75 to 150 the number of birds to be tested to qualify flocks for ''U.S. M. Synoviae Clean'' status.

We solicited comments concerning the proposed rule for 60 days ending May 12, 1997. We received no comments by that date. Therefore, based on the rationale set forth in the proposed rule, we are adopting the provisions of the proposal as a final rule without change.

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 the purposes of Executive Order 12866 and, therefore, has not been reviewed by the Office of Management and Budget.

The changes contained in this document are based on the recommendations of representatives of member States, hatcheries, dealers, flockowners, and breeders who took part in the Plan's 1994 and 1996 National Plan Conferences. The changes will amend the Plan and its auxiliary provisions by establishing new program classifications and providing new or modified sampling and testing procedures for Plan participants and participating flocks. These changes will keep the provisions of the Plan current with changes in the poultry industry

and provide for the use of new sampling and testing procedures.

The Plan serves as a ''seal of approval'' for egg and poultry producers in the sense that tests and procedures recommended by the Plan are considered optimal for the industry. In all cases, the changes in this document have been generated by the industry itself with the goal of reducing disease risk and increasing product marketability.

Because participation in the Plan is voluntary, individuals are likely to remain in the program as long as the costs of implementing the program are lower than the added benefits they receive from the program. Nine of the 12 amendments involve minor procedural changes that will have negligible economic consequences. Plan participants may realize some cost savings because the testing requirements for the new ''U.S. M. Gallisepticum Monitored'' and ''U.S. M. Synoviae Monitored'' classifications are not as stringent as the testing requirements for the ''clean'' classifications for *M. gallisepticum* and *M. synoviae*. These savings will, however, likely be offset by the amendments to the ''U.S. M. Gallisepticum Clean'' and ''U.S. M. Synoviae Clean'' programs that will require additional tests for meat-type chicken breeding flocks when spiking males are introduced. Of the 3,979 pullorum-typhoid clean flocks currently participating in the Plan, 2,842 flocks are classified as ''U.S. M. Gallisepticum Clean'' and ''U.S. M. Synoviae Clean;'' the remaining 1,137 flocks are eligible for the new ''U.S. M. Gallisepticum Monitored'' and ''U.S. M. Synoviae Monitored'' programs. However, because participation in Plan programs is voluntary, the Agency cannot estimate the number of producers who may participate in the two new ''monitored'' classifications or use the new tests.

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 rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule: (1) Preempts all State and local laws and regulations that are in conflict 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.*).

List of Subjects in 9 CFR Parts 145 and 147

Animal diseases, Poultry and poultry products, Reporting and recordkeeping requirements.

Accordingly, 9 CFR parts 145 and 147 are amended as follows:

PART 145—NATIONAL POULTRY IMPROVEMENT PLAN

1. The authority citation for part 145 continues to read as follows:

Authority: 7 U.S.C. 429; 7 CFR 2.22, 2.80, and 371.2(d).

2. Section 145.10 is amended as follows:

a. In paragraph (e), the words ''and § 145.43(e)'' are removed and the words ''145.43(e), and § 145.53(d)'' are added in their place.

b. New paragraphs (o), (p), and (q) are added to read as set forth below.

§ 145.10 Terminology and classification; flocks, products, and States.

* * * * *

(o) *U.S. Salmonella Monitored.* (See § 145.33(i).)

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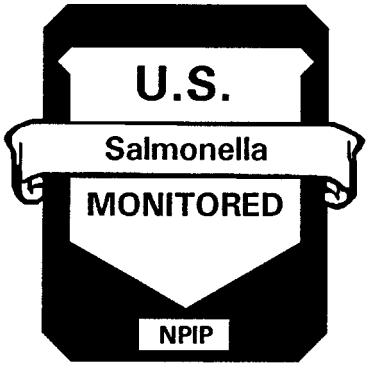

Figure 16

(p) *U.S. M. Gallisepticum Monitored.* (See § 145.33(j).)

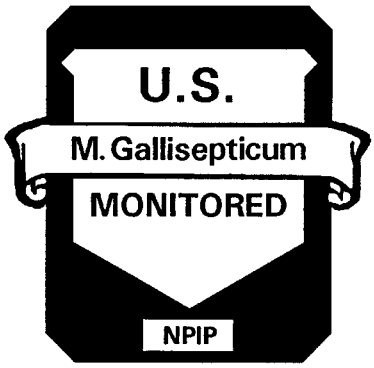

Figure 17

(q) *U.S. M. Synoviae Monitored.* (See § 145.33(k).)

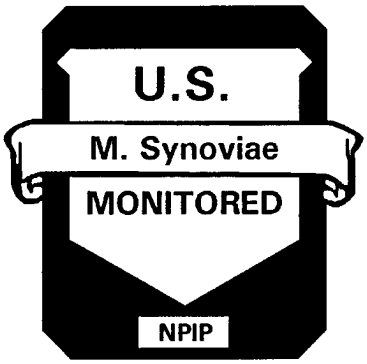

Figure 18

BILLING CODE 3410–34–C

§ 145.23 [Amended]

3. Section 145.23 is amended as follows:

a. In paragraph (b), in the introductory text, the words ''at the discretion of the Official State Agency with the concurrence of the Service'' are removed and the words ''conducted a minimum of 4 weeks after the induction of molt'' are added in their place.

b. In paragraph (e)(1)(ii), in the introductory text, the words ''75 birds'' are removed and the words ''150 birds'' are added in their place.

4. Section 145.33 is amended as follows:

a. In paragraph (b), in the introductory text, the words ''at the discretion of the official State agency with the concurrence of the Service'' are removed and the words ''conducted a minimum of 4 weeks after the induction of molt'' are added in their place.

b. A new paragraph (c)(4) is added to read as set forth below.

c. In paragraph (e)(1)(ii), in the introductory text, the words ''75 birds'' are removed and the words ''150 birds'' are added in their place.

d. A new paragraph (e)(4) is added to read as set forth below.

e. New paragraphs (i), (j), and (k) are added to read as set forth below.

§ 145.33 Terminology and classification; flocks and products.

* * * * *

(c) * * *

(4) Before male breeding birds may be added to a participating multiplier breeding flock, a sample of at least 3 percent of the birds to be added, with a minimum of 10 birds per pen, shall be tested for *M. gallisepticum* as provided in § 145.14(b) or by a polymerase chain reaction (PCR)-based procedure approved by the Department. The male birds shall be tested no more than 14 days prior to their intended introduction into the flock. If the serologic testing of the birds yields hemagglutination inhibition titers of 1:40 or higher, or if the PCR testing is positive for *M. gallisepticum*, the male birds may not be added to the flock and must be either retested or destroyed.

* * * * *

(e) * * *

(4) Before male breeding birds may be added to a participating multiplier breeding flock, a sample of at least 3 percent of the birds to be added, with a minimum of 10 birds per pen, shall be tested for *M. synoviae* as provided in § 145.14(b) or by a polymerase chain reaction (PCR)-based procedure approved by the Department. The male birds shall be tested no more than 14 days prior to their intended introduction into the flock. If the serologic testing of the birds yields hemagglutination inhibition titers of 1:40 or higher, or if the PCR testing is positive for *M. synoviae*, the male birds may not be added to the flock and must be either retested or destroyed.

* * * * *

(i) *U.S. Salmonella Monitored.* This program is intended to be the basis from which the breeding-hatching industry may conduct a program for the prevention and control of Salmonellosis. It is intended to reduce the incidence of Salmonella organisms in hatching eggs and chicks through an effective and practical sanitation program at the breeder farm and in the hatchery. This will afford other segments of the poultry industry an opportunity to reduce the incidence of Salmonella in their products.

(1) A flock and the hatching eggs and chicks produced from it that have met the following requirements, as determined by the Official State Agency:

(i) The flock shall originate from a source where sanitation and management practices, as outlined in § 145.33(d)(1), are conducted;

(ii) The flock is maintained in compliance with §§ 147.21, 147.24(a), and 147.26 of this chapter;

(iii) If feed contains animal protein, the protein products should be purchased from participants in the Animal Protein Products Industry (APPI) Salmonella Education/Reduction Program. The protein products must have a minimum moisture content of 14.5 percent and must have been heated throughout to a minimum temperature of 190 °F or above, or to a minimum temperature of 165 °F for at least 20 minutes, or to a minimum temperature of 184 °F under 70 lbs. pressure during the manufacturing process;

(iv) Feed shall be stored and transported in a manner to prevent possible contamination;

(v) Chicks shall be hatched in a hatchery meeting the requirements of §§ 147.23 and 147.24(b) and sanitized or fumigated (see § 147.25 of this chapter).

(vi) An Authorized Agent shall take environmental samples from the hatchery every 30 days; i.e., meconium and chick papers. An authorized laboratory for Salmonella shall examine the samples bacteriologically;

(vii) An Authorized Agent shall take environmental samples as described in § 147.12 of this chapter from each flock at 4 months of age and every 30 days thereafter. An authorized laboratory for Salmonella shall examine the environmental samples bacteriologically;

(viii) Owners of flocks may vaccinate with a paratyphoid vaccine: *Provided*, That a sample of 350 birds, which will be banded for identification, shall remain unvaccinated until the flock reaches at least 4 months of age.

(2) The Official State Agency may use the procedures described in § 147.14 of this chapter to monitor the effectiveness of the egg sanitation practices.

(3) In order for a hatchery to sell products of this classification, all products handled shall meet the requirements of the classification.

(4) This classification may be revoked by the Official State Agency if the participant fails to follow recommended corrective measures.

(j) *U.S. M. Gallisepticum Monitored.* (1) A multiplier breeding flock in which all birds or a sample of at least 20 birds per house has been tested for *M. gallisepticum* as provided in § 145.14(b) when more than 4 months of age: *Provided*, birds per house shall be tested again at 36 to 38 weeks and at 48 to 50 weeks at a minimum: *And provided further*, That each 20-bird sample should come from two locations within the house (10 from the front half of the house and 10 from the back half of the house). A representative sample of males and females should be sampled. The samples shall be marked ''male'' or ''female.''

(2) A participant handling U.S. M. Gallisepticum Monitored products shall keep these products separate from other products in a manner satisfactory to the Official State Agency: *Provided*, That U.S. M. Gallisepticum Monitored chicks from multiplier breeding flocks shall be produced in incubators and hatchers in which only eggs from flocks qualified under paragraph (j)(1) of this section are set. Eggs from U.S. M. Gallisepticum Monitored multiplier breeding flocks shall not be set in hatchers or incubators in which eggs from U.S. M. Gallisepticum Clean primary breeding flocks qualified under paragraph (c)(1)(i) of this section are set.

(3) U.S. M. Gallisepticum Monitored chicks shall be boxed in clean boxes and delivered in trucks that have been cleaned and disinfected as described in § 147.24(a) of this chapter.

(k) *U.S. M. Synoviae Monitored.* (1) A multiplier breeding flock in which all birds or a sample of at least 20 birds per house has been tested for *M. synoviae* as provided in § 145.14(b) when more than 4 months of age: *Provided*, That to retain this classification, a minimum of 20 birds per house shall be tested again at 36 to 38 weeks and at 48 to 50 weeks at a minimum: *And provided further*, That each 20-bird sample should come from two locations within the house (10 from the front half of the house and 10 from the back half of the house). A representative sample of males and females should be sampled. The samples shall be marked ''male'' or ''female.''

(2) A participant handling U.S. M. Synoviae Monitored products shall keep these products separate from other products in a manner satisfactory to the Official State Agency: *Provided*, That U.S. M. Synoviae Monitored chicks from multiplier breeding flocks shall be produced in incubators and hatchers in which only eggs from flocks qualified under paragraph (k)(1) of this section are set. Eggs from U.S. M. Synoviae Monitored multiplier breeding flocks shall not be set in hatchers or incubators in which eggs from U.S. M. Synoviae Clean primary breeding flocks qualified under paragraph (e)(1)(i) of this section are set.

(3) U.S. M. Synoviae Monitored chicks shall be boxed in clean boxes and delivered in trucks that have been cleaned and disinfected as described in § 147.24(a) of this chapter.

(Approved by the Office of Management and Budget under control number 0579–0007)

§ 145.43 [Amended]

5. Section 145.43 is amended as follows:

a. In paragraph (b), in the introductory text, the words ''at the discretion of the official State agency with the concurrence of the Service'' are removed and the words ''conducted a minimum of 4 weeks after the induction of molt'' are added in their place.

b. In paragraph (c)(1), at the end of the paragraph, the words ''and at 4–6 week intervals thereafter'' are added immediately after the words ''28–30 weeks of age''.

c. In paragraph (d)(1)(i), the words ''60 birds'' are removed and the words ''100 birds'' are added in their place.

d. In paragraph (d)(2), at the end of the paragraph, the words ''of this chapter'' are added immediately after the citation ''§ 147.6(b)''.

e. Paragraph (f)(7) is removed and paragraph (f)(8) is redesignated as paragraph (f)(7).

6. Section 145.53 is amended by adding a new paragraph (d) to read as follows:

§ 145.53 Terminology and classification; flocks and products.

* * * * *

(d) *U.S. M. Synoviae Clean.* (1) A flock maintained in compliance with the provisions of § 147.26 of this chapter and in which freedom from *Mycoplasma synoviae* has been demonstrated under the criteria specified in paragraph (d)(1)(i) or (d)(1)(ii) of this section.

(i) It is a flock in which a minimum of 300 birds has been tested for *M. synoviae* as provided in § 145.14(b) when more than 4 months of age: *Provided,* That to retain this classification, a sample of at least 150 birds shall be tested at intervals of not more than 90 days: *And provided further,* That a sample comprised of fewer than 150 birds may be tested at any one time with the approval of the Official State Agency and the concurrence of the Service, provided that a minimum of 150 birds is tested within each 90-day period; or

(ii) It is a multiplier breeding flock that originated as U.S. M. Synoviae Clean chicks from primary breeding flocks and from which a sample comprised of a minimum of 75 birds has been tested for *M. synoviae* as provided in § 145.14(b) when more than 4 months of age: *Provided,* That to retain this classification, the flock shall be subjected to one of the following procedures:

(A) At intervals of not more than 90 days, a sample of 50 birds shall be tested: *Provided,* That a sample of fewer than 50 birds may be tested at any one time, provided that a minimum of 30 birds per flock with a minimum of 15 birds per pen, whichever is greater, is tested each time and a total of at least 50 birds is tested within each 90-day period; or

(B) At intervals of not more than 30 days, egg yolk testing shall be conducted in accordance with § 147.8 of this chapter.

(2) A participant handling U.S. M. Synoviae Clean products shall keep those products separate from other products in a manner satisfactory to the Official State Agency: *Provided,* That U.S. M. Synoviae Clean chicks from primary breeding flocks shall be produced in incubators and hatchers in which only eggs from flocks qualified under paragraph (d)(1)(i) or (d)(1)(ii) of this section are set.

(3) U.S. M. Synoviae Clean chicks shall be boxed in clean boxes and delivered in trucks that have been cleaned and disinfected as described in § 147.24(a) of this chapter.

(Approved by the Office of Management and Budget under control number 0579–0007)

PART 147—AUXILIARY PROVISIONS ON NATIONAL POULTRY IMPROVEMENT PLAN

7. The authority citation for part 147 continues to read as follows:

Authority: 7 U.S.C. 429; 7 CFR 2.22, 2.80, and 371.2(d).

8. Section 147.6 is amended as follows:

a. Paragraph (a) is removed and paragraph (b) is redesignated as paragraph (a).

b. The introductory text of newly redesignated paragraph (a) is revised to read as set forth below.

c. In newly redesignated paragraph (a)(2), the words ''paragraphs (b)(3), (b)(4), and (b)(5)'' are removed and the words ''paragraphs (a)(3), (a)(4), and (a)(5)'' are added in their place.

d. In newly redesignated paragraphs (a)(3), (a)(4), (a)(5), (a)(9), and (a)(10), the words ''paragraph (b)(6)'' are removed and the words ''paragraph (a)(6)'' are added in their place.

e. In newly redesignated paragraph (a)(5), in the first sentence, the words ''in conjunction with any of the criteria described in paragraph (a)(1) of this section,'' are removed and, in the second sentence, the words ''but none of the criteria described in paragraph (a)(1) of this section are evident,'' are removed.

f. In newly redesignated paragraph (a)(13), the word ''both'' is removed.

g. A new paragraph (b) is added and reserved.

§ 147.6 Procedure for determining the status of flocks reacting to tests for Mycoplasma gallisepticum, Mycoplasma synoviae, and Mycoplasma meleagridis.

* * * * *

(a) The status of a flock for Mycoplasma shall be determined according to the following criteria:

* * * * *

9. Section 147.12 is amended by adding a new paragraph (c) to read as follows:

§ 147.12 Procedures for collecting environmental samples and cloacal swabs for bacteriological examination.

* * * * *

(c) *Chick box papers.* Samples from chick box papers may be bacteriologically examined for the presence of salmonella. The Plan participant may collect the samples in accordance with paragraph (c)(1) of this section or submit chick box papers directly to a laboratory in accordance with paragraph (c)(2) of this section.

(1) Instructions for collecting samples from chick box papers:

(i) Collect 1 chick box paper for each 10 boxes of chicks placed in a house and lay the papers on a clean surface.

(ii) Clean your hands and put on latex gloves. Do not apply disinfectant to the gloves. Change gloves after collecting samples from 10 chick box papers or any time a glove is torn.

(iii) Saturate a sterile 3-by-3 inch gauze pad with double-strength skim milk (see footnote 11 to this section) and rub the pad across the surface of five chick box papers. Rub the pad over at least 75 percent of each paper and use sufficient pressure to rub any dry meconium off the paper. Pouring a small amount of double-strength skim milk (1 to 2 tablespoons) on each paper will make it easier to collect samples.

(iv) After collecting samples from 10 chick box papers, place the two gauze pads used to collect the samples (i.e., one pad per 5 chick box papers) into an 18 oz. Whirl-Pak bag and add 1 to 2 tablespoons of double-strength skim milk.

(v) Promptly refrigerate the Whirl-Pak bags containing the samples and transport them, on ice or otherwise refrigerated, to a laboratory within 48 hours of collection. The samples may be frozen for longer storage if the Plan participant is unable to transport them to a laboratory within 48 hours.

(2) The Plan participant may send chick box papers directly to a laboratory, where samples may be collected as described in paragraph (c)(1) of this section. To send chick box papers directly to a laboratory, the Plan participant shall:

(i) Collect 1 chick box paper for each 10 boxes of chicks placed in a house and place the chick papers immediately into large plastic bags and seal the bags.

(ii) Place the plastic bags containing the chick box papers in a clean box and transport them within 48 hours to a laboratory. The plastic bags do not require refrigeration.

(Approved by the Office of Management and Budget under control number 0579–0007)

Done in Washington, DC, this 13th day of August 1997.

Terry L. Medley,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 97–21902 Filed 8–18–97; 8:45 am]

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NUCLEAR REGULATORY COMMISSION

10 CFR Part 50

Final Policy Statement on the Restructuring and Economic Deregulation of the Electric Utility Industry

AGENCY: Nuclear Regulatory Commission.

ACTION: Final Policy Statement.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is issuing this final statement of policy regarding its expectations for, and intended approach to, its power reactor licensees as the electric utility industry moves from an environment of rate regulation toward greater competition. The NRC has concerns about the possible effects that rate deregulation and disaggregation resulting from various restructuring actions involving power reactor licensees could have on the protection of public health and safety.

EFFECTIVE DATE: This policy statement becomes effective on October 20, 1997.

FOR FURTHER INFORMATION CONTACT: Robert S. Wood, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone (301) 415–1255, e-mail RSW1@nrc.gov.

SUPPLEMENTARY INFORMATION:

I. Background

On September 23, 1996, the NRC issued a draft policy statement for public comment (61 FR 49711). The purpose of the draft policy statement was to provide a discussion of the NRC's concerns regarding the potential safety impacts on NRC power reactor licensees which could result from the economic deregulation and restructuring of the electric utility industry and the means by which NRC intends to address those concerns. Because of the interest expressed by several commenters, the NRC extended the public comment period to February 9, 1997.

II. Summary of and Response to Comments

The NRC received 32 public comments on the draft policy statement: 14 from electric utility licensees or their representatives, 8 from State public utility commissions (PUCs) or other State agencies, 5 from public interest groups, 4 from private consultants and individuals, and 1 from a labor union. The following list provides the names and comment numbers referenced in this notice:

1. Nuclear Information and Resource Service—comment extension request only
2. Public Service Commission of Wisconsin
3. Engineering Applied Sciences, Inc.
4. TU Electric
5. Public Service Electric & Gas Company
6. Minnesota Department of Public Service
7. Spiegel & McDiarmid on behalf of 5 publicly-owned systems
8. IPALCO Enterprises, Inc., Citizens Action Coalition of Indiana, Inc., and Public Citizen, Inc.
9. Wisconsin Emergency Management, Bureau of Technological Hazards
10. Illinois Department of Nuclear Safety
11. International Brotherhood of Electrical Workers
12. Consolidated Edison Company of New York, Inc.
13. Centerior Energy
14. GPU Nuclear
15. Commonwealth Edison Company
16. Vermont Department of Public Service
17. Marilyn Elie
18. GE Stockholders' Alliance for a Sustainable Nuclear-Free Future
19. Women Speak Out for Peace and Justice
20. New England Power Company
21. Nuclear Information and Resource Service
22. New Jersey Division of the Ratepayer Advocate
23. Southern California Edison Company
24. Entergy Operations, Inc.
25. Nuclear Energy Institute
26. Arizona Public Service Company
27. Massachusetts Office of the Attorney General
28. Winston and Strawn on behalf of the Utility Decommissioning Group
29. Dave Crawford and Diane Peterson
30. National Rural Electric Cooperative Association
31. Schlissel Technical Consulting, Inc.
32. National Association of Regulatory Utility Commissioners

General Comments

Most commenters viewed the issuance of the draft policy statement as timely and appeared to understand the reasons for the NRC's concerns. Some directly supported the NRC's overall approach, particularly the five actions listed in Section III. Commenter 14, for example, stated that these five actions should provide sufficient focus for NRC actions. Commenter 5 believes that the NRC's current authority is sufficient to cope with any safety issues raised by rate deregulation. Commenter 31 shares the NRC's concerns but indicated that the draft policy statement did not address the key issue, namely, whether economic deregulation of nuclear power is compatible with the protection of public health and safety.

Other comments, particularly from electric utility licensees and their representatives, suggested that some NRC concerns are overstated. For example, Commenter 4 recommended elimination of language in the policy statement that implies that deregulation is inevitable. Other commenters suggested that the policy statement should recognize that change will occur at different rates and, therefore, the NRC should individually evaluate restructuring as it affects each nuclear plant. In any case, restructuring will not occur so rapidly or secretly that the NRC will not know about it. Others stated that many services will remain regulated and that the PUCs will act responsibly. Further, there is no basis for the NRC to conclude that licensees will be unable to provide adequate financial assurance for safe operations and decommissioning. The National Association of Regulatory Utility Commissioners (NARUC) stated that in view of the experimental nature of many State actions, the NRC should approach deregulation cautiously. Finally, several commenters asked the NRC to avoid actions that would serve as impediments to deregulation.

Commenters representing public interest groups generally thought that the draft policy statement did not go far enough in addressing safety concerns related to deregulation. These commenters stated that the NRC should take immediate action with respect to on-line maintenance practices, extended refueling cycles and downtime during refueling, and up-front funding of decommissioning, among other issues. Some suggested that the policy statement specifically include discussion of possible negative safety risks from economic deregulation, such as cutting corners and deferring capital investments. These commenters also urged the NRC to expand its inspection and compliance resources to counter the adverse safety impacts that these commenters believe will result from deregulation.

NRC's Response to General Comments

Regarding the issue of whether the policy statement should address the compatibility between economic deregulation and the protection of public health and safety, the NRC believes that economic deregulation does not preclude adequate protection of public health and safety. However, due to the increased uncertainty engendered by state-by-state deregulation of the electric power industry, the NRC is concerned about the possible impact on the protection of public health and safety. Thus, in the draft policy statement, the NRC expressed its general concerns about the possible effects of deregulation, realizing that such concerns can be either vitiated or exacerbated depending on specific deregulation approaches that are implemented. In this respect, the NRC recognizes that deregulation will occur at different times, in different degrees, and in some jurisdictions, perhaps not at all, and the final policy statement more explicitly recognizes these facts. With respect to the concerns expressed by public interest groups about the impact of certain potential safety practices, such as on-line maintenance and outage duration, the NRC has addressed, and will continue to address, these issues as safety issues. This policy statement is not meant to be a substitute for regulatory remedies to specific safety problems.

Sufficiency of Current Regulatory Framework and Incentives for Safe Operation

Although most commenters indicated that the NRC's current regulatory framework is adequate to protect public health and safety, others disagreed. Commenter 21, for example, cited the experience with the Millstone facility and indicated that it is ''of increasing concern that NRC cannot accurately determine the extent and scope that economics plays in the reductions of reactor safety margins and the deferral of safety significant issues.'' This commenter concluded that the policy statement has not adequately addressed safety hazards brought about by managerial malpractice in response to economic pressures. Other commenters stated that the NRC must continue to ensure that its own inspection and oversight programs identify when a licensee is failing to devote sufficient resources to ensuring safe operations, specifically as a result of deficiencies resulting from economic pressure. When necessary, the NRC should seek additional inspection and compliance resources from Congress. Commenter 9 stated that the emphasis and focus on emergency planning may lessen. Commenter 10 suggested that the NRC's shift to performance-based and risk-informed regulations may potentially threaten established safety margins. This commenter urged the NRC to establish current, vigorous probabilistic risk assessments (PRAs) to identify the risks, which would be used in all appropriate areas of plant operation as a cornerstone to maintaining cost-effective safety margins in a changing environment.

Many commenters did not view deregulation as necessarily a disincentive to safe operation. They cited the incentive to operate safely and use preventive maintenance due to the premium placed on unit availability. Another commenter expressed the belief that near-term economic incentives exist for expenditures to maintain reliable operation. However, this incentive decreases as a plant ages and thus is of greater concern later in a plant's life. Commenter 23 suggested that the policy statement be modified to support a licensee's use of the 10 CFR 50.59 review process to determine that establishment of an Independent System Operator (ISO) does not involve an unreviewed safety question.

Other commenters indicated that disincentives to safe operation should be dealt with by limiting reactor operating cycles to 18 months and requiring at least 250 hours for refueling outages. These commenters also opposed on-line maintenance.

Another commenter expressed concern that deregulation would be a disincentive to continuing cooperation among nuclear generators, such as early reporting of safety and operationally significant events and continuation of the Institute of Nuclear Power Operations (INPO). Additionally, the pressure on the NRC to reduce costs to licensees will increase, as will pressure to reduce use of the ''watch list.'' This commenter cited the analogy of the resultant events at the Federal Aviation Administration (FAA) when the airlines were deregulated and urged the NRC to avoid the FAA's mistakes. This commenter also suggested that incentive regulation of nuclear plants may become an alternative to full deregulation and that the NRC should study incentive programs used at Diablo Canyon and Pilgrim.

NRC's Response to Comments on Sufficiency of Current Regulatory Framework and Incentives for Safe Operation

The NRC shares many of the concerns expressed by commenters about the potential impact of economic deregulation on specific safety programs and practices. As discussed in the NRC's response to general comments, the NRC will continue to evaluate specific safety concerns or 10 CFR 50.59 review processes as part of its safety oversight programs. For example, on-line maintenance and increased fuel burnup are being considered through the NRC's safety review and inspection oversight programs. Reductions in manpower and training costs, and other reductions in operation and maintenance (O&M) and capital additions budgets are of continuing concern to the NRC. The NRC is considering changes to the Senior Management Meeting process that would include consideration of economic trends. However, because the safety concerns that commenters expressed exist, in many cases, independently of economic deregulation, the NRC believes that these issues have been and are more appropriately considered in other NRC programs. Also independently of economic deregulation, the NRC is striving to make its regulatory program as efficient and effective as possible—through use of risk analysis and other techniques—so that the resources of the agency and of licensees are devoted to the most safety-significant matters.

The NRC has extensively reviewed State performance incentive programs and does not believe significant additional review is warranted at this time. (See footnote 2 in the Policy Statement below.)

Financial Qualifications

Commenters expressed varied opinions. Although some viewed the NRC's current financial qualifications regulatory framework as sufficient, others believed that additional measures may be necessary. Commenter 20 indicated that the critical question for the NRC is whether, in the absence of independent financial assurances to the NRC from its licensees, rate regulators have committed to provide licensees with sufficient financial resources. Commenter 2 stated that if recovery of stranded costs is not allowed or is severely restricted, a large number of premature shutdowns may occur, further straining licensees' financial qualifications and diminishing their ability to decommission safely. In this vein, Commenter 15 urged that the NRC aggressively affirm that stranded capital costs must be recovered by utilities. Commenter 16 indicated that those nuclear plant licensees that are no longer rate regulated should have sufficient buffering funds to proceed

safely from operations to decommissioning. Commenter 8 stated that the NRC should shut down the plants of licensees with questionable financial ability to sustain safe operations in a competitive environment and should require them to decommission their facilities. Operating costs that cannot be recovered competitively should be borne by the licensee, not the ratepayer or the taxpayer. Commenter 22 believes that the NRC should institute ongoing financial qualifications reviews every 2 to 5 years for all power reactor licensees, including those that still meet the NRC's definition of ''electric utility.'' Commenter 31 recommends that the NRC examine whether mergers and joint operating agreements would dilute or weaken units and utilities that are performing well by spreading or diverting existing management attention, personnel, and other resources over a larger number of units.

Other commenters appeared quite optimistic that additional financial qualifications reviews would be unnecessary. Commenter 15 suggested that the NRC should avoid conflicts with other agencies having jurisdiction over financial qualifications and should not condition license transfers. Commenter 25 and others indicated that holding companies should not be subject to 10 CFR 50.80 license transfer reviews. At most, the NRC should use a ''negative consent'' approach to formation of holding companies. This commenter also recommended that the NRC provide more explicit guidance on the ''no significant hazards'' criteria that are used with license amendments.

Commenter 23 asked that the NRC adopt clear criteria for approval of license transfer requests and use clear, unambiguous standards for license transfers to non-utility licensees such as those offered in the Draft Standard Review Plan (SRP) on Financial Qualifications and Decommissioning Funding Assurance (61 FR 68309, December 27, 1996). The regulations in 10 CFR 50.33(f) for non-utility licensees should be modified and should include standards for extended, unplanned outages, such as minimum amounts for retained earnings, insurance, and contractual arrangements.

Commenter 22 suggested that ''securitization'' may be an advantageous method of reducing stranded cost charges to customers. Consequently, the NRC should endorse securitization as permissible from a regulatory, legal, and public policy perspective.

Finally, two commenters urged the NRC to factor in Price-Anderson obligations in its deliberations on financial qualifications.

NRC's Response to Comments on Financial Qualifications

The NRC remains concerned about the impacts of deregulation on its power reactor licensees' financial qualifications. The NRC's existing regulatory framework under 10 CFR 50.33(f) requires financial qualifications reviews for those licensees that no longer meet the definition of ''electric utility'' at the operating license (OL) stage. Paragraph 4 of 10 CFR 50.33(f) also provides that the NRC may seek additional or more detailed information respecting an applicant's or a licensee's financial arrangements and status of funds if the Commission considers this information appropriate. The NRC will evaluate additional rulemaking, separate from the proposed rulemaking on financial assurance requirements for decommissioning, to determine whether enhancements to its financial qualifications requirements are necessary in anticipation that some power reactor licensees will no longer be ''electric utilities.'' However, the NRC continues to believe that its primary tool for evaluating and ensuring safe operations at its licensed facilities is through its inspection and enforcement programs. In its previous experience, the NRC has found that there is only an indirect relationship between financial qualifications and operational safety, but it is continuing to study this issue. Although enhanced financial qualifications reviews may provide the NRC with valuable additional insights on a licensee's general qualifications to operate its facilities safely, it is not clear that enhanced financial qualifications programs by themselves would prove to be a sufficient indicator of general ability to operate a facility safely.

With respect to the issue of decommissioning and stranded costs, many states are considering securitization as a non-bypassable charge mechanism to fund the recovery of decommissioning, and other stranded costs. The NRC believes that securitization has the potential to provide an acceptable method of decommissioning funding assurance, although other mechanisms that involve non-bypassable charges may provide comparable levels of assurance and should not be excluded from consideration by State authorities.

With respect to transfers of a license under 10 CFR 50.80, the NRC must review and approve in writing all such transfers, if such transfers meet the appropriate NRC standards. The NRC does not believe that Section 184 of the Atomic Energy Act of 1954, as amended, allows the NRC to approve transfers by ''negative consent.''

The NRC will continue to use its current method of evaluating a licensee's cash flow under 10 CFR 140.21 to determine a licensee's ability to pay deferred premiums under the Price-Anderson Act.

Decommissioning Funding Assurance

The consensus appeared to be that the NRC should work closely with State regulators to provide for assurance of decommissioning funding. Commenter 13 recommended that the policy statement include a call for the continued recovery of decommissioning costs through regulated rates and tariffs in all jurisdictions. Similarly, Commenter 16 suggested that the NRC maintain awareness of State decommissioning proceedings, monitor funding adequacy based on the estimates produced in State proceedings, and work with the host State to ensure that adequate amounts are provided in decommissioning trust funds. Another commenter stated that additional decommissioning funding assurance should be required on an ad hoc basis and that the NRC should not require accelerated decommissioning funding.

Many State and licensee commenters asked the NRC to accept non-bypassable charges or other mechanisms, such as dedicated revenue streams, as proof of decommissioning funding assurance. Similarly, those licensees whose States require such mechanisms should be considered ''electric utilities'' under the NRC's regulations. Many commenters also suggested that the NRC take a more proactive role with the Congress, the Executive Branch, and others in order to increase assurance of decommissioning funds.

Most public interest group commenters advocated that the NRC end ''fund-as-you-go'' decommissioning by requiring full, up-front decommissioning for unfunded balances. These commenters also asked that any stranded cost recovery be applied to external decommissioning trusts and that investors bear the greater share in funding any decommissioning shortfall. Other comments sought the elimination of internal decommissioning funding and asked that decommissioning be funded at a level that would permit a third party to complete decommissioning.

Other specific comments in the decommissioning area included (1) a recommendation that the NRC add an explicit statement to the policy

statement that would inform licensees of the NRC's right to assess the timing and liquidity of decommissioning funds (Commenter 3); (2) a recommendation for an increase in decommissioning reporting requirements and assurance that funds are not diverted to non-decommissioning uses; (3) recognition that if charges are placed on current electricity customers while competition increases, consumers will avoid nuclear power and will, therefore, avoid contributing to decommissioning funding; and (4) recognition that decommissioning is not a stranded cost, because stranded costs are known and measurable costs that have already been incurred, whereas decommissioning costs are not fully known and have yet to be incurred.

NRC's Response to Comments on Decommissioning Funding Assurance

Many of these comments parallel comments received on the Advance Notice of Proposed Rulemaking (ANPR) (61 FR 15427, April 8, 1996) that sought comment on restructuring issues as they may relate to decommissioning funding assurance. The NRC is developing a proposed rule that considers most of these comments. With respect to the specific comment that the policy statement should indicate that NRC retains the right to assess the timing and liquidity of decommissioning funds, the NRC agrees and will add such a statement. Because of the long history of effective rate regulatory oversight and recovery of safety-related expenses through rates, in the 1988 decommissioning rule (53 FR 24018, June 27, 1988), the NRC deferred to the PUCs and the Federal Energy Regulatory Commission (FERC) on the timing and liquidity of decommissioning trust fund deposits. However, the NRC has the authority to assess the timing and liquidity of such deposits by its licensees, and intends to exercise this authority with those licensees who lose rate regulatory oversight. Similarly, 10 CFR 50.82 specifies a schedule for decommissioning trust fund withdrawals and the NRC will thus continue to assess the timing of such withdrawals.

Regulatory Interface

Most commenters support NRC's working closely with State and Federal rate regulators, although some public interest groups stated that such an effort would offer scant protection to the public (Commenter 17). Many thought that the focus of this cooperation should be on the assurance of recovery of decommissioning costs. Some commenters believe that the NRC should take a more proactive role and that the NRC can play a special role in educating rate regulators. Commenter 22 proposed that the NRC maintain a dialogue with all classes of ratepayers, perhaps through the National Association of State Utility Consumer Advocates. Other suggested venues for NRC-State regulatory interface included the National Governors Association, the National Conference of State Legislatures, the American Legislative Exchange, and similar groups (Commenter 25). Commenter 15 suggested that the NRC and NARUC convene a joint conference on stranded capital cost recovery. As previously mentioned, several commenters indicated that the NRC should act to educate Congress and seek legislation in areas relevant to plant safety and restructuring, for example, a national excise tax to fund decommissioning. Finally, Commenter 22 suggested that the NRC review the States' plans for cost recovery to ensure that, once recovered through rates, these revenues are employed for the purpose for which they were collected.

NRC's Response to Comments on Regulatory Interface

The NRC believes that the policy statement adequately covered the NRC's intent to work closely with rate regulators and others as deregulation proceeds. The NRC will consider expanding contacts to include the other groups identified. Although the NRC will testify before Congress when asked to speak on its views on deregulation as related to protecting public health and safety, the NRC is evaluating whether it should make specific recommendations on mechanisms to handle decommissioning costs and operational costs. The NRC recognizes that Federal legislation might be of benefit in resolving these issues. However, the NRC also recognizes the vital role that States have played and will continue to play in resolving these issues and is fully prepared to work with the States through either State or federally sponsored initiatives.

Joint Ownership

Virtually all who commented in this area believe that the NRC should not impose joint and several liability on co-owners of nuclear plants. Rather, each co-owner should be limited to its pro rata share of operating and decommissioning expenses. The NRC should not look to one owner to ''bail out'' another owner. Commenter 28 suggested that any effort to alter the current legal and financial relationship among co-owners would retroactively alter, and likely jeopardize, the business arrangements that underpin co-ownership. Several of those who commented on this issue also pointed to the bankruptcy laws as one way of ensuring that co-owners pay their pro rata share, although Commenter 22 suggested that recent NRC experience with bankrupt licensees may not hold true in the future. No one directly commented on the issue of non-owner operators, although 3 comments addressed this issue peripherally.

NRC's Response to Comments on Joint Ownership

The NRC recognizes that co-owners and co-licensees generally divide costs and output from their facilities by using a contractually-defined, pro rata share standard. The NRC has implicitly accepted this practice in the past and believes that it should continue to be the operative practice, but reserves the right, in highly unusual situations where adequate protection of public health and safety would be compromised if such action were not taken, to consider imposing joint and several liability on co-owners of more than *de minimis* shares when one or more co-owners have defaulted. The NRC is addressing the issue of non-owner operators separately.

Antitrust

Most commenters viewed NRC antitrust reviews as redundant to those performed by other agencies, especially in view of FERC Order 888, and recommended that the NRC act to eliminate this redundancy. Commenter 22 suggested that the NRC develop a memorandum of understanding with FERC and the Securities and Exchange Commission (SEC) that would allow the NRC to rely on the judgments of these agencies about market power that do not raise issues unique to the NRC's mandate. Another commenter recommended working with the Department of Justice to develop a list of guidelines and criteria to evaluate requests for ownership changes.

NRC's Response to Comments on Antitrust

The NRC is statutorily required under the Atomic Energy Act of 1954, as amended (AEA), in connection with an application for a license to construct or operate a facility under section 103, to evaluate an applicant's or a licensee's activities under the NRC license to determine that these activities do not create or maintain a situation inconsistent with the antitrust laws of the United States. However, the NRC has begun to work with FERC, SEC, and

the Department of Justice to develop methods by which the NRC can minimize duplication of effort on antitrust issues, while carrying out its statutory responsibilities. The NRC will also consider seeking legislation to eliminate its review to the extent that its review duplicates the efforts of other federal agencies.

Other Issues

Several commenters made observations not directly addressed in the draft policy statement. Commenter 5 stated that nuclear plant operators in the Northeast United States are subsidizing dirtier coal generation from Western U.S. generators. Accordingly, the NRC should articulate its views on the need for nuclear power and its value for fuel diversity and environmental protection. Commenter 16 recommended that the NRC urge the Department of Energy to proceed with interim spent fuel storage to reduce uncertainty and costs facing nuclear plant operators.

NRC's Response to Comments on Other Issues

The NRC does not have a role in advocating the positions stated in these comments.

Policy Statement

I. Basis

This policy statement recognizes the changes that are occurring in the electric utility industry and the importance these changes may have for the NRC and its licensees. The NRC's principal mission is to regulate the nation's civilian use of byproduct, source, and special nuclear materials to ensure adequate protection of public health and safety, to promote the common defense and security, and to protect the environment. As part of carrying out this mission, the NRC must monitor licensee activities and any changes in licensee activities, as well as external factors that may affect the ability of individual licensees to safely operate and decommission licensed power production facilities.

II. Background

The electric utility industry is entering a period of economic deregulation and restructuring that is intended to lead to increased competition in the industry. Increasing competition may force integrated power systems to separate (or ''disaggregate'') their systems into functional areas. Thus, some licensees may divest electrical generation assets from transmission and distribution assets by forming separate subsidiaries or even separate companies for generation. Disaggregation may involve utility restructuring, mergers, and corporate spinoffs that lead to changes in owners or operators of licensed power reactors and may cause some licensees, including owners, to cease being an ''electric utility'' as defined in 10 CFR 50.2.[1] Such changes may affect the licensing basis under which the NRC originally found a licensee to be financially qualified, either as an ''electric utility'' or otherwise, to construct, operate, or own its power plant, as well as to accumulate adequate funds to ensure decommissioning at the end of reactor life. (See discussion below.)

Rate regulators have typically allowed an electric utility to recover prudently incurred costs of generating, transmitting, and distributing electric services. Consequently, in 1984, the NRC eliminated financial qualifications reviews at the OL stage for those licensees that met the definition of ''electric utility'' in 10 CFR 50.2 (49 FR 35747, September 12, 1984). The NRC based this decision on the assumption that ''the rate process assures that funds needed for safe operation will be made available to regulated electric utilities'' (49 FR 35747, at 35750). However, the NRC recognized that financial qualifications reviews for OL applicants might be appropriate in particular cases in which, for example, ''the local public utility commission will not allow the total cost of operating the facility to be recovered through rates'' (49 FR 35747, at 35751). The Commission also has expressed concern about various State proposals to implement economic performance incentive programs.[2]

In its 1988 decommissioning rule, the NRC again distinguished between electric utilities and other licensees by allowing ''electric utilities'' to accumulate funds for decommissioning over the remaining terms of their operating licenses. NRC regulations require its other licensees (with the added exception of State and Federal government licensees of certain facilities) to provide funding assurance for the full estimated cost of decommissioning, either through full up-front funding or by some allowable guarantee or surety mechanism.

A discussion of the NRC review process is contained in two draft Standard Review Plans (SRPs) that the NRC issued for comment: NUREG–1577, ''Standard Review Plan on Power Reactor Licensee Financial Qualifications and Decommissioning Funding Assurance'' (January 1997); and NUREG–1574, ''Standard Review Plan on Antitrust'' (January 1997). In addition, the NRC issued an Administrative Letter on June 21, 1996, that informed power reactor licensees of their ongoing responsibility to inform and obtain advance approval from the NRC for any changes that would constitute a transfer of the license, directly or indirectly, through transfer of control of the NRC license to any person pursuant to 10 CFR 50.80. This administrative letter also reminded addressees of their responsibility to ensure that information regarding a licensee's financial qualifications and decommissioning funding assurance that may have a significant implication for public health and safety is promptly reported to the NRC.

III. Specific Policies

The NRC is concerned about the potential impact of utility restructuring on public health and safety. The NRC has not found a consistent relationship between a licensee's financial health and general indicators of safety such as the NRC's Systematic Assessment of Licensee Performance. The NRC has traditionally relied on its inspection process to indicate when safety performance has begun to show adverse trends. On the basis of inspection program results, the NRC can take appropriate action, including, ultimately, plant shutdown, to protect public health and safety. However, if a plant is permanently shut down, that plant's licensee(s) may no longer have access to adequate revenues or other sources of funds for decommissioning the facility. If rate deregulation and organizational divestiture occur concurrently with the shutdown of a nuclear plant either by NRC action or by a licensee's economic decision, that licensee may not be able to provide adequate assurance of decommissioning funds. Thus, the NRC believes that its concerns about deregulation and restructuring lie in the areas of adequacy of decommissioning funds

[1] Section 50.2 defines ''electric utility'' as ''any entity that generates or distributes electricity and which recovers the cost of this electricity, either directly or indirectly, through rates established by the entity itself or by a separate regulatory authority. Investor-owned utilities, including generation and distribution subsidiaries, public utility districts, municipalities, rural electric cooperatives, and State and Federal agencies, including associations of any of the foregoing, are included within the meaning of 'electric utility.' ''

[2] See Possible Safety Impacts of Economic Performance Incentives: Final Policy Statement, (56 FR 33945, July 24, 1991), for the NRC's concerns relating to State economic performance incentive standards and programs. The NRC understands that States instituted many of these programs as a means of encouraging electric utilities to lower electric rates to consumers. As States deregulate electric utilities under their jurisdictions, these economic performance incentive programs ultimately may be replaced by full market competition.

and the potential effect that economic deregulation may have on operational safety.

As the electric utility industry moves from an environment of substantial economic regulation to one of increased competition, the NRC is concerned about the pace of restructuring and rate deregulation. Approval of organizational and rate deregulation changes may occur rapidly. The pace and degree of such changes could affect the factual underpinnings of the NRC's previous conclusions that power reactor licensees have access to adequate funds for operations and can reliably accumulate adequate funds for decommissioning over the operating lives of their facilities. For example, rate deregulation could create situations in which a licensee that previously met the NRC's definition of an ''electric utility'' under 10 CFR 50.2 may, at some point, no longer qualify for such status. At that point, the NRC will require licensees to submit proof pursuant to 10 CFR 50.33(f)(4) that they remain financially qualified and will require them to meet the more stringent decommissioning funding assurance requirements of 10 CFR 50.75 that are applicable to non-electric utilities.

Although new and unique restructuring proposals will necessarily involve case-by-case reviews by the NRC, the NRC staff will advise the Commission of such proposals so that the Commission will have the option of exercising direct oversight of such reviews to maintain consistent NRC policy toward new entities. As patterns of restructuring begin to emerge, the NRC will consider standardizing its framework further to streamline, where possible, its case-by-case review process. The NRC has considered, and will continue to consider mergers and the outright sales of facilities, or portions of facilities, to require NRC notification and prior approval in accordance with 10 CFR 50.80 in order to ensure that the transferee or licensee is appropriately qualified. For example, in certain merger situations, the NRC determines whether the surviving organization will remain an ''electric utility'' as defined in 10 CFR 50.2. If a license applicant or a licensee fails to meet this definition, the NRC will seek additional assurance of financial qualifications to operate and decommission the facility pursuant to 10 CFR 50.33(f) and 50.75 and as discussed in more detail in its SRP on these subjects. The NRC has also advised licensees that the formation of holding companies requires notification and approval pursuant to 10 CFR 50.80.

In consideration of these concerns, the NRC will evaluate deregulation and restructuring activities as they evolve. Recognizing that the electric utility industry is likely to undergo great change, as restructuring progresses, the NRC will continue to evaluate the need for regulatory or policy changes to meet the effects of deregulation. The NRC will take all appropriate actions to carry out its mission to protect the health and safety of the public and, to the extent of its statutory mandate, to ensure consistency with Federal antitrust laws.

The NRC intends to implement policies and take action as described in this policy statement to ensure that its power reactor licensees remain financially qualified to ensure continued safe operations and decommissioning. In summary, the NRC will—

- Continue to conduct its financial qualifications, decommissioning funding and antitrust reviews as described in the SRPs developed in concert with this policy statement;
- Identify all owners, indirect as well as direct, of nuclear power plants;
- Establish and maintain working relationships with State and Federal rate regulators; and
- Reevaluate its regulations for their adequacy to address changes resulting from rate deregulation.

A. Adequacy of Current Regulatory Framework

The NRC believes that its regulatory framework is generally sufficient, at this time, to address the restructurings and reorganizations that will likely arise as a result of electric utility deregulation. Absent changes to the NRC's regulatory scheme, the NRC's review process will follow the current framework. The NRC believes that its financial qualifications requirements are sufficiently broad as to provide an adequate framework to adequately review new or unique situations that are not explicitly covered in 10 CFR 50.33(f) and appendix C to part 50, for financial qualifications, and in 10 CFR 50.75 for decommissioning funding assurance. However, in order to remove any ambiguities in its regulations and to address those situations that may not be adequately covered under current regulations, the NRC is considering rulemaking to revise its decommissioning funding assurance requirements, as described in Section III.E. The NRC is evaluating whether modification to its financial qualifications regulations are warranted.

B. NRC Responsibilities Vis-a-Vis State and Federal Economic Regulators

The NRC has recognized the primary role that State and Federal economic regulators have served, and in many cases will continue to serve, in setting rates that include appropriate levels of funding for safe operation and decommissioning. For example, the preamble to the 1988 decommissioning rule contained the following statement: ''The rule, and the NRC's implementation of it, does not deal with financial ratemaking issues such as rate of fund collection, procedures for fund collection, cost to ratepayers, taxation effects, equitability between early and late ratepayers, accounting procedures, ratepayer versus stockholder considerations, responsiveness to change and other similar concerns * * *. These matters are outside NRC's jurisdiction and are the responsibility of the State PUCs and (the Federal Energy Regulatory Commission) FERC'' (53 FR 24018, June 27, 1988, at 24038).

Notwithstanding the primary role of economic regulators in rate matters, the NRC has authority under the AEA to take actions that may affect a licensee's financial situation when these actions are warranted to protect public health and safety. To date, the NRC has found no significant instances in which State or Federal rate regulation has led to disallowance of funds for safety-related operational and decommissioning expenses. Some rate regulators may have chosen to reduce allowable profit margins through rate disallowances, or licensees have for other reasons encountered financial difficulty.

In order for the NRC to make its safety views known and to encourage rate regulators to continue their practice of allowing adequate expenditures for nuclear plant safety as electric utilities face deregulation, the NRC has taken a number of actions to increase cooperation with State and Federal rate and financial regulators to promote dialogue and minimize the possibility of rate deregulation or other actions that would have an adverse effect on safety. The NRC intends to continue to work and consult with the State PUCs, individually or through NARUC, and with FERC and other Federal agencies to coordinate activities and exchange information. However, the Commission also reserves the flexibility to take appropriate steps in order to assure a licensee's adequate accumulation of decommissioning funds.

C. Co-Owner Division of Responsibility

Many of the NRC's power reactor licensees own their plants jointly with

other, unrelated organizations. Although some co-owners may only be authorized to have an ownership interest in the nuclear facility and its nuclear material, and not to operate it, the NRC views all co-owners as co-licensees who are responsible for complying with the terms of their licenses. See *Public Service Company of Indiana, Inc.* (Marble Hill Nuclear Generating Station, Units 1 and 2), ALAB–459, 7 NRC 179, 200–201 (1978). The NRC is concerned about the effects on the availability of operating and decommissioning funds, and about the division of responsibility for operating and decommissioning funds, when co-owners file for bankruptcy or otherwise encounter financial difficulty.[3] The NRC recognizes that co-owners and co-licensees generally divide costs and output from their facilities using a contractually defined, pro rata share standard. The NRC has implicitly accepted this practice in the past and believes that it should continue to be the operative practice, but reserves the right, in highly unusual situations where adequate protection of public health and safety would be compromised if such action were not taken, to consider imposing joint and several liability on co-owners of more than *de minimis* shares when one or more co-owners have defaulted.

D. Financial Qualifications Reviews

The NRC believes that the existing regulatory framework contained in 10 CFR 50.33(f) and in the guidance in 10 CFR Part 50, Appendix C, is generally sufficient at this time to provide reasonable assurance of the financial qualifications of both electric utility and non-electric utility applicants and licensees under the various ownership arrangements of which the staff is currently aware. Licensees that remain ''electric utilities'' will not be subject to NRC financial qualifications review, other than to determine that such licensees, in fact, remain ''electric utilities.'' However, the NRC is evaluating the need to develop additional requirements to ensure against potential dilution of the capability for safe operation and decommissioning that could arise from rate deregulation and restructuring.

Section 184 of the AEA and 10 CFR 50.80 provide that no license shall be transferred, directly or indirectly, through transfer of control of the license, unless the Commission consents in writing. The NRC will continue to review transfers to determine their potential impact on the licensee's ability both to maintain adequate technical qualifications and organizational control and authority over the facility and to provide adequate funds for safe operation and decommissioning. Such consent is clearly required when a corporate entity seeks to transfer a license it holds to a different corporate entity. See *Long Island Lighting Co.* (Shoreham Nuclear Power Station, Unit 1) CLI–92–4, 35 NRC 69 (1992). The NRC staff has advised licensees that agency consent must be sought and obtained under 10 CFR 50.80 for the formation of a new holding company over an existing licensee. Other types of transactions, including where non-licensee organizations are proposed to have some degree of involvement in the management or operation of the plant, have been considered by the staff on a case-by-case basis to determine whether 10 CFR 50.80 consent is required. The NRC is evaluating what types of transfers or restructurings should be subject to 10 CFR 50.80 review. The NRC staff will inform the Commission of unique or unusual licensee restructuring actions.

E. Decommissioning Funding Assurance Reviews

The NRC believes that the existing decommissioning funding assurance provisions in 10 CFR 50.75 generally provide an adequate regulatory basis for existing and possible new licensees to provide reasonable assurance of decommissioning funds. However, to examine this and other issues related to decommissioning funding assurance in anticipation of rate deregulation, the NRC published an ANPR (61 FR 15427, April 8, 1996). The NRC is considering a proposed rulemaking developed in response to the comments received on the ANPR. In addition, the NRC wishes to emphasize that it retains the right to assess the timing of decommissioning trust fund deposits and withdrawals and the liquidity of decommissioning funds for those licensees that no longer have rate regulatory oversight and insofar as such timing would potentially impact the protection of public health and safety.

F. Antitrust Reviews

The NRC is statutorily required under the AEA, in connection with an application for a license to construct or operate a facility under section 103, to evaluate an applicant's or a licensee's activities under the NRC license to determine whether these activities create or maintain a situation inconsistent with the antitrust laws of the United States. However, the NRC will explore with FERC, SEC, and the Department of Justice methods by which the NRC can minimize duplication of effort on antitrust issues, while maintaining its statutory responsibilities. The NRC will consider seeking legislation eliminating its review mandate to the extent that NRC reviews are duplicated by other agencies.

The NRC anticipates that competitive reviews over the next 5 to 10 years will arise primarily from changes in control of licensed facilities. The regulatory review addressing transfer of control of licenses under 10 CFR 50.80 will be used to determine whether new owners or operators will be subject to an NRC review with respect to antitrust matters.

Small Business Regulatory Enforcement Fairness Act

In accordance with the Small Business Regulatory Enforcement Act of 1996, the NRC has determined that this action is not a ''major rule'' and has verified this determination with the Office of Information and Regulatory Affairs, Office of Management and Budget.

Electronic Access

The NRC electronic Bulletin Board System (BBS) on FedWorld may be accessed by using a personal computer, a modem, and one of the commonly available communications software packages, or directly by way of Internet. Background documents on the final policy statement are also available, as practical, for downloading and viewing on the bulletin board.

If using a personal computer and modem, the NRC subsystem on FedWorld can be accessed directly by dialing the toll-free number (800) 303–9672. Communication software parameters should be set as follows: Parity to none, data bits to 8, and stop bits to 1 (N,8,1). Using ANSI or VT–100 terminal emulation, the NRC subsystem can then be accessed by selecting the ''Rules Menu'' option from the ''NRC Main Menu.'' Many NRC subsystems and databases also have a ''Help/Information Center'' option that is tailored to the particular subsystem.

[3] The NRC has had experience with three licensees who have had much greater than *de minimis* shares of nuclear power plants and who filed under Chapter 11 of the U.S. Bankruptcy Code: Public Service Company of New Hampshire (PSNH), a co-owner and operator of the Seabrook plant; El Paso Electric Company (EPEC), a co-owner of the Palo Verde plant; and Cajun Electric Power Cooperative (Cajun), a co-owner of the River Bend plant. Both PSNH and EPEC continued their pro rata contributions for the operating and decommissioning expenses for their plants and successfully emerged from bankruptcy. Cajun remains in bankruptcy.

The NRC subsystem on FedWorld can also be accessed by a direct-dial telephone number for the main FedWorld BBS, (703) 321–3339, or by using Telnet via Internet: fedworld.gov. If using (703) 321–3339 to contact FedWorld, the NRC subsystem will be accessed from the main FedWorld menu by selecting the ''Regulatory, Government Administration and State Systems,'' then selecting ''Regulatory Information Mail.'' At that point, a menu will be displayed that has an option ''U.S. Nuclear Regulatory Commission,'' which will take you to the NRC on-line main menu. The NRC On-line area also can be accessed directly by typing ''/go nrc'' at a FedWorld command line. If you access NRC from FedWorld's main menu, you may return to FedWorld by selecting the ''Return to FedWorld'' option from the NRC on-line main menu. However, if you access NRC at FedWorld by using NRC's toll-free number, you will have full access to all NRC systems, but you will not have access to the main FedWorld system.

If you contact FedWorld using Telnet, you will see the NRC area and menus, including the Rules menu. Although you will be able to download documents and leave messages, you will not be able to write comments or upload files (comments). If you contact FedWorld using FTP, all files can be accessed and downloaded but uploads are not allowed; all you will see is a list of files without descriptions (normal Gopher look). An index file listing all files within a subdirectory, with descriptions, is available. There is a 15-minute time limit for FTP access.

Although FedWorld can also be accessed through the World Wide Web, like FTP, that mode only provides access for downloading files and does not display the NRC Rules menu.

For more information on NRC bulletin boards call Mr. Arthur Davis, Systems Integration and Development Branch, NRC, Washington, DC 20555–0001, telephone (301) 415–5780; e-mail AXD3@nrc.gov.

Dated at Rockville, Maryland, this 13th day of August, 1997.

For the Nuclear Regulatory Commission.

John C. Hoyle,

Secretary of the Commission.

[FR Doc. 97–21879 Filed 8–18–97; 8:45 am]

BILLING CODE 7590–01–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 97–AGL–2]

Removal of Class D Airspace; Glenview, IL

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action removes Class D airspace at Glenview, IL. This airspace is removed due to the closing of the Air Traffic Control Tower at Glenview Coast Guard Air Field (CGAF), Glenview, IL. The intended effect of this action is to provide an accurate description of controlled airspace for Glenview, IL.

EFFECTIVE DATE: 0901 UTC, September 18, 1997.

FOR FURTHER INFORMATION CONTACT: Michelle Behm, Air Traffic Division, Airspace Branch, AGL–520, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (847) 294–7568.

SUPPLEMENTARY INFORMATION: .

History

On Monday, January 27, 1997, the FAA proposed to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) to remove Class D airspace at Glenview, IL (62 FR 3840). The proposal was intended to provide an accurate description of controlled airspace for Glenview, IL. Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Class D airspace designations are published in paragraph 5000 of FAA Order 7400.9D, dated September 4, 1996, and effective September 16, 1996, which is incorporated by reference in 14 CFR 71.1. The Class D airspace designation listed in this document will be published subsequently in the Order.

The Rule

This amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) removes Class D airspace at Glenview, IL. This airspace is removed due to the closing of the Air Traffic Control Tower at Glenview CGAF, Glenview, IL. The intended effect of this action is to provide an accurate description of controlled airspace for Glenview, IL.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this regulation—(1) Is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

PART 71—[AMENDED]

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

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9D, Airspace Designations and Reporting Points, dated September 4, 1996, and effective September 16, 1996, is amended as follows:

Paragraph 5000 Class D Airspace

* * * * *

AGLIL D Glenview, IL [Removed]

* * * * *

Issued in Des Plaines, Illinois on July 16, 1997.

Maureen Woods,

Manager, Air Traffic Division.

[FR Doc. 97–21863 Filed 8–18–97; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 97–AGL–12]

Establishment of Class E Airspace; Ely, MN

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action establishes Class E airspace at Ely Municipal Airport, Ely, MN, to accommodate a Very High Frequency Omnidirectional Range/Distance Measuring Equipment (VOR/DME) Runway 12/30 Standard Instrument Approach Procedure (SIAP). Controlled airspace extending upward from the surface is needed to contain aircraft executing the approach. The intended effect of this action is to provide segregation of aircraft using instrument approach procedures in instrument conditions from other aircraft operating in visual weather conditions.

EFFECTIVE DATE: 0901 UTC, November 6, 1997.

FOR FURTHER INFORMATION CONTACT: Michelle Behm, Air Traffic Division, Airspace Branch, AGL–520, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (847) 294–7568.

SUPPLEMENTARY INFORMATION:

History

On Thursday, April 24, 1997, the FAA proposed to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) to establish Class E airspace at Ely Municipal Airport, Ely, MN (62 FR 19956). The proposal was intended to add controlled airspace extending upward from the surface to contain Instrument Flight Rules (IFR) operations in controlled airspace during portions of the terminal operation and while transiting between the enroute and terminal environments.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Class E airspace designations for surface areas for an airport are published in paragraph 6002 of FAA Order 7400.9D, dated September 4, 1996, and effective September 16, 1996, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

The Rule

This amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) establish Class E airspace at Ely Municipal Airport, Ely, MN, to accommodate a VOR/DME Runway 12/30 SIAP. Controlled airspace extending upward from the surface is needed to contain aircraft executing the approach. The area will be depicted on appropriate aeronautical charts thereby enabling pilots to circumnavigate the area or otherwise comply with IFR procedures.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this regulation—(1) Is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

PART 71—[AMENDED]

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

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9D, Airspace Designations and Reporting Points, dated September 4, 1996, and effective September 16, 1996, is amended as follows:

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

* * * * *

AGL MN E2 Ely, MN [New]

Ely Municipal Airport, MN
(Lat. 47°49′28″ N, long. 91°49′51″ W)
Ely VOR/DME
(Lat. 47°49′19″ N, long. 91°49′49″ W)

Within a 4-mile radius of the Ely Municipal Airport, and within 2.4 miles each side of the VOR/DME 108 radial extending from the 4-mile radius to 7 miles southeast of the VOR/DME, and within 2.4 miles each side of the VOR/DME 302 radial extending from the 4-mile radius to 7 miles northwest of the VOR/DME.

* * * * *

Issued in Des Plaines, Illinois on July 16, 1997.

Maureen Woods,

Manager, Air Traffic Division.

[FR Doc. 97–21862 Filed 8–18–97; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 96–ASW–31]

RIN 2120–AA66

Realignment of VOR Federal Airways in the Vicinity of Helena, AR

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule realigns four Federal airways located in the Helena, AR, area. This realignment will coincide with the activation of the Marvell, AR, Very High Frequency Omnidirectional Range/Distance Measuring Equipment (VOR/DME) Navigational Aid (NAVAID). The realignment of airspace and activation of the Marvell VOR/DME will reroute aircraft operations around the Memphis International Airport Class B airspace area. Additionally, the Marvell VOR/DME will be used as a feeder fix into Memphis, TN. This action will aid flight planning, reduce en route and terminal delays, and enhance the management of air traffic operations in the Memphis, TN, Class B airspace area.

EFFECTIVE DATE: 0901 UTC, November 6, 1997.

FOR FURTHER INFORMATION CONTACT: Steve Brown, Airspace and Rules Division, ATA–400, Office of Air Traffic Airspace Management, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267–8783.

SUPPLEMENTARY INFORMATION:

History

On April 9, 1997, the FAA proposed to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) to realign four Federal airways located in the Helena, AR, area (62 FR 17135). Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments were received. Except for editorial changes, this amendment is the same as that proposed in the notice.

Domestic VOR Federal airways are published in paragraph 6010(a) of FAA Order 7400.9D, dated September 4,

1996, and effective September 16, 1996, which is incorporated by reference in 14 CFR 71.1. The airways listed in this document will be published subsequently in the Order.

The Rule

This amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) realigns four Federal airways located in the Helena, AR, area. Currently, three airways intersect at a noncompulsory reporting point named ''Walet,'' which is located within the 30 nautical mile (NM) radius of the Memphis Class B airspace area. A fourth airway, V–16, passes 10 NM south of ''Walet'' intersection. As such, all aircraft transiting this area between 5,000 and 10,000 feet mean sea level (MSL) must fly through the Memphis Class B airspace area. By realigning these airways to directly overfly the Marvell VOR/DME (approximately 17 NM southwest of ''Walet''), the intersection of the airways will no longer conflict with the Class B airspace area at Memphis. Additionally, Memphis International Airport plans to use Marvell VOR/DME as a feeder fix into the airport. Having these four airways intersect at Marvell will enhance aircraft routing and handling. As a result, this action will aid flight planning, reduce en route and terminal delays, and enhance the management of air traffic operations in the Memphis Class B airspace area.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) Is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

PART 71—[AMENDED]

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

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9D, Airspace Designations and Reporting Points, dated September 4, 1996, and effective September 16, 1996, is amended as follows:

Paragraph 6010(a)—Domestic VOR Federal Airways

* * * * *

V–9 [Revised]

From Leeville, LA; McComb, MS; Jackson, MS; Sidon, MS; Marvell, AR; Gilmore, AR; Malden, MO; Farmington, MO; St. Louis, MO; Capital, IL; Pontiac, IL; INT Pontiac 343° and Rockford, IL, 169° radials; Rockford; Janesville, WI; Madison, WI; Oshkosh, WI; Green Bay, WI; Iron Mountain, MI; to Houghton, MI.

V–16 [Revised]

From Los Angeles, CA; Paradise, CA; Palm Springs, CA; Blythe, CA; Buckeye, AZ; Phoenix, AZ; INT Phoenix 155° and Stanfield, AZ, 105° radials; Tucson, AZ; Cochise, AZ; Columbus, NM; El Paso, TX; Salt Flat, TX; Wink, TX; Wink 066° and Big Spring, TX, 260° radials; Big Spring; Abilene, TX; Millsap, TX; Glen Rose, TX; Cedar Creek, TX; Quitman, TX; Texarkana, AR; Pine Bluff, AR; Marvell, AR; Holly Springs, MS; Jacks Creek, TN; Shelbyville, TN; Hinch Mountain, TN; Volunteer, TN; Holston Mountain, TN; Pulaski, VA; Roanoke, VA; Lynchburg, VA; Flat Rock, VA; Richmond, VA; INT Richmond 039° and Patuxent, MD, 228° radials; Patuxent; Smyrna, DE; Cedar Lake, NJ; Coyle, NJ; INT Coyle 036° and Kennedy, NY, 209° radials; Kennedy; Deer Park, NY; Calverton, NY; Norwich, CT; Boston, MA. The airspace within Mexico and the airspace below 2,000 feet MSL outside the United States is excluded. The airspace within Restricted Areas R–5002A, R–5002C, and R–5002D is excluded during their times of use. The airspace within Restricted Areas R–4005 and R–4006 is excluded.

* * * * *

V–54 [Revised]

From Waco, TX; Cedar Creek, TX; Quitman, TX; Texarkana, AR; INT Texarkana 052° and Little Rock, AR, 235° radials; Little Rock; Marvell, AR; Holly Springs, MS; Muscle Shoals, AL; Rocket, AL; Choo Choo, GA; Harris, GA; Spartanburg, SC; Charlotte, NC; Sandhills, NC; INT Sandhills 146° and Fayetteville, NC, 267° radials; Fayetteville; to Kinston, NC.

* * * * *

V–397 [Revised]

From Monroe, LA, via INT Monroe 056° and Greenville, MS, 207° radials; Greenville; to Marvell, AR.

* * * * *

Issued in Washington, DC, on August 11, 1997.

Reginald C. Matthews,

Acting Program Director for Air Traffic Airspace Management.

[FR Doc. 97–21861 Filed 8–18–97; 8:45 am]

BILLING CODE 4910–13–P–M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

25 CFR Part 46

Adult Education Program

RIN 1076–AA15

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Final rule.

SUMMARY: The Bureau of Indian Affairs (BIA) is publishing regulations to establish procedures for the operation of BIA's Adult Education Program.

The final rule establishes administrative procedures which will provide reporting uniformity and compliance with legislative management policies.

EFFECTIVE DATE: September 18, 1997.

FOR FURTHER INFORMATION CONTACT: Mr. Garry R. Martin, Bureau of Indian Affairs, Office of Indian Education Programs, Branch of Post-Secondary Education, 1849 C Street, NW, MS–3512–MIB, Washington, D.C. 20240, Phone (202) 208–3478.

SUPPLEMENTARY INFORMATION: On December 30, 1987, the BIA published proposed Adult Education Program rules in the **Federal Register**. In view of the considerable passage of time since that publication, the rule was reproposed and reprinted in the **Federal Register** on August 25, 1994.

In accordance with the 1987 publication, the BIA in January, 1991 conducted consultation meetings with tribes, parents, school boards, and other interested parties concerning the Adult Education Program regulations. Oral testimony and written statements were received in the Office of Indian Education Programs until February 26, 1991. All comments, objections, and suggested changes received in response to the 1987 **Federal Register** publication and the 1991 consultation meetings were considered in reproposing the rule. All BIA Area Offices, tribal leaders, and tribal offices were notified regarding the August 25, 1994, publication of the

proposed rule in the **Federal Register** and dates of the open comment period. Announcement of the publication of the proposed rule and closing date for the comment period was also made at a national State/Tribal Adult Education Symposium which was held in St. Paul, Minnesota, on October 12–14, 1994. Two public memoranda were received within the time frame of the open comment period. One memorandum which followed the format of a press release addressed primary information informing a general tribal constituency of the publication of the proposed rule in the **Federal Register** on August 25, 1994; provided the amount of the FY 1994 BIA appropriation for adult education; and provided the deadline date for receipt of public comments (November 23, 1994). A second memorandum addressed an eligible activity, in § 46.10(b) of this Part which reads: ''Funds should not be used to support programs designed solely to prepare Indian adults to enter a specific occupation or cluster of closely related occupations.'' Concern focused on the purpose of this activity not being clear. This Part is directed toward defining adult education as adult basic education and literacy education without focusing on educational areas which require a long-term emphasis. Adult education should not be regarded as continuing education to achieve more specialization to remain current in an educational subject/field or any other kind of specialized education that is normally received through formal post-secondary education. In addition, numerous phone calls were received regarding BIA's funding levels for adult education. Many callers wanted to know if the BIA was announcing new funding resources or if additional monies had been appropriated for the BIA's Adult Education Program. BIA told these callers that the proposed rule did not reflect new or additional funds.

The eligibility definition of Indian students participating in BIA elementary/secondary programs is contained within 25 U.S.C. Section 2008(f)(1). In this section ''eligible Indian student'' means a student who is a member of or is at least a ¼ degree Indian blood descendant of a member of an Indian tribe which is eligible for the special programs and services provided by the United States through the Bureau of Indian Affairs to Indians because of their status as Indians. In this rule, the BIA has decided to use that same definition for purposes of defining eligibility for adult education. The controlling factors in determining to use this definition were continuity and consistency for all of the Bureau educational services.

The definition of ''Adult'' has been expanded to negate any duplication of services to participants who may meet the definition of ''adult'' but may fall within an age category that could receive services as a secondary school student and be eligible also to receive services through an adult education program.

The definition of *Adult Education Office* has been expanded to identify Tribal Priority Allocation (TPA). TPA is the system by which the tribes prioritize their Adult Education Program funding, from the BIA.

Information collection requirements contained in this Part have been approved by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.* and assigned clearance number 1076–0120.

This rule is a significant rule under Executive Order 12866 and has been reviewed by the Office of Management and Budget.

The Department of the Interior has determined that this final rule does not constitute a major federal action significantly affecting the quality of the human environment and no detailed statement was required pursuant to the National Environmental Policy Act of 1969. This rule has been reviewed under Executive Order 12866.

This rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). These regulations will affect only the delivery of adult education services to eligible individual Indian adults. They will not have an impact on small entities as defined in the Act.

The Department has certified to the Office of Management and Budget that these proposed regulations meet the applicable standards provided in sections 3(a) and 3(b)(2) of Executive Order 12988.

In accordance with Executive Order 12630, the Department has determined that this rule does not have significant takings implications.

The Department has determined that this rule does not have significant federalism effects.

The primary author of this document is Garry R. Martin, Branch of Post-Secondary Education, Office of Indian Education Programs, Bureau of Indian Affairs, Washington, D.C.

List of Subjects in 25 CFR Part 46

Adult education, Education, Indians—education.

For the reasons set out in the preamble, a new part 46 is added to subchapter E of chapter I, title 25 of the Code of Federal Regulations as set forth below.

PART 46—ADULT EDUCATION PROGRAM

Subpart A—General Provisions

Subpart B—[Reserved]

Authority: 43 U.S.C. 1457; 25 U.S.C. 2, 9, 13.

Subpart A—General Provisions

§ 46.1 Purpose and scope.

The purpose of the Adult Education Program is to:

(a) Improve educational opportunities for Indian adults who lack the level of literacy skills necessary for effective citizenship and productive employment;

(b) Expand and improve existing programs for delivering adult education services, including delivery of these services to educationally disadvantaged Indian adults; and

(c) Encourage the establishment of adult education programs that will:

(1) Enable Indian adults to acquire adult basic educational skills necessary for literate functioning;

(2) Provide Indian adults with sufficient basic education to enable them to benefit from job training and retraining programs and to obtain and retain productive employment so that they might more fully enjoy the benefits and responsibilities of citizenship; and

(3) Enable Indian adults, who so desire, to continue their education to at least the level of completion of adult secondary education.

§ 46.2 Definitions.

As used in this part:

Adult means an individual who has attained the age of sixteen or is beyond the age of compulsory school attendance under State or tribal law and not currently enrolled in a formal secondary or post-secondary educational program.

Adult Basic Education (ABE) means instruction designed for an adult who:

(1) Has minimal competence in reading, writing, and computation;

(2) Cannot speak, read, or write the English language sufficiently to allow employment commensurate with the adult's real ability;

(3) Is not sufficiently competent to meet the educational requirements of an adult consumer; or

(4) In grade level measurements that would be designated as grades 0 through 8.

Adult Education means services or instruction below the college level for adults who:

(1) Lack sufficient mastery of basic educational skills to enable them to function effectively in society, or

(2) Do not have a certificate of graduation from a school providing secondary education and have not achieved a GED.

Adult Education Office means the BIA or tribal office administering funds appropriated to the BIA, under the TPA, for Adult Education programs.

Adult Secondary Education means instruction designed for an adult who:

(1) Is literate and can function in everyday life, but is not proficient as a competitive consumer or employee; or

(2) Does not have a certificate of graduation (or its equivalent) from a school providing secondary education and in grade level measurements that would be designated as grades 9 through 12.

Assistant Secretary means the Assistant Secretary—Indian Affairs, Department of the Interior, or his/her designee.

Bureau means the Bureau of Indian Affairs.

Department of Education (ED) means the U.S. Department of Education.

Director means the Director, Office of Indian Education Programs, Bureau of Indian Affairs.

Indian means a person who is a member of, or is at least a one-fourth degree Indian blood descendent of a member of, an Indian tribe, and is eligible for the special programs and services provided by the United States through the Bureau of Indian Affairs to Indians because of their status as Indians;

Indian tribe means any Indian tribe, band, nation, rancheria, pueblo, colony or community, including any Alaska native village or regional or village corporation as defined in, or established pursuant to, the Alaska Native Claims Settlement Act (85 Stat. 668) that is Federally recognized by the United States Government through the Secretary of the Interior for the special programs and services provided by the Secretary to Indians because of their status as Indians.

Tribal Priority Allocation (TPA) means the BIA's budget formulation process that allows direct tribal government involvement in the setting of relative priorities for local operating programs.

Secretary means the Secretary of the Department of the Interior.

Service area means the geographic area served by the local Adult Education Program.

§ 46.3 Information collection.

Information collection requirements contained in this part have been approved by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.* and assigned clearance number 1076–0120. This information is being collected to determine eligibility of Indian applicants and will be used to prioritize programs. Response to this request is viewed as voluntary. Public reporting burden for this form is estimated to average 3 hours per response, including the time for reviewing instructions, gathering, maintaining data, completing and reviewing the form. Direct comments regarding the burden estimate or any other aspect of this form may be directed to the BIA Information Collection Clearance Officer, Division of Management Support, 1849 C Street NW., Washington, DC 20245; and the Office of Management and Budget, Paperwork Reduction Project (OMB #1076–0120), Washington, DC 20503.

§ 46.10 Eligible activities.

(a) Subject to availability of funds, funds appropriated for the BIA's Adult Education Program may be used to support local projects or programs designed to:

(1) Enable Indian adults to acquire basic educational skills, including literacy;

(2) Enable Indian adults to continue their education through the secondary school level;

(3) Establish career education projects intended to improve employment opportunities;

(4) Provide educational services or instruction for elderly, disabled, or incarcerated Indian adults;

(5) Prepare individuals to benefit from occupational training; and

(6) Teach employment-related skills.

(b) Funds should not be used to support programs designed solely to prepare Indian adults to enter a specific occupation or cluster of closely related occupations.

(c) The Adult Education Program must be implemented in accordance with a plan established by the tribe(s) affected by the program. The tribe(s) may determine to set standards in addition to those established in this part.

§ 46.20 Program requirements.

(a) The Adult Education Office will implement the program or project that is designed to address the needs of the Indian adults in the service area. To determine the needs of Indian adults in the area, the Adult Education Office must consider:

(1) Elementary/secondary school dropout or absentee rates;

(2) Average grade level completed;

(3) Unemployment rates; and

(4) Other appropriate measures.

(b) The Adult Education Office, to ensure efforts that no duplication of services exists, will identify other services in the area, including those offered by Federal, State and Tribal entities, that are designed to meet the same needs as those to be addressed by the project, and the number of Indian adults who receive those services.

(c) The Adult Education Office must establish and maintain an evaluation plan.

(1) The plan must be designed to measure the project's effectiveness in meeting each objective and the impact of the project on the adults involved; and

(2) The plan must provide procedures for periodic assessment of the progress of the project and, if necessary, modification of the project as a result of that assessment.

(d) Subject to the availability of funds, the project is to be supported under the funding level established for Adult Education in the formulation of the budget under the TPA process.

§ 46.30 Records and reporting requirements.

(a) The Adult Education Office will annually submit a report on the previous project year's activities to the Director, Office of Indian Education Programs. The report must include the following information:

(1) The type of eligible activity, under § 46.10, conducted under the project(s);

(2) The number of participants acquiring the GED, high school diploma, and other certificates of performance; and

(3) A narrative summary of the activities conducted under the project.

(b) Each Adult Education Office must:

(1) Submit any records and information that the Director requires in connection with the administration of the program; and

(2) Comply with any requirements that the Director may impose to ensure the accuracy of the reports required by this part.

Subpart B—[Reserved]

Dated: August 7, 1997.

Ada E. Deer,

Assistant Secretary—Indian Affairs.

[FR Doc. 97–21868 Filed 8–18–97; 8:45 am]

BILLING CODE 4310–02–P

DEPARTMENT OF JUSTICE

28 CFR Part 16

[AGA/A Order No. 142–97]

Exemption of Records Systems Under the Privacy Act

AGENCY: Department of Justice.

ACTION: Final rule.

SUMMARY: The Department of Justice is exempting a Privacy Act system of records from subsections (c) (3) and (4); (d); (e) (1), (2), (3), (5), (8) and (g) of the Privacy Act, 5 U.S.C. 552a. This system of records is maintained by the Immigration and Naturalization Service (INS) and is entitled ''Law Enforcement Support Center (LESC) Database, JUSTICE/INS–023.'' Information in this system relates to inquiries via criminal justice agencies of immigrants who have the status of legal permanent resident and/or United States citizen and who are either the subject of an investigation, or have been arrested, charged and/or convicted for criminal or civil offenses which could render them deportable or excludable under the provisions of immigration and nationality laws. The exemptions are necessary to avoid interference with law enforcement operations. Specifically, the exemptions are necessary to prevent subjects of investigations from frustrating the investigatory or other law enforcement process such as, deportation/expulsion proceedings.

EFFECTIVE DATE: August 19, 1997.

FOR FURTHER INFORMATION CONTACT: Patricia E. Neely—202–616–0178.

SUPPLEMENTARY INFORMATION: On May 14, 1997 (62 FR 26458) a proposed rule was published in the **Federal Register** with an invitation to comment. No comments were received.

This order relates to individuals rather than small business entities. Nevertheless, pursuant to the requirements of the Regulatory Flexibility Act, 5 U.S.C. 601–612, it is hereby stated that the order will not have ''significant economic impact on a substantial number of small entities.''

List of Subjects in Part 15

Administrative Practices and Procedures, Courts, Freedom of Information Act, Government in the Sunshine Act, and the Privacy Act.

Dated: July 31, 1997.

Michael J. Roper,

Acting Assistant Attorney General for Administration.

Pursuant to the authority vested in the Attorney General by 5 U.S.C. 552a and delegated to me by Attorney General Order No. 793–78, 28 CFR part 16 is amended as follows.

1. The authority for Part 16 continues to read as follows:

Authority: 5 U.S.C. 301, 552, 552a, 552b(g), 553; 18 U.S.C. 4203(a)(1); 28 U.S.C. 509, 510, 534, 31 U.S.C. 3717, 9701.

2. 28 CFR 16.99 is amended by adding paragraphs (i) and (j) to read as follows:[1]

§ 16.99 Exemption of the Immigration and Naturalization Service Systems-limited access.

* * * * *

(i) The Law Enforcement Support Center Database (LESC) (Justice/INS–023) system of records is exempt under the provisions of 5 U.S.C. 552a(j)(2) from subsections (c) (3) and (4); (d); (e) (1), (2), (3), (5), (8) and (g); but only to the extent that this system contains records within the scope of subsection (j)(2), and to the extent that records in the system are subject to exemption therefrom. In addition, this system of records is also exempt in part under the provisions of 5 U.S.C. 552a(k)(2) from subsections (c)(3); (d); and (e)(1), but only to the extent that this system contains records within the scope of subsection (k)(2), and to the extent that records in the system are subject to exemption therefrom.

(j) The following justifications apply to the exemptions from particular subsections:

(1) From subsection (c)(3) for reasons stated in paragraph (h)(1) of this section.

(2) From subsection (c)(4) for reasons stated in paragraph (h)(2) of this section.

(3) From the access and amendment provisions of subsection (d) because access to the records contained in this system of records could inform the subject of a criminal or civil investigation of the existence of that investigation; of the nature and scope of the information and evidence obtained as to their activities; and of information that may enable the subject to avoid detection or apprehension. Such disclosures would present a serious impediment to effective law enforcement where they prevent the successful completion of the investigation or other law enforcement operation such as deportation or exclusion. In addition, granting access to these records could result in a disclosure that would constitute an unwarranted invasion of the privacy of third parties. Amendment of the records would interfere with ongoing investigations and law enforcement activities and impose an impossible administrative burden by requiring investigations to be continuously reinvestigated.

(4) From subsection (e)(1) for reasons stated in paragraph (h)(4) of this section.

(5) From subsection (e)(2) for reasons stated in paragraph (h)(5) of this section.

(6) From subsection (e)(3) because the requirement that individuals supplying information be provided with a form stating the requirements of subsection (e)(3) would constitute a serious impediment to criminal law enforcement in that it could compromise the existence of a confidential investigation.

(7) From subsection (e)(5) for reasons stated in paragraph (h)(7) of this section.

(8) From subsection (e)(8) for reasons stated in paragraph (h)(8) of this section.

(9) From subsection (g) to the extent that this system is exempt from the access and amendment provisions of subsection (d).

[FR Doc. 97–21856 Filed 8–18–97; 8:45 am]

BILLING CODE 4410–10–M

[1] Paragraphs (g) and (h) were published in the **Federal Register** on June 25, 1997 (62 FR 34169).

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[TX60–1–7269; FRL–5870–1]

Clean Air Act (Act) Approval and Promulgation of State Implementation Plans (SIP); Texas; Prevention of Significant Deterioration (PSD) Increments for Particulate Matter Less Than 10 Microns in Diameter (PM–10); Designation of Areas for Air Quality Planning Purposes

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: This action approves changes to the PSD permitting regulations which were submitted as a revision to the SIP for Texas and approves the State's recodification of its PSD provisions. This SIP revision replaces the PSD increments for total suspended particulate (TSP) matter with increments for PM–10. In conjunction with this approval, EPA is also removing the TSP area designation tables in 40 CFR part 81 for Texas. With the PM–10 increments becoming effective in Texas, the TSP area designations no longer serve any useful purpose relative to PSD.

DATES: This action is effective on October 20, 1997 unless notice is postmarked by September 18, 1997 that someone wishes to submit adverse or critical comments. If the effective date is delayed, timely notice will be published in the **Federal Register** (FR).

ADDRESSES: Written comments on this action should be addressed to Mrs. Jole C. Luehrs, Chief, Air Permits Section (6PD-R), at the EPA Region 6 office listed below. Copies of documents relevant to this action are available for public inspection during normal business hours at the following locations. The interested persons wanting to examine these documents should make an appointment with the appropriate office at least two working days in advance.

Environmental Protection Agency, Region 6, Multimedia Planning and Permitting Division, First Interstate Bank Building, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202–2733.

Texas Natural Resource Conservation Commission, Office of Air Quality, 12124 Park 35 Circle, Austin, Texas 78753.

Documents which are incorporated by reference are available for public inspection at the Air and Radiation Docket and Information Center, Environmental Protection Agency, 401 M Street, S.W., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Reverdie Daron Page, Air Permits Section (6PD-R), Environmental Protection Agency, Region 6, 1445 Ross Avenue, Dallas, Texas 75202–2733, telephone (214) 665–7222.

SUPPLEMENTARY INFORMATION:

I. Background

The EPA replaced the TSP increments with increments for PM–10 on June 3, 1993 (58 FR 31622). The EPA promulgated this revision to the Federal PSD permitting regulations in 40 CFR 52.21, as well as to the PSD permitting requirements that State programs must meet in order to be approved into the SIP in 40 CFR 51.166. The EPA or its delegated State programs were required to begin implementation of the PM–10 increments by June 3, 1994, while the implementation date for States with SIP-approved PSD permitting programs (including Texas) will be the date on which EPA approves each revised State PSD program containing the PM–10 increments. In accordance with 40 CFR 51.166(a)(6)(i), each State with a SIP-approved PSD program was required to adopt the PM–10 increment requirements within nine months of the effective date (or by March 3, 1995). For further background regarding the PM–10 increments, see the June 3, 1993, **Federal Register** document.

In order to address the PM–10 increments, the State of Texas revised 30 Texas Administrative Code (TAC) Chapter 116, Section 116.160(a). The EPA has reviewed this revision and has found that the revision addresses all of the required regulatory revisions for PM–10 increments.

The EPA originally approved the Texas PSD SIP in the **Federal Register** on June 24, 1992 (57 FR 28093). This approval gave the Texas Natural Resource Conservation Commission (TNRCC) (formerly the Texas Air Control Board (TACB)) direct authority, as of July 24, 1992, to issue and enforce PSD permits in most areas of Texas, with the limitations described in the notice. The State incorporated by reference, with certain exceptions, the regulations in 40 CFR 52.21, as they existed on August 1, 1987, into Section 116.3(a)(13) of TACB Regulation VI, ''Control of Air Pollution by Permits for New Construction or Modification.'' At the time the revisions were adopted by TACB and approved by EPA, Regulation VI was codified in Chapter 116 of Title 31 of the TAC.

The Governor of Texas submitted to EPA on February 18, 1991, a revision to Section 116.3(a)(13) of TACB Regulation VI. This revision changed the date in Section 116.3(a)(13) from ''August 1, 1987'' to ''October 17, 1988'' to reflect the amendments to 40 CFR 52.21 as promulgated in the **Federal Register** on October 17, 1988 (53 FR 40656) (Nitrogen Oxides PSD increments). The EPA approved this revision to Section 116.3(a)(13) on September 9, 1994 (59 FR 46556).

The Governor of Texas submitted to EPA on May 13, 1992, a revision to redesignate Section 116.3(a)(13) to Section 116.3(a)(11), with minor changes thereto. The EPA approved this revision on September 27, 1995 (60 FR 49788).

On August 16, 1993, the TACB repealed Regulation VI (31 TAC Chapter 116), ''Control of Air Pollution by Permits for New Construction or Modification,'' and adopted a recodified and revised Regulation VI (31 TAC Chapter 116) with the same name. The recodified and revised Regulation VI was submitted to EPA as a revision to the Texas SIP on August 31, 1993.

The TACB merged with the former Texas Water Commission to become the Texas Natural Resource Conservation Commission (TNRCC) on September 1, 1993. The TACB air quality control regulations were transferred from Title 31 of the Texas Administrative Code (31 TAC) to Title 30 of the Texas Administrative Code (30 TAC). The designation for Regulation VI thus changed from 31 TAC Chapter 116 to 30 TAC Chapter 116.

II. State Submittal

In this action, EPA is approving the recodified and revised Regulation VI only for the PSD portion of the new regulation. The EPA is also approving for the PSD SIP the transfer of Regulation 31 TAC to 30 TAC. The rest of the recodified regulation VI and its transfer to 30 TAC will be acted upon in a separate notice.

The Act as amended in 1990 requires States to observe certain procedural requirements in developing implementation plans and plan revisions for submission to EPA. Section 110(a)(2) of the Act provides that each implementation plan submitted by a State must be adopted after reasonable notice and public hearing. Section 110(l) of the Act similarly provides that each revision to an implementation plan submitted by a State under the Act must be adopted by such State after reasonable notice and public hearing.

The EPA also must determine whether a submittal is complete and therefore warrants further EPA review and action. See section 110(k)(1) and 57 FR 13565, April 16, 1992. The EPA's completeness criteria for SIP submittals are set out at 40 CFR part 51, appendix V. The EPA attempts to make completeness determinations within 60 days of receiving a submission. However, a submittal is deemed complete by operation of law under section 110(k)(1)(B) if a completeness determination is not made by EPA within six months after receipt of the submission.

Public hearings to entertain public comment for the recodified PSD rules were held by Texas on March 16 and 31, 1993. After the public hearings, the recodification was adopted by the State on August 16, 1993. That recodification was formally submitted to EPA for approval as a SIP revision on August 31, 1993. The SIP revision was reviewed by EPA to determine completeness shortly after its submittal, in accordance with the completeness criteria referenced above. The submittal was found to be complete, and a letter was forwarded to Texas, on January 5, 1994, indicating the completeness of the submittal and the next steps to be taken in the processing of the SIP submittal.

A public hearing to entertain public comment for the PM–10 increment PSD rule was held by Texas on January 19, 1995. After the public hearing, the rule revision was adopted by the State on March 1, 1995. The revision was formally submitted to EPA for approval on July 12, 1995. The SIP revision was reviewed by EPA to determine completeness shortly after its submittal,

in accordance with the completeness criteria referenced above. The submittal was found to be complete, and a letter was forwarded to Texas, on October 20, 1995, indicating the completeness of the submittal and the next steps to be taken in the processing of the SIP submittal.

III. Analysis of State Submittal

The following table summarizes EPA's evaluation of each section submitted and acted upon in this action. The table cross-references the submitted sections of the recodified rules pertaining to Prevention of Significant Deterioration to the previous rule.

Summary of Submittals Pertaining to Recodification of Regulation VI and ''Prevention of Significant Deterioration''

Recodified rule	Date submitted	Title	Old rule	Comments
116.160(a)	August 31, 1993	Prevention of Significant Deterioration Requirements.	116.3(a)(11)	[a]
116.160(b)				[a]
116.160(c)				[a]
116.160(d)				[a]
116.160(a)	July 12, 1995	PSD Requirements	116.3(a)(11)	Replaced Effective Date to incorporate PSD PM10 increments.
116.161	August 31, 1993	Source Located in an Attainment Area with a Greater than *de minimis* impact.	116.3(a)(9)	[c]
116.162	August 31, 1993	Evaluation of Air Quality Impacts.	116.3(a)(12)	[a]
116.162 (1)–(4)				
116.163(a)	August 31, 1993	Prevention of Significant Deterioration Permit Fees.	116.11(b)(2)(A)	[a]
116.163(b)			116.11(b)(2)(B)	[a]
116.163(c)			New	[b, c]
116.163(d)			116.11(b)(3)	[a]
116.163(e)			116.11(b)(4)	[a]
116.141(a)	August 31, 1993	Determination of Fees	116.11(b)(1)	[a]
116.141(c)			116.11(b)(3)	[a]
116.141(d)			116.11(b)(4)	[a]
116.141(e)			New	[b, c]
116.010	August 31, 1993	Definition—*de minimis* impact.	General Rules 101.1	[a]

[a] No substantive changes in recodified rule.
[b] New rule.
[c] EPA has determined is consistent with the Act.

PSD Program as Submitted August 31, 1993

As part of the recodification SIP submittal, on August 31, 1993, Texas submitted Sections 116.010, 116.160, 116.161, and 116.162, addressing PSD and Sections 116.163 and 116.141 relating to the determination of fees.

Sections 116.160 (a)–(d) replace Section 116.3(a)(11) without substantive changes. Section 116.3(a)(11) is the PSD requirement and was approved June 24, 1992, as 116.3(a)(13) (57 FR 28093), EPA approved revisions to Section 116.3(a)(13) to incorporate the NO_X increments on September 9, 1994 (59 FR 46556), and EPA approved the redesignation to Section 116.3(a)(11) (60 FR 49788) with minor revisions on September 27, 1995.

Section 116.161 replaces Section 116.3(a)(9) (A)–(C). Section 116.161 provides that if a source is located in an area classified as attainment or unclassifiable for any National Ambient Air Quality Standard (NAAQS), then TNRCC will not issue a permit to any new major stationary source or major modification to the source if the ambient air impacts would cause or contribute to a violation of any NAAQS. A major source or major modification will be considered to cause or contribute to a violation of a NAAQS when the emissions from such source or modification would, at a minimum, exceed the *de minimis* impact levels specified in Section 116.010 at any locality that is designated to be nonattainment or is predicted to be nonattainment for the applicable standard. The submitted revision conforms to the requirements of 40 CFR 51.165(b). The EPA approved a similar provision as Section 116.3(a)(14) on July 10, 1981 (46 FR 35643). The EPA subsequently approved the redesignation to Section 116.3(a)(9) and revisions thereto on September 27, 1995 (60 FR 49788). This new language mirrors the Federal rule and therefore meets the requirements of 40 CFR 51.165(b) and the Act.

The definition of *de minimis* impact in Section 116.010 is being included with this recodification because Section 116.161 relies on this definition for applicability thresholds. Section 116.010, definition of *de minimis* impact replaces the same definition in Section 101.1, of the General Rules without substantive changes. The EPA approved the definition of *de minimis* impact in Section 101.1 on September 10, 1991 (56 FR 46117).

Section 116.162 introductory paragraph and Sections 116.162 (1)–(4) replace Section 116.3(a)(12) without substantive changes. Section 116.3(a)(12) Evaluation of Air Quality Impacts was approved as 116.3(a)(14) on November 22, 1988 (53 FR 47189). The EPA approved the redesignation to Section 116.3(a)(12) with minor revisions on September 27, 1995 (60 FR 49788).

In the recodification of Chapter 116, Texas divided Section 116.11(b) Determination of Fees into two parts. Section 116.163 applies to projects for which PSD does apply and Sections 116.141 applies to projects for which PSD does not apply.

Section 116.163 (a)–(b), and (d)–(e) replaces Section 116.11(b)(2) (A)–(B) and 116.11(b) (3)–(4) without substantive changes except for an increase in permitting fees and a special rate for Federal facilities. Section 116.163(c) merely states that a New Source Review permit fee is not required in addition to the PSD fee.

Sections 116.141 (a), (c), and (d) replace subsections 116.11(b) (1),(3), and (4) without substantive changes

except for an increase in permitting fees and a special rate for Federal facilities. Section 116.141(e) establishes a minimum fee.

The EPA approved Sections 116.11(b)(1)–(4) on November 24, 1986 (51 FR 42223) and revisions thereto on September 27, 1995 (60 FR 49788). The EPA approved Subparagraphs 116.11(b)(3) (A)–(B) on August 15, 1983 (48 FR 36819). The EPA has determined that Sections 116.163(c) and 116.141(e) are consistent with the Act.

It is EPA's position that the recodified PSD rules meet 40 CFR 51.166 and the Act.

PSD Program as Submitted July 12, 1995

The Governor of Texas submitted a revision to 30 TAC Chapter 116, Section 116.160(a) on July 12, 1995, which incorporates the requirements of 40 CFR 52.21 as revised by EPA on June 3, 1993 (effective June 3, 1994) to reflect the PM–10 increment revision as promulgated in the **Federal Register** on June 3, 1993. This revision enables the State of Texas, with certain exceptions, to implement and enforce the Federal PSD rules, including the PSD PM–10 increments. The exceptions are the same as those discussed in the action published June 24, 1992, approving the Texas PSD SIP. The EPA has determined that the State of Texas has adequately revised its existing PSD SIP to incorporate the provisions of the PM–10 increments promulgated by EPA on June 3, 1993.

IV. TSP Area Deletions

Section 107(d) of the 1977 Amendments to the Act authorized each State to submit to the Administrator a list identifying those areas which: (1) Do not meet a NAAQS (nonattainment areas), (2) cannot be classified on the basis of available ambient data (unclassifiable areas), and (3) have ambient air quality levels better than the NAAQS (attainment areas). In the original list of all area designations pursuant to section 107(d)(2) (section 107 areas), including those designations for TSP, in 40 CFR part 81.

One of the purposes stated in the Act for the section 107 areas is for implementation of the statutory requirements for PSD. The PSD provisions of part C of the Act generally apply in all section 107 areas that are designated attainment or unclassifiable (40 CFR 52.21(i)(3)). Under the PSD program, the air quality in an attainment or unclassifiable area is not allowed to deteriorate beyond prescribed maximum allowable increases in pollutant concentrations (i.e., increments).

The EPA revised the primary and secondary NAAQS for particulate matter on July 1, 1987 (52 FR 24634), eliminating TSP as the indicator for the NAAQS and replacing it with the PM–10 indicator. However, EPA did not delete the section 107 areas for TSP listed in 40 CFR part 81 at that time because there were no increments for PM–10 promulgated at that time.[1] States were required to continue implementing the TSP increments in order to prevent significant deterioration of particulate matter air quality until the PM–10 increments replaced the TSP increments. With the State adoption and implementation of the PM–10 increments becoming effective, the TSP area designations generally serve no useful purpose relative to the PSD program. Instead, the PM–10 area designations now serve to properly identify those areas where air quality is better than the NAAQS, i.e., ''PSD areas,'' and to provide the geographic link necessary for implementation of the PM–10 increments.[2]

Thus, in the June 3, 1993, **Federal Register** document in which EPA promulgated the PM–10 increments, EPA stated that, for States with SIP-approved PSD programs, EPA would delete the TSP area designations at the same time EPA approves the revision to a State's plan incorporating the PM–10 increments. For delegated PSD programs or in States where EPA administers the PSD program, the TSP area designations were to be deleted after the PM–10 increments became effective in those States (i.e., June 3, 1994). In deleting any State's TSP area designations, EPA must ensure that the deletion of those designations will not result in a relaxation of any control measures that ultimately protect the PM–10 NAAQS.

As stated above, Texas has adopted and submitted adequate PSD revisions for PM–10 increments. In addition, Texas has no TSP areas designated as nonattainment. All existing PM control measures in the Texas SIP remain in effect to ensure continuing attainment and maintenance of the PM–10 standard throughout the State. Thus, deletion of the TSP area designations will not result in relaxation of any PM controls that would impact the PM–10 NAAQS. Furthermore, Texas has one PM–10 nonattainment area (the City of El Paso) identified in the PM–10 designation table in 40 CFR part 81 for Texas. The EPA approved the PM–10 SIP for El Paso on January 18, 1994 (59 FR 2532). Since the State has adopted, and EPA has approved, the PM–10 SIP for El Paso, EPA believes it is appropriate at this time to delete the State's TSP designation tables in 40 CFR 81.344.

Consistent with the above discussion, EPA is deleting all of the State's existing TSP designation tables in 40 CFR 81.344 and placing these section 107 areas into the PM–10 area designation table in 40 CFR 81.344, consistent with the June 3, 1993 **Federal Register**.

V. Final Action

The EPA is approving the transfer from 31 TAC to 30 TAC Sections 116.010; 116.160; 116.161; 116.162; 116.163; addressing part C of Title I of the 1990 Clean Air Act which requires each SIP to address the requirements of PSD, and 31 TAC Section 116.141 (a), (c), (d), and (e) relating to the determination of fees, as submitted on August 31, 1993, and revisions to 30 TAC Section 116.160(a) submitted on July 12, 1995. Sections 116.160, 116.161, 116.162, 116.163 (a)–(b), 116.163(d), and 116.163(e), as submitted August 31, 1993, replace, without substantive changes except for an increase in permitting fees and a special rate for Federal facilities, respectively: 116.3(a)(11), 116.3(a)(9), 116.3(a)(12), 116.11(b)(2) (A)–(B), 116.11(b)(3), and 116.11(b)(4). Sections 116.141 (a),(c), and (d) replace without substantive changes except for an increase in permitting fees and a special rate for Federal facilities, respectively subsections 116.11(b) (1), (3), and (4). Sections 116.163(c) and 116.141(e) are new. Consistent with the June 3, 1993, **Federal Register** and for the reasons described above, EPA is deleting the State's existing TSP area designation tables and revising the PM–10 area designation table in 40 CFR 81.344.

The EPA is publishing this action without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in a separate document in this **Federal Register**

[1] The EPA did not promulgate new PM–10 increments simultaneously with the promulgation of the PM–10 NAAQS. Under section 166(b) of the Act, EPA is authorized to promulgate new increments ''not more than 2 years after the date of promulgation of * * * standards.'' Consequently, EPA temporarily retained the TSP increments, as well as the section 107 areas for TSP.

[2] It should be noted that 40 CFR part 81 does not presently list all section 107 areas for PM–10. Only those areas designated ''nonattainment'' appear in the State listings. This is because under the listing published by EPA in the **Federal Register** on November 6, 1991, EPA's primary objective was to identify nonattainment areas designated as such by operation of law upon enactment of the 1990 Amendments. For States having no PM–10 nonattainment areas designated by operation of law, EPA did not include a new PM–10 listing. Nevertheless, section 107(d)(4)(B)(iii) mandates that all areas not designated nonattainment for PM–10 by operation of law, are designated unclassifiable. The PM–10 increments apply in any area designated unclassifiable for PM–10.

publication, EPA is proposing to approve these SIP revisions should adverse or critical comments be filed. This action will be effective October 20, 1997 unless, by September 18, 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 action 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 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 October 20, 1997.

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

VI. 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 has exempted this regulatory action from Executive Order 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. See 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.

The SIP approvals under section 110 and subchapter I, part D of the Act do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because neither the Federal SIP approval nor the deletion of the TSP tables impose any new requirements, I certify that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-State relationship under the Act, preparation of a flexibility analysis would constitute Federal inquiry into the economic reasonableness of State action. The Act forbids EPA to base its actions concerning SIPs on such grounds. See *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, 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.

The 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 action approves preexisting 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. section 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. 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 October 20, 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

40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Particulate matter, Reporting and recordkeeping requirements.

40 CFR Part 81

Air pollution control, National parks, Wilderness areas.

Dated: July 18, 1997.

Jerry Clifford,

Acting Regional Administrator (6RA).

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

PART 52—[AMENDED]

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

Authority: 42 U.S.C. 7401–7671q.

Subpart SS—Texas

2. Section 52.2270 is amended by adding paragraph (c)(102) to read as follows:

§ 52.2270 Identification of plan.

* * * * *

(c) * * *

(102) The Governor of Texas submitted on August 31, 1993, and July 12, 1995, revisions to the Texas State Implementation Plan for Prevention of Significant Deterioration adopted by TACB on August 16, 1993, and by Texas Natural Resource Conservation Commission (TNRCC) on March 1, 1995. The revisions adopted on August 16, 1993, were a comprehensive recodification of and revisions to the existing requirements. The revision adopted on March 1, 1995, amended the recodified Section 116.160(a) to incorporate the PM–10 PSD increments.

(i) Incorporation by reference.

(A) TACB Board Order Number 93–17, as adopted by TACB on August 16, 1993.

(B) Recodified and revised Regulation VI—Control of Air Pollution by Permits for New Construction or Modification, as adopted by TACB on August 16, 1993, Repeal of 31 TAC Sections 116.3(a)(9), 116.3(a)(11), 116.3(a)(12),

116.3(14), and 116.11(b) (1)–(4); New Sections 116.160 introductory paragraph, 116.160 (a)–(d), 116.161, 116.162 introductory paragraph, 116.162 (1)–(4), 116.163 (a)–(e) and 116.141 (a),(c)–(e).

(C) Revisions to Regulation VI—Control of Air Pollution by Permits for New Construction or Modification: as adopted by Texas Natural Resource Conservation Commission (TNRCC) on August 16, 1993. New Section 116.010, definition of *de minimis* impact.

(D) Revision to General Rules, as adopted by Texas Natural Resource Conservation Commission (TNRCC) on August 16, 1993, Repeal Section 101.1 definition of *de minimis* impact.

(E) Texas Natural Resource Conservation Commission (TNRCC) Commission Order Docket Number 95–0276–RUL, as adopted by Texas Natural Resource Conservation Commission (TNRCC) on March 1, 1995.

(F) Revision to Regulation VI—Control of Air Pollution by Permits for New Construction or Modification, revised 30 TAC Section 116.160(a), as adopted by Texas Natural Resource Conservation Commission (TNRCC) on March 1, 1995.

* * * * *

3. Section 52.2303(a) is revised to read as follows:

§ 52.2303 Significant deterioration of air quality.

(a) The plan submitted by the Governor of Texas on December 11, 1985 (as adopted by TACB on July 26, 1985), October 26, 1987 (as revised by TACB on July 17, 1987), September 29, 1988 (as revised by TACB on July 15, 1988), February 18, 1991 (as revised by TACB on December 14, 1990), May 13, 1992 (as revised by TACB on May 8, 1992), August 31, 1993 (as recodified, revised and adopted by TACB on August 16, 1993), July 12, 1995 (as revised on March 1, 1995) containing Regulation VI—Control of Air Pollution for New Construction or Modification, Sections 116.010, 116.141 and 116.160–116.163; the Prevention of Significant Deterioration (PSD) Supplement document, submitted by the Governor on October 26, 1987 (as adopted by TACB on July 17, 1987); revision to General Rules, Rule 101.20(3), submitted by the Governor on December 11, 1985 (as adopted by TACB on July 26, 1985), is approved as meeting the requirements of part C, Clean Air Act for preventing significant deterioration of air quality.

* * * * *

PART 81—[AMENDED]

1. The authority citation for part 81 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

§ 81.344 [Amended]

2. Section 81.344 is amended by removing the table for TSP and revising the PM–10 table to read as follows:

§ 81.344 Texas.

* * * * *

TEXAS-PM–10 NONATTAINMENT AREAS

Designated Area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
AQCR 022		Unclassifiable		
AQCR 106		Unclassifiable		
AQCR 153:				
El Paso County—city of El Paso	11/15/90	Nonattainment	11/15/90	Moderate.
3 limited areas in El Paso County (El Paso 1, 2, and 4).		Unclassifiable		
1 limited area in El Paso County (El Paso 3)		Unclassifiable		
1 limited area in El Paso County (El Paso 5).		Unclassifiable		
Remainder of AQCR		Unclassifiable		
AQCR 210		Unclassifiable		
AQCR 211:				
Lubbock County—That portion of the city of Lubbock enclosed by Loop 289 highway.		Unclassifiable		
Remainder of AQCR		Unclassifiable		
AQCR 212		Unclassifiable		
AQCR 213:				
2 limited areas in Cameron County (Cameron 1 and 2)		Unclassifiable		
Remainder of AQCR		Unclassifiable		
QCR 214:				
2 limited areas in Nueces County (Nueces 1 and 2).		Unclassifiable		
Remainder of AQCR		Unclassifiable		
AQCR 215:				
3 limited areas in Dallas County (Dallas 1, 2, and 3).		Unclassifiable		
1 limited area in Tarrant County (Tarrant 1).		Unclassifiable		
3 limited areas in Tarrant County (Tarrant 2, 3, and 4)		Unclassifiable		
Remainder of AQCR		Unclassifiable		
AQCR 216:				
1 limited area in Harris County (Houston 1).		Unclassifiable		
1 limited area in Harris County		Unclassifiable		

TEXAS-PM–10 NONATTAINMENT AREAS—Continued

Designated Area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
(Houston 2).				
1 limited area in Harris County		Unclassifiable		
(Aldine).				
1 limited area in Harris County		Unclassifiable		
1 limited area in Galveston County		Unclassifiable		
Remainder of AQCR		Unclassifiable		
AQCR 217:				
1 limited area in Bexar County		Unclassifiable		
Remainder of AQCR		Unclassifiable		
AQCR 218		Unclassifiable		

[1] This date is November 15, 1990, unless otherwise noted.

* * * * * * *

[FR Doc. 97–21803 Filed 8–18–97; 8:45 am]
BILLING CODE 6560–50–U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–300528; FRL–5737–1]

RIN 2070–AB78

Avermectin; Pesticide Tolerances for Emergency Exemptions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes time-limited tolerances for the combined residues of avermectin B_1 and its delta-8,9-isomer in or on celeriac and spinach. This action is in response to EPA's granting of emergency exemptions under section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act authorizing use of the pesticide on celeriac and spinach. This regulation establishes a maximum permissible level for the combined residues of avermectin B_1 and its delta-8,9-isomer in or on these food commodities pursuant to section 408(l)(6) of the Federal Food, Drug, and Cosmetic Act, as amended by the Food Quality Protection Act of 1996. These tolerances will expire and are revoked on July 31, 1998.

DATES: This regulation is effective August 19, 1997. Objections and requests for hearings must be received by EPA on or before October 20, 1997.

ADDRESSES: Written objections and hearing requests, identified by the docket control number, [OPP–300528], must be submitted to: Hearing Clerk (1900), Environmental Protection Agency, Rm. M3708, 401 M St., SW., Washington, DC 20460. Fees accompanying objections and hearing requests shall be labeled ''Tolerance Petition Fees'' and forwarded to: EPA Headquarters Accounting Operations Branch, OPP (Tolerance Fees), P.O. Box 360277M, Pittsburgh, PA 15251. A copy of any objections and hearing requests filed with the Hearing Clerk identified by the docket control number, [OPP–300528], must also be submitted to: Public Information and Records Integrity Branch, Information Resources and Services Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring a copy of objections and hearing requests to Rm. 1132, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA.

A copy of objections and hearing requests filed with the Hearing Clerk may also be submitted electronically by sending electronic mail (e-mail) to: opp-docket@epamail.epa.gov. Copies of objections and hearing requests must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Copies of objections and hearing requests will also be accepted on disks in WordPerfect 5.1 file format or ASCII file format. All copies of objections and hearing requests in electronic form must be identified by the docket control number [OPP–300528]. No Confidential Business Information (CBI) should be submitted through e-mail. Electronic copies of objections and hearing requests on this rule may be filed online at many Federal Depository Libraries.

FOR FURTHER INFORMATION CONTACT: By mail: Daniel Rosenblatt, Registration Division 7505C, Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location, telephone number, and e-mail address: Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, (703) 308-9375, e-mail: rosenblatt.dan@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: EPA, on its own initiative, pursuant to section 408(e) and (l)(6) of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a(e) and (l)(6), is establishing tolerances for the miticide avermectin, in or on celeriac at 0.05 parts per million (ppm) and spinach at 0.05 ppm. These tolerances will expire and are revoked on July 31, 1998. EPA will publish a document in the **Federal Register** to remove the revoked tolerances from the Code of Federal Regulations.

I. Background and Statutory Authority

The Food Quality Protection Act of 1996 (FQPA) (Pub. L. 104–170) was signed into law August 3, 1996. FQPA amends both the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 301 *et seq.*, and the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), 7 U.S.C. 136 *et seq* . The FQPA amendments went into effect immediately. Among other things, FQPA amends FFDCA to bring all EPA pesticide tolerance-setting activities under a new section 408 with a new safety standard and new procedures. These activities are described below and discussed in greater detail in the final rule establishing the time-limited tolerance associated with the emergency exemption for use of propiconazole on sorghum (61 FR 58135, November 13, 1996)(FRL-5572-9).

New section 408(b)(2)(A)(i) of the FFDCA allows EPA to establish a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is ''safe.'' Section 408(b)(2)(A)(ii) defines ''safe'' to mean that ''there is a reasonable certainty that no harm will

result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information.'' This includes exposure through drinking water and in residential settings, but does not include occupational exposure. Section 408(b)(2)(C) requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to ''ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue. . . .''

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

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

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

II. Emergency Exemption for Avermectin on Celeriac and Spinach and FFDCA Tolerances

Celeriac is similar to celery in appearance and growth habit. It is used in salads and can be cooked. When under pressure from the two-spotted spider mite (*Tetranychus urticae*), celeriac plants become stunted and cosmetically damaged. These problems can render the commodity unmarketable. Based on the information provided by California, EPA concluded that the pressure posed by the two-spotted spider mite on the State's celeriac growers represents an urgent and non-routine situation.

In a separate action, the State of California requested the use of avermectin on spinach to control the leafminer (*Liriomyza spp.*). Spinach is grown for the fresh market and the processed market. Leafminer has grown increasingly resistant to the registered insecticide alternatives. Leafminer damage renders the spinach disfigured and stunted. Losses would be expected to be as high as 40% without the use of avermectin. EPA's assessment of the resistance problem and the comparative efficacy information submitted by the state is that leafminer poses an urgent and non-routine problem. Therefore, EPA has authorized under FIFRA section 18 the use of avermectin on both celeriac and spinach for control of the two-spotted spider mite and leafminer in California.

As part of its assessment of this emergency exemption, EPA assessed the potential risks presented by residues of avermectin in or on celeriac and spinach. In doing so, EPA considered the new safety standard in FFDCA section 408(b)(2), and EPA decided that the necessary tolerances under FFDCA section 408(l)(6) would be consistent with the new safety standard and with FIFRA section 18. Consistent with the need to move quickly on the emergency exemption in order to address an urgent non-routine situation and to ensure that the resulting food is safe and lawful, EPA is issuing these tolerances without notice and opportunity for public comment under section 408(e), as provided in section 408(l)(6). Although these tolerances will expire and are revoked on July 31, 1998, under FFDCA section 408(l)(5), residues of the pesticide not in excess of the amounts specified in the tolerance remaining in or on celeriac or spinach after that date will not be unlawful, provided the pesticide is applied in a manner that was lawful under FIFRA. EPA will take action to revoke these tolerances earlier if any experience with, scientific data on, or other relevant information on this pesticide indicate that the residues are not safe.

Because these tolerances are being approved under emergency conditions EPA has not made any decisions about whether avermectin meets EPA's registration requirements for use on celeriac or spinach or whether a permanent tolerance for these uses would be appropriate. Under these circumstances, EPA does not believe that these tolerances serve as a basis for registration of avermectin by a State for special local needs under FIFRA section 24(c). Nor do these tolerances serve as the basis for any State other than California to use this pesticide on these crops under section 18 of FIFRA without following all provisions of section 18 as identified in 40 CFR part 166. For additional information regarding the emergency exemptions for avermectin, contact the Agency's Registration Division at the address provided above.

III. Risk Assessment and Statutory Findings

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

A. Toxicity

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

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

lower than 100 to be unacceptable. This 100-fold MOE is based on the same rationale as the 100-fold uncertainty factor.

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

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

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

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

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

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

B. Aggregate Exposure

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

Percent of crop treated estimates are derived from federal and private market survey data. Typically, a range of estimates are supplied and the upper end of this range is assumed for the exposure assessment. By using this upper end estimate of percent of crop treated, the Agency is reasonably certain that exposure is not understated for any significant subpopulation group. Further, regional consumption information is taken into account through EPA's computer-based model for evaluating the exposure of significant subpopulations including several regional groups, to pesticide residues. For this pesticide, the population subgroup (of highest concern, females 13 years and older,) was not regionally based.

IV. Aggregate Risk Assessment and Determination of Safety

Consistent with section 408(b)(2)(D), EPA has reviewed the available scientific data and other relevant information in support of this action, EPA has sufficient data to assess the hazards of avermectin and to make a determination on aggregate exposure, consistent with section 408(b)(2), for time-limited tolerances for residues of avermectin on celeriac at 0.05 ppm and spinach at 0.05 ppm. EPA's assessment of the dietary exposures and risks associated with establishing the tolerances follows.

A. Toxicological Profile

EPA has evaluated the available toxicity data and considered its validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children. The nature of the toxic effects caused by avermectin are discussed below.

1. *Acute toxicity.* For acute dietary risk assessment, EPA recommends use of a NOEL of 0.06 mg/kg/day from the developmental toxicity study in mice. The effects observed at the Lowest Effect

Level (LEL) of 0.10 mg/kg/day involved cleft palate. For the purposes of this action, an MOE of 300 is considered necessary to be adequately protective for dietary (food only) exposure.

2. *Short - and intermediate - term toxicity.* For short- and intermediate-term MOE calculations, EPA recommends use of the developmental NOEL of 0.2 mg/kg/day from the oral developmental toxicity study in mice. At the LEL of 0.4 mg/kg/day, there was an increased incidence of cleft palate.

3. *Chronic toxicity*. EPA has established the RfD for avermectin at 0.0004 milligrams/kilogram/day (mg/kg/day). This RfD is based on a 2-generation rat reproductive toxicity study with a NOEL of 0.12 mg/kg/day and an uncertainty factor of 300. In addition to the uncertainty factor of 100 for inter- and intra-species variations, a Modifying Factor (MF) of 3 was used. The MF was used because of the severity of the effects (pup deaths) and the steep dose-response curve. At the LEL of 0.40 mg/kg/day, there was decreased pup body weight and viability during lactation as well as an increased incidence of retinal rosettes in F2b weanlings.

4. *Carcinogenicity*. Avermectin has been classified by EPA as a Group E (''evidence of non-carcinogenicity for humans'') chemical. Therefore, a cancer risk assessment is not needed.

B. Exposures and Risks

1. *From food and feed uses.* Tolerances have been established (40 CFR 180.449) for the combined residues of avermectin B_1 and its delta-8,9-isomer, in or on a variety of raw agricultural commodities, ranging from 0.005 ppm in cottonseed to 0.05 ppm in celery. Risk assessments were conducted by EPA to assess dietary exposures and risks from avermectin as follows:

i. *Acute exposure and risk.* Acute dietary risk assessments are performed for a food-use pesticide if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a one day or single exposure. In a separate and earlier registration action, the Agency required the development of more highly refined residue and exposure information to support the pesticide. In response, in October 1996, EPA received a Monte Carlo analysis for all uses of avermectin at that time. Since that analysis was generated before these section 18 actions were submitted, EPA does not have information on acute exposures for spinach and celeriac. In addition, given the limitations of EPA's dietary analysis system, EPA does not have consumption data on the minor crop celeriac. Further, the Agency does not have the capability to independently perform Monte Carlo analysis. Therefore, the acute exposure assessment for this action does not include data associated with the consumption of spinach and celeriac. With the above exceptions, data available to EPA suggest a high-end exposure estimate of 0.000078 mg/kg/day for uses of avermectin. This results in a dietary (food only) MOE of 769 for females 13 years and older, the population subgroup of concern. In EPA's judgement, the addition of spinach and celeriac to acute exposure and risk calculations would not produce acute risks (food only) that exceed a level of concern.

ii. *Chronic exposure and risk.* As mentioned above, the commodity celeriac is not uniquely identified in the Agency's food consumption data system. However, EPA reviewed information that establishes chronic dietary exposure estimates for avermectin. This chronic dietary (food only) risk assessment used anticipated residue refinement for commodities with tolerances for avermectin, but did not incorporate any refinement for percent of crop treated (default of 100% was assumed). Therefore, the resulting exposure estimates should be viewed as partially refined; further refinement for percent of crop treated would result in lower dietary exposure estimates. The existing avermectin tolerances plus the proposed tolerances associated with the section 18 use of the chemical result in an Anticipated Residue Contribution that ranges from 5 percent of the RfD for the U.S. population to 12% of the RfD for non-nursing infants less than a year old.

2. *From drinking water.* In examining aggregate exposure, FQPA directs EPA to consider available information concerning exposures from the pesticide residues in food and all other non-occupational exposures. The primary non-food sources of exposure the Agency looks at include drinking water (whether from ground or surface water), and exposure through pesticide use in gardens, lawns, or buildings (residential and other indoor uses). Based on data available to EPA, avermectin is moderately persistent and not very mobile. It is not likely to be found extensively in ground water, but could be found in surface water. Under anaerobic conditions in the absence of light, avermectin does not degrade. No Health Advisories or Maximum Contaminant Levels for avermectin in drinking water have been established.

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

3. *From non-dietary exposure.* Avermectin is currently registered for use on the following residential non-food sites: ornamental crops (herbaceous and woody), turf, households (indoor and outdoor), and non-food areas of food handling establishments.

i. *Chronic exposure and risk*. Given the uses for avermectin, a chronic non-dietary exposure scenario would not be expected.

ii. *Short- and intermediate-term exposure and risk.* EPA assessed indoor residential risk characterization data to evaluate short- and intermediate-term exposure and risk. Based on the assumptions for exposure total oral, dermal, and respiratory estimated absorbed daily exposure could total .00023 mg/kg/day. This correlates to a total short- and intermediate-term indoor residential MOE of 870 for the U.S. population.

4. *Cumulative exposure to substances with common mechanism of toxicity*. Section 408(b)(2)(D)(v) requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider ''available information'' concerning the cumulative effects of a particular pesticide's residues and ''other substances that have a common mechanism of toxicity.''

The Agency believes that ''available information'' in this context might include not only toxicity, chemistry, and exposure data, but also scientific policies and methodologies for understanding common mechanisms of toxicity and conducting cumulative risk assessments. For most pesticides, although the Agency has some information in its files that may turn out to be helpful in eventually determining whether a pesticide shares a common mechanism of toxicity with any other substances, EPA does not at this time have the methodologies to resolve the complex scientific issues concerning common mechanism of toxicity in a meaningful way. EPA has begun a pilot process to study this issue further through the examination of particular classes of pesticides. The Agency hopes that the results of this pilot process will increase the Agency's scientific understanding of this question such that EPA will be able to develop and apply scientific principles for better determining which chemicals have a common mechanism of toxicity and evaluating the cumulative effects of such chemicals. The Agency anticipates, however, that even as its understanding of the science of common mechanisms increases, decisions on specific classes of chemicals will be heavily dependent on chemical specific data, much of which may not be presently available.

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

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

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

1. *Acute risk.* The population subgroup of concern is females 13 years and older. The MOE for this subgroup from food exposures is 769. Despite the potential for exposures to avermectin from drinking water and spinach, EPA does not expect the acute aggregate risk to exceed levels of concern.

2. *Chronic risk.* Using the ARC exposure assumptions described above, EPA has concluded that aggregate exposure to avermectin from food will utilize 5 percent of the RfD for the U.S. population. The existing avermectin tolerances plus the tolerances associated with this action result in an Anticipated Residue Contribution that is equivalent to 5% of the RfD. EPA generally has no concern for exposures below 100% of the RfD because the RfD represents the level at or below which daily aggregate dietary exposure over a lifetime will not pose appreciable risks to human health. Despite the potential for exposure to avermectin in drinking water, EPA does not expect the aggregate exposure to exceed 100% of the RfD. EPA concludes that there is a reasonable certainty that no harm will result from aggregate exposure to avermectin residues.

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

As referenced above, for short- and intermediate-term exposures, EPA assessed information that addresses this topic in relation to human exposure associated with residential use through oral, dermal, and respiratory exposures. The anticipated MOE was 803 for the U.S. population. EPA considers this MOE to be adequately protective.

D. Aggregate Cancer Risk for U.S. Population

Avermectin has been classified as a Group E ''evidence of non-carcinogenicity for humans'' chemical by EPA. Therefore, a cancer risk assessment is not needed.

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

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

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

b. *Developmental toxicity studies.* In the mouse developmental toxicity analysis, the maternal (systemic) NOEL was 0.05 mg/kg/day based on mortality at the lowest observed effect level (LOEL) of 0.075 mg/kg/day. The developmental (fetal) NOEL was 0.2 mg/kg/day based on cleft palate at the LOEL of 0.4 mg/kg/day. The Delta-8,9-Isomer was also tested for developmental toxicity in the mouse. In the mouse developmental study for the isomer, the maternal (systemic) NOEL was 0.10 mg/kg/day, based on mortality at the LOEL of 0.20 mg/kg/day. The developmental (fetal) NOEL was 0.06 mg/kg/day, based on cleft palate at the LOEL of 0.10 mg/kg/day.

In the rat developmental study, the maternal (systemic) NOEL was greater than or equal to 1.6 mg/kg/day. The developmental (fetal) NOEL was 1.6 mg/kg/day. In the rabbit developmental study, the maternal (systemic) NOEL was 1.0 mg/kg/day, based on decreased body weight and decreased food and water consumption at the LOEL of 2.0 mg/kg/day. The developmental (fetal) NOEL was 1.0 mg/kg/day, based on clubbed foot, and delayed ossification of sternebrae, metacarpals, and phalanges at the LOEL of 2.0 mg/kg/day.

c. *Reproductive toxicity study.* In the 2-generation rat reproductive toxicity study, the maternal (systemic) NOEL was 0.4 mg/kg/day (HDT). The

developmental (pup) NOEL was 1.2 mg/kg/day, based on decreased viability indices, decreased pup body weight, and retinal fold in weanlings at the LOEL of 0.4 mg/kg/day. The reproductive (pup) NOEL was 0.4 mg/kg/day (HDT).

d. *Pre- and post-natal sensitivity*. Both the delta-8,9-isomer of avermectin and avermectin per se exhibit cleft palate in CF1 mouse developmental studies. The NOEL for cleft plate for the delta-8,9-isomer is 0.06 mg/kg/day with the LOEL at 0.10 mg/kg/day. For avermectin per se, the NOEL for cleft palate is 0.2 mg/kg/day with the LOEL at 0.4 mg/kg/day. Therefore, pre-natal sensitivity to the regulated residue for avermectin is demonstrated when considering these developmental findings in the CF1 Mouse. An additional 3-fold uncertainty factor has been added to account for these developmental findings.

An acute dietary risk assessment is needed based on the results of the developmental study in mice with the delta-8,9-isomer. This risk assessment will evaluate acute dietary risk to females 13 years and older. For the purpose of the section 18, an MOE of 300 is considered necessary to be adequately protective for dietary (food only) exposure.

To evaluate the pre-natal risks, the acute dietary MOE calculations for females 13 years and older has been conducted using the lowest NOEL for all developmental studies for cleft palate (0.06 mg/kg/day).

The results of the rat reproduction study required that a Modifying Factor of 3 be added to the usual uncertainty factor of 100 used for the RfD. EPA used this Modifying Factor in developing this analysis. Typically, the Agency uses a modifying factor of 10 when no study is available and uses a modifying factor of 3 when a study exists which shows effects in the fetus before they appear in the parent.

2. *Acute risk*. The acute dietary MOE for females 13 years and older (accounts for both maternal and fetal exposure) is 769. This MOE calculation is based on the developmental NOEL in mice of 0.06 mg/kg/day. This estimate is based on Monte Carlo modeling incorporating anticipated residue and percent of crop treated refinement. In EPA's judgement, the large acute dietary MOE provides assurance that there is a reasonable certainty of no harm for females 13 years and older and the pre-natal development of infants.

3. *Chronic risk*. Using the conservative exposure assumptions described above, EPA has concluded that aggregate exposure to avermectin from food will utilize 12% of the RfD for non-nursing infants less than a year old and 8% of the RfD for children 1-6 years old. EPA generally has no concern for exposures below 100% of the RfD because the RfD represents the level at or below which daily aggregate dietary exposure over a lifetime will not pose appreciable risks to human health. Despite the potential for exposure to avermectin in drinking water, EPA does not expect the aggregate exposure to exceed 100% of the RfD. EPA concludes that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to avermectin residues.

4. *Short- or intermediate-term risk*. The anticipated MOEs for short- and intermediate-term exposures for infants and children do not pose a level of concern. The calculated MOEs range from 716 for non-nursing infants to 787 for children 7-12 years old.

V. Other Considerations

A. Metabolism In Plants and Animals

The nature of the residue in plants and animals is adequately understood. As cited at 40 CFR 180.449, the regulable residues are avermectin B_1 and its delta-8,9-isomer.

B. Analytical Enforcement Methodology

Merck Method 10001, rev. 2, an HPLC-fluorescence method, may be used to enforce the tolerance expression. This method has been submitted to FDA for publication in PAM Volume II.

C. Magnitude of Residues

Residues of avermectin B_1 and its delta-8,9-isomer are not expected to exceed 0.05 ppm on celeriac or spinach as a result of these section 18 requests. Secondary residues are not expected in animal commodities as no feed items are associated with these section 18 uses. .

D. International Residue Limits

No Codex MRLs have been established for avermectin residues on celeriac or spinach.

VI. Conclusion

Therefore, the tolerances are established for avermectin B_1 and its delta-8,9-isomer in celeriac at 0.05 ppm and spinach at 0.05 ppm.

VII. Objections and Hearing Requests

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

Any person may, by October 20, 1997 file written objections to any aspect of this regulation and may also request a hearing on those objections. Objections and hearing requests must be filed with the Hearing Clerk, at the address given above (40 CFR 178.20). A copy of the objections and/or hearing requests filed with the Hearing Clerk should be submitted to the OPP docket for this rulemaking. The objections submitted must specify the provisions of the regulation deemed objectionable and the grounds for the objections (40 CFR 178.25). Each objection must be accompanied by the fee prescribed by 40 CFR 180.33(i). If a hearing is requested, the objections must include a statement of the factual issues on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the requestor (40 CFR 178.27). A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established, resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issues in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32). Information submitted in connection with an objection or hearing request may be claimed confidential by marking any part or all of that information as Confidential Business Information (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the information that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice.

VIII. Public Docket

EPA has established a record for this rulemaking under docket control number [OPP–300528] (including any

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

Electronic comments may be sent directly to EPA at:

opp-docket@epamail.epa.gov.

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

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

IX. Regulatory Assessment Requirements

This final rule establishes tolerances under FFDCA section 408(1)(6). The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled Regulatory Planning and Review (58 FR 51735, October 4, 1993). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104-4). Nor does it require any prior consultation as specified by Executive Order 12875, entitled Enhancing the Intergovernmental Partnership (58 FR 58093, October 28, 1993), or special considerations as required by Executive Order 12898, entitled Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations (59 FR 7629, February 16, 1994), or require OMB review in accordance with Executive Order 13045, entitled Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997).

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

X. Submission to Congress and the General Accounting Office

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

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: August 11, 1997.

James Jones,

Acting Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

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

Authority: 21 U.S.C. 3 46a and 371.

2. Section 180.449 is revised to read as follows:

§ 180.449 Avermectin B_1 and its delta-8,9-isomer; tolerances for residues.

(a) *General.* Tolerances are established for the combined residues of the insecticide avermectin (a mixture of avermectins containing greater than or equal to 80% avermectin B_{1a} (5-*O*-demethyl avermectin A_1) and less than or equal to 20% avermectin B_{1b} (5-*O*-demethyl-25-de(1-methylpropyl)-25-(1-methylethyl) avermectin A_1)) and its delta-8,9-isomer in or on the following commodities:

Commodity	Parts per million	Expiration/ revocation date
Almonds	0.005	None
Apples	0.020	None
Cattle, fat	0.015	9/1/99
Cattle, mbyp	0.02	9/1/99
Cattle, meat	0.02	9/1/99
Celery	0.05	None
Citrus, dried pulp	0.10	9/1/99
Citrus, oil	0.10	9/1/99
Citrus whole fruit	0.02	9/1/99
Cottonseed	0.005	9/1/99
Cucurbits (cucumbers, mellons, and squashes)	0.005	None
Hops, dried	0.2	9/1/99
Lettuce, head	0.05	None
Milk	0.005	9/1/99
Pears	0.02	None
Peppers, bell	0.01	None
Potatoes	0.005	9/1/99
Strawberry	0.02	None
Tomatoes, fresh	0.01	None
Walnuts	0.005	None

(b) *Section 18 emergency exemptions.* Time-limited tolerances are established for residues of the miticide avermectin B_1 and its delta-8,9-isomer in connection with use of the pesticide under section 18 emergency exemptions granted by EPA. These tolerances will expire and are revoked on the dates specified in the following table:

Commodity	Parts per million	Expiration/ revocation date
Celeriac	0.05	7/31/98
Spinach	0.05	7/31/98

(c) *Tolerances with regional registrations.* [Reserved]

(d) *Indirect or inadvertent residues.* [Reserved]

[FR Doc. 97–21924 Filed 8–18–97; 8:45 am]

BILLING CODE 6560–50–F

Proposed Rules

Federal Register
Vol. 62, No. 160
Tuesday, August 19, 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 TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 95–CE–92–AD]

RIN 2120–AA64

Airworthiness Directives; Twin Commander Aircraft Corporation 500, 600, and 700 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes to adopt a new airworthiness directive (AD) that would apply to Twin Commander Aircraft Corporation 500, 600, and 700 series airplanes. The proposed action would require installing access holes in both wing leading edges and repetitively inspecting the forward attach brackets and straps for cracks. Reports of cracks in the wing to fuselage attachment brackets and straps, wing station (WS) 24, and fuselage frames prompted the proposed action. The actions specified by the proposed AD are intended to detect cracks at the wing to fuselage attach points, which, if not detected and corrected, could cause structural failure and loss of control of the airplane.

DATES: Comments must be received on or before October 24, 1997.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 95–CE–92–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106. Comments may be inspected at this location between 8 a.m. and 4 p.m., Monday through Friday, holidays excepted.

Service information that applies to the proposed AD may be obtained from Twin Commander Aircraft Corporation, P.O. Box 3369, Arlington, Washington, 98223; telephone (360) 435–9797; facsimile (360) 435–1112. This information also may be examined at the Rules Docket at the address above.

FOR FURTHER INFORMATION CONTACT: Jeffrey Morfitt, Aerospace Engineer, FAA, Seattle Aircraft Certification Office, 1601 Lind Ave. S.W., Renton, Washington, 98055–4056; telephone (425) 227–2595; facsimile (425) 227–1181.

SUPPLEMENTARY INFORMATION:

Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. 95–CE–92–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 95–CE–92–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Discussion

There have been 14 reports of cracking at the wing leading edge spar and fuselage attach point in recent years on certain Twin Commander 500, 600, and 700 series airplanes. Two Australian airplanes out of the 14 were reported to have extensive cracking in the wing leading edge spar, the wing station (W.S.) 24 rib, the fuselage station (F.S.) 100 frame, and in the attachment brackets between the kick fitting and the leading edge spar. Further investigation found 12 other Twin Commander airplanes with similar cracking. In addition, Twin Commander Models 690D and 695A airplanes were found to have adjacent detail cracking while undergoing full scale fatigue tests. The Twin Commander Models 690D and 695A airplanes are currently inspected in the wing structure under Airworthiness Directive (AD) 95–12–23 which mandates the procedures and actions in Twin Commander Service Bulletin No. 213, dated July 24, 1994. This proposed action would cover additional series airplanes as well as require repetitively inspecting and modifying the wing leading edge by installing access holes for thorough access to the fatigued areas.

Relevant Service Information

Twin Commander has issued Service Bulletin (SB) No. 223, dated October 24, 1996 as amended by Revision Notice No. 1, dated May 8, 1997, which specifies installing access holes in both wing leading edges, inspecting for cracks, and replacing or repairing any cracked part and continuing to repetitively inspect.

The FAA's Determination

After examining the circumstances and reviewing all available information related to the incidents described above, the FAA has determined that AD action should be taken to detect cracks at the wing to fuselage attach points, which, if not detected and corrected, could cause structural failure and loss of control of the airplane.

Explanation of the Provisions of the Proposed AD

Since an unsafe condition has been identified that is likely to exist or develop in other Twin Commander 500, 600, and 700 series airplanes of the same type design, the proposed AD would require the following actions:

	A	B	C
Part I	Installing access holes in left and right wing leading edges and inspecting forward attach brackets and straps for cracks..	If cracked, prior to further flight, replacing the brackets and straps or repairing the part with an approved repair scheme. Then accomplish PART II of this AD.	If no cracks, repeat the inspection at regular intervals until cracks are found, then accomplish PART II.
Part II	Inspecting for cracks on both wing leading edge close-outs, upper & lower return flange radius, fuselage frame where tee bracket attaches, inboard side of attach bracket and frame tee bracket.	If cracked, prior to further flight, replacing any cracked part or repairing the part with an approved repair scheme.	After repairing or replacing the damaged part, continuing to inspect at regular intervals.
Part III	Inspecting fuselage station (f.s.) 100 for cracks.	If cracked, prior to further flight, repairing with an approved repair scheme, and continuing to inspect at regular intervals.	If no cracks, repeating the inspection at regular intervals until cracks are found, then accomplishing PART III B of this AD.

Note: Models 520 and 560 airplanes only are excluded from installing the wing leading edge access holes and inspection proposed in PART I of the above table.

Note: Models 690C and 695 airplanes are excluded from the proposed inspection in PART III in the above table.

Cost Impact

The FAA estimates that 1,887 airplanes in the U.S. registry would be affected by the proposed AD, that it would take approximately 82 workhours for PART I; 100 workhours for PART II (if required); and 7 workhours for PART III per airplane to accomplish the proposed action. The average labor rate is approximately $60 an hour. Parts cost approximately $410 for PART I and approximately $450 for PART II (if required) per airplane. Based on these figures, the total cost impact for PART I would be $5,330 per airplane, PART II (if required) would be $6,450 per airplane, and PART III would be $420 per airplane. The U.S. fleet cost is estimated to be $11,127,650, or $5,950 per airplane if no damage is found; and $23,021,400 for the U.S. fleet, or $12,200 per airplane if damage is found. For purposes of estimating the cost of the proposed AD, the FAA is presuming that none of the owners/operators of the affected airplanes have accomplished any of the actions on any of the affected airplanes. In addition, the cost impact does not take into consideration the costs of the repetitive inspections. The FAA has no way of determining the number of repetitive inspections that may be incurred over the life of the airplane.

Regulatory Flexibility Act Economic Analysis

Because the estimated cost for the proposed inspection and possible repairs are expensive, the FAA conducted a Cost Analysis and Initial Regulatory Flexibility Determination and Analysis for the proposed AD.

The Regulatory Flexibility Act of 1980 (RFA) was enacted by Congress to assure that small entities are not unnecessarily and disproportionately burdened by Government regulations. The RFA requires agencies to review rules that may have a ''significant economic impact on a substantial number of small entities,'' and, in cases where they would, to conduct a Regulatory Flexibility Analysis in which alternative actions are considered.

FAA Order 2100.14A, Regulatory Flexibility Criteria and Guidance, defines ''significant economic impact'' as an annualized net compliance cost, adjusted for inflation, which is greater than a threshold cost level for defined entity types. A ''substantial number'' is defined as a number that is at least eleven and that is more than one-third of the small entities subject to a proposed rule, or any number of small entities subject to a rule which is substantial in the judgment of the rulemaking official. *Small entities* are defined as small businesses, small not-for-profit organizations which are independently owned and operated, or airports operated by small governmental jurisdictions.

With limited information available to airplane specific costs, a range of per airplane costs can be estimated by constructing hypothetical low- and high-cost scenarios. These scenarios are based on three general presumptions: first, that these airplanes have accumulated 6,000 hours TIS, and will be subject to the proposed AD within the next 100 hours TIS; second, that all of these airplanes are at the minimum and maximum extremes of annual TIS (200 or 300 hours), remaining operating life (10 and 20 years), and the extent of cracking (no cracking or cracking in the inspected areas); and third, that these airplanes are of the model types incurring either the lowest or highest costs.

The total low-cost scenario in 1997 dollars would be $5,570 ($4,805 discounted) per airplane over 10 years, with $5,330 of the costs incurred in the first year. The annualized cost (again over 10 years) would be $641 per airplane.

The total high-cost scenario in 1997 dollars would be $25,285 per airplane ($16,487 discounted) over 30 years, with $15,865 of the costs incurred in the first year. The annualized cost (again over 30 years) would be $1,556.

The proposed AD would affect approximately 1,464 airplanes, of which 366 are owned by individuals, 38 are owned by federal and state agencies, and 847 are owned by 697 separate entities. Of the 697 entities, 1 entity owns 28 airplanes, 3 entities own between 10 and 12 airplanes, 19 separate entities own between 3 and 9 airplanes, thirty-two entities own 2 airplanes, and 642 entities own 1 airplane. The FAA cannot determine the size of all 697 owner entities, or the type of business each entity is engaged in. The FAA also cannot conclusively determine the costs of this AD. For illustration purposes, it was calculated that the proposed AD would have hypothetical annualized costs between $641 (the low-cost scenario) and $1,556 (the high-cost scenario) per airplane. Due to the uncertainties involved with these calculations, as well as with the ownership information, no determinations can be made regarding ''significant economic impact on a substantial number of small entities.''

The FAA has considered three alternatives to this proposed AD: (1) take no federal action and rely on voluntary compliance with the Twin Commander Service Bulletin No. 223. The FAA finds this alternative unacceptable because of the consequences that could result; (2) mandate inspecting fewer parts, and at longer intervals in the areas where the wings attach to the fuselage. This

alternative is unacceptable because less stringent inspections could fail to locate cracking in key parts of the airplane for too long a period of time; (3) defer Federal action pending review of additional data to determine whether to require the specified inspections. This alternative is unacceptable because evidence already exists of cracking in the wing and fuselage at the attach points which would be considered structural failure.

Consequently, the FAA is unable to conclusively make an economic impact evaluation based on information available.

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§39.13 [Amended]

2. Section 39.13 is amended by adding a new airworthiness directive (AD) to read as follows:

Twin Commander Aircraft Corporation: Docket No. 95–CE–92–AD.

Applicability: Models 500, 500A, 500B, 500S, 500U, 520, 560, 560A, 560E, 560F, 680, 680E, 680F, 680FL, 680FLP, 680FP, 680T, 680V, 680W, 681, 685, 690, 690A, 690B, 690C, 690D, 695, 695A, 695B and 720 airplanes (all serial numbers), certificated in any category.

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

Compliance: Required as indicated in the body of this AD, unless already accomplished.

To prevent cracks at the wing to fuselage attach points, which, if not detected and corrected, could cause structural failure and loss of control of the airplane, accomplish the following:

(a) For all models except Models 520, 560, 690C and 695, accomplish the actions in the following table in accordance with the Compliance section and PART I, II, and III of the ACCOMPLISHMENT INSTRUCTIONS sections of Twin Commander Aircraft Corporation (Twin Commander) Service Bulletin (SB) No. 223, dated October 24, 1996 as amended by Revision Notice No. 1, dated May 8, 1997:

	A	B	C
PART I	Upon the accumulation of 6,000 hours total time-in-service (TIS) or within the next 100 hours TIS, whichever occurs later, install access holes in left and right wing leading edges and inspect the forward attach brackets and straps for cracks.	If cracked, prior to further flight, replace the brackets and straps or repair the part by an approved repair scheme (see paragraph (b) of this AD). Then, accomplish PART II of this AD.	If no cracks are found, repeat inspection at 1,000 hour (hr.) intervals until cracks are found, replace the cracked part or repair by an approved repair scheme (see paragraph (b) of this AD), then accomplish PART II.
	(Accomplish in accordance with PART I of Compliance Section in Twin Commander SB 223, dated Oct. 24, 1996 as amended by Revision Notice No. 1, dated May 8, 1997.)	(Accomplish in accordance with PART I of Compliance Section in Twin Commander SB 223, dated Oct. 24, 1996 as amended by Revision Notice No. 1, dated May 8, 1997.)	(Accomplish in accordance with PART I of Compliance Section in Twin Commander SB 223, dated Oct. 24, 1996 as amended by Revision Notice No. 1, dated May 8, 1997.)
PART II	Inspect for cracks at the wing leading edge close-outs, upper & lower return flange radius, fuselage frame where tee bracket attaches, inboard side of attach bracket and frame tee bracket.	If cracked, prior to further flight, replace any cracked part or repair the part with an approved repair scheme (see paragraph (b) of this AD). If no cracks are found, continue to repetitively inspect at 1,000 hour TIS intervals.	After repair or replacement is accomplished, continue to inspect at 6,000 hr. intervals.
	(Accomplish in accordance with PART II of Compliance Section in Twin Commander SB 223, dated Oct. 24, 1996 as amended by Revision Notice No. 1, dated May 8, 1997.)	(Accomplish in accordance with PART II of Compliance Section in Twin Commander SB 223, dated Oct. 24, 1996 as amended by Revision Notice No. 1, dated May 8, 1997.)	(Accomplish in accordance with PART II of Compliance Section in Twin Commander SB 223, dated Oct. 24, 1996 as amended by Revision Notice No. 1, dated May 8, 1997.)

	A	B	C
PART III	For pressurized airplanes, at 6,000 hr. total TIS or within the next 100 hours TIS whichever occurs later, inspect fuselage station (F.S.) 100 for cracks. For non-pressurized airplanes, at 12,000 hr. total TIS or within the next 100 hours TIS whichever occurs later, inspect F.S. 100 for cracks.. (Accomplish in accordance with PART III of Compliance Section in Twin Commander SB 223, dated Oct. 24, 1996 as amended by Revision Notice No. 1, dated May 8, 1997.)	If cracked, prior to further flight, repair with an approved repair scheme (see paragraph (b) of this AD), and continue to inspect at 1,000 hr. intervals. (Accomplish in accordance with PART III of Compliance Section in Twin Commander SB 223, dated Oct. 24, 1996 as amended by Revision Notice No. 1, dated May 8, 1997.)	If no cracks, repeat inspection at 1,000 hr. intervals until cracks are found, then accomplish PART III B of this AD (Accomplish in accordance with PART III of Compliance Section in Twin Commander SB 223, dated Oct. 24, 1996 as amended by Revision Notice No. 1, dated May 8, 1997.)

(b) Obtain an FAA-approved repair scheme from the manufacturer through the Manager of the Seattle Aircraft Certification Office at the address specified in paragraph (f) of this AD.

(c) For Twin Commander Models 520 and 560 airplanes, upon the accumulation of 6,000 hours total TIS or within the next 100 hours TIS whichever occurs later, accomplish PART II of the table in paragraph (a) of this AD. Accomplish PART III in accordance with the compliance times in the above table of paragraph (a). These models are excluded from the wing leading edge access hole installation in PART I of the table in paragraph (a) of this AD.

(d) For Twin Commander Models 690C and 695 airplanes, accomplish PARTS I and II in accordance with the compliance times in the above table of paragraph (a). These Models are excluded from PART III of the table in paragraph (a) of this AD.

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

(f) An alternative method of compliance or adjustment of the initial or repetitive compliance times that provides an equivalent level of safety may be approved by the Manager, Seattle Aircraft Certification Office, 1601 Lind Ave. SW., Renton, Washington 98055–4056. The request shall be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Seattle Aircraft Certification Office.

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

(g) All persons affected by this directive may obtain copies of the document referred to herein upon request to Twin Commander Aircraft Corporation, P.O. Box 3369, Arlington, Washington 98223; telephone (360) 435–9797; facsimile (360) 435–1112; or may examine this document at the FAA, Central Region, Office of the Assistant Chief Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Issued in Kansas City, Missouri, on August 12, 1997.

Michael Gallagher,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 97–21873 Filed 8–18–97; 8:45 am]

BILLING CODE 4910–13–P

FEDERAL TRADE COMMISSION

16 CFR Part 403

Deceptive Use of ''Leakproof,'' ''Guaranteed Leakproof,'' Etc., as Descriptive of Dry Cell Batteries

AGENCY: Federal Trade Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Trade Commission (the ''FTC'' or ''Commission'') announces the commencement of a rulemaking proceeding for the Trade Regulation Rule on Deceptive Use of ''Leakproof,'' ''Guaranteed Leakproof,'' Etc., as Descriptive of Dry Cell Batteries (''the Dry Cell Battery Rule'' or ''the Rule''), 16 CFR Part 403. The proceeding will address whether or not the Dry Cell Battery Rule should be repealed. The Commission invites interested parties to submit written data, views, and arguments on how the Rule has affected consumers, businesses and others, and on whether there currently is a need for the Rule. This document includes a description of the procedures to be followed, an invitation to submit written comments, a list of questions and issues upon which the Commission particularly desires comments, and instructions for prospective witnesses and other interested persons who desire to participate in the proceeding.

DATES: Written comments must be submitted on or before September 18, 1997. Notifications of interest in testifying must be submitted on or before September 18, 1997. If interested parties request the opportunity to present testimony, the Commission will publish a document in the **Federal Register**, stating the time and place at which the hearings will be held and describing the procedures that will be followed in conducting the hearings. In addition to submitting a request to testify, interested parties who wish to present testimony must submit, on or before September 18, 1997, a written comment or statement that describes the issues on which the party wishes to testify and the nature of the testimony to be given.

ADDRESSES: Written comments and requests to testify should be submitted to Office of the Secretary, Federal Trade Commission, Room H–159, Sixth and Pennsylvania Ave., NW., Washington, DC 20580, (202) 326–2506. Comments and requests to testify should be identified as ''16 CFR Part 403 Comment—Dry Cell Battery Rule'' and ''16 CFR Part 403 Request to Testify—Dry Cell Battery Rule,'' respectively. If possible, submit comments both in writing and on a personal computer diskette in Word Perfect or other word processing format (to assist in processing, please identify the format and version used). Written comments should be submitted, when feasible and not burdensome, in five copies.

FOR FURTHER INFORMATION CONTACT: Neil Blickman, Attorney, Federal Trade Commission, Bureau of Consumer Protection, Division of Enforcement, Sixth and Pennsylvania Ave., NW., Washington, DC 20580, (202) 326–3038.

SUPPLEMENTARY INFORMATION:

I. Introduction

Pursuant to the Federal Trade Commission Act (''FTC Act''), 15 U.S.C. 41–58, and the Administrative Procedure Act, 5 U.S.C. 551–59, 701–06, by this Notice of Proposed Rulemaking

(''NPR'') the Commission initiates a proceeding to consider whether the Dry Cell Battery Rule should be repealed or remain in effect.[1] The Commission is undertaking this rulemaking proceeding as part of the Commission's ongoing program of evaluating trade regulation rules and industry guides to determine their effectiveness, impact, cost and need. This proceeding also responds to President Clinton's National Regulatory Reinvention Initiative, which, among other things, urges agencies to eliminate obsolete or unnecessary regulations.

II. Background Information

On May 20, 1964, the Commission promulgated a trade regulation rule that states that in connection with the sale of dry cell batteries in commerce, the use of the word ''leakproof,'' the term ''guaranteed leakproof,'' or any other word or term of similar import, or any abbreviation thereof, in advertising, labeling, marking or otherwise, as descriptive of dry cell batteries, constitutes an unfair method of competition and an unfair or deceptive act or practice in violation of section 5 of the FTC Act (16 CFR 403.4). This Rule was based on the Commission's finding that, despite efforts by dry cell battery manufacturers to eliminate electrolyte leakage, battery leakage and damage therefrom occurs from the use to which consumers ordinarily subject dry cell batteries.

The Rule provides that manufacturers or marketers are not prohibited from offering or furnishing guarantees that provide for restitution in the event of damage from battery leakage, provided no representation is made, directly or indirectly, that dry cell batteries will not leak (16 CFR 403.5). The Rule further provides that in the event any person develops a new dry cell battery that he believes is in fact leakproof, he may apply to the Commission for an amendment to the Rule, or other appropriate relief (16 CFR 403.6).

The Commission conducted an informal review of industry practices by examining the advertising, labeling and marking of dry cell batteries available for retail sale. This review revealed no representations that the batteries were leakproof. The Commission's review, therefore, indicated general compliance with the Rule's provisions. Moreover, the Commission has no record of receiving any complaints regarding non-compliance with the Rule, or of initiating any law enforcement actions alleging violations of the Rule.

Additionally, the Commission's review indicated general voluntary compliance by the industry with the requirements of American National Standards Institute (''ANSI'') Standard C18.1M–1992 Dry Cells and Batteries—Specifications. The ANSI standard contains specifications for dry cell batteries, and requirements for labeling the products and their packages. The ANSI standard requires the following information to be printed on the outside of each battery (when necessary, the standard permits some of this information to be applied to the unit package): (1) the name or trade name of the manufacturer; (2) the ANSI/National Electronic Distributors Association number, or some other identifying designation; (3) year and month, week or day of manufacture, which may be a code, or the expiration of a guarantee period, in a clear readable form; (4) the nominal voltage; (5) terminal polarity; and (6) warnings or cautionary notes where applicable.[2]

The ANSI standard recommends that dry cell battery manufacturers and sellers include on their products and packages several battery user guidelines and warnings that are relevant to this proceeding. They are: (1) although batteries basically are trouble-free products, conditions of abuse or misuse can cause leakage; (2) failure to replace all batteries in a unit at the same time may result in battery leakage; (3) mixing batteries of various chemical systems, ages, applications, types or manufacturers may result in poor device performance and battery leakage; (4) attempting to recharge a non-rechargeable battery is unsafe because it could cause leakage; (5) reverse insertion of batteries may cause charging, which may result in leakage; (6) devices that operate on either household current or battery power may subject batteries to a charging current, which may cause leakage; (7) do not store batteries or battery-powered equipment in high-temperature areas; and (8) do not dispose of batteries in fire.[3] At a minimum, each dry cell battery and battery package inspected by Commission staff informed consumers that the batteries may explode or leak if recharged, inserted improperly, disposed of in fire, or mixed with different battery types.

Based on the foregoing, on March 25, 1997, the Commission published an Advance Notice of Proposed Rulemaking (''ANPR'') tentatively concluding that industry members that comply with the ANSI standard's point-of-sale disclosure requirements, of necessity, also are in compliance with the Rule. Accordingly, the Commission tentatively determined that the Dry Cell Battery Rule is no longer necessary, and sought comments on the proposed repeal of the Rule.[4]

The only comment received in response to the ANPR was submitted by the National Electrical Manufacturers Association (''NEMA''), a trade association representing all major U.S. manufacturers of dry cell batteries.[5] NEMA supports repeal of the Commission's Dry Cell Battery Rule, indicating that it has been superseded effectively in the marketplace by ANSI Standard C18.1M–1992.[6]

Accordingly, after reviewing the comment submitted, and in light of ANSI Standard C18.1M–1992, the Commission has determined that the Dry Cell Battery Rule is no longer necessary.[7] The Commission, therefore, seeks comments on the proposed repeal of the Dry Cell Battery Rule.

III. Rulemaking Procedures

The Commission finds that the public interest will be served by using expedited procedures in this proceeding. First, there do not appear to be any material issues of disputed fact to resolve in determining whether to repeal the Rule. Second, using expedited procedures will support the Commission's goal of eliminating obsolete or unnecessary regulations without an undue expenditure of resources, while ensuring that the public has an opportunity to submit data, views and arguments on whether the Commission should repeal the Rule.

The Commission, therefore, has determined, pursuant to 16 CFR 1.20, to use the procedures set forth in this notice. These procedures include: (1)

[1] In accordance with section 18 of the FTC Act, 15 U.S.C. 57a, the Commission submitted this NPR to the Chairman of the Committee on Commerce, Science, and Transportation, United States Senate, and the Chairman of the Committee on Commerce, United States House of Representatives, 30 days prior to its publication in the **Federal Register**.

[2] See section 8.1 of ANSI Standard C18.1M–1992.

[3] See section 7.5 of ANSI Standard C18.1M–1992.

[4] 62 FR 14050.

[5] The comment submitted in response to the ANPR has been placed on the public record, and is filed as document number B21969700001. In today's notice, the comment is cited as NEMA, #1.

[6] NEMA, #1.

[7] Repealing the Dry Cell Battery Rule would eliminate the Commission's ability to obtain civil penalties for any future misrepresentations that dry cell batteries are leakproof. The Commission, however, has tentatively determined that repealing the Rule would not seriously jeopardize the Commission's ability to act effectively. Any significant problems that might arise could be addressed on a case-by-case basis under section 5 of the FTC Act, 15 U.S.C. 45, either administratively or through Section 13(b) actions, 15 U.S.C. 53(b), filed in federal district court. Prosecuting serious misrepresentations in district court allows the Commission to obtain injunctive relief as well as equitable remedies, such as redress or disgorgement.

publishing this Notice of Proposed Rulemaking; (2) soliciting written comments on the Commission's proposal to repeal the Rule; (3) holding an informal hearing, if requested by interested parties; (4) obtaining a final recommendation from staff; and (5) announcing final Commission action in a notice published in the **Federal Register**.

IV. Invitation To Comment And Questions For Comment

Interested persons are required to submit written data, views or arguments on any issue of fact, law or policy they believe may be relevant to the Commission's decision on whether to repeal the Rule. The Commission requests that commenters provide representative factual data in support of their comments. Individual firms' experiences are relevant to the extent they typify industry experience in general or the experience of similar-sized firms. Commenters opposing the proposed repeal of the Rule should explain the reasons they believe the Rule is still needed and, if appropriate, suggest specific alternatives. Proposals for alternative requirements should include reasons and data that indicate why the alternatives would better protect consumers from unfair or deceptive acts or practices under section 5 of the FTC Act, 15 U.S.C. 45.

Although the Commission welcomes comments on any aspect of the proposed repeal of the Rule, the Commission is particularly interested in comments on questions and issues raised in this Notice. All written comments should state clearly the question or issue that the commenter is addressing.

Before taking final action, the Commission will consider all written comments timely submitted to the Secretary of the Commission and testimony given on the record at any hearings scheduled in response to requests to testify. Written comments submitted will be available for public inspection in accordance with the Freedom of Information Act, 5 U.S.C. 552, and Commission regulations, on normal business days between the hours of 8:30 a.m. to 5:00 p.m. at the Federal Trade Commission, Public Reference Room, Room H–130, Sixth St. and Pennsylvania Ave., NW., Washington, DC 20580, (202) 326–2222.

Questions

(1) Should the Dry Cell Battery Rule be kept in effect, or should it be repealed?

(2) What benefits do consumers derive from the Rule?

(3) How would repealing the Rule affect the benefits experienced by consumers?

(4) How would repealing the Rule affect the benefits and burdens experienced by firms that must comply with the Rule?

(5) Are ''leakproof'' or ''guaranteed leakproof'' representations a significant problem in the marketplace?

(6) Are there any other federal, state, or local laws or regulations, or private industry standards, that eliminate the need for the Rule?

(7) Does the existence of ANSI Standard C18.1M–1992 for Dry Cell Batteries eliminate or greatly lessen the need for the Rule?

V. Requests for Public Hearings

Because there does not appear to be any dispute as to the material facts or issues raised by this proceeding and because written comments appear adequate to present the views of all interested parties, a public hearing has not been scheduled. If any person would like to present testimony at a public hearing, he or she should follow the procedures set forth in the **DATES** and **ADDRESSES** sections of this notice.

VI. Preliminary Regulatory Analysis

The Regulatory Flexibility Act (''RFA''), 5 U.S.C. 601–12, requires an analysis of the anticipated impact of the proposed repeal of the Rule on small businesses.[8] The analysis must contain, as applicable, a description of the reasons why action is being considered, the objectives of and legal basis for the proposed action, the class and number of small entities affected, the projected reporting, recordkeeping and other compliance requirements being proposed, any existing federal rules which may duplicate, overlap or conflict with the proposed action, and any significant alternatives to the proposed action that accomplish its objectives and, at the same time, minimize its impact on small entities.

A description of the reasons why action is being considered and the objectives of the proposed repeal of the Rule have been explained elsewhere in this Notice. Repeal of the Rule would appear to have little or no effect on any small business. The Commission is not aware of any existing federal laws or regulations that would conflict with repeal of the Rule.

For these reasons, the Commission certifies, pursuant to section 605 of RFA, 5 U.S.C. 605, that if the Commission determines to repeal the Rule, that action will not have a significant impact on a substantial number of small entities. To ensure that no substantial economic impact is being overlooked, however, the Commission requests comments on this issue. After reviewing any comments received, the Commission will determine whether it is necessary to prepare a final regulatory flexibility analysis.

VII. Paperwork Reduction Act

The Dry Cell Battery Rule imposes no third-party disclosure requirements that constitute ''information collection requirements'' under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* Since 1964, therefore, the Rule has imposed no paperwork burdens on marketers of dry cell batteries. In any event, repeal of the Dry Cell Battery Rule would permanently eliminate any burdens on the public imposed by the Rule.

VIII. Additional Information for Interested Persons

A. Motions or Petitions

Any motions or petitions in connection with this proceeding must be filed with the Secretary of the Commission.

B. Communications by Outside Parties to Commissioners or Their Advisors

Pursuant to Rule 1.18(c) of the Commission's Rules of Practice, 16 CFR 1.18(c), communications with respect to the merits of this proceeding from any outside party to any Commissioner or Commissioner's advisor during the course of this rulemaking shall be subject to the following treatment. Written communications, including written communications from members of Congress, shall be forwarded promptly to the Secretary for placement on the public record. Oral communications, not including oral communications from members of Congress, are permitted only when such oral communications are transcribed verbatim or summarized at the discretion of the Commissioner or Commissioner's advisor to whom such oral communications are made, and are

[8] Section 22 of the FTC Act, 15 U.S.C. 57b–3, also requires the Commission to issue a preliminary regulatory analysis relating to proposed rules when the Commission publishes a notice of proposed rulemaking. The Commission has determined that a preliminary regulatory analysis is not required by section 22 in this proceeding because the Commission has no reason to believe that repeal of the Rule: (1) will have an annual effect on the national economy of $100,000,000 or more; (2) will cause a substantial change in the cost or price of goods or services that are used extensively by particular industries, that are supplied extensively in particular geographical regions, or that are acquired in significant quantities by the Federal Government, or by State or local governments; or (3) otherwise will have a significant impact upon persons subject to the Rule or upon consumers.

promptly placed on the public record, together with any written communications relating to such oral communications. Memoranda prepared by a Commissioner or Commissioner's advisor setting forth the contents of any oral communications from members of Congress shall be placed promptly on the public record. If the communication with a member of Congress is transcribed verbatim or summarized, the transcript or summary will be placed promptly on the public record.

Authority: 15 U.S.C. 41–58.

List of Subjects in 16 CFR Part 403

Advertising, Dry cell batteries, Labeling, Trade practices.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 97–21922 Filed 8–18–97; 8:45 am]

BILLING CODE 6750–01–M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 118

RIN 1515–AC07

Centralized Examination Stations

AGENCY: Customs Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document proposes to amend the Customs Regulations regarding the establishment and scope of operation of Centralized Examination Stations (CESs). To reflect Customs interest in maximizing compliance with export control laws and regulations without unduly impeding the movement of outbound merchandise, it is proposed to expand the definition of a CES to allow merchandise intended to be exported as well as imported merchandise to be handled by a CES. Further, Customs is proposing to allow for the inspection of outbound cargo at CESs at ports other than the shipment's designated port of exit. To make the CES application procedure more amenable to local conditions, Customs is proposing more flexibility regarding the time frame for an applicant to conform a facility to meet Customs security or other physical or equipment requirements. Lastly, Customs is proposing to amend one of the criteria on the application to operate a CES because Customs believes it is too subjective. These changes are proposed in order to keep the CES program responsive to both Customs and the trade community's demands for the facilitated examinations of trade merchandise.

DATES: Comments must be received on or before October 20, 1997.

ADDRESSES: Comments (preferably in triplicate) must be submitted to the U.S. Customs Service, ATTN: Regulations Branch, Franklin Court, 1301 Constitution Avenue, NW., Washington, DC 20229, and may be inspected at the Regulations Branch, 1099 14th Street, NW., Suite 4000, Washington, DC.

FOR FURTHER INFORMATION CONTACT:

For Policy Inquiries: Steven T. Soggin, Office of Field Operations, Trade Compliance, (202) 927–0765;

For Legal Inquiries: Jerry Laderberg, Office of Regulations and Rulings, Entry Procedures and Carriers Branch, (202) 482–7052.

SUPPLEMENTARY INFORMATION:

Background

In T.D. 93–6 (58 FR 5596) Customs amended the Customs Regulations (19 CFR Chapter 1) to create a new Part 118 that set forth the regulatory framework for the establishment, operation, and termination of Centralized Examination Stations (CESs). A CES is a privately-operated facility, not in the charge of a Customs officer, at which imported merchandise is made available to Customs officers for physical examination.

Currently, CESs are authorized to provide inspectional facilities for Customs officers to examine only imported merchandise. However, because merchandise intended to be *exported* often is required to be examined, Customs would like CESs to be authorized to provide inspectional facilities for this merchandise as well. Customs has statutory authority to inspect merchandise intended to be exported pursuant to 22 U.S.C. 401, concerning the exportation of munitions and other articles, and 31 U.S.C. 5317, concerning the search and forfeiture of monetary instruments. Further, Customs broad authority to conduct warrantless examinations of outbound merchandise has long been recognized by the courts. *See e.g., United States* v. *Udofot,* 711 F.2d 831, 839 (8th Cir. 1983), *cert. denied,* 464 U.S. 896 (1983); *United States* v. *Ajlouny,* 629 F.2d 830, 834 (2d Cir. 1980), *cert. denied,* 449 U.S. 111 (1981); *United States* v. *Stanley, et al.,* 545 F.2d 661, 665–67 (9th Cir. 1976), *cert. denied,* 436 U.S. 917 (1978); *cf., California Bankers Ass'n* v. *Shultz,* 416 U.S. 21, 63 (1974). Accordingly, to reflect the authority to inspect merchandise intended to be exported, the authority citation for Part 118 is revised. Also, Customs proposes to amend the first sentence of § 118.1 by removing the word ''imported'' to allow CESs to provide inspectional facilities for merchandise regardless of whether it is inbound or outbound.

Customs ability to inspect at inland ports shipments scheduled for export from another port is authorized at the functional equivalent of the border. *See, United States* v. *Udofot,* 711 F.2d 831 (8th Cir. 1983), *cert. denied,* 464 U.S. 896 (1983); *United States* v. *Hernandez-Salazar,* 813 F.2d 1126 (11th Cir. 1987). To conduct such inspections at locations other than the port of export, the exportation must be imminent and the goods committed to export. Accordingly, should a carrier, freight forwarder, or shipper wish to have its shipment inspected at a CES at a port other than the designated port of export, sufficient evidence that exportation is imminent and that the goods are committed to export must be made available to Customs. Alternatively, evidence of the shipper's consent to Customs inspection at an inland port may be presented. To advise the exporting community of Customs requirements for inspecting merchandise declared for export at a port other than the port of exit, Customs proposes to further amend § 118.1 by adding a new sentence at the end that provides that either proof of the shipper's consent to the inspection must be furnished or transportation documents must accompany outbound shipments to evidence that the exportation of the goods is imminent and that the goods are committed to export.

Pursuant to the provisions of 19 CFR 118.4(g), the CES operator is required to maintain a custodial bond. The terms and conditions of the custodial bond obligate the bond principal to accept only merchandise authorized under Customs Regulations (see 19 CFR 113.63(a)(2)), and keep safe any merchandise placed in its custody (see 19 CFR 113.63(b)(2)). A proposed amendment to § 118.4(g) makes it clear that the CES operator is authorized to accept and must keep safe all merchandise that is delivered for examination. Accordingly, the custodial bond will guarantee the receipt and safekeeping of merchandise delivered for an import or export examination.

Regarding the application procedure to operate a CES, paragraph (b) of § 118.11 currently provides that where a significant capital expenditure would be required in order for an existing facility to meet security or other physical or equipment requirements necessary for the CES operation, an applicant may

request in the application, and the port director may allow, up to an additional 30 calendar days after tentative selection to conform the facility to such requirements. Because compliance with the 30-calendar-day time-frame requirement for significant capital expenditures is subject to building permits and other requirements of a local nature, which may not be forthcoming within the time period specified, this requirement imposes a burdensome condition in the application procedure, which may operate to dissuade many potential applicants from applying to become CES operators. Accordingly, Customs proposes to remove this requirement and instead allow the time frames for making capital improvements to a facility to be addressed locally.

Further, paragraph (g) of this same section currently provides that an applicant must present any information showing the applicant's experience in international cargo operations and knowledge of Customs procedures and regulations, ''or a commitment to acquire that knowledge.'' Because a demonstrable knowledge of such operations, procedures, and regulations is essential prior to selection as a CES operator, the alternative ''commitment to acquire that knowledge'' language in the regulation is too subjective a standard by which to measure an applicant's credentials to operate a CES. Accordingly, Customs proposes to remove this language.

Comments

Before adopting this proposal as a final rule, consideration will be given to any written comments timely submitted to Customs. Comments submitted will be available for public inspection in accordance with the Freedom of Information Act (5 U.S.C. 552), § 1.4 of the Treasury Department Regulations (31 CFR 1.4), and § 103.11(b) of the Customs Regulations (19 CFR 103.11(b)), on regular business days between the hours of 9:00 a.m. and 4:30 p.m. at the Regulations Branch, U.S. Customs Service, 1099 14th Street, NW., Suite 4000, Washington, DC.

Regulatory Flexibility Act

Pursuant to provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), it is certified that, if adopted, the proposed amendments will not have a significant economic impact on a substantial number of small entities, because the amendments would operate to confer new benefits on potential CES operations, by allowing them to perform more services. Accordingly, the proposed amendments are not subject to the regulatory analysis or other requirements of 5 U.S.C. 603 and 604.

Executive Order 12866

This document does not meet the criteria for a ''significant regulatory action'' as defined in E.O. 12866.

List of Subjects in 19 CFR Part 118

Administrative practice and procedure, Customs duties and inspection, Examination stations, Exports, Imports, Licensing, Reporting and recordkeeping requirements.

Proposed Amendment

For the reasons stated above, it is proposed to amend part 118, Customs Regulations (19 CFR part 118), as set forth below:

PART 118—CENTRALIZED EXAMINATION STATIONS

1. The authority citation for part 118 is revised to read as follows:

Authority: 19 U.S.C. 66, 1499, 1623, 1624; 22 U.S.C. 401; 31 U.S.C. 5317.

2. In § 118.1, the first sentence is amended by removing the word ''imported'', and a new sentence is added at the end to read as follows:

§ 118.1 Definition.

* * * To present outbound cargo for inspection at a CES at a port other than the shipment's designated port of exit, either proof of the shipper's consent to the inspection must be furnished or a complete set of transportation documents must accompany the shipment to evidence that exportation of the goods is imminent and that the goods are committed to export, thereby, making them subject to Customs examination.

3. In § 118.4, paragraph (g) is amended by adding a new second sentence to read as follows:

§ 118.4 Responsibilities of a CES operator.

* * * * *

(g) * * * The CES operator will accept and keep safe all merchandise delivered to the CES for examination. * * *

* * * * *

4. In § 118.11, the second sentence in paragraph (b) is amended by removing the words '', and the port director may allow, up to an additional 30 calendar days after tentative selection to conform the facility to such requirements, but in such a case the agreement referred to in § 118.3 of this part shall not be executed until those requirements are met'' and adding, in their place, the words ''time to conform the facility to such requirements. The agreement referred to in § 118.3 of this part shall not be executed, in any event, until the facility is conformed to meet the requirements''; and paragraph (g) is amended by removing the words '', or a commitment to acquire that knowledge''.

Approved: June 3, 1997.

Samuel H. Banks,

Acting Commissioner of Customs.

[FR Doc. 97–21843 Filed 8–18–97; 8:45 am]

BILLING CODE 4820–02–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; Hearing

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Postponement of hearing, extension of time for requesting to speak and submitting written comments, and requests to teleconference hearing.

SUMMARY: This document postpones the public hearing on proposed regulations relating to charitable remainder trusts under section 664 of the Internal Revenue Code and special valuation rules for transfers of interest in trusts under section 2702. In addition, this document extends the time for requesting to speak and for submitting written comments and announces that persons wishing to testify who are outside the Washington, DC and Los Angeles, California areas may request that the Service teleconference to their sites.

DATES: Requests to teleconference the hearing to other sites must be received by September 5, 1997.

ADDRESSES: Requests must be sent to: CC:DOM:CORP:R (REG–209823-96), room 5226, Internal Revenue Service, POB 7604, Ben Franklin Station, Washington, DC 20044. Requests 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, requests may be submitted 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.

FOR FURTHER INFORMATION CONTACT: Evangelista Lee of the Regulations Unit, Assistant Chief Counsel (Corporate), (202) 622-7190 (not a toll-free number).

SUPPLEMENTARY INFORMATION: A notice of proposed rulemaking and notice of public hearing appearing in the **Federal Register** on Friday, April 18, 1997 (62 FR 19072), announced that a public hearing with respect to proposed regulations relating to charitable remainder trusts under section 664 and special valuation rules for transfers of interests in trusts under section 2702 would be held on Tuesday, September 9, 1997, beginning at 10 a.m. in the IRS Auditorium, Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, DC and that requests to speak and outlines of oral comments should be received by Tuesday, August 19, 1997.

Subsequent to this announcement, the Service received a letter from the Los Angeles County Bar Association indicating that the Los Angeles area had considerable interest in the proposed regulations and requesting that the hearing be teleconferenced to Los Angeles. The Service will accommodate that request. The Service recognizes that other persons outside the Washington, DC and Los Angeles areas may also wish to testify through teleconferencing and those persons should request to do so.

Requests to include other teleconferencing sites must be received by Friday, September 5, 1997. If the Service receives sufficient indications of interest to warrant teleconferencing to a particular city and if the Service has teleconferencing facilities in that city, the Service will accommodate the requests.

Accordingly, the public hearing originally scheduled for September 9, 1997, is postponed until later in the Fall and the time is extended for requesting to speak and submitting written comments. The Service will issue a notice in the **Federal Register** announcing a new date by which requests to speak and written comments must be received. The Service will also announce the new date, time and any additional teleconference sites of the public hearing.

Cynthia E. Grigsby,

Chief, Regulations Unit, Assistant Chief Counsel (Corporate).

[FR Doc. 97–21858 Filed 8–18–97; 8:45 am]

BILLING CODE 4830–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[TX60–1–7269; FRL–5870–2]

Approval and Promulgation of State Implementation Plans; Texas; Prevention of Significant Deterioration (PSD) Increments for Particulate Matter Less Than 10 Microns in Diameter (PM–10); Designation of Areas for Air Quality Planning Purposes

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA proposes to approve revisions to the Texas State Implementation Plan (SIP) addressing PSD permitting regulations. The purpose of this revision is to replace the total suspended particulate (TSP) PSD increments with increments for PM–10. In conjunction with this proposal, EPA is proposing to remove the TSP area designation tables in 40 Code of Federal Regulations part 81 for Texas. With the PM–10 increments becoming effective in Texas, the TSP area designations no longer serve any useful purpose relative to PSD. The EPA also proposes to approve revisions to regulations of the Texas Natural Resource Conservation Commission submitted August 31, 1993; the recodification of Chapter 116. In the final rules section of this **Federal Register**, EPA is approving the State's SIP revisions as direct final rule without prior proposal because the Agency views this as a noncontroversial revision amendment and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to 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. The EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time.

DATES: Comments on this proposed rule must be postmarked by September 18, 1997.

ADDRESSES: Written comments on this action should be addressed to Ms. Jole C. Luehrs, Chief, Air Permits Section (6PD–R), at the EPA Region 6 office listed below. Copies of documents relevant to this action are available for public inspection during normal business hours at the following locations. The interested persons wanting to examine these documents should make an appointment with the appropriate office at least two working days in advance.

U.S. Environmental Protection Agency, Region 6, Multimedia Planning and Permitting Division, First Interstate Bank Building, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202–2733.

Texas Natural Resource Conservation Commission, Office of Air Quality, 12124 Park 35 Circle, Austin, Texas 78753.

FOR FURTHER INFORMATION CONTACT: Reverdie Daron Page, Air Permits Section (6PD–R), Environmental Protection Agency, Region 6, 1445 Ross Avenue, Dallas, Texas 75202–2733, telephone (214) 665–7222.

SUPPLEMENTARY INFORMATION: For additional information, see the direct final rule which is published in the Rules and Regulations section of this **Federal Register**.

Authority: 42 U.S.C. 7401–7671q.

Dated: July 24, 1997.

Jerry Clifford,

Acting Regional Administrator (6RA).

[FR Doc. 97–21801 Filed 8–18–97; 8:45 am]

BILLING CODE 6560–50–P

Notices

Federal Register

Vol. 62, No. 160

Tuesday, August 19, 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

Food Safety and Inspection Service

[Docket No. 97–046N]

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 97N–0322]

Technical Meeting on Shell Eggs and Egg Products Risk Assessment

AGENCIES: Food Safety and Inspection Service, USDA; Food and Drug Administration, FDA.

ACTION: Notice.

SUMMARY: The Department of Agriculture's Food Safety and Inspection Service (FSIS) and the Department of Health and Human Services' Food and Drug Administration (FDA) are holding a joint technical meeting to present and solicit data necessary to create a risk assessment for shell eggs and egg products. The meeting will focus on the information concerning the parameter values for a risk assessment of *Salmonella enteritidis* in shell eggs and egg products; consumer preparation and consumption patterns of these products; human illness linked to shell eggs and egg products; and potential intervention strategies at various points along the shell egg and egg product production chain.

DATES: The meeting will be held from 8:30 a.m. to 4:30 p.m., September 3, 1997.

ADDRESSES: The meeting will be held at the Ellipse Conference Center at Ballston, in the National Rural Electric Cooperative Association Building, 4301 Wilson Boulevard, Arlington, Va 22203.

FOR FURTHER INFORMATION CONTACT: To register for the meeting, contact Ms. Traci Phebus at (202) 501–7138, FAX (202) 501–7642, or E-mail to Confer@USDA.GOV. Participants may reserve a 5-minute public comment period when they register. Space will be allocated on a first come, first served basis. Technical papers will be accepted and made part of the official record. They should be sent to Ms. Mary Harris, FSIS, Planning Office, 6904 Franklin Court Building, Washington, DC 20250–3700.

Copies of a draft report, ''Parameter Values for a Risk Assessment of *Salmonella enteritidis* in Shell Eggs and Egg Products,'' will be available after August 18. To receive a copy, contact Ms. Harris at (202) 501–7315. Copies also will be available from the following: FSIS at http://www.usda.gov/fsis. Participants who require a sign language interpreter or other special accommodations should contact Ms. Harris at the above telephone or FAX (202) 501–7642 by August 25, 1997.

SUPPLEMENTARY INFORMATION:

Salmonella enteritidis (SE) is one of the leading causes of foodborne illness in the United States, with an estimated 1.8 to 2.5 million cases each year. USDA's Economic Research Service estimates that medical costs, loss of productivity, and loss of life associated with salmonellosis range from $0.6 to $3.5 billion annually. Further, *Salmonella enteritidis* has been one of the most frequently implicated strains of *Salmonella* since the mid 1980's and currently accounts for more than a quarter of all isolates reported to the Centers for Disease Control and Prevention. USDA and FDA, therefore, believe it is important to evaluate the risk of foodborne illness from SE from the consumption of eggs and egg products and to begin to identify intervention options that are most effective in reducing the public health risk in a cost-effective manner.

USDA and FDA are conducting a chick-to-table quantitative risk assessment for shell eggs and egg products to establish the unmitigated risk of foodborne illness with emphasis on *Salmonella enteritidis*, evaluate various risk mitigation strategies, identify data needs and prioritize future data collection efforts.

FSIS and FDA share Federal jurisdiction over the safety of eggs and egg products and wish to identify actions they might take themselves, or in concert with other Agencies, organizations, or persons, to decrease the food safety risks associated with shell eggs and egg products. Alternatives under consideration include guidance, cooperative programs, market-based solutions, and regulations. The Agencies are particularly interested in mitigations that have been successful in marketing channels and the costs of those mitigations.

Done at Washington, DC, on: August 13, 1997.

Thomas J. Billy,

Administrator, Food Safety and Inspection Service.

Janice F. Oliver,

Deputy Director, Systems and Support, Center for Food Safety and Applied Nutrition, Food and Drug Administration.

[FR Doc. 97–21839 Filed 8–18–97; 8:45 am]

BILLING CODE 3410–DM–M

DEPARTMENT OF COMMERCE

International Trade Administration

[A–122–822]

Certain Corrosion-Resistant Carbon Steel Flat Products From Canada: Amended Final Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: August 19, 1997.

FOR FURTHER INFORMATION CONTACT: Rick Johnston, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue N.W., Washington, D.C. 20230; telephone: (202) 482–3793.

Scope of This Review

The merchandise under review is certain corrosion-resistant carbon steel flat products. Although the *Hamonized Tariff Schedule of the United States* (HTSUS) subheadings are provided for convenience and customs purposes, the written description of the merchandise under investigation is dispositive.

These products include flat-rolled carbon steel products, of rectangular shape, either clad, plated, or coated with corrosion-resistant metals such as zinc, aluminum, or zinc-, aluminum-, nickel- or iron-based alloys, whether or not corrugated or painted, varnished or coated with plastics or other

nonmetallic substances in addition to the metallic coating, in coils (whether or not in successively superimposed layers) and of a width of 0.5 inch or greater, or in straight lengths which, if of a thickness less than 4.75 millimeters, are of a width of 0.5 inch or greater and which measures at least 10 times the thickness or if of a thickness of 4.75 millimeters or more are of a width which exceeds 150 millimeters and measures at least twice the thickness, as currently classifiable in the HTSUS under item numbers 7210.30.0030, 7210.30.0060, 7210.41.0000, 7210.49.0030, 7210.49.0090, 7210.61.0000, 7210.69.0000, 7210.70.6030, 7210.70.6060, 7210.70.6090, 7210.90.1000, 7210.90.6000, 7210.90.9000, 7212.20.0000, 7212.30.1030, 7212.30.1090, 7212.30.3000, 7212.30.5000, 7212.40.1000, 7212.40.5000, 7212.50.0000, 7212.60.0000, 7215.90.1000, 7215.90.3000, 7215.90.5000, 7217.20.1500, 7217.30.1530, 7217.30.1560, 7217.90.1000, 7217.90.5030, 7217.90.5060, 7217.90.5090. Included in this review are corrosion-resistant flat-rolled products of non-rectangular cross-section where such cross-section is achieved subsequent to the rolling process (*i.e.*, products which have been ''worked after rolling'')—for example, products which have been beveled or rounded at the edges. Excluded from this review are flat-rolled steel products either plated or coated with tin, lead, chromium, chromium oxides, both tin and lead (''terne plate''), or both chromium and chromium oxides (''tin-free steel''), whether or not painted, varnished or coated with plastics or other nonmetallic substances in addition to the metallic coating. Also excluded from this review are clad products in straight lengths of 0.1875 inch or more in composite thickness and of a width which exceeds 150 millimeters and measures at least twice the thickness. Also excluded from this review are certain clad stainless flat-rolled products, which are three-layered corrosion-resistant carbon steel flat-rolled products less than 4.75 millimeters in composite thickness that consist of a carbon steel flat-rolled product clad on both sides with stainless steel in a 20%–60%–20% ratio.

The period of review (POR) is August 1, 1994, through July 31, 1995.

Amendment of Final Results

On April 15, 1997, the Department of Commerce (the Department) published the final results of the administrative review of the antidumping duty order on certain corrosion-resistant carbon steel flat products and certain cut-to-length carbon steel plate from Canada (62 FR 18448–18468). The review covering corrosion-resistant steel includes three manufacturers/exporters (Stelco, Inc.; Dofasco Inc. and Sorevco, Inc., collectively ''Dofasco''; and Continuous Colour Coat, Ltd. (''CCC'')) of the subject merchandise to the United States and the period August 1, 1994 through July 31, 1995.

Interested Party Comments

Dofasco

Comment 1: In a letter to the Department dated May 8, 1997, petitioners alleged that the Department made a ministerial error by failing to correct for certain missing freight charges on U.S. sales. Specifically, when Dofasco sales were reported as direct to the U.S. customer, with a certain term of sale, and for which Dofasco reported a value in the computer field for prepaid freight, petitioners alleged that Dofasco should have reported a value in the field for maximum freight. Petitioners have proposed computer language to correct the error, and have also argued that in those instances in which no maximum freight value exists on the record for a particular destination, the Department should assign the highest maximum freight value reported by Dofasco for any destination as the freight rate for that sale.

In a letter to the Department dated May 20, 1997, respondent disagrees with petitioners that the alleged error is a clerical error. Instead, Dofasco notes that the alleged error was not brought to the attention of the Department in a timely manner during the course of the proceeding. Dofasco argues that, because the Department was unaware of this alleged error, it could not have committed a ''clerical error'' by not making petitioners' requested corrections.

Dofasco also disputes petitioners' proposal to assign the highest maximum freight value reported by Dofasco for any destination as the freight rate for certain sales, in the event that the Department determines that the error is clerical in nature. Dofasco contends that there is verified information on the record for each destination which the Department could apply in those cases for which maximum freight was incorrectly excluded from the database.

Department's Position: We agree with petitioners that the error was a ministerial error. As is clear from the Department's April 3, 1997 analysis memorandum for the final results of review, the Department intended to account for those instances in which ''no maximum freight expenses has been reported in any of the relevant computer fields. . . .'' Thus, the Department's failure to apply maximum freight values for the sales identified by petitioners was an unintentional error which is appropriately considered to be ministerial.

Additionally, we agree with respondent that there is adequate record evidence regarding the appropriate values to assign as maximum freight values, with the exception of sales to one customer. Thus, with the exception of sales to one customer, there is no cause for applying the highest maximum freight values for any destination to the affected sales. *See* the Department's *Clerical Error Memorandum*, dated June 11, 1997 (pp. 1–2) for a complete discussion of this issue.

CCC

Comment 2: CCC alleges that the Department incorrectly recalculated its selling, general and administrative (SG&A) expense ratio. CCC states that the Department inadvertently included selling expenses for CCC in calculating the SG&A expense ratio which were already included in CCC's sales response. CCC asserts that the Department should recalculate this ratio using the general and administrative expenses figure provided by CCC in its February 14, 1996 supplemental response.

Petitioners state that if the Department agrees with CCC and corrects its SG&A expense ratio, the Department should use petitioners' submitted computer programming language to correct the SG&A expense.

Department's Position: We agree with respondent and petitioners. Respondent is correct in stating that, when calculating CCC's SG&A expense ratio, the Department inadvertently used an SG&A figure in the numerator derived from CCC's November 22, 1995 response rather than from CCC's February 14, 1996 supplemental response (in which CCC provided an SG&A expense ratio which excluded selling expenses already included in the sale response). In addition, we agree with petitioners' proposed computer programming language to correct this error. Therefore, for these amended final results, we have recalculated CCC's SG&A expense ratio using the ratio provided by CCC in its February 14, 1996 supplemental response and have corrected our computer programming language in the

margin calculation program. *See Clerical Error Memorandum* at page 3.

Comment 3: Petitioners argue that the Department introduced new computer programming lines and values in the constructed value section of its margin calculation program and that the new lines failed to function properly because the new values were overwritten by old values. Therefore, petitioners state that the Department should correct this error in its programming.

Department's Position: We agree with petitioners. Therefore, for these amended final results we have corrected the constructed value section of our margin calculation program. *See Clerical Error Memorandum* at pp. 4–5.

Amended Final Results of Review

As a result of our review, we have determined that the following margins exist:

Manufacturer/ Exporter	Time period	Margin (per-cent)
Dofasco, Inc ..	8/1/94–7/31/95	0.59
CCC, Ltd	8/1/94–7/31/95	1,31
Stelco, Inc	8/1/94–7/31/95	0.55

Pursuant to section 353.28 of the Department's regulations, parties to the proceeding will have five days after the date of publication of this notice to notify the Department of any new ministerial or clerical errors, as well as five days thereafter to rebut any comments by parties.

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. Individual differences between sales to the United States and normal value may vary from the percentages stated above. The Department will issue appraisement instructions directly to the Customs Service.

Furthermore, the following deposit requirements will be effective, upon publication of this notice of amended final results of review for all shipments of certain corrosion-resistant carbon steel flat products from Canada, entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided for by section 751(a)(1) of the Act: (1) the cash deposit rates for the reviewed companies will be the rates for those firms as stated above (except that if the rate is de minimis, i.e., less than 0.5 percent, a cash deposit rate of zero will be required for that company); (2) for previously investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, or the original investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) the cash deposit rate for all other manufacturers will be the ''all others'' rate made effective by the final results of the 1993–1994 administrative review of these orders (*see Certain Corrision-Resistant Carbon Steel Flat Products and Certain Cut-to-Length Steel Plate from Canada; Final Results of Antidumping Administrative Reviews,* 61 FR 13815 (March 28, 1996)).

These deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

This notice serves as a final reminder to importers of their responsibility under 19 CFR 353.26 to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This notice also serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with section 353.34(d) of the Department's regulations. Timely notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested.

Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This amendment of final results of administrative review and notice are in accordance with section 751(a)(1) of the Act (19 U.S.C. 1675(a)(1)) and 19 CFR 353.22.

Dated: August 12, 1997.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 97–21961 Filed 8–18–97; 8:45 am]

BILLING CODE 3510–DS–M

DEPARTMENT OF COMMERCE

International Trade Administration

[A–475–818]

Certain Pasta From Italy: Notice of Extension of Time Limit for New Shipper Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: August 19, 1997.

FOR FURTHER INFORMATION CONTACT: John Brinkmann or Sunkyu Kim, Office of AD/CVD Enforcement II, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 482–5288 or 482–2613, respectively.

SUMMARY: The Department of Commerce (the Department) is extending the time limit for the preliminary results in the new shipper administrative review of the antidumping duty order on certain pasta from Italy. The period of review is July 1, 1996, through January 31, 1997. This extension is made pursuant to the Tariff Act of 1930, as amended by the Uruguay Round Agreements Act (''the Act'') and the Department's regulations as published in the **Federal Register** on May 11, 1995 (60 FR 25130).

Postponement of Preliminary Results of Review

On February 20, 1997, the Department initiated this new shipper administrative review of the antidumping duty order on certain pasta from Italy (62 FR 8927, February 27, 1997). The current deadline for the preliminary results is August 19, 1997. Pursuant to 19 CFR 353.22(h)(7), the Department has determined that this case is extraordinarily complicated and as such is extending the deadline for issuing the preliminary results. This extension is necessary to provide the Department additional time to consider certain issues of complex nature including the appropriate basis for calculating constructed export price and the nature of affiliation between the parties involved in this review.

In accordance with 19 CFR 353.22(h)(7), the Department will extend the time for completion of the preliminary results of this new shipper review to no later than December 17, 1997. We plan to issue the final results within 90 days after the date the preliminary results are issued.

Dated: August 13, 1997.

Richard W. Moreland,

Acting Deputy Assistant Secretary Import Administration.

[FR Doc. 97–21960 Filed 8–18–97; 8:45 am]

BILLING CODE 3510–DS–M

DEPARTMENT OF COMMERCE

International Trade Administration

[A–201–504]

Certain Porcelain-on-Steel Cookware From Mexico; Notice of Extension of Time Limit for Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: August 19, 1997.

FOR FURTHER INFORMATION CONTACT: Kate Johnson or Dolores Peck at (202) 482–4929, or Mary Jenkins at (202) 482–1756, Office of AD/CVD Enforcement, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, DC 20230.

SUMMARY: The Department of Commerce (the Department) is extending the time limit for the preliminary results of the tenth administrative review of the antidumping duty order on porcelain-on-steel cookware from Mexico for the period December 1, 1995, through November 30, 1996. This extension is made pursuant to the Tariff Act of 1930, as amended by the Uruguay Round Agreements Act (hereinafter, ''the Act'').

POSTPONEMENT: Under the Act, the Department may extend the deadline for completion of an administrative review if it determines it is not practicable to complete the review within the statutory time limit of 365 days. The Department finds that it is not practicable to complete the tenth administrative review of certain porcelain-on-steel cookware from Mexico within this time limit.

In accordance with section 751(a)(3)(A) of the Act, the Department will extend the time for completion for the preliminary results of this review from a 245-day period to no later than a 365-day period. Therefore, the final results are now due by December 31, 1997.

Dated: August 13, 1997.

Jeffrey P. Bialos,

Principal Deputy Assistant Secretary for Import Administration.

[FR Doc. 97–21962 Filed 8–18–97; 8:45 am]

BILLING CODE 3510–DS–M

DEPARTMENT OF COMMERCE

International Trade Administration

North American Free-Trade Agreement, Article 1904; NAFTA Panel Reviews; Request for Panel Review

AGENCY: NAFTA Secretariat, United States Section, International Trade Administration, Department of Commerce.

ACTION: Notice of First Request for Panel Review.

SUMMARY: On August 8, 1997, Hylsa, S.A. de C.V. filed a First Request for Panel Review with the United States Section of the NAFTA Secretariat pursuant to Article 1904 of the North American Free Trade Agreement. Panel review was requested of the final antidumping administrative review made by the International Trade Administration, respecting Circular Welded Non-Alloy Steel Pipe and Tube from Mexico. This determination was published in 62 FR 37014, on July 10, 1997. The NAFTA Secretariat has assigned Case Number USA–97–1904–06 to this request.

FOR FURTHER INFORMATION CONTACT: James R. Holbein, United States Secretary, NAFTA Secretariat, Suite 2061, 14th and Constitution Avenue, Washington, D.C. 20230, (202) 482–5438.

SUPPLEMENTARY INFORMATION: Chapter 19 of the North American Free-Trade Agreement (''Agreement'') establishes a mechanism to replace domestic judicial review of final determinations in antidumping and countervailing duty cases involving imports from a NAFTA country with review by independent binational panels. When a Request for Panel Review is filed, a panel is established to act in place of national courts to review expeditiously the final determination to determine whether it conforms with the antidumping or countervailing duty law of the country that made the determination.

Under Article 1904 of the Agreement, which came into force on January 1, 1994, the Government of the United States, the Government of Canada and the Government of Mexico established Rules of Procedure for Article 1904 Binational Panel Reviews (''Rules''). These Rules were published in the **Federal Register** on February 23, 1994 (59 FR 8686).

A first Request for Panel Review was filed with the U.S. Section of the NAFTA Secretariat, pursuant to Article 1904 of the Agreement, on August 8, 1997, requesting panel review of the final administrative review described above.

The Rules provide that:

(a) a Party or interested person may challenge the final determination in whole or in part by filing a Complaint in accordance with Rule 39 within 30 days after the filing of the first Request for Panel Review (the deadline for filing a Complaint is September 8, 1997);

(b) a Party, investigating authority or interested person that does not file a Complaint but that intends to appear in support of any reviewable portion of the final determination may participate in the panel review by filing a Notice of Appearance in accordance with Rule 40 within 45 days after the filing of the first Request for Panel Review (the deadline for filing a Notice of Appearance is September 22, 1997); and

(c) the panel review shall be limited to the allegations of error of fact or law, including the jurisdiction of the investigating authority, that are set out in the Complaints filed in the panel review and the procedural and substantive defenses raised in the panel review.

Dated: August 12, 1997

James R. Holbein,

United States Secretary, NAFTA Secretariat.

[FR Doc. 97–21845 Filed 8–18–97; 8:45 am]

BILLING CODE 3510–GT–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Submission for OMB Review; Comment Request

ACTION: Notice.

The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Title and OMB Number: Defense Federal Acquisition Regulation Supplement Subparts 227.71, Rights in Technical Data, and 227.72, Rights in Computer Software and Computer Software Documentation, and related clauses at 252.227; OMB Number 0704–0369.

Type of Request: Extension.

Number of Respondents: 1,719,472.

Responses Per Respondent: 6 (approximately).

Annual Responses: 10,560,868.

Average Burden Per Response: 32 minutes.

Annual Burden Hours: 5,566,939.

Needs and Uses: This requirement provides for the collection of necessary

information from contractors and subcontractors regarding restrictions on the Government's right to use or disclose technical data and computer software. The information is used to identify and protect such data or computer software from unauthorized release or disclosure; to facilitate public use of technical data and computer software developed at Government expense; and to enable contracting officers to determine whether the Government has otherwise paid to obtain rights in the technical data or computer software.

Affected Public: Business or Other-For-Profit; Not-For-Profit Institutions.

Frequency: On Occasion.

Respondent's Obligation: Required to Obtain or Retain Benefits.

OMB Desk Officer: Mr. Peter N. Weiss.

Written comments and recommendations on the proposed information collection should be sent to Mr. Weiss at the Office of Management and Budget, Desk Officer for DoD, Room 10236, New Executive Office Building, Washington, DC 20503.

DoD Clearance Officer: Mr. Robert Cushing.

Written requests for copies of the information collection proposal should be sent to Mr. Cushing, WHS/DIOR, 1215 Jefferson Davis Highway, Suite 1204, Arlington, VA 22202–4302.

Dated: August 14, 1997.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 97–21972 Filed 8–18–97; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF DEFENSE

Department of the Air Force

Record of Decision (ROD) for the Disposal of Kelly Air Force Base (AFB), Texas

On July 24, 1997, the Air Force signed the ROD for the Disposal of Kelly AFB. The decisions included in this ROD have been made in consideration of, but not limited to, the information contained in the Final Environmental Impact Statement (FEIS) filed with the United States Environmental Protection Agency (U.S. EPA) and made available to the public on May 30, 1997.

Kelly AFB will close on or before July 13, 2001, pursuant to the Defense Base Closure and Realignment Act, Pub. L. 101–510, (10 U.S.C. § 2687 note), and recommendations of the Secretary of Defense's Commission on Base Realignment and Closure. This ROD documents the Kelly AFB disposal decisions.

Approximately 50% of Kelly AFB and all associated easements consisting of the runway and all property west of the runway will be transferred to Lackland AFB for continued Air Force needs.

Approximately 1876 acres fee will be conveyed by an Economic Development Conveyance (EDC) to the Greater Kelly Development Corporation (GKDC). The remaining 3 acres will be conveyed to the City of San Antonio, for use by representatives of the homeless.

All personal property identified by the GKDC as suitable and necessary to implement the Master Plan will be included in the EDC, except for that which is transferred to representatives of the homeless. Critical, high value, limited assets that are only useable in connection with a special weapon system may be included in the EDC, but any decision to transfer will be deferred until completion of public/private competition for the Kelly AFB maintenance workload associated with this personal property.

A portion of the property in Parcel A contains two buildings and personal property that are under an order of the United States District Court for the District of Columbia, dated July 22, 1997, prohibiting the sale, transfer, or in any manner the disposition of those assets as part of the EDC unless and until the Order is dissolved or expires or a subsequent order is issued.

The implementation of the closure and reuse action and associated mitigation measures will proceed with minimal adverse impact to the environment. This action conforms with applicable Federal, State and local statutes and regulations and all reasonable and practical efforts have been incorporated to minimize harm to the local public and environment.

Any questions regarding this matter should be directed to Mr. Charles R. Hatch, Program Manager, Division C. Correspondence should be sent to AFBCA, Division C, 1700 N. Moore Street, Suite 2300, Arlington, VA 22209–2809.

Barbara A. Carmichael,

Alternate Air Force Federal Register Liaison Officer.

[FR Doc. 97–21847 Filed 8–18–97; 8:45 am]

BILLING CODE 3910–01–P

DEPARTMENT OF DEFENSE

Department of the Army

Environmental Assessment for Promulgation of Revised Army Regulation (AR) 200–4 ''Cultural Resources Management''

AGENCY: Department of the Army, DoD.

ACTION: Notice of Availability.

SUMMARY DESCRIPTION OF THE PROPOSED ACTION: The Department of the Army has, consistent with the procedures established by the National Environmental Policy Act, the regulations published by the Council on Environmental Quality, and internal AR 200–2, ''Environmental Effects of Army Actions,'' prepared an Environmental Assessment (EA) to fully consider and disclose the environmental impacts associated with the proposal to adopt a uniform Department of the Army Regulation (AR), AR 200–4, ''Cultural Resources Management.'' AR 200–4 is a revision of AR 420–40, ''Historic Preservation,'' dated 15 May 1984. Upon adoption, AR 200–4 will supersede AR 420–40. The EA considered and disclosed the environmental impacts associated with alternatives to the proposed action, including the ''No Action'' alternative. The EA is hereby incorporated by reference.

The Department of the Army established and forwarded the proposed action for the following purposes: (1) To develop a uniform Department of the Army policy for management of cultural resources that ensures compliance with all applicable legal requirements including Federal statutes, regulations, Executive Orders, Presidential documents, and best management practices applicable to cultural resource management; (2) to provide a comprehensive approach to cultural resource management that goes beyond the singular focus of AR 420–40, ''Historic Preservation,'' on management of historic properties; and (3) to identify the appropriate roles and responsibilities of Army officials in the cultural resource management process at all levels of the Army.

The proposed action is necessary in order to provide a uniform, up-to-date, Department of the Army cultural resource management policy for distribution to and implementation in the field. It is mandatory for the policy adopted to address cultural resources management on a comprehensive basis, to provide clear direction and guidance for compliance with all applicable legal requirements across resources and to eliminate the present ad hoc approach to management of cultural resources.

ALTERNATIVES CONSIDERED: The EA considered, evaluated and assessed three alternatives: (1) the ''No Action'' alternative (continue activities under AR 420–40); (2) rescind AR 420–40 (no policy for cultural resources management); and (3) the proposed action alternative which is adoption of AR 200–4.

ALTERNATIVE CHOSEN: Consideration of the alternatives analyzed in the EA leads the Army to choose adoption of AR 200–4. The ''No Action'' alternative and the ''Rescind AR 420–40'' alternative do not meet the purpose and need as expressed in both this document and the EA. The ''No Action'' alternative would allow a continued ad hoc approach to management of cultural resources without a comprehensive consideration of all cultural resources. The ''Rescind AR 420–40'' alternative would leave the Army with no policy for management of cultural resources. AR 200–4, on the other hand, provides clear guidance and direction for management of cultural resources on a comprehensive basis. Management in this manner will facilitate overall Army compliance with applicable legal requirements, and will otherwise provide the agency with the ability to act as a more responsible steward of the cultural resources entrusted to its care.

ANTICIPATED ENVIRONMENTAL EFFECTS: As noted in the EA, the nature and scope of the analysis was programmatic. This analysis is directly related to the nature of the decision being made. The Department of the Army is choosing to adopt AR 200–4, an internal agency policy for management of cultural resources. This decision alone is not likely to result in any quantifiable, concrete, on-the-ground impacts. Rather, its effect will be felt as resource managers develop site-specific cultural resource management plans and implement management activities consistent with the direction and guidance contained in AR 200–4. That second level of planning and decision making will involve additional environmental review which considers on-the-ground impacts. In addition, while AR 200–4 formalizes a comprehensive and uniform policy for managing cultural resources and eliminates the present ad hoc approach, many of the management practices presently applied in the field will continue to be applied. The effect of adoption and implementation of AR 200–4, therefore, should be beneficial for Army cultural resources.

CONCLUSIONS: Based on a review of the EA, and for the reasons stated immediately above, it is not anticipated that adoption of AR 200–4 will either independently or cumulatively present significant environmental impacts to the quality of the human environment. Further, based on the analysis in the EA, the Army expects that adoption of AR 200–4 will result in beneficial impacts on cultural resources.

FOR FURTHER INFORMATION: Requests for copies of the EA and questions regarding the Finding of No Significant Impact (FNSI) may be directed by mail to the Commander, U.S. Army Environmental Center, ATTN: SFIM–AEC–PA (Mr. Tom Hankus), Aberdeen Proving Ground, MD 21010–5401, or by phone at (410) 671–1267. The Army also solicits written comments on the EA and FNSI.

COMMENTS: Such comments must be submitted by mail to the above address on or before September 18, 1997.

Dated: August 12, 1997.

Raymond J. Fatz,

Deputy Assistant Secretary of the Army, (Environment, Safety and Occupational Health), OASA (I,L&E).

[FR Doc. 97–21844 Filed 8–18–97; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF DEFENSE

Corps of Engineers, Department of the Army

Humboldt Bay Harbor, Recreation and Conservation District's Ordinance No. 15 Establishing General Tariff No. 1 for the Humboldt Harbor and Bay Deepening, California Project

AGENCY: U.S. Army Corps of Engineers, DOD.

ACTION: Correction.

SUMMARY: In previous **Federal Register** notice (Vol. 62, No. 124, pages 34697–34702) Friday, June 27, 1997, make the following correction: On Page 34702 in column one, Section VI. (Designation of Official and Setting Deadline for Receipt of Comments Concerning Proposed Harbor Usage Fee), ninth line, change the date from August 20, 1997 to August 28, 1997. Per 33 U.S.C. 2236(a)(5)(A)(iii), at least a sixty day public comment period is required from the date of publication in the **Federal Register**. Accordingly, the public comment period on the proposed tariff is extended to 4 p.m., PDT, August 28, 1997.

FOR FURTHER INFORMATION CONTACT: Questions regarding the General Tariff may be directed to Mr. David Hull, Chief Executive Officer, Humboldt Bay Harbor, Recreation and Conservation District (707) 443–0801.

SUPPLEMENTARY INFORMATION: None.

Gregory D. Showalter,

Army Federal Register Liaison Officer.

[FR Doc. 97–21967 Filed 8–18–97; 8:45 am]

BILLING CODE 3710–19–M

DEPARTMENT OF DEFENSE

Department of the Navy

Community Redevelopment Authority and Available Surplus Buildings and Land at Military Installations Designed for Closure: Naval Shipyard, Long Beach, California

SUMMARY: This notice provides information regarding the local redevelopment authority that has been established to plan the reuse of the Naval Shipyard, Long Beach, California and the surplus property that is located at the base closure site.

SUPPLEMENTARY INFORMATION: In 1995, the Naval Shipyard, Long Beach, California, was designated for closure pursuant to the Defense Base Closure and Realignment Act of 1990, as amended. Pursuant to this designation, on September 28, 1995, land and facilities at this installation were declared excess to the Department of the Navy and available for use by other Department of Defense components and other federal agencies. It is not anticipated that any land or facilities will be made available to such components or other federal agencies.

Notice of Surplus Property

Pursuant to paragraph (7)(B) of section 2905(b) of the Defense Base Closure and Realignment Act of 1990, as amended, the following information regarding the redevelopment authority and the surplus property at the Naval Shipyard, Long Beach, California is published in the **Federal Register**:

Redevelopment Authority

The redevelopment authority for the Naval Shipyard, Long Beach, California, for purposes of implementing the provisions of the Defense Base Closure and Realignment Act of 1990, as amended, is the City of Long Beach. The City has established a local community advisory committee to provide recommendations to the City concerning the redevelopment of the shipyard. This committee is known as the Shipyard Reuse Advisory Committee. Day-to-day operations of the local redevelopment authority are handled by Mr. Gerald Miller, 200 Pine Avenue, Suite 400, Long Beach, CA 90802, telephone (310) 570–3853, facsimile (310) 570–3897.

Surplus Property Descriptions

The following is a listing of the land and facilities at the Naval Shipyard, Long Beach, California, that are surplus to the needs of the federal government.

Land

Approximately 170 acres in the City of Long Beach, Los Angeles County, California. This property will be available upon the closure of the shipyard, anticipated for September 1997.

Buildings

The following is a summary of the facilities located on the above described land which will also be available in September 1997. Pier E is subject to reversion and is not included in this notice.

—Automotive maintenance center (7 structures); approx. 41,271 square feet;—Filling Station with 9 outlets;—Cafeteria (2 structures); approx. 25,874 square feet;—Waterfront operations (2 structures); approx. 6,668 square feet;—Credit union; approx. 14,356 square feet (may be disposed of in accordance with P.L. 102–190, section 2825),—Training buildings (5 structures); approx. 46,869 square feet;—Computer programming operations center (2 structures); approx. 2,300 square feet;—Dry docks (3 structures); approx. 305,100 square feet;—Miscellaneous facilities (16 structures); gate shacks, public toilets and locker rooms; approx. 22,890 square feet;—Office/administration buildings (16 structures); approx. 185,340 square feet;—Operational, electronics and miscellaneous maintenance facilities (13 structures); approx. 94,059 square feet;—Paved areas; roads, parking areas, sidewalks, etc., approx. 565,004 square yards;—Ship maintenance shops (33 structures); facilities for shipfitting, sheet metal, welding, quality assurance, inside machining, weapons, marine machine, boilermaking, electrical, pipefitting, woodworking, electronics, paint and blasting, rigging, patternmaking, temporary services and ship services support; approx. 1,235,922 square feet;—Small craft berthing pier; approx. 720 linear feet of berthing;—Utility facilities; telephone, electrical systems, steam, fire protection water (salt water), potable water, sanitary sewer, storm drainage system, fire alarms, irrigation lines and gas lines;—Warehouse/storage facilities (27 structures); approx. 918,008 square feet. — Community facility (1 structure); approx. 40,626 square feet.

Redevelopment Planning

Pursuant to Section 2905(b) (7) (F) of the Defense Base Closure and Realignment Act of 1990, as amended, the local redevelopment authority has prepared a redevelopment plan considering the interests of state and local governments, representatives of the homeless, and other interested parties located in the vicinity of the Naval Shipyard, Long Beach, California, and has submitted the plan to the Secretary of Housing and Urban Development, pursuant to Section 2905(b) (7) (G).

FOR FURTHER INFORMATION CONTACT: John J. Kane, Director, Department of the Navy, Real Estate Operations, Naval Facilities Engineering Command, 200 Stovall Street, Alexandria, VA 22332–2300, telephone (703) 428–0436, or Mr. Jason Ashman, Deputy Base Closure Manager, Southwest Division, Naval Facilities Engineering Command, 1420 Kettner Blvd., Suite 501, San Diego, CA 92101–2404, telephone (619) 532–2004, extension 21. For more detailed information regarding particular properties identified in this Notice (i.e., acreage, floor plans, sanitary facilities, exact street address, building numbers, etc.), contact Lieutenant Commander Tony DiDominico, Ron Johnson, or Gerald Strauss, Naval Shipyard, Long Beach, CA, telephone (562) 980–2720.

Dated: August 7, 1997.

M.D. Sutton,

LCDR, JAGC, USN, Federal Register Liaison Officer.

[FR Doc. 97–21851 Filed 8–18–97; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF DEFENSE

Department of the Navy

Withdrawal of Surplus Buildings and Land at Military Installations Designated for Closure: Naval Air Station, Barbers Point, Oahu, Hawaii

SUMMARY: This notice provides information on withdrawal of surplus property at the Naval Air Station, Barbers Point, Oahu, Hawaii.

SUPPLEMENTARY INFORMATION: In 1993, the Naval Air Station, Barbers Point was designated for closure pursuant to the Defense Base Closure and Realignment Act of 1990, Public Law 101–510, as amended. Pursuant to this designation, in October 1995, approximately 2,146.9 acres of land and related facilities at this installation were declared surplus to the federal government and available for use by (a) non-federal public agencies pursuant to various statutes which authorize conveyance of property for public projects, and (b) homeless provider groups pursuant to the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411), as amended. On June 17, 1997, a second determination was made to withdraw land and facilities previously reported as surplus that are now required by the federal government. Approximately 48 acres of land improved with 24 buildings has been requested for transfer by another federal agency and is no longer surplus. In addition, the total surplus acreage was recomputed.

Notice of Surplus Property

Pursuant to paragraph (7)(B) of Section 2905(b) of the Defense Base Closure and Realignment Act of 1990, as amended by the Base Closure Community Redevelopment and Homeless Assistance Act of 1994, the following information regarding the withdrawal of previously reported surplus property at the Naval Air Station, Barbers Point, Oahu, HI is published in the **Federal Register**:

Surplus Property Descriptions

The following is a listing of the additional land and facilities at the Naval Air Station, Barbers Point that are withdrawn from surplus by the federal government.

Land

Approximately 48 acres of improved and unimproved fee simple land at the Naval Air Station, Barbers Point, on the island of Oahu, State of Hawaii is withdrawn from surplus. The recomputed total amount of surplus land available in fee is 2,111.5 acres.

Buildings

The following is a summary of the facilities previously reported as surplus and are no longer available. Property numbers are available on request.

— Aircraft support facilities. Comments: 3 facilities includes apron, washrack, and aviation supply;—Ammunition storage facility. Comments: Includes approximately 110 square feet;—Barracks. Comments: Includes approximately 24,207 square feet;—Dining facilities. Comments: 2 facilities at approximately 7,094 square feet;—Electrical transformer station;—Hangar. Comments: Includes approximately 59,940 square feet;—Utility shed; —Recreational facilities; Comments: Includes racquetball court, tennis court, basketball court, sand court, and 2 pavilions;—Ground maintenance facilities. Comments: Includes 510 square feet;—Storage facilities. Comments: Includes approximately 10,162 square feet.

FOR FURTHER INFORMATION CONTACT: John J. Kane, Director, Department of the Navy, Real Estate Operations, Naval

Facilities Engineering Command, 200 Stovall Street, Alexandria, VA 22332–2300, telephone (703) 428–0436, or J. M. Kilian, Director, Real Estate Division, Pacific Division, Naval Facilities Engineering Command, Pearl Harbor, HI 96860–7300, telephone (808) 471–3217. For more detailed information regarding particular properties identified in this Notice (i.e. acreage, floor plan, sanitary facilities, exact street address, etc.), contact Mr. Dennis Yamamoto, Deputy Staff Civil Engineer, Naval Air Station, Barbers Point, HI 96862–5050, telephone (808) 684–8201.

Dated: August 7, 1997.

M. D. Sutton,

LCDR, JAGC, USN Federal Register Liaison Officer.

[FR Doc. 97–21852 Filed 8–18–97; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF DEFENSE

Department of the Navy

Community Redevelopment Authority and Available Surplus Buildings and Land at Military Installations Designated for Closure: Water Tank Parcel and Site 6B, Naval Shipyard, Long Beach, Los Angeles, California

SUMMARY: This Notice provides information regarding (a) the local redevelopment authority that has been established to plan the reuse of the water tank parcel and Site 6B, Los Angeles, California, and (b) the surplus property that is located at that base closure site.

SUPPLEMENTARY INFORMATION: In 1995, the Long Beach Naval Shipyard was designated for closure pursuant to the Defense Base Closure and Realignment Act of 1990, Public Law 101–510, as amended. The water tank parcel and Site 6B, Los Angeles, CA, as a part of this installation, are hereby declared surplus to the federal government and available for use by (a) non-federal public agencies pursuant to various statutes which authorize conveyance of property for public projects, and (b) homeless assistance providers pursuant to the Base Closure Community Redevelopment and Homeless Assistance Act of 1994. This notice is being published pursuant to the requirements of Section 2905(b)(7)(B) of the Defense Base Closure and Realignment Act of 1990, as amended. Information regarding the redevelopment authority for and the surplus property at the water tank parcel and Site 6B, Los Angeles, CA is as follows:

Redevelopment Authority

The redevelopment authority for the water tank parcel and Site 6B, Los Angeles, CA, for purposes of implementing the provisions of the Defense Base Closure and Realignment Act of 1990, as amended, is the City of Los Angeles. Day-to-day operations of the local redevelopment authority are handled by Ms. Merryl Edelstein. The address is Los Angeles City Planning Department, Community Planning Bureau, 221 S. Figueroa Street, Room 310, Los Angeles, CA 90012, telephone (213) 485–4170, facsimile (213) 485–8005.

Surplus Property Descriptions

The following is a listing of the land and facilities at the water tank parcel and Site 6B, Los Angeles, CA, that are hereby declared surplus to the federal government.

Land—Water Tank Parcel

Approximately 0.4 acres of improved and unimproved land along Seaside Boulevard near Navy Way, in the southeast corner of the City of Los Angeles, Los Angeles County.

Buildings

The following is a summary of the facilities located on the above described land.

— Fresh water tank and pumping station (2 structures); a 500,000 gallon tank and a 4,500 gallons per minute pump station.

Land—Site 6B

Approximately 23 acres of improved and unimproved land along Seaside Boulevard near Navy Way, in the southeast corner of the City of Los Angeles, Los Angeles County. This property is encumbered by a 50-year lease to the City of Los Angeles and will not be available for other use until September, 2029. The Navy proposes to dispose of the underlying fee only.

Buildings

—There are no buildings on this property.

Expressions of Interest

Pursuant to Section 2905(b)(7)(C) of the Defense Base Closure and Realignment Act of 1990, as amended, state and local governments, representatives of the homeless, and other interested parties located in the vicinity of the water tank parcel and Site 6B, Los Angeles, California, shall submit to the said redevelopment authority a notice of interest in the above described surplus property, or any portion thereof. A notice of interest shall describe the need of the government, representative, or party concerned for the desired surplus property. Pursuant to Section 2905(b)(7)(C) and (D), the redevelopment authority shall assist interested parties in evaluating the surplus property for the intended use and publish in a newspaper of general circulation the date by which notices of interest must be submitted. In accordance with Section 2905(b)(7)(D) of said Base Closure Community Redevelopment and Homeless Assistance Act of 1994, the submission date established by the redevelopment authority shall be no earlier than three months and not later than six months after the date of recognition of the redevelopment agency by the Department of Defense.

FOR FURTHER INFORMATION CONTACT: John J. Kane, Director, Department of the Navy, Real Estate Operations, Naval Facilities Engineering Command, 200 Stovall Street, Alexandria, VA 22332–2300, telephone (703) 428–0436, or Ms. Kimberly Ostrowski, Deputy Base Closure Manager, Southwest Division, Naval Facilities Engineering Command, 1420 Kettner Blvd., Suite 501, San Diego, CA 92101–2404, telephone (619) 532–2004, extension 15. For more detailed information regarding particular properties identified in this Notice (i.e., acreage, floor plans, sanitary facilities, exact street address, building numbers, etc.), contact LCDR Tony DiDomenico, Caretaker Site Officer, Naval Shipyard, Long Beach, California, telephone (562) 980–2720.

Dated: August 7, 1997.

M.D. Sutton,

LCDR, JAGC, USN, Federal Register Liaison Officer.

[FR Doc. 97–21853 Filed 8–18–97; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF EDUCATION

[CFDA No. 84.184F; 84.184G; 84.184H]

Office of Elementary and Secondary Education—Safe and Drug-Free Schools Program

AGENCY: Department of Education.

ACTION: Notice extending the application deadline date for the Safe and Drug-Free Schools and Communities Act National Programs Grants to Institutions of Higher Education and Federal Activities Grants Programs for fiscal year 1997.

SUMMARY: The Secretary extends the deadline date for the submission of applications for the Safe and Drug-Free Schools and Communities Act

(SDFSCA) National Programs Grants to Institutions of Higher Education and Federal Activities Grants Programs from August 1, 1997, for applicants that can show a shipping label, invoice, or receipt for overnight delivery contracted to arrive by August 1, 1997. This action is taken due to unexpected or unavoidable delays in receipt of applications sent via certain overnight delivery services. Competitions affected by this change of application deadline date are CFDA No. 84.184F, Replication of Effective Programs or Strategies to Prevent Youth Drug Use, Violent Behavior, or both; CFDA No. 84.184G, State and Local Educational Agency Drug Use and Violence Prevention Data Collection; and CFDA No. 84.184H, Drug and Violence Prevention Programs in Higher Education: Validation Competition.

DATES: The application deadline date is extended to August 19, 1997, for applicants that can show a shipping label, invoice, or receipt for overnight delivery contracted to arrive by August 1, 1997.

FOR FURTHER INFORMATION CONTACT: Safe and Drug-Free Schools Program, U.S. Department of Education, 600 Independence Ave., SW, Room 604 Portals, Washington, DC 20202–6244. Telephone: (202) 260–3954. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m. Eastern time, Monday through Friday.

Authority: 20 U.S.C. 7131–7132.

Dated: August 14, 1997.

Gerald N. Tirozzi,

Assistant Secretary for Elementary and Secondary Education.

[FR Doc. 97–21968 Filed 8–18–97; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Secretary of Energy Advisory Board

Notice of Open Meeting

AGENCY: Department of Energy.

SUMMARY: Consistent with the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770), notice is hereby given of the following advisory committee meeting:

NAME: Secretary of Energy Advisory Board.

DATES AND TIMES: Wednesday, September 3, 1997, 9:00 AM–3:30 PM.

ADDRESSES: The Ritz-Carlton Hotel—Pentagon City, Diplomat Room, 1250 South Hayes Street, Arlington, Virginia 22202.

FOR FURTHER INFORMATION CONTACT: Richard C. Burrow, Secretary of Energy Advisory Board (AB–1), U.S. Department of Energy, 1000 Independence Avenue, SW, Washington, D.C. 20585, (202) 586–1709 or (202) 586–6279 (fax).

SUPPLEMENTARY INFORMATION:

Purpose of the Board

The Secretary of Energy Advisory Board (Board) reports directly to the Secretary of Energy and is chartered under the Federal Advisory Committee Act, and section 624(b) of the Department of Energy Organization Act (Pub. L. 95–91). The Board provides the Secretary of Energy with essential independent advice and recommendations on issues of national importance. The Board and its Task Force Subcommittees provide timely, balanced, and authoritative advice to the Secretary on the Department's management reforms, research, development, and technology activities, energy and national security responsibilities, environmental cleanup activities, and economic issues relating to energy.

Tentative Agenda

Wednesday, September 3, 1997

9:00–9:10 AM Welcome & Opening Remarks
9:10–9:25 AM Secretary of Energy Remarks & Recognitions

Task Force Reports & Discussion

9:25–10:00 AM Laboratory Operations Board External Members Report
10:00–10:35 AM Interim Report of the Openness Advisory Panel
10:35–10:50 AM Break
10:50–11:25 AM Interim Report of the Electric System Reliability Task Force
11:25–11:30 PM Summary of Task Force Reports
11:30–12:00 PM Departmental Response
12:00–1:15 PM Lunch

Discussion of SEAB & Task Force Plans

1:15–2:30 PM Discussion of Next Steps and Task Forces
2:30–2:45 PM Break
2:45–3:15 PM Public Comment Period
3:15–3:30 PM Closing Remarks

This tentative agenda is subject to change. The final agenda will be available at the meeting.

Public Participation: The Chairman of the Secretary of Energy Advisory Board is empowered to conduct the meeting in a way that will, in the Chairman's judgment, facilitate the orderly conduct of business. During its meeting in Arlington, Virginia, the Board welcomes public comment. Members of the public will be heard in the order in which they sign up at the beginning of the meeting. The Board will make every effort to hear the views of all interested parties. Written comments may be submitted to Skila Harris, Executive Director, Secretary of Energy Advisory Board, AB–1, US Department of Energy, 1000 Independence Avenue, SW, Washington, D.C. 20585.

Minutes: Minutes and a transcript of the meeting will be available for public review and copying approximately 30 days following the meeting at the Freedom of Information Public Reading Room, 1E–190 Forrestal Building, 1000 Independence Avenue, SW, Washington, D.C., between 9:00 AM and 4:00 PM, Monday through Friday except Federal holidays. Information on the Secretary of Energy Advisory Board may also be found at the Board's web site, located at http://vm1.hqadmin.doe.gov:80/seab/.

Issued at Washington, D.C., on August 14, 1997.

Rachel M. Samuel,

Deputy Advisory Committee Management Officer.

[FR Doc. 97–21898 Filed 8–18–97; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER97–3857–000]

Arizona Public Service Company; Notice of Filing

August 13, 1997.

Take notice that on July 24, 1997, Arizona Public Service Company (APS) tendered for filing a transaction report for the second quarter of 1997 under APS FERC Electric Tariff, Original Volume No. 3.

A copy of this filing has been served the Arizona Corporation Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street N.E., Washington, 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 would be filed on or before August 26, 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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 97–21944 Filed 8–18–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER97–3848–000]

Arizona Public Service Company; Notice of Filing

August 13, 1997.

Take notice that on July 24, 1997, Arizona Public Service Company (APS) tendered for filing a Service Agreement under APS' FERC Electric Tariff, Original Volume No. 3 with the Valley Electric Association.

A copy of this filing has been served on Valley Electric Association and the Arizona Corporation Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests would be filed on or before August 26, 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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 97–21953 Filed 8–18–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER97–3843–000]

Central Illinois Light Company; Notice of Filing

August 13, 1997.

Take notice that Central Illinois Light Company (CILCO), 300 Liberty Street, Peoria, Illinois 61602, on July 24, 1997, tendered for filing with the Commission a substitute Index of Point-To-Point Transmission Service Customers under its Open Access Transmission Tariff and service agreements for four new customers.

CILCO requested an effective date of June 25, 1997.

Copies of the filing were served on all affected customers and the Illinois Commerce Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before August 26, 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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 97–21933 Filed 8–18–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER97–3842–000]

Cinergy Services, Inc.; Notice of Filing

August 13, 1997.

Take notice that on July 24, 1997, Cinergy Services, Inc. (Cinergy) tendered for filing a service agreement under Cinergy's Open Access Transmission Service Tariff (the Tariff) entered into between Cinergy and Williams Energy Services Company (WESC).

Cinergy and WESC are requesting an effective date of July 1, 1997.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before August 26, 1997. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 97–21934 Filed 8–18–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER97–3841–000]

Cinergy Services, Inc., Notice of Filing

August 13, 1997.

Take notice that on July 24, 1997, Cinergy Services, Inc. (Cinergy), tendered for filing a service agreement under Cinergy's Open Access Transmission Service Tariff (the Tariff) entered into between Cinergy and East Kentucky Power Cooperative, Inc. (EK).

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before August 26, 1997. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 97–21935 Filed 8–18–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER97–3853–000]

Cleveland Electric Illuminating Company and The Toledo Edison Company; Notice of Filing

August 13, 1997.

Take notice that on July 24, 1997, the Centerior Service Company as Agent for The Cleveland Electric Illuminating Company and The Toledo Edison Company filed Service Agreements to provide Non-Firm Point-to-Point Transmission Service for CMS Marketing, Service & Trading, the Transmission Customer. Services are being provided under the Centerior Open Access Transmission Tariff submitted for filing by the Federal Energy Regulatory Commission in Docket No. OA96–204–000. The proposed effective date under the Service Agreement is June 25, 1997.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before August 26, 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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 97–21948 Filed 8–18–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER97–3852–000]

Cleveland Electric Illuminating Company and The Toledo Edison Company; Notice of Filing

August 13, 1997.

Take notice that on July 24, 1997, the Centerior Service Company as Agent for The Cleveland Electric Illuminating Company and The Toledo Edison Company filed Service Agreements to provide Non-Firm Point-to-Point Transmission Service for the following Transmission Customers: Aquila Power Corporation, Commonwealth Edison Company, Duke Energy Trading and Marketing, L.L.C., Electric Clearinghouse, Incorporated, Federal Energy Sales, Minnesota Power & Light Company, Morgan Stanley Capital Group, Tennessee Power Company, Wabash Valley Power Association, and Wisconsin Electric Power Corporation. Services are being provided under the Centerior Open Access Transmission Tariff submitted for filing by the Federal Energy Regulatory Commission in Docket No. OA96–204–000. The proposed effective date under the Service Agreements is July 1, 1997.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before August 26, 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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 97–21949 Filed 8–18–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER97–3845–000]

Dayton Power & Light Company; Notice of Filing

August 13, 1997.

Take notice that on July 24, 1997, the Dayton Power and Light Company (Dayton) submitted service agreements establishing The Cleveland Electric Illuminating Company, ERI Service, Southern Energy Trading and Marketing, Inc., The Toledo Edison Company as a customer under the terms of Dayton's Market-Based Sales Tariff.

Dayton requests an effective date of one day subsequent to this filing for service agreements. Accordingly, Dayton requests waiver of the Commission's notice requirements.

Copies of this filing were served upon The Cleveland Electric Illuminating Company, ERI Services, Southern Energy Trading and Marketing, Inc., The Toledo Edison Company and the Public Utilities Commission of Ohio.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before August 26, 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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 97–21931 Filed 8–18–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER97–4084–000]

Denver City Energy Associates, L.P.; Notice of Filing

August 13, 1997.

Take notice that Denver City Energy Associates, L.P. (DCE) on August 4, 1997, tendered for filing an initial rate schedule and request for certain waivers and authorizations pursuant to Section 35.12 of the Federal Energy Regulatory Commission's (the Commission) Regulations. The initial rate schedule provides for the sale of the output of DCE's ownership share of the Mustang Station, a generation unit to be located near Denver City, Texas to Golden Spread Electric Cooperative, Inc. (Golden Spread) and to other third parties, if necessary. DCE requests the Commission to set an effective date for the rate schedule on the date which is sixty (60) days from the date of this filing or the date the Commission issues an order accepting the rate schedule, whichever occurs first.

Copies of the filing were served upon DCE's jurisdictional customer, Golden Electric Cooperative, Inc., and its counsel. A copy of the filing was also served upon the Public Utility Commission of Texas.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before August 22, 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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 97–21942 Filed 8–18–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. ER97–3858–000 and ER96–2921–004]

Duke Energy Trading and Marketing, L.L.C.; Notice of Filing

August 13, 1997.

Take notice that on July 24, 1997, Duke Energy Trading and Marketing, L.L.C. (Duke Energy Trading) tendered for filing a Notification of a Change in Status, a Notice of Succession in accordance with 18 CFR 35.16 and 131.51), a revised Rate Schedule providing for sales at market-based rates of electric energy and capacity by Duke Energy Trading, and a revised Code of Conduct relating to Duke Energy Trading's activities as a marketer of electric energy and capacity at wholesale in interstate commerce. Duke Energy Trading states that these filings are intended to reflect the previously-approved combination of the marketing affiliates of Duke Energy Corporation, including PanEnergy Trading and Market Services, L.L.C. (PanEnergy Trading), and the change in name of PanEnergy Trading to Duke Energy Trading.

Any person desiring to be heard or to protest such filings should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before August 26, 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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 97–21943 Filed 8–18–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER97–3840–000]

The Empire District Electric Company; Notice of Filing

August 13, 1997.

Take notice that on July 24, 1997, The Empire District Electric Company (EDE) tendered for filing a service agreement between EDE and Rainbow Energy Marketing Corporation providing non-firm point-to-point transmission service pursuant to the Open Access Transmission Tariff (Schedule OATS) of EDE.

EDE states that a copy of this filing has been served by mail upon Rainbow Energy Marketing Corporation, Kirkwood Office Tower, 919 South 7th Street, Suite 405, Bismarck, ND 58504.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before August 26, 1997. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 97–21936 Filed 8–18–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–346–001]

Equitrans, L.P.; Notice of Proposed Changes in FERC Gas Tariff

August 13, 1997.

Take notice that on August 11, 1997, Equitrans, L.P. (Equitrans) tendered for filing as part of its FERC Gas Tariff revised tariff sheets in compliance with the Commission's Order Accepting and Suspending Tariff Sheets and Establishing Hearing issued on July 31, 1997 (the July 31 Order). Equitrans proposes primary and alternate tariff sheets both bearing an effective date of August 1, 1997.

Equitrans states that the primary sheets reflect the recalculation of rates based on the return on equity level mandated in the Commission's July 31 Order. Equitrans states that the alternate sheets reflect the recalculation of the rates based on the return on equity proposed in Equitrans' April 30, 1997 rate filing. Both the primary and alternate rate sheets reflect the elimination of Equitrans' proposed refunctionalization of facilities in accordance with the July 31 Order. Equitrans also filed a protest to the requirement that the primary tariff sheets be placed into effect.

Equitrans requests a waiver of Section 154.206 of the Commission's Regulations and any other regulations necessary to permit the rates proposed herein to take effect on August 1, 1997.

Equitrans states that copies of this rate filing were served on Equitrans' jurisdictional customers and interested state commissions.

Any person desiring to protest the filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20046, in accordance with Section 385.211 of the Commission's Rules of Practice and Procedure. All such protests should be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining appropriate action, 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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 97–21939 Filed 8–18–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–442–000]

Florida Gas Transmission Company; Notice of Proposed Changes to FERC Gas Tariff

August 13, 1997.

Take notice that on August 7, 1997, Florida Gas Transmission Company (FGT) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, the following tariff sheet to become effective April 1, 1997:

Sixth Revised Sheet No. 126

FGT states that in the instant filing, Sixth Revised Sheet No. 126 is being filed to incorporate tariff changes which have been previously accepted by the Commission but which, because of an inadvertent failure by FGT to make the conforming changes in a subsequent filing, are not reflected in the currently effective tariff sheet.

FGT states that on August 30, 1996, in Docket No. RP96–366–000, FGT filed a Section 4 rate case (Rate Case Filing) in which it submitted revised tariff sheets including Third Revised Sheet No. 126 superseding Substitute Second Revised Sheet No. 126. By order issued September 30, 1996 the Commission accepted the revised tariff sheets for filing and suspended them to become effective March 1, 1997. The order also established a technical conference to address certain of the tariff changes.

FGT states that on October 1, 1996, FGT submitted pro forma tariff changes in Docket No. RP97–21–000 to implement the business standards issued by the Gas Industry Standards Board (GISB) in compliance with Order No. 587 issued July 17, 1996 in Docket No. RM96–1–000. Among the pro forma tariff sheets submitted was Fourth Revised Sheet No. 126 which was redlined from Third Revised Sheet No. 126 included in the Rate Case Filing.

FGT states that subsequently, on December 10, 1996, FGT filed a Stipulation and Agreement of Settlement (December 10 Settlement) in Docket No. RP96–366 in resolution of certain operating issues addressed in the Rate Case Filing which were set for a technical conference by the Commission. The December 10 Settlement included the withdrawal of certain provisions proposed in the Rate Case Filing as well as modifications to other provisions and the refiling of affected tariff sheets. Substitute Third Revised Sheet No. 126 proposed to become effective March 1, 1997, was included among the tariff sheets filed with the December 10 Settlement, along with Fourth Revised Sheet No. 126 which was proposed to become effective April 1, 1997. The December 10 Settlement was approved by Commission order dated January 16, 1997.

FGT states that on February 28, 1997, in Docket No. RP97–21–002, FGT filed revised tariff sheets to implement the GISB standards which were previously filed and approved by the Commission on a pro forma basis. The tariff sheets were accepted to become effective April 1, 1997 by Letter Order dated March 21, 1997. Among the tariff sheets accepted was Fifth Revised Sheet No. 126. However, rather than incorporate the GISB changes into Fourth Revised Sheet No. 126, which was filed and approved in the December 10, Settlement, the changes were inadvertently made to Third Revised Sheet No. 126 included in the Rate Case Filing but subsequently withdrawn in the December 10 Settlement.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C., 20426, in accordance with Sections 385.211 and 385.214 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 97–21938 Filed 8–18–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP97–666–000]

Jupiter Energy Corporation; Notice of Changes in Transportation Agreement

August 13, 1997.

Take notice that on July 23, 1971, Jupiter Energy Corporation (Jupiter), 2215 Sanders Road, Suite 385, Northbrook, Illinois 60062, submitted for filing, pursuant to Part 154 of the Commission's Regulations, an Amendment to Agreements between Jupiter and Union Gas Company of California (Unocal) dated July 9, 1997, to be effective April 1, 1997.

Jupiter states that the purpose of the amendment is to allow for Jupiter to transport all gas tendered by Unocal, which is the sole shipper on the Jupiter system. Jupiter states further that the amendment was filed to provide notification, so as to ensure compliance with prior commission orders.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington D.C. 20426 in accordance with Sections 385.214 and 385.211. All such motions or protests must be filed on or before September 4, 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 in the Public Reference Room.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 97–21929 Filed 8–18–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER97–3847–000]

MidAmerican Energy Company; Notice of Filing

August 13, 1997.

Take notice that on July 24, 1997, MidAmerican Energy Company (MidAmerican), 666 Grand Avenue, Des Moines, Iowa 50309 filed with the Commission a Non-Firm Transmission Service Agreement with NESI Power Marketing, Inc. (NESI), dated July 15, 1997 entered into pursuant to MidAmerican's Open Access Transmission Tariff.

MidAmerican requests an effective date of July 15, 1997, for the Agreement and accordingly seeks a waiver of the Commission's notice requirement. MidAmerican has served a copy of the filing on NESI, the Iowa Utilities Board, the Illinois Commerce Commission and the South Dakota Public Utilities Commission.

Any person desiring to be heard or to protest said filing should file a motion

to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before August 26, 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 the filing are on file with the Commission and are available for public inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 97–21954 Filed 8–18–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. ER97–3837–000]

Minnesota Power & Light Company; Notice of Filing

August 13, 1997.

Take notice that on July 21, 1997, Minnesota Power & Light Company (MP) tendered for filing a report of short-term transactions that occurred during the quarter ending June 30, 1997, under MP's WCS–2 Tariff which was accepted for filing by the Commission in Docket No. ER96–1823–000.

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 or 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 August 26, 1997. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 97–21925 Filed 8–18–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP97–682–000]

Nautilus Pipeline Company, L.L.C.; Notice of Request Under Blanket Authorization

August 13, 1997.

Take notice that on August 5, 1997, Nautilus Pipeline Company, L.L.C. (Nautilus), 200 North Dairy Ashford, Houston, Texas 77079, filed in Docket No. CP97–682–000 a request pursuant to Sections 157.205 and 157.212 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205 and 157.212) for authorization to establish additional delivery points in St. Mary Parish, Louisiana, under Nautilus' blanket certificate issued in Docket No. CP96–792–000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

Specifically, Nautilus proposes to establish additional delivery points to eight interstate and intrastate natural gas pipelines from the Nautilus pipeline near the outlet of the Exxon Company U.S.A., Inc.'s Garden City Gas Processing Plant in St. Mary Parish, Louisiana. The eight pipelines for which new delivery points are proposed are:

(1) Koch Gateway Pipeline Company
(2) Louisiana Intrastate Gas Company
(3) Arcadian Pipeline System
(4) Cypress Gas Pipeline Company
(5) Texas Gas Pipeline Company
(6) ANR Pipeline Company
(7) Columbia Gulf Transmission Company
(8) Southern Natural Gas Company

Nautilus states that the new delivery points would have no impact on its authorized rates, and that between 150 to 450 MMcf/day of natural gas can be delivered to the eight pipelines at the new delivery points.

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

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 97–21928 Filed 8–18–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER97–3844–000]

Northeast Utilities Service Company; Notice of Filing

August 13, 1997.

Take notice that Northeast Utilities Service Company (NUSCO), on July 24, 1997, tendered for filing, a Service Agreement with North American Energy Conservation, Inc., under the NU System Companies' Sale for Resale, Tariff No. 7.

NUSCO states that a copy of this filing has been mailed to North American Energy Conservation, Inc.

NUSCO requests that the Service Agreement become effective June 27, 1997.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before August 26, 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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 97–21932 Filed 8–18–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP96–302–007]

Northern Natural Gas Company; Notice of Compliance Filing

August 13, 1997.

Take notice that on August 7, 1997, Northern Natural Gas Company (Northern), tendered for filing to become part of Northern's FERC Gas Tariff, Fifth Revised Volume No. 1, the following tariff sheet:

3rd Substitute 3rd Revised Sheet No. 291

Northern states that the above sheet addresses Northern's penalty provisions and is being filed in compliance with the Commission's Letter Order issued July 23, 1997 in Docket No. RP96–302–006.

Northern states that copies of the filing were served upon the company's customers and interested State Commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C., 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with Section 154.210 of the Commission's Regulations. All protests will be considered by the Commission in determining the appropriate action to be taken in this proceeding, but will not serve to make protestant a party to the proceeding. Copies of this filing are on file with the Commission and are available for inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 97–21941 Filed 8–18–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER97–3854–000]

NRG Generating (Parlin) Cogeneration Inc.; Notice of Filing

August 13, 1997.

On July 24, 1997, NRG Generating (Parlin) Cogeneration Inc. (NRGG) submitted for filing the Agreement for Delivery of Electric Energy at an Additional Delivery Point between NRGG and Jersey Central Power & Light Company, a New Jersey corporation doing business as GPU Energy. NRGG requests waiver of the 60 day prior notice requirement.

A copy of the filing has been mailed to GPU Energy.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions and protests should be filed on or before August 26, 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 persons wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 97–21947 Filed 8–18–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER97–3849–000]

Ohio Edison Company, Pennsylvania Power Company; Notice of Filing

August 13, 1997.

Take notice that on July 24, 1997, Ohio Edison Company tendered for filing on behalf of itself and Pennsylvania Power Company, Service Agreements with Constellation Power Source and Allegheny Power Company under Ohio Edison's Power Sales Tariff. This filing is made pursuant to Section 205 of the Federal Power Act.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before August 26, 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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 97–21952 Filed 8–16–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–182–007]

South Georgia Natural Gas Company; Notice of Proposed Changes To FERC Gas Tariff

August 13, 1997.

Take notice that on August 8, 1997, South Georgia Natural Gas Company (South Georgia) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following revised Tariff sheet:

Second Substitute Eighth Revised Sheet No. 5

South Georgia states that the tariff sheet is being filed in compliance with the Commission's July 22, 1997 Order in this docket, to become effective June 1, 1997.

On June 20, 1997, South Georgia filed in this proceeding its firm rate sheet which reflected the calculation set forth in GISB Standard 5.3.22 to determine maximum daily volumetric capacity release rates for firm service. On July 22, 1997, the Commission issued an order in this docket in response to South Georgia's compliance filing that directed South Georgia to use an annual rate period and four decimal places when calculating such rates.

Accordingly, South Georgia submitted the revised Tariff sheet set forth above.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Rules of Practice and Procedures. All such protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 97–21940 Filed 8–18–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER97–3855–000]

Southern Company Services, Inc.; Notice of Filing

August 13, 1997.

Take notice that on July 24, 1997, Southern Company Services, Inc. (SCS), acting on behalf of Alabama Power Company, Georgia Power Company, Gulf Power Company, Mississippi Power Company, and Savannah Electric and Power Company (collectively referred to as Southern Companies) filed six (6) service agreements for firm point-to-point transmission service under Part II of the Open Access Transmission Tariff of Southern Companies. Four (4) of those agreements were between SCS, as agent for Southern Companies, and Aquila Power Corporation. Two (2) of those agreements for firm transmission service were between SCS, as agent for Southern Companies, and (i) Vitol Gas & Electric LLC and (ii) Federal Energy Sales, Inc.

Any person desiring to be heard or to protest such 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 and protests should be filed on or before August 26, 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 persons wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 97–21946 Filed 8–18–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP97–687–000]

Tennessee Gas Pipeline Company; Notice of Request Under Blanket Authorization

August 13, 1997.

Take notice that on August 7, 1997, Tennessee Gas Pipeline Company (Tennessee), P.O. Box 2511, Houston, Texas 77252, filed in Docket No. CP97–687–000 a request pursuant to Sections 157.205 and 157.212 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205 and 157.212) for authorization to modify an existing delivery point on Tennessee's system, located in Tippah County, Mississippi, to provide continued natural gas transportation service for the City of Ripley, Mississippi (City of Ripley under Tennessee's blanket certificate issued in Docket No. CP82–413–000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

Tennessee proposes to modify an existing delivery point located at approximate M.P. 851–1+13.4 to eliminate operational concerns caused by the high velocity of flow at this location. To modify this delivery point Tennessee will sever and cap a common connection at the header which serves the cities of Ripley and Baldwin, Mississippi, remove approximately 8-feet of the 6-inch header pipe, install a 4-inch hot tap assembly and approximately 40-feet of 4-inch interconnect pipe to form a direct line of service to the City of Ripley. The City of Baldwin will continue to receive service through the existing 2-inch side valve. The City of Ripley will reimburse Tennessee for the approximate $25,000 cost.

Tennessee states that the total volumes delivered will not exceed total volumes authorized prior to this request, that this modification is not prohibited by its existing tariff, and that Tennessee has sufficient capacity to accomplish deliveries without detriment or disadvantage to its other customers.

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

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 97–21927 Filed 8–18–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. RP97–445–000 and RP92–132–001]

Tennessee Gas Pipeline Company; Notice of Proposed Changes in FERC Gas Tariff

August 13, 1997.

Take notice that on August 8, 1997, Tennessee Gas Pipeline Company (Tennessee) tendered for filing as part of its FERC Gas Tariff, Fifth Revised Volume No. 1, the following revised tariff sheets to become effective commencing September 1, 1992:

Eighth Revised Sheet No. 26
Original Sheet No. 26A.1

Tennessee states that the filing is being made in response to the July 16, 1997 order in this docket, finding that the rate which Tennessee was charging Flagg Energy Development Corporation (Flagg) was not just and reasonable. Tennessee states that the purpose of this filing is to put into effect base rates for Flagg which reflect an alternative rate methodology. Tennessee states that the proposed base rates reflect a rolled-in rate methodology, with Flagg to be charged the demand equivalent of the FT–A base rates for a haul from Zone 1 to Zone 6.

Any person desiring to be heard or to protest this filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Any person wishing to become a party must file a motion to intervene. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public

inspection in the Public Reference Room.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 97–21937 Filed 8–18–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER97–3846–000]

Virginia Electric and Power Company; Notice of Filing

August 13, 1997.

Take notice that on July 24, 1997, Virginia Electric and Power Company (Virginia Power) tendered for filing nine Service Agreements for Firm Point-to-Point Transmission Service with The Wholesale Power Group under the Open Access Transmission Tariff to Eligible Purchasers dated July 9, 1996. Under the tendered Service Agreement Virginia Power will provide firm point-to-point service to The Wholesale Power Group as agreed to by the parties under the rates, terms and conditions of the Open Access Transmission Tariff.

Copies of the filing were served upon the Virginia State Corporation Commission, and the North Carolina Utilities Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before August 26, 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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 97–21930 Filed 8–18–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER97–3815–000]

Virginia Electric and Power Company; Notice of Filing

August 13, 1997.

Take notice that on July 24, 1997, Virginia Electric and Power Company (Virginia Power) tendered for filing an unexecuted Service Agreement between Virginia Electric and Power Company and Amoco Energy Trading Corporation under the Power Sales Tariff to Eligible Purchasers dated May 27, 1994, as revised on December 31, 1996. Under the tendered Service Agreements Virginia Power agrees to provide services to Amoco Energy Trading Corporation under the rates, terms and conditions of the Power Sales Tariff as agreed by the parties pursuant to the terms of the applicable Service Schedules included in the Power Sales Tariff.

Copies of this filing were served upon the Virginia State Corporation Commission, and the North Carolina Utilities Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before August 26, 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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 97–21950 Filed 8–18–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER97–3850–000]

Virginia Electric and Power Company; Notice of Filing

August 13, 1997.

Take notice that on July 24, 1997, Virginia Electric and Power Company (Virginia Power) tendered for filing a Service Agreement between Virginia Electric and Power Company and The Energy Authority, Inc., under the Power Sales Tariff to Eligible Purchasers dated May 27, 1994, as revised on December 31, 1996. Under the tendered Service Agreements Virginia Power agrees to provide services to The Energy Authority, Inc. under the rates, terms and conditions of the Power Sales Tariff as agreed by the parties pursuant to the terms of the applicable Service Schedules included in the Power Sales Tariff.

Copies of the filing were served upon the Virginia State Corporation Commission, and the North Carolina Utilities Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before August 26, 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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 97–21951 Filed 8–18–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER97–3856–000]

The Washington Water Power Company; Notice of Filing

August 13, 1997.

Take notice that on July 24, 1997, The Washington Water Power Company

(WWP) tendered for filing with the Federal Energy Regulatory Commission executed Service Agreements for Non-Firm Point-To-Point Transmission Service under WWP's Open Access Transmission Tariff—FERC Electric Tariff, Volume No. 8. WWP requests the Service Agreements be given effective dates of July 1, 1997 and July 16, 1997.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before August 26, 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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 97–21945 Filed 8–18–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER97–3526–000]

Woodruff Energy; Notice of Issuance of Order

August 13, 1997.

Woodruff Energy (Woodruff) submitted for filing a rate schedule under which Woodruff will engage in wholesale electric power and energy transactions as a marketer. Woodruff also requested waiver of various Commission regulations. In particular, Woodruff requested that the Commission grant blanket approval under 18 CFR Part 34 of all future issuances of securities and assumptions of liability by Woodruff.

On August 11, 1997, pursuant to delegated authority, the Director, Division of Applications, Office of Electric Power Regulation, granted requests for blanket approval under Part 34, subject to the following:

Within thirty days of the date of the order, any person desiring to be heard or to protest the blanket approval of issuances of securities or assumptions of liability by Woodruff 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 385.214).

Absent a request for hearing within this period, Woodruff is authorized to issue securities and assume obligations or liabilities as a guarantor, indorser, surety, or otherwise in respect of any security of another person; provided that such issuance or assumption is for some lawful object within the corporate purposes of the applicant, and compatible with the public interest, and is reasonably necessary or appropriate for such purposes.

The Commission reserves the right to require a further showing that neither public nor private interests will be adversely affected by continued approval of Woodruff's issuances of securities or assumptions of liability.

Notice is hereby given that the deadline for filing motions to intervene or protest, as set forth above, is September 10, 1997. Copies of the full text of the order are available from the Commission's Public Reference Branch, 888 First Street, NE., Washington, DC 20426.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 97–21926 Filed 8–18–97; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5877–6]

Agency Information Collection Activities Renewal of Final Standards for Hazardous Air Pollutants From Wood Furniture Manufacturing Operations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that EPA is planning to submit the following proposed and/or continuing Information Collection Requests (ICRs) to the Office of Management and Budget (OMB). Before submitting the ICRs to OMB for review and approval, EPA is soliciting comments on specific aspects of the proposed information collections as described below.

DATES: Comments must be submitted on or before October 20, 1997.

ADDRESSES: Interested parties may obtain a copy of the currently effective ICR, without charge, by writing to the U.S. Environmental Protection Agency, 401 M Street, SW., Mail Code 2223A, Washington, D.C. 20460, Attention: Robert C. Marshall, Jr.

FOR FURTHER INFORMATION CONTACT: Robert C. Marshall, Jr., telephone (202) 564–7021, facsimile transmission (202) 564–0039 or e-mail address; marshall.robert@epamail.epa.gov.

SUPPLEMENTARY INFORMATION:

Affected entities: Entities potentially affected by this action are wood furniture manufacturing operations.

Title: 40 CFR parts 9 and 63, Final Standards for Hazardous Air Pollutant Emissions From Wood Furniture Manufacturing Operations; 40 CFR part 63, subpart JJ, §§ 63.800 through 63.819.

OMB Control Number: 2060–0324. Expiration Date: February 10, 1998.

Abstract: Information is supplied to the Agency under the applicable rule by owners and operators of new and existing wood furniture manufacturing operations that are major sources of hazardous air pollutants (HAPs). An estimated 750 of the 11,000 existing wood furniture manufacturers are major HAP emitters.

The respondents are required by 40 CFR part 63, subparts A (General Provisions) and JJ (source-specific provisions) to submit periodic reports and perform various recordkeeping activities to enable the Administrator to:

(i) Identify new, modified, reconstructed and existing sources subject to the standard, and

(ii) Ensure that the standards, which are based on maximum achievable control technology, are being met.

The reporting requirements of the standard include; (1) Submission of an application requesting approval for construction/reconstruction; (2) notification of start-up, construction and reconstruction; (3) notification of physical/operational changes; (4) site-specific performance and CMS performance evaluation test plans; (5) notification and reporting of performance and CMS tests/results; (6) a semi-annual compliance report; (7) work practice standards implementation plan reports; (8) notification to the Agency of rule applicability; and (9) notification and reporting of compliance status.

The recordkeeping requirements of the rule include: (1) Five-year maintenance and retention of records; (2) records of startups, shutdowns, and malfunctions; (3) records required as part of the work practice implementation plan; (4) continuous monitoring system (CMS) data records; (5) records of the types and quantities of

finishing, cleaning materials and adhesives used; (6) monthly weighted average emission calculations; (7) documentation of area source status, if claimed; and (8) records of performance and CMS tests.

Most recordkeeping and reporting provisions of the rule consist of emissions-related data and other information not considered confidential. However, the confidentiality of certain information obtained by the Agency is safeguarded according to Agency policies set forth in title 40, chapter I, part 2, subpart B—Confidentiality of Business Information (see 40 CFR part 2; 41 FR 36902, September 1, 1976: amended by 43 FR 3999, September 8, 1978; 43 FR 42251, September 20, 1987; 44 FR 17674, March 23, 1979).

An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for the Agency's regulations are listed in 40 CFR part 9.

The Agency would like to solicit comments to:

(i) 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;

(ii) 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;

(iii) Enhance the quality, utility, and clarity of the information to be collected; and

(iv) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Burden Statement: The previous ICR, approved for use through February 10, 1998, indicates an average annual person-hours burden, during the first three years of rule implementation, of 140,603 person-hours. However, it should be recognized that the burden costs the first year of operation under the rule are somewhat different than the burden costs to maintain compliance with the rule year-after-year. As explained below, the first year burden costs include certain initial, one-time-only, reporting costs plus the same recordkeeping burden costs as the second and third year. The second and third year reporting burden costs include recurring costs associated with subsequent years of operation (in addition to the same recordkeeping costs incurred the first year of operation). By adding the annual person-hour figures for the first three years of operation and dividing by three, an average annual person-hour figure of 140,603 is computed.

The initial reporting costs unique to the first year of operation include: (1) 8,835 technical person-hours, 442 management person-hours, and 884 clerical person-hours to report on the various initial performance and CMS tests required to determine the capture/control equipment efficiencies; (2) 45,000 technical person-hours, 2,250 management person-hours, and 4,500 clerical person-hours to develop a work practice implementation manual; (3) 1,532 technical person-hours, 77 management person-hours, and 153 clerical person-hours to notify the Agency of rule applicability to their manufacturing and to report on the initial performance/CMS test results; and (4) 640 technical person-hours, 36 management person-hours, and 64 clerical person-hours to develop startup, shutdown, malfunctions, and CMS quality control plans. The first year reporting costs also include: (1) 750 technical person-hours, 38 management person-hours, and 75 clerical person-hours to read instructions, and (2) 1,654 technical person-hours, 84 management person-hours, and 166 clerical person-hours to notify the Agency of any construction, reconstruction, physical, operational change, or actual startup, and to provide excess emissions reports as required.

Reporting burdens after the first year of operation include: (1) 152 technical person-hours, 8 management person-hours, 15 clerical person-hours for subsequent construction/reconstruction application and approval; (2) 750 technical person-hours, 38 management person-hours, and 75 clerical person-hours to read instructions; (3) 7,526 technical person-hours, 378 management person-hours, and 753 clerical person-hours to notify the Agency of any construction, reconstruction, physical, operational change, or actual startup, and to provide compliance status and excess emissions reports as required; and (4) 58,500 technical person-hours, 2,925 management person-hours, and 5,850 clerical person-hours to maintain lists of the types and quantities of volatile HAP materials used.

Recordkeeping burdens during the first year of operation and each year thereafter are the same and include the following: (1) An estimated 30,000 technical person-hours; 1,500 management person-hours and 3,000 clerical person-hours to develop recordkeeping systems; (2) a total of 4,272 technical person-hours; 213 management person-hours and 427 clerical person-hours to record startup, shutdown, malfunction information, document completion of operator training courses, compile records of CMS parameters and the types/quantities of volatile HAP materials used; (3) a total of 24,000 technical person-hours; 1,200 management person-hours and 2,400 clerical person-hours to train in-plant personnel to various surfacing coating and control equipment in compliance with the rule.

To compute the annual cost burden in dollars expended, the technical person-hours were multiplied by an hourly rate of $33, the management person-hours were multiplied by an hourly rate of $49 per hour, and the clerical person-hours multiplied by $15 per hour. Using these hourly rates an average annual dollar cost figure is $4,517,642.

As described above, the burden estimates include the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Dated: August 12, 1997.

Bruce Weddle,

Acting Director, Office of Compliance.

[FR Doc. 97–21916 Filed 8–18–97; 8:45 am]

BILLING CODE 6560–50–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5877–4]

Agency Information Collection Activities: Proposed Collection; Comment Request; Mid-Atlantic Integrated Assessment (MAIA) Inventory of Environmental Data Collection Programs and Sites

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that

EPA is planning to submit the following proposed Information Collection Request (ICR) to the Office of Management and Budget (OMB): Mid-Atlantic Integrated Assessment (MAIA) Inventory of Environmental Data Collection Programs and Sites (EPA ICR #1819.01). Before submitting the ICR to OMB for review and approval, EPA is soliciting comments on specific aspects of the proposed information collection as described below.

DATES: Comments must be submitted on or before October 20, 1997.

ADDRESSES: Comments must be submitted to Office of Research and Development, Community Based Assessment Team, 201 Defense Highway, Suite 200, Annapolis, MD 21401.

FOR FURTHER INFORMATION CONTACT: Patricia Gant, phone (410) 573–2744, facsimile (410) 573–2771, e-mail: gant.patricia@epamail.epa.gov

SUPPLEMENTARY INFORMATION:

Affected entities: Entities potentially affected by this action are those which conduct environmental monitoring programs within the states of Pennsylvania, Maryland, Virginia, West Virginia, Delaware, and the District of Columbia. Parts of states which have water bodies that drain into the Delaware River (New Jersey), Chesapeake Bay (New York), and Albemarle-Pamlico Sound (North Carolina) also are included in this information collection. The affected organizations include state and county governments, interstate groups such as river basin commissions and some nongovernmental groups.

Title: Mid-Atlantic Integrated Assessment (MAIA) Inventory of Environmental Data Collection Programs and Sites (EPA ICR #1819.01).

Abstract: The National Environmental Monitoring Initiative is a program designed to link large-scale survey information and remote sensing with ecological process research at a network of multi-resource, intensive monitoring areas. The goal, through this integration, is to provide a greater understanding of the factors that control ecosystem health at regional scales where resource management decisions are made. The development of this program is being led by the White House Office of Science and Technology Policy Committee on the Environment and Natural Resources (CENR).

The CENR has recommended within that a georeferenced data base containing metadata about ongoing monitoring programs be developed and made available on the Internet. This data base would become part of a framework for integrating the nation's environmental monitoring and research network. Potential resource manager and scientist users would then be able to easily determine the relevance of each program's data to their own application.

One such application supports the Community-Based Environmental Protection (CBEP) approach which is an EPA initiative which relies on science, information sharing, partnership-building, and socioeconomics. These factors are integrated in a geographic context to optimize benefits for human and ecological communities. Region III has joined with the Office of Research and Development (ORD) to form the Community-Based Assessment Team (CBAT) to support this initiative to integrate science, technology, and information management into a complete package of science-based tools that can be applied to environmental planning at the community level. To this end, the CBAT is spearheading an effort to produce an interactive, spatial inventory of environmental monitoring programs in the Mid-Atlantic region as an information resource on the extent of environmental data bases. This inventory also will support the CENR and the InterAgency Multi-Resolution Land Characteristics (MRLC) Consortium as a format and prototype for additional U.S. regions.

The data in the inventory will be available electronically and on the Internet for use by a variety of resource managers, regulators, the scientific community, and the informed public. It will allow the user to identify the location, purpose, agency/institution participation, parameter characteristics (type, frequency, format), and data disposition for each inventoried program. The specific application made by the MAIA CBAT is to identify data that may be used in ongoing and future ecological assessments in the mid-Atlantic region.

The inventory will contain information on program design, program administration, and specific meta-data on parameters that are monitored in aquatic, terrestrial, atmospheric media. The survey will be distributed in paper form to monitoring program managers and voluntary response will be made with the assistance, in person or by telephone, of EPA representatives. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers of EPA's regulations are listed in 40 CFR part 9 and 48 CFR ch. 15.

The EPA would like to solicit comments to:

(i) 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;

(ii) 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;

(iii) Enhance the quality, utility, and clarity of the information to be collected; and

(iv) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Burden Statement: The average hour burden to respond to the survey questionnaire is eight hours. Only one response is requested. Approximately 300 respondents have been identified. No start-up costs are anticipated as it is expected that monitoring information being requested is readily available. The total hour burden is thus estimated at 2,400 hours. This burden translates to a cost of $161,538 (based upon average salary of $70,000/annum times 2 for benefits). Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Dated: August 8, 1997.

Patricia M. Jackson,

Acting Director, National Health and Environmental Effects Laboratory.

[FR Doc. 97–21921 Filed 8–18–97; 8:45 am]

BILLING CODE 6560–50–M

ENVIRONMENTAL PROTECTION AGENCY

[OPPTS–00217; FRL–5736–8]

Toxic Chemicals; Agency Information Collection Activities

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq*.), this notice announces that EPA is planning to submit the following Information Collection Requests (ICRs) to the Office of Management and Budget (OMB). Before submitting the ICRs to OMB for review and approval, EPA is soliciting comments on specific aspects of the information collections described below. The ICRs are: (1) An expired ICR for which EPA is seeking reinstatement entitled ''Partial Updating of Toxic Substances Control Act (TSCA) Inventory Data Base, Production and Site Reports,'' EPA ICR No. 1011.04, OMB No. 2070-0070, which relates to reporting requirements found at 40 CFR part 710, and (2) a continuing ICR entitled ''Request for Contractor Access to TSCA CBI,'' EPA ICR No. 1250.05, OMB No. 2070-0075, which relates to reporting requirements authorized by section 14 of the Toxic Substances Control Act (TSCA). An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9.

DATES: Written comments must be submitted on or before October 20, 1997.

ADDRESSES: Submit three copies of all written comments to: TSCA Document Receipts (7407), Rm. NE–G99, Office of Pollution Prevention and Toxics, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460, Telephone: 202–260–7099. All comments should be identified by the respective administrative record numbers: comments on ICR No. 1011.04 should reference administrative record number 183 and comments on ICR No. 1250.05 should reference administrative record number 184. These ICRs are available for public review at, and copies may be requested from, the docket address and telephone number listed above.

Comments and data may also be submitted electronically by following instructions under Unit III. of this document. No TSCA confidential business information (CBI) should be submitted through e-mail.

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

For technical information contact the following individuals: For ICR No. 1011.04, contact Scott Sherlock, Information Management Division (7407), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460, Telephone: 202–260–1536; Fax: 202–260–1657; e-mail: sherlock.scott@epamail.epa.gov. For ICR No. 1250.05, contact Deborah Williams, Information Management Division (7407), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460, Telephone: 202–260–1734; Fax: 202–260–1657; e-mail: williams.deborah@epamail.epa.gov.

SUPPLEMENTARY INFORMATION:

Electronic Availability:

Internet

Electronic copies of the ICRs are available from the EPA home page at the Environmental Sub-Set entry for this document under ''Regulations'' (http://www.epa.gov/fedrgstr/).

Fax on Demand

Using a faxphone call 202–401–0527 and select item 4053 for a copy of ICR No. 1011.04, or select item 4054 for a copy of ICR No. 1250.05.

I. Background

Entities potentially affected by this action are: with respect to ICR No. 1011.04, persons who manufacture, process, or import chemical substances in the United States; and, with respect to ICR No. 1250.05, companies working under contract for EPA whose employees need access to TSCA CBI to carry out their duties. For each collection of information addressed in this notice, EPA would like to solicit comments to:

(i) 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.

(ii) 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.

(iii) Enhance the quality, utility, and clarity of the information to be collected.

(iv) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

II. Information Collections

EPA is seeking comments on two Information Collection Requests, which are identified and discussed separately below.

Title: Partial Updating of Toxic Substances Control Act (TSCA) Inventory Data Base, Production and Site Reports, EPA ICR No. 1011.04, OMB No. 2070-0070.

Abstract: TSCA requires EPA to compile and keep current a complete list of chemical substances manufactured or processed in the United States. EPA updates this inventory of chemicals every 4 years by requiring manufacturers, processors, and importers to provide production volume, plant site information, and site-limited status information. This information allows EPA to identify what chemicals are or are not currently in commerce and to take appropriate regulatory action as necessary. EPA also uses the information for screening chemicals for risks to human health or the environment, for priority-setting efforts, and for exposure estimates. Note that since this information collection takes place once every 4 years, EPA typically allows it to expire between collection periods.

Responses to the collection of information are mandatory (see 40 CFR part 710). Respondents may claim all or part of a notice confidential. EPA will disclose information that is covered by a claim of confidentiality only to the extent permitted by, and in accordance with, the procedures in TSCA section 14 and 40 CFR part 2.

Burden Statement: The burden to respondents for complying with this ICR is estimated to total 34,500 hours at a cost of $2,163,780. These totals are based on an average burden of approximately 11.5 hours per response for an estimated 3,000 respondents making one response. These estimates include the time needed to review instructions; develop, acquire, install and utilize technology and systems for the purposes of collecting, validating and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of

information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Title: Request for Contractor Access to TSCA CBI, EPA ICR No. 1250.05, OMB No. 2070-0075. Expires November 30, 1997.

Abstract: Certain employees of companies working under contract to EPA require access to CBI collected under TSCA authority in order to perform their official duties. The Office of Pollution Prevention and Toxics (OPPT), which is responsible for maintaining the security of TSCA confidential business information, requires that all individuals desiring access to TSCA CBI obtain and annually renew official clearance to TSCA CBI. As part of the process for obtaining TSCA CBI clearance, OPPT requires certain information about the contracting company and about each contractor employee requesting TSCA CBI clearance, primarily the name, Social Security Number and EPA identification badge number of the employee, the type of TSCA CBI clearance requested and the justification for such clearance, and the signature of the employee to an agreement with respect to access to and use of TSCA CBI.

Responses to the collection of information are voluntary, but failure to provide the requested information will prevent a contractor employee from obtaining clearance to TSCA CBI. EPA will observe strict confidentiality precautions with respect to the information collected on individual employees, based on the Privacy Act of 1974, as outlined in the ICR and in the collection instrument.

Burden Statement: The burden to respondents for complying with this ICR is estimated to total 814 hours per year with an annual cost of $27,423. These totals are based on an average burden of approximately 31 hours per response for an estimated 26 respondents making one or more responses annually. These estimates include the time needed to review instructions; develop, acquire, install and utilize technology and systems for the purposes of collecting, validating and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

III. Public Record

A record has been established for this action under docket number ''OPPTS–00217'' (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from noon to 4 p.m., Monday through Friday, excluding legal holidays. The public record is located in the TSCA Nonconfidential Information Center, Rm. NE–B607, 401 M St., SW., Washington, DC 20460.

Electronic comments can be sent directly to EPA at:
oppt.ncic@epamail.epa.gov

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

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

List of Subjects

Environmental protection and Information collection requests.

Dated: August 12, 1997.

Susan H. Wayland,

Acting Assistant Administrator for Prevention, Pesticides and Toxic Substances.

[FR Doc. 97–21923 Filed 8-18-97; 8:45 am]
BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5877–5]

Subcontractor Access to Confidential Business Information Under the Clean Air Act

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The EPA has authorized the following subcontractors for access to information that has been, or will be, submitted to EPA under section 114 of the Clean Air Act (CAA) as amended: Indus Corporation, 1953 Gallows Road, Vienna, Va 22181, contract number 68D60010; Environmental Investigations (EI), 2327 Englert Drive, Durham, NC 27713, contract number 68D60010; TRC Environmental Corporation, 6340 Quadrangle Drive, Chapel Hill, NC 27514, contract number 68D60010; EC/R, Inc., 2327 Englert Drive, Durham, NC 27713, contract number 68D60011; Acurex Corporation, 555 Clyde Avenue, Mountain View, CA 94039, contract number 68D60012; Alpha-Gama Technologies, Inc., 900 Ridgefield Drive, Raleigh, NC 27609, contract number 68D60013; The Kevric Company, Inc., 8401 Colesville Road, Silver Spring, MD 20910, contract number 68D60014.

Some of the information may be claimed to be confidential business information (CBI) by the submitter.

DATES: Access to confidential data submitted to EPA will occur no sooner than ten days after issuance of this notice.

FOR FURTHER INFORMATION CONTACT: Doris Maxwell, Document Control Officer, Office of Air Quality Planning and Standards (MD–13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, (919) 541–5312.

SUPPLEMENTARY INFORMATION: The EPA is issuing this notice to inform all submitters of information under section 114 of the CAA that EPA may provide the above mentioned subcontractors access to these materials on a need-to-know basis. These subcontractors will provide technical support to the Office of Air Quality Planning and Standards (OAQPS) in economic impact assessment for Federal Air Pollution Control Regulations.

In accordance with 40 CFR 2.301(h), EPA has determined that each subcontractor requires access to CBI submitted to EPA under sections 112 and 114 of the CAA in order to perform work satisfactorily under the above noted contracts. The subcontractors' personnel will be given access to information submitted under section 114 of the CAA. Some of the information may be claimed or determined to be CBI. The subcontractors' personnel will be required to sign nondisclosure agreements and will be briefed on appropriate security procedures before they are permitted access to CBI. All subcontractor access to CAA CBI will take place at the subcontractors' facility. Each subcontractor will have appropriate procedures and facilities in place to safeguard the CAA CBI to which the subcontractor has access.

Clearance for access to CAA CBI is scheduled to expire on September 30, 2001 under all above listed contracts.

Dated: August 12, 1997.

Mary D. Nichols,

Assistant Administrator for Air and Radiation.

[FR Doc. 97–21917 Filed 8-18-97; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5876–8]

Iowa Final Full Program Determination of Adequacy of State Municipal Solid Waste Landfill Permit Program

AGENCY: Environmental Protection Agency.

ACTION: Notice of immediate final program determination of adequacy on Iowa's application.

SUMMARY: Section 4005(c)(1)(B) of the Resource Conservation and Recovery Act (RCRA), as amended by the Hazardous and Solid Waste Amendments (HSWA) of 1984, requires states to develop and implement permit programs to ensure that Municipal Solid Waste Landfills (MSWLF) which may receive hazardous household waste or small quantity generator waste will comply with the revised Federal MSWLF Criteria (40 CFR part 258). RCRA section 4005(c)(1)(C) requires the Environmental Protection Agency (EPA) to determine whether states have adequate ''permit'' programs for MSWLFs, but does not mandate issuance of a rule governing such determinations. The EPA has drafted and is in the process of proposing a State Implementation Rule (SIR) that will provide procedures by which the EPA will approve, or partially approve, state landfill permit programs. The Agency intends to approve adequate state MSWLF permit programs as applications are submitted. Thus, the approvals are not dependent on final promulgation of the SIR. Prior to promulgation of the SIR, adequacy determinations will be made based on the statutory authorities and requirements. In addition, states may use the draft SIR as an aid in interpreting these requirements. The Agency believes that early approvals have an important benefit. Approved state permit programs provide for interaction between the state and the owner/operator regarding site-specific permit conditions. Only those owners/operators located in state with approved permit programs can use the site-specific flexibility provided by 40 CFR part 258 to the extent the state permit program allows such flexibility. The EPA notes that regardless of the approval status of a state and the permit status of any facility, the Federal criteria in 40 CFR part 258 will apply to all permitted and unpermitted MSWLF facilities.

Iowa applied for a determination of adequacy under section 4005 of RCRA. The EPA reviewed Iowa's application and has made a decision, subject to public review and comment, that Iowa's municipal solid waste landfill permit program satisfies all of the requirements necessary to qualify for final authorization. Thus, the EPA is approving Iowa's MSWLF permit program.

EFFECTIVE DATE: The determination of adequacy for Iowa shall be effective on October 20, 1997, unless the EPA publishes a prior **Federal Register** action withdrawing this immediate final rule. All comments on Iowa's program revision application must be received by the close of business September 18, 1997.

ADDRESSES: Copies of Iowa's application for a determination of adequacy are available for inspection and copying from 8 a.m. to 4:30 p.m., Monday through Friday at the following addresses: Iowa Department of Natural Resources, Wallace State Office Building, 900 East Grand, Des Moines, Iowa 50319–0034, Attention: Mr. Lavoy Haage, telephone 515–281–4968; and the EPA Region VII Library, 726 Minnesota Avenue, Kansas City, Kansas 66101, telephone 913–551–7241.

FOR FURTHER INFORMATION CONTACT: David Flora at (913) 551–7523.

SUPPLEMENTARY INFORMATION:

A. Background

On October 9, 1991, the EPA promulgated 40 CFR part 258 for MSWLFs. Subtitle D of RCRA, as amended by HSWA, requires states to develop permitting programs to ensure that facilities comply with the Federal Criteria in 40 CFR part 258. Subtitle D also requires in section 4005 of RCRA that the EPA determine the adequacy of state municipal solid waste landfill permit programs to ensure that facilities comply with 40 CFR part 258. To fulfill this requirement, the Agency has drafted and is in the process of proposing a SIR. The rule will specify the requirements which state programs must satisfy to be determined adequate.

The EPA intends to propose in the SIR to allow partial approval if: (1) The Regional Administrator determines that the state permit program largely meets the requirements for ensuring compliance with 40 CFR part 258; (2) changes to a limited narrow part(s) of the state permit program are needed to meet these requirements; and (3) provisions not included in the partially approved portions of the state permit program are a clearly identifiable and separable subset of 40 CFR part 258. As a state's regulations and statutes are amended to comply with 40 CFR part 258, unapproved portions of a partially approved MSWLF permit program may be approved by the EPA. The state may submit an amended application to the EPA for review and an adequacy determination will be made using the same criteria as for the initial application. This adequacy determination will be published in the **Federal Register** summarizing the Agency's decision and the portion(s) of the state MSWLF permit program affected and providing an opportunity to comment for a period of 30 days. The adequacy determination will become effective 60 days following publication if no adverse comments are received. If the EPA receives adverse comments on its adequacy determination, another **Federal Register** notice will be published either affirming or reversing the initial decision while responding to the public comments.

The EPA will review state requirements to determine whether they are ''adequate'' under section 4005(c)(1)(C) of RCRA. The EPA interprets the requirements for states to develop ''adequate'' programs for permits or other forms of prior approval to impose several minimum requirements. First, each state must have enforceable standards for new and existing MSWLFs that are technically comparable to 40 CFR part 258. Next, the state must have the authority to issue a permit or other notice of prior approval to all new and existing MSWLFs in its jurisdiction. The state also must provide for public participation in permit issuance and enforcement as required in section 7004(b) of RCRA. Finally, the EPA believes that the state must show that it has sufficient compliance monitoring and enforcement authorities to take specific action against any owner or operator that fails to comply with an approved MSWLF program.

The EPA Regions will determine whether a state has submitted an ''adequate'' program based on the interpretation outlined above. The EPA plans to provide more specific criteria for this evaluation when it proposes the SIR. The EPA expects state to meet all of these requirements for all elements of a MSWLF program before it gives full approval to a MSWLF program.

B. State of Iowa

On February 4, 1997, the Iowa Department of Natural Resources submitted an amended application for full MSWLF permit program approval. This application follows a September 30, 1993, submittal which did not satisfy the requirements for the landfill liner design. Since the original application, Iowa has adopted regulations pertaining to financial assurance, gas monitoring and control, seismic areas, fault zones, unstable geologic areas, airport safety, and liners and caps. The revised regulation for liner design adopted the language in 40 CFR 258.40(b) for a composite liner system and allows for approval of an alternative liner system design provided that it includes ''certification by a professional engineer registered in Iowa stating that the proposed alternative liner system will ensure that the contaminant concentration values listed in Federal regulations under 40 CFR part 258, subpart D, table 1, will not be exceeded in the uppermost aquifer at the designated monitoring points of compliance as specified by the department.''

Iowa does not claim jurisdiction over Indian Land. Iowa's program is not enforceable on Indian lands.

The EPA has reviewed Iowa's application, and has made an immediate final decision that Iowa's municipal solid waste landfill permit program satisfies all the requirements of the SIR to qualify for full program approval. Consequently, the EPA intends to grant full approval of the Iowa program. The public may submit written comments on the EPA's immediate final decision up until [insert the date 30 days after the date of publication of this notice]. Copies of Iowa's application for program approval are available for inspection and copying at the locations identified in the ''ADDRESSES'' section of this action.

Approval of Iowa's municipal solid waste landfill permitting program shall become effective [insert the date 60 days after the date of publication of this notice], unless an adverse comment pertaining to the state's revision discussed in this notice is received by the end of the comment period. If an adverse comment is received the EPA will publish either: (1) A withdrawal of the immediate final decision, or (2) a notice containing a response to comments which either affirms that the immediate final decision takes effect or reverses the decision.

C. Decision

I conclude that Iowa's application for full program adequacy determination meets all of the statutory and regulatory requirements established by RCRA for full program adequacy. Accordingly, Iowa is granted a full program determination of adequacy for all parts of its municipal solid waste landfill permit program.

Section 4005(a) of RCRA provides that citizens may use the citizen suit provisions of section 7002 of RCRA to enforce the Federal MSWLF criteria in 40 CFR part 258 independent of any state enforcement program. As the EPA explained in the preamble to the final MSWLF criteria, the EPA expects that any owner or operator complying with provisions in a state program approved by the EPA should be considered to be in compliance with the Federal Criteria. See 56 FR 50978, 50995 (October 9, 1991) as revised by 57 FR 28626 (June 26, 1992), 58 FR 51536 (October 1, 1993), 60 FR 17649 (April 7, 1995), and 60 FR 40104 (August 7, 1995).

Compliance With Executive Order 12866

The Office of Management and Budget has exempted this notice from the requirements of section 6 of Executive Order 12866.

Certification Under the Regulatory Flexibility Act

Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that this final approval will not have a significant economic impact on a substantial number of small entities. It does not impose any new burdens on small entities. This notice, therefore, does not require a regulatory flexibility analysis.

Authority: This notice is issued under the authority of section 4005 of the Solid Waste Disposal Act as amended, 42 U.S.C. 6946.

Dated: August 6, 1997.

Martha R. Steincamp,

Acting Regional Administrator.

[FR Doc. 97–21920 Filed 8-18-–97; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5877–7]

Office of Emergency and Remedial Response Availability of Reports to Congress on Progress Toward Implementing Superfund Fiscal Years 1992, 1993, and 1994

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability.

SUMMARY: This document announces the availability of the Agency's Progress Toward Implementing Superfund: Fiscal Year 1992, 1993, and 1994 which are required by section 301(h) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), as amended by the Superfund Amendments and Reauthorization Act of 1986. The Reports to Congress contain information on overall progress, and include the following categories of information specifically requested in section 301(h) of CERCLA: feasibility studies, remedial and enforcement actions; an evaluation of newly developed and feasible permanent treatment technologies; progress in reducing the number of facilities subject to review under section 121(c) of CERCLA; and an estimate of resources needed by the Federal Government to complete CERCLA's implementation. The Reports also include information required by section 105(f) of CERCLA about the participation of minority firms in Superfund contracting; and the EPA Inspector General audit report required by section 301(h)(3) of CERCLA.

ADDRESSES: Published copies of the Reports may be purchased by the public, from the National Technical Information Service (NTIS) at 5285 Port Royal Road, Springfield, VA, 22161 (call 703-487–4650). Electronic copies of the Reports may be downloaded from EPA's Web Site (http://www.epa.gov/superfnd/oerr/accomp/index.htm#reptocong).

FOR FURTHER INFORMATION CONTACT: Lynn Beasley, Office of Emergency and Remedial Response (5204G), U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460 or 703–603–9086 or beasley.lynn@epamail.epa.gov.

Dated: July 11, 1997.

Larry G. Reed,

Deputy Director, Office of Emergency and Remedial Response.

[FR Doc. 97–21915 Filed 8–18–97; 8:45 am]

BILLING CODE 6560–50–P

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. The notices also will 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 September 3, 1997.

A. Federal Reserve Bank of Chicago (Philip Jackson, Applications Officer) 230 South LaSalle Street, Chicago, Illinois 60690-1413:

1. Jackson Boulevard Fund, Ltd.; Jackson Boulevard Equities, L.P., and Paul J. Duggan, all of Chicago, Illinois; to retain voting shares of Damen Financial Corporation, Schaumburg, Illinois, and thereby indirectly acquire Damen National Bank, Schaumburg, Illinois.

B. Federal Reserve Bank of Dallas (Genie D. Short, Vice President) 2200 North Pearl Street, Dallas, Texas 75201-2272:

1. Citizens National Bank in Waxahachie Employee Stock Ownership Plan, Waxahachie, Texas; to acquire an additional 1.23 percent for a total of 13.89 percent, of the voting shares of First Citizens Bancshares, Inc., Waxahachie, Texas, and thereby indirectly acquire Citizens National Bank, Waxahachie, Texas.

Board of Governors of the Federal Reserve System, August 13, 1997.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 97–21838 Filed 8-18-97; 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. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act. Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than September 12, 1997.

A. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63102-2034:

1. Community Financial Corp., Olney, Illinois; to acquire 100 percent of the voting shares of MidAmerica Bank of St. Clair County, O'Fallon, Illinois.

B. Federal Reserve Bank of Minneapolis (Karen L. Grandstrand, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480-2171:

1. Norwest Corporation, Minneapolis, Minnesota; to acquire 100 percent of the voting shares of International Bancorporation, Golden Valley, Minnesota, and thereby indirectly acquire Northern National Bank, International Falls, Minnesota; City National Bank of Cloquet, Cloquet, Minnesota, and Northern National Bank, Nisswa, Minnesota.

In connection with this application, Applicant, through its subsidiary, Norwest Investment Services, Inc., Minneapolis, Minnesota, has applied to engage in full-service brokerage, government securities, and limited underwriting activities, pursuant to §§ 225.28(b)(7) and (b)(8) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, August 13, 1997.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 97–21837 Filed 8-18-97; 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. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act. Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than September 12, 1997.

A. Federal Reserve Bank of Chicago (Philip Jackson, Applications Officer) 230 South LaSalle Street, Chicago, Illinois 60690-1413:

1. First State Bancorp of Monticello, Inc., Employee Stock Ownership Plan, Monticello, Illinois; to acquire an additional 9.64 percent, for a total of up to 35 percent of the voting shares of First State Bancorp of Monticello, Inc., Monticello, Illinois, and thereby indirectly acquire State Bank of Hammond, Hammond, Illinois; First State Bank of Monticello, Monticello, Illinois; First State Bank of Bloomington, Bloomington, Illinois; First State Bank of Heyworth, Heyworth, Illinois; and First State Bank of Atwood, Atwood, Illinois.

2. Heartland Bancshares, Inc., Franklin, Indiana; to become a bank holding company by acquiring 100 percent of the voting shares of Heartland Community Bank, Franklin, Indiana, a *de novo* bank.

3. Mahaska Investment Company, Oskaloosa, Iowa; to acquire 100 percent of the voting shares of Pella State Bank, Pella, Iowa, a *de novo* bank.

Board of Governors of the Federal Reserve System, August 14, 1997.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 97–21959 Filed 8-18-97; 8:45 am]

BILLING CODE 6210-01-F

FEDERAL RESERVE SYSTEM

Notice of Proposals To Engage in Permissible Nonbanking Activities or To Acquire Companies That Are Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y, (12 CFR Part 225) to engage *de novo*, or to acquire or control voting securities or assets of a company that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.28 of Regulation Y (12 CFR 225.28) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

Each notice is available for inspection at the Federal Reserve Bank indicated. The notice also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than September 3, 1997.

A. Federal Reserve Bank of Richmond (A. Linwood Gill III, Assistant Vice President) 701 East Byrd Street, Richmond, Virginia 23261-4528:

1. Barnett Banks, Inc., Jacksonville, Florida; BB&T Corporation, Winston-Salem, North Carolina; Central Fidelity Banks, Inc., Richmond, Virginia; Crestar Financial Corporation, Richmond, Virginia; First American Corporation, Nashville, Tennessee; First Citizens BancShares, Inc., Raleigh, North Carolina; First Union Corporation, Charlotte, North Carolina; First Virginia Banks, Inc., Falls Church, Virginia; Jefferson Bankshares, Inc., Charlottesville, Virginia; NationsBank Corporation, Charlotte, North Carolina; Riggs National Corporation, Washington, D.C.; Signet Banking Corporation, Richmond, Virginia; SunTrust Banks, Inc., Atlanta, Georgia; Synovus Financial Corporation, Columbus, Georgia; and Wachovia Corporation, Winston-Salem, North Carolina; to acquire, through HONOR Technologies, Inc., Maitland, Florida, Monetary Transfer System, L.L.C., St. Louis, Missouri, and thereby engage directly and indirectly in certain data processing and electronic funds transfer services, pursuant to § 225.28(b)(14) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, August 13, 1997.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 97–21836 Filed 8-18-97; 8:45 am]

BILLING CODE 6210-01-F

FEDERAL RESERVE SYSTEM

Notice of Proposals To Engage in Permissible Nonbanking Activities or To Acquire Companies That Are Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y, (12 CFR Part 225) to engage *de novo*, or to acquire or control voting securities or assets of a company that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.28 of Regulation Y (12 CFR 225.28) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

Each notice is available for inspection at the Federal Reserve Bank indicated. The notice also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than September 3, 1997.

A. Federal Reserve Bank of Richmond (A. Linwood Gill III, Assistant Vice President) 701 East Byrd Street, Richmond, Virginia 23261-4528:

1. Carolina First Corporation, Greenville, South Carolina; to acquire First Southeast Financial Corporation, Anderson, South Carolina, and thereby indirectly acquire its subsidiary, First Federal Savings and Loan Association of Anderson, Anderson, South Carolina, and thereby engage in operating a savings and loan association, pursuant to § 225.28(b)(4)(ii) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, August 14, 1997.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 97–21958 Filed 8-18-97; 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: 11:00 a.m., Monday, August 25, 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. Proposed consolidations of certain operations within the Federal Reserve System.
2. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
3. 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: August 15, 1997.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 97–22102 Filed 8–15–97; 2:58 pm]

BILLING CODE 6210–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30 DAY–19–97]

Agency Forms Undergoing Paperwork Reduction Act Review

The Centers for Disease Control and Prevention (CDC) publishes a list of information collection requests under review by the Office of Management and Budget (OMB) in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). To request a copy of these requests, call the CDC Reports Clearance Office on (404) 639–7090. Send written

comments to CDC, Desk Officer; Human Resources and Housing Branch, New Executive Office Building, Room 10235; Washington, DC 20503. Written comments should be received within 30 days of this notice.

Proposed Projects

1. Cost and Impact of Illnesses and Injuries Associated with Child Care Attendance—New—This is a revision of a previously submitted information collection. This is a longitudinal follow-up telephone survey of parents of children attending large (15 children/center) day care centers and family day care homes (7 children) in order to (1) determine the extent to which the size of day care centers are associated with the rates of illnesses and injuries for children attending day care; (2) to estimate the costs of illnesses and injuries for children attending small and large day care centers; (3) to compare the health of the family members of children attending small versus large day care centers; and (4) to estimate the costs of illnesses for the family members of children attending small versus large day care centers. The analyses of the proposed survey data will allow CDC to evaluate the relative costs and benefits of attending small as opposed to large day care centers. The information will provide valuable data to policy makers, medical professionals and scientists. The total annual burden is 624.

Respondents	Number of respondents	Number of responses/ respondents	Average burden/ response (in hours)
Parents (Monthly)	241	1	0.583
Parents (Annual)	241	11	.167
Child care provider	81	1	.5

Dated: August 13, 1997.

Wilma G. Johnson,

Acting Associate Director for Policy Planning and Evaluation, Centers for Disease Control and Prevention (CDC).

[FR Doc. 97–21878 Filed 8–18–97; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

National Vaccine Advisory Committee; Notice of Recharter

This gives notice under the Federal Advisory Committee Act (Pub. L. 92–463) of October 6, 1972, that the charter for the National Vaccine Advisory Committee (NVAC) of the Centers for Disease Control and Prevention, Department of Health and Human Services, has been renewed for a 2-year period beginning July 30, 1997, through July 30, 1999.

For further information, contact Robert F. Breiman, M.D., Executive Secretary, NVAC, 1600 Clifton Road, NE, M/S A–11, Atlanta, Georgia 30333, telephone 404/639–4450 or fax 404/639–3036.

Dated: August 13, 1997.

Carolyn J. Russell,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 97–21871 Filed 8–18–97; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Disease, Disability, and Injury Prevention and Control Special Emphasis Panel (SEP): Cooperative Agreements for Studies to Evaluate the Epidemiologic and Laboratory Characteristics of Human Immunodeficiency Virus (HIV) Infection Among United States Blood and Plasma Donors, Program Announcement 797: Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces the following committee meeting.

Name: Disease, Disability, and Injury Prevention and Control SEP: Cooperative Agreements for Studies to Evaluate the Epidemiologic and Laboratory Characteristics of Human Immunodeficiency Virus (HIV) Infection Among United States Blood and Plasma Donors, Program Announcement 797.

Time and Date: 8:30 a.m.-5 p.m., September 9, 1997.

Place: Executive Office Park, Building 16, Conference Room B, 16 Executive Park Drive, Atlanta, Georgia 30329.

Status: Closed.

Matters to be Discussed: The meeting will include the review, discussion, and evaluation of applications received in response to Program Announcement 797.

The meeting will be closed to the public in accordance with provisions set forth in section 552b(c)(4) and (6), Title 5 U.S.C., and the Determination of the Associate Director for Management and Operations, CDC, pursuant to Public Law 92–463.

Contact Person for More Information: John R. Lehnherr, Chief, Prevention Support Office, National Center for HIV, STD, and TB Prevention, CDC, M/S E07, 1600 Clifton Road, NE, Atlanta, Georgia 30333, telephone 404/639–8025.

Dated: August 13, 1997.

Carolyn J. Russell,

Director, Management Analysis and Services Office Centers for Disease Control and Prevention (CDC)

[FR Doc. 97–21872 Filed 8–18–97; 8:45 am]

BILLING CODE 4163–18–U

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Citizens Advisory Committee on Public Health Service (PHS) Activities and Research at Department of Energy (DOE) Sites: Idaho National Engineering and Environmental Laboratory Health Effects Subcommittee

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Agency for Toxic Substances and Disease Registry (ATSDR) and the Centers for Disease Control and Prevention (CDC) announce the following meeting.

Name: Citizens Advisory Committee on PHS Activities and Research at DOE Sites: Idaho National Engineering and Environmental Laboratory (INEEL) Health Effects Subcommittee.

Times and Dates: 8:30 a.m.–5 p.m., September 11, 1997; 8:30 a.m.–5 p.m., September 12, 1997.

Place: Celebrations Meeting Facility at the Clarion Inn of Sun Valley, 600 North Main Street, Ketchum, Idaho, 83340–2435, telephone 208/726–4140.

Status: Open to the public, limited only by the space available. The meeting room accommodates approximately 50 people.

Background: Under a Memorandum of Understanding (MOU) signed in December 1990 with DOE and replaced by an MOU signed in 1996, the Department of Health and Human Services (HHS) was given the responsibility and resources for conducting analytic epidemiologic investigations of residents of communities in the vicinity of DOE facilities, workers at DOE facilities, and other persons potentially exposed to radiation or to potential hazards from non-nuclear energy production use. HHS delegated program responsibility to CDC.

In addition, an MOU was signed in October 1990 and renewed in November 1992 between ATSDR and DOE. The MOU delineates the responsibilities and procedures for ATSDR's public health activities at DOE sites required under sections 104, 105, 107, and 120 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA or ''Superfund''). These activities include health consultations and public health assessments at DOE sites listed on, or proposed for, the Superfund National Priorities List and at sites that are the subject of petitions from the public; and other health-related activities such as epidemiologic studies, health surveillance, exposure and disease registries, health education, substance-specific applied research, emergency response, and preparation of toxicological profiles.

Purpose: This subcommittee is charged with providing advice and recommendations to the Director, CDC, and the Administrator, ATSDR, regarding community, American Indian Tribes, and labor concerns pertaining to CDC's and ATSDR's public health activities and research at this DOE site. The purpose of this meeting is to provide a forum for community, American Indian Tribal, and labor interaction and serve as a vehicle for community concern to be expressed as advice and recommendations to CDC and ATSDR.

Matters To Be Discussed: Agenda items include presentations from the National Center for Environmental Health (NCEH) regarding current activities, the National Institute for Occupational Safety and Health and ATSDR will provide updates on the progress of current studies, and working group discussions.

Agenda items are subject to change as priorities dictate.

Contact Persons For More Information: Arthur J. Robinson, Jr., or Nadine Dickerson, Radiation Studies Branch, Division of Environmental Hazards and Health Effects, NCEH, CDC, 4770 Buford Highway, NE, (F–35), Atlanta, Georgia 30341–3724, telephone 770/488–7040, FAX 770/488–7044.

Carolyn J. Russell,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 97–21870 Filed 8–18–97; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Proposed Information Collection Activity; comment request

Title: Administration for Children and Families (ACF) Uniform Project Description (UPD).

OMB No.: 0970–0139.

Description: ACF has more than forty discretionary grant programs. The proposed information collection narratives would comprise a set of descriptive language provisions usable for all of these grant programs to collect the information from grant applicants needed to evaluate and rank applications and protect the integrity of the grantee selection process. All ACF discretionary grant programs would be eligible but not required to use this project description.

The ACF uniform project description consists of a menu of narratives that can be selected as required to configure a project description appropriate for individual program announcements. Narratives selected for use in a given program announcement would define the required program description portion for the grant applicant. The ability to pick and choose appropriate language for any given program announcement simplifies application preparation by eliminating irrelevant portions of the application format for a given program announcement.

Respondents: State, Local or Tribal Governments; and Not-for-profit institutions.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
Uniform Project Description	4,418	1	4	17,672

Estimated Total Annual Burden Hours: 17,672.

Additional Information: Copies of the proposed collection may be obtained 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.

OMB Comment: OMB is required to make a decision concerning the collection of information between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment is best assured of having its full effect if OMB receives it within 30 days of publication. Written comments and recommendations for the proposed information collection should be sent directly to the following: Office of Management and Budget, Paperwork Reduction Project, 725 17th Street, N.W., Washington, D.C. 20503, Attn: Ms. Wendy Taylor.

Dated: August 13, 1997.

Robert Driscoll,

Reports Clearance Officer.

[FR Doc. 97–21909 Filed 8–18–97; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4274–D–01]

Redelegation of Authority to Directors of the Single Family Housing Division and the Multifamily Housing Division

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Redelegation of authority.

SUMMARY: This notice amends the redelegation portion of the field reorganization Revocation and Redelegation of Authority for the Office of Housing published in the **Federal Register** on December 6, 1994, at 59 FR

62739. It redelegates authority presently delegated to the Office of Housing Directors in Category AA (double A) Offices to the Directors of the Single Family Housing Division and the Multifamily Housing Division in those offices when the position of Housing Director is vacant in those offices.

EFFECTIVE DATE: August 12, 1997.

FOR FURTHER INFORMATION CONTACT: Robert G. Hunt, Director, Management Services Division, or Charles E. Patterson, Chief, Program Analysis Branch, Management Services Division, Department of Housing and Urban Development, 451 Seventh Street SW, Room 9116, Washington, DC 20410, (202) 708–0820. Persons with hearing or speech impairments may call HUD's TTY number (202) 708–1455, or the Federal Information Relay Service at (800) 877–8339. (With the exception of the ''800'' number, these telephone numbers are not toll-free.)

SUPPLEMENTARY INFORMATION: In November of 1993, the Secretary announced the reorganization of HUD's field structure to improve performance and provide HUD's customers—members of the public and program beneficiaries—more efficient service and less bureaucracy by empowering HUD's employees to more effectively serve these customers. As part of the ongoing process, on December 6, 1994, at 59 FR 62739, the Department published a Notice of Revocation and Redelegation of Authority pertaining to authority in the field over Office of Housing programs, which was amended by the Revocation and Redelegation of Authority published on June 26, 1996 at 61 FR 33130 and was further amended by the Redelegation of Authority published on February 3, 1997 at 62 FR 5029.

HUD continues to streamline its Housing operations by consolidating functions. It is essential that the line of authority to the field officials operating Housing programs and functions be maintained. Therefore the authority held by the Director of Housing in Category AA offices is being redelegated to the Directors of the Single Family Housing Division and the Multifamily Housing Division, when the position of Director of Housing is vacant.

Accordingly, the Assistant Secretary for Housing—Federal Housing Commissioner redelegates authority as follows:

Section A. Authority Redelegated

This amendment redelegates authority previously delegated to Office of Housing Directors in Category AA (Double A) offices to the Director of the Single Family Housing Division and the Director of the Multifamily Housing Division, when the position of the Office of Housing Director is vacant.

Authority: Sec. 7(d) of the Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

Dated: August 12, 1997.

Nicolas P. Retsinas,

Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 97–21859 Filed 8–18–97; 8:45 am]

BILLING CODE 4210–27–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Availability of a Draft Recovery Plan for Point Arena Mountain Beaver (California) for Review and Comment

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of document availability and public comment period.

SUMMARY: The U.S. Fish and Wildlife Service announces the availability for public review of a draft recovery plan for the Point Arena mountain beaver (*Aplodontia rufa nigra* (Rafinesque)) listed as an endangered species on December 12, 1991 (50 FR 64716). The Point Arena mountain beaver occurs western Mendocino County, California. The Service solicits review and comment from the public on this draft plan.

DATES: Comments on the draft recovery plan received by October 20, 1997, will be considered by the Service.

ADDRESSES: Persons wishing to review the draft recovery plan may obtain a copy by contacting the U.S. Fish and Wildlife Service, 3310 El Camino Avenue, Suite 130, Sacramento, California 95821. Written comments and material regarding the plan should be addressed to the Field Supervisor at the above address. Comments and materials received are available on request for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Please contact Karen Miller, U.S. Fish and Wildlife Service, at 916/979–2725 (see **ADDRESSES**).

SUPPLEMENTARY INFORMATION:

Background

Restoring an endangered or threatened plant or animal to the point where it is again a secure, self-sustaining member of its ecosystem is a primary goal of the U.S. Fish and Wildlife Service's endangered species program. To help guide the recovery effort, the Service is working to prepare recovery plans for most of the listed species native to the United States. Recovery plans describe the site specific management actions considered necessary for conservation and survival of the species, establish objectives, and measurable criteria for the recovery levels for downlisting or delisting species, and estimate time and cost for implementing the recovery measures needed.

The Endangered Species Act of 1973 (act), as amended (16 U.S.C. 1531 *et seq.*) requires the development of recovery plans for listed species unless such a plan would not promote the conservation of a particular species. Section 4(f) of the Act, as amended in 1988, requires the public notice and an opportunity for public review and comment be provided during recovery plan development. The Service, and other affected Federal agencies will take these comments into account in the course of implementing approved recovery plans.

The Point Arena mountain beaver is endemic to western Mendocino County, where 24 separate occurrences are known. Management issues and concerns include elimination or degradation of habitat from land development, grazing, timber harvest and invasion by alien plant species. Direct threats to the species may include predation by household pets and feral animals, poisoning, genetic isolation and drift, and possible sensitivity to disturbance.

The Point Arena mountain beaver draft recovery plan was developed by selected experts on the biology of the species and has been reviewed by the appropriate Service staff in Region 1. The plan will be made final and approved following incorporation of comments and material received during this comment period.

Public Comments Solicited

The Service solicits written comments on the draft recovery plan described. All biological comments received by the date specified above will be considered prior to the approval of the plan.

Authority: The authority for this action is section 4(f) of the Endangered Species Act, 16 U.S.C. 1533(f).

Dated: July 15, 1997

David L. McMullen,

Acting Regional Director, Region 1, Portland, Oregon.

[FR Doc. 97–21883 Filed 8–18–97; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV–010–2811–01]

Battle Mountain District Fire Management Plan Amendment

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of intent to prepare a plan amendment and environmental analysis and invitation for public participation.

SUMMARY: The Battle Mountain District Office of the Bureau of Land Management proposes to amend the Shoshone-Eureka Resource Management Plan (RMP) to address the management of fire within the former boundaries of the Shoshone-Eureka Resource Area of the Battle Mountain District. Fire is an integral part of the ecosystem of the Battle Mountain District. The *Federal Wildland Fire Management Policy and Program Review* states: ''* * * wildland fire is a natural occurrence that plays a fundamental role in natural resource management.'' The current RMP does not address fire management and its role in the natural ecosystem. The land use plan amendment and its associated National Environmental Policy Act environmental assessment provides the opportunity for the public to share their thoughts and concerns related to implementation of this proposal. Ultimately, the final RMP amendment, having taken into account public input, will provide the basis for decisions on the management of fire in the Shoshone-Eureka planning unit.

DATES AND ADDRESSES: Written comments on the plan amendment and the proposed environmental analysis are welcomed until September 30, 1997. Comments on the land use plan amendment, as well as issues the public feel should be addressed in the environmental assessment should be sent to Dave Davis, Team Leader, U.S.D.I. Bureau of Land Management, P.O. Box 1420, 50 Bastian Road, Battle Mountain, NV 89820. Comments should be received by the BLM by the close of business, September 30th.

Four public meetings soliciting public input related to the fire management proposal are scheduled:

(1) Battle Mountain BLM Office, 50 Bastian Road, Battle Mountain, Nevada September 2, 1997.

(2) Eureka Opera House, 10201 Main Street, Eureka, Nevada, September 4, 1997.

(3) Crescent Valley Senior Center, 6024 Ruby Way, Crescent Valley, Nevada, October 1, 1997.

(4) Austin High School, Highway 305 North, Austin, Nevada, October 2, 1997. All meetings are to be held from 7:00 to 9:00 p.m. each evening.

SUPPLEMENTARY INFORMATION: The public is invited to participate in the identification of issues related to the management of fire in the Battle Mountain District, the Shoshone-Eureka Planning Unit. Anticipated issues for the plan amendment include: protection of human life, protection of property, protection of natural/cultural resources, safe reintroduction of fire into natural ecosystems, reducing the cost of fire suppression, integration of fire and resource management strategies, air quality, recreation, watershed management, livestock grazing, visual resources, wildlife habitat.

The plan amendment will focus on the following proposed management strategies for fire management in the Planning Unit:

- Wildland fire is not desired at all. Full suppression of all wildland fire is warranted.
- Unplanned wildland fire is likely to cause negative effects, but these effects may be mitigated through fuels management, i.e. prescribed fire, green stripping, chaining.
- Fire is desired, but there are constraints.
- Fire is desired and there are no constraints.

Planning documents and other pertinent materials may be examined at the Bureau of Land Management office in Battle Mountain between 7:30 a.m. and 4:30 p.m., Monday through Friday.

Dated this 12th day of August, 1997.

Gerald M. Smith,

District Manager, Battle Mountain District.

[FR Doc. 97–21914 Filed 8–18–97; 8:45 am]

BILLING CODE 4310–HC–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NM–030–07–1620–00]

Otero County Areas of Environmental Concern (ACECs) for the Caballo Resource Area, New Mexico

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

ACTION: Notice of Availability.

SUMMARY: The BLM, Las Cruces District, Caballo Resource Area announces the availability of a Proposed Resource Management Plan (RMP) Amendment/ Finding of No Significant Impact (FONSI) and supporting Environmental Assessment (EA). The document discusses the designation of five new ACECs and revision of one existing ACEC in Otero County, south-central New Mexico. Approximately 18,806 acres are proposed for designation. In addition to designation, the plan amendment, when approved, will guide BLM programs and management practices within the ACECs. The Proposed Plan is a modified version of the Preferred Alternative presented in the Draft. The Proposed RMP Amendment/FONSI and supporting EA is available for public review. A 30-day protest period is provided as required by BLM planning regulations (43 CFR 1610.5–2).

DATES: Protests on the Proposed Plan must be postmarked on or before September 22, 1997.

ADDRESSES: Protests must be sent to Director (WO–210), Bureau of Land Management, ATTN: Brenda Williams, 1849 C Street, NW, Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Timothy M. Murphy, Area Manager, BLM, Caballo Resource Area at (505) 525–4372, or Mike Howard, Team Leader, Caballo Resource Area at (505) 525–4348, email mhoward@nm0151wp.nmso.nm.blm.gov.

SUPPLEMENTARY INFORMATION: ACECs are land designations unique to the BLM. The purpose of ACECs is to recognize, protect, and manage unique or sensitive resources or potential hazards to the public. Each area receives management or protection based on its unique needs, in consultation and coordination with the public.

The Caballo Resource Area has completed an inventory of areas in Otero County, New Mexico containing unique or sensitive biological resources suitable for designation as ACECs. In addition, the Resource Area has received nominations both internally and from the public to consider several areas as ACECs based on visual, cultural, and biological values.

Three alternatives were considered in the Draft RMP Amendment and supporting EA. Alternative A was the No Action alternative, Alternative B represented the highest level of resource protection, and Alternative C would generally have provided an intermediate level of resource protection. BLM's Preferred Alternative in the draft RMP Amendment and supporting EA was Alternative B. After evaluation of the comments received on the draft, a modified version of the Preferred Alternative (Alternative B) was selected as the Proposed Plan. Following is a summary of the management actions in the Proposed Plan for each ACEC.

The *Three Rivers Petroglyph Site ACEC* is located 30 miles north of Alamogordo, New Mexico. The area was nominated to protect and manage cultural resources. The total area proposed is approximately 1,036 acres. Management actions in the Proposed Plan include: acquisition of State trust land through a cooperative land exchange, acquisition of private subsurface mineral estate from a willing seller, issuance of realty actions subject to protective stipulations, closure to mineral entry, improvement and protection of riparian areas, improvement of recreation facilities, limiting off-road vehicle use to designated roads and trails, closing of county road B031, except for administrative and ranch access following relinquishment by Otero County, management of fire for maximum fire suppression and use of prescribed fire, and fencing of the ACEC boundary.

The *Sacramento Escarpment ACEC* is located 2 miles south of Alamogordo, New Mexico along the west face of the Sacramento Mountains. This area is currently a designated ACEC for the management of visual resources. This RMP Amendment proposes to expand the area to provide for increased protection and management of visual resources and an endangered and sensitive plant community. The existing ACEC would be expanded to encompass 5,365 acres. Management actions in the Proposed Plan include: limitations or exclusion of new realty actions (2920 permits), exclusion of rights-of-way, acquisition of access easements and private land from a willing seller, closure to all forms of mineral development, improvement and protection of riparian areas, permitting of existing spring developments, management under Visual Resource Management Classes I and II, limitation of off-road vehicle use to designated roads and trails, closure of approximately 5 miles of redundant roads and trails (including closure of approximately ¼ mile of road in San Andres Canyon, except for administrative and ranch pipeline maintenance access), management of fire for conditional least-cost suppression with no surface disturbance in Visual Class I or arroyo areas. Prescribed fire could be used for vegetation management, if needed.

Cornudas Mountain is located 60 miles southeast of Alamogordo, New Mexico and near the Texas border. The area was nominated to protect and manage visual resources, cultural resources, and sensitive plants. The total area to be considered is approximately 850 acres. Management activities in the Proposed Plan include: exclusion of the area from authorization of rights-of-way, permitting of other realty actions subject to protective stipulations, closure to all forms of mineral development, closure to vegetation sales, management of barbary sheep, designation of a BLM sensitive species, management as Visual Resource Management Class I, limitation of off-road vehicle use to designated roads and trails, allowing public access to portions of the ACEC by permit, closure to camping, closure to the establishment of new roads and trails, fire management for conditional least-cost suppression with no surface disturbance and no use of slurry or blading in certain areas.

Alamo Mountain is located 61 miles southeast of Alamogordo, New Mexico and near the Texas border. The area was nominated to protect and manage visual and cultural resources. The total area proposed is approximately 2,690 acres. Management actions in the Proposed Plan include: exclusion of the area from authorization of rights-of-way, permitting of other realty actions subject to protective stipulations, closure to all forms of mineral development, closure to vegetation sales, management of barbary sheep, designation of a BLM sensitive species, management as Visual Resource Management Class I, limitation of off-road vehicle use to designated roads and trails, establishment of a vehicle parking area, closure to camping in portions of the ACEC, fire management for conditional least-cost suppression with no surface disturbance and no use of slurry or blading in certain areas.

Wind Mountain is located 64 miles southeast of Alamogordo, New Mexico and near the Texas border. The area was nominated to protect and manage visual resources, cultural resources, and unique and sensitive plants and animals. The total area proposed is approximately 2,506 acres. Management actions in the Proposed Plan include: exclusion of the area from authorization of rights-of-way, permitting of other realty actions subject to protective stipulations, closure to all forms of mineral development (subject to valid existing rights), closure to vegetation sales, management of barbary sheep, designation of a BLM sensitive species, management as Visual Resource Management Class I, limitation of off-road vehicle use to designated roads and trails, fire management for conditional least-cost suppression with no surface disturbance and no use of slurry or blading in certain areas.

The *Alkali Lakes* area is located 80 miles southeast of Alamogordo, New Mexico and near the Texas border. This area was nominated to protect and manage endangered and sensitive plants and the plant community in which they occur. The total area proposed is approximately 6,359 acres. Management actions in the Proposed Plan include: exclusion of the area from authorization of rights-of-way, permitting of other realty actions subject to protective stipulations, acquisition of State trust land through a cooperative land exchange, closure to all forms of mineral development, closure to vegetation sales, management as Visual Resource Management Class III, limitation of off-road vehicle use to within 30 feet of the center line of designated roads and trails, closure to camping and the use of campfires, fire management for conditional least-cost suppression with no surface disturbance and no use of vehicular equipment off of established roads and trails.

Any person who is on record for participating in the planning process and has an interest that may be adversely affected may protest approval of the Plan Amendment. Protest should be made to the BLM Director with the following information: (1) Name, mailing address, telephone number, and interest of the person filing the protest; (2) a statement of the concern or concerns being protested; (3) a statement of the part or parts being protested; (4) a copy of all documents addressing the concern or concerns that were submitted during the planning process by the protesting party or an indication of the date the concern or concerns were discussed for the records; and (5) a concise statement explaining why the BLM New Mexico State Director's decision is wrong. At the end of the 30-day protest period, the Proposed Plan, excluding any portions under protest, will become final. Approval will be withheld on any portion of the Plan under protest until final action has been completed on such protest. Individuals not wishing to protest the Plan, but wanting to comment, may send comments to the BLM, Las Cruces District, Caballo Resource Area, 1800 Marquess, Las Cruces, New Mexico 88005. All comments received will be considered in preparation of the Decision Record.

Comments, including names and street addresses of respondents, will be available for public review at the BLM Las Cruces District Office, 1800 Marquess, Las Cruces, New Mexico, during regular business hours (7:45 a.m. to 4:30 p.m.), Monday through Friday, except holidays, and may be published as part of the RMP Amendment/EA. Individual respondents may request

confidentiality. If you wish to withhold your name or street address from public review or from disclosure under the Freedom of Information Act, you must state this prominently at the beginning of your written comment. Such requests will be honored to the extent allowed by law. All submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be made available for public inspection in their entirety.

Public participation has occurred throughout the RMP Amendment process. A Notice of Intent was filed in the **Federal Register** (Vol. 59, No. 73, Page 18151–18152) on April 15, 1994. Since that time, several public meetings, mail-outs, and group briefings were conducted to solicit comments and ideas, or familiarize various groups with the proposal and the BLM planning process. A notice of a 60-day comment period on the designation of the ACECs and a Notice of Availability of the draft RMP Amendment/preliminary FONSI and supporting EA was published in the **Federal Register** (Vol. 61, No. 102, page 26203–26204) on May 24, 1996. Comments received during the 60-day comment period were considered in preparation of the Proposed RMP Amendment and supporting EA. Single copies of the Proposed RMP Amendment/FONSI and supporting EA for the Otero County ACECs may be obtained from the BLM Las Cruces District Office, 1800 Marquess, Las Cruces, New Mexico 88005. Public reading copies are available for review at the BLM State Office, 1474 Rodeo Rd., Santa Fe, New Mexico, and public and university libraries in Las Cruces, Santa Fe, and Albuquerque, New Mexico, and El Paso, Texas.

Dated: August 13, 1997.

Stephanie Hargrove,

Acting District Manager.

[FR Doc. 97–21886 Filed 8–18–97; 8:45 am]

BILLING CODE 4310–VC–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV–040–1020–001]

Mojave-Southern Great Basin Resource Advisory Council—Notice of Meeting Locations and Times

AGENCY: Bureau of Land Management.

ACTION: Resource Advisory Council Meeting Locations and Times.

SUMMARY: In accordance with the Federal Land Policy and Management Act and the Federal Advisory Committee Act of 1972 (FACA), 5 U.S.C., the Department of the Interior, Bureau of Land Management (BLM), council meeting of the Mojave-Southern Great Basin Resource Advisory Council (RAC) will be held as indicated below. The agenda includes a public comment period, and discussion of public land issues.

The Resource Advisory Council develops recommendations for BLM regarding the preparation, amendment, and implementation of land use plans for the public lands and resources within the jurisdiction of the council. For the Mojave-Great Basin RAC this jurisdiction is Clark, Esmeralda, Lincoln and Nye counties in Nevada. Except for the purposes of long-range planning and the establishment of resource management priorities, the RAC shall not provide advice on the allocation and expenditure of Federal funds, or on personnel issues.

The RAC may develop recommendation for implementation of ecosystem management concepts, principles and programs, and assist the BLM to establish landscape goals and objectives.

All meetings are open to the public. The public may present written comments to the council. Public comments should be limited to issues for which the RAC may make recommendations within its area of jurisdiction. Depending on the number of persons wishing to comment, and time available, the time for individual oral comments may be limited. Individuals who plan to attend and need further information about the meetings, or need special assistance such as sign language interpretation or other reasonable accommodations, should contact Michael Dwyer at the Las Vegas District Office, 4765 Vegas Dr., Las Vegas, NV 89108, telephone, (702) 647–5000.

DATES, TIMES: Date is September 11, 1997, from 1:00 p.m., to approximately 4:30 p.m. and will reconvene on June 17, 1997 and meet from 8 a.m. to 4:30 p.m. The council will meet at the Las Vegas District Office, 4765 West Vegas Drive, Las Vegas, NV. The public comment period will begin at 11:30 a.m. on September 12.

FOR FURTHER INFORMATION CONTACT: Dan Netcher, District Minerals Specialist, Ely, NV, telephone: (702) 289–1872.

Dated: August 6, 1997.

Timothy B. Reuwsaat,

Acting Ely District Manager.

[FR Doc. 97–21854 Filed 8–18–97; 8:45 am]

BILLING CODE 4310–HC–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[MT–960–1990–00-CCAM; MTM 84500]

Public Land Order No. 7282; Withdrawal of Federal Lands and Minerals for Watershed Protection; Montana

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order withdraws approximately 22,065 acres of Federal lands from location and entry under the mining laws and the mineral leasing laws, except oil and gas, for a period of 20 years to protect watersheds, water quality, and fresh water fishery resources. In addition, approximately 4,158 acres of non-Federal lands, if acquired by the United States, would be withdrawn by this order. The lands have been and remain open to surface uses authorized by the Forest Service.

EFFECTIVE DATE: August 19, 1997.

FOR FURTHER INFORMATION CONTACT: Cooke City Area Mineral Withdrawal Team, PO Box 36800, Billings, Montana 59107, 406–255–0322.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714 (1994), it is ordered as follows:

1. Subject to valid existing rights, Federal lands within the following described area are hereby withdrawn from location and entry under the United States mining laws and the mineral leasing laws, except oil and gas, 30 U.S.C. Ch. 2 (1994), to protect watersheds within the drainages of the Clarks Fork of the Yellowstone, Soda Butte Creek, and the Stillwater River, and the water quality and fresh water fishery resources within Yellowstone National Park:

Principal Meridian, Montana

Custer and Gallatin National Forests

T. 8 S., R. 14 E.,
  Sec. 25 and secs. 33 to 36, inclusive, those portions lying outside of the Absaroka-Beartooth Wilderness Boundary, partly unsurveyed.
T. 9 S., R 14 E.,
  Secs. 1 to 5, inclusive, secs. 8 to 17, inclusive, secs. 21 to 28, inclusive, and secs. 33 to 36, inclusive, those portions

lying outside of the Absaroka-Beartooth Wilderness and Yellowstone National Park boundaries.

T. 8 S., R. 15 E.,
Secs. 30 to 32, those portions lying outside of the Absaroka-Beartooth Wilderness Boundary.

T. 9 S., R. 15 E.,
Sec. 5, that portion lying outside of the Absaroka-Beartooth Wilderness Boundary;
Secs. 6 and 7;
Secs. 8 and 17, those portions lying outside of the Absaroka-Beartooth Wilderness Boundary;
Secs. 18 to 21, inclusive;
Sec. 22, lots 1, 2, and 3, N½, SW¼, and bed of Kersey Lake riparian to lots 1, 2, and 3;
Sec. 23, lots 2 and 3, N½, E½SE¼, and bed of Kersey Lake riparian to lots 2 and 3;
Sec. 26, bed of Kersey Lake riparian to the NW¼NW¼;
Sec. 27, lots 1 and 2, S½NE¼, NW¼, and bed of Kersey Lake riparian to lots 1 and 2;
Sec. 28, lots 1 to 4, inclusive, lots 6 to 9 inclusive, S½NW¼, S½SW¼, and those portions of lot 5 and SE¼SE¼ lying outside of the Absaroka-Beartooth Wilderness Boundary;
Secs. 29 to 32, inclusive;
Secs. 33 and 34, those portions lying outside of the Absaroka-Beartooth Wilderness Boundary.

The areas described aggregate approximately 22,065 acres in Park County.

2. All non-Federal lands lying within the area described in paragraph 1, if subsequently acquired by the United States, will be subject to the terms and conditions of this withdrawal. The areas aggregate approximately 4,158 acres in Park County.

3. The withdrawal made by this order does not alter the applicability of those public land laws governing the use of lands under lease, license, or permit, or governing the disposal of their mineral or vegetative resources other than under the mining and mineral leasing laws, except oil and gas.

4. This withdrawal will expire 20 years from the effective date of this order unless, as a result of a review conducted before the expiration date pursuant to Section 204(f) of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714(f) (1994), the Secretary determines that the withdrawal shall be extended.

Dated: August 14, 1997.

Bob Armstrong,

Assistant Secretary of the Interior.

[FR Doc. 97–21969 Filed 8–18–97; 8:45 am]

BILLING CODE 4310–DN–P

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Scoping; Fort Baker Comprehensive Plan, Golden Gate National Recreation Area, San Francisco County, California

SUMMARY: Notice is hereby given, in accordance with the provisions of the National Environmental Policy Act (42 U.S.C. 4321 et. seq.) that a public scoping process has been initiated to prepare a comprehensive plan-environmental document for the developed area at Fort Baker. The purpose of the scoping process is to elicit advance public comment regarding pertinent issues and concerns, suitable range of alternatives, nature and extent of potential environmental impacts, and other factors which should be addressed.

The responsible official is John J. Reynolds, Regional Director, Pacific West Region, National Park Service. At this time, it is anticipated the draft comprehensive plan-environmental document will be available for public review in spring, 1998, and that the final comprehensive plan-environmental document will be completed in summer, 1998.

Background

Fort Baker is a site within the boundary of Golden Gate National Recreation Area (GGNRA), a unit of the National Park System. Portions of the site, including over 70 acres of land and 50 historic buildings currently under the jurisdiction of the Army, will be transferred to the National Park Service (NPS) by 2001.

Current concepts for use of this area which were approved in the 1980 General Management Plan (GMP) include: use of the historic buildings as a conference center; removal of a wooden bulkhead to restore a portion of beach; and waterfront landscape improvements to better accommodate park visitors. The GMP also envisioned removing non-historic buildings and providing parking.

As one of the initial steps in this comprehensive plan-environmental analysis process, a Scoping Document will be distributed on August 13, 1997. The main topics addressed in the document are: pertinent background information; identification of issues related to the planning process (such as reuse options for historic buildings which will be transferred); possible site improvements in a 6 (six) acre waterfront area; and re-evaluation of key Fort Baker concepts set forth in the 1980 GMP.

Comments

As noted, the NPS will undertake a Fort Baker area environmental analysis effort to address new building uses, possible site improvements, and potential impacts. At this time, it has not been determined whether an Environmental Assessment or an Environmental Impact Statement shall subsequently be prepared. However, this scoping process will aid in the preparation of either document.

Interested individuals, organizations, and agencies are invited to provide comments or suggestions. Written comments about the Scoping Document must be postmarked no later than September 13, 1997. To request a copy of the document or to provide comments, please contact: General Superintendent, GGNRA at Fort Mason, Building 201, San Francisco, California 94123 (telephone (415) 561–4844 or email fortbaker@NPS.gov.)

Dated: August 1, 1997.

Sondra S. Humphries,

Acting Regional Director, Pacific West.

[FR Doc. 97–21905 Filed 8–18–97; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Intent To Prepare; Environmental Impact Statement & General Management Plan; Santa Monica Mountains National Recreation Area; Los Angeles & Ventura Counties, CA

SUMMARY: The National Park Service (NPS) in partnership with the California Department of Parks and Recreation (CDPR) and Santa Monica Mountains Conservancy (SMMC) is initiating a conservation planning and impact analysis process to identify strategies for future management of Santa Monica Mountains National Recreation Area. As part of this process and in accordance with § 102(2)(C) of the National Environmental Policy Act (Pub. L. 91–90, as amended), the NPS will be preparing an Environmental Impact Statement (EIS) and General Management Plan (GMP) to present information on the natural, cultural, and socioeconomic resources in the park, to outline alternative management strategies, to analyze potential impacts that may result from implementing these strategies, and to identify appropriate mitigation measures.

The GMP will establish a framework for how natural and cultural resources,

public use, and park operations will be managed over the next 10–15 years and document agreements developed in partnership with CDPR, SMMC, and other land management entities. Following publication of this Notice, CDPR as a cooperating agency will issue a Notice of Preparation to initiate a complementary environmental process; the official responsible is Donald W. Murphy, Director, CDPR.

Santa Monica Mountains National Recreation Area is composed of a complex pattern of public and private land ownership. Multiple political jurisdictions cross important natural features and wildlife and recreation corridors throughout the park's boundary. Effective planning and management require coordination and cooperation among all of the entities with responsibility for the lands and waters both inside and immediately outside of the park. Past NPS planning efforts have given general guidance on land protection, resource management and visitor facilities. However, pressures on the park from the number of visitors, types of uses, and urban encroachment combined with new fiscal and political environments dictate that past planning efforts be revisited.

In the proposed planning process, the purpose of the park will be reaffirmed. The desired future conditions of natural and cultural resources will be envisioned and appropriate types, locations, and levels of activities in the park will be determined. Of special concern to park managers is the balance between resource preservation and use by the visiting and resident publics. This balance will be considered and established in a regional context in concert with the other public agencies' missions and mandates.

Specific outcomes of the planning process and the subsequent GMP will include:

(1) Articulation of a clear vision among all partners for the future conditions of natural and cultural resources and activities on the lands and waters in the legislated park boundary;

(2) Enhanced connections to the community through joint planning, cooperative management, leadership in stewardship, and the expression of the cultural history of the region;

(3) Criteria for determining appropriateness of current or future activities including types, locations, and levels of use. Appropriateness will be based on park purpose, resource concerns, and potential conflicts with other uses;

(4) Strategies to serve a diverse park visitor population, especially with urban residents and nontraditional visitors;

(5) A coordinated, seamless approach to the provision of information and recreation opportunities for visitors among the various providers.

Comments

As the first phase of the planning and EIS process, the NPS is beginning project scoping activities. Interested individuals, organizations, and agencies are invited to provide comments or suggestions on the planning process or on specific issues that should be addressed within the draft EIS (DEIS). Written comments may be mailed to the Superintendent, Santa Monica Mountains National Recreation Area, 30401 Agoura Road, Suite 100, Agoura Hills, CA 91301–2085. All comments should be postmarked not later than 90 days from the date of the publication of this notice. Public input will also be solicited at major milestones throughout the planning process, thus additional opportunities to comment will be provided in the future.

In addition, several public meetings will be held, affording an additional opportunity to voice issues and concerns. These meetings are scheduled during September 22–26, 1997 in locations throughout the greater Los Angeles area. The NPS will share the purpose and significance of Santa Monica Mountains National Recreation Area and solicit input on managing park resources. The dates and locations of meetings are listed below. Additional information may be obtained by contacting the park at (818) 597–1036, extension 201.

(1) *Los Angeles*—Sept. 22, UCLA Ackerman Hall, 7–10 pm;

(2) *Malibu*—Sept. 23, Webster Elementary, 6–9 pm;

(3) *Santa Monica*—Sept. 24, Santa Monica Library, 2–5 pm;

(4) *Ventura*—Sept. 25, Ventura County Building, 2–5 pm;

(5) *Agoura*—Sept. 26, Radisson Hotel, 3–6 pm.

General information about Santa Monica Mountains National Recreation Area is currently available on the Internet at http://www.nps.gov/samo. In the near future, information about the planning process and EIS/GMP will be available via the NPS planning page at http://www.nps.gov/planning.

Decision Process

The subsequent availability of the DEIS/GMP will be announced by formal notice and in local and regional news media. The DEIS/GMP is anticipated to be completed and available for public review during the summer of 1999. A final EIS/GMP is anticipated to be completed approximately one year later. A Record of Decision will be published in the **Federal Register** not sooner than thirty (30) days after distribution of the FEIS/GMP. The responsible official is John J. Reynolds, Regional Director, Pacific West Region, National Park Service.

Dated: August 1, 1997.

Sondra S. Humphries,

Acting Regional Director, Pacific West.

[FR Doc. 97–21904 Filed 8–18–97; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF JUSTICE

Antitrust Division

United States v. Allied Waste Industries, Inc.; Proposed Final Judgment and Competitive Impact Statement

Notice is hereby given pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. §§ 16 (b) through (h), that a Complaint, Stipulation and Order and a proposed Final Judgment, an Amended Complaint, Notice of Filing an Amended Complaint and proposed Final Judgment, and a Competitive Impact Statement have been filed with the United States District Court for the Northern District of Texas, Fort Worth Division in *United States and State of Texas* v. *Allied Waste Industries, Inc.,* Civil Action No. 497–CV 564 E.

On July 14, 1997, the United States and State of Texas filed a Complaint naming Allied Waste Industries, Inc. and USA Waste Services, Inc. as defendants. On July 15, 1997, a Stipulation and Order were filed and entered along with a proposed Final Judgment. Pursuant to the Stipulation and Order, an Amended Complaint, and an amended proposed Final Judgment both of which dropped USA Waste Service, Inc. as a defendant, were filed on July 29, 1997. A Competitive Impact Statement was also filed on July 29, 1997. The Complaint and Amended Complaint alleged that the proposed acquisition by Allied Waste Industries, Inc. (''Allied'') of the Crow Landfill in Tarrant County, Texas from USA Waste Services, Inc. would violate Section 7 of the Clayton Act, 15 U.S.C. § 18. The amended proposed Final Judgment, filed the same time as the Amended Complaint, requires Allied to, among other things, to divest more than 1.4 million cubic yards of landfill space over a five-to-ten year period at the two landfills Allied will own in the Tarrant County area after the acquisition; to accept waste at each of the two Allied

landfills in the Tarrant County area from haulers not affiliated with Allied on non-price terms and conditions identical to those provided to Allied; and to sell additional landfill space in the event that Allied expands its capacity at the Crow Landfill or develops a new landfill near the Crow Landfill within the next ten years.

Public comment is invited within the statutory 60-day comment period. Such comments and response thereto will be published in the **Federal Register** and filed with the Court. Comments should be directed to J. Robert Kramer, Chief, Litigation II Section, Antitrust Division, United States Department of Justice, 1401 H Street, NW, Suite 3000, Washington, DC 20530 (telephone: 202–307–0924).

Copies of the Complaint, Stipulation and Order, Amended Complaint, Notice of Filing Amended Complaint and Proposed Final Judgment, the proposed Final Judgment, and the Competitive Impact Statement are available for inspection in Room 215 of the U.S. Department of Justice, Antitrust Division, 325 7th Street, NW, Washington, DC 20530, (202) 514–2841. Copies for these materials may be obtained upon request and payment of a copying fee.

Constance K. Robinson,

Director of Operations.

United States District Court, Northern District of Texas, Fort Worth Division

United States of America and State of Texas, Plaintiffs, v. Allied Waste Industries, Inc., and USA Waste Services, Inc. Defendants. Civil Action No.: 497–CV–564 E.

Stipulation and Order

It is stipulated by and between the undersigned parties, through their respective attorneys, that:

1. The Court has jurisdiction over the subject matter of this action and over each of the parties hereto, and venue of this action is proper in the Northern District of Texas.

2. The parties consent that a Final Judgment in the form hereto attached may be filed and entered by the Court, upon the motion of any party or upon the Court's own motion, at any time after compliance with the requirements of the Antitrust Procedures and Penalties Act (15 U.S.C. § 16(b)–(h)), and without further notice to any party or other proceedings, provided that plaintiff United States has not withdrawn its consent, which it may do at any time before the entry of the proposed Final Judgment by serving notice thereof on defendants and by filing that notice with the Court.

3. The defendants shall abide by and comply with the provisions of the proposed Final Judgment pending entry of the Final Judgment, or until expiration of time for all appeals of any court ruling declining entry of the proposed Final Judgment and shall, from the date of the signing of this Stipulation, comply with all the terms and provisions of the proposed Final Judgment thereof as though the same were in full force and effect as an order of the Court.

4. This Stipulation shall apply with equal force and effect to any amended proposed Final Judgment agreed upon in writing by the parties and submitted to the Court. In the event that, as contemplated by defendants, the assets which are the subject of the Complaint and proposed Final Judgment (''the Crow Landfill'') are transferred by defendant USA Waste Services, Inc. (''USA Waste'') to defendant Allied Waste Industries, Inc. (''Allied'') subsequent to the Court entering this Stipulation and prior to the entry of the attached Final Judgment, than an amended Complaint and amended proposed Final Judgment which do not name USA Waste as a defendant in either pleading shall be filed herein and submitted to the Court.

5. In the event plaintiff United States withdraws its consent, as provided in paragraph 2 above, or if the proposed Final Judgment is not entered pursuant to this Stipulation, the time has expired for all appeals of any Court ruling declining entry of the Final Judgment, and if the Court has not otherwise ordered continued compliance with the terms and provisions of the Final Judgment, then the parties are released from all further obligations under this Stipulation, and the making of this Stipulation shall be without prejudice to any party in this or any other proceeding.

6. Allied represents that the divestiture ordered in the proposed Final Judgment can and will be made, and that it will later raise no claims of hardship or difficulty as grounds for asking the court to modify any of the divestiture provisions contained therein.

7. The parties request that the Court acknowledge the terms of this Stipulation by entering the Order in this pleading. Respectfully submitted.

For Plaintiff United States of America:

Joel I. Klien,

Acting Assistant Attorney General.

Donna E. Patterson,

Counselor to the Assistant Attorney General.

Charles E. Biggo,

Senior Counsel to the Assistant Attorney General.

Constance K. Robinson,

Director of Operations.

J. Robert Kramer II,

PA Bar #23963.

Willie L. Hudgins,

DC Bar #37127.

David R. Bickel.

DC Bar #393409.

Michael K. Hammaker,

DC Bar #233684

Attorneys, Department of Justice, Antitrust Division, 1401 H St., N.W., Suite 3000, Washington, D.C. 20530, (202) 307–0924, (202) 307–6283 (Facsimile)

Paul E. Coggins,

United States Attorney.

MARC W. BARTA,

TX Bar #01838200, Assistant U.S. Attorney, Northern District of Texas, 801 Cherry Street, Ste. 1700, Fort Worth, TX 76102–6897, (817) 978–3291, (817) 978–6351 (Facsimile)

Dated: July 14, 1997.

For Plaintiff State of Texas:

Dan Morales,

Attorney General of Texas.

Jorge Vega,

First Assistant Attorney General.

Laquita A. Hamilton,

Deputy Attorney General for Litigation.

Paul Elliott,

Chief Consumer Protection Division.

Mark Tobey,

Assistant Attorney General, Chief Antitrust Section.

Amy R. Krasner,

Assistant Attorney General, TX Bar #00791050.

Office of the Attorney General of Texas, P.O. Box 12548, Austin, TX 78711–2548, (512) 463–2185, (512) 320–0975

Dated: July 14, 1997.

For Defendant USA Waste Services, Inc.:

James R. Weiss,

DC Bar #379798, Preston Gates Ellis & Rouvelas Meeds LLP, Suite 500, 1735 New York Avenue, NW., Washington, DC 20006–5209, (202) 662–8400, (202) 789–0988 (Facsimile)

Attorneys for USA Waste Services, Inc.

Date: July 11, 1997.

James D. McCarthy,

TX Bar #13367700, Hughes & Luce, 1717 Main Street, Suite 2800, Dallas, TX 75201, (214) 939–5441, (213) 939–6100 (Facsimile)

Local Counsel for USA Waste Services, Inc.

Date: July 14, 1997.

For Defendant Allied Waste Industries, Inc.:

Tom D. Smith,

DC Bar #221986, Jones, Day, Reavis & Pogue, Metropolitan Square, 1450 G Street, NW., Washington, DC 20005–2088, (202) 879–3900, (202) 737–2832 (Facsimile)

Attorneys for Allied Waste Industries, Inc.

Date: July 11, 1997.

Thomas R. Jackson,

TX Bar #10496700, Jones, Day, Reavis & Pogue, 2300 Trammel Crow Center, 2001 Ross Avenue, Dallas, TX 75202–2958, (214) 220–3939, (214) 969–5100 (Facsimile)

Local Counsel For Allied Waste Industries, Inc.

Date: July 11, 1997.

Upon Review of this Stipulation by the parties, the Court acknowledges by this Order that the parties have consented to the terms specified in this Stipulation and the entry of the Final Judgment subject to the provisions of the Antitrust Procedures and Penalties Act (15 U.S.C. § 16 (b)—(h)).

So ordered on this 15th day of July, 1997.

Eldon B. Mahon,

United States District Court Judge.

Certification of Service

I hereby certify that a copy of the foregoing has been served upon the attorneys for USA Waste Services, Inc., the attorneys for Allied Waste Industries, Inc, and the Office of the Attorney General of the State of Texas, by placing a copy in the U.S. Mail, directed to each of the above-named parties at the addresses given below, this 14th day of July, 1997.

USA Waste Services, Inc., c/o James R. Weiss, Preston, Gates, Suite 500, 1735 New York Ave., NW., Washington, DC 20006

USA Waste Services, Inc., c/o James D. McCarthy, Hughes & Luce, 1717 Main Street, Suite 2800, Dallas, TX 75201

Allied Waste Industries, Inc., c/o Tom D. Smith, Jones, Day, Reavis, & Pogue, Metropolitan Square, 1450 G Street, NW., Washington, DC 20005–2088

Allied Waste Industries, Inc., c/o Thomas R. Jackson, Jones, Day, Reavis & Pogue, 2300 Trammel Crow Center, 2001 Ross Avenue, Dallas, TX 75202–2598

State of Texas: Amy Krasner, Assistant Attorney General, Antitrust Section, Office of the Attorney General of Texas, P.O. Box 12548, Austin, TX 78711–2548

David R. Bickel,

Attorney, U.S. Department of Justice, Antitrust Division, 1401 H Street, N.W., Suite 3000, Washington, D.C. 20530, (202) 307–0924, (202) 307–6283 (Facsimile).

United States District Court, Northern District of Texas, Forth Worth Division

United States of America and State of Texas, Plaintiffs, v. Allied Waste Industries, Inc. Defendant. Civil Action No.: 497–CV 564 E. Filed 7/29/97.

Final Judgment

Whereas, plaintiffs, United States of America (''United States'') and the State of Texas (''Texas''), having filed their Complaint herein on July 11, 1997, and Amended Complaint on July 29, 1997, and plaintiffs and defendant Allied Waste Industries, Inc. (''Allied''), by its attorneys, having consented to the entry of this Final Judgment without trial or adjudication of any issue of fact or law herein, and without this Final Judgment constituting any evidence against or an admission by any party with respect to any issue of law or fact herein;

And Whereas, defendant Allied has agreed to be bound by the provisions of this Final Judgment pending its approval by the Court;

And Whereas, prompt and certain divestiture of certain assets to assure that competition is not substantially lessened is the essence of this agreement;

And Whereas, the parties intend to require Allied to divest Airspace Assets as specified herein;

And Whereas, defendant has represented to plaintiffs that the divestiture required below can and will be made and that Allied will later raise no claims of hardship or difficulty as grounds for asking the Court to modify any of the terms contained below;

Now, Therefore, before the taking of any testimony, and without trial or adjudication of any issue of fact or law herein, and upon consent of the parties hereto, it is hereby *Ordered, Adjudged, and Decreed* as follows:

I. Jurisdiction

This Court has jurisdiction over the subject matter of this action and over each of the parties hereto. The Complaint states a claim upon which relief may be granted against the defendant under Section 7 of the Clayton Act, as amended (15 U.S.C. § 18).

II. Definitions

As used in this Final Judgment:

A. ''Allied'' means defendant Allied Waste Industries, Inc., a Delaware corporation with its headquarters in Phoenix, Arizona, and its successors and assigns, their subsidiaries, affiliates, directors, officers, managers, agents and employees.

B. ''USA Waste'' means USA Waste Services, Inc., a Delaware corporation with its headquarters in Houston, Texas, and its successors and assigns, their subsidiaries, affiliates, directors, officers, managers, agents and employees.

C. ''Tarrant County Area'' means the Texas counties of Tarrant, Johnson and Denton.

D. ''Crow Landfill'' means that landfill also known as the Fort Worth Landfill and located in Tarrant County at 7797 Confederate Park Road, Fort Worth, Texas 76108.

E. ''Turkey Creek Landfill'' means that landfill located in Johnson County at Interstate 35 West and Exit 21, P.O. Drawer 0, Alvarado, Texas 76009.

F. ''Airspace Assets'' means the assets to be divested by Allied in this Final Judgment. The term means the right to dispose (1) over a five-year period, beginning on the date of the divestiture, or the life of the Crow Landfill, whichever is longer, of up to a total of 880,000 cubic yards of waste, measured at the gate house, at the Crow Landfill, and (2) over a ten-year period, beginning on the date of the divestiture, of up to a total of 560,000 cubic yards of waste at the Turkey Creek Landfill. The disposal volumes specified at each landfill shall be subject to modification in accordance with the provisions of Sections IV.D(3) and IV.D(4) herein. The aggregate airspace rights at the Crow Landfill and the Turkey Creek Landfill may be divided and sold to separate purchasers. In addition, the airspace rights at each landfill may be sold to more than one purchaser. In any single year, the purchaser(s) of the airspace rights may not dispose of more than the Maximum Annual Disposal amount specified in Section II.G.

G. ''Maximum Annual Disposal'' means the maximum amount the purchaser of the airspace rights may dispose of in one year at the Crow or Turkey Creek Landfills under an agreement to purchase Airspace Assets. Based on the total cubic yards specified in Section II.F, the ''Maximum Annual Disposal'' is 275,000 cubic yards at the Crow Landfill and 125,000 cubic yards at the Turkey Creek Landfill, plus any increases in the Airspace Assets due to the inclusion of additional space as required by Sections IV.B, IV.D(3) and IV.D(4). If more than one company purchases the Airspace Assets at the Crow Landfill, the Maximum Annual Disposal for each purchaser shall be

specified in the respective purchase agreement, and the collective total of all purchasers' Maximum Annual Disposals at the Crow Landfill shall be no less than 275,000 cubic yards. If more than one company purchases the Airspace Assets at the Turkey Creek Landfill, the Maximum Annual Disposal for each purchaser shall be specified in the respective purchase agreement, and the collective total of all purchasers' Maximum Annual Disposals at the Turkey Creek Landfill shall be no less than 125,000 cubic yards.

H. ''Independent Hauler'' means any private company (other than Waste Management of North America, Inc. (''WMI''), Waste Management, Incorporated (''WMX'') or Allied) or municipality that provides waste hauling service in the Tarrant County Area.

III. Applicability

A. The provisions of this Final Judgment apply to the defendant Allied, its successors and assignees, its subsidiaries, affiliates, directors, officers, managers, agents, and employees, and all other persons in active concert or participation with any of them who shall have received actual notice of this Final Judgment by personal service or otherwise.

B. Allied shall require, as a condition of the sale or other disposition of all or substantially or all of its assets, or of a business unit that includes Allied's disposal business in the Tarrant County Area, that the acquiring party or parties agree to be bound by the provisions of this Final Judgment.

IV. Divestiture of Assets and Other Terms

A. Allied is hereby ordered and directed, within one hundred twenty (120) days from the filing of the Complaint in this matter, or within five (5) days after notice of the entry of this Final Judgment by the Court, whichever is later, to divest the Airspace Assets as specified in Section II.F to a firm which is acceptable to the United States, in its sole determination, after consultation with Texas. Allied is further ordered and directed to notify plaintiffs in writing immediately when they have completed the divestitures.

B. Following the date of divestiture, Allied shall maintain detailed records, subject to inspection by the United States and Texas in accordance with the provisions of Section IX.

C. If Allied closes the Crow Landfill during the term of any agreement to purchase Airspace Assets applicable to the Crow Landfill, Allied shall meet its obligations under each purchase agreement for Airspace Assets by providing equivalent space at the Turkey Creek Landfill. The space at the Turkey Creek Landfill shall be provided under the same terms and conditions which were previously available to the purchaser(s) at the Crow Landfill, or, at the purchaser's option, under those disposal terms and conditions previously available to the purchasers of the Airspace Assets at the Turkey Creek Landfill.

D. Allied is hereby ordered and directed to comply with the following obligations:

(1) Assurance of Space Letters. Allied will supply, in a timely manner, any Independent Hauler with a letter assuring a municipality that the hauler can dispose of that municipality's waste in Allied's Crow or Turkey Creek Landfills.

(2) Nondiscrimination. Allied agrees that (a) for any hauler or municipality it has agreed to accept waste from at either the Crow or Turkey Creek Landfills, and (b) for each purchaser of Airspace Assets or such persons designated by the purchaser to dispose of waste at the Crow or Turkey Creek Landfills, it will operate that landfill, gate, scale house, and disposal area under terms and conditions no less favorable than those provided to Allied's vehicles or to the vehicles of any municipality in the Tarrant County Area, except as to price and credit terms.

(3) Additional Airspace Assets. If Allied obtains a permit within ten years to expand the Crow Landfill or to develop a new landfill adjacent to the Crow Landfill, it agrees to sell 20% of the expanded capacity to the existing Airspace Assets purchaser(s) at rates agreed to in the original purchase agreement for airspace assets. If the purchaser(s) does not buy the Additional Airspace Assets, Allied agrees to offer those assets for sale in the same manner it sold the original Airspace Assets.

(4) Airspace Asset Minimums. The amounts of waste to be divested under the sale of the Airspace Assets are minimums and are based on cubic yards measured at the gate. If the actual remaining capacity at the Crow Landfill is greater than the original estimate of 4.4 million gate yards, Allied shall offer to sell (a) at the Crow Landfill, 20% of the remaining disposal capacity in excess of 4.4 million gate yards, and (b) at the Turkey Creek Landfill, 10% of the remaining disposal capacity in excess of 4.4 million gate yards, to the purchaser(s) of the Airspace Assets at the rates and terms specified in each purchase agreement for the Airspace Assets.

(5) Approval. Allied will not re-purchase any portion of the Airspace Assets without approval from the Department of Justice, in its sole determination, after consultation with Texas.

E. As part of the sale of the Airspace Assets, Allied will include an agreement to accept waste from each purchaser or such persons designated by the purchaser to dispose of waste at the Crow Landfill or the Turkey Creek Landfill.

F. Unless the United States, after consultation with Texas, otherwise consents in writing, divestiture under Section IV.A, or by the trustee appointed pursuant to Section V, shall be accomplished in such a way as to satisfy the United States, in its sole determination after consultation with Texas, that the Airspace Assets can and will be used by the purchaser as part of a viable, ongoing business engaged in solid waste disposal in the Tarrant County Area. The divestiture made by Allied under Section IV.A or by the trustee under Section V.A shall be made (1) to a purchaser or purchasers that, in the sole judgment of the United States, has or have the capability and intent of competing effectively in the Tarrant County Area, and (2) has or have the managerial, operational, and financial capability to compete effectively in solid waste disposal in the Tarrant County Area.

G. In accomplishing the divestitures ordered by this Final Judgment, Allied promptly shall make known, by usual and customary means, the availability of the Airspace Assets described in this Final Judgment. Allied shall inform any person making an inquiry regarding a possible purchase that the sale is being made pursuant to this Final Judgment and provide such person with a copy of this Final Judgment. Allied shall also offer to furnish to all bona fide prospective purchasers, subject to customary confidentiality assurances, all information regarding the Airspace Assets customarily provided in a due diligence process except such information subject to attorney-client or work-product privileges. Allied shall make available such information to plaintiffs at the same time such information is made available to any other person. In giving notice of the availability of the Airspace Assets, Allied shall not exclude any persons bound by any non-compete obligations to Allied or USA Waste.

H. Allied shall waive any non-compete obligation that would prohibit

any person from acquiring the Airspace Assets.

I. Allied shall take all reasonable steps to accomplish quickly the divestiture contemplated by this Final Judgment.

J. Pursuant to its divestiture of the Airspace Assets, Allied shall promptly advise the United States and Texas of its method for determining capacity at the Crow Landfill and for informing purchaser(s) expeditiously of any increase in the Airspace Assets as specified in Section IV.D(4). The proposed method shall be subject to the approval of the United States, in its sole determination, after consultation with Texas.

V. Appointment of Trustee

A. In the event that Allied has not divested all of the assets required by Section IV.A, within the applicable time period specified, the Court shall appoint, on application of the United States, after consultation with Texas, a trustee selected by the United States to effect the divestiture required by Section IV.A. After the appointment of a trustee becomes effective, only the trustee shall have the right to sell the assets required to be divested pursuant to Section IV.A. Subject to Sections V.B and VI of this Final Judgment, the trustee shall have the power and authority to hire at the cost and expense of Allied any investment banker, attorneys or other agents reasonably necessary in the judgment of the trustee to assist in the divestiture, and such professionals or agents shall be solely accountable to the trustee. The trustee shall have the power and authority to accomplish the divestiture at the best price then obtainable upon a reasonable effort by the trustee, subject to the provisions of Section VI of this Final Judgment, and shall have such other powers as the Court shall deem appropriate. The trustee shall have the power and authority to accomplish the divestiture at the earliest possible time to a purchaser acceptable to the United States, in its sole judgment after consultation with Texas. Allied shall not object to a sale by the trustee on any grounds other than the trustee's malfeasance. Any such objections by Allied must be conveyed in writing to plaintiffs and the trustee within ten (10) days after the trustee has provided the notice required under Section VI.

B. The trustee shall serve at the cost and expense of Allied, on such terms and conditions as the Court may prescribe, and shall account for all monies derived from the sale of the assets sold by the trustee and all costs and expenses so incurred. After approval by the Court of the trustee's accounting, including fees for its services, all remaining money shall be paid to Allied and the trust shall then be terminated. The compensation of such trustee shall be reasonable and based on a fee arrangement providing the trustee with an incentive based on the price and terms of the divestiture and the speed with which it is accomplished.

C. Allied shall use its best efforts to assist the trustee in accomplishing the required divestiture. Subject to a customary confidentiality agreement, the trustee and any consultants, accountants, attorneys, and other persons retained by the trustee shall have full and complete access to the personnel, books, records, and facilities of the divestiture assets, and Allied shall develop financial or other information relevant to such assets as the trustee may reasonably request. Allied shall take no action to interfere with or to impede the trustee's accomplishment of the divestiture.

D. After its appointment becomes effective, the trustee shall file monthly reports with the parties and the Court setting forth the trustee's efforts to accomplish the divestiture ordered under this Final Judgment, provided, however, that to the extent such reports contain information that the trustee deems confidential, such reports shall not be filed in the public docket of the Court. Such reports shall include the name, address and telephone number of each person who, during the preceding month, made an offer to acquire, expressed an interest in acquiring, entered into negotiations to acquire, or was contacted or made an inquiry about acquiring, the Airspace Assets, and shall describe in detail each contact with any person during that period. The trustee shall maintain full records of all efforts made to divest the Airspace Assets.

E. If the trustee has not accomplished such divestiture within six months after its appointment becomes effective, the trustee shall thereupon promptly file with the Court a report setting forth (1) the trustee's efforts to accomplish the required divestiture, (2) the reasons, in the trustee's judgment, why the required divestiture has not been accomplished, and (3) the trustee's recommendations, provided however, that to the extent such reports contain information that the trustee deems confidential, such reports shall not be filed in the public docket of the Court. The trustee shall at the same time furnish such report of the parties, who shall each have the right to be heard and to make additional recommendations consistent with the purpose of the Final Judgment. The Court shall thereafter enter such orders as it shall deem appropriate in order to carry out the purpose of the Final Judgment, which shall, if necessary, include extending the trust and the term of the trustee's appointment.

VI. Notification

A. Within two (2) business days following execution of a binding agreement to divest, including all contemplated ancillary agreements required to effect any proposed divestiture pursuant to Section IV or V of the Final Judgment, Allied or the trustee, whichever is then responsible for effecting the divestiture required herein, shall notify plaintiffs of the proposed divestiture. If the trustee is responsible, it shall similarly notify Allied. The notice shall set forth the details of the proposed transaction and list the name, address, and telephone number of each person not previously identified who offered or expressed an interest or desire to acquire any ownership interest in the Airspace Assets or any of them, together with full details of the same. Within fifteen (15) days after receipt of the notice, plaintiffs may request from Allied, the proposed purchasers, or the trustee, if applicable, additional information concerning the proposed divestiture, the proposed purchaser or purchasers, and any other potential purchaser. Allied or the trustee shall furnish the additional information within fifteen (15) days of the receipt of the request. Within thirty (30) days after receipt of the notice or within fifteen (15) days after receipt of the additional information, whichever is later, the United States, after consultation with Texas, shall notify in writing Allied and the trustee, if there is one, if it objects to the proposed divestiture. If the United States fails to object within the period specified, or if the United States notifies in writing Allied and the trustee, if there is one, that it does not object, then the divestiture may be consummated, subject only to Allied's limited right to object to the sale under Section V.A. Upon objection by Allied under Section V.A., a divestiture proposed shall not be consummated unless approved by the Court.

B. Thirty (30) days from the date when the sale of the Crow Landfill from USA Waste to Allied is consummated, but in no event later than August 30, 1997, and every thirty (30) days thereafter until the divestiture has been completed, Allied shall deliver to plaintiffs an affidavit as to the fact and manner of compliance with Sections IV and V of this Final Judgment. Each such report shall include, for each person who during the preceding thirty (30)

days made an offer, expressed an interest or desire to acquire, entered into negotiations to acquire, or made an inquiry about acquiring any ownership interest in the Airspace Assets or any of them, the name, address, and telephone number of that person and a detailed description of each contact with that person during that period. Allied shall maintain full records of all efforts made to divest the Airspace Assets or any of them.

VII. Financing

Allied shall not finance all or any part of any purchase made pursuant to Sections IV or V of this Final Judgment without the prior written consent of the United States, after consultation with Texas.

VIII. Preservation of Assets

Until the divestitures required by the Final Judgment have been accomplished, Allied shall take all steps necessary to ensure that the Airspace Assets are fully maintained in operable condition, and shall maintain and adhere to normal or previously approved repair, improvement, and maintenance schedules and comply with all federal and state regulations concerning landfills. Allied shall also take no action that would jeopardize the sale of the Airspace Assets. Allied shall appoint a person with oversight responsibility for the preservation of assets to insure compliance with this section of the Final Judgment.

IX. Compliance Inspection

For the purpose of determining or securing compliance with this Final Judgment, and subject to any legally recognized privilege, from time to time:

A. Duly authorized representatives of the United States or Texas, including consultants and other persons retained by the plaintiffs, shall, upon the written request of the Assistant Attorney General in charge of the Antitrust Division or the Attorney General of the State of Texas, and on reasonable notice to Allied made to its principal offices, be permitted:

1. Access during office hours to inspect and copy all books, ledgers, accounts, correspondence, memoranda, and other records and documents in the possession or under the control of Allied, which may have counsel present, relating to any matters contained in this Final Judgment; and

2. Subject to the reasonable convenience of Allied and without restraint or interference from them, to interview, either informally or on the record, Allied's directors, officers, employees, and agents who may have counsel present, regarding any such matters.

B. Upon the written request of the Assistant Attorney General in charge of the Antitrust Division or the Attorney General of the State of Texas made to Allied and USA Waste at its principal offices, defendant shall submit such written reports, under oath if requested, with respect to any of the matters contained in this Final Judgment as may be requested.

C. No information nor any documents obtained by the means provided in this Section IX shall be divulged by any representative of the United States or the Office of the Attorney General of Texas to any person other than a duly authorized representative of the Executive Branch of the United States or of the Office of the Attorney General of Texas except in the course of legal proceedings to which the United States or Texas is a party (including grand jury proceedings), or for the purpose of securing compliance with this Final Judgment, or as otherwise required by law.

D. If at the time information or documents are furnished by Allied to plaintiffs, Allied represents and identifies in writing the material in any such information or documents for which a claim of protection may be asserted under Rule 26(c)(7) of the Federal Rules of Civil Procedure, and defendant marks each pertinent page of such material, ''Subject to claim of protection under Rule 26(c)(7) of the Federal Rules of Civil Procedure,'' then plaintiffs shall give ten (10) days notice to Allied prior to divulging such material in any legal proceeding (other than a grand jury proceeding) to which Allied is not a party.

X. Retention of Jurisdiction

Jurisdiction is retained by this Court for the purpose of enabling any of the parties to this Final Judgment to apply to this Court at any time for such further orders and directions as may be necessary or appropriate for the construction, implementation, or modification of any of the provisions of this Final Judgment, for the enforcement of compliance herewith, and for the punishment of any violations hereof.

XI. Termination

Unless this Court grants an extension, this Final Judgment will expire on the tenth anniversary of the date of its entry.

XII. Public Interest

Entry of this Final Judgment is in the public interest.

Dated: _____

Court approval subject to procedures of Antitrust Procedures and Penalties Act, 15 U.S.C. § 16.

_____

United States District Judge

United States District Court, Northern District of Texas, Fort Worth Division

United States of America and State of Texas, Plaintiffs, v. Allied Waste Industries, Inc., Defendant.

Civil Action No.: 497–CV 564 E.

Competitive Impact Statement

The United States, pursuant to Section 2(b) of the Antitrust Procedures and Penalties Act (''APPA''), 15 U.S.C. § 16(b)–(h), files this Competitive Impact Statement relating to the proposed Final Judgment submitted for entry in this civil antitrust proceeding.

I. Nature and Purpose of the Proceeding

On July 14, 1997, the United States filed a civil antitrust Complaint alleging that the proposed acquisition by Allied Waste Industries, Inc. (''Allied'') of the Crow Landfill in Tarrant County, Texas from USA Waste Industries, Inc. (''USA Waste'') would violate Section 7 of the Clayton Act, 15 U.S.C. § 18. An Amended Complaint was filed on July 29, 1997. The Complaint alleges that Allied and USA Waste are two of only four competitors in the greater Tarrant County area that operate commercial landfills for the disposals of municipal solid waste (''MSW'') generated in Tarrant County. If the acquisition were consummated, there would be only three operators competing to dispose of MSW generated in Tarrant County, and that loss of competition would likely result in consumers paying higher prices for waste disposal and hauling and receiving fewer or lesser quality services. MSW disposal is a service which involves the receiving of waste at landfills from haulers which have collected paper, food, construction material and other solid wastes from homes, businesses and industries, and transported that waste to a landfill. The payer for relief in the Complaint seeks: (1) a judgment that the proposed acquisition would violate Section 7 of the Clayton Act; and (2) a permanent injunction preventing Allied from acquiring the Crow Landfill from USA Waste.

When the Complaint was filed, the United States also filed a proposed settlement that would permit Allied to complete its acquisition of USA Waste's Crow Landfill, but require certain divestitures of Airspace Assets and other terms that will preserve competition in the relevant market. This settlement consists of a Stipulation and Order and a proposed Final Judgment.

The proposal Final Judgment requires Allied to sell the right to dispose of waste at the Crow Landfill being acquired by Allied from USA Waste, and at Allied's Turkey Creek Landfill in Johnson County. In particular, Allied is ordered to (1) divest up to a total of 880,000 cubic yards of disposal space, measured at the gate house, at the Crow Landfill over a five year period or the life of the Crow Landfill, whichever is longer; and (2) divest up to a total of 560,000 cubic yards of disposal space at the Turkey Creek Landfill over a ten year period (together, ''Airspace Assets''). The Airspace Assets may be divided and sold to separate purchasers. In any single year, the purchaser(s) of the Airspace Assets may not dispose of more than the Maximum Annual Disposal amounts specified in the Final Judgment, which is 275,000 cubic yards at Crow and 125,000 cubic yards at Turkey Creek.

Allied is also required to supply, in a timely manner, any Independent Hauler with a letter assuring the municipality that the hauler can dispose of that municipality's waste in Allied's Crow or Turkey Creek Landfills. Allied has agreed to nondiscrimination terms. It will accept waste from haulers not affiliated with Allied under conditions no less favorable than those provided to Allied's vehicles. Further, if Allied obtains a permit within ten years to expand the Crow Landfill or to develop a new landfill adjacent to the Crow Landfill, it agrees to sell 20% of the expanded capacity to the existing Airspace Assets purchaser(s) at the rates and terms specified in the original Airspace Assets purchase agreement. If the purchaser does not buy the assets, Allied will offer it for sale in the same manner it sold the original Airspace Assets.

The amounts of disposal space to be divested are minimums and are based on cubic yards measured at the gate. If the actual remaining capacity of the Crow Landfill is greater than 4.4 million cubic yards, Allied must offer for sale 20% of the additional capacity at the Crow Landfill and 10% of the additional capacity at the Turkey Creek Landfill at the rates and terms specified in the original Airspace Assets purchase agreement(s). Allied will not re-purchase any portion of the assets without approval from the Department of Justice after consultation with Texas.

The plaintiffs and defendant have stipulated that the proposed Final Judgment may be entered after compliance with the APPA. Entry of the proposed Final Judgment would terminate the action, except that the Court would retain jurisdiction to construe, modify, or enforce the provisions of the proposed Final Judgment and to punish violations thereof.

II. Description of the Events Giving Rise to the Alleged Violation

A. The Defendant and the Proposed Transaction

Allied is among the ten largest solid waste hauling and disposal companies in the nation, and serves municipal, commercial, industrial and residential customers in 22 states. USA Waste is the third largest in the nation, and serves the same type of customers in 32 states. In 1996, Allied had total revenues of over $806 million and USA Waste had total revenues of over $1 billion.

On March 7, 1997, Allied agreed to acquire the Crow Landfill and other assets from USA Waste. This transaction, which would take place in the highly concentrated MSW disposal market at commercial landfills in the greater Tarrant County area, precipitated the government's suit.

B. Product and Geographic Markets

The requirements imposed by Texas law and regulations limit the means by which MSW can be properly disposed. Landfills that are open to the general public, or ''commercial landfills,'' generally accept MSW from anyone or anywhere. Disposal of MSW at these commercial landfills is a line of commerce and a relevant product market. Landfills that accepts MSW from only certain areas, such as Arlington, Grand Prairie, and the City of Fort Worth landfills or ''captive landfills,'' are not viewed by most haulers of MSW to be substitutes for commercial landfills which includes Tarrant County, northern Johnson County, and southern Denton County. One of the captive landfills, the City of Fort Worth landfill, primarily accepts waste hauled to it from private individuals rather than commercial haulers.

The cost of transporting MSW to a landfill site can be a substantial component of the cost of disposal. Total disposal costs may account for as much as 50 percent of the actual amount charged by a hauler for its collection services, hence limiting the areas where MSW can be economically transported and disposed of by haulers. The geographic location of landfills and associated transportation costs create localized markets for the disposal of MSW.

Due to the high costs of transporting MSW, and the substantial travel time to other landfills based on distance or congested roadways, haulers of MSW generated in Tarrant County are limited to those commercial landfills located in the greater Tarrant County area, which includes Tarrant County, northern Johnson County, and southern Denton County. The four operators of commercial landfills in the relevant geographic market to which haulers of MSW generated in Tarrant County turn to dispose of MSW are USA Waste, which owns the Crow Landfill; Allied, which owns the Turkey Creek Landfill; WMI, which owns both the Westside Landfill and DFW Landfill; and the City of Farmers Branch, which owns the Camelot Landfill.

C. Harm to Competition as a Consequence of the Acquisition

The Complaint alleges that the transaction would have the following effects, among others: that competition generally in providing disposal at commercial landfills to haulers of MSW generated in Tarrant County would be lessened substantially; that actual and potential competition between Allied and USA Waste in providing disposal at commercial landfills to haulers of MSW generated in Tarrant County will be eliminated; and that competition for the hauling of MSW generated in Tarrant County may be substantially lessened.

Should Allied acquire the Crow Landfill, there will be only three landfill operators in the relevant market. The elimination of one of such a small number of significant competitors will significantly increase the likelihood that consumers will face higher prices and poor quality service for the disposal of MSW generated in Tarrant County.

Allied and USA Waste compete with each other and with other companies to provide MSW disposal services in the greater Tarrant County area. That competition has resulted in lower waste disposal prices to haulers, which in turn has permitted those haulers to compete more effectively for business in Tarrant County. The elimination of competition resulting from the proposed acquisition of the Crow Landfill by Allied will likely result in price increases for the disposal of MSW generated in Tarrant County.

Using a measure of market concentration called the Herfindahl-Hirschman Index (''HHI''), which is defined and explained in Appendix A, the post-acquisition HHI, based on the amount of waste from Tarrant County disposed of in 1996 at the five landfills in the relevant geographic market, would exceed 3500, with an increase in the HHI of over 400. This number is likely understated because the capacity limitations on the Camelot Landfill limit

its ability to provide a competitive constraint. Thus, an acquisition by Allied of the Crow Landfill would substantially increase concentration in the market.

Obtaining regulatory approval for either a new landfill or the expansion of an existing landfill in the greater Tarrant County area is a costly and time consuming process that can take several years. Entry by a new landfill or through the expansion of an existing one would not be timely, likely or sufficient to prevent harm to competition.

Allied is also engaged in the collection and hauling of waste in the relevant geographic market. Allied and WMI are the dominant haulers in the relevant geographic market and account for roughly 80% of the hauling by private firms in Tarrant County. Post-acquisition, Allied would have an increased incentive to raise disposal prices to rival haulers in Tarrant County, to create a substantial barrier for entry to new haulers, or selectively to raise prices to punish or impede independent haulers who attempt to compete with it in Tarrant County.

III. Explanation of the Proposed Final Judgment

The provisions of the proposed Final Judgment are designed to eliminate the anticompetitive effects of the acquisition of the Crow Landfill by Allied from USA Waste.

The proposed Final Judgment requires the Airspace Assets to be divested within one hundred twenty (120) days from the filing of the complaint, or within five (5) days after notice of the entry of the Final Judgment. The Airspace Assets will be divested to a purchaser, or purchasers, who demonstrate to the sole satisfaction of the United States (after consultation with the State of Texas) that the assets will be used as part of an ongoing business engaged in solid waste disposal. If allied fails to sell the Airspace Assets, a trustee will be appointed. The Final Judgment provides that Allied will pay all costs and expenses of the trustee. The trustee's commission will be structured so as to provide an incentive for the trustee based on the price obtained and the speed with which divestiture is accomplished. After his or her appointment becomes effective, the trustee will file monthly reports with the parties and the Court, setting forth the trustee's efforts to accomplish divestiture. If the trustee has not accomplished the divestiture within six months of its appointment, the trustee and the parties will make recommendations to the Court which shall enter such orders as appropriate in order to carry out the purpose of the trust, including extending the trust or the term of the trustee's appointment.

The relief sought in the Complaint has been tailored to insure that it will protect consumers of hauling services and MSW disposal services at commercial landfills from the higher prices and poorer quality service that might otherwise result from the acquisition.

IV. Remedies Available to Potential Private Litigants

Section 4 of the Clayton Act (15 U.S.C. § 15) provides that any person who has been injured as a result of conduct prohibited by the antitrust laws may bring suit in federal court to recover three times the damages the person has suffered, as well as costs and reasonable attorneys' fees. Entry of the proposed Final Judgment will neither impair nor assist the bringing of any private antitrust damage action. Under the provisions of Section 5(a) of the Clayton Act (15 U.S.C. § 16(a)), the proposed Final Judgment has no *prima facie* effect in any subsequent private lawsuit that may be brought against defendant.

V. Procedures Available for Modification of the Proposed Final Judgment

The United States and defendant have consented that a proposed Final Judgment may be entered by the Court after compliance with the provisions of the APPA, provided that the United States has not withdrawn its consent. The APPA conditions entry of a Final Judgment upon the Court's determination that the proposed Final Judgment is in the public interest. The APPA provides a period of at least 60 days preceding the effective date of the proposed Final Judgment within which any person may submit to the United States written comments regarding the proposed Final Judgment. Any person who wishes to comment should do so within sixty (60) days of the date of publication of this Competitive Impact Statement in the **Federal Register**. The United States will evaluate and respond to the comments. All comments will be given due consideration by the Department of Justice, which remains free to withdraw its consent to the proposed Judgment at any time prior to entry. The comments and the response of the United States will be filed with the Court and published in the **Federal Register**. Written comments should be submitted to: J. Robert Kramer II, Chief, Litigation II Section, Antitrust Division, United States Department of Justice, 1401 H Street, NW., Suite 3000, Washington, DC 20530.

The proposed Final Judgment provides that the Court retains jurisdiction over this action, and the parties may apply to the Court for any order necessary or appropriate for the modification, interpretation, or enforcement of the Final Judgment.

VI. Alternatives to the Proposed Final Judgment

The United States considered, as an alternative to the proposed Final Judgment, a full trial on the merits against defendant Allied. The United States could have brought suit and sought preliminary and permanent injunctions against Allied's acquisition. The United States is satisfied, however, that the divestiture of the described assets and the other terms specified in Part I and in the proposed Final Judgment will encourage viable MSW disposal competitors in the greater Tarrant County area. The United States is satisfied that the proposed relief will prevent the acquisition from having anticompetitive effects in this market. The divestiture of Airspace Assets Space and the other proposed terms will restore the market to a structure that existed prior to the acquisition and will preserve the existence of independent hauling competitors in the area.

VII. Standard of Review Under the APPA for Proposed Final Judgment

The APPA requires that proposed consent judgments in antitrust cases brought by the United States be subject to a sixty-day comment period, after which the Court shall determine whether entry of the proposed Final Judgment ''is in the public interest.'' In making that determination, the Court *may* consider—

> (1) The competitive impact of such judgment, including termination of alleged violations, provisions for enforcement and modification, duration or relief sought, anticipated effects of alternative remedies actually considered, and any other considerations bearing upon the adequacy of such judgment;
>
> (2) The impact of entry of such judgment upon the public generally and individuals alleging specific injury from the violations set forth in the complaint including consideration of the public benefit, if any, to be derived from a determination of the issues at trial.

15 U.S.C. § 16(e) (emphasis added). As the Court of Appeals for the District of Columbia Circuit recently held, the APPA permits a Court to consider, among other things, the relationship between the remedy secured and the specific allegations set forth in the government's complaint, whether the

decree is sufficiently clear, whether enforcement mechanisms are sufficient, and whether the decree may positively harm third parties. *See United States* v. *Microsoft,* 56 F.3d 1448 (D.C. Cir. 1995).

In conducting this inquiry, ''the Court is nowhere compelled to go to trial or to enage in extended proceedings which might have the effect of vitiating the benefits of prompt and less costly settlement through the consent decree process.'' [1] Rather,

absent a showing of corrupt failure of the government to discharge its duty, the Court, in making its public interest finding, should . . . carefully consider the explanations of the government in the competitive impact statement and its responses to comments in order to determine whether those explanations are reasonable under the circumstances.

United States v. *Mid-America Dairymen, Inc.*, 1977–1 Trade Cas. ¶ 61,508, at 71,980 (W.D. Mo. 1977).

Accordingly, with respect to the adequacy of the relief secured by the decree, a Court may not ''engage in an unrestricted evaluation of what relief would best serve the public.'' *United States* v. *BNS, Inc.*, 858 F.2d 456, 462 (9th Cir. 1988) *quoting United States* v. *Bechtel Corp.*, 648 F.2d 660, 666 (9th Cir.), *cert. denied*, 454 U.S. 1083 (1981); see also, *Microsoft*, 56 F.3d 1448 (D.C. Cir.1995). Precedent requires that

the balancing of competing social and political interests affected by a proposed antitrust consent decree must be left, in the first instance, to the discretion of the Attorney General. The court's role in protecting the public interest is one of insuring that the government has not breached its duty to the public in consenting to the decree. The court is required to determine not whether a particular decree is the one that will best serve society, but whether the settlement is ''*within the reaches of the public interest.*'' More elaborate requirements might undermine the effectiveness of antitrust enforcement by consent decree.[2]

The proposed Final Judgment, therefore, should not be reviewed under a standard of whether it is certain to eliminate every anticompetitive effect of a particular practice or whether it mandates certainty of free competition in the future. Court approval of a final judgment requires a standard more flexible and less strict than the standard required for a finding of liability. ''[A] proposed decree must be approved even if it falls short of the remedy the court would impose on its own, as long as it falls within the range of acceptability or is 'within the reaches of public interest.' (citation omitted).'' [3]

VIII. Determinative Documents

There are no determinative materials or documents within the meaning of the APPA that were considered by the United States in formulating the proposed Final Judgment.

Respectfully submitted,

For Plaintiff United States of America:

J. Robert Kramer II,

PA Bar #23963.

Willie L. Hudgins,

DC Bar #37127.

Attorneys, U.S. Department of Justice, Antitrust Division

David R. Bickel,

DC Bar #393409.

Michael K. Hammaker,

DC Bar #233684.

Attorneys, U.S. Department of Justice, Antitrust Division, 1401 H St., N.W., Suite 3000, Washington, D.C. 20530, 202–307–0924, 202–307–6283 (Facsimile)

Paul E. Coggins,

United States Attorney.

for

Marc. W. Barta,

TX Bar #01838200, Assistant U.S. Attorney, Northern District of Texas, 801 Cherry Street, Ste. 1700, Fort Worth, TX 76102–6897, 817–978–3291, 817–978–6351 (Facsimile).

Dated: July 29, 1997.

Certification of Service

I hereby certify that a copy of the foregoing has been served upon the attorneys for USA Waste Service, Inc., the attorneys for Allied Waste Industries, Inc, and the Office of the Attorney General of the State of Texas, by placing a copy in the U.S. Mail, directed to each of the above-named parties at the addresses give below, this 29th day of July, 1997.

USA Waste Services, Inc., c/o James R. Weiss, Preston, Gates, Suite 500, 1735 New York Ave., NW., Washington, DC 20006

USA Waste Services, Inc., c/o James D. McCarthy, Hughes & Luce, 1717 Main Street, Suite 2800, Dallas, TX 75201

Allied Waste Industries, Inc., c/o Tom D. Smith, Jones, Day, Reavis & Pogue, Metropolitan Square, 1450 G Street, NW., Washington, DC 20005–2088

Allied Waste Industries, Inc., c/o Thomas R. Jackson, Jones, Day, Reavis & Pogue, 2300 Trammel Crow Center, 2001 Ross Avenue, Dallas, TX 75202–2598

State of Texas: Amy Krasner, Assistant Attorney General, Antitrust Section, Office of the Attorney General of Texas, P.O. Box 12548, Austin, TX 78711–2548

David R. Bickel,

Attorney, U.S. Department of Justice, Antitrust Division, 1401 H Street, N.W., Suite 3000, Washington, D.C. 20530, (202) 307–0924, (202) 307–6283 (Facsimile).

[FR Doc. 97–21855 Filed 8–18–97; 8:45 am]

BILLING CODE 4410–11–M

[1] 119 Cong. Rec. 24598 (1973). See, *United States* v. *Gillette Co.*, 406 F. Supp. 713, 715 (D.Mass.1975). A ''public interest'' determination can be made properly on the basis of the Competitive Impact Statement and Response to Comments filed pursuant to the APPA. Although the APPA authorizes the use of additional procedures, 15 U.S.C. § 16(f), those procedures are discretionary. A court need not invoke any of them unless it believes that the comments have raised significant issues and that further proceedings would aid the court in resolving those issues. See, H.R. 93–1463, 93rd Cong. 2d Sess. 8–9, reprinted in (1974) U.S. Code Cong. & Ad. News 6535, 6538.

[2] *United States* v. *Bechtel*, 648 F.2d at 666 (citations omitted) (emphasis added); see *United States* v. *BNS, Inc.*, 858 F.2d at 463; *United States* v. *National Broadcasting Co.*, 449 F. Supp. 1127, 1143 (C.D. Cal. 1978); *United States* v. *Gillette Co.*, 406 F. Supp. at 716. See also *United States* v. *American Cyanamid Co.*, 719 F.2d at 565.

[3] *United States* v. *American Tel. and Tel. Co.*, 552 F. Supp. 131, 150 (D.D.C. 1982), aff'd sub nom. *Maryland* v. *United States*, 460 U.S. 1001 (1983) quoting *United States* v. *Gillette Co.*, supra, 406 F. Supp. at 716; *United States* v. *Alcan Aluminum, Ltd.*, 605 F. Supp. 619, 622 (W.D. Ky 1985).

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

[INS No. 1851–97]

Change in Production of the Form I–551, Alien Registration Receipt Card

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Notice.

SUMMARY: In September 1997, the Immigration and Naturalization Service (INS or Service) will produce the Form I–551, Alien Registration Receipt Card (ARC) using an Integrated Card Production System (ICPS). At that time, the Service will transfer production of the ARC from the Immigration Card Facility (ICF) to the ICPS located at INS service centers. These changes will increase efficiency in producing the ARCs, allow the Service to be more responsive to inquires from applicants, their representatives, and benefit-granting agencies, and will enhance the Service's ability to produce a more secure ARC.

EFFECTIVE DATE: September 1, 1997.

FOR FURTHER INFORMATION CONTACT:

Geoff Verderosa, Immigration and Naturalization Service, Benefits Division, Residence and Status Services, 425 I Street, NW., Room 3214, Washington, DC 20536, Telephone 202–514–3156.

SUPPLEMENTARY INFORMATION:

What Will Happen on September 1, 1997?

On September 1, 1997, the Service will begin using the Integrated Card Production System (ICPS) at the INS service centers to produce the new Permanent Resident Card, known as the Alien Registration Receipt Card (ARC). The Service will stop producing the ARCs at the Immigration Card Facility on September 30, 1997.

What Are the Benefits of Using ICPS Technology at the INS Service Centers?

Using ICPS technology at the INS service centers will allow the Service to:

(1) Mass produce the ARCs at a faster rate;

(2) Produce a more secure credit card type identity card by using the latest security features available (i.e., biometrics);

(3) Eliminate the extra step of sending the Application for Alien Registration Receipt Card, Form I–90, from each of the service centers to the Immigration Card Facility;

(4) Reduce the possibility of all of the ICPS machines being disabled at the same time; and

(5) Enhance its ability to be more responsive to inquiries from applicants, their representatives, and benefit-granting agencies.

Will the ARC Produced by the ICPS Look Different Than the Current ARC and, if so, Will Employers and Public Agencies be Informed of This Change?

The ARC will have a different appearance than the current ARC. INS will inform employers and public agencies of the change by initiating a public information campaign in August 1997.

Will There Be a Change in the Filing Procedures to Apply for a New ARC?

No. You should continue to follow the instructions on the Form I–90, Application to replace Alien Registration Receipt Card, when filing for renewal or replacement of an ARC.

Will My Current ARC Remain Valid?

Yes. New ARCs will be issued using ICPS technology, but the validity of current Form I–551 ARCs is unaffected by this change. They will remain valid until the expiration date on the card.

How Will My ARC be Delivered?

The cards will continue to be mailed and delivered by the U.S. Postal Service.

Dated: August 11, 1997.

Doris Meissner,

Commissioner, Immigration and Naturalization Service.

[FR Doc. 97–21901 Filed 8–18–97; 8:45 am]

BILLING CODE 4410–10–M

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review; Comment Request

August 14, 1997.

The Department of Labor (DOL) has submitted the following public information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). A copy of this ICR, with applicable supporting documentation, may be obtained by calling the Department of Labor, Departmental Clearance Officer, Theresa M. O'Malley ((202) 219–5096 ext. 143) or by E-Mail to OMalley-Theresa@dol.gov. Individuals who use a telecommunications device for the deaf (TTY/TDD) may call (202) 219–4720 between 1:00 p.m. and 4:00 p.m. Eastern time, Monday–Friday.

Comments should be sent to Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for Employment and Training Administration, Office of Management and Budget, Room 10235, Washington, DC 20503 ((202) 395–7316), within 30 days from the date of this publication in this **Federal Register**.

The OMB is particularly interested in comments which:

- evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- enhance the quality, utility, and clarity of the information to be collected; and
- minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Agency: Employment and Training Administration.

Title: Overpayment Detection/ Recovery Activities.

OMB Number: 1205–0173 (extension).

Frequency: Quarterly.

Affected Public: State, Local or Tribal Government.

Number of Respondents: 53.

Estimated Time Per Respondent: 10 hours.

Total Burden Hours: 2,120.

Total Annualized capital/startup costs: 0.

Total annual costs (operating/ maintaining systems or purchasing services) 0.

Description: The Secretary of Labor has interpreted applicable sections of Federal law to require States to have reasonable provisions in their State unemployment insurance laws that concern the prevention, detection and recovery of benefit overpayments caused by willful misrepresentation of errors by claimants or others. This report provides an accounting of the types and amounts of such overpayments and serves as a useful management tool for monitoring overall unemployment insurance program integrity.

Theresa M. O'Malley,

Departmental Clearance Officer.

[FR Doc. 97–21912 Filed 8–18–97; 8:45 am]

BILLING CODE 4510–02–M

DEPARTMENT OF LABOR

Employment and Training Administration

Notice of Release of Transitional O*NET Products

AGENCY: Employment and Training Administration, Labor.

SUMMARY: The U.S. Department of Labor, Employment and Training Administration (DOL/ETA) announces the release of preliminary O*NET (Occupational Information Network) products in progressive stages. By doing so, DOL/ETA plans to accelerate the development of O*NET through new phases of applied research, as well as respond to the broad public anticipation of O*NET availability.

There are four O*NET product packages that DOL/ETA will release during progressive stages of O*NET development. The incremental availability of O*NET products will offer varying degrees of opportunities to become familiar with the structure, content and potential usefulness of O*NET. It will also give DOL/ETA the lead time needed to coordinate the

technical support for helping first-time users fully explore the preliminary O*NET products.

The purpose of this notice is to announce what O*NET products are being readied for public access, when the products are scheduled for release, and how they may be obtained. It will also serve to clarify that these products and preliminary ones representing on-going research. By inviting users to preview their potential applications, DOL/ETA proposes to expand the applied research stage into ''proving ground'' demonstration areas and feed-back.

DATES: O*NET Products to be Released.

(1) September 1997—O*NET 98 Beta.

During September 1997, O*NET 98 Beta will be made available to interested software developers. O*NET 98 Beta will be a core database accessed by a prototype ''viewer'' developed as a first example application. The core database will contain analyst-derived data on specific parts of the O*NET Content Model, the theoretical framework for describing the 1,100+O*NET occupations developed from the Occupational Employment Statistics (OES) classification system. Software developers interested in developing other examples that will enhance O*NET usability, and who need to have O*NET in a timely fashion to meet their already established production schedules, can work with O*NET 98 Beta. In addition, users with technical interests will be able to obtain a second product—the core database and the Data Dictionary (Beta Version) that gives the definition, description and location of each elements, or variable, within the O*NET database. For those developers needing multiple copies of that Data Dictionary, the Dictionary will be made available separately.

(2) December 1997—O*NET 98 (Version 1.0). As part of JETT*CON 97, the ETA conference scheduled for December 1997, O*NET 98 will be introduced and made available to the general public. This product will be a core database accessed by a refined version of the ''viewer'' that includes two enhancements over the earlier Beta version. One of the O*NET 98 enhancements will be the functioning of Occupational Profiles that offer ''snapshots'' of O*NET occupations. Another enhancement in O*NET 98 will include assessment tools developed to link aspects of a person's self-directed career exploration to O*NET occupational data.

As with O*NET 98 Beta, this version will also offer a second product. Users with technical interests will be able to obtain the O*NET 98 Database (Version 1.0) with the analyst-derived data on specific parts of the O*NET Content Model (the theoretical framework for describing the 1,100+ O*NET occupations developed from the Occupational Employment Statistics (OES) classification system). This Database (Version 1.0) will be accompanied by the Data Dictionary (Version 1.0) that gives the definition, description and location of each element, or variable, within the O*NET database. For those users needing multiple copies of the Data Dictionary, the Dictionary will be made available separately.

(3) Winter 1997–1998—O*NET Products found on the Internet by accessing America's Job Bank (AJB). The O*NET framework of descriptors is already being used by America's Job Bank as the structure by which companies define their job positions to be posted. In the near future, anyone using the Internet will be able to access selected products of O*NET through AJB. The AJB links to O*NET will include Occupational Profiles, ''snapshots'' of O*NET occupations that give a quick look at their most important aspects and requirements. Coinciding with the introduction of O*NET 98 at JETT*CON 97, some O*NET self-assessment tests offering computerized score reports will also become linked with AJB. Anyone accessing AJB on the Internet will be able to use this O*NET Public Version product package once the full linkages are established.

(4) Year 2000—O*NET 2000. By the year 2000, the results from completing the first cycle of the O*NET full system will be released. O*NET 2000 will be a new, extended database offering linkages to cover all occupations and variables in the O*NET Content Model. The occupations identified and defined in O*NET 2000 will be derived from the proposed new Standard Occupational Classification (SOC) system that is scheduled to be formally adopted across the entire government. Procedures for obtaining O*NET 2000 will be announced in a future **Federal Register** Notice and on the O*NET Home Page.

ADDRESSES: To acquire O*NET 98 Beta, software developers should contact: Barbara Smith, Utah Occupational Analysis Field Center, Department of Workforce Services, 140 E. 300 South, 3rd Floor, PO Box 45249, Salt Lake City, Utah 84145–0249; FAX 801–536–7420; e-mail__eslmid.utonet@email.state.ut.us (these are not toll-free numbers).

FOR FURTHER INFORMATION CONTACT:

Donna Dye ETA Office of Policy and Research MS N5637, 200 Constitution Avenue, NW, Washington, DC 20210; telephone 202–219–7161; FAX 202–219–9186; E-mail____O*NET@doleta.gov (these are not toll-free numbers).

SUPPLEMENTARY INFORMATION: O*NET is part of DOL/ETA's comprehensive workforce development strategy to build and display critical information for job seekers and employers in a user-friendly manner. Along with America's Job Bank and America's Talent Bank, O*NET is designed to serve as an occupational/labor market information resource for public and private sector use and development. Authority for pursuing this research is granted in Section 7D of the Wagner-Peyser Act, as amended by the Jobs Training Partnership Act.

As the automated replacement for the Dictionary of Occupational Titles (DOT), O*NET will be the nation's primary source of occupational information. In 1993, an Advisory Panel, appointed by the U.S. Secretary of Labor, recognized that change in the ''dictionary'' approach that defined DOT since 1938 was needed. In its Final Report recommending changes to be made, the Panel stressed that ''Today's students, educators, trainers, counselors and workers need information that fosters the effective integration of technology, skills and new workplace structures.''

O*NET responds to those needs. It is a long-range project to develop a database and a system for collecting, classifying and disseminating current information about the requirements and characteristics of occupations and workers. It provides a new approach and database structure for looking at work from two perspectives: What people need and what the job requires.

Technology provides the means by which O*NET's potential will be realized. Computers make O*NET possible through an extensive, electronic data transfer network. Their use is unforgiving, however, in that computers demand a definitive, precise, and widely-accepted common language of skills-related terms to perform the information exchange. O*NET's common language, the definitions/concepts for describing worker attributes and workplace requirements, has been extensively researched and systematically developed. The rapid acceptance of the O*NET conceptual framework, or Content Model, among varied user groups confirms that its terms can be easily accepted and adopted. For example, O*NET descriptions have already emerged as

the language/resource of choice among widely-divergent users that range from the Social Security Administration to the Defense Intelligence Agency and from America's Job Bank to the Educational Testing Service (ETS).

Creating a common ground of understanding on which public and private workforce initiatives can work together, O*NET becomes a communication link to help integrate learning, training and work. It serves to emphasize the reality that no one effort, public or private, can capture all aspects or target all the dimensions involved in the changing workplace. Government's participation helps insure objectivity and fairness in data collection, but government alone cannot build the extensive occupational information network today's economy demands. Working with the private sector, O*NET will provide the foundation upon which others can build as they assist career counseling, employment and job-training activities.

Offering O*NET products now is a way to encourage the combined and extended efforts needed to reach full O*NET development. Enhancements made by entities obtaining O*NET 98 Beta and O*NET 98 are expected to produce value-added products that will, for example: (1) Develop resumes, job orders, and descriptions of personnel positions; (2) streamline and improve the accuracy of vocational counseling; (3) fine-tune assessment measures to benchmark worker skills and requirements; (4) evaluate and forecast human resource requirements; (5) restructure organizational and staff development; (6) benchmark performance appraisals; (7) align educational and job training curricula with current workplace content; (8) create skills-match profiles; (9) explore career options that capitalize on prior experience; (10) make better informed job placement decisions; and (11) reduce recruitment costs of workers at all levels.

O*NET Products will be distributed through ETA's grantees developing O*NET. Specific information on the distribution centers will be available in the near future. O*NET Beta will be made available to software developers who can develop value-added products that will expand O*NET's immediate usability. Those who participate in this phase of O*NET development will be considered a responsible part of the O*NET effort to achieve a fully operational, solidly researched and user-responsive tool that enhances the employment potential of all Americans.

Dated at Washington, DC, this 11th day of August 1997.

Raymond J. Uhalde,

Acting Assistant Secretary of Labor for Employment and Training.

[FR Doc. 97–21913 Filed 8–18–97; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

Maritime Advisory Committee for Occupational Safety and Health: Notice of Meeting

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Maritime Advisory Committee for Occupational Safety and Health (MACOSH); Notice of Meeting.

SUMMARY: The Occupational Safety and Health Administration announces a meeting of the Maritime Advisory Committee for Occupational Safety and Health (MACOSH). OSHA invites all interested persons to attend. The Secretary of Labor established MACOSH to advise the Assistant Secretary for OSHA on appropriate actions to protect workers from the hazards in the maritime industries.

DATES: The meeting dates are Wednesday, September 10, 1997, from 9:00 a.m. to about 5:00 p.m., and Thursday, September 11, from 9:00 a.m. to about 5:00 p.m. Submit comments, requests for oral presentations, and requests for special disability accommodations by August 27, 1997.

ADDRESSES: The meeting will take place at the Best Western, Tysons Westpark Hotel, 8401 Westpark Drive, McLean, VA 22102 (703–734–2800). Mail comments and requests for oral presentations to Theda Kenney, U.S. Department of Labor, OSHA, Directorate of Safety Standards Programs, MACOSH, Room N–3609, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

FOR FURTHER INFORMATION CONTACT: Larry Liberatore, Director, Office of Maritime Standards, OSHA (202–219–7234 ext. 141). For special disability accommodations, contact Theda Kenney (phone: 202–219–8061 ext. 100; FAX: 202–219–7477).

SUPPLEMENTARY INFORMATION:

Meeting Agenda. At this meeting, MACOSH will continue its discussion on maritime enforcement initiatives, standards development, and outreach projects related to the maritime industries. MACOSH plans an extensive discussion of longshoring outreach, maritime training, and safety and health programs. OSHA will provide an update on Agency programs.

Public Participation. Interested persons may file written comments, data, views or statements for consideration by MACOSH by submitting them to Theda Kenney. Interested persons may also request to make an oral presentation by providing Mrs. Kenney with a summary of the proposed presentation, an estimate of the time desired, and a statement of the interest that the person represents. The Chair may allow presentations at his discretion and as time permits.

Authority. The following laws authorize OSHA to issue this notice: Sections 6(b)(1) and 7(b) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 655, 666), the Federal Advisory Committee Act (5 U.S.C. App. 2), and 29 CFR part 1912.

Signed at Washington, D.C., this 13th day of August 1997.

Greg Watchman,

Acting Assistant Secretary of Labor.

[FR Doc. 97–21911 Filed 8–18–97; 8:45 am]

BILLING CODE 4510–26–M

LEGAL SERVICES CORPORATION

List of Applicants for 1998 Competitive Grant Funds

AGENCY: Legal Services Corporation.

ACTION: Announcement of Qualified Applicants.

SUMMARY: The Legal Services Corporation (LSC or Corporation) hereby announces the name of the organizations who have qualified to compete for 1998 competitive grant funds pursuant to the Corporation's announcement of funding availability on April 24, 1997 (62 FR 20038).

ADDRESS: Legal Services Corporation—Competitive Grants, Legal Services Corporation, 750 First Street N.E., 10th Floor, Washington, DC 20002–4250.

FOR FURTHER INFORMATION CONTACT: Merceria Ludgood, Deputy Director, Office of Program Operations, (202) 336–8865.

Service area	Applicant name
AL–3	Legal Services of Metro Birmingham, Inc.
AZ–1	Pinal & Gila Counties Legal Aid Society.
NAZ–1 ...	Pinal & Gila Counties Legal Aid Society.
AR–3	Western Arkansas Legal Services, Inc.
CA–9	Legal Services Program for Pasadena and San Gabriel-Pomona Valley.

Service area	Applicant name
CA–25	Legal Aid for the Central Coast.
CO–2	Colorado Rural Legal Services, Inc.
CO–3	Legal Aid Society of Metropolitan Denver, Inc.
CO–5	Pikes Peak/Arkansas River Legal Aid.
MCO	Colorado Rural Legal Services, Inc.
NCO–1 ...	Colorado Rural Legal Services, Inc.
DC–1	Neighborhood Legal Services Program of the District of Columbia.
FL–11	Northwest Florida Legal Services, Inc.
GU–1	Guam Legal Services Corporation.
IL–1	Cook County Legal Assistance Foundation, Inc.
IA–1	Legal Services Corporation of Iowa.
IA–2	Legal Aid Society of Polk County.
MIA	Legal Services Corporation of Iowa.
LA–1	Capitol Area Legal Services Corporation.
MA–4	Merrimack Valley Legal Services, Inc.
MA–5	New Center for Legal Advocacy.
MA–10 ...	Massachusetts Justice Project, Inc.
MMA	Massachusetts Justice Project, Inc.
MS–4	East Mississippi Legal Services Corporation.
NMS–1 ...	East Mississippi Legal Services Corporation.
MO–1	Southeast Missouri Legal Services, Inc.
NE–3	Western Nebraska Legal Services, Inc.
MNE	Western Nebraska Legal Services, Inc.
NJ–1	Cape-Atlantic Legal Services, Inc.
NJ–2	Warren County Legal Services, Inc.
NJ–3	Camden Regional Legal Services, Inc.
NJ–4	Union County Legal Services Corporation.
NJ–5	Hunterdon County Legal Service Corporation.
NJ–6	Bergen County Legal Services.
NJ–7	Hudson County Legal Services Corporation.
NJ–8	Essex-Newark Legal Services Project, Inc.
NJ–9	Middlesex County Legal Services Corporation.
NJ–10	Passaic County Legal Aid Society.
NJ–11	Somerset-Sussex Legal Services Corporation.
NJ–12	Ocean-Monmouth Legal Services, Inc.
NJ–13	Legal Aid Society of Mercer County.
NJ–14	Legal Aid Society of Morris County.
MNJ	Camden Regional Legal Services, Inc.
NY–1	Legal Aid Society of Northeastern New York, Inc.
NY–3	Legal Aid for Broome and Chenango, Inc.
NY–4	Neighborhood Legal Services, Inc.
NY–5	Chautauqua County Legal Services, Inc.
NY–6	Chemung County Neighborhood Legal Services, Inc.
NY–7	Nassau/Suffolk Law Services Committee, Inc.
NY–8	Legal Aid Society of Rockland County, Inc.
NY–9	Legal Services for New York City.
NY–10	Niagara County Legal Aid Society, Inc.
NY–13	Legal Services of Central New York, Inc.
NY–14	Legal Aid Society of Mid-New York, Inc.
NY–15	Westchester/Putnam Legal Services.
NY–16	North Country Legal Services, Inc.
NY–17	Southern Tier Legal Services.
NY–18	Monroe County Legal Assistance Corporation.
MNY	Legal Aid Society of Mid-New York, Inc.
.....	Farmworker Legal Services of New York, Inc.
NC–1	Legal Services of North Carolina, Inc.
NC–2	Legal Services of Southern Piedmont, Inc.
NC–3	North Central Legal Assistance Program, Inc.
NC–4	Legal Aid Society of Northwest North Carolina, Inc.
MNC	Legal Services of North Carolina, Inc.
NNC–1 ...	Legal Services of North Carolina, Inc.
ND–1	Legal Assistance of North Dakota, Inc.
ND–2	North Dakota Legal Services, Inc.
NND–1 ...	Legal Assistance of North Dakota, Inc.
NND–2 ...	North Dakota Legal Services, Inc.
OH–4	The Legal Aid Society of Cleveland.
OH–9	Butler-Warren Legal Assistance Association.
OH–10 ...	Allen County-Blackhoof Area Legal Services Association.
OH–16 ...	Rural Legal Aid Society of West Central Ohio.
NOK–1 ...	Oklahoma Indian Legal Services, Inc.
OR–1	Oregon Legal Services Corporation.
OR–2	Lane County Legal Aid Service, Inc.
OR–3	Multnomah County Legal Aid Service, Inc.
OR–4	Marion-Polk Legal Aid Service, Inc.
MOR	Oregon Legal Services Corporation.
NOR–1 ...	Oregon Legal Services Corporation.
.....	Native American Program dba Northwest Center for Indian Law.
PA–1	Philadelphia Legal Assistance Center.
PA–2	Legal Services, Inc.
PA–3	Delaware County Legal Assistance Association, Inc.
PA–4	Bucks County Legal Aid Society.
PA–5	Laurel Legal Services, Inc.
PA–6	Southern Alleghenys Legal Aid, Inc.
PA–7	Central Pennsylvania Legal Services.
PA–8	Neighborhood Legal Services Association.
PA–9	Northern Pennsylvania Legal Services, Inc.
PA–10	Keystone Legal Services, Inc.
PA–11	Southwestern Pennsylvania Legal Aid Society, Inc.
PA–12	Legal Aid of Chester County, Inc.
PA–13	Legal Services of Northeastern Pennsylvania, Inc.
PA–14	Susquehanna Legal Services.
PA–15	Northwestern Legal Services.
PA–16	Southern Alleghenys Legal Aid, Inc.
PA–17	Lehigh Valley Legal Services, Inc.
PA–18	Montgomery County Legal Aid Service.
PA–19	Central Pennsylvania Legal Services.
MPA	Philadelphia Legal Assistance Center.
PR–1	Puerto Rico Legal Services, Inc.
PR–2	Community Law Office, Inc.
MPR	Puerto Rico Legal Services, Inc.
SC–1	Neighborhood Legal Assistance Program, Inc.
SC–6	Piedmont Legal Services, Inc.
MSC	Neighborhood Legal Assistance Program, Inc.
SD–1	Black Hills Legal Services, Inc.
SD–2	East River Legal Services Corporation.
SD–3	Dakota Plains Legal Services, Inc.
MSD	Black Hills Legal Services, Inc.
NSD–1 ...	Dakota Plains Legal Services, Inc.
MTN	Legal Services of Upper East Tennessee, Inc.
TX–9	Heart of Texas Legal Services Corporation.
UT–1	Utah Legal Services, Inc.
VI–1	Legal Services of the Virgin Islands.
VA–1	Legal Services of Northern Virginia, Inc.
VA–2	Piedmont Legal Services, Inc.
VA–3	Rappahannock Legal Services, Inc.
VA–4	Southwest Virginia Legal Aid Society, Inc.
VA–5	Peninsula Legal Aid Center, Inc.
VA–6	Central Virginia Legal Aid Society, Inc.
VA–7	Legal Aid Society of New River Valley, Inc.
VA–8	Legal Aid Society of Roanoke Valley.
VA–9	Tidewater Legal Aid Society.
VA–10	Virginia Legal Aid Society, Inc.

Service area	Applicant name
VA–11	Southside Virginia Legal Services, Inc.
VA–12	Blue Ridge Legal Services, Inc.
VA–13	Client Centered Legal Services of Southwest Virginia, Inc.
MVA	Peninsula Legal Aid Center, Inc.
WY–4	Wind River Legal Services, Inc.
MWY	Wind River Legal Services, Inc.
NWY–1 ..	Wind River Legal Services, Inc.

Date Issued: August 13, 1997.

Merceria L. Ludgood,

Deputy Director, Office of Program Operations.

[FR Doc. 97–21875 Filed 8–18–97; 8:45 am]

BILLING CODE 7050–01–P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: National Archives and Records Administration (NARA).

ACTION: Notice.

SUMMARY: NARA is giving public notice that the agency proposes to request extension of a currently approved information collection used when a request involves a record or information that may be from military records that were lost in a fire on July 12, 1973, at the National Personnel Records Center (NPRC), so that NPRC can search alternative sources to reconstruct the requested information. The public is invited to comment on the proposed information collection pursuant to the Paperwork Reduction Act of 1995.

DATES: Written comments must be received on or before October 20, 1997 to be assured of consideration.

ADDRESSES: Comments should be sent to: Paperwork Reduction Act Comments (NHP), Room 3200, National Archives and Records Administration, 8601 Adelphi Rd, College Park, MD 20740–6001; or faxed to 301–713–6913; or electronically mailed to tamee.fechhelm@arch2.nara.gov.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the proposed information collections and supporting statements should be directed to Tamee Fechhelm at telephone number 301–713–6730, or fax number 301–713–6913.

SUPPLEMENTARY INFORMATION: Pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13), NARA invites the general public and other Federal agencies to comment on proposed information collections. The comments and suggestions should address one or more of the following points: (a) whether the proposed collection information is necessary for the proper performance of the functions of NARA; (b) the accuracy of NARA's estimate of the burden of the proposed information collections; (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 the use of information technology. The comments that are submitted will be summarized and included in the NARA request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this notice, NARA is soliciting comments concerning the following information collection:

Title: Questionnaire about Military Service.

OMB number: 3095–0029.

Agency form number: NA Form 13075.

Type of review: Regular.

Affected public: Veterans, their authorized representatives, state and local governments, and businesses.

Estimated number of respondents: 70,000.

Estimated time per response: 5 minutes.

Frequency of response: On occasion (when respondent wishes to request information from a military service record). Most of these respondents initially submitted a request on a SF 180 or in a letter for records that may have been lost in the 1973 fire.

Estimated total annual burden hours: 5,833 hours.

Abstract: Individuals who write to the National Personnel Records Center (NPRC) to request information from their military service record may receive this form. The information collection, used by the NPRC in cases where the information provided on the SF 180 or in a letter is not sufficient to locate the requested record or information, asks the requester to furnish additional information. A major fire on July 14, 1973, destroyed a number of military records at the NPRC. If the request involves a record or information that may be from records that were lost in the fire, the requester may be asked to complete NA Form 13075, Questionnaire about Military Service, so NPRC can search alternative sources to reconstruct the requested information.

Dated: August 13, 1997.

L. Reynolds Cahoon,

Assistant Archivist for Human Resources and Information Services.

[FR Doc. 97–21884 Filed 8–18–97; 8:45 am]

BILLING CODE 7515–01–P

NATIONAL SCIENCE FOUNDATION

Committee Management; Notice of Establishment

The Acting Deputy Director of the National Science Foundation has determined that the Ad Hoc Advisory Committee on Measures to Increase the Participation and Success Rates of Women, Historically Underrepresented Minorities and Disabled Persons in Graduate Education in the Sciences, Mathematics and Engineering is necessary and in the public interest in connection with the performance of duties imposed upon the Director, National Science Foundation (NSF), by 42 USC 1861 *et seq.* This determination follows consultation with the Committee Management Secretariat, General Services Administration and the Office of Management and Budget (OMB).

Name of Committee: Ad Hoc Advisory Committee on Measures to Increase the Participation and Success Rates of Women, Historically Underrepresented Minorities and Disabled Persons in Graduate Education in the Sciences, Mathematics and Engineering.

Purpose: To recommend to the National Science Foundation (NSF) strategies and tactics for increasing the participation and success rates in graduate schools of women, historically underrepresented minorities and disabled persons.

Balanced Membership Plans: Approximately 15 persons from the external community will serve on the Committee. These members will be experts in a broad range of areas, including university administration and graduate teaching in a variety of scientific and engineering fields. Members will reflect a variety of perspectives and will be individuals who have a history of accomplishment in this area or are in a position to make a difference in the institutions or fields of study with which they are associated.

Responsible NSF Official: Dr. Janie Fouke, Director, Division of Bioengineering and Environmental Systems, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230, phone 703–306–1218.

Dated: August 13, 1997.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 97–21842 Filed 8–18–97; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

[Docket No.: 030–04552]

Consideration of Amendment Request for Decommissioning the Department of the Army, Westwood Radioactive Material Disposal Facility in the Edgewood Area, Aberdeen Proving Ground, Maryland, and Opportunity for a Hearing

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Notice of consideration of amendment request for decommissioning the Westwood Radioactive Material Disposal Facility in the Edgewood Area, Aberdeen Proving Ground, Maryland, and opportunity for a hearing.

The U.S. Nuclear Regulatory Commission is considering issuance of a license amendment to Nuclear Material License No. 19–10306–01, issued to the Department of the Army, Edgewood Research, Development and Engineering Center (the licensee), to authorize decommissioning of its facility previously used as a waste handling facility and later for radioactive waste research and development (R&D).

On May 30, 1997, the licensee submitted a site decommissioning plan (SDP) to NRC for review that summarized the decommissioning activities that will be undertaken to remove soils, piping and underground septic equipment contaminated with radioactive material.

The NRC will require the licensee to remediate the Westwood facility to meet NRC's decommissioning criteria, and during the decommissioning activities, to maintain effluents and doses within NRC requirements and as low as reasonably achievable.

Prior to approving the decommissioning plan, NRC will have made findings required by the Atomic Energy Act of 1954, as amended, and NRC's regulations. These findings will be documented in a Safety Evaluation Report. Approval of the SDP will be documented in an amendment to License No. 19–10306–01.

The NRC hereby provides notice that this is a proceeding on an application for amendment of a license falling within the scope of Subpart L, ''Informal Hearing Procedures for Adjudication in Materials Licensing Proceedings,'' of NRC's rules and practice for domestic licensing proceedings in 10 CFR Part 2. Pursuant to § 2.1205(a), any person whose interest may be affected by this proceeding may file a request for a hearing in accordance with § 2.1205(c). A request for a hearing must be filed within thirty (30) days of the date of publication of this **Federal Register** notice.

The request for a hearing must be filed with the Office of the Secretary, either

1. By delivery to the Docketing and Service Branch of the Secretary at One White Flint North, 11555 Rockville Pike, Rockville, MD 20852–2738; or

2. By mail or telegram addressed to the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Attention: Docketing and Service Branch.

In addition to meeting other applicable requirements of 10 CFR Part 2 of the NRC's regulations, a request for a hearing filed by a person other than an applicant must describe in detail:

1. The interest of the requester in the proceeding;

2. How that interest may be affected by the results of the proceeding, including the reasons why the requestor should be permitted a hearing, with particular reference to the factors set out in § 2.1205(g);

3. The requester's areas of concern about the licensing activity that is the subject matter of the proceeding; and

4. The circumstances establishing that the request for a hearing is timely in accordance with § 2.1205(c).

In accordance with 10 CFR § 2.1205(e), each request for a hearing must also be served, by delivering it personally or by mail, to:

1. The applicant, Department of the Army, Edgewood Research, Development and Engineering Center, Aberdeen Proving Ground, MD 21010–5423 Attention: Mr. Peter Spaeth; and

2. The NRC staff, by delivery to the Executive Director for Operations, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852, or by mail, addressed to the Executive Director for Operations, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

For further details with respect to this action, the site decommissioning plan is available for inspection at the NRC's Public Document Room, 2120 L Street N.W., Washington, D.C. 20555, or at NRC's Region I offices located at 475 Allendale Road, King of Prussia, PA. Persons desiring to review documents at the Region I Office should call Ms. Sheryl Villar at (610) 337–5239 several days in advance to assure that the documents will be readily available for review.

Dated at Rockville, Maryland, this 11th day of August 1997.

For the Nuclear Regulatory Commission.

Timothy C. Johnson,

Acting Chief, Low-Level Waste and Decommissioning Projects Branch, Division of Waste Management, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 97–21894 Filed 8–18–97; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 52–001]

Notice of Issuance of Final Design Approval Pursuant to 10 CFR Part 52, Appendix O; U.S. Advanced Boiling-Water Reactor Design GE Nuclear Energy

The U.S. Nuclear Regulatory Commission has issued a revised final design approval (FDA) to GE Nuclear Energy (GE) pursuant to 10 CFR Part 52, Appendix O. This FDA allows the U.S. advanced boiling water reactor (ABWR) standard design to be referenced in an application for a construction permit or operating license pursuant to 10 CFR Part 50, or in an application for a combined license pursuant to 10 CFR Part 52. The FDA is being revised to make it coterminous with the design certification rule that was issued on May 12, 1997. This FDA supersedes the FDAs dated July 13 and November 23, 1994.

A copy of the revised FDA has been placed in the NRC's Public Docket Room, the Gelman Building, 2120 L Street, N.W., Washington, D.C. 20037, for review by interested persons.

Dated at Rockville, Maryland, this 8th day of August 1997.

For The Nuclear Regulatory Commission.

Marylee M. Slosson,

Acting Director, Division of Reactor Program Management, Office of Nuclear Reactor Regulation.

[FR Doc. 97–21893 Filed 8–18–97; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–271]

In the Matter of Vermont Yankee Nuclear Power Corporation (Vermont Yankee Nuclear Power Station); Exemption

I

The Vermont Yankee Nuclear Power Corporation (VYNPC, the licensee) is the holder of Facility Operating License No. DPR–28, which authorizes operation of the Vermont Yankee Nuclear Power Station (the facility) at power levels no greater than 1593 megawatts thermal. The facility is a single-unit boiling-water reactor located at the licensee's site in Windham County, Vermont.

The License provides, among other things, that the Vermont Yankee Nuclear Power Station is subject to all rules, regulations, and orders of the Nuclear Regulatory Commission (the Commission) now or hereafter in effect.

II

On November 19, 1980, the Commission published a revised Section 10 CFR 50.48 and a new Appendix R to 10 CFR Part 50 regarding fire protection features of nuclear power plants. The revised Section 50.48 and Appendix R became effective on February 17, 1981. Section III of Appendix R contains 15 subsections, lettered A through O, each of which specifies requirements for a particular aspect of the fire protection features at a nuclear power plant.

Sections III.G and III.L are the subject of the licensee's exemption request. Section III.G.3 specifies that fire detection and suppression be installed in areas using alternative safe shutdown. Low fire loadings and fire paths clear of combustibles in fire zones RB–1, RB–2, RB–3, and RB–4 diminish the importance of full fire detection and suppression capability in these fire zones. Section III.L.1.(c) requires that alternative and dedicated shutdown capability be able to achieve and maintain hot shutdown. Use of the automatic depressurization system (ADS), which is proposed by the licensee, requires cooling below hot shutdown temperatures, contrary to Section III.L.1.(c). Section III.L.2.b requires that coolant level be maintained above the top of the core, which is not possible with the licensee's proposed use of the ADS and low pressure injection systems (either core spray [CS] or low-pressure injection system) to achieve and maintain hot shutdown.

The licensee requested an exemption from these requirements to allow the use of the ADS in conjunction with low-pressure injection systems as a means of achieving post-fire safe-shutdown conditions in fire zones RB–1, RB–2, RB–3, and RB–4 when offsite power is not available.

Section III.L.3 requires that alternative shutdown capability accommodate conditions where offsite power is not available for 72 hours. Onsite power can be restored to service in 30 minutes. Two offsite power sources exist in addition to the Vernon tie-line, which can be placed in service in 10 minutes. Without the Vernon tie-line, which is actually off site, the plant cannot accommodate conditions in the first 30 minutes following loss of offsite power.

The licensee requested an exemption to allow the use of the Vernon tie-line as an alternative to the onsite emergency diesel generator for fire events involving the control room, the cable spreading room, and fire zones RB–1, RB–2, RB–3, and RB–4 when offsite power is not available.

III

By letter dated April 4, 1996, as supplemented by letters dated May 21, 1996, November 4, 1996, December 13, 1996, January 8, 1996 (sic [1997]), January 15, 1997, February 19, 1997, May 16, 1997, and August 7, 1997, VYNPC, the licensee for Vermont Yankee, requested exemptions from certain technical requirements of Section III.G and Section III.L of Appendix R to 10 CFR Part 50.

The licensee requested exemptions (1) from the technical requirements of Section III.G.1.a and Section III.L.2 of Appendix R to allow the use of the ADS in conjunction with low-pressure injection systems (either CS or low-pressure coolant injection [LPCI]) as a means of achieving post-fire safe shutdown conditions in reactor building fire zones RB–1, RB–2, RB–3, and RB–4; (2) from the technical requirements of Section III.L.3 of Appendix R to allow the use of the Vernon tie-line as an alternative to the onsite emergency diesel generator for fire events involving the control room, the cable spreading room, and fire zones RB–1, RB–2, RB–3, and RB–4 when offsite power is not available; and (3) from the technical requirements of Section III.G.3 of Appendix R to the extent that it requires that fire detection and fixed fire suppression be provided in areas for which an alternative safe-shutdown capability is provided for fire zones RB–1, RB–2, RB–3, and RB–4.

On the basis of the NRC staff's evaluation, and contingent on the installation of additional fire detection capability (as the licensee committed to in its submittal of January 15, 1997, and May 16, 1997), the staff concluded that the detection and suppression capabilities for fire zones RB–1, RB–2, RB–3, and RB–4 are adequate to protect against fire hazards in the zones. The staff concluded further that a postulated fire in reactor building fire zones RB–1, RB–2, RB–3, and RB–4 would not prevent the operators from achieving and maintaining safe shutdown. Therefore, contingent on the installation of the additional fire detection capability in fire zone RB–4, the licensee should be granted an exemption from Section III.G.3 of Appendix R to 10 CFR Part 50 for reactor building fire zones RB–1, RB–2, RB–3, and RB–4.

On the bases of the technical evaluation contained in the appended Brookhaven National Laboratory (BNL) technical evaluation report (TER), and the NRC staff's evaluation of the Vermont Yankee fire protection capabilities, the staff concluded that the licensee's revised shutdown strategy for reactor building fire zones RB–1, RB–2, RB–3, and RB–4 (use of ADS with either LPCI or CS) and the redesignation of these fire zones as areas requiring an alternative shutdown capability provide an acceptable level of safe-shutdown protection. In addition, on the basis of the technical evaluation contained in the BNL TER, the staff concluded that the Vernon tie line provides an acceptable alternative to power from an onsite emergency diesel generator when normal sources of offsite power are not available for (1) a fire in the control room or the cable spreading room that forces control room evacuation and (2) a fire in reactor building fire zones RB–1, RB–2, RB–3, or RB–4 that requires the use of the alternative post-fire safe-shutdown strategy. Therefore, exemptions should be granted for Sections III.L.1.(c), III.L.2.b, and III.L.3 of Appendix R to 10 CFR Part 50.

IV

Pursuant to 10 CFR 50.12(a)(2), the Commission will not consider granting an exemption unless special circumstances are present. Item (ii) of the subject regulation includes special circumstances in which application of the subject regulation would not serve the underlying purpose of the rule or is not necessary to achieve the underlying purpose of the rule.

The underlying purpose of Section III.G of Appendix R is to provide fire protection of equipment necessary for

safe-shutdown capability. On the basis of the NRC staff's evaluation above and contingent on the installation of additional fire detection capability (as the licensee committed to in its submittals of January 15, 1997, and May 16, 1997), the staff concluded that the detection and suppression capabilities for fire zones RB–1, RB–2, RB–3, and RB–4 are adequate to protect against the fire hazards in the zones. The staff concluded further that a postulated fire in reactor building fire zones RB–1, RB–2, RB–3, or RB–4 would not prevent the operators from achieving and maintaining safe shutdown. Therefore, contingent on the installation of the additional fire detection capability in fire zone RB–4, the staff concludes that an exemption should be granted from Section III.G.3 of Appendix R to 10 CFR Part 50 for reactor building fire zones RB–1, RB–2, RB–3, and RB–4. Accordingly, the Commission has determined that pursuant to 10 CFR 50.12(a)(2)(ii), special circumstances exist for the licensee's requested exemption in that imposition of the literal requirements of the regulation in these particular circumstances is not necessary to achieve the underlying purpose of Appendix R to 10 CFR Part 50.

The underlying purpose of Section III.L of Appendix R is to provide alternative and dedicated shutdown capability necessary in areas in which the fire protection features cannot ensure safe-shutdown capability in the event of a fire in that area. On the bases of the technical evaluation contained in the appended BNL TER and the NRC staff evaluation of the Vermont Yankee fire protection capabilities, the staff concluded that the licensee's revised shutdown strategy for reactor building fire zones RB–1, RB–2, RB–3, and RB–4 (use of ADS with either LPCI or CS) and the redesignation of these fire zones as areas requiring an alternative shutdown capability provide an acceptable level of safe-shutdown protection. In addition, on the basis of the technical evaluation contained in the appended BNL TER, the staff concluded that the Vernon tie-line provides an acceptable alternative to power from an onsite emergency diesel generator when normal sources of offsite power are not available for (1) a fire in the control room or the cable spreading room that forces control room evacuation and (2) for a fire in reactor building fire zones RB–1, RB–2, RB–3, and RB–4 that requires the use of the alternative post-fire safe-shutdown strategy. Therefore, the staff concludes that exemptions should be granted for Sections III.L.1.(c), III.L.2.b, and III.L.3 of Appendix R to 10 CFR Part 50. Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12(a)(2)(ii), special circumstances exist in that the proposed exemptions to III.L.1(c), III.L.2.b and III.L.3 satisfy the underlying purpose of Appendix R to 10 CFR Part 50 and that imposition of the literal requirements of the regulation in these particular circumstances is not necessary to achieve the underlying purpose of Appendix R to 10 CFR Part 50.

Further, the staff has concluded that the requested exemption is authorized by law, will not present an undue risk to public health and safety, and is consistent with the common defense and security. Therefore, contingent upon the addition of additional fire detection capability (as the licensee agreed to in its submittals of January 15, 1997 and May 16, 1997) by December 31, 1997, and contingent upon one continuous fire watch monitoring both fire zones RB–3 and RB–4 until installation of the additional fire detection capability, the Commission hereby grants the request for exemption from the requirements of Sections III.G.3, III.L.1(c), III.L.2.b, and III.L.3 of Appendix R to 10 CFR Part 50 described in Section III above.

Pursuant to 10 CFR 51.32, the Commission has determined that the issuance of this exemption will have no significant impact on the quality of the human environment (62 FR 30356).

This exemption is effective upon issuance.

Dated at Rockville, Maryland, this 12th day of August 1997.

For The Nuclear Regulatory Commission.

Samuel J. Collins,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. 97–21896 Filed 8–18–97; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–271]

Vermont Yankee Nuclear Power Station; Notice of Withdrawal of Application for Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has granted the request of Vermont Yankee Nuclear Power Corporation (the licensee) to withdraw its application dated May 12, 1989, as supplemented October 22, 1993, and April 15, 1994, for proposed amendment to Facility Operating License No. DRP–28 for the Vermont Yankee Nuclear Power Station located in Vernon, Vermont. The proposed amendment would have revised the Technical Specifications pertaining to the anticipated transient without scram rule (10 CFR 50.62).

The Commission had previously issued a Notice of Consideration of Issuance of Amendment published in the **Federal Register** on June 28, 1989 (54 FR 27242). However, by letter dated July 25, 1997, the licensee withdrew the proposed change.

For further details with respect to this action, see the application for amendment dated May 12, 1989, as supplemented October 22, 1993, and April 15, 1994, and the licensee's letter dated July 25, 1997, which withdrew the application for license amendment. The above documents are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Brooks Memorial Library, 224 Main Street, Brattleboro, VT 05301.

Dated at Rockville, Maryland, this 12th day of August 1997.

For the Nuclear Regulatory Commission.

Kahtan N. Jabbour,

Senior Project Manager, Project Directorate I–3, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 97–21899 Filed 8–18–97; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Texas License L03835]

ProTechnics International, Inc.—Houston, Texas: Field Flood Tracer Study; Finding of No Significant Impact and Notice of Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission is considering authorizing ProTechnics International, Inc. (ProTechnics) to conduct a field flood tracer study in an oil reservoir located at the NE Perry Unit, Noble County, Oklahoma near Stillwater, Oklahoma.

Environmental Assessment

Identification of the Proposed Action

The proposed action is authorizing ProTechnics to conduct a field flood tracer study using cobalt-60 and hydrogen-3 in an oil reservoir located at the NE Perry Unit, Noble County, Oklahoma, near the town of Stillwater, Oklahoma. ProTechnics, with offices in Houston, Texas, is authorized by the

State of Texas, under Texas License L03835, to conduct field flood tracer activities in oil and gas reservoirs at temporary jobsites within that State. NRC's regulations in 10 CFR 150.20, ''Reciprocity—Recognition of Agreement State Licenses,'' states, in part, ''. . . any person holding a specific license from an Agreement State where the licensee maintains an office for directing the licensed activity, . . . is hereby granted a general license to conduct the same activity in non-Agreement States . . . Provided, That the specific license does not limit the activity authorized by [the] general license to specified installations or locations.'' Because the Texas license authorizes ProTechnics to use the requested radioisotopes in field flood tracer studies at temporary jobsites, ProTechnics qualifies for the general license. Paragraph (b) of 10 CFR Part 150.20 further states, ''In addition, any person engaging in activities in non-Agreement States . . . under the general license . . . shall, . . . before engaging in each such activity, file . . . Form-241 (revised), 'Report of Proposed Activities in Non-Agreement States' . . .'' with NRC. ProTechnics met this requirement with a submission dated April 18, 1997.

On January 13, 1997 (62 FR 1662), NRC published a final rule in the **Federal Register** amending 10 CFR 150.20. The amendment, primarily intended to clarify requirements concerning activities conducted at areas of exclusive federal jurisdiction within Agreement States, also revised 10 CFR 150.20(b) to make clear that licensees operating pursuant to the rule must comply with all NRC regulations applicable to materials licensees. 10 CFR Part 51 specifies the environmental protection regulations applicable to NRC's licensing activities and implements section 102(2) of the National Environmental Policy Act of 1969, as amended. Section 51.21 provides that all licensing actions require an environmental assessment except those identified in 10 CFR 51.20 as requiring an environmental impact statement or those identified in 10 CFR 51.22(c) as categorical exclusions. The use of radioactive tracers in field flood studies is not identified in either section. Therefore, an environmental assessment must be prepared. Paragraph 51.60(b)(1)(vi) requires that an applicant submit an environmental report with any request for use of radioactive tracers in field flood studies. ProTechnics submitted an environmental report in a letter dated May 27, 1997.

The Need for the Proposed Action

The action is to determine if the licensee's request to perform activities under the general license should be approved or denied. Field flood tracer studies are conducted in conjunction with enhanced recovery of oil and natural gas, commonly referred to as enhanced oil recovery (EOR).

The oil from a producing well in a new reservoir initially flows because of the pressure exerted by water and gas in the reservoir. As oil production continues the reservoir pressure declines unless fluids are injected into the reservoir to maintain the pressure. The average recovery from primary production, with and without pressure maintenance, is 20 to 30 percent of the original oil in place. Oil production can be increased through a secondary recovery technique called waterflooding, which is the injection of water through injection wells to push the oil toward production wells. Further enhancements in oil production may occur with the use of so-called tertiary recovery methods in which steam, sulfactants (soaps), or other compounds or gases are injected into the reservoir.

Radioactive tracers are used to define the movement of liquids or gases injected into an oil and gas reservoir to enhance recovery and to monitor reservoir performance. The water-soluble or gaseous tracer is introduced into a reservoir with the injected fluid. Both radioactive and nonradioactive tracers may be used. The tracer is placed in the injection well, where it is diluted and swept into the reservoir by injection liquid or gas. The diluted tracer is subsequently recovered at production wells and is monitored by sampling the recovered fluids.

In evaluating reservoir performance, it is desirable to determine the source of the injected fluid being collected at a production well. It is frequently desirable, therefore, to employ several tracers, using a different tracer in each of a number of injection wells.

Environmental Impacts of the Proposed Action

NRC published NUREG/CR–3467, ''Environmental Assessment of the Use of Radionuclides as Tracers in the Enhanced Recovery of Oil and Gas'' in November 1983. This generic environmental assessment (EA) evaluated the use of 16 different radioisotopes, used in certain activity ranges, as interwell tracers in field flooding for EOR operations. A typical operation using radioisotopes for interwell tracing was analyzed from the standpoint of three stages of operation: aboveground, subsurface, and recovery and disposal. Doses to workers who handle radioactive tracers and to members of the public were estimated for normal and accidental exposure scenarios. For the two isotopes ProTechnics requested authorization to use, NUREG/CR–3467 analyzed the use of up to 300 millicuries of cobalt-60 and up to 30 curies of hydrogen-3. The ProTechnics submittal only requests authorization to use up to 23 millicuries of cobalt-60 and 2 curies of hydrogen-3, well within the bounds of the generic assessment. The NUREG estimated the national radiological impact on the use of radioisotopes as interwell tracers in EOR projects to be a collective dose equivalent of less than 16 man-rem/yr. Accidental exposures were estimated to contribute little to the total. The ProTechnics proposal, which only includes two radioisotopes and only a small percentage of the total activity evaluated in the NUREG for those two radioisotopes, will result in a lower collective dose equivalent.

Alternatives

Denial of ProTechnics request is a possible alternative to the proposed action. This would avoid any of the environmental impacts associated with the use of radioactive tracers. However, the proposed action is nevertheless reasonable because its environmental impacts are so small and it will provide benefits such as assisting to meet U.S. energy needs.

Agencies and Persons Consulted

Ms. Pam Dewoody of the State of Oklahoma, Department of Environmental Quality (DEQ), was contacted on July 22, 1997, to discuss ProTechnics field flood tracer study reciprocity request and its potential environmental impacts. In a letter dated August 6, 1997, Ms. Dewoody indicated that the DEQ had no objections to the tracer study.

Conclusion

The NRC staff concludes that the environmental impacts associated with ProTechnics proposed request to conduct a field flood tracer study using cobalt-60 and hydrogen-3 in an oil reservoir located at the NE Perry Unit, Noble County, Oklahoma, are expected to be insignificant.

Finding of No Significant Impact

The Commission previously prepared an EA related to the use of certain quantities of radionuclides as tracers in field flood operations for the enhanced recovery of oil and gas. On the basis of the assessment, the Commission

concluded that environmental impacts that would be created by such actions would not be significant and do not warrant the preparation of an Environmental Impact Statement. Because ProTechnics' request is within the bounds of that EA, it has been determined that a Finding of No Significant Impact is appropriate.

The generic EA is made available as NUREG/CR–3467. Copies of NUREG/CR–3467 may be purchased from the Superintendent of Documents, U.S. Government Printing Office, P.O. Box 37082, Washington, DC 20402–9328. Copies are also available from the National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161. A copy and ProTechnics' submittal are also available for inspection and copying for a fee in the NRC Public Document Room, 2120 L Street, NW. (Lower Level), Washington, DC 20555–0001.

Opportunity for a Hearing

Any person whose interest may be affected by the approval of this action may file a request for a hearing. Any request for hearing must be filed with the Office of the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555, within 30 days of the publication of this notice in the **Federal Register**; be served on the NRC staff (Executive Director for Operations, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852), and on the licensee (ProTechnics International, Inc., 1160 Dairy Ashford, Suite 444, Houston, TX 77079); and must comply with the requirements for requesting a hearing set forth in the Commission's regulations, 10 CFR Part 2, Subpart L, ''Information Hearing Procedures for Adjudications in Materials Licensing Proceedings.''

These requirements, which the request must address in detail, are:

1. The interest of the requestor in the proceeding;

2. How that interest may be affected by the results of the proceeding (including the reasons why the requestor should be permitted a hearing);

3. The requestor's areas of concern about the licensing activity that is the subject matter of the proceeding; and

4. The circumstances establishing that the request for hearing is timely—that is, filed within 30 days of the date of this notice.

In addressing how the requestor's interest may be affected by the proceeding, the request should describe the nature of the requestor's right under the Atomic Energy Act of 1954, as amended, to be made a party to the proceeding; the nature and extent of the requestor's property, financial, or other (i.e., health, safety) interest in the proceeding; and the possible effect of any order that may be entered in the proceeding upon the requestor's interest.

Dated at Rockville, Maryland, this 11th day of August 1997.

For the Nuclear Regulatory Commission.

Larry W. Camper,

Chief, Medical, Academic, and Commercial Use Safety Branch, Division of Industrial and Medical Nuclear Safety, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 97–21900 Filed 8–18–97; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Nuclear Regulatory Commission.

DATE: Weeks of August 18, 25, September 1, and 8, 1997.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and Closed.

MATTERS TO BE CONSIDERED:

Week of August 18

Friday, August 22

11:30 a.m. Affirmation Session (Public Meeting)

A: Louisiana Energy Services (Claiborne Enrichment Center); Atomic Safety and Licensing Board Partial Initial Decision (Resolving Contentions B and J.3), LBP–973 (Tentative)

Week of August 25—Tentative

There are no meetings scheduled for the week of August 25.

Week of September 1—Tentative

Wednesday, September 3

11:30 a.m. Affirmation Session (Public Meeting) (if needed)

Week of September 8—Tentative

There are no meetings scheduled for the week of September 8.

The schedule for Commission meetings is subject to change on short notice. To verify the status of meetings call (Recording)—(301) 415–1292.

CONTACT PERSON FOR MORE INFORMATION: Bill Hill (301) 415–1661.

The NRC Meeting Schedule can be found on the Internet at:

http://www.nrc.gov/SECY/smj/schedule.htm

This notice is distributed by mail to several hundred subscribers; if you no longer wish to receive it, or would like to be added to it, please contact the Office of the Secretary. Attn: Operations Branch, Washington, D.C. 20555 (301–415–1661).

In addition, distribution of this meeting notice over the internet system is available. If you are interested in receiving this Commission meeting schedule electronically, please send an electronic message of wmh@nrc.gov or dkw@nrc.gov.

Dated: August 15, 1997.

William M. Hill, Jr.,

SECY Tracking Officer, Office of the Secretary.

[FR Doc. 97–22085 Filed 8–15–97; 8:45 am]

BILLING CODE 7590–01–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–483]

Callaway Plant; Intent to Relocate Local Public Document Room

Notice is hereby given that the Nuclear Regulatory Commission (NRC) will be relocating the local public document room (LPDR) for records pertaining to Union Electric Company's Callaway Plant, Unit 1. The Callaway LPDR is currently located at the Callaway County Public Library, 710 Court Street, Fulton, Missouri. Library staff recently informed the NRC that they are no longer able to maintain the document collection and request that it be moved. This notice invites public comment on possible LPDR locations in the Callaway County, Missouri, area.

Among the factors the NRC will consider in selecting a new location for the LPDR are the following:

(1) Whether the institution is an established document repository located near the nuclear facility with a history of impartially serving the public;

(2) The physical facilities available, including shelf space, storage space, patron workspace, copying equipment and computer access;

(3) The willingness and ability of the library staff to maintain the LPDR collection and assist the public in locating records;

(4) The nature and extent of related research resources, such as government documents;

(5) The public accessibility of the library, including handicap accessibility, parking, ground transportation, and hours of operation, particularly evening and weekend hours;

(6) The proximity of the library to existing user groups of the collection, if known.

Comment period expires September 19, 1997. Comments received after this date will be considered if it is practical to do so, but assurance of consideration cannot be given except as to comments filed on or before this date.

Written comments may be submitted to Mr. David Meyer, Chief, Regulatory Publications Branch, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Copies of comments received may be examined at the NRC Public Document Room, Gelman Building, 2120 L Street NW, Washington, DC.

Questions concerning the NRC's LPDR Program should be addressed to Ms. Jona L. Souder, LPDR Program Manager, Freedom of Information/Local Public Document Room Branch, Office of Information Resources Management, U. S. Nuclear Regulatory Commission, Washington, DC 20555, telephone number 301–415–7170, or toll-free 1–800–638–8081.

Dated at Rockville, Maryland, this 13th day of August, 1997.

For the Nuclear Regulatory Commission.

Russell A. Powell,

Chief, Freedom of Information/Local Public Document Room Branch, Office of Information Resources Management.

[FR Doc. 97–21895 Filed 8–18–97; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–38926; File No. SR–NASD–97–55]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by National Association of Securities Dealers, Inc. Relating to Computer-to-Computer Interface Circuit Fees for NASD Members

August 12, 1997.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on July 28, 1997, the Nasdaq Stock Market, Inc. (''Nasdaq'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by Nasdaq. Nasdaq has designated this proposal as one establishing or changing of a due, fee or other charge under Section 19(b)(3)(A)(ii) of the Act and subparagraph (e) of Rule 19b–4 thereunder, which renders the rule effective upon the Commission's receipt of this filing. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Nasdaq is proposing to amend Rule 7010 of the National Association of Securities Dealers, Inc. (''NASD'' or ''Association''), to charge Computer-to-Computer Interface (''CTCI'') subscribers that are NASD members a circuit fee of $200 per month for each circuit. Below is the text of the proposed rule change. Proposed new language is in italics.

7010. System Services

(a)–(g) No Change
(h) Nasdaq Workstation[tm] Service
(1) No Change
(2) No Change
(3) The following charges shall apply for each CTCI subscriber:

Service Charge $200/month per CTCI circuit

II. Self-Regulatory Organization's Statement Of The Purpose of And Statutory Basis For, The Proposed Rule Change

In its filing with the Commission, Nasdaq included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. Nasdaq has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed rule Change

The purpose of the proposed rule change is to charge CTCI subscribers that are NASD members a circuit fee of $200 per month for each circuit. Firms employ CTCI between their in-house computer systems and Nasdaq for a variety of functions, the most prevalent being order entry into the Small Order Execution System (''SOES'') and the reporting of transactions into the Automated Confirmation Transaction Service (''ACT''). Nasdaq currently supports a total of 449 circuits.

The CTCI network is presently managed by MCI Communications Corp., which is responsible for customer services including installation, relocation and trouble shooting. Subscribers pay a monthly fee to MCI for each circuit in use. Nasdaq does not currently charge CTCI subscribers beyond the fees associated with the transaction services supported by the CTCI network.

The new fee structure is necessary due to adjustments and enhancements that Nasdaq has already made to support capacity for trading days of 1 billion shares currently, 1.5 billion shares by the end of 1997, and 2 billion shares in 1998. As the number of CTCI circuits grows, the potential to exceed capacity limits in the CTCI supported services, notably ACT and SOES, likewise increases. As a consequence, additional infrastructure enhancements will be required to maintain the level of support required to run these services at an acceptable level of performance. In addition to future systems enhancements, Nasdaq continues to incur costs for the support of CTCI circuits and subscribers. These costs include hardware and software enhancements and upgrades for the communications interfaces with Nasdaq systems, support of the subscriber database, customer telephone support and Nasdaq staff planning and provisioning for CTCI. A recent activity-based costing analysis indicated that these costs total approximately $1.1 million annually, which Nasdaq seeks to recover through this fee.

Nasdaq believes that the proposed rule change is consistent with the provisions of Section 15A(b)(5) of the Act,[3] which requires that the rules of the NASD provide for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility or system which the NASD operates or controls.

B. Self-Regulatory Organization's Statement on Burden on Competition

Nasdaq does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78*o*–3.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective immediately pursuant to Section 19(b)(3)(A)(ii) of the Act and subparagraph (e) of Rule 19b–4 thereunder in that it establishes or changes a due, fee or other charge.

At any time within 60 days of the filing of a rule change pursuant to Section 19(b)(3)(A) of the Act, the Commission may summarily abrogate the rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to file number SR–NASD–97–55 and should be submitted by September 9, 1997.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[4]

[FR Doc. 97–21906 Filed 8–18–97; 8:45 am]

BILLING CODE 8010–01–M

[4] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–38925; File No. SR–NASD–97–54]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by National Association of Securities Dealers, Inc. Relating to Computer-to-Computer Interface Circuit Fees for Non-NASD Members

August 12, 1997.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on July 28, 1997, the Nasdaq Stock Market, Inc. (''Nasdaq'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by Nasdaq. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Nasdaq is proposing to amend Rule 7010 of the National Association of Securities Dealers, Inc. (''NASD'' or ''Association''), to charge Computer-to-Computer Interface (''CTCI'') subscribers that are not NASD members a circuit fee of $200 per month for each circuit. Proposed new language is in italics.

7010. System Services

(a)–(g) No Change
(h) Nasdaq Workstation ™ Service
(1) No Change
(2) No Change
(3) The following charges shall apply for each CTCI subscriber:

Service Charge	*$200/month per CTCI circuit*

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, Nasdaq included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. Nasdaq has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

[1] 15 U.S.C. 78s(b)(1).
[2] 17 CFR 240.19b–4.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of the proposed rule change is to charge CTCI subscribers that are not NASD members a circuit fee of $200 per month for each circuit. Firms employ CTCI between their in-house computer systems and Nasdaq for a variety of functions, the most prevalent being order entry into the Small Order Execution System (''SOES'') and the reporting of transactions into the Automated Confirmation Transaction Service (''ACT''). Nasdaq currently supports a total of 449 circuits.

Although most users of CTCI are NASD members, a small number are not. Specifically, these are mutual funds or their pricing agents that may use CTCI for transmitting net asset values (''NAVs'') each day to Nasdaq's Mutual Fund Quotation Service. To ensure that the costs are uniformly allocated among all CTCI subscribers, Nasdaq is proposing to apply the circuit charge to these subscribers as well.

The CTCI network is presently managed by MCI Communications Corp., which is responsible for customer services including installation, relocation and trouble shooting. Subscribers pay a monthly fee to MCI for each recruit in use. Nasdaq does not currently charge CTCI subscribers beyond the fees associated with the transaction services supported by the CTCI network.

The new fee structure is necessary due to adjustments and enhancements that Nasdaq has already made to support capacity for trading days of 1 billion shares currently, 1.5 billion shares by the end of 1997, and 2 billion shares in 1998. As the number of CTCI circuits grows, the potential to exceed capacity limits in the CTCI supported services, notably ACT and SOES, likewise increases. As a consequence, additional infrastructure enhancements will be required to maintain the level of support required to run these services at an acceptable level of performance. In addition to future systems enhancements, Nasdaq continues to incur costs for the support of CTCI circuits and subscribers. These costs include hardware and software enhancements and upgrades for the communications interfaces with Nasdaq systems, support of the subscriber database, customer telephone support and Nasdaq staff planning and provisioning for CTCI. A recent activity-based costing analysis indicated that these costs total approximately $1.1

million annually, which Nasdaq seeks to recover through this fee.

Nasdaq believes that the proposed rule change is consistent with the provisions of Section 15A(b)(5) of the Act,[3] which requires that the rules of the NASD provide for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility or system which the NASD operates or controls.

B. Self-Regulatory Organization's Statement on Burden on Competition

Nasdaq does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the persons of the Act, as amended.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing For Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

A. By order approve such proposed rule change, or

B. Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to file number SR–NASD–97–54 and should be submitted by September 9, 1997.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[4]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–21907 Filed 8–18–97; 8:45 am]

BILLING CODE 8010–01–M

[3] 15 U.S.C. § 78*o*–3.

[4] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–38927; File No. SR–PCX–97–21]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Pacific Exchange, Inc. Relating to the Suspension of its Automatic Execution System (''Auto-Ex'') During Unusual Market Conditions

August 12, 1997.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on June 4, 1997, the Pacific Exchange, Inc. (''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization.[3] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is proposing to adopt new rules on the suspension of its Automatic Execution System (''Auto-Ex'') for options trading during unusual market conditions, and the maximum bid-ask spread differentials that are permitted during unusual market conditions. The text of the proposed rule change is available at the Exchange.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] This notice includes Amendment No. 1 to the proposed rule change, supplementing the Statement of Purpose in Section II, which was filed with the Commission on August 8, 1997. *See* letter from Michael D. Pierson, Office of Regulatory Policy, Pacific Exchange, to Mandy S. Cohen, Office of Market Supervision, Division of Market Regulation, Commission (dated August 7, 1997).

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

Statement of Purpose

The Exchange is proposing to modify its Rule 6.28 (''Unusual Market Conditions'') to address situations involving system failures, ranging from ''frozen screens'' in an issue (where quote changes are entered into the system, but such changes are not reflected in the market being disseminated) to a floor-wide system malfunction of the POETS system (where all screen displays on the floor fail).[4] Rule 6.28 currently provides that whenever an Options Floor Official determines that ''an unusual condition or circumstance'' exists, because of an influx of orders or other unusual conditions or circumstances, and the interests of maintaining a fair and orderly market so require, such official may declare a ''fast market'' in one or more classes of option contracts.[5] The proposed amendments are designed to provide additional safeguards and procedures to deal with such situations.

First, the Exchange is proposing to modify subsection (a) of Rule 6.28 to require the agreement of two Options Floor Officials before a ''fast market'' can be declared. Second, the Exchange is proposing to add a new subsection (b)(7), to allow the Options Floor Officials who have declared a fast market to suspend the Auto-Ex if, because of an influx of orders or other unusual market conditions or circumstances, they determine that such action is appropriate in maintaining a fair and orderly market. The initial suspension of Auto-Ex is limited to five minutes and a Floor Governor must be notified immediately. Suspension of

[4] ''POETS'' is an acronym for the Pacific Options Exchange Trading System.

[5] *See also* PCX Options Floor Procedure Advice G–9 (''Fast Market Procedures'').

Auto-Ex may be continued, or its operation resumed for a longer period following determination by two Options Floor Officials and one Floor Governor (or a senior operations officer if no Floor Governor is available) determine that such action is appropriate. In the event that the three officials do not agree, a ⅔ majority prevails.[6] Upon suspension of the Auto-Ex system, all market and marketable limit orders thereafter entered through the Exchange's Member Firm Interface will be routed to a booth on the Floor designated by the firm that entered the order. The order can then be taken to the crowd manually and represented by a floor broker.

The Exchange is also proposing to amend Rule 6.37 (''Obligations of Market Makers'') by adding a new subsection (b)(4), which provides that if the interest of maintaining a fair and orderly market so requires, two Floor Officials may declare a fast market and allow Market Makers in an issue to make bids and offers with spread differentials of up to two times, or in exceptional circumstances, up to three times, the legal limits permitted under Rule 6.37(b)(1). The rule further directs such Floor Officials to consider the following factors in making the determination to allow wider markets,: (A) whether there is an extreme influx of option orders due to pending news, a news announcement or other special events; (B) whether there is an imbalance of option orders in one series or on one side of the market; (C) whether the underlying security is trading outside the bid or offer in such security then being disseminated; (D) whether Floor Members receive no response to orders placed to buy or sell the underlying security; and (E) whether a vendor quote feed for POETS is clearly stale or unreliable.

The Exchange is also proposing to amend its Rule 6.87 (''Automatic Execution System''), by adding three new subsections relating to suspensions of Auto-Ex. Whenever a POETS system or vendor quote feed malfunction affects the Exchange's ability to disseminate or update market quotes on a floor-wide basis, the senior person then in charge of the Exchange's Control Room will be able to halt Auto-Ex on a floor-wide basis, upon declaration of a ''fast market'' by two Floor Officials.[7]

Similarly, if a POETS malfunction occurs and Market Makers are physically unable to update their quotations in an issue or issues at the same trading post or trading quad, two Floor Officials may declare a ''fast market'' and direct the order book official (''OBO'') to turn off the Auto-Ex system in only the affected issue or issues.[8] Under either scenario, once the system malfunction has been corrected that the market quotes have been updated, two Floor Officials (or the senior person then in charge of the Control Room in the event of a floor-wide malfunction) may re-start Auto-Ex.[9]

Statutory Basis

The proposal is consistent with Section 6(b) of the Act, in general, and Section 6(b)(5), in particular, in that it is designed to promote just and equitable principles of trade and to protect investors and the public interest.

Relation to Rule of Other Self-Regulatory Organizations

The proposed rule change is based, in part, on Rules 6.6(e) and 6.8.03 of the Rules of the Chicago Board Options Exchange (''CBOE'').

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments on the proposed rule change were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SR–PCX–97–21 and should be submitted by September 9, 1997.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[10]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–21908 Filed 8–18–97; 8:45 am]

BILLING CODE 8010–01–M

[6] *Cf.* CBOE Rule 6.6(e).

[7] Proposed subsection (d)(1), Floor-Wide POETS System Malfunction.

[8] Proposed subsection (d)(2), Non-Floor-Wide POETS System Malfunction. Proposed subsection (d)(3) (''Other Unusual Conditions'') further provides that if there are other unusual market conditions not involving a POETS System malfunction, two Floor Officials may suspend Auto-EX in accordance with Rule 6.28(b).

[9] *Cf.* CBOE Rule 6.8, Interpretation and Policy .03.

[10] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–38924; File No. SR–Phlx–97–36]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Philadelphia Stock Exchange, Inc. Extending the Pilot Program for Equity and Index Option Specialist Enhanced Parity Split Participants

August 11, 1997.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on July 24, 1997, the Philadelphia Stock Exchange, Inc. (''PHLX'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to

solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The PHLX proposes to extend until December 31, 1997, the Exchange's enhanced parity participation (''Enhanced Parity Split'') pilot program for equity and index option specialists (''Pilot Program''). Revisions to Exchange Rule 1014(g)(ii) and its corollary Option Floor Procedure Advice B–6 (''Advice B–6'') are proposed only to change the expiration date of the Pilot Program. The text of the proposed rule change is available at the Office of the Secretary, the PHLX, and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The test of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

On August 26, 1994, the Commission approved, as a one-year pilot program, the Exchange's proposal to adopt an enhanced specialist participation in parity equity option trades.[2] On November 30, 1994, the Commission approved the Exchange's request to expand the Enhanced Parity Split to include index option specialists as well as equity option specialists.[3] The Enhanced Parity Split was again amended on March 1, 1995 to modify the Pilot Program with respect to situations where less than three controlled accounts[4] are on parity with the specialist.[5] At the termination of the first year of the pilot, the Exchange determined to renew the pilot for an additional year until August 26, 1996.[6] The Exchange again determined to renew the pilot until August 26, 1997.[7]

The program works as follows: When an equity or index option specialist is on parity with one controlled account and the order is for more than five contracts, the specialist will receive 60% of the contracts and the controlled account will receive 40%. When the specialist is on parity with two controlled accounts and the order is for more than five contracts, the specialist will receive 40% of the contracts and each controlled account will receive 30%. When the specialist is on parity with three or more controlled accounts and the order is for more than five contracts, the specialist will be counted as two crowd participants when dividing up the contracts. In any of these situations, if a customer is on parity, he will not be disadvantaged by receiving a lesser allotment than any other crowd participant, including the specialist.

This enhanced split is not applicable to all equity and index options traded on the Exchange. It is only applicable to 50% of each specialist unit's issues listed as of the renewal date of the pilot each year and all option classes listed after that date. The Exchange also has a different enhanced split program in place for ''new'' option specialist units trading newly listed options classes where the specialist is on parity with two or more registered options traders (''ROTs'').[8] That program was approved on a permanent basis and, therefore, is not included in the subject of this filing.

Accordingly, the PHLX requests that the two-for-one specialist enhanced parity split pilot be extended until December 31, 1997.

In the Commission's most recent Approval Order,[9] it was noted that prior to granting another extension or permanent approval of the pilot program, the Commission would require the Exchange to submit a report (''Report'') discussing: (1) Whether the Pilot Program has generated any evidence of any adverse effect on competition or investors, in particular, or the market for equity or index options, in general; (2) whether the Exchange has received any complaints, either written or otherwise, concerning the operation of the Pilot Program; and (3) whether the Exchange has taken any disciplinary action against, or commenced any investigations, examinations, or inquiries concerning the operation of the Pilot Program, as well as the outcome of any such matter. On July 31, 1997, the Exchange submitted the report, which is summarized below.[10]

As to the issue of competition, the Exchange found that the split as originally proposed was overly burdensome when only one or two controlled accounts were on parity with the specialist, so the rule was amended in March of 1995 in order to make the split more equitable in those situations.[11] Subsequently, the Exchange established a subcommittee composed of four specialists, four ROTs, and one floor broker who represents customers. The subcommittee has met on numerous occasions since that time to analyze the program and its effect on competition, investors and the market in general. The members of the subcommittee which represent all of the different interests on the trading floor and in the market, discussed the operation of the program and concluded that there was no evidence of any adverse effects on competition or investors or the market for equity or index options.

As to the second issue, the provision requiring the specialist to assure that the customer is not disadvantaged has been strictly enforced without incident and the Exchange has not received any complaints either orally or in writing from investors regarding inequitable splits or the program in general.[12]

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[2] Securities Exchange Act Release No. 34606 (Aug. 26, 1994), 59 FR 45741 (Sept. 2, 1994) (order approving File No. SR–PHLX–94–12).

[3] Securities Exchange Act Release No. 35028 (Nov. 30, 1994), 59 FR 45741 (Dec. 7, 1994) (notice of filing and immediate effectiveness of File No. SR–PHLX–94–57).

[4] A controlled account is defined as ''any account controlled by or under common control with a member broker-dealer.'' Customer accounts, which include discretionary accounts, are defined as all accounts other than controlled accounts and specialist accounts. See Exchange Rule 1014(g).

[5] Securities Exchange Act Release No. 35429 (Mar. 1, 1995), 60 FR 12802 (Mar. 8, 1995) (order approving File No. SR–PHLX–94–59).

[6] Securities Exchange Act Release No. 36122 (Aug. 18, 1995), 60 FR 44530 (Aug. 28, 1995) (notice of filing and immediate effectiveness of File No. SR–PHLX–95–54).

[7] Securities Exchange Act Release No. 37524 (Aug. 5, 1996), 61 FR 42080 (Aug. 13, 1996) (notice of filing and immediate effectiveness of File No. SR–PHLX–96–29).

[8] Securities Exchange Act Release No. 34109 (May 25, 1994), 59 FR 28570 (June 2, 1994) (order approving File No. SR–PHLX–93–29).

[9] Release No. 34–37524, *supra* note 7, n.15.

[10] See letter from Michele R. Weisbaum, Vice President and Associate General Counsel, PHLX, to George Villasana, Office of Market Supervision, Division of Market Regulation, Commission, dated July 31, 1997.

[11] Release No. 34–35429, *supra* note 5.

[12] According to the Exchange, its Matched Order Ticket System requires trade participants to submit matched tickets to the appropriate person at the specialist post immediately upon effecting a transaction in order to assure, among other things, that the party agrees with each contra-party's claim as to his or her level of participation. See Release No. 37524, *supra* note 7 (referencing telephone conversation on August 2, 1996 between Michelle R. Weisbaum, Vice President and Associate General Counsel, PHLX, and George A. Villasana, Attorney, Division of Market Regulation, SEC).

Finally, as to the third point, the Exchange took one disciplinary case against an equity option specialist for making an inequitable split among himself and the ROTs in the crowd in 1996.[13] In that instance, the specialist was censured and suspended for one week as part of a settlement. The specialist has since left the Exchange. Since January 1, 1997, the Exchange has not commenced any investigations relating to the operation of the Pilot program.[14]

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Act [15] in general and in particular, with Section 6(b)(5),[16] in that it is designed to promote just and equitable principles of trade, prevent fraudulent and manipulative acts and practices, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, as well as to protect investors and the public interest. Specifically, the proposal balances the competing interests of specialists and market makers while assisting the specialist in making tight and liquid markets in its assigned issues and protects the public interest by requiring quarterly reviews and assuring that the customers' participation is never disadvantaged by the enhanced split.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change: (1) Does not significantly affect the protection of investors or the public interest; (2) does not impose any significant burden on competition; (3) does not become operative for 30 days from July 24, 1997, the date on which it was filed, and the Exchange provided the Commission with written notice of its intent to file the proposed rule change at least five business days prior to the filing date, it has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(e)(6) thereunder.[17]

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Station, 450 Fifth Street NW., Washington, DC 20549. Copies of such filing also will be available for inspection and copying at the principal office of the Philadelphia Stock Exchange. All submissions should refer to File No. SR–PHLX–97–36 and should be submitted by September 9, 1997.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[18]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–21848 Filed 8–18–97; 8:45 am]

BILLING CODE 8010–01–M

[13] Enforcement No. 95–12, Business Conduct Committee, PHLX.

[14] The Commission again notes that in connection with any future request by the Exchange for the Commission to either further extend or permanently approve the Pilot Program, the Exchange will be required to submit a report discussing 1) whether the Pilot Program has generated any evidence of any adverse effect on competition or investors, in particular, or the market for equity or index options, in general, 2) whether the Exchange has received any complaints, either written or otherwise, concerning the operation of the Pilot Program, and 3) whether the Exchange has taken any disciplinary action against, or commenced any investigations, examinations, or inquiries concerning the operation of the Pilot Program, as well as the outcome of any such matter.

[15] 15 U.S.C. 78f(b).

[16] 15 U.S.C. 78f(b)(5).

[17] 17 CFR 240.19b–4(e)(6).

[18] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

Data Collection Available for Public Comments and Recommendations

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Small Business Administration's intentions to request approval on a new, and/or currently approved information collection.

DATES: Comments should be submitted on or before October 20, 1997.

FOR FURTHER INFORMATION CONTACT: Curtis B. Rich, Management Analyst, Small Business Administration, 409 3rd Street, S.W., Suite 5000, Washington, D.C. 20416. Phone Number: 202–205–6629.

SUPPLEMENTARY INFORMATION:

Title: ''Mentor Information Survey''.
Type of Request: New Collection.
Form No: N/A.
Description of Respondents: Organizations which foster the growth of Women's Business Ownership.
Annual Responses: 10,000.
Annual Burden: 2,000.

Title: ''Protégé Information Survey''.
Type of Request: New Information Collection.
Form No: N/A.
Description of Respondents: Organizations which foster the growth of Women's Business Ownership.
Annual Responses: 10,000.
Annual Burden: 2,000.

Title: ''WNET Program Quarterly Report''
Type of Request: New Information Collection.
Form No: N/A
Description of Respondents: Organizations which foster the growth of Women's Business Ownership.
Annual Responses: 10,000
Annual Burden: 2,000

Title: ''WNET Program Final Report''
Type of Respondents: New Information Collection.
Form No: N/A
Description of Respondents: Organizations which foster the growth of Women's Business Ownership.

Annual Responses: 10,000.
Annual Burden: 2,000.

Title: ''Mentor's Report''.
Type of Request: New Information Collection.
Form No: N/A.
Description of Respondents: Organizations which foster the growth of Women's Business Ownership.
Annual Responses: 10,000.
Annual Burden: 2,000.

Title: ''Protege Business Assessment Questionnaire''.
Type of Request: New Information Collection.
Form No: N/A.
Description of Respondents: Organizations which foster the growth of Women's Business Ownership.
Annual Responses: 10,000.
Annual Burden: 2,000.

Title: ''Wise Success Team Evaluation Survey''.
Type of Request: New Information Collection.
Form No: N/A.
Description of Respondents: Organizations which foster the growth of Women's Business Ownership.
Annual Responses: 10,000.
Annual Burden: 2,000.

Title: ''Group Sharing and Feedback Survey''.
Type of Request: New Information Collection.
Form No: N/A.
Description of Respondents: Organizations which foster the growth of Women's Business Ownership.
Annual Responses: 10,000.
Annual Burden: 2,000.

Title: ''Action Planning Sheet Survey''.
Type of Request: New Information Collection.
Form No: N/A.
Description of Respondents: Organizations which foster the growth of Women's Business Ownership.
Annual Responses: 10,000.
Annual Burden: 2,000.

Comments

Send all comments regarding these information collections to Julia M. Taylor, Office of Women Business Ownership, Small Business Administration, 409 3rd Street, SW., Suite 4200, Washington, DC 20416. Phone No: 202–205–6673. Send comments regarding whether these information collections are necessary for the proper performance of the function of the agency, accuracy of burden estimate, in addition to ways to minimize this estimate, and ways to enhance the quality.

Dated: August 13, 1997.

Jacqueline White,

Chief, Administrative Information Branch.

[FR Doc. 97–21857 Filed 8–18–97; 8:45 am]
BILLING CODE 8025–01–P

SOCIAL SECURITY ADMINISTRATION

Information Collection Activities: Proposed Collection Requests and Comment Requests

This notice lists information collection packages that will require submission to the Office of Management and Budget (OMB), as well as information collection packages submitted to OMB for clearance, in compliance with Public Law 104–13 effective October 1, 1995, The Paperwork Reduction Act of 1995.

I. The information collection(s) listed below require(s) extension(s) of the current OMB approval(s) or are proposed new collection(s):

1. Railroad Employment Questionnaire—0960–0078. Form SSA–671 is used to secure sufficient information for required coordination with the Railroad Retirement Board for Social Security claims processing. The form is completed whenever claimants indicate that they have been employed in the railroad industry. The respondents are retired employees of the railroad industry or their dependents.
Number of Respondents: 125,000.
Frequency of Response: 1.
Average Burden Per Response: 5 minutes.
Estimated Annual Burden: 10,417 hours.

2. Employment Relationship Questionnaire—0960–0040. Form SSA–7160 covers all possible employment situations, and is used by the Social Security Administration to determine an individual's work status. The respondents are applicants for Social Security benefits.
Number of Respondents: 47,500.
Frequency of Response: 1.
Average Burden Per Response: 25 minutes.
Estimated Annual Burden: 19,792 hours.

3. Questionnaire About Employment or Self-Employment Outside the United States—0960–0050. The information on Form SSA–7163 is needed to determine whether work performed outside the United States by beneficiaries is cause for deductions from their monthly benefits; to determine whether the foreign work test or the regular work test is applicable; and to determine the months, if any, for which deductions should be imposed. The respondents are beneficiaries who live and work outside the United States.
Number of Respondents: 20,000.
Frequency of Response: 1.
Average Burden Per Response: 12 minutes.
Estimated Annual Burden: 4,000 hours.

4. Disability Report—0960–0573. The information collected on Form SSA–3368 is needed for the determination of disability by the State Disability Determination Services. The information will be used to develop medical evidence and to assess the alleged disability. The respondents are applicants for disability benefits.
Number of Respondents: 2,438,496.
Frequency of Response: 1.
Average Burden Per Response: 45 minutes.
Estimated Annual Burden: 1,828,872 hours.

5. Work History Report—0960–0572. The information collected on Form SSA–3369 is needed for the determination of disability by the State Disability Determination Services. The respondents are applicants for disability benefits. The information will be used to document an individual's past work history.
Number of Respondents: 1,000,000.
Frequency of Response: 1.
Average Burden Per Response: 30 minutes.
Estimated Annual Burden: 500,000 hours.

6. Medical History and Disability Report, Disabled Child—0960–0574. The information collected on Form SSA–3820 is needed for the determination of disability by the State Disability Determination Services. The SSA–3820 will be used to obtain various types of information about a child's condition, his/her treating sources and/or other medical sources of evidence. The respondents are applicants for disability benefits.
Number of Respondents: 523,000.
Frequency of Response: 1.
Average Burden Per Response: 20 minutes.
Estimated Annual Burden: 174,333 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: Nicholas E. Tagliareni, 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.

II. The information collection(s) listed below have been submitted to OMB:

1. Subpart T—State Supplementation Provisions; Agreement; Payments, 20 CFR 416.2099—0960–0240. Section 1618 of the Social Security Act contains pass-along provisions of the Social Security amendments. These provisions require that States which supplement the Federal SSI benefit pass along Federal cost-of-living increases to individuals who are eligible for State supplementary payments. If a State fails to keep payments at the required level, it becomes ineligible for Medicaid reimbursement under Title XIX of the Social Security Act. Regulations in 20 CFR 416.2099 require States to report mandatory minimum and optional supplementary payment data to SSA. The information is used to determine compliance with laws and regulations. The respondents are States which supplement Federal SSI payments.

Number of Respondents: 26.

Frequency of Response: 15 States report quarterly; 11 States report annually.

Average Burden Per Response: 1 hour.

Estimated Annual Burden: 71 hours.

2. Application for Lump-Sum Death Payment—0960–0013. The information collected on Form SSA–8-F4 is required to authorize payment of the lump-sum death benefit to a widow, widower, or children as defined in Section 202(i) of the Social Security Act. The respondents are widows, widowers or children who receive lump-sum death benefits.

Number of Respondents: 735,000.

Frequency of Response: 1.

Average Burden Per Response: 10 minutes.

Estimated Annual Burden: 122,500 hours.

3. Statement Regarding Contributions—0960–0020. Form SSA–783 collects the information necessary to make a determination of one-half support, or contributions to support, in order to entitle certain child applicants to Social Security benefits. The respondents are children who apply for Social Security benefits.

Number of Respondents: 30,000.

Frequency of Response: 1.

Average Burden Per Response: 15 minutes.

Estimated Annual Burden: 7,500 hours.

4. Application for Search of Census Record for Proof of Age—0960–0097. The information collected on Form SSA–1535–U3 is required to provide the Census Bureau with sufficient identifying information, which will allow an accurate search of census records to establish proof of age for an individual applying for Social Security benefits. It is used for individuals who must establish age as a factor of entitlement. The respondents are individuals applying for Social Security benefits.

Number of Respondents: 18,000.

Frequency of Response: 1.

Average Burden Per Response: 12 minutes.

Estimated Annual Burden: 3,600 hours.

5. Claimant's Statement About Loan of Food or Shelter, and Statement About Food or Shelter Provided to Another—0960–0529. Form SSA–5062 will be used to obtain an SSI applicant's statement about whether the food and/or shelter provided to him/her is a loan. Form SSA–5063 will be used to obtain an individual's statement about whether the food and/or shelter he/she provides to an SSI applicant is a loan. SSA needs to know if a bona fide loan exists in order to determine whether the food and/or shelter should (or should not) be counted as income, which can affect eligibility for SSI and the amount of SSI benefits payable. The respondents are SSI applicants who receive food and/or shelter (SSA–5062) and individuals who provide food and/or shelter to SSI applicants (SSA–5063).

Number of Respondents: 131,080.

Frequency of Response: 1.

Average Burden Per Response: 10 minutes.

Estimated Annual Burden: 21,847 hours.

Written comments and recommendations regarding the information collection(s) should be directed within 30 days to the OMB Desk Officer and SSA Reports Clearance Officer at the following addresses:

(OMB)

Office of Management and Budget,
OIRA, Attn: Laura Oliven, New Executive Office Building, Room 10230, 725 17th St., NW.,
Washington, D.C. 20503

(SSA)

Social Security Administration,
DCFAM, Attn: Nicholas E. Tagliareni, 1–A–21 Operations Bldg., 6401 Security Blvd., Baltimore, MD 21235

To receive a copy of any of the forms or clearance packages, call the SSA Reports Clearance Officer on (410) 965–4125 or write to him at the address listed above.

Dated: August 12, 1997.

Nicholas E. Tagliareni,

Reports Clearance Officer, Social Security Administration.

[FR Doc. 97–21783 Filed 8–18–97; 8:45 am]

BILLING CODE 4190–29–P

DEPARTMENT OF STATE

[Public Notice No. 2582]

United States International Telecommunications Advisory Committee (ITAC) Standardization Sector (ITAC–T) Study Group A And ITAC–T; Meeting

The Department of State announces that the United States International Telecommunications Advisory Committee (ITAC), Telecommunications Standardization Sector (ITAC–T) National Study Group and Study Group A have scheduled several meetings to develop United States positions and contributions for upcoming ITU–T meetings dealing with standardization activities of the International Telecommunications Union. These meetings will take place at the Department of State, at 2201 C Street N.W., Washington, D.C. beginning at 9:30 a.m. each day and are scheduled to meet all day. The ITAC–T National group dealing primarily with the upcoming January 1998 session of the Telecommunications Standardization Advisory Group (TSAG) will meet September 3 in Room 1105, October 7, Room 1105, November 18 Room 1205 and December 16, Room 1207.

ITAC–T Study Group A will meet October 15, in Room 1207 and November 19, Room 1105 to continue preparations to develop positions and contributions for (1) ITU–T Study Group 3's (Tariff and Accounting Principles including related telecommunications economic and policy issues) meeting scheduled for December 2–11, 1997 and (2) the ITU–T Study Group 2 meetings scheduled for Hungary in October 1997 and February 1998 in Geneva. A more extensive agenda may be developed and distributed by fax or electronic mail to members prior to the announced meetings including the scheduling of appropriate Ad-Hoc meetings—one for numbering and routing issues of Study Group 2 and one for accounting rates and call back applications within ITU–T Study Group 3.

Members of the General Public may attend this meeting and join in the discussions, subject to the instructions of the Chair. Admittance of public members will be limited to the seating available. In this regard, entrance to the

Department of State is controlled. Questions regarding the meeting may be addressed to Mr. Earl Barbely at 202–647–0197.

Note: If you wish to attend please send a fax to 202–647–7407 not later than 24 hours before the scheduled meeting. On this fax, please include subject meeting, your name, social security number, and date of birth. One of the following valid photo identifications will be required for admittance: U.S. driver's license with your picture on it, U.S. passport, U.S. Government identification (company ID's are no longer accepted by Diplomatic Security). Enter from the ''C'' Street Main Lobby.

Dated: August 5, 1997.

Earl S. Barbely,

Chairman, U.S. ITAC for Telecommunications Standardization.

[FR Doc. 97–21966 Filed 8–18–97; 8:45 am]

BILLING CODE 4710–45–M

DEPARTMENT OF STATE

[Public Notice No. 2583]

Shipping Coordinating Committee Subcommittee on Safety of Life at Sea Working Group on Bulk Liquids and Gases; Notice of Meeting

The Working Group on Bulk Liquids and Gases (BLG) of the Subcommittee on Safety of Life at Sea (SOLAS) will conduct an open meeting at 9:30 AM on Friday, September 5, 1997 in Room 2415, U.S. Coast Guard Headquarters, 2100 Second Street, S.W., Washington, DC 20593–0001. The purpose of the meeting is to review the results of the Second Session of the Subcommittee on Bulk Liquids and Gases of the International Maritime Organization (IMO) which was held on April 7–11, 1997, at the IMO Headquarters in London. In addition, items included on the work program for the Third Session of the Subcommittee will be reviewed.

The agenda items of particular interest:

a. Revision of the International Convention for the Prevention of Pollution from Ships, 1973 as modified by the Protocol of 1978 (MARPOL 73/78) regulations 1/22 to 24 in the light of the probabilistic methodology for oil outflow analysis.

b. Review of Annexes I and II of MARPOL 73/78.

c. Revision of carriage requirements for carbon disulfide in the International Code for the Construction and Equipment of Ships Carrying Dangerous Chemicals in Bulk (IBC Code).

d. Requirements for personal protection involved in transportation of cargoes containing toxic substances in oil tankers.

e. Amendments to the International Code for the Construction and Equipment of Ships Carrying Liquefied Gases in Bulk and the Code for the Construction and Equipment of Ships Carrying Liquefied Gases in Bulk.

f. Revision of chapter 8 of the IBC Code in the light of the revised SOLAS regulation II–2/59.

g. Evaluation of safety and pollution hazards of chemicals and preparation of consequential amendments.

h. Assessment of alternative tanker designs.

Members of the public may attend this meeting up to the seating capacity of the room. Interested persons may seek information by writing: Commander K. S. Cook, U.S. Coast Guard (G–MSO–3), 2100 Second Street, S.W., Washington, DC 20593–0001 or by calling (202) 267–1577.

Dated: August 4, 1997.

Stephen M. Miller,

Executive Secretary, Shipping Coordinating Committee.

[FR Doc. 97–21965 Filed 8–18–97; 8:45 am]

BILLING CODE 4710–45–M

DEPARTMENT OF STATE

[Public Notice 2581]

Privacy Act of 1974 as Amended; Removal of Systems of Records

Notice is hereby given that the Department of State is removing two systems of records, STATE–23–Media Personnel Records and STATE–34–Public Affairs Applicants Records, pursuant to the provisions of the Privacy Act of 1974, as amended (5 U.S.C. 552a(r)), and in accordance with the record-keeping practices and the reorganization of the Bureau of Public Affairs.

As reported in Public Notice 2527 of April 18, 1997 (62 FR 19155–19156) certain records reflected in STATE–23 became part of STATE–22. The remaining records have been disposed of in accordance with published records schedules of the Department of State and as approved by the National Archives and Records Administration.

STATE–34–Public Affairs Applicants Records is being removed because the Scholar/Executive-Diplomat Seminar Program has been discontinued; and the records of the Department's Work-Study Program, also part of STATE–34, are now maintained in the Bureau of Personnel and will become part of STATE–21–Personnel Records.

Dated: August 8, 1997.

Genie M. Norris,

Acting Assistant Secretary of Administration.

[FR Doc. 97–21874 Filed 8–18–97; 8:45 am]

BILLING CODE 4710–05–M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Reports, Forms and Recordkeeping Requirements; Agency Information Collection Activity Under OMB Review

AGENCY: Office of the Secretary, DOT.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act 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 renewal and comment. The ICR describes the nature of the information collection and its expected cost and burden. The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on June 9, 1997 [62 FR 31470].

DATES: Comments must be submitted on or before September 18, 1997.

FOR FURTHER INFORMATION CONTACT: Mr. Luther R. Dietrich, Office of Aviation Analysis, U.S. Department of Transportation, 400 7th Street, SW., Washington, DC 20590. Telephone (202) 366–1046.

SUPPLEMENTARY INFORMATION:

Office of the Secretary (OST)

Title: Supporting Statements—Air Carriers' Claims for Subsidy Payments.

Type of Request: Extension of a currently approved information collection.

OMB Control Number: 2106–0044.

Affected Public: Small air carriers selected by the Department in docketed cases to provide subsidized essential air service.

Abstract: The requested collection of information covers OST Form 397 and OST Form 398.

Need: In 14 CFR part 271 of its Aviation Economic Regulations, the Department provided that subsidy to air carriers for providing essential air service will be paid to the carriers monthly, and that payments will vary according to the actual amount of service performed during the month. The reports of subsidized air carriers of essential air service performed on the Department's OST Form 397, ''Air

Carrier's Report of Departures Performed in Scheduled Service'' and OST Form 398, ''Air Carrier's Claim for Subsidy'' establish the fundamental basis for paying these air carriers on a timely basis.

Annual Estimated Burden Hour: 4,020*.

*The annual estimated burden has been reduced from 7,500 hours primarily because the essential air service program has been reduced, both in terms of the number of communities served and in the amount of service supported (number of round trips per week) in response to decreased funding from Congress.

ADDRESSES: Comments should be sent to Office of Information and Regulatory Affairs, Attention: DOT Desk Officer; Office of Management and Budget; Washington, DC 20503.

Comments are invited on: whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimate of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Issued in Washington, DC, on August 14, 1997.

Vanester M. Williams,

Clearance Officer, United States Department of Transportation.

[FR Doc. 97–21903 Filed 8–18–97; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Notice of Application for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q During the Week Ending August 8, 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 order, a tentative order, or in appropriate cases a final order without further proceedings.

Docket Number: OST–97–2787.

Date Filed: August 6, 1997.

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: September 3, 1997.

Description: Joint Application of Pan Am Corporation and Carnival Air Lines, Inc., pursuant to 49 U.S.C. Section 41105 and Subpart Q of the Regulations, applies for approval of the de facto transfer of the certificates and other economic authorities now held by Carnival to Carnival under the ownership of Pan Am.

Paulette V. Twine,

Chief, Documentary Services.

[FR Doc. 97–21864 Filed 8–18–97; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Harmonization Initiatives; Meeting

AGENCY: Department of Transportation, Federal Aviation Administration (FAA).

ACTION: Notice of public meeting.

SUMMARY: The Federal Aviation Administration and the Joint Aviation Authorities will convene a meeting to accept input from the public on the Harmonization Work Program. The Harmonization Work Program is the means by which the Federal Aviation Administration and the Joint Aviation Authorities carry out a commitment to harmonize, to the maximum extent possible, the rules regarding the operation and maintenance of civil aircraft, and the standards, practices, and procedures governing the design materials, workmanship, and construction of civil aircraft, aircraft engines, and other components. The purpose of this meeting is to provide an opportunity for the public to submit input to the Harmonization Work Program. This notice announces the date, time, location, and procedures for the public meeting.

DATES: The public meeting will be held on September 11, 1997, starting at 9 a.m. Written comments are also invited and must be received on or before September 5, 1997.

ADDRESSES: The public meeting will be held in the Washington ''A'' Room at the Hyatt Regency Crystal City, 2799 Jefferson Davis Highway, Arlington, Virginia, telephone (703) 418–1234.

Persons unable to attend the meeting may mail their comments in triplicate to: Brenda Courtney, Federal Aviation Administration, Office of Rulemaking, ARM–200, 800 Independence Avenue, SW., Washington, DC 20591.

FOR FURTHER INFORMATION CONTACT: Requests to present a statement at the meeting or questions regarding the logistics of the meeting should be directed to Brenda Courtney, Office of Rulemaking, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267–3327, telefax (202) 267–5075.

SUPPLEMENTARY INFORMATION:

Participation at the Meeting

Requests from persons who wish to present oral statements at the public meeting should be received by the FAA no later than September 5, 1997. Such requests should be submitted to Brenda Courtney as listed in the section titled **FOR FURTHER INFORMATION CONTACT** and should include a written summary of oral remarks to be presented, and an estimate of time needed for the presentation. Requests received after the date specified above will be scheduled if time is available during the meeting; however, the name of those individuals may not appear on the written agenda.

The FAA will prepare an agenda of speakers who will be available at the meeting. Every effort will be made to accommodate as many speakers as possible. In addition, the amount of time allocated to each speaker may be less than the amount of time requested.

Meeting Procedures

The following procedures are established to facilitate the meeting:

(1) There will be no admission fee or other charge to attend or to participate in the meeting. The meeting will be open to all persons who have requested in advance to present statements or who register on the day of the meeting subject to availability of space in the meeting room.

(2) There will be a morning and afternoon break and a lunch break.

(3) The meeting may adjourn early if scheduled speakers complete their statements in less time than currently is scheduled for the meeting.

(4) An individual, whether speaking in a personal or a representative capacity on behalf of an organization, may be limited to a 10-minute statement. If possible, we will notify the speaker if additional time is available.

(5) The FAA will try to accommodate all speakers. If the available time does not permit this, speakers generally will be scheduled on a first-come-first-served basis. However, the FAA reserves the right to exclude some speakers if necessary to present a balance of viewpoints and issues.

(6) Sign and oral interpretation can be made available at the meeting, as well

as an assistive listening device, if requested at the above number listed under **FOR FURTHER INFORMATION CONTACT** at least 10 calendar days before the meeting.

(7) Representatives of the FAA and JAA will preside over the meeting.

(8) The FAA and JAA will review and consider all material presented by participants at the meeting. Position papers or material presenting views or information related to proposed harmonization initiatives may be accepted at the discretion of the FAA and JAA presiding officers. The FAA requests that persons participating in the meeting provide five (5) copies of all materials to be presented for distribution to the panel members; other copies may be provided to the audience at the discretion of the participant.

(9) Statements made by members of the meeting panel are intended to facilitate discussion of the issues or to clarify issues. Any statement made during the meeting by a member of the panel is not intended to be, and should not be construed as, a position of the FAA or JAA.

(10) The meeting is designed to solicit public views and more complete information on proposed harmonization initiatives. Therefore, the meeting will be conducted in an informal and nonadversarial manner. No individual will be subject to cross-examination by any other participant; however, panel members may ask questions to clarify a statement and to ensure a complete and accurate record.

Issued in Washington, DC, on August 12, 1997.

Brenda D. Courtney,

Manager, Aircraft and Airport Rules Division.

[FR Doc. 97–21955 Filed 8–18–97; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Passenger Facility Charge (PFC) Approvals and Disapprovals

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Monthly Notice of PFC Approvals and Disapprovals. In July 1997, there were 11 applications approved. This notice also includes information on one application, approved in June 1997, inadvertently left off the June 1997 notice. Additionally, two approved amendments to previously approved applications are listed.

SUMMARY: The FAA publishes a monthly notice, as appropriate, of PFC approvals and disapprovals 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). This notice is published pursuant to paragraph d of § 158.29.

PFC Applications Approved

Public Agency: Sonoma County, Santa Rosa, California.

Application Number: 97–03–C–00–STS.

Application Type: Impose and use a PFC.

PFC Level: $3.00.

Total Net PFC Revenue Approved in this Decision: $336,932.

Earliest Charge Effective Date: October 1, 1997.

Estimated Charge Expiration Date: April 1, 2000.

Classes of Air Carriers Not Required to Collect PFC'S: None.

Brief Description of Projects Approved for Collection and Use:

Acquire fire protection clothing for airport rescue and firefighting personnel.

Security screening building.

Land acquisition for runway approach protection special assessment.

Airfield pavement vacuum sweeper.

Land acquisition for runway approach protection.

Taxiway construction.

Ramp fire protection.

Airfield perimeter security fence.

Decision Date: June 27, 1997.

FOR FURTHER INFORMATION CONTACT: Marlys Vandervelde, San Francisco Airports District Office, (415) 876–2806.

Public Agency: Charter County of Wayne, Detroit, Michigan.

Application Number: 97–03–C–00–DTW.

Application Type: Impose and use a PFC.

PFC Level: $3.00.

Total Net PFC Revenue Approved in This Decision: $60,000,000.

Earliest Charge Effective Date: August 1, 2029.

Estimated Charge Expiration Date: October 1, 2030.

Classes of Air Carriers Not Required to Collect PFC's:

(1) Air taxi/commercial operators enplaning fewer than 500 passengers per year at Detroit Metropolitan Wayne County Airport (DTW); (2) commuters or small certified air carriers enplaning fewer than 500 passengers per year at DTW; and (3) large certified route air carriers enplaning fewer than 500 passengers per year at DTW.

Determination: Approved. Based on information contained in the public agency's application, the FAA has determined that each proposed class accounts for less than 1 percent of the total annual enplanements at DTW.

Brief Description of Projects Approved for Collection and Use:

Concourse C expansion and domestic terminal facilities construction.

International passenger processing facilities expansion.

Brief Description of Projects Approved for Use:

Midfield domestic and international terminal facility construction.

Reconstruction of existing terminals and concourses.

Decision Date: July 1, 1997.

FOR FURTHER INFORMATION CONTACT: Leonard Mizerowski, Detroit Airports District Office, (313) 487–7277.

Public Agency: City of Pocatello, Idaho.

Application Number: 97–02–U–00–PIH.

Application Type: Use PFC revenue.

PFC Level: $3.00.

Total PFC Revenue To Be Used in This Decision: $230,000.

Charge Effective Date: September 1, 1994.

Estimated Charge Expiration Date: March 1, 2002.

Class of Air Carriers Not Required To Collect PFC's: No charge from previous decision.

Brief Description of Project Approved for Use: Pavement rehabilitation.

Decision Date: July 1, 1997.

FOR FURTHER INFORMATION CONTACT: Mary Vargas, Seattle Airports District Office, (206) 277–2660.

Public Agency: Central West Virginia Airport Authority, Charleston, West Virginia.

Application Number: 97–02–C–00–CRW.

Application Type: Impose and use a PFC.

PFC Level: $3.00.

Total Net PFC Revenue Approved in This Decision: $541,926.

Earliest Charge Effective Date: December 1, 1997.

Estimated Charge Expiration Date: November 1, 1998.

Classes of Air Carriers Not Required to Collect PFC's:

(1) Part 135 operators for hire to the general public; and (2) Part 121 charter operators for hire to the general public.

Determination: Approved. Based on information contained in the public agency's application, the FAA has determined that each proposed class accounts for less than 1 percent of the total annual enplanements at Yeager Airport.

Brief Description of Projects Approved for Collection and Use:

Overlay and groove portion of runway 5/23.

Install low visibility take-off equipment/system.

Purchase snow blower.

Replace terminal roof.

Install a glycol handling system.

Brief Description of Projects Withdrawn: Construct 800-foot overrun to runway 5/23 and extend taxiway A.

Determination: This project was withdrawn by the public agency in its letter dated May 15, 1997.

Determination: This project was withdrawn by the public agency in its letter dated April 28, 1997.

Update master plan.

Decision Date: July 2, 1997.

FOR FURTHER INFORMATION CONTACT: Elonza Turner, Beckley Airports Field Office, (304) 252–6216.

Public Agency: Capital Region Airport Commission, Richmond, Virginia.

Application Number: 97–02–C–00–RIC.

Application Type: Impose and use a PFC.

PFC Level: $3.00.

Total Net PFC Revenue Approved in this Decision: $3,978,514.

Earliest Charge Effective Date: April 1, 2000.

Estimated Charge Expiration Date: August 1, 2001.

Class of Air Carriers not Required to Collect PFC's: On demand air taxi/commercial Part 135 operators.

Determination: Approved. Based on information contained in the public agency's application, the FAA has determined that the proposed class accounts for less than 1 percent of the total annual enplanements at Richmond International Airport.

Brief Description of Project Approved for Collection and Use: Part 150 Study.

Brief Description of Projects Approved in Part for Collection and Use: Terminal area drainage improvements.

Determination: Partially approved. The FAA has determined that approximately 12 percent of the total runoff used to size these improvements comes from ineligible areas. Therefore, approximately 12 percent of the improvements are not PFC eligible. Non-PFC local funds will be utilized to fund the ineligible work.

Midfield drainage improvements.

Determination: Partially approved. The FAA has determined that approximately 12 percent of the total runoff used to size these improvements comes from ineligible areas. Therefore, approximately 12 percent of the improvements are not PFC eligible. Non-PFC local funds will be utilized to fund the ineligible work.

Brief Description of Project Disapproved: Air cargo service road.

Determination: The FAA has determined that the public agency already has sufficient funds from other sources to pay for the PFC-eligible portion of this project. Section 158.29(a)(1)(i) specifies that the FAA shall not approve the imposition of a PFC that will result in revenue that exceeds the amount necessary to finance the project. Therefore, this project is disapproved for the imposition and use of a PFC.

Decision Date: July 3, 1997.

FOR FURTHER INFORMATION CONTACT: Terry Page, Washington Airports District Office, (703) 285–2570.

Public Agency: Jacksonville Port Authority, Jacksonville, Florida.

Application Number: 97–03–U–00–JAX

Application Type: Use PFC revenue.

PFC Level: $3.00.

Total PFC Revenue to be Used in This Decision: $10,567,500.

Charge Effective Date: October 1, 1996.

Estimated Charge Expiration Date: September 1, 2000.

Class of Air Carriers not Required to Collect PFC'S: No change from previous decision.

Brief Description of Projects Approved for Use:

Pavement reconstruction—phase II.

Drainage improvements.

Obstruction removal.

Decision Date: July 9, 1997.

FOR FURTHER INFORMATION CONTACT: Richard Owen, Orlando Airports District Office, (407) 812–6331.

Public Agency: City of Brownsville, Texas.

Application Number: 97–01–C–00–BRO.

Application Type: Impose and use a PFC.

PFC Level: $3.00.

Total Net PFC Revenue Approved in This Decision: $1,087,427.

Earliest Charge Effective Date: October 1, 1997.

Estimated Charge Expiration Date: August 1, 2003.

Class of Air Carriers not Required to Collect PFC's: None.

Brief Description of Projects Approved For Collection and Use:

Master plan update.

Rehabilitate airfield pavement and runway lighting—runway paving.

Rehabilitate airfield pavement and runway lighting—ramp extension.

Rehabilitate airfield pavement and runway lighting—lighting.

Airfield safety improvements—upgrade airfield guidance signs.

Airfield safety improvements—reconstruct apron pavements.

Airfield safety improvements—install one wind cone.

Airfield safety improvements—install perimeter fencing.

Airfield safety improvements—install drainage structure.

Airfield safety improvements—improve drainage.

Passenger loading bridge.

Federal inspection station facility.

Terminal capacity improvements.

Cargo apron rehabilitation and expansion.

PFC application and administration costs.

Decision Date: July 9, 1997.

FOR FURTHER INFORMATION CONTACT: Ben Guttery, Southwest Region Airports Division, (817) 222–5614.

Public Agency: Valdosta-Lowndes County Airport Authority, Valdosta, Georgia.

Application Number: 97–02–U–00–VLD.

Application Type: Use PFC revenue.

PFC Level: $3.00.

Total PFC Revenue to be Used in This Decision: $307,746.

Charge Effective Date: March 1, 1993.

Estimated Charge Expiration Date: October 1, 1997.

Class of Air Carriers not Required to Collect PFC'S: No change from previous decision.

Brief Description of Project Approved for Use: New terminal building construction.

Decision Date: July 10, 1997.

FOR FURTHER INFORMATION CONTACT: Walter Bauer, Atlanta Airports District Office, (404) 305–7142.

Public Agency: Pitt-Greenville Airport Authority, Greenville, North Carolina.

Application Number: 97–01–C–00–PGV

Application Type: Impose and use a PFC.

PFC Level: $3.00.

Total Net PFC Revenue Approved in This Decision: $453,608.

Earliest Charge Effective Date: October 1, 1997.

Estimated Charge Expiration Date: November 1, 2001.

Class of Air Carriers not Required to Collect PFC'S: None.

Brief Description of Project Approved for Collection and Use:

Preparation of PFC application.

Runway 19 rehabilitation and 500-foot extension.

Runway 19 extension and airfield signage.

Land acquisition.

Parallel taxiway extension.
Terminal building Americans with Disabilities Act modifications and approach clearing to runway 19.
Security fencing.
Precision approach path indicators for runway 7/25.
Airport all-terrain rescue vehicle.
Brief Description of Projects Approved for Collection Only:
Relocate glide slope antenna.
Approach lighting system for runway 19.
Extension of runway 19—500 feet.
Decision Date: July 10, 1997.

FOR FURTHER INFORMATION CONTACT: Terry Washington, Atlanta Airports District Office, (404) 305–7143.

Public Agency: Charlottesville-Albemarle Airport Authority, Charlottesville, Virginia.

Application Number: 97–11–C–00–CHO.

Application Type: Impose and use a PFC.

PFC Level: $3.00.

Total Net PFC Revenue Approved in This Decision: $30,000.

Earliest Charge Effective Date: June 1, 2004.

Estimated Charge Expiration Date: July 1, 2004.

Class of Air Carriers not Required to Collect PFC's: Air taxi/commercial operators filing FAA Form 1800–31.

Determination: Approved. Based on information contained in the public agency's application, the FAA has determined that the proposed class accounts for less than 1 percent of the total annual enplanements at Charlottesville-Albemarle Airport.

Brief Description of Project Approved for Collection and Use: Acquire land for runway 3 protection zone.

Decision Date: July 14, 1997.

FOR FURTHER INFORMATION CONTACT: Terry Page, Washington Airports District Office, (703) 285–2570.

Public Agency: Fort Smith Airport Commission, Fort Smith, Arkansas.

Application Number: 97–02–U–00–FSM.

Application Type: Use PFC revenue.

PFC Level: $3.00.

Total PFC Revenue to be Used in This Decision: $4,069,371.

Charge Effective Date: August 1, 1994.

Estimated Charge Expiration Date: January 1, 2010.

Class of Air Carriers not Required to Collect PFC's: No change from previous decision.

Brief Description of Projects Approved for Use:
Land acquisition for noise compatibility.
Acquire power sweeper.
Overlay and marking of runway 7/25.
Airport master plan update and terminal area development plan.
Terminal complex development.
Snow removal equipment.
Reconstruction of east portion of general aviation ramp.
Reconstruction of west portion of general aviation ramp.
Noise monitoring and noise study update.
Construction of west portion of taxiway A.
Construction of east portion of taxiway A.

Decision Date: July 24,1997.

FOR FURTHER INFORMATION CONTACT: Ben Guttery, Southwest Region Airports Division, (817) 222–5614.

Public Agency: Waterloo Airport Commission, Waterloo, Iowa.

Application Number: 97–02–C–00–ALO.

Application Type: Impose and use a PFC.

PFC Level: $3.00.

Total Net PFC Revenue Approved in This Decision: $153,660.

Earliest Charge Effective Date: September 1, 1997.

Estimated Charge Expiration Date: September 1, 1998.

Class of Air Carriers not Required to Collect PFC's: None.

Brief Description of Projects Approved for Collection and Use:
Terminal apron rehabilitation.
General aviation apron rehabilitation.
Replace snow blower.
Replace snow grader/tractor.

Brief Description of Project Approved for Use: Overlay runway 18/36 (construction).

Decision Date: July 29, 1997.

FOR FURTHER INFORMATION CONTACT: Lorna Sandridge, Central Region Airports Division, (816) 426–4730.

Amendments to PFC Approvals:

Amendment number city, state	Amendment approved date	Original approved net PFC revenue	Amended approved net PFC revenue	Original estimated charge expiration date	Amended estimated charge expiration date
93–02–C–04–GPT Gulfport, Mississippi	3/5/97	$764,831	$742,224	9/1/97	9/1/97
94–01–C–02–RIC Richmond, Virginia	4/23/97	$18,341,733	$17,153,646	8/1/05	4/1/00

Issued in Washington, DC, on August 12, 1997.

Eric Gabler,

Manager, Passenger Facility Charge Branch.

[FR Doc. 97–21860 Filed 8–18–97; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

[Notice No. 97–4]

Information Collection Activities

AGENCY: Research and Special Programs Administration (RSPA), DOT.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, RSPA invites comments on emergency information collection approval, OMB No.: 2137–0595, ''Cargo Tank Motor Vehicles in Liquefied Compressed Gas Service'', expiration date: 08/31/97 for which RSPA intends to request renewal and extension of approval from the Office of Management and Budget (OMB).

DATES: Comments must be received by September 18, 1997.

ADDRESSES: Address written comments to the Dockets Unit (DHM–30), Room 8421, Research and Special Programs Administration, U.S. Department of Transportation, 400 Seventh St., SW, Washington, DC 20590–0001. Two copies of written comments are requested. Comments may also be submitted by fax to (202) 366–3753 or by e-mail to: rules @rspa.dot.gov. Comments should identify the Notice number and the appropriate Office of Management and Budget (OMB) Control Number 2137–0595. Persons wishing to receive confirmation of receipt of their mailed written comments should include a self-addressed, stamped postcard showing the Notice number. Comments may be reviewed at the Dockets Unit between the hours of 10:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays.

Requests for a copy of this information collection should be

directed to Deborah Boothe, Office of Hazardous Materials Standards (DHM–10), Research and Special Programs Administration, Room 8102, 400 Seventh Street, SW, Washington, DC 20590–0001, Telephone (202) 366–8553.

FOR FURTHER INFORMATION CONTACT: Deborah Boothe, Office of Hazardous Materials Standards (DHM–10), Research and Special Programs Administration, Room 8102, 400 Seventh Street, SW, Washington, DC 20590–0001, Telephone (202) 366–8553.

SUPPLEMENTARY INFORMATION: Section 1320.8(d), Title 5, Code of Federal Regulations requires that RSPA provide interested members of the public and affected agencies an opportunity to comment on information collection and recordkeeping requests. This information collection approval originally was published under Docket RSPA–97–2133 (HM–225), entitled Hazardous Materials: Cargo Tank Motor Vehicles in Liquefied Compressed Gas Service, on February 19, 1997 (62 FR 7638) with a 60-day comment period and was forwarded to OMB for emergency approval. Notice of Information Collection Approval, OMB No. 2137–0595, was published under RSPA Notice No. 97 on March 4, 1997 (62 FR 9819). RSPA is requesting an 18-month emergency renewal and extension for this information collection activity and, when approved by OMB, will publish notice of the approval in the **Federal Register**.

RSPA requests comments on the following information collection renewal and extension:

Title: Cargo Tank Motor Vehicles in Liquefied Compressed Gas Service.

OMB Control Number: 2137–0595.

Abstract: The reason for this information collection activity and burden is to ensure the safe operation of certain cargo tank motor vehicles used in the transportation of liquefied compressed gases. Based on information that emergency discharge shut-off features on these types of cargo tanks do not operate properly in emergency situations, RSPA requires that motor carrier and cargo tank operators develop emergency operating procedures for manually shutting off the flow of product in the event of an emergency and that a copy of the procedure be displayed in or on each cargo tank motor vehicle. The information collection and recordkeeping burdens are imposed on motor carriers and operators of these cargo tank motor vehicles.

Respondents: Each motor carrier using a cargo tank motor vehicle which does not conform to 49 CFR 178.337–11(a)(1)(i) to carry liquefied compressed gas products.

Annual Reporting and Recordkeeping:

Number of Respondents: 6,800.

Total Annual Responses: 25,000.

Total Annual Burden Hours: 18,573.

Frequency of collection: Procedures are developed on a one-time basis and are maintained on a vehicle on a continuing basis while the vehicle is in use.

Issued in Washington, DC on August 13, 1997.

Edward T. Mazzullo,

Director, Office of Hazardous Materials Standards.

[FR Doc. 97–21867 Filed 8–18–97; 8:45 am]

BILLING CODE 4910–60–U

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

Release of Waybill Data

The Surface Transportation Board has received a request from the Association of American Railroads (AAR) (WB463–1—8/1/97), for permission to use certain data from the Board's Carload Waybill Samples. A copy of the request may be obtained from the Office of Economics, Environmental Analysis, and Administration.

The waybill sample contains confidential railroad and shipper data; therefore, if any parties object to this request, they should file their objections with the Director of the Board's Office of Economics, Environmental Analysis, and Administration within 14 calendar days of the date of this notice. The rules for release of waybill data are codified at 49 CFR 1244.8.

Contact: James A. Nash, (202) 565–1542.

Vernon A. Williams,

Secretary.

[FR Doc. 97–21956 Filed 8–18–97; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB–513 (Sub-No. 1X)] and [STB Docket No. AB–530 (Sub-No. 1X)]

Warren & Trumbull Railroad Company—Discontinuance of Service Exemption—in Trumbull County, OH and Economic Development II Rail Corporation—Abandonment Exemption—in Trumbull County, OH

Warren & Trumbull Railroad Company, Inc. (WTRC) and Economic Development II Rail Corporation (EDRC–II) have filed a notice of exemption under 49 CFR 1152 Subpart F—*Exempt Abandonments and Discontinuances* for WTRC to discontinue service over and EDRC–II to abandon, a 2.5-mile line of railroad from milepost 89.1 at the DeForest Junction Station to milepost 91.6 at the North Warren Station, in the city of Warren, Trumbull County, OH.[1] The line traverses United States Postal Zip codes 44481, 44482, 44483, 44484 and 44485.

WTRC and EDRC–II have certified that: (1) no local traffic has moved over the line for at least 2 years; (2) any overhead traffic has been rerouted over other, parallel tracks; (3) no formal complaint filed by a user of rail service on the line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Surface Transportation Board (Board) or with any U.S. District Court or has been decided in favor of complainant within the 2-year period; and (4) the requirements at 49 CFR 1105.7 (environmental reports), 49 CFR 1105.8 (historic reports), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the abandonment shall be protected under *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed. Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on September 18, 1997, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,[2] formal

[1] The involved line segment was approved for abandonment in *CSX Transportation, Inc.—Abandonment—Between Deforest Junction and North Warren in Trumbull County, OH*, ICC Docket No. AB–55 (Sub-No. 449) (ICC served Feb. 12, 1993).

EDRC–II entered into an agreement providing for WTRC to reactivate and operate the line. *See The Warren & Trumbull Railroad Company—Operation Exemption—Rail Line in Trumbull County, OH*, Finance Docket No. 32438 (ICC served Jan. 14, 1994).

EDRC–II acquired the involved line from Consolidated Rail Corporation in *Economic Development Rail II Corporation—Acquisition Exemption—Lines of Consolidated Rail Corporation*, STB Finance Docket No. 32768 (STB served Apr. 15, 1996).

[2] The Board will grant a stay if an informed decision on environmental issues (whether raised

expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),[3] and trail use/rail banking requests under 49 CFR 1152.29[4] must be filed by August 29, 1997. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by September 8, 1997, with: Office of the Secretary, Case Control Unit, Surface Transportation Board, 1925 K Street, N.W., Washington, DC 20423.

A copy of any petition filed with the Board should be sent to applicant representatives: Kelvin J. Dowd, Esq., Slover & Loftus, 1224 Seventeenth Street, N.W., Washington, DC 20036.

If the verified notice contains false or misleading information, the exemption is void *ab initio.*

WTRC and EDRC–II have filed an environmental report which addresses the effects of the abandonment and discontinuance, if any, on the environment and historic resources. The Section of Environmental Analysis (SEA) will issue an environmental assessment (EA) by August 22, 1997. Interested persons may obtain a copy of the EA by writing to SEA (Room 500, Surface Transportation Board, Washington, DC 20423) or by calling SEA, at (202) 565–1545. Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Pursuant to the provisions of 49 CFR 1152.29(e)(2), EDRC–II shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned the line. If consummation has not been effected by EDRC–II's filing of a notice of consummation by August 19, 1998, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

Decided: August 13, 1997.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 97–21957 Filed 8–18–97; 8:45 am]

BILLING CODE 4915–00–P

by a party or by the Board's Section of Environmental Analysis in its independent investigation) cannot be made before the exemption's effective date. *See Exemption of Out-of-Service Rail Lines,* 5 I.C.C.2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

[3] Each offer of financial assistance must be accompanied by the filing fee, which currently is set at $900. *See* 49 CFR 1002.2(f)(25).

[4] The Board will accept late-filed trail use requests as long as the abandonment has not been consummated and the abandoning railroad is willing to negotiate an agreement.

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

August 11, 1997.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Pub. L. 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

Bureau of Alcohol, Tobacco and Firearms (BATF)

OMB Number: 1512–0539.

Form Number: None.

Type of Review: Extension.

Title: Statement of Process—Marking of Plastic Explosives for the Purpose of Detection.

Description: The information contained in the statement of process is required to ensure compliance with the provisions of Public Law 104–132. This information will be used to ensure that plastic explosives contain a detection agent as required by law.

Respondents: Business or other for-profit.

Estimated Number of Respondents: 8.

Estimated Burden Hours Per Respondent: 30 minutes.

Frequency of Response: Quarterly.

Estimated Total Reporting Burden: 16 hours.

Clearance Officer: Robert N. Hogarth (202) 927–8930, Bureau of Alcohol, Tobacco and Firearms, Room 3200, 650 Massachusetts Avenue, N.W., Washington, DC 20226.

OMB Reviewer: Alexander T. Hunt (202) 395–7860, Office of Management and Budget, Room 10202, New Executive Office Building, Washington, DC 20503.

Dale A. Morgan,

Departmental Reports Management Officer.

[FR Doc. 97–21850 Filed 8–18–97; 8:45 am]

BILLING CODE 4810–31–P

Federal Register

Tuesday
August 19, 1997

Part II

Department of Labor

Employment Standards Administration, Office of Federal Contract Compliance Programs

41 CFR Parts 60–1, 60–6

Government Contractors, Affirmative Action Requirements, Executive Order 11246; Final Rule

DEPARTMENT OF LABOR

Employment Standards Administration, Office of Federal Contract Compliance Programs

41 CFR Parts 60–1, 60–60

RIN 1215–AA01

Government Contractors, Affirmative Action Requirements, Executive Order 11246

AGENCY: Office of Federal Contract Compliance Programs (OFCCP), ESA, Labor.

ACTION: Final rule.

SUMMARY: The Office of Federal Contract Compliance Programs (OFCCP) is revising a limited number of the regulations to implement Executive Order 11246, as amended, which prohibits employment discrimination and establishes affirmative action requirements for nonexempt Federal contractors and subcontractors. The final rule revises the regulations relating to record retention, compliance monitoring, maintenance of non-segregated facilities, and other aspects of enforcement. The revisions to the Executive Order implementing regulations effected by this final rule are expected to reduce the compliance burdens of covered contractors, and improve the efficiency of OFCCP in administering and enforcing the Executive Order.

EFFECTIVE DATE: September 18, 1997.

FOR FURTHER INFORMATION CONTACT: Joe N. Kennedy, Deputy Director, Office of Federal Contract Compliance Programs, Room C–3325, 200 Constitution Avenue, NW., Washington, DC 20210. Telephone 202–219–9475 (voice), 1–800–326–2577 (TDD). Copies of this final rule, including copies in alternate formats, may be obtained by calling 202–219–9430 (voice), 1–800–326–2577 (TDD). The alternate formats available are large print, an electronic file on computer disk and audiotape. The rule also is available on the Internet at http://www.dol.gov/dol/esa.

SUPPLEMENTARY INFORMATION:

I. Current Regulations and Rulemaking History

Executive Order 11246, as amended, prohibits all nonexempt Government contractors and subcontractors, and federally assisted construction contractors and subcontractors, from discriminating in employment. The Executive Order also requires these contractors to take affirmative action to ensure that employees and applicants are treated without regard to race, color, religion, sex and national origin. OFCCP has been assigned responsibility for administering Executive Order 11246, and has published regulations implementing the Order at 41 CFR Ch. 60.

The Executive Order regulations have not undergone substantive revision since the 1970s. A final rule was published on December 30, 1980 (45 FR 86215; corrected at 46 FR 7332, January 23, 1981), but was stayed in accordance with Executive Order 12291 on January 28, 1981 (46 FR 9084). This rule later was stayed indefinitely on August 25, 1981 (46 FR 42865), pending action on a notice of proposed rulemaking (NPRM) published on that same date (46 FR 42968; supplemented at 47 FR 17770, April 23, 1982). Both the 1980 final rule and the 1981 NPRM addressed the regulations contained in 41 CFR parts 60–1 and 60–60. No further action has been taken on the August 25, 1981, proposal, or on the 1980 stayed final rule.

On May 21, 1996, OFCCP published a proposed rule, 61 FR 25516, to revise specific regulations found at 41 CFR parts 60–1 and 60–60. The comment period closed on July 22, 1996. A total of 32 comments was received from six contractors, six contractor associations, one consulting firm, one law firm, 13 civil rights and women's rights organizations, two Federal agencies, one local government agency, and one individual. All the comments were reviewed and carefully considered in the development of this final rule.

II. Overview of the Final Rule

The final rule, for the most part, adopts the revisions that were proposed in the May 21 NPRM. However, some of the proposed provisions have been modified in response to the public comments. The changes between the NPRM and the final rule are explained in detail in the Section-by-Section Analysis.

The final rule revises the regulations in 41 CFR part 60–1 in four areas: Record retention, compliance monitoring, maintenance of non-segregated facilities, and enforcement procedures. In addition, to ensure consistency in the administration and enforcement of the Federal contract compliance laws, the final rule conforms several provisions in part 60–1 to parallel provisions in the regulations found at 41 CFR part 60–741. The latter regulations implement section 503 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 793), which also is administered by OFCCP. A final rule published on May 1, 1996, made comprehensive revisions to the Section 503 regulations (61 FR 19936). The conforming changes made by the final rule published today affect several definitions and some aspects of enforcement.

Further, the final rule deletes most of the existing provisions in 41 CFR part 60–60, which describe the procedures for conducting compliance reviews of nonconstruction (*i.e.*, supply and service) contractors. A few substantive provisions in part 60–60, which are not contained elsewhere in the regulations, are being transferred to part 60–1. The transferred provisions primarily relate to the procedures for protecting confidential data, the time frames within which a contractor must submit its written affirmative action program (AAP) and supporting documentation, and authorization for nationwide AAP formats.

Finally, in order to avoid conflict, the final rule withdraws part 60–1 of the final rule which was published on December 30, 1980, and subsequently suspended.

The discussion which follows identifies the significant comments received in response to the NPRM, provides OFCCP's responses to those comments, and explains any resulting changes to the proposed revisions.

Section-by-Section Analysis of Comments and Revisions

Section 60–1.3 Definitions

OFCCP proposed in the NPRM to add a definition for the new term ''compliance evaluation.'' Additionally, OFCCP proposed to revise several definitions in the current regulations to make them consistent with definitions contained in the Section 503 implementing regulations. The Section 503 final rule published on May 1, 1996, made changes to several terms and phrases that are common to both Executive Order 11246 and Section 503 of the Rehabilitation Act. Specifically, the Section 503 final rule revised the regulatory definitions of ''contract,'' ''Government contract,'' ''subcontract,'' and ''United States,'' and replaced the title ''Director'' with the new title, ''Deputy Assistant Secretary for Federal Contract Compliance.'' In order to maintain consistency in its administration and enforcement of the Federal contract compliance laws, OFCCP proposed to make conforming changes to the definitions of those terms found in existing § 60–1.3.

''*Compliance Evaluation.*'' Under the existing regulations, the ''compliance review'' is the primary method utilized to investigate contractor compliance

with the requirements of the Executive Order. The current regulations prescribe a three-phase process for conducting compliance reviews: (1) An off-site or desk audit review of the contractor's written AAP and supporting documentation; (2) an on-site review of the contractor's employment policies and activities and investigation of any problem areas identified during the desk audit; and (3) where needed, an off-site analysis of data obtained during the on-site review. Under the current regulations, an on-site review is conducted at nearly every establishment selected for review, regardless of the results of the desk audit.

The existing ''all or nothing'' approach to compliance reviews is, in the view of OFCCP, too restrictive. OFCCP believes that more focused and streamlined procedures can be used to determine a contractor's compliance status, and that a flexible approach to monitoring compliance would enable the agency to target its enforcement resources more efficiently.

The NPRM proposed to revise the compliance review provisions found in § 60–1.20 to authorize the agency to utilize ''compliance evaluations'' to determine the compliance status of a contractor. The NPRM proposed to define the term ''compliance evaluation'' used in § 60–1.20(a) of the proposal as ''any one or combination of actions OFCCP may take to examine a Federal contractor or subcontractor's compliance with one or more of the Executive Order 11246 requirements.''

Two contractor associations mentioned the proposed definition of ''compliance evaluation'' in their comments. They asserted that the proposal was vague; that OFCCP had not adequately described how the compliance evaluation procedure would be implemented. These commenters also questioned whether the proposed review process for contractors would be streamlined, because the proposed definition indicated that OFCCP could take ''any one or combination of actions'' to determine whether a contractor maintained nondiscriminatory employment practices and fulfilled its affirmative action obligations.

The concerns raised by these commenters actually are more properly directed at proposed § 60–1.20(a), which describes four examination procedures encompassed by the term ''compliance evaluation,'' rather than to the language of the proposed definition. Accordingly, a response to these comments is provided below in the preamble discussion concerning § 60–1.20 of the final rule.

The proposed definition of ''compliance evaluation'' is carried forward in this final rule without substantive change, although the wording has been revised slightly for clarity. OFCCP expects that the flexible approach to compliance monitoring that is reflected in the term ''compliance evaluation'' will reduce compliance burdens for the contractors that satisfy their Executive Order obligations. OFCCP also believes this new approach will increase the efficiency of its enforcement program by allowing the agency to use its most comprehensive evaluation procedure—the compliance review—selectively. Further, a range of methods for evaluating contractor compliance will enable the agency to reach a greater percentage of its contractor universe than is reviewed currently.

''Contract.'' The term ''contract'' is defined in the current regulations as ''any Government contract or any federally assisted construction contract.'' The NPRM proposed to amend this definition to subsume the term ''subcontractor.'' As was explained in the preamble to the NPRM, the revision would obviate the need to make a separate reference to ''subcontract,'' each time ''contract'' is referenced, to demonstrate that a particular provision applies to both contracts and subcontracts.

One contractor association objected to the proposed definition of ''contract.'' This commenter believed that the amended definition would expand the scope of the Executive Order's coverage and impose obligations upon subcontractors that currently do not exist. This commenter's concerns are unfounded. The Executive Order always has been applicable to agreements which fall within the regulatory definition of subcontractors. No substantive changes in the Executive Order's coverage were intended nor effected by the proposed change to the regulatory definition of contract.

Another commenter urged OFCCP to amend the definition to include ''all federally assisted contracts and subcontracts,'' not just ''federally assisted construction contracts and subcontracts.'' However, Section 301 of Executive Order 11246 expressly limits coverage of federally assisted contracts to agreements involving federally assisted construction.

The final rule amends the definition of ''contract'' to include ''subcontract,'' as proposed in the NPRM. The term ''subcontract'' is referenced in the rule only when necessary to the context.

''Deputy Assistant Secretary.'' The NPRM proposed to substitute the new title of ''Deputy Assistant Secretary for Federal Contract Compliance Programs'' for the title of ''Director'' in the current regulations, and to make the title change throughout the proposed rule. No comments were received on this proposal. The final rule adopts this title change as proposed, except that the word ''Programs' has been dropped in order to more accurately reflect the title.

''Government Contract.'' The regulations define ''Government contract'' as an agreement ''for the furnishing of supplies or services or for the use of real or personal property, including lease arrangements.'' The NPRM proposed to revise this definition to clarify that contracts covered under Executive Order 11246 include those under which the Government is a seller of goods or services, as well as those in which it is a purchaser. The proposal substituted a reference to the contracts for the ''purchase, sale or use of personal property or nonpersonal services'' and a definition of the term ''personal services'' for the existing reference to the ''furnishing'' of goods or services, or for the use of real or personal property, including lease arrangements. Thus, the proposal provided, in relevant part, that a ''Government contract'' is ''any agreement or modification thereof between any contracting agency and any person for the purchase, sale or use of personal property or nonpersonal services.''

Two commenters—a contractor association that represents small agricultural firms and a national law firm that counsels Government contractors on the requirements of the Executive Order and its implementing regulations—objected to the proposed clarification of the term ''Government contract.'' Both argued that the proposed definition was too broad; that defining Government contract to include sales by the Government would extend the Executive Order's reach to activities that were not intended to be covered. The law firm was concerned that the revised definition of contract would expand the Executive Order's coverage to concessionaires and licensees that operate on Government lands under nonappropriated fund contracts. Specifically, this commenter was referring to those entities that contract with units of the Department of Defense called nonappropriated fund instrumentalities or ''NAFIs'' to operate a wide range of food, retail, and recreational concessions at military installations. The commenter noted that concession contracts with NAFIs typically do not involve appropriated

funds, and do not impose costs to the Government.

The law firm argued that Executive Order 11246 and its implementing regulations contemplated coverage of traditional procurement contracts and Government leasing of property, *i.e.*, agreements that require the Government to expend appropriated funds. Thus, the law firm contended that OFCCP did not have the authority to define ''Government contracts'' so as to include the contracts of nonappropriated fund instrumentalities. Further, this commenter argued alternatively that no-cost concession agreements with NAFIs should not be covered under Executive Order 11246 because OFCCP would experience difficulty computing their dollar value for the purpose of determining whether the contract satisfied the dollar thresholds for basic coverage and for the written affirmative action program requirement. This commenter requested that OFCCP either modify the definition of ''Government contract'' or include an express exemption for concession contracts with nonappropriated fund instrumentalities.

The assertions of this commenter ignore the longstanding policy and practice of the agency to cover concession contracts with nonappropriated fund instrumentalities or NAFIs. OFCCP consistently has taken the position that contracts with nonappropriated fund instrumentalities of the Government, such as the Army and Air Force Exchange Service, are covered by Executive Order 11246, assuming the dollar volume thresholds are met. As instrumentalities of the United States, NAFIs meet the definition of contracting agency under the regulation at 41 CFR 60–1.3. The fact that these contracts involve nonappropriated funds, rather than appropriated funds, is inconsequential. The Executive Order and implementing regulations do not distinguish between the source of the funds used to pay for the contract to determine coverage. Coverage under the Executive Order turns on the status of the parties and the nature of the agreement in issue.

OFCCP also disagrees with the commenter's contention that the decision cited in the NPRM's preamble, *Crown Central Petroleum Corp.* v. *Kleppe,* 424 F. Supp. 744 (D. Md. 1976), was limited to lease coverage issues, and therefore, does not support the agency's position that ''Government contract'' covers sales by the Government. The plaintiff in *Kleppe,* the holder of an oil and gas lease from the Interior Department, argued that it did not have a Government contract because the financial benefit (cash flow) was toward the Government. In deciding that a lessee of an oil and gas lease was a ''Government contractor,'' the court rejected the argument that the provisions of the Executive Order were limited to those situations in which the Government is the consumer of goods. Significantly, the court in *Kleppe* concluded that it would be an inconsistent application of the national policy to eliminate discrimination in employment to impose the Executive Order requirements on employers which had contracted to supply goods, services and leased property for use of the Government, but not to impose the requirements of the Order on employers which had contracted with the Government to receive from it goods, services and leased property to be used by the employer.

The commenter's alternative argument for exempting concession contracts with nonappropriated fund entities from the Executive Order is also unpersuasive. The regulatory provisions concerning contracts and subcontracts for indefinite quantities found in the current regulations at § 60–1.5 would govern whether dollar thresholds are satisfied for coverage purposes.

The contractor association cited recipients of disaster relief insurance proceeds as an example of a situation that would be newly covered under the Executive Order as a result of the proposed amendment to the definition of ''Government contract.'' Disaster relief programs such as crop insurance and flood insurance usually involve federal financial assistance. The only federally assisted contracts covered by the Executive Order are federally assisted construction contracts. This does not mean, of course, that the agency is taking a position here that all transactions involving Federal disaster relief are excluded from coverage. Rather, questions relating to coverage under the Executive Order necessarily are decided case by case, based on the particulars of the program and the nature of the agreement at issue.

''Rules, regulations and relevant orders of the Secretary of Labor.'' A final rule published on May 3, 1996 (61 FR 19982), relating to the establishment of the Administrative Review Board, amended the definition of ''Secretary'' to include a ''designee'' of the Secretary of Labor. Consequently, the definition of ''rules, regulations and relevant orders of the Secretary of Labor'' in the current regulations, which makes reference to the designee of the Secretary, is no longer necessary, and has been omitted in this final rule.

''Subcontract.'' The definition of ''subcontract'' in the current regulations refers to agreements ''for the furnishing of goods or services.'' The NPRM contained a proposal to revise this definition so that it would conform to the NPRM's definition of ''Government contract.'' Accordingly, the proposal included a definition of ''subcontract'' that referenced agreements ''for the purchase, sale, or use of personal property or nonpersonal services.''

The contractor association which represents small agricultural firms objected to the proposal, contending that it would expand the scope of the Executive Order's coverage. The commenter said the proposed definition of ''subcontract'' would be particularly burdensome for companies in the agricultural industry, as the subcontracts for a producer of fruit products necessarily include growers, pickers, haulers, as well as fertilizers and pesticide applicators. This commenter raised a similar objection to the proposed definition of ''contract.'' It appears that these comments were directed primarily at the ''necessary to the performance'' part of the existing regulatory definition of ''subcontract,'' rather than the proposed ''purchase, sale or use'' language. As has been explained previously, the scope of coverage under the Executive Order has not been expanded. The existing definition of ''subcontract'' under the Executive Order regulations applies to agreements which are necessary to the performance of a Government contract, or under which part of the performance of the Government contract is assumed or undertaken.

The final rule adopts, without change, the definition of ''subcontract'' that was published in the NPRM.

''United States.'' The NPRM proposed to revise the definition of ''United States,'' by deleting the references to Panama Canal Zone (which was ceded back to Panama under the terms of the Panama Canal Treaty), and by specifying the possessions and territories of the United States as: The Virgin Islands, the Commonwealth of Puerto Rico, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and Wake Island. No comments were received on this proposed revision. The proposed definition of ''United States'' is adopted.

Section 60–1.8 Segregated Facilities

Section 60–1.8 of the current regulations prohibits the maintenance of segregated facilities (paragraph (a)) and requires contractors to certify that they are in compliance with that obligation (paragraph (b)). OFCCP proposed in the NPRM to conform paragraph (a) of § 60–1.8 with the Executive Order's general

nondiscrimination requirements by expanding the list of prohibited practices to include gender-based segregation, with the proviso that separate or single-user restrooms and necessary dressing or sleeping areas shall be provided to assure privacy between the sexes. Several stylistic changes to existing paragraph (a) also were proposed. In addition, the NPRM proposed to eliminate the written certification requirement in paragraph (b).

Nearly half of the commenters addressed the proposed changes concerning segregated facilities. Commenters representing the constituencies most directly affected by the regulations—minorities, women and Government contractors—all supported the proposed prohibition against gender-based segregated employee facilities. The women's rights groups, in particular, applauded the proposal. In their view, the proposed amendment recognizes that sex-segregation remains a problem in traditionally male workplaces.

The comment of the Equal Employment Opportunity Commission (EEOC) concerned the requirement that ''separate or single-user restrooms, dressing or sleeping areas shall be provided to assure privacy between the sexes.'' EEOC suggested that we alert contractors that, under Title VII of the Civil Rights Act of 1964, as amended, it would be an unlawful employment practice for an employer to deny employment or to otherwise adversely affect the employment opportunities of an applicant or employee in order to avoid the cost of providing separate or single restroom or dressing facilities. Likewise, contractors are advised that the costs of providing such separate facilities would not be a defense to a charge of sex-based employment discrimination brought under the Executive Order.

Further, all but two comments expressed support for the elimination of the written certification requirement in paragraph (b). A women's rights organization and a local government entity objected to the proposal. The women's rights organization argued that retention of the written certification requirement would serve as a useful reminder of the new prohibition against sex-segregated employee facilities. This commenter suggested that the benefits of the notice-serving function of the certification outweighed any time-savings that would be realized by elimination of the requirement. The governmental entity similarly commented that requiring a contractor to certify that it maintains non-segregated facilities reflected the essence of the Executive Order, but imposed only a minimal burden on contractors.

OFCCP agrees that contractors should be apprised of their obligation under the Executive Order regulations to ensure that employee facilities are not segregated on the basis of sex, except where it is necessary to safeguard privacy between men and women. The agency, however, is of the view that the prohibition against segregated facilities can be effectively enforced without the benefit of the written certification. Eliminating the certification will not, for example, affect the contractor's obligation to maintain facilities on a non-segregated basis. In short, the written certification is a paperwork requirement that does not produce commensurate benefit, and its repeal is consistent with the Administration's regulatory reform initiative.

Another commenter asked that OFCCP clarify in the final rule that repeal of the written certification will not expose prime contractors to liability for the violations of the Executive Order committed by their subcontractors. OFCCP accepts the point that the repeal will not expose prime contractors to liability for violations committed by their subcontractors. However, it is not necessary to codify the point in the regulations. Under the existing regulations, prime contractors are not responsible for the compliance of their subcontractors with the requirements of the Order and regulations. Consequently, the certification of non-segregated facilities has not, as the comment seems to suggest, served to shield prime contractors from liability for the noncompliance of their subcontractors. The certification merely has provided notice to the prime contractors of whether their subcontractors (in the latters' view at least) are complying with the nondiscrimination requirements of the order.

The final rule amends paragraph (a) and deletes paragraph (b) of § 60–1.8 as was proposed in the NPRM.

Section 60–1.12 Record Retention

Section 60–1.12(a) General Requirements

The obligation to retain relevant employment records is implicit in some of the current regulatory requirements (e.g., those relating to maintaining data on applicants, hiring, transfers and promotions, and developing and updating written affirmative action programs). However, the regulations, with one exception, do not prescribe a record retention period. That exception is the requirement under the Uniform Guidelines on Employee Selection Procedures published at 41 CFR part 60–3 (hereinafter UGESP) to keep certain adverse impact data for two years after the adverse impact has been eliminated.

Paragraph (a) of the proposal would amend the record retention obligation in several ways. First, proposed paragraph (a) would make the record retention obligation applicable to any personnel or employment record made or maintained by the contractor and lists examples of the types of records that must be retained. Second, proposed paragraph (a) would establish the required record retention period as two years. The proposal would establish a one-year record retention period for contractors that employ fewer than 150 employees or that do not have a Government contract of at least $150,000. Third, proposed paragraph (a) would provide that when a contractor has been notified that a complaint has been filed, a compliance evaluation has been initiated or an enforcement action has been commenced, the contractor shall preserve all relevant personnel records until the final disposition of the action.

Several of the commenters expressed views on proposed paragraph (a). The civil rights and women's rights organizations commended the proposal to make record retention requirements explicit. They viewed the addition of a record retention regulation as essential to effective enforcement and said it would ensure consistency with the regulations under Title VII and Section 503.

The contractor community opposed the record retention proposal. Two contractor associations asserted that proposed paragraph (a) was too broad. They claimed that the proposal would expand the scope of records subject to the retention requirement; that is, the examples of records listed suggest that any document related to an employee or employment decision must be retained for two years. These commenters contended further that the proposed regulation would impose a considerable burden, particularly on the larger contractors that have employment related activities which might generate millions of records.

The concern that the proposal would oblige contractors to maintain records beyond current requirements is unfounded. The NPRM explained that the proposed record retention requirement (paragraph (a)) comports with the analogous record retention requirements under Title VII and the

Americans with Disabilities Act (ADA). In addition, proposed paragraph (a) is consistent with the provisions adopted in the Section 503 final rule. The types of employment records covered by the record retention requirement, listed in proposed paragraph (a), include items not listed in the corresponding Title VII and ADA regulations. But, as EEOC noted in its comment, those additional items—the results of any physical examination, job advertisements and postings, applications and resumes, tests and test results, and interview notes—are examples of ''any personnel or employment record made or kept,'' and, therefore, clearly fall within the coverage of the existing Title VII and ADA record retention rule.

Another contractor association contended that the proposed regulatory language was inadequate because it failed to answer contractors' recurrent questions embraced by record retention obligations under Executive Order 11246. This commenter argued that the regulations should include guidance on: (1) Who is an ''applicant'' for the purposes of the record retention requirement; and (2) whether and to what extent the record retention requirement applied when a contractor used electronic bulletin boards and the Internet as recruitment sources.

OFCCP has issued the following guidance on the meaning of the term ''applicant'':

> The precise definition of the term 'applicant' depends upon [a contractor's] recruitment and selection procedures. The concept of an applicant is that of a person who has indicated an interest in being considered for hiring, promotion, or other employment opportunities. This interest might be expressed by completing an application form, or might be expressed orally, depending upon the [contractor's] practice. Question and Answer No. 15, Adoption of Questions and Answers to Clarify and Provide a Common Interpretation of the Uniform Guidelines on Employee Selection Procedures (44 FR 11996, 11998 (March 2, 1979)).

Accordingly, whether an individual will be considered an applicant turns on the employee selection procedures designed and utilized by the contractor. OFCCP is studying the range of ways contractors are utilizing electronic media in their employee selection processes and intends to issue guidance responding to questions most frequently asked by contractors regarding this issue.

Commenters from the contractor community criticized the two-year record retention period proposed for larger contractors. These commenters argued that it was inconsistent for OFCCP to impose a two-year retention period, when the retention period under Title VII is one-year. They argued that, because OFCCP follows the principles developed under Title VII case law to enforce the Executive Order, the agency should adopt the EEOC rule. These same commenters said that OFCCP had underestimated the administrative and storage costs associated with maintaining an additional year of records.

These comments ignore the differences in the enforcement schemes of EEOC and OFCCP. Reviews of contractors' compliance with the Executive Order and regulations cover a two-year period. The policy and practice are to examine the contractor's personnel policies and activities for the two years preceding the initiation of the review, and to assess liability for discriminatory practices dating back two years. The two-year record retention period provides greater assurance that relevant records will be available during OFCCP compliance evaluations. In contrast, EEOC's enforcement of Title VII is triggered exclusively by charges, which must be filed within 180 days (or, in deferral jurisdictions, 300 days) of an alleged violation. EEOC's one-year retention period is designed to ensure that relevant records are not discarded before the expiration of the complaint filing period.

Turning to the concern about the burdens on contractors, OFCCP believes that requiring larger contractors to retain records for an additional year will result in only a minimal increase in burden. As was noted in the preamble to the NPRM, many large employers and some smaller employers as well, are increasingly maintaining records electronically. In such instances, compliance with the record retention requirement will impose little or no additional burden. Moreover, the decision to establish a one-year record retention period for smaller contractors—the same period required by EEOC—is part of the agency's effort to maintain burdens associated with record keeping at a minimal level. The one-year rule also will accommodate those smaller contractors that are less likely to maintain electronic records.

Two contractor associations commented on the separate record retention requirements for larger and smaller contractors. One association questioned whether OFCCP had authority under the U.S. Constitution and Federal procurement laws to tie the record retention requirement to workforce and contract size. This comment overlooks the fact that size distinctions are common in regulatory schemes. Indeed, the existing Executive Order regulations provide different requirements for smaller contractors (e.g., those that employ fewer than 50 employees or do not have a contract of at least $50,000). Such contractors, for example, are exempted from the regulatory requirement to develop and maintain a written AAP.

The other contractor representative raised questions regarding the record retention obligations of contractors who are at or near the thresholds that trigger the different retention periods. Specifically, the commenter questioned what would happen if the employment levels or contract values exceed or fall below the 150 employees, $150,000 thresholds during the course of the contract. A change in status relating to either threshold would affect the record retention obligation. If the number of employees should fall below 150 or if the contractor no longer has a contract of at least $150,000, the contractor would not be required to retain employment records for two years. The requirement to keep records for two years would become effective again on the date that the contractor met the thresholds of 150 employees and a contract of $150,000. The record retention requirement, however, would not be applied retroactively, *i.e.,* the change from one year to two years would be phased in day-by-day. But see the discussion regarding the obligation to maintain records once a compliance evaluation has commenced, which follows.

One commenter expressed disapproval of the requirement in proposed paragraph (a) that contractors retain all relevant records once a compliance evaluation has been initiated. This commenter contended that the requirement was burdensome and unfair to contractors, particularly because of the proposal to eliminate the provision in § 60–60.7, which allows the agency 60 days to complete a compliance review.

The purpose of this record retention requirement is to ensure that OFCCP can obtain all relevant documents during a compliance investigation or enforcement action. OFCCP appreciates the contractor's concerns about the timely completion of compliance evaluations, but disagrees with the assertion that the schedule has to be codified in the regulations. In the preamble discussion concerning § 60–1.20 of the final rule, and again in the discussion regarding part 60–60 of the regulations, OFCCP explains that the agency's standards for timeliness and work schedules are not derived solely from the regulations. Therefore, there would be set time frames for completing

compliance evaluations even if the regulatory provisions were eliminated.

The final rule adopts the record retention provisions proposed in the NPRM without change.

Section 60–1.12(b) Affirmative Action Programs

Paragraph (b) of the proposal provides that a contractor establishment required to develop a written affirmative action program (AAP) shall maintain the AAP for the current year and preserve the AAP for the preceding year, together with the supporting documentation, including good faith efforts undertaken. Three commenters from the contractor community objected to proposed paragraph (b). They questioned the relevance of information contained in an expired AAP and expressed concern that OFCCP would examine the AAP for deficiencies. One of the commenters contended that the only possible reason OFCCP could have for requesting an AAP from the preceding year is to see if one exists. This commenter urged OFCCP to include a statement to that effect in the final regulation.

The written AAP serves dual purposes. The AAP is developed primarily to assist the contractor in monitoring its employment practices to ensure that they are nondiscriminatory and that affirmative action is taken to ensure equal employment opportunity. OFCCP also reviews and relies upon the AAP to determine whether the contractor is complying with the Executive Order and regulations. The contractor's affirmative action performance (e.g., personnel activity, goals progress and good faith efforts to meet goals) is examined for at least the last full AAP year. However, a compliance evaluation may be scheduled at any time during the year. If, at the time of the review, the contractor is six months or more into its current AAP year, OFCCP examines performance under both the current year and the prior year AAP. Accordingly, the requirement in proposed paragraph (b) that the contractor preserve the AAP for the previous year would ensure the availability of an AAP covering a full AAP year.

In addition, under the current regulations the AAP for the current year must contain a progress report on goals for the previous AAP year. Whether progress or little or no improvement was made in the goal areas, the AAP for the previous year should provide an explanation of the efforts undertaken and the results achieved. For example, the AAP and documentation of good faith efforts may describe the contractor's outreach and recruitment activities designed to increase its pool of female or minority applicants, or training programs instituted to enhance the skills and talents of incumbent employees with an eye to increasing the pool of those eligible for promotion. In other words the AAP from the previous year may contain information that would allow an evaluation of those commitments that are directly related to the performance of the contractor in the current year. In addition the affirmative action obligation is not a one year requirement. Rather, it is a continuing obligation and maintaining the AAPs in the fashion proposed in paragraph (b) enables OFCCP to assess the quality and effectiveness of the contractor's affirmative action commitments on a multi-year basis.

The regulation in proposed paragraph (b) is adopted without change.

Section 60–1.12(c) Failure To Preserve Records

Paragraph (c) of the proposed rule provides that the failure to maintain and preserve the records as proposed in paragraphs (a) and (b) is a violation of Executive Order 11246. Additionally, paragraph (c) proposes that a contractor's failure to preserve required records or destruction of such records, may raise a presumption that the records, if available, would have been unfavorable to the contractor. Paragraph (c) of the proposed rule includes a proviso that the presumption shall not apply if the contractor demonstrates that the destruction or failure to preserve records resulted from circumstances beyond the contractor's control.

EEOC commented that its Compliance Manual limited application of the ''adverse inference rule'' to situations in which an employer acted with the intent to defeat the purposes of Title VII. The view of EEOC is that the proposal does not limit the adverse inference to instances of deliberate destruction with an intent to frustrate the purposes of the Executive Order.

OFCCP believes that clarification would be helpful. The adverse inference presumption in proposed paragraph (c) is not limited to situations in which the destruction or failure to preserve records may be attributed to the willful conduct of the contractor. The agency intends to invoke the presumption on a case-by-case basis as the circumstances warrant. The proposed rule, in recognition of this discretionary approach, states that a presumption may arise if the contractor destroyed or failed to preserve records.

One commenter suggested that we amend the proposal to expressly provide a procedure that would permit the contractor to rebut the presumption that the records destroyed or not maintained were unfavorable. The suggested amendment is unnecessary. The presumption is rebuttable, and contractors will have a full opportunity to submit evidence to refute the inference.

Another commenter recommended that the final rule set forth the sanctions that may be imposed for violations of the record retention requirements. The sanctions described in § 60–1.27 may be imposed for any violation of Executive Order 11246 or the implementing regulations, including § 60–1.12. A separate sanction provision for violations of the record retention regulations, accordingly, is unnecessary.

The final rule adopts paragraph (c) of the proposal without change.

Section 60–1.12(d) Effective Date

Paragraph (d) of the proposal provides that the contractor is obligated to preserve only those records which are created or kept on or after the effective date of this rule. No comments were received on this provision. The final rule adopts paragraph (d) as proposed.

Section 60–1.20 Compliance Evaluations

The compliance review is the primary method of evaluating a contractor's compliance with the Executive Order and regulations Paragraph (a) of the current § 60–1.20 describes the purpose of the compliance review and provides that the review shall consist of a comprehensive analysis of each aspect of a contractor's employment practices, and where appropriate, include recommendations for appropriate sanctions.

The NPRM would amend paragraph (a) to authorize OFCCP to use a range of methods to revaluate a evaluate a contractor's compliance with the regulations. Specifically, paragraph (a) would provide that a compliance evaluation may consist of any one or a combination of the following: (1) A compliance review, (2) of off-site review of records, (3) a compliance check, and (4) a focused review.

Nearly all commenters addressed the proposed compliance evaluation regulation. The commenters from the women's rights and civil rights communities supported the proposal. They opined that the flexible approach of the proposal would improve the efficiency of OFCCP and permit the agency to target resources better. A contractor also supported proposed paragraph (a) and offered that it was a thoughtful proposal to streamline the compliance review process.

Some of the contractor associations favored the concept of having a range of evaluation methods to determine compliance with Executive Order 11246 and the regulations, but expressed reservations about various aspects of the proposed regulation. For example, one commenter questioned the off-site review of records, especially confidential data. Another questioned whether the ''compliance check'' would entail an on-site visit, off-site review of records, or both. Another commenter requested that the rule be clarified as to whether the additional options for evaluating compliance—the off-site review of records of records, the compliance check and the focused review—would constitute a complete evaluation. Specifically, this commenter wanted to know whether the current practice of reviewing a contractor no more frequently than once every 24 months would continue under the expanded system.

Three commenters from the contractor community objected outright to the proposed compliance evaluation regulation. One of the contractor associations contended that the proposed rule would give OFCCP unbridled authority to evaluate contractor compliance, and that contractors would be subjected to endless requests for information, data, and records if the rule were finalized. In addition, this commenter contended that contractors needed regulatory notice of how each type of compliance evaluation would be implemented. Similarly, another commenter argued that the procedures for each of the evaluation methods needed to be spelled out in the regulations with the same level of detail provided in the current regulations concerning the compliance review process. These commenters believed they should have the opportunity to comment upon a proposed regulation that specified, among other things, the number of evaluation methods the contractor could expect, the frequency of such evaluations, and the time frames for completing each method of evaluation.

OFCCP has made revisions in the final rule to provide more detail about the methods for evaluating contractor compliance. The revisions are explained below. Further, OFCCP agrees that contractors should be apprised of how the agency intends to implement the proposed compliance evaluation procedures. The agency disagrees, however, with the notion that the particulars of implementation must be included in the regulations.

The Federal Contract Compliance Manual (FCCM) contains the policy guidance interpreting the Executive Order and regulations, as well as agency instructions for implementing the regulatory provisions. OFCCP's Compliance Manual currently describes the procedures for conducting compliance reviews. The aspects of implementation addressed in the Manual include the time frames for conducting the review, how to open and close a review, and how frequently reviews should be conducted. The FCCM is the appropriate medium to specify the procedures for conducting the different types of compliance evaluations. The agency, therefore, declines to adopt the changes suggested by some of the commenters. The final rule adopts the compliance evaluation provisions of proposed paragraph (a). However, paragraph (a) of the final rule differs from the proposal by including expanded descriptions of the activities contemplated under each evaluation method. The final rule for example, clarifies that a compliance review is the same comprehensive examination of the contractor's employment practices that is prescribed by the current regulations. In addition, the description of the off-site review of records is revised in the final rule to explain that the scope of the examination would be substantially similar to the desk audit phase of the compliance review. Further, the final rule provides that the compliance check involves an on-site visit to an establishment to review the contractor's books and records for the purpose of determining whether: (1) Data and other information previously submitted by the contractor are accurate and complete; (2) the contractor has maintained records consistent with the requirements of § 60–1.12; and/or (3) the contractor has developed an AAP consistent with the requirements of § 60–1.40.

Contractor fears of repeated and unending evaluations are unfounded. OFCCP always has been sensitive to contractor concerns about the amount of time, money and personnel resources consumed by compliance reviews. Thus, the agency's practice normally has been to conduct a compliance review of a contractor no more frequently than once every two years. Additionally, the agency's Compliance Manual instructs the compliance officer to complete the compliance review within 60 days from the date the AAP is received. (See FCCM C204). The compliance officer must request an extension of time whenever it becomes apparent that the compliance review cannot be completed within the allotted time. (*Id.*)

OFCCP intends to continue to follow the currently prescribed time frames whenever the compliance review is the method used to evaluate a contractor's performance. The agency also intends to establish similar standards regarding the frequency and duration of the off-site review of records, the compliance check, and the focused review, to ensure that the compliance evaluations authorized by § 60–1.20 are not overly intrusive. Finally, OFCCP will develop other policies and procedures for compliance officers to follow when implementing these new evaluation methods. That policy and procedural guidance will be incorporated in the Compliance Manual, and thereby made available to the public, before any of the new methods for evaluating contractor compliance are utilized.

Section 60–1.20(d) Preaward Compliance Evaluations

Section 60–1.20(d) in the current regulations requires contracting agencies to obtain clearance from OFCCP prior to awarding Federal supply and service contracts of $1 million or more. The current regulations require OFCCP to conduct a preaward compliance review if the facility at which the contract will be performed has not undergone a compliance review within the preceding 12 months, and to provide its report of compliance within 30 days of receipt of the request from the contracting agency.

The NPRM would revise paragraph (d) of the current regulation to make the preaward compliance evaluation optional. Under paragraph (d) of the proposed rule, OFCCP would have 15 days to inform an awarding agency of its intentions to conduct a preaward compliance evaluation. The proposed rule would allow OFCCP an additional 20 days from the date of the notice of intention to conduct the preaward evaluation to provide the conclusions regarding compliance to the contracting agency. The proposed rule further provides that clearance shall be presumed if OFCCP does not give notice of its intention to conduct a preaward compliance evaluation or does not report its conclusions within the prescribed time periods.

Several comments urged that the proposal be revised. Women's rights and civil rights groups unanimously opposed the proposal to make preaward compliance evaluations optional. They contended that changing the preaward review from a mandatory function to a discretionary function would seriously diminish the effectiveness of a compliance procedure they viewed as an important enforcement tool. A few

expressed the fear that preawards would be discontinued entirely if they were left to the discretion of the agency. As an alternative to making all preaward compliance evaluations optional, some commenters suggested that OFCCP could target its enforcement resources more efficiently by: (1) Raising the $1 million minimum threshold to reflect inflation over the last 25 years; and (2) expanding the 30-day time allowed to conduct preaward compliance evaluations.

Most of the comments from the contractor community on proposed paragraph (d) were supportive of the proposal to make preaward compliance evaluations optional. However, one contractor and the Department of Defense recommended that the agency eliminate preawards entirely, and adopt a post-award notification and post-award review procedure. Another contractor questioned the feasibility of the proposed time frames for conducting preaward compliance evaluations, noting that proposed paragraph (d) requires OFCCP to report its conclusions about compliance within 20 days, while proposed paragraph (e) would allow the contractor 15 days to submit an AAP.

The NPRM discusses the problems associated with the current preaward process at length, so that discussion will not be recounted here. (See 61 FR 25516, 25519.) The NPRM explained that several models for modifying the preaward provisions were considered during the development of the proposal, including an increase in the dollar amount of the preaward contract threshold.

Upon reconsideration and in response to the comments, OFCCP has decided to maintain the current mandatory nature of preaward evaluations, but to raise the threshold trigger for the conduct of the preaward evaluation. Accordingly, the final rule requires that a preaward compliance evaluation of a prospective contractor be conducted when the amount of the contract is $10 million or more, and that a preaward evaluation of known prospective subcontractors be conducted when the amount of the subcontract is $10 million or more, unless OFCCP has conducted an evaluation and found them to be in compliance with the Order within the preceding 24 months. These increases in contract amount and compliance history thresholds will reduce the number of preaward compliance evaluations OFCCP will need to conduct. A reduction in the number of preaward evaluations will permit OFCCP greater flexibility in targeting its enforcement resources. Continuing the requirement that the agency conduct preawards, albeit of a smaller universe, addresses the concerns of the civil rights and women's rights groups that a discretionary preaward evaluation process would seriously undermine the utility of preaward compliance evaluations as an enforcement tool. Under the final rule, the preaward evaluation process will remain a significant component of the Executive Order enforcement program by targeting those contractors who benefit most from taxpayers-funded Government contracts.

OFCCP also studied the option of eliminating the preaward provisions, and considered replacing preawards with post-award compliance evaluations. In OFCCP's view, however, the preaward evaluation still has value as an enforcement tool. The final rule will retain the preaward clearance time frames contained in the proposal to ensure that the preaward evaluation process is conducted expeditiously. The reduction of the number of preaward evaluations which will be conducted under the final rule and the regulatory time frames for completing the evaluations, coupled with the administrative changes OFCCP is making to streamline the preaward clearance process, will significantly decrease the burden on contracting agencies of processing Executive Order preaward clearance requests during the procurement process.

As for the question regarding the compatibility of the time frames in paragraphs (d) and (e) of the proposal, the deadline for the submission of documents in proposed paragraph (e) would not apply to preaward compliance evaluations. Under the existing preaward procedures, the contractor is not asked to submit its AAP and support data for review. Currently, OFCCP either conducts an abbreviated desk audit or review of the AAP and support data on-site, or dispenses with review and analysis of the AAP and support data altogether. Contractors can expect that OFCCP will continue to adjust its compliance evaluation procedures to meet the preaward clearance time frames in paragraph (d).

The final rule revises paragraph (d) of § 60–1.20 by requiring that a preaward compliance evaluation of a prospective contractor be conducted when the amount of the contract is $10 million or more and a preaward evaluation of its known first-tier prospective subcontractors be conducted when the amount of the subcontract is $10 million or more, unless OFCCP has conducted an evaluation and found them to be in compliance in the preceding 24 months. The final rule establishes time frames for OFCCP to inform the awarding agency of the necessity for conducting a preaward evaluation and for OFCCP to provide its conclusions about the contractor's compliance status.

Section 60–1.20(e) Submission of Documents; Standard Affirmative Action Formats

Under § 60–60.2, a contractor must submit its AAP and supporting documents to OFCCP within 30 days of a request. If the contractor fails to submit the documents within the prescribed time period, the enforcement procedures specified in § 60–1.26 are applicable. The NPRM proposed to incorporate the provisions of § 60–60.2 as a new paragraph (e) of § 60–1.20, with one modification. Under proposed paragraph (e), the time for submission of an AAP and supporting documentation would be reduced from 30 days to 15 days.

Several comments on the proposed change in time frames were received. The commenters from the civil rights and women's rights communities supported the proposal. They viewed 15 days as more than adequate time to submit an AAP because, they argued, contractors are required to have an AAP in place as a condition of doing business with the Federal Government. These commenters believed the 15-day deadline would address the unacceptable (and unlawful) practice of contractors waiting until a compliance review has been scheduled before they develop an AAP.

The commenters from the contractor community objected to the proposal and strongly urged retention of the 30-day time frame for submission of the AAP and supporting data. One commenter observed that the 15-day requirement assumes that a contractor could simply pull the AAP out of a file, copy it, and send it to OFCCP. But, according to this commenter and others, an AAP is a fluid, evolutionary document rather than a static piece of paper. They asserted that the 15-day deadline ignored other realities of compliance reviews and how AAPs are developed and updated.

The commenters said that even where a detailed AAP has been developed contractors frequently use the 30 days provided under the current regulations to update the support data. They pointed out that a request for an AAP may require that the contractor submit data on personnel activity for the current goal year, which normally would be compiled and analyzed during the 30-day period. Further, the commenters identified several situations

which might make it difficult for a contractor to meet the 15-day deadline. The request for the AAP might come when the company officials responsible for updating or reviewing the AAP are unavailable, or at the expiration of the AAP year and before the contractor has had an opportunity to review and analyze the current labor force statistics in order to update its AAP.

In recognition of the concerns of the contractors, OFCCP has decided not to adopt the 15-day deadline in the final regulation. The final rule retains the existing 30-day time frame for the submission of the AAP and support data.

The current regulation at § 60–60.3(a) states, in relevant part, that ''Contractors may reach agreement with OFCCP on nationwide AAP formats or on frequency of updating statistics.'' OFCCP proposed also to incorporate this provision, without any changes, in new paragraph (e).

Two contractor associations and one contractor commented on this provision. All favored the inclusion of the provision in the final rule and viewed it as a change in agency policy on nationwide AAPs, which also are called standardized affirmative action formats or ''SAAFs.'' Some officials in OFCCP had been critical of the nationwide AAP formats that had previously been negotiated and viewed them as impediments to effective enforcement of the Executive Order. In response to these agency concerns, a moratorium on new SAAF agreements was issued on December 16, 1994. That moratorium remains in effect today. Thus, the inclusion of the provision regarding nationwide AAP formats does not represent a change in agency policy. Rather, it preserves the status quo until OFCCP completes its evaluation of the concept.

The final rule adopts all the provisions proposed in paragraph (e) except the change proposed in the time frame for the submission of documents. The existing 30-day time frame for submitting the AAP and supporting documents is retained in the final regulation.

Section 60–1.20(f) Confidentiality

The regulation at § 60–60.3 provides that information made available during the on-site review may be taken off-site if the compliance officer finds that further analysis is required to make a determination of compliance. Section 60–60.4 contains procedures under which contractors may seek rulings on the relevancy of data requested for off-site analysis. The regulation also prescribes procedures for preserving the confidentiality of contractor data removed off-site for analysis.

Under the current regulations, a contractor concerned about the confidentiality of information such as employee names and compensation data may submit alphabetic and coded data for desk audit purposes. However, the contractor must provide the compliance officer with full access to all relevant data on-site, as is directed by § 60–1.43. The information to be removed for off-site analysis may be coded, but only if the key to the code is made available to the compliance officer. The contractor also may seek a ruling from the District Director as to the relevance of documents requested for off-site analysis. The District Director is allowed 10 days to issue a ruling, the contractor 10 days to appeal the District Director's ruling to the Regional Director, and the Regional Director 10 days to issue a final ruling. The current regulations provide that, during the pendency of the relevancy determination, the contractor must allow the compliance officer to remove the disputed information off-site.

The NPRM would delete part 60–60 of the regulations and transfer the provisions found in § 60–60.3(c) and § 60–60.4 to a new § 60–1.20(f). The new paragraph (f) would incorporate the substantive provisions of the current regulations, but would revise the procedures for rulings on relevancy. The proposed rule would eliminate the provision concerning the removal of disputed data off-site pending the ruling on relevancy. In addition, paragraph (f) of the proposed rule would replace the existing 10-day time frames for issuing rulings on relevancy with the requirement that the District Director and Regional Director issue their rulings ''promptly.''

The provisions concerning confidentiality and removal of data for off-site analysis generated extensive comments from the contractor community. All the commenters contended that the proposed rule did not ensure protection of confidential or proprietary information during compliance evaluations. Some commenters claimed that the provision requiring the contractor to make the key to coded data available to a compliance officer posed a threat to confidentiality. They recommended amending the proposed rule to provide that the key to coded data may never be taken off-site.

In fact, no changes to the provisions regarding the coding of confidential data were proposed. The proposed rule would continue the current regulatory requirement that the contractor make the key to coded data available to the compliance officer. If the key to coded data is needed for off-site analysis, contractors can be assured that confidentiality will be protected, as it has been under the current regulations. Where the contractor codes data that are submitted for desk audit purposes, the current practice is that the key to the code is retained by the contractor and made available to the compliance officer during the on-site review. (See FCCM at 2GO1). That practice would continue also under the proposed regulation.

Other commenters expressed concern about the provisions regarding rulings on the relevancy of data requested for off-site analysis. They argued that the determination of relevancy should be made prior to the removal of any confidential data off-site. The commenters asserted also that the regulations should contain definite time frames for the District Director and Regional Director to issue rulings on relevancy.

Although the NPRM proposed modifications to the procedures for obtaining rulings regarding the relevance of data requested for off-site analysis, OFCCP has decided not to adopt those changes in the final regulation. The final rule retains the provision that the contractor must allow removal of the disputed data off-site pending a final ruling on relevancy. Upon further consideration, OFCCP believes that eliminating the provision regarding off-site availability pending a relevance determination would prolong the compliance evaluation process and adversely impact efficiency and effectiveness. The resumption of an interrupted compliance evaluation might be delayed well beyond the date the final ruling regarding relevancy is issued because the compliance officer may have initiated another compliance evaluation in the interim. The current regulation and practice allows the compliance officer to proceed with the investigation while the trail is still fresh and close the compliance evaluation within a reasonable amount of time.

Further, in response to contractors' criticism concerning the proposed removal of the definite time frames for issuing relevancy determinations, OFCCP has decided not to adopt that provision of the proposal. Instead, the final rule provides that the District Director shall issue a ruling within 10 days, and that if the contractor appeals the District Director's ruling to the Regional Director, the Regional Director shall issue a final ruling within 10 days.

The comments concerning proposed paragraph (f) reveal that the contractors' overriding concern is that confidential or proprietary information obtained by

OFCCP for off-site analysis may be disclosed pursuant to the Freedom of Information Act (FOIA). Several commenters recommended that the rule be amended to require that all confidential data be returned at the conclusion of the complaint investigation or compliance evaluation. One commenter further suggested that the amendment state expressly that contractor data are not subject to disclosure under FOIA while the investigation or compliance evaluation is open, and that the compliance review or investigation is not considered closed until all data are returned to the contractor.

OFCCP follows the Department's regulations implementing the Freedom of Information Act and Executive Order 12600 when processing FOIA requests. The Department's FOIA regulations are found at 29 CFR Part 70. Data obtained from contractors that are contained in files connected with open compliance evaluations, complaint investigations or administrative enforcement actions are not disclosed. The agency considers such information to be part of an investigatory file complied for law enforcement purposes within the meaning of 5 U.S.C. 552(b)(7), and therefore exempt from mandatory disclosure under FOIA. The exemption in FOIA for information compiled for law enforcement purposes, however, is not a permanent one. Once the compliance evaluation, complaint investigation, or enforcement action has been concluded and the investigatory files exemption no longer is in effect, another exemption would need to apply in order to protect the information in the files from disclosure in response to a FOIA request. For example, information obtained from contractors arguably might be protected from disclosure under the exemption for trade secrets or commercial or financial information that is privileged or confidential (5 U.S.C. 552(b)(4)).

The Department's FOIA regulations set forth procedures for processing requests for the disclosure of information and material provided by business submitters. Those regulations permit the contractor to designate specific information as confidential commercial information at the time of submission to the Department. 29 CFR 70.26(b). In addition, the Department's FOIA regulations require OFCCP to give the contractor written notice of any request encompassing confidential commercial information, and to provide the contractor an opportunity to object to disclosure. 29 CFR 70.26 (d) and (e).

OFCCP previously has considered the question of whether assertedly confidential data may be returned to the contractor upon completion of the investigation or compliance evaluation. The position of OFCCP is that the Federal records retention requirements do not permit the agency to return data obtained from the contractor during a compliance review or complaint investigation upon completion of the action. The information and records received from the contractors in connection with enforcement activities constitute Government records. As such, their disposition is strictly prescribed by statute and regulation and must be made in accordance with the agency's records management program, with the approval of the Archivist of the United States. The documents may be disposed of only by the methods defined by the statute, which do not include returning them to the originating source, *i.e.*, the contractor, but instead call for disposal by sale or salvage, donation for preservation and use, or destruction.

Paragraph (f) of the proposal is adopted in the final rule with the changes regarding the procedures for issuing relevancy determinations described herein. In addition, at the suggestion of one commenter, the final rule substitutes ''key to coded data'' for the reference to ''the code'' to the data. Thus, the final rule provides, in relevant part, ''Such data may only be coded if the contractor makes the key to the code available to the compliance officer.''

Section 60–1.20(f) Access to Information

Section 60–60.4(d), concerning public access to information, describes outdated procedures under which requests received from the public for information obtained from the contractor previously were processed. OFCCP proposed to substitute provisions in the current rule with a statement of the agency's current practices. Accordingly, paragraph (g) of the proposal provides that ''the disclosure of information obtained from a contractor will be evaluated pursuant to the public inspection and copying provisions of the Freedom of Information Act, 5 U.S.C. 552, and the Department of Labor's implementing regulations at 29 CFR Part 70.''

No comments were received on paragraph (g) of the proposal. The provision is adopted in the final rule as proposed.

Section 60–1.26 Enforcement Proceedings

The NPRM would revise and restructure, for clarity, § 60–1.26, which specifies the Executive Order enforcement procedures. With the exception of the provisions relating to the calculation of interest, the proposal would not make substantive changes to this section. Subsection (a) of the proposal would apply to both administrative and judicial enforcement. Proposed subsection (b) would address administrative enforcement procedures. Subsections (c) and (d) of the proposed regulation would cover judicial enforcement proceedings initiated by the Department of Justice.

Several of the proposed changes are consistent with provisions included in the Section 503 implementing regulations at 41 CFR 60–741.65(a)(1). Subsection (a)(2) of the proposed regulation, clarifies that OFCCP may seek relief for victims of discrimination identified either during a compliance evaluation or a complaint investigation whether or not such individuals have filed a complaint with OFCCP. Subsection (a)(2) of the proposal would require that interest on back pay be compounded quarterly at the percentage rate established by the Internal Revenue Service for the underpayment of taxes.

The proposal would provide, in subsection (b)(1), that administrative enforcement proceedings may be instituted where OFCCP determines that referral for formal enforcement (rather than settlement) is appropriate. Subsection (b)(1) of the proposed regulation would specify that the litigation referral will be made to the Solicitor of Labor. Further, consistent with a requirement included in the Section 503 regulations, the proposal would require that the Department's Final Administrative Order in an Executive Order case be issued within one year from the date of the Administrative Law Judge's recommended decision, or the submission of the parties' exceptions and responses to exceptions to such decision (if any), whichever is later.

The commenters from the civil rights and women's rights communities welcomed the clarification in subsection (a)(2) that OFCCP may seek back pay and other make whole relief for victims of discrimination identified during a complaint investigation or compliance evaluation, regardless of whether such individuals have filed a complaint with the agency. One contractor suggested that contractors be given the opportunity to correct a discriminatory practice or situation identified for the first time during a compliance review before liability is imposed. However, simply changing the offending employment practice only addresses part of the problem. In most instances, the discriminatory practice cannot be

considered ''corrected'' unless and until remedial relief is provided for those victimized by the practice.

Two commenters from the contractor community objected to the proposal concerning the compounding of interest on back pay awards. One commenter suggested that compound interest provided a ''windfall'' to the victim. OFCCP disagrees. Compounded interest is necessary to make the victim whole. OFCCP has a longstanding policy of requiring that interest on back pay awards under the Executive Order be compounded. That policy is consistent with the policy and practice of the Department to request compounded, pre-judgment interest whenever back pay is sought in cases arising under the Fair Labor Standards Act. *See e.g., Brock* v. *The Claridge Hotel and Casino,* 644 F.Supp. 899, 908 (D.N.J. 1986), *aff'd,* 846 F.2d 180 (3d Cir. 1988), *cert. denied,* 488 U.S. 925 (1988); and *Brennan* v. *Bd. of Ed., Jersey City,* 374 F.Supp. 817, 833 (D.N.J. 1974). Moreover, as noted in the NPRM, compounding interest on awards of back pay is consistent with the case law under Title VII of Civil Rights Act of 1964 and other Federal employment discrimination laws. *See e.g., Saulpaugh* v. *Monroe Community Hospital,* 4 F.3d 134, 144 (2d Cir. 1993), *cert. denied,* 510 U.S. 1164 (1994); *EEOC* v. *Gurnee Inn Corp.,* 914 F.2d 815, 820 (7th Cir. 1990), and *Mennen* v. *Easter Stores,* 951 F.Supp. 838, 863 n. 28 (N.D. Iowa 1997). The proposal would reinstate this policy to ensure that victims of discrimination obtain complete relief.

A contractor association objected to the provision in subsection (a)(1)(ix) of the proposal, which provides that violations of the Executive Order may be based upon the ''alteration or falsification'' of records. This commenter argued that the term ''alteration'' should be deleted because it implied that contractors could not alter records to correct errors without violating the Order. OFCCP, however, believes that it is clear from the context that the term ''alteration'' refers to changes or modifications in records which misrepresent the facts. Accordingly, the agency declines to make that modification to the proposed rule.

Further, a commeter from the contractor community objected to the provision in proposed subsection (b), which would provide that OFCCP may refer matters to the Solicitor of Labor with the recommendation for the institution of administrative enforcement proceedings ''when OFCCP determines that referral for consideration of formal enforcement (rather than settlement) is appropriate.'' The commenter said the provision appeared to eliminate the duty to conciliate and considered it to be a substantive change to the existing regulations. The commenter is incorrect. The proposed regulation does not change the existing regulations; OFCCP is still required to make reasonable efforts to secure compliance through conciliation. Proposed paragraph (b), however, recognizes, that some violations, such as denial of OFCCP access, are not always amenable to conciliation, and therefore, warrant OFCCP initiating immediate administrative enforcement.

Section 60–1.26 of the proposal is adopted in the final rule. However, some modifications have been made in the final regulation. Subsection (a)(1)(ii) of the proposal, which provides that violations may be based upon the results of a compliance review, has been deleted from the final regulation as redundant. The final rule specifies that violations may be based on the results of a compliance evaluation, which includes compliance reviews. In addition, the final rule adds a new subsection which states that violations may be based on a contractor's refusal to provide data for off-site review or analysis as required in the regulations. Although subsection (a)(1)(viii) of the final rule references the refusal to furnish records, OFCCP believes the amendment is necessary to clarify that violations may be based upon the contractor's refusal to furnish records requested for off-site review or analysis.

Section 60–1.27 Sanctions

The current sanction regulation provides only that the sanctions authorized by Section 209 of the Executive Order may be exercised by or with the approval of the Director of OFCCP. The NPRM would add a new paragraph specifically to address the sanction of debarment. Paragraph (b) of the proposal would provide that the contractor may be debarred, subject to reinstatement pursuant to the provisions in § 60–1.31. The proposal also would provide that debarment may be imposed for an indefinite term or for a fixed minimum period of at least six months.

Several comments were received on the proposed sanction provision. The comments from the women's rights and civil rights communities supported the proposal to make the debarment sanction explicit in the regulations. Commenters from the contractor community, however, objected to the proposed sanction regulation. It appeared from a few comments that the indefinite debarment sanction needed further explication.

The duration of an indefinite term of debarment is not indeterminable, as some commenters suggested. Under the current regulations, and the proposed reinstatement regulation as well, a contractor debarred for an indefinite term may request reinstatement at any time. Thus, as OFCCP noted in the preamble discussion concerning sanctions, a contractor debarred for an indefinite term can be reinstated immediately without incurring any economic loss.

Several commenters from the contractor community thought that fixed term debarments were too harsh a sanction. Two commenters questioned whether fixed term debarments were authorized under the Executive Order. A contractor association argued that the Secretary does not have authority to continue a debarment beyond the time the contractor demonstrates its willingness and ability to comply. A contractor, in an extensive comment on this proposal, contended that fixed term debarments were not authorized under the Order because they were punitive in nature.

Under Section 209(a)(6) of the Order, a debarred contractor remains ineligible for future Government contracts ''until such contractor has satisfied the Secretary of Labor that such contractor has established and will carry out personnel and employment policies in compliance with the provisions of this Order.'' The Executive Order does not, as the contractor association's comment suggests, require the Secretary to reinstate a contractor merely because it promises to implement revised policies. Rather, the Order states that the Secretary must be ''satisfied'' that the contractor will carry out the revised policies. In some cases, a contractor will have to demonstrate its commitment to changed employment policies over a period of time, before an affirmative determination can be made about the contractor's willingness and ability to comply with the Executive Order's requirements.

The debarment for a fixed period is not intended as a ''punishment.'' The purpose of the sanction is to provide a trial period during which a contractor can demonstrate its commitment and ability to establish employment practices that will ensure continued compliance with its Executive Order obligations. OFCCP believes that the prospect of a fixed period of ineligibility for government contracts will deter contractors from engaging in violations. Contrary to the contentions of one commenter, sanctions can discourage

certain conduct without being retributive.

Other commenters from the contractor community objected to the proposal because it would authorize the Secretary to impose a fixed term debarment for ''any'' violation. They said that, while the Secretary had imposed the fixed term debarment in very limited circumstances in the past, paragraph (b) of the proposal was not tailored to address these limited and unusual circumstances. A few commenters recommended that we amend the proposed regulation to specify the instances that would warrant the imposition of a fixed term debarment.

It is neither practicable nor necessary precisely to define the types of violations for which it would be appropriate to impose a fixed term debarment. Where a fixed term debarment is ordered, in contrast to an indefinite term debarment, the length of the debarment period will be determined case-by-case, and will depend upon factors such as the nature and severity of the violations. The sanction regulation is adopted in the final rule as proposed.

Section 60–1.30 Notification of Agencies

Currently, the regulations require the OFCCP distribute a list of debarred contractors to all executive departments and agencies. OFCCP proposed to eliminate this requirement because the General Services Administration now publishes a listing of debarred contractors. The proposal substitutes in its place a provision requiring the Deputy Assistant Secretary ensure that the heads of agencies are notified of debarments. The proposal also renames the section ''Notification of Agencies'' instead of ''Contract ineligibility list.''

No comments were received on proposed § 60–1.30. The regulation is adopted in the final rule as proposed.

Section 60–1.31 Reinstatement of Ineligible Contractors

The current regulation provides that a contractor declared ineligible for future contracts may request reinstatement in a letter directed to the Director. The regulations state that the contractor must show that it has established and will carry out employment policies in compliance with the equal opportunity clause in any reinstatement proceedings. The NPRM would revise the current provisions regarding reinstatement to conform them to proposed § 60–1.27(b), which authorizes debarment either for an indefinite term or for a fixed term of not less than six months. Under the proposal, a contractor debarred for an indefinite period could request reinstatement at any time. A contractor debarred for a fixed period could request reinstatement after the expiration of the fixed period. The proposal would authorize a compliance evaluation of the contractor's employment practices before a final disposition of the reinstatement request.

Commenters from the contractor community objected to the reinstatement procedures proposed for contractors debarred for a fixed term. They contended that reinstatement should occur automatically at the conclusion of the fixed term. According to these commenters, the absence of definite time frames in the reinstatement procedures outlined in the proposal would mean that the fixed term debarment could drag on indefinitely.

OFCCP submits that the reinstatement process set forth in the proposed regulation is fair to debarred contractors. The argument that reinstatement should be automatic at the end of the fixed period misses a critical point. A debarred contractor is required to demonstrate that its employment policies and practices comply with the Order, and that showing usually is made in the context of a compliance evaluation.

Nevertheless, in response to concerns that proposed § 60–1.31 would effectively extend a debarment well beyond the original fixed-term, OFCCP has modified the reinstatement process in the final rule. Under the final rule, a contractor debarred for a fixed period may file a request for reinstatement 30 days prior to the expiration of the fixed debarment period, or at any time thereafter. However, filing a reinstatement request 30 days before the end of the debarment period will not result in early reinstatement; a contractor debarred for a fixed period may be reinstated and declared eligible for future Government contracts only upon or after the fixed debarment period expires.

OFCCP intends to process reinstatement requests in a timely manner upon receipt. In many instances the compliance evaluation or other activity necessary to ensure that the contractor is in compliance and will remain in compliance may be completed during the 30-day ''window'' prior to the expiration of the debarment. In other instances that activity may extend beyond the 30-days, in which case the contractor will be reinstated (or notified of a decision not to reinstate) promptly upon completion of OFCCP's examination of the contractor's compliance status.

Section 60–1.32 Intimidation and Interference

The current regulation states that sanctions and penalties may be imposed against the contractor who fails to ensure that no one intimidates, threatens, coerces or discriminates against any individual who files a complaint or otherwise participates in a compliance activity under the Executive Order or a similar Federal, state or local law. The proposal would include a similar prohibition, but would specify that the contractor itself shall not engage in such activities and shall ensure that all persons under its control do not do so, and would add that the prohibition applies to harassment. The proposed regulation would apply the prohibition to an individual's opposition to any practice that is unlawful under the Order or similar Federal, state, or local law.

The women's rights and civil rights organizations supported the proposal, and commented that the protections outlined in the proposed provisions are needed to ensure the integrity of the enforcement process. A contractor, however, was critical of the proposal. This commenter suggested that the proposed regulation be revised to clarify that the protections extended only to ''persons who were known to the contractor to have participated in an investigation'' or ''persons who were known to the contractor to have opposed unlawful practices.'' The burden of proof standards applicable to disparate treatment discrimination cases are applied to retaliation cases, and thus, there must be direct or circumstantial evidence that the contractor had knowledge of the protected conduct in order to prove the violation. Accordingly, the suggested clarification is not necessary.

The provision is carried forward in the final rule as proposed.

Section 60–1.34 Violation of a Conciliation Agreement or Letter of Commitment

The current regulation sets forth the procedures that apply when a contractor violates a conciliation agreement. The proposal would add a new subsection which would provide that, in any proceedings related to an alleged violation of a conciliation agreement, OFCCP may seek enforcement of the agreement and shall not be required to present proof of the underlying violations resolved by the agreement.

Two comments from the contractor community objected to the proposal. A

contractor association argued that OFCCP should be required to prove the underlying violations resolved by a conciliation agreement in order to protect contractors from being coerced into signing unreasonable or impracticable agreements. Similarly, a law firm, whose clients include Government contractors, contended that contractors frequently enter into conciliation agreements in order to terminate the compliance review, and not because they have actually committed violations of the Executive Order. Thus, the law firm's argument continues, OFCCP should have the burden of proving the truth of its findings of violation, and the contractor should not be precluded from demonstrating that it did not violate the Order, in the event the contractor is unable to honor the commitments it made.

The proposal is consistent with the well-settled principle under Title VII case law that a conciliation agreement entered to resolve employment discrimination claims is specifically enforceable independent of a finding that the employer did, in fact, engage in discriminatory practices, so long as regular contract rules are satisfied and enforcement does not conflict with the purposes of Title VII. *See, e.g., EEOC* v. *Safeway Stores, Inc.,* 714 F.2d 567 (5th Cir. 1983), *cert. denied,* 467 U.S. 1204 (1984). The courts have concluded that conciliation agreements would be rendered worthless as a means of securing voluntary compliance with Title VII, if a finding on the merits were required before any voluntary agreement to resolve discrimination claims could be enforced.

Likewise, contractors that enter into conciliation agreements to resolve findings of discrimination or other substantive violations of the Executive Order do so voluntarily and knowingly. Contractors are under no compulsion to execute conciliation agreements; they are free to reject the terms of settlement and have the matter resolved through the contested litigation. However, if a contractor voluntarily and knowingly accepts an offer to conciliate a matter, both parties, including the Government, are entitled to rely on the representations contained in the conciliation agreement. The conciliation contract binds both parties, and no useful purpose would be served here by outlining the litany of equities and inequities that would result if one or the other party were allowed to ignore its agreement and return to ground ''zero.''

The final rule adopts the proposed amendment to § 60–1.34 without change.

Section 60–1.42 Notices To Be Posted

This section sets forth the language that must be included in the equal opportunity notices Government contractors must post in conspicuous places. OFCCP proposed technical corrections to the wording of the poster concerning the jurisdictional coverage of Title VII and the address of the EEOC. No comments were received on this proposal. The provision is adopted in the final rule as proposed.

Section 60–1.43 Access to Records and Site of Employment

Under the current regulations, each contractor is required to permit access to its premises for the purpose of conducting on-site compliance reviews and inspecting and copying such books, records, accounts and other material as may be relevant to the matter under investigation or pertinent to compliance with the Order. The current regulations allow the information to be used only in connection with the administration and enforcement of the Executive Order and the Civil Rights Act of 1964.

The proposed amendment would add computerized records to those which the contractor must produce for inspection and copying. The proposal would continue the requirement that the contractor permit access to its premises for the purpose of conducting compliance evaluations and complaint investigations. In addition, the proposal would allow the information to be used in connection with the administration of other laws that are enforced in whole, or in part, by OFCCP.

Several commenters from the contractor community objected to the proposal regarding access to computerized records. They contended that the proposal would allow unlimited access to sensitive information in the contractors' human resource files, regardless of its relevancy to a determination of compliance with the Order. The commenters requested that OFCCP revise the proposal to clarify that access would be limited to existing files and that contractors would not be required to reprogram their computers to comply with an OFCCP request.

The proposed rule does not expand the scope of records that would be made available; contractors must give OFCCP access to data in computer files under the current regulations. Rather, the proposed regulation simply would clarify that records include those maintained in computerized form.

The concern that the provision would permit, if not encourage, unfettered access to confidential commercial proprietary data or irrelevant information is unjustified in OFCCP's view. Under the proposed rule, as under current regulation, access is limited to records that may be relevant to the matter under investigation and pertinent to compliance with the Order. Further, the contractor is not required to reprogram its computers in order to generate data responsive to OFCCP's request; access is limited to the records and data that already exists in computerized form. Moreover, requests to take computerized records off-site for further analysis would be subject to the relevancy determinations prescribed by § 60–1.20(f) of the final rule.

The regulation is adopted in the final rule as proposed in the NPRM.

Part 60–60 Contractor Evaluation Procedures for Contractors for Supplies and Services

Part 60–60 of the current regulations concerns the conduct of compliance reviews. The NPRM proposed to delete a sizable portion of part 60–60. Most of part 60–60 properly is characterized as internal operating procedures. The NPRM explained that the agency's internal procedures are incorporated in the Federal Contract Compliance Manual (FCCM). Consequently, the regulations in which the procedures are published no longer are needed. However, those portions of part 60–60 that are regulatory in nature were proposed to be transferred to part 60–1. Thus, as previously has been discussed, § 60–1.20 of the final rule incorporates the substantive provisions in the current part 60–60 concerning submission of the AAP and support data (§ 60–60.2(a)), nationwide AAP formats (§ 60–60.3(a)(3)), off-site analysis of contractor data (§ 60–60.3(d)), and confidentiality and relevancy of information (§ 60–60.4 (a) through (d)).

One commenter from the contractor community objected to the elimination of part 60–60. This commenter argued that the entire provision should be retained and expanded to include detailed descriptions of the procedures that will be used to implement the new compliance evaluation provisions in § 60–1.20. According to this commenter, a regulatory provision devoted to evaluation procedures would ensure consistency in operations across OFCCP offices.

Other commenters from the contractor community objected to the removal of particular provisions in Part 60–60. One contractor was concerned that the elimination of § 60–60.3(c) would result in a change of the current agency practice of reviewing a contractor establishment no more frequently than once every 24 months. Section 60–60.3

currently provides that an on-site review need not be conducted where the AAP is determined to be acceptable at desk audit, an on-site review has been conducted within the preceding 24 months, and the circumstances of the previous onsite review have not substantially changed. This regulatory provision, however, is not the basis for the current practice regarding the scheduling of compliance reviews.

Detailed procedures for implementing the regulatory provisions should be treated in agency guidance, not in the regulations. OFCCP already has issued guidance on the procedures for selecting and scheduling supply and service contractors for compliance reviews. That guidance provides that contractor establishments which have been reviewed in the last two years are not to be reviewed again unless certain very specific criteria are met and the Regional Director approves the scheduling of the review (OFCCP Order No. ADM 92–1/SEL). No plans are under consideration to change current scheduling practices; contractors may continue to expect that a compliance review usually will occur no more frequently than once every two years.

Other commenters objected to the proposed elimination of § 60–60–7, which prescribes a 60-day time frame for the completion of a compliance review. Again, the time frame for completing a compliance evaluation is an appropriate subject for agency guidance, not the regulations. The Compliance Manual currently states that substantial effort will be made to complete a compliance review within 60 days, although completion within that period is not a procedural prerequisite to an enforcement action (See FCCM 2C04). Contractors should not be concerned that the elimination of the regulatory provision in § 60–60.7 will mean an end to established schedules for completing evaluations of contractor compliance. OFCCP's subregulatory guidance will continue to reference the 60-day time frames even after the final rule is effective.

The final rule deletes the provisions of part 60–60 in accordance with the proposal.

Regulatory Procedures

Executive Order 12866

The Department is issuing this final rule in conformance with Executive Order 12866. This rule has been determined to be significant for purposes of Executive Order 12866 and therefore has been reviewed by OMB. This rule does not meet the criteria of section 3(f)(1) of Executive Order 12866 and therefore the information enumerated in section 6(a)(3)(C) of that Order is not required.

In accordance with section 6 of Executive Order 12866, an assessment of the potential costs and benefits of this rule has been made. Although difficult to quantify, OFCCP believes that the economic impact of this rule will be positive. The compliance evaluation regulation adopted in this rule will streamline procedures for assessing contractor performance, and thereby reduce compliance costs and paperwork burdens on contractors, particularly when there are no indicators of noncompliance. In addition, the changes made by this rule to the provisions concerning preaward compliance evaluations will significantly decrease the administrative burdens and costs incurred by contracting agencies in processing requests for preaward clearance during the procurement process. Further, the compliance evaluation and preaward clearance regulations will reduce administrative costs and burdens on OFCCP, permit the agency greater flexibility in deploying its enforcement resources, and improve the agency's overall efficiency in administering the Federal contract compliance program.

As discussed below in the sections concerning the Regulatory Flexibility Act and the Paperwork Reduction Act, the record retention provisions adopted in this rule will promote efficiency in OFCCP's enforcement of the Executive Order by ensuring the availability of information needed to evaluate the compliance status of Government contractors. Further, the final rule will eliminate confusion about record retention requirements under Executive Order 11246 and ensure consistency with the record retention requirements under section 503 of the Rehabilitation Act, while imposing only a *de minimis* increase in burden on contractors. OFCCP believes the benefits provided by express record retention requirements to the agency's enforcement of the Executive Order will outweigh the minimal increase in contractor burdens. Finally, the elimination of the requirement for a written certification regarding the maintenance of non-segregated facilities will result in a reduction in contractor paperwork burdens.

In the NPRM, OFCCP stated that its goal in proposing regulatory changes is to make both contractor compliance and agency enforcement more efficient and cost effective. OFCCP invited comments on additional ways to reduce compliance burdens such as simplified compliance procedures for small contractors. However, no comments were received in response to this request.

Regulatory Flexibility Act

All entities, regardless of size, will benefit from the repeal of the written certification regarding the maintenance of non-segregated facilities in this final rule. The record retention requirements adopted in this final rule might result in a minimal increase in the burden associated with storage of records for some small entities. However, in the agency's estimation, any increase in the corresponding storage costs would be negligible. Consequently, under the Regulatory Flexibility Act, as amended, 5 U.S.C. 605(b), the Secretary of Labor certifies that this rule will not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act

The changes to the Executive Order regulations made by the final rule published today impact the information collection requirements currently approved by OMB under the Paperwork Reduction Act (44 U.S.C. 3501, *et seq.*). The record retention provisions adopted in § 60–1.12 of the final rule affect the approved record retention requirements for both supply and service (OMB Control No. 1215–0072) and construction contractors (OMB Control No. 1215–0163).

The new record retention requirements contained in this final rule have been submitted to OMB for clearance under the Paperwork Reduction Act. The new record retention requirements are not effective until OFCCP displays currently valid OMB control numbers. When OMB completes its review, OFCCP will publish a notice in the **Federal Register** regarding the control numbers.

The elimination of the certification regarding non-segregated facilities does not affect OFCCP's existing information collection requirements. Although the certification imposed paperwork burdens on contractors, such certifications were exempt under the Paperwork Reduction Act of 1980.

OFCCP predicted in the NPRM that the adoption of a two-year record retention requirement for larger contractors—those with 150 or more employees and a Government contract of at 150,000—would result in only a minimal increase in burden. OFCCP asserted that the one-year record retention period prescribed for smaller contractors (those that have fewer than 150 employees or that do not have a Government contract of $150,000) would not increase the existing burden

on these contractors because they already are subject to this obligation under Title VII. Although the obligation to retain employment records for a year would be new for the small number of Government contractors that are not subject to Title VII (*i.e.*, those with fewer than 15 employees), OFCCP opined that any increase in burden associated with filing and storing employment records would be negligible for this group.

OFCCP invited the public to comment on the accuracy of the agency's estimates regarding the burdens posed by the proposed revisions to the information collection requirements, and to suggest ways of minimizing the burden and enhancing the quality and utility of the information collected. Two commenters—a consultant to Government contractors and a contractor association which represents small agricultural firms—responded to this request for comments. Several commenters from the contractor community, however, expressed opinions about the burdens associated with the record retention requirements in their comments on the regulatory provision.

Both the consultant and the contractor association contended that the proposed regulations would cause an overall increase in paperwork. According to the consultant, the two-year record retention period would be particularly burdensome for larger employers that routinely receive thousands of pages of applicant materials over the course of the year. The consultant asserted that retention of these materials for an additional year would require substantial time and effort from personnel and material handling staffs, and significant amounts of storage space as well. Comments received from two contractor associations in response to proposed § 60–1.12 expressed similar opinions about the increased storage burden for larger contractors. The contractor association contended that the proposed regulatory revisions would generate substantially more paperwork for the small agricultural companies it represents.

OFCCP recognizes that the volume of records subject to the retention requirement and the storage burdens will vary among contractors. However, OFCCP still maintains that, on average, the increase in burdens associated with the two-year retention period will be minimal.

OFCCP stated in the NPRM that the elimination of the written certification regarding non-segregated facilities would reduce compliance burdens by roughly 850,000 hours. Accordingly to the consultant, the time and expense involved in preparing certifications have been reduced significantly by technological advances in personnel and purchasing offices, and as a result, elimination of the certification would save at most one-half of the hours that OFCCP had estimated. Even if the consultant is correct and certifications do not involve the amount of time the agency's estimate assumes, OFCCP believes the elimination of the requirement will yield a significant reduction in contractor burdens.

Unfunded Mandates Reform Act

This final rule does not include any Federal mandate that may result in the expenditures by state, local and tribal governments in the aggregate, or by the private sector, of $100,000,000 or more in any one year.

List of Subjects

41 CFR Part 60–1

Administrative practice and procedure, Civil rights, Employment, Equal employment opportunity, Government contracts, Government procurement, Investigations, Reporting and recordkeeping requirements.

41 CFR Part 60–60

Equal employment opportunity, Government procurement, Reporting and recordkeeping requirements.

Signed at Washington, DC, this 12th day of August 1997.

Alexis M. Herman,

Secretary of Labor.

Bernard E. Anderson,

Assistant Secretary for Employment Standards.

Shirley J. Wilcher,

Deputy Assistant Secretary for Federal Contract Compliance.

Accordingly, Part 60–1 of the rule amending 41 CFR Chapter 60 published on December 30, 1980 (45 FR 86216), which was delayed indefinitely at 46 FR 42865, and under the authority of Executive Order 11246, as amended, Title 41 of the Code of Federal Regulations, Chapter 60, is amended as follows:

PART 60–1—[AMENDED]

1. The authority citation for Part 60–1 is revised to read as follows:

Authority: Sec. 201, E.O. 11246 (30 FR 12319), as amended by E.O. 11375 (32 FR 14303) and E.O. 12086 (43 FR 46501).

2. Section 60–1.3 is amended by removing the definition of *Director*, by revising the definitions of *Contract*, *Government contract*, *Subcontract* and *United States*, and by adding, in alphabetical order, the definitions of *Compliance evaluation* and *Deputy Assistant Secretary* to read as follows:

§ 60–1.3 Definitions.

* * * * *

Compliance evaluation means any one or combination of actions OFCCP may take to examine a Federal contractor or subcontractor's compliance with one or more of the requirements of Executive Order 11246.

* * * * *

Contract means any Government contract or subcontract or any federally assisted construction contract or subcontract.

* * * * *

Deputy Assistant Secretary means the Deputy Assistant Secretary for Federal Contract Compliance, United States Department of Labor, or his or her designee.

* * * * *

Government contract means any agreement or modification thereof between any contracting agency and any person for the purchase, sale or use of personal property or nonpersonal services. The term ''personal property,'' as used in this section, includes supplies, and contracts for the use of real property (such as lease arrangements), unless the contract for the use of real property itself constitutes real property (such as easements). The term ''nonpersonal services'' as used in this section includes, but is not limited to, the following services: Utilities, construction, transportation, research, insurance, and fund depository. The term *Government contract* does not include:

(1) Agreements in which the parties stand in the relationship of employer and employee; and

(2) Federally assisted construction contracts.

* * * * *

Subcontract means any agreement or arrangement between a contractor and any person (in which the parties do not stand in the relationship of an employer and an employee):

(1) For the purchase, sale or use of personal property or nonpersonal services which, in whole or in part, is necessary to the performance of any one or more contracts; or

(2) Under which any portion of the contractor's obligation under any one of more contracts is performed, undertaken or assumed.

* * * * *

United States, as used herein, shall include the several States, the District of Columbia, the Virgin Islands, the Commonwealth of Puerto Rico, Guam, American Samoa, the Commonwealth of

the Northern Mariana Islands, and Wake Island.

3. Section 60–1.8 is revised to read as follows:

§ 60–1.8 Segregated facilities.

To comply with its obligations under the Order, a contractor must ensure that facilities provided for employees are provided in such a manner that segregation on the basis of race, color, religion, sex or national origin cannot result. The contractor may neither require such segregated use by written or oral policies nor tolerate such use by employee custom. The contractor's obligation extends further to ensuring that its employees are not assigned to perform their services at any location, under the contractor's control, where the facilities are segregated. This obligation extends to all contracts containing the equal opportunity clause regardless of the amount of the contract. The term ''facilities,'' as used in this section, means waiting rooms, work areas, restaurants and other eating areas, time clocks, restrooms, wash rooms, locker rooms, and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing provided for employees; *Provided,* That separate or single-user restrooms and necessary dressing or sleeping areas shall be provided to assure privacy between the sexes.

4. A new § 60–1.12 is added to Subpart A to read as follows:

§ 60–1.12 Record retention.

(a) *General requirements.* Any personnel or employment record made or kept by the contractor shall be preserved by the contractor for a period of not less than two years from the date of the making of the record or the personnel action involved, whichever occurs later. However, if the contractor has fewer than 150 employees or does not have a Government contract of at least $150,000, the minimum record retention period shall be one year from the date of the making of the record or the personnel action involved, whichever occurs later. Such records include, but are not necessarily limited to, records pertaining to hiring, assignment, promotion, demotion, transfer, lay off or termination, rates of pay or other terms of compensation, and selection for training or apprenticeship, and other records having to do with requests for reasonable accommodation, the results of any physical examination, job advertisements and postings, applications and resumes, tests and test results, and interview notes. In the case of involuntary termination of an employee, the personnel records of the individual terminated shall be kept for a period of not less than two years from the date of the termination, except that contractors that have fewer than 150 employees or that do not have a Government contract of at least $150,000 shall keep such records for a period of not less than one year from the date of the termination. Where the contractor has received notice that a complaint of discrimination has been filed, that a compliance evaluation has been initiated, or that an enforcement action has been commenced, the contractor shall preserve all personnel records relevant to the complaint, compliance evaluation or enforcement action until final disposition of the compliant, compliance evaluation or enforcement action. The term ''personnel records relevant to the complaint,'' for example, would include personnel or employment records relating to the complainant and to all other employees holding positions similar to that held or sought by the complainant and application forms or test papers submitted by unsuccessful applicants and by all other candidates for the same position as that for which the complainant unsuccessfully applied. Where a compliance evaluation has been initiated, all personnel and employment records described above are relevant until OFCCP makes a final disposition of the evaluation.

(b) *Affirmative action programs.* A contractor establishment required under § 60–1.40 to develop a written affirmative action program (AAP) shall maintain its current AAP and documentation of good faith effort, and shall preserve its AAP and documentation of good faith effort for the immediately preceding AAP year, unless it was not then covered by the written AAP requirement.

(c) *Failure to preserve records.* Failure to preserve complete and accurate records as required by paragraphs (a) and (b) of this section constitutes noncompliance with the contractor's obligations under the Executive Order and this Part. Where the contractor has destroyed or failed to preserve records as required by this section, there may be a presumption that the information destroyed or not preserved would have been unfavorable to the contractor: *Provided,* That this presumption shall not apply where the contractor shows that the destruction or failure to preserve records results from the circumstances that are outside of the contractor's control.

(d) *Effective date.* The requirements of this section shall apply only to records made or kept on or after September 18, 1997.

5. In § 60–1.20, the section heading and paragraphs (a) and (d) are revised and paragraphs (e), (f) and (g) are added to read as follows:

§ 60–1.20 Compliance evaluations.

(a) OFCCP may conduct compliance evaluations to determine if the contractor maintains nondiscriminatory hiring and employment practices and is taking affirmative action to ensure that applicants are employed and that employees are placed, trained, upgraded, promoted, and otherwise treated during employment without regard to race, color, religion, sex, or national origin. A compliance evaluation may consist of any one or any combination of the following investigative procedures:

(1) *Compliance review.* A comprehensive analysis and evaluation of the hiring and employment practices of the contractor, the written affirmative action program, and the results of the affirmative action efforts undertaken by the contractor. A compliance review may proceed in three stages:

(i) A desk audit of the written AAP and supporting documentation to determine whether all elements required by the regulations in this part are included, whether the AAP meets agency standards of reasonableness, and whether the AAP and supporting documentation satisfy agency standards of acceptability. The desk audit is conducted at OFCCP offices, except in the case of preaward reviews. In a preaward review, the desk audit normally is conducted at the contractor's establishment.

(ii) An on-site review, conducted at the contractor's establishment to investigate unresolved problem areas identified in the AAP and supporting documentation during the desk audit, to verify that the contractor has implemented the AAP and has complied with those regulatory obligations not required to be included in the AAP, and to examine potential instances or issues of discrimination. An on-site review normally will involve an examination of the contractor's personnel and employment policies, inspection and copying of documents related to employment actions, and interviews with employees, supervisors, managers, hiring officials; and

(iii) Where necessary, an off-site analysis of information supplied by the contractor or otherwise gathered during or pursuant to the on-site review.

(2) *Off-site review of records.* An analysis and evaluation of the AAP (or any part thereof) and supporting

documentation, and other documents related to the contractor's personnel policies and employment actions that may be relevant to a determination of whether the contractor has complied with the requirements of the Executive Order and regulations;

(3) *Compliance check.* A visit to the establishment to ascertain whether data and other information previously submitted by the contractor are complete and accurate; whether the contractor has maintained records consistent with § 60–1.12; and/or whether the contractor has developed an AAP consistent with § 60–1.40; or

(4) *Focused review.* An on-site review restricted to one or more components of the contractor's organization or one or more aspects of the contractor's employment practices.

* * * * *

(d) *Preaward compliance evaluations.* Each agency shall include in the invitation for bids for each formally advertised nonconstruction contract or state at the outset of negotiations for each negotiated contract, that if the award, when let, should total $10 million or more, the prospective contractor and its known first-tier subcontractors with subcontracts of $10 million or more shall be subject to a compliance evaluation before the award of the contract unless OFCCP has conducted an evaluation and found them to be in compliance with the Order within the preceding 24 months. The awarding agency will notify OFCCP and request appropriate action and findings in accordance with this subsection. Within 15 days of the notice OFCCP will inform the awarding agency of its intention to conduct a preaward compliance evaluation. If OFCCP does not inform the awarding agency within that period of its intention to conduct a preaward compliance evaluation, clearance shall be presumed and the awarding agency is authorized to proceed with the award. If OFCCP informs the awarding agency of its intention to conduct a preaward compliance evaluation, OFCCP shall be allowed an additional 20 days after the date that it so informs the awarding agency to provide its conclusions. If OFCCP does not provide the awarding agency with its conclusions within that period, clearance shall be presumed and the awarding agency is authorized to proceed with the award.

(e) *Submission of Documents; Standard Affirmative Action Formats.* Each prime contractor or subcontractor with 50 or more employees and a contract of $50,000 or more is required to develop a written affirmative action program for each of its establishments (§ 60–1.40). If a contractor fails to submit an affirmative action program and supporting documents, including the workforce analysis, within 30 days of a request, the enforcement procedures specified in § 60–1.26(b) shall be applicable. Contractors may reach agreement with OFCCP on nationwide AAP formats or on frequency of updating statistics.

(f) *Confidentiality and relevancy of information.* If the contractor is concerned with the confidentiality of such information as lists of employee names, reasons for termination, or pay data, then alphabetic or numeric coding or the use of an index of pay and pay ranges, consistent with the ranges assigned to each job group, are acceptable for purposes of the compliance evaluation. The contractor must provide full access to all relevant data on-site as required by § 60–1.43. Where necessary, the compliance officer may take information made available during the on-site evaluation off-site for further analysis. An off-site analysis should be conducted where issues have arisen concerning deficiencies or an apparent violation which, in the judgment of the compliance officer, should be more thoroughly analyzed off-site before a determination of compliance is made. The contractor must provide all data determined by the compliance officer to be necessary for off-site analysis. Such data may only be coded if the contractor makes the key to the code available to the compliance officer. If the contractor believes that particular information which is to be taken off-site is not relevant to compliance with the Executive Order, the contractor may request a ruling by the OFCCP District/Area Director. The OFCCP District/Area Director shall issue a ruling within 10 days. The contractor may appeal that ruling to the OFCCP Regional Director within 10 days. The Regional Director shall issue a final ruling within 10 days. Pending a final ruling, the information in question must be made available to the compliance officer off-site, but shall be considered a part of the investigatory file and subject to the provisions of paragraph (g) of this section. The agency shall take all necessary precautions to safeguard the confidentiality of such information until a final determination is made. Such information may not be copied by OFCCP and access to the information shall be limited to the compliance officer and personnel involved in the determination of relevancy. Data determined to be not relevant to the investigation will be returned to the contractor immediately.

(g) *Public access to information.* The disclosure of information obtained from a contractor will be evaluated pursuant to the public inspection and copying provisions of the Freedom of Information Act, 5 U.S.C. 552, and the Department of Labor's implementing regulations at 29 CFR Part 70.

6. Section 60–1.26 is revised to read as follows:

§ 60–1.26 Enforcement proceedings.

(a) *General.* (1) Violations of the Order, the equal opportunity clause, the regulations in this chapter, or applicable construction industry equal employment opportunity requirements, may result in the institution of administrative or judicial enforcement proceedings. Violations may be found based upon, *inter alia,* any of the following:

(i) The results of a complaint investigation;

(ii) The results of a compliance evaluation;

(iii) Analysis of an affirmative action program;

(iv) The results of an on-site review of the contractor's compliance with the Order and its implementing regulations;

(v) A contractor's refusal to submit an affirmative action program;

(vi) A contractor's refusal to allow an on-site compliance evaluation to be conducted;

(vii) A contractor's refusal to provide data for off-site review or analysis as required by the regulations in this Chapter;

(viii) A contractor's refusal to establish, maintain and supply records or other information as required by the regulations in this chapter or applicable construction industry requirements;

(ix) A contractor's alteration or falsification of records and information required to be maintained by the regulations in this chapter; or

(x) Any substantial or material violation or the threat of a substantial or material violation of the contractural provisions of the Order, or of the rules or regulations in this chapter.

(2) OFCCP may seek back pay and other make whole relief for victims of discrimination identified during a complaint investigation or compliance evaluation. Such individuals need not have filed a complaint as a prerequisite to OFCCP seeking such relief on their behalf. Interest on back pay shall be calculated from the date of the loss and compounded quarterly at the percentage rate established by the Internal Revenue Service for the under-payment of taxes.

(b) *Administrative enforcement.* (1) OFCCP may refer matters to the

Solicitor of Labor with a recommendation for the institution of administrative enforcement proceedings, which may be brought to enjoin violations, to seek appropriate relief, and to impose appropriate sanctions. The referral may be made when violations have not been corrected in accordance with the conciliation procedures in this chapter, or when OFCCP determines that referral for consideration of formal enforcement (rather than settlement) is appropriate. However, if a contractor refuses to submit an affirmative action program, or refuses to supply records or other requested information, or refuses to allow OFCCP access to its premises for an on-site review, and if conciliation efforts under this chapter are unsuccessful, OFCCP may immediately refer the matter to the Solicitor, notwithstanding other requirements of this chapter.

(2) Administrative enforcement proceedings shall be conducted under the control and supervision of the Solicitor of Labor and under the Rules of Practice for Administrative Proceedings to Enforce Equal Opportunity under Executive Order 11246 contained in part 60–30 of this chapter and the Rules of Evidence set out in the Rules of Practice and Procedure for Administrative Hearings Before the Office of Administrative Law Judges contained in 29 CFR part 18, subpart B: *Provided*, That a Final Administrative Order shall be issued within on year from the date of the issuance of the recommended findings, conclusions and decision of the Administrative Law Judge, or the submission of any exceptions and responses to exceptions to such decision (if any), whichever is later.

(c) *Referrals to the Department of Justice.* (1) The Deputy Assistant Secretary may refer matters to the Department of Justice with a recommendation for the institution of judicial enforcement proceedings. There are no procedural prerequisites to a referral to the Department of Justice. Such referrals may be accomplished without proceeding through the conciliation procedures in this Chapter, and a referral may be made at any stage in the procedures under this Chapter.

(2) Whenever a matter has been referred to the Department of Justice for consideration of judicial enforcement, the Attorney General may bring a civil action in the appropriate district court of the United States requesting a temporary restraining order, preliminary or permanent injunction (including relief against noncontractors, including labor unions, who seek to thwart the implementation of the Order and regulations), and an order for such additional sanctions or relief, including back pay, deemed necessary or appropriate to ensure the full enjoyment of the rights secured by the Order, or any of the above in this paragraph (c)(2).

(3) The Attorney General is authorized to conduct such investigation of the facts as he/she deem necessary or appropriate to carry out his/her responsibilities under the regulations in this Chapter.

(4) Prior to the institution of any judicial proceedings, the Attorney General, on behalf of the Deputy Assistant Secretary, is authorized to make reasonable efforts to secure compliance with the contract provisions of the Order. The Attorney General may do so by providing the contractor and any other respondent with reasonable notice of his/her findings, his/her intent to file suit, and the actions he/she believes necessary to obtain compliance with the contract provisions of the Order without contested litigation, and by offering the contractor and any other respondent a reasonable opportunity for conference and conciliation, in an effort to obtain such compliance without contested litigation.

(5) As used in the regulations in this Part, the Attorney General shall mean the Attorney General, the Assistant Attorney General for Civil Rights, or any other person authorized by regulations or practice to act for the Attorney General with respect to the enforcement of equal employment opportunity laws, orders and regulations generally, or in a particular matter or case.

(6) The Deputy Assistant Secretary or his/her designee, and representatives of the Attorney General may consult from time to time to determine what investigations should be conducted to determine whether contractors or groups of contractors or other persons may be engaged in patterns or practices in violation of the Executive Order or these regulations, or of resistance to or interference with the full enjoyment of any of the rights secured by them, warranting judicial proceedings.

(d) *Initiation of lawsuits by the Attorney General without referral from the Deputy Assistant Secretary.* In addition to initiating lawsuits upon referral under this section, the Attorney General may, subject to approval by the Deputy Assistant Secretary, initiate independent investigations of contractors which he/she has reason to believe may be in violation of the Order or the rules and regulations issued pursuant thereto. If, upon completion of such an investigation, the Attorney General determines that the contractor has in fact violated the Order or the rules and regulations issued thereunder, he/she shall make reasonable efforts to secure compliance with the contract provisions of the Order. He/she may do so by providing the contractor and any other respondent with reasonable notice of the Department of Justice's findings, its intent to file suit, and the actions that the Attorney General believes are necessary to obtain compliance with the contract provisions of the Order without contested litigation, and by offering the contractor and any other respondent a reasonable opportunity for conference and conciliation in an effort to obtain such compliance without contested litigation. If these efforts are unsuccessful, the Attorney General may, upon approval by the Deputy Assistant Secretary, bring a civil action in the appropriate district court of the United States requesting a temporary restraining order, preliminary or permanent injunction, and an order for such additional sanctions or equitable relief, including back pay, deemed necessary or appropriate to ensure the full enjoyment of the rights secured by the Order or any of the above in this paragraph (d).

(e) To the extent applicable, this section and part 60–30 of this chapter shall govern proceedings resulting from any Deputy Assistant Secretary's determinations under § 60–2.2(b) of this chapter.

7. Section 60–1.27 is revised to read as follows:

§ 60–1.27 Sanctions.

(a) *General.* The sanctions described in subsections (1), (5), and (6) of section 209(a) of the Order may be exercised only by or with the approval of the Deputy Assistant Secretary. Referral of any matter arising under the Order to the Department of Justice or to the Equal Employment Opportunity Commission shall be made by the Deputy Assistant Secretary.

(b) *Debarment.* A contractor may be debarred from receiving future contracts or modifications or extensions of existing contracts, subject to reinstatement pursuant to § 60–1.31, for any violation of Executive Order 11246 or the implementing rules, regulations and orders of the Secretary of Labor. Debarment may be imposed for an indefinite term or for a fixed minimum period of at least six months.

8. Section 60–1.30 is revised to read as follows:

§ 60–1.30 Notification of agencies.

The Deputy Assistant Secretary shall ensure that the heads of all agencies are

notified of any debarment taken against any contractor.

9. Section 60–1.31 is revised to read as follows:

§ 60–1.31 Reinstatement of ineligible contractors.

A contractor debarred from further contracts for an indefinite period under the Order may request reinstatement in a letter filed with the Deputy Assistant Secretary at any time after the effective date of the debarment. A contractor debarred for a fixed period may request reinstatement in a letter filed with the Deputy Assistant Secretary 30 days prior to the expiration of the fixed debarment period, or at any time thereafter. The filing of a reinstatement request 30 days before a fixed debarment period ends will not result in early reinstatement. In connection with the reinstatement proceedings, all debarred contractors shall be required to show that they have established and will carry out employment policies and practices in compliance with the Order and implementing regulations. Before reaching a decision, the Deputy Assistant Secretary may conduct a compliance evaluation of the contractor and may require the contractor to supply additional information regarding the request for reinstatement. The Deputy Assistant Secretary shall issue a written decision on the request.

10. Section 60–1.32 is revised to read as follows:

§ 60–1.32 Intimidation and interference.

(a) The contractor, subcontractor or applicant shall not harass, intimidate, threaten, coerce, or discriminate against any individual because the individual has engaged in or may engage in any of the following activities:

(1) Filing a complaint;

(2) Assisting or participating in any manner in an investigation, compliance evaluation, hearing, or any other activity related to the administration of the Order or any other Federal, state or local law requiring equal opportunity;

(3) Opposing any act or practice made unlawful by the Order or any other Federal, state or local law requiring equal opportunity; or

(4) Exercising any other right protected by the Order.

(b) The contractor, subcontractor or applicant shall ensure that all persons under its control do not engage in such harassment, intimidation, threats, coercion or discrimination. The sanctions and penalties contained in this part may be exercised by OFCCP against any contractor, subcontractor or applicant who violates this obligation.

11. In § 60–1.34, paragraph (a)(4) is added to read as follows:

§ 60–1.34 Violation of a conciliation agreement or letter of commitment.

(a) * * *

(4) In any proceeding involving an alleged violation of a conciliation agreement OFCCP may seek enforcement of the agreement itself and shall not be required to present proof of the underlying violations resolved by the agreement.

* * * * *

12. Section 60–1.42 is amended by revising paragraph (a) to read as follows:

§ 60–1.42 Notices to be posted.

(a) Unless alternative notices are prescribed by the Deputy Assistant Secretary, the notices which contractors are required to post by paragraphs (1) and (3) of the equal opportunity clause in § 60–1.4 will contain the following language and be provided by the contracting or administering agencies:

Equal Employment Opportunity is the Law—Discrimination is Prohibited by the Civil Rights Act of 1964 and by Executive Order No. 11246

Title VII of the Civil Rights Act of 1964—*Administered by:*

The Equal Employment Opportunity Commission

Prohibits discrimination because of Race, Color, Religion, Sex, or National Origin by Employers with 15 or more employees, by Labor Organizations, by Employment Agencies, and by Apprenticeship or Training Programs

Any person

Who believes he or she has been discriminated against

Should Contact

The Equal Employment Opportunity Commission

1801 L Street NW., Washington, DC 20507,

Executive Order No. 11246—*Administered by:*

The Office of Federal Contract Compliance Programs

Prohibits discrimination because of Race, Color, Religion, Sex, or National Origin, and requires affirmative action to ensure equality of opportunity in all aspects of employment.

By all Federal Government Contractors and Subcontractors, and by Contractors Performing Work Under a Federally Assisted Construction Contract, regardless of the number of employees in either case.

Any person

Who believes he or she has been discriminated against

Should Contact

The Office of Federal Contract Compliance Programs

U.S. Department of Labor, Washington, DC 20210

* * * * *

13. Section 60–1.43 is revised to read as follows:

§ 60–1.43 Access to records and site of employment.

Each contractor shall permit access during normal business hours to its premises for the purpose of conducting on-site compliance evaluations and complaint investigations. Each contractor shall permit the inspecting and copying of such books and accounts and records, including computerized records, and other material as may be relevant to the matter under investigation and pertinent to compliance with the Order, and the rules and regulations promulgated pursuant thereto by the agency, or the Deputy Assistant Secretary. Information obtained in this manner shall be used only in connection with the administration of the Order, the Civil Rights Act of 1964 (as amended), and any other law that is or may be enforced in whole or in part by OFCCP.

PART 60–60—[REMOVED]

14. Part 60–60 is removed.

[FR Doc. 97–21782 Filed 8–18–97; 8:45 am]

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federal register

Tuesday
August 19, 1997

Part III

Department of Education

National Awards Program for High Quality Professional Development: Notice

DEPARTMENT OF EDUCATION

RIN 1850–ZA02

National Awards Program for High-Quality Professional Development

AGENCY: Department of Education.

ACTION: Notice of Proposed Eligibility and Selection Criteria.

SUMMARY: The Secretary proposes eligibility and selection criteria to govern the National Awards Program for Model Professional Development for Fiscal Year 1998. Under these criteria, the National Awards Program would recognize a variety of schools and school districts with model professional development activities in the pre-kindergarten through twelfth grade levels that have led to increases in student achievement.

DATES: Comments must be received by the Department on or before September 18, 1997.

ADDRESSES: All comments concerning these proposed definitions and selection criteria should be addressed to Sharon Horn, Office of Educational Research and Improvement, 555 New Jersey Avenue, NW—Room 506E, Washington, DC 20208 phone: 202–219–2203. Comments also may be sent by e-mail to sharon__horn@ed.gov or by FAX at (202) 219–2198.

Comments that concern information collection requirements must be sent to the Office of Management and Budget at the address listed in the Paperwork Reduction Act section of this notice. A copy of those comments may also be sent to the Department representative named in the **ADDRESSES** section.

FOR FURTHER INFORMATION CONTACT: Sharon Horn, phone: (202) 219–2203. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8:00 a.m. and 8:00 p.m.

SUPPLEMENTARY INFORMATION: Through this notice the Secretary proposes definitions and criteria to govern applications for recognition submitted under the second National Awards Program for Model Professional Development. This Program began in 1996, in coordination with a wide range of national education organizations, to highlight and recognize schools and school districts whose professional development activities are aligned with the statement of Mission and Principles of Professional Development that the Department developed in 1994. See Appendix A. This second National Awards Program, to be conducted during Fiscal Year (FY) 1998, will be implemented in ways similar to last year's program (see, for example, the Notice Inviting Applications for Awards published in the **Federal Register** on June 14, 1996 at 61 FR 30450), but with criteria designed to better inform applicants of the kind of information that successful applicants will need to provide. Again this year, the Secretary would recognize successful applicants at a ceremony in Washington, D.C., and present each successful applicant with an award of not less than $5,000 that the recipient could use to expand, promote or publicize its professional development activities.

The reasons for wanting to continue the National Awards Program are clear. Schools and school districts throughout the Nation are undertaking efforts to raise academic standards and to improve the academic achievement of all students. For these efforts to be successful they must include strategies for permitting teachers (and other school and local educational agency (LEA) staff) to obtain the skills and knowledge they need to enable all students to achieve. Indeed, whatever the school reform initiative, teachers are the core. However, teachers need access to new knowledge and skills to enable them to continue to teach to higher standards and to respond to the challenges facing education today.

Realizing that high-quality professional development must be at the core of any effort to achieve educational excellence, the Secretary in 1994 directed a broadly representative team within the U.S. Department of Education to examine the best available research and exemplary practices related to professional development, and work with the field to develop a set of basic principles of high-quality professional development. Out of this national effort came the Department's Statement of Mission and Principles of Professional Development. This statement reflected both extensive collaboration with a wide range of education constituents and review of public comment received on a draft Statement of Mission and Principles of Professional Development published in the **Federal Register** on December 9, 1994 (59 FR 63773). The Department issued the final Statement of Mission and Principles (Appendix A) in 1995 after review of public comment and reexamination of the best available research on exemplary practices. This statement is grounded in the practical wisdom of leading educators across the country about the kind of professional development that, if implemented, maintained, and supported, will have a positive and lasting effect on teaching and learning in America.

The Statement of Mission and Principles of Professional Development represents a framework for guiding school and school district staff as they design and implement their professional development activities. Many of the same national education organizations that worked with the Department to develop the Mission and Principles of Professional Development sought the Department's help last year in identifying and recognizing those professional development efforts across the pre-kindergarten through twelfth grade spectrum that reflect the Mission and Principles. Given the efforts of schools and school districts throughout the Nation to pursue school reform initiatives, the Secretary agreed with these organizations about the urgent need to identify sites whose professional development activities can be models for other schools and districts that are working to enhance their own professional development activities.

Therefore, the Secretary last year announced the first National Awards Program for Model Professional Development. The public expressed great interest in the program, and the Department received over 100 applications. In February of this year, the Department recognized five schools and school districts in Massachusetts, Connecticut, Kansas and California for the high quality of their professional development activities and the link between those activities and improved student learning. But the importance of high-quality professional development to successful strategies to increase student achievement demands that this Awards Program be continued, and more schools and school districts have the opportunity for national recognition. Therefore, the Secretary is pleased to propose definitions and criteria to govern the second National Awards Program.

The Secretary will announce the final eligibility and selection criteria in a notice in the **Federal Register**. The final eligibility and selection criteria will be determined by responses to this notice and other considerations of the Department.

Note: This notice does not solicit applications. A notice inviting applications under this competition will be published in the **Federal Register** concurrent with or following publication of the notice of final eligibility and selection criteria.

Proposed Eligibility Criteria

As with last year's program, eligible applicants would be schools and school districts in the States (including schools

located on Indian reservations, and in the District of Columbia, Puerto Rico, and the outlying areas) that provide educational programs in the pre-kindergarten through twelfth grade levels.

The Secretary also proposes to retain application selection criteria that are built on two key elements: (1) A demonstration that the professional development activities are fully aligned with the Mission and Principles of Professional Development, and (2) a demonstration of how, consistent with the Mission and Principles, the professional development activities benefit all affected students, and have led to improved student achievement and improved teacher effectiveness. As noted above, the statement of Mission and Principles of Professional Development reflects broad agreement of what is ''best practice.'' It was prepared in collaboration with a great many national educational associations and upon review of public comment. The Secretary believes that professional development activities can only be considered exemplary if they, in fact, are linked to increased student achievement.

Again, this year, the format of applications would remain fairly simple. However, the application material would be revised to better identify topics applicants would need to address to demonstrate alignment with the Mission and Principles of Professional Development and a link to increased student achievement. In addition, to promote fairness among those seeking recognition under the National Awards Program, all applications would need to be prepared in accordance with formatting instructions included in the application packet.

Proposed Selection Criteria

Applicants would be free to develop their applications in any way they choose as long as they comply with the requirements set out in the application packet. The degree to which applicants demonstrate alignment with the Mission and Principles of Professional Development and a link to increased student achievement would be evaluated using the following criteria:

Guiding Principles: In evaluating applications for the National Awards Program, reviewers will look to see whether the application, taken as a whole, demonstrates that the school's or school district's professional development activities is comprehensive and leads to improved teacher effectiveness and increased student achievement. In doing so, reviewers would be guided by the extent to which and how well applicants respond to the following criteria, the most important of which would concern objective evidence of success. Each proposed criterion includes one or more questions that are designed to help applicants formulate their responses. It would not be necessary for applicants to answer each question individually. But, taken as a whole, the description of their professional development activities should respond to the topic of each criterion with enough information so that reviewers can determine whether the school or district's professional development is comprehensive and leads to improved teacher effectiveness and increased student achievement.

A. Background and Overview of Professional Development

In this section applicants would provide a brief explanation of why they consider professional development in their schools or districts exemplary by describing its key components and relating those to the U.S. Department of Education's Principles of Professional Development. This description would provide evidence that the professional development activities are not narrowly focused on one subgroup of students or staff within the school or district.

In responding to this criterion, applicants should consider the following questions:

1. What are the infrastructure, content, and process components of professional development in the school or district?

2. How does professional development in the applicant's school or district reflect the U.S. Department of Education's Mission and Professional Development Principles?

3. Why does the applicant consider professional development in the school or district to be exemplary?

B. Goals and Outcomes

In this section, applicants would describe their professional development goals, how they were developed, how they relate to school improvement, and how they are based on needs assessment and address the achievement of all students (regardless of gender; socio-economic level; disadvantaged status; racial, ethnic or cultural background; exceptional abilities or disabilities; or limited English proficiency), not just a subgroup. Applicants also would address the changes in teaching and student learning that are expected to result from professional development. In doing so, they would include how professional development goals and outcomes promote teaching and learning to high standards.

In responding to this criterion, applicants should consider the following questions:

1. What are the applicant's broad goals of professional development in its school or district?

2. What are the applicant's goals for ALL students' achievement through professional development?

3. What are the ways that the professional development goals are connected to the school or district's long-term school improvement plans?

4. What process was used to create the professional development goals and plan, and who is involved in the development?

5. What are the ways in which teachers' professional development needs are assessed and incorporated in the plan for professional development?

6. How do the professional development goals and outcomes focus on increasing teachers' expertise in teaching to high standards?

7. What changes in teaching and student learning result from participation in professional development in the school or district? What was the rationale for believing these changes would result in improved teaching and learning?

C. Professional Development Design and Implementation

Overall, the applicant's response to this section would show how the context, content and processes of its professional development activities are consistent with the Department's Mission and Principles of Professional Development. The description would provide evidence that professional development reflects research and best practice; includes comprehensive evaluation; includes organizational structures (e.g., roles and policy) and resources (e.g., use of time, expertise, funds) that support it; promotes continuous inquiry and improvement; and, ensures that the larger school community understands its importance to school improvement.

The applicant would describe the data-based processes that are used for checking that professional development is connected to the school or district improvement plan and that the professional development design supports the attainment of expected changes in teaching practice and student learning. The description would include any formal and informal processes used to routinely collect information for monitoring how the school or district is progressing toward their goals; for assessing the links

between the plan, professional development activities and teacher and student outcomes; and, for adjusting what isn't working.

Applicants with resources to procure and use technology in the classroom also would include a discussion of how the needs of teachers to more effectively use technology are met and how the impact on student achievement is addressed and assessed.

In responding to this criterion, applicants should consider the following questions:

1. How is professional development a part of what ALL teachers do? What role do administrators and other members of the school community play in professional development?

2. How do the applicant's professional development design and activities reflect research and best practice?

3. Why were the specific content, instructional strategies, and learning activities selected for professional development?

4. What are the processes for documenting and monitoring the alignment of the improvement plans, professional development activities, and teacher and student outcomes?

5. How do organizational structures support the implementation of professional development at individual, collegial and organizational levels?

6. What resources and types of sustained support (financial and other) are available for professional development for individuals, groups, and the whole school or district? How are current resources obtained?

7. How does the applicant's design of its overall professional development activities reflect comprehensive evaluation? What data are routinely collected to assess the alignment? How are collected data used to refine professional development?

8. How does the applicant ensure that the school community understands how the professional development components fit together and connect to the overall school plan?

D. Objective Evidence of Success

This portion of the application would be fundamental to the characterization of the applicant's professional development, and would be the *most important selection criterion* that reviewers would use. Applicants would need to demonstrate clearly that teacher effectiveness and student achievement have increased as a direct result of the implemented professional development. Data that indicate this connection should be described. The focus here is on evidence. In doing so, applicants would make a compelling argument for how professional development positively affects outcomes for all teachers and all students, emphasizing areas where any achievement gaps between groups (e.g., gender, socio-economic status, ethnicity) have been closed.

In responding to this criterion, applicants should consider the following questions:

1. What evidence from data-gathering processes demonstrate that professional development in the school or district has improved all teachers' effectiveness?

2. What evidence is there that professional development in the school or district has improved students' achievement across all grade levels and all subject areas?

3. What evidence is there that professional development in the school or district leads to a narrowing of existing achievement gaps between groups of students?

E. Implications for the Field

In this section of the application, applicants would describe the lessons learned as the applicant's professional development has matured. Applicants also would describe ways in which others would benefit from learning about their professional development activities, indicating what knowledge and practical advice (e.g., tools, strategies, or processes) the applicants would be able to offer.

In responding to this criterion, applicants should consider the following question:

1. What lessons about providing quality professional development has the applicant learned that other schools and districts could use?

Proposed Selection Procedures

The Secretary intends to evaluate applications using unweighted selection criteria. The Secretary believes that the use of unweighted criteria is most appropriate because they will allow the reviewers maximum flexibility to apply their professional judgements in identifying the particular strengths and weaknesses in individual applications. However, to receive recognition under the National Awards Program, reviewers would need to find that the applicant's professional development activities reflect model practices as evidenced by exemplary responses to *each* of the criteria identified under the ''PROPOSED SELECTION CRITERIA'' section of this Notice. A key element in review of any application will be the extent to which the applicant demonstrates clear links between professional development activities and increases in student achievement. See Selection Criteria at D, *Objective Evidence of Success.* In analyzing the response to Selection Criterion E, *Implications for the Field*, reviewers will not expect the same level of specificity from applications as will be expected in response to the other Selection Criteria. Reviewers, in examining the response to Selection Criterion E, will be primarily interested in seeing that applicants have considered the issues raised by that Criterion.

After an initial screening, the Department would use outside panels of experts to evaluate the quality of the applications against these basic criteria. This stage in the process may include telephone interviews with project contacts to discuss and clarify information, and will lead to the selection of up to twenty semifinalists. The Department then would use outside experts to conduct site visits, which may involve the collection of additional information, of these semifinalists, and through recommendations of the site-reviewers (and possibly through a final panel of outside experts) present final recommendations to the Secretary on which schools or school districts merit national recognition. The Secretary would select for recognition those applications of highest quality based on the results of the review process. Again this year the Secretary intends to recognize those schools and school districts with the very best professional development practices at a national ceremony in Washington, D.C. Successful applicants also would receive other forms of recognition including a monetary award that the Department anticipates would be in the range of $5,000 to $10,000 per recipient. Recipients would be able to use these funds to support their professional development activities and make them known to others.

Paperwork Reduction Act of 1995

This notice and the proposed application packet contains information collection requirements. As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)), the Department of Education has submitted a copy of this notice and the application packet to the Office of Management and Budget (OMB) for its review.

Collection of Information: National Awards Program.

Schools and school districts that operate programs for children in the pre-kindergarten through twelfth grade levels are eligible to apply for national recognition of the quality of their professional development activities. Information in the application would

include (1) a description of the applicant's professional development activities in terms of specific criteria designed to clarify the kinds of activities that would align with the Department's statement of the Mission and Principles of Professional Development, and (2) basic identifying and demographic information about the applicant school or school district. Applications also would be limited in page number and have to meet basic formatting requirements. The Department would use this information to select the highest-quality applicants through a review of responses to the criteria and site visits that can confirm the accuracy of information contained in the applications.

All information is to be collected once only from each applicant. Annual reporting and record keeping burden for this collection of information is estimated to average 30 hours for each response for 200 respondents, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. For the 20 applicants selected for site reviews, there will be an additional annual reporting and record keeping burden that is estimated to average 20 hours for each response. Thus, the total annual reporting and record keeping burden for this collection is estimated to be 6,400 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 U.S. Department of Education.

The Department considers comments by the public on this proposed collection of information in—

- Evaluating 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;
- Evaluating the accuracy of the Department'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 the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology; e.g., permitting electronic submission of responses.

OMB is required to make a decision concerning the collection of information contained in this notice of proposed eligibility and selection criteria 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 Department on the proposed notice.

Executive Order 12866

Potential Costs and Benefits

This notice of proposed eligibility and selection criteria has been reviewed in accordance with Executive Order 12866. Under the terms of the order the Secretary has assessed the potential costs and benefits of this regulatory action.

The potential costs associated with the notice of proposed eligibility and selection criteria are those resulting from statutory requirements and those determined by the Secretary as necessary for administering this program effectively and efficiently. Burdens specifically associated with information collection requirements are identified and explained elsewhere in this preamble under the heading Paperwork Reduction Act of 1995. In assessing the potential costs and benefits—both quantitative and qualitative—of this notice of proposed eligibility and selection criteria, the Secretary has determined that the benefits of the proposed eligibility and selection criteria justify the costs.

The Secretary has also determined that this regulatory action does not unduly interfere with local governments in the exercise of their governmental functions.

Summary of Potential Costs and Benefits

The benefit from the proposed eligibility and selection criteria will be to recognize a variety of schools and school districts with model professional development activities in the pre-kindergarten through twelfth grade levels that have led to increases in student achievement.

The potential costs of these proposed eligibility and selection criteria are discussed elsewhere in this notice under the section on the Paperwork Reduction Act of 1995.

Invitation To Comment

Interested persons are invited to submit comments and recommendations regarding these proposed eligibility and selection criteria. All comments submitted in response to these proposed eligibility and selection criteria will be available for public inspection, during and after the comment period, in Room 506E, 555 New Jersey Avenue, NW, Washington, DC, between the hours of 8:30 a.m. and 4:00 p.m., Eastern time, Monday through Friday of each week except Federal holidays.

To assist the Department in complying with the specific requirements of Executive Order 12866 and its overall requirement of reducing regulatory burden, the Secretary invites comments on whether there may be further opportunities to reduce any regulatory burdens found in this notice.

Intergovernmental Review

This program is subject to the requirements of Executive Order 12372 and the regulations in 34 CFR Part 79. The objective of the Executive order is to foster an intergovernmental partnership and a strengthened federalism by relying on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

In accordance with the order, this document is intended to provide early notification of the Department's specific plans and actions for this program.

Program Authority: 20 U.S.C. 8001.

Dated: August 14, 1997.

Ramon Cortines,

Acting Assistant Secretary for Educational Research and Improvement.

Appendix A—

Mission And Principles Of Professional Development U.S. Department Of Education—Professional Development Team, July 5, 1995

Professional development plays an essential role in successful education reform. Professional development serves as the bridge between where prospective and experienced educators are now and where they will need to be to meet the new challenges of guiding *all* students in achieving to higher standards of learning and development.

High-quality professional development as envisioned here refers to rigorous and relevant content, strategies, and organizational supports that ensure the preparation and career-long development of teachers and others whose competence, expectations and actions influence the teaching and learning environment. Both pre- and in-service professional development require partnerships among schools, higher

education institutions and other appropriate entities to promote inclusive learning communities of everyone who impacts students and their learning. Those within and outside schools need to work together to bring to bear the ideas, commitment and other resources that will be necessary to address important and complex educational issues in a variety of settings and for a diverse student body.

Equitable access for all educators to such professional development opportunities is imperative. Moreover, professional development works best when it is part of a systemwide effort to improve and integrate the recruitment, selection, preparation, initial licensing, induction, ongoing development and support, and advanced certification of educators.

High-quality professional development should incorporate *all* of the principles stated below. Adequately addressing each of these principles is necessary for a full realization of the potential of individuals, school communities and institutions to improve and excel.

The mission of professional development is to prepare and support educators to help all students achieve to high standards of learning and development.

Professional Development—

- Focuses on teachers as central to student learning, yet includes all other members of the school community;
- Focuses on individual, collegial, and organizational improvement;
- Respects and nurtures the intellectual and leadership capacity of teachers, principals, and others in the school community;
- Reflects best available research and practice in teaching, learning, and leadership;
- Enables teachers to develop further expertise in subject content, teaching strategies, uses of technologies, and other essential elements in teaching to high standards;
- Promotes continuous inquiry and improvement embedded in the daily life of schools;
- Is planned collaboratively by those who will participate in and facilitate that development;
- Requires substantial time and other resources;
- Is driven by a coherent long-term plan;
- Is evaluated ultimately on the basis of its impact on teacher effectiveness and student learning; and this assessment guides subsequent professional development efforts.

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Vol. 62, No. 160

Tuesday, August 19, 1997

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For additional information **523–5227**

Presidential Documents

Executive orders and proclamations **523–5227**

The United States Government Manual **523–5227**

Other Services

Electronic and on-line services (voice) **523–4534**

Privacy Act Compilation **523–3187**

TDD for the hearing impaired **523–5229**

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FEDERAL REGISTER PAGES AND DATES, AUGUST

41249–41804 1
41805–42036 4
42037–42208 5
42209–42384 6
42385–42646 7
42647–42896 8
42897–43066 11
43067–43260 12
43269–43452 13
43453–43628 14
43629–43916 15
43917–44066 18
44067–44198 19

CFR PARTS AFFECTED DURING AUGUST

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Proclamations:
7016 42033

Executive Orders:
12722 (See Notice July 31, 1997) 41803
12924 (Continued by Notice of August 13, 1997) 43629
13057 41294
13058 43451

Administrative Orders:
Notice of July 31, 1997 41803
Notice of August 13, 1997 43629

Presidential Determinations:
No. 97–30 of August 7, 1997 44065

5 CFR

Ch. LIV 43269
890 41486
1001 42897
1201 4
4501 42897

Proposed Rules:
213 42943
1650 42418

7 CFR

3 42857
29 43430
31 43430
32 43430
36 43430
46 43453
52 43430
53 43430
54 43430
58 434307
278 ..... 42037, 42857
301 ..... 43269, 43456
400 42857
401 42647
457 42647
723 43917
918 43922
922 41805
923 41805
924 41805
947 43457
981 43459
985 43461
993 41808
1126 41810
1220 41486
1464 43917
1493 42651
1767 ..... 42284, 43201
1901 42385
1951 ..... 41251, 42385
4284 42385

Proposed Rules:
56 52944
319 43487
320 43487
330 43487
352 43487
457 43236
1446 43955
1493 43675
1724 41883

8 CFR

212 43466

Proposed Rules:
252 43676

9 CFR

1 43272
3 43272
77 42044
94 ..... 42664, 42899, 43924
145 44067
147 44067
304 42901
308 42901
310 42901
318 43631
320 42901
327 42901
381 42901
416 42901
417 42901

Proposed Rules:
71 42703
92 42705

10 CFR

50 44071

Proposed Rules:
20 42948
35 ..... 42219, 42707
55 42426

12 CFR

205 43467
602 41253
650 43633
960 41812

Proposed Rules:
3 42006
6 42006
204 42708
208 42006
225 42006
325 42006
565 42006
567 42006
701 41313
722 41313
723 41313

970.....42072

49 CFR

Chapter X 42075
171.....44038
193.....41311
544.....41882

Proposed Rules:

173.....44059
177.....44059
178.....44059
180.....44059
213.....42733, 43201
234.....42733
571.....42226, 42469
572.....42469
1155.....42734

50 CFR

17.....42692
20.....43444
217.....43124
222.....43937
227.....43124, 43937
285.....42416, 43126
300.....43126
622.....42417
648 .....43127, 43469, 43674
660.....43294, 43484
679.....43485, 43486, 43954

Proposed Rules:

14.....42091
17 .....41328, 42092, 42473
20.....43042
23.....42093
216.....42737
227.....43974
229.....43302
600 .....41907, 42093, 42474
622.....42478
648.....42737
679 .....43307, 43689, 43866, 43977

REMINDERS

The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

RULES GOING INTO EFFECT AUGUST 19, 1997

ENVIRONMENTAL PROTECTION AGENCY

Pesticides; emergency exemptions, etc.:
- Avermectin; published 8-19-97

Pesticides; tolerances in food, animal feeds, and raw agricultural commodities:
- Bentazon; published 6-20-97
- Tebuconazole; published 6-20-97
- Terbacil; published 6-20-97

JUSTICE DEPARTMENT

Privacy Act; implementation; published 8-19-97

TRANSPORTATION DEPARTMENT

Federal Aviation Administration

Airworthiness directives:
- Bell Helicopter Textron, Inc.; published 7-15-97
- Fokker; published 8-4-97

COMMENTS DUE NEXT WEEK

AGRICULTURE DEPARTMENT

Agricultural Marketing Service

Raisins produced from grapes grown in California; comments due by 8-27-97; published 7-28-97

AGRICULTURE DEPARTMENT

Animal and Plant Health Inspection Service

Exportation and importation of animals and animal products:
- Ports of entry—
  - Champlain, NY and Derby Line, VT; closure; comments due by 8-26-97; published 6-27-97

Interstate transportation of animals and animal products (quarantine):
- Tuberculosis in cattle—
  - State and area classifications; comments due by 8-26-97; published 6-27-97

Plant-related quarantine, domestic:
- Karnal bunt disease—
  - Wheat seed and straw (1995-1996 crop); compensation; comments due by 8-29-97; published 7-30-97

COMMERCE DEPARTMENT

National Oceanic and Atmospheric Administration

Fishery conservation and management:
- Alaska; fisheries of Exclusive Economic Zone—
  - Scallop; comments due by 8-29-97; published 8-14-97
- West Coast States and Western Pacific fisheries—
  - West Coast salmon; comments due by 8-29-97; published 8-14-97

Marine mammals:
- Commercial fishing operations—
  - Commercial fisheries authorization; list of fisheries categorized according to frequency of incidental takes; comments due by 8-25-97; published 5-27-97
- Incidental taking—
  - North Atlantic Energy Service Corp.; power plant activities; comments due by 8-25-97; published 7-24-97

Pacific Halibut Commission, International:
- Pacific halibut fisheries—
  - Catch sharing plans; comments due by 8-27-97; published 8-12-97

DEFENSE DEPARTMENT

Acquisition regulations:
- Miscellaneous amendments; comments due by 8-25-97; published 6-24-97

Privacy Act; implementation; comments due by 8-25-97; published 6-25-97

DEFENSE DEPARTMENT

Engineers Corps

Danger zones and restricted areas:
- Pacific Ocean waters north of Naval Air Weapons Station, Point Mugu, Ventura County, CA; comments due by 8-27-97; published 7-28-97

ENERGY DEPARTMENT

Federal Energy Regulatory Commission

Natural gas companies (Natural Gas Act):
- Gas Research Institute; research, development, and demonstration funding; comments due by 8-29-97; published 6-25-97

ENVIRONMENTAL PROTECTION AGENCY

Air quality implementation plans; approval and promulgation; various States:
- California; comments due by 8-25-97; published 7-24-97
- Tennessee; comments due by 8-28-97; published 7-29-97

Hazardous waste:
- Mercury-containing lamps (light bulbs); data availability; comments due by 8-25-97; published 7-11-97

Solid wastes:
- Municipal solid waste landfills; criteria revisions; comments due by 8-28-97; published 7-29-97

Superfund program:
- National oil and hazardous substances contingency plan—
  - National priorities list update; comments due by 8-25-97; published 7-25-97
  - National priorities list update; comments due by 8-25-97; published 7-25-97
  - National priorities list update; comments due by 8-29-97; published 7-30-97

Toxic substances:
- Significant new uses—
  - Butanamide, etc.; comments due by 8-27-97; published 8-8-97

FEDERAL COMMUNICATIONS COMMISSION

Common carrier services:
- Illinois Public Telecommunications Association; payphone orders; remand issues; pleading cycle; comments due by 8-26-97; published 8-15-97

Radio services special:
- Maritime Communications—
  - Licensing process simplification and flexibility for public coast stations; comments due by 8-25-97; published 7-14-97

INTERIOR DEPARTMENT

Fish and Wildlife Service

Alaska National Wildlife Refuges:
- Administrative and visitor facility sites; comments due by 8-26-97; published 6-27-97

Endangered and threatened species:
- Chinese Camp brodiaea, etc. (ten plants from foothills of Sierra Nevada Mountains; comments due by 8-29-97; published 6-30-97
- Ione buckwheat, etc.; comments due by 8-25-97; published 6-25-97

INTERIOR DEPARTMENT

Surface Mining Reclamation and Enforcement Office

Permanent program and abandoned mine land reclamation plan submissions:
- Mississippi; comments due by 8-29-97; published 7-30-97

LIBRARY OF CONGRESS

Copyright Office, Library of Congress

Sound recordings, publicly performed, of nonexempt subscription digital transmissions; notice and recordkeeping; comments due by 8-25-97; published 6-24-97

PERSONNEL MANAGEMENT OFFICE

Political activities; Federal employees residing in designated localities; comments due by 8-25-97; published 6-24-97

TRANSPORTATION DEPARTMENT

Coast Guard

Electrical engineering:
- Merchant vessels; electrical engineering requirements; comments due by 8-29-97; published 6-30-97

TRANSPORTATION DEPARTMENT

Federal Aviation Administration

Airworthiness directives:
- de Havilland; comments due by 8-29-97; published 7-22-97
- Boeing; comments due by 8-25-97; published 7-18-97
- Lockheed; comments due by 8-25-97; published 7-18-97
- McDonnell Douglas; comments due by 8-25-97; published 6-25-97

Airworthiness standards:
- Special conditions—
  - Boeing model 747-SP airplanes; comments

due by 8-28-97; published 7-29-97

Class E airspace; comments due by 8-25-97; published 7-25-97

TRANSPORTATION DEPARTMENT

Federal Railroad Administration

Radio standards and procedures:

Wireless communications devices requirements; comments due by 8-25-97; published 6-26-97

TREASURY DEPARTMENT

Alcohol, Tobacco and Firearms Bureau

Alcohol; viticultural area designations:

Diablo Grande, CA; comments due by 8-25-97; published 6-24-97

LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with ''PLUS'' (Public Laws Update Service) on 202–523–6641. This list is also available online at http://www.nara.gov/nara/fedreg/fedreg.html.

The text of laws is not published in the **Federal Register** but may be ordered in ''slip law'' (individual pamphlet) form from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–2470). The text will also be made available on the Internet from GPO Access at http://www.access.gpo.gov/su_docs/. Some laws may not yet be available.

H.R. 1585/P.L. 105–41

Stamp Out Breast Cancer Act (Aug. 13, 1997; 111 Stat. 1119)

H.R. 408/P.L. 105–42

International Dolphin Conservation Program Act (Aug. 15, 1997; 111 Stat. 1122)

Last List August 14, 1997